
HALDIMAND COUNTY

Report PDD-11-2022 Zoning By-law Amendment for Oversized Accessory Building



For Consideration by Council in Committee on March 29, 2022

OBJECTIVE:

To consider adding a special provision to the zoning of the subject lands to permit the construction of an oversized residential accessory building.

RECOMMENDATIONS:

1. THAT Report PDD-11-2022 Zoning By-law Amendment for Oversized Accessory Building be received;
2. AND THAT application PLZ-HA-2021-211 to amend the Haldimand County Zoning By-law HC 1-2020 to add a special provision to the zoning of the subject lands to permit the construction of an oversized residential accessory building and to add a Holding (H) provision be approved for the reasons outlined in Report PDD-11-2022;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement (2020), conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020), conforms to the general intent of the Haldimand County Official Plan and Haldimand County Zoning By-law HC 1-2020, and is desirable for the appropriate development of the subject lands;
4. AND THAT the by-law attached to Report PDD-11-2022 to amend the Haldimand County Zoning By-law HC 1-2020 be presented for enactment;
5. AND THAT the Holding (H) Provision Removal By-law attached to Report PDD-11-2022 be presented for enactment, and the General Manager of Community and Development Services be granted authority to remove the Holding Provision when all conditions relating to the matter have been satisfactorily addressed.

Prepared by: Ashley Crosbie, MCIP, RPP, M.PI, Planner

Reviewed by: Shannon VanDalen, MCIP, RPP, CMMI, Manager of Planning and Development

Respectfully submitted: Mike Evers, MCIP, RPP, BES, General Manager of Community & Development Services

Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

Planning staff received a Zoning By-law Amendment application to permit an oversized residential accessory building being 372 square metres (4,000 square feet) in size and 6.5 metres (21.3 feet) in height on a rural property municipally addressed as 4935 Highway 3, North Cayuga. It is Planning staff's opinion that the proposal is consistent and conforms to Provincial and County policy frameworks, is appropriate for the subject lands, and compatible with the surrounding area. As such, Planning staff

recommends approval of the application, subject to a Holding (H) provision to address technical matters prior to issuance of a building permit.

BACKGROUND:

The subject lands are located in the Geographic Township of North Cayuga, west of the Grand River and settlement area of Cayuga (Attachment 1). The subject lands are municipally addressed as 4935 Highway 3. The subject lands front onto the north side of Highway 3 and are 0.53 hectares (1.32 acres) in size. The subject lands contain a single family dwelling on private services and an existing driveway access onto Highway 3. The middle of the subject lands where the existing single family dwelling is located is a high point compared to the rest of the subject lands. The subject lands are regulated by the Ministry of Transportation (MTO) and the Grand River Conservation Authority (GRCA). Permits from both agencies will be required as part of the normal development process, and must be obtained and submitted to Haldimand County Building staff as part of the building permit application package. The applicant is aware and has been working with both agencies. The subject lands are surrounded by a mix of land uses including agricultural lands to the north, residential to the east, residential (including a group home) to the south, and commercial (Blue Barn Furnishings) to the west.

The applicant is proposing to construct a residential accessory building for personal storage on the subject lands that is 372 square metres (4,000 square feet) in size and 6.5 metres (21.3 feet) in height (Attachment 2). The Haldimand County Zoning By-law HC 1-2020 permits a residential accessory building on the subject lands up to 10% of the lot area or 200 square metres (2,153 square feet) in size, whichever is less, and 4.5 metres (14.8 feet) in height. The proposed accessory building is oversized by 172 square metres (1,851 square feet) and taller by 2 metres (6.6 feet).

Planning staff typically process requests for larger residential accessory buildings through Minor Variance applications which the Committee of Adjustment consider; however, requests for larger buildings are typically smaller in nature, whereas this proposal is seeking to almost double the zoning provisions. Additionally, a Minor Variance application does not provide the opportunity or tool to implement a Holding (H) provision to ensure certain matters are satisfactorily addressed prior to issuance of building permits. Given the size and scale of the proposed residential accessory building and related potential impacts (stormwater and grading), a holding provision is being proposed to capture, among other items, a lot grading plan for the development.

ANALYSIS:

The key planning matters related to this application are as follows:

Provincial Policy

Provincial Policy Statement (2020)

The Provincial Policy Statement (PPS) (2022) provides overall policy direction on matters of provincial interest related to land use planning and development in Ontario. The PPS sets the policy foundation for regulating the development and use of land. The *Planning Act* requires all decisions affecting planning matters to be consistent with the PPS policies.

The subject lands are an existing rural residential lot located within the prime agricultural area of the County, surrounded by both agricultural and non-agricultural uses. The PPS does not provide criteria on residential accessory buildings. However, a residential accessory building is considered to be compatible with the prime agricultural area and rural residences.

Also, the PPS provides direction on development within hazard lands. The low portion of the subject lands is regulated by the Grand River Conservation Authority (GRCA) and is designated and zoned

‘Hazard Lands’. The GRCA has provided comments and is satisfied with the proposal subject to submission of a permit. As such, the proposal is consistent with the Provincial Policy Statement.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)

A Place to Grow establishes a unique land use planning framework for the Greater Golden Horseshoe to 2051 that supports the achievement of complete communities, a thriving economy, a clean and healthy environment, and social equity in the face of the magnitude and pace of forecasted growth and changes expected in the Region. A Place to Grow speaks to issues relating to economic prosperity, which include transportation, infrastructure planning, land use planning, urban form, housing, natural heritage and resource protection. The *Place to Grow Act* requires all planning decisions to confirm with A Place to Grow.

With respect to individual *Planning Act* applications, A Place to Grow echoes the policies of the PPS. As such, the proposal conforms to A Place to Grow.

County Policy

Haldimand County Official Plan

The Haldimand County Official Plan (OP) creates the framework for guiding long-term land use changes in the County. The OP provides the avenue through which Provincial Policy is implemented into the local context, protects and manages the natural environment, directs and influences growth patterns, and facilitates the vision of the County as expressed through its residents. The *Planning Act* requires the subject application to conform to the OP policies.

The subject lands are designated ‘Agriculture’ and ‘Riverine Hazard Lands’. The ‘Agriculture’ designation permits a single detached dwelling and residential accessory building. The Official Plan does not provide any policy direction on the size of residential accessory structures; this is a function of the Zoning By-law.

It should be noted that the Official Plan designation (Agriculture) and zoning (Hamlet Residential (RH)), which is discussed in the following section, do not align. The subject lands are located in the prime agricultural area (i.e. outside of the County’s towns and hamlets). Typically, the ‘RH’ Zone is reserved for properties within the County’s designated hamlets; rural residential properties within the designated prime agricultural area are typically zoned ‘A’ Zone. The subject lands are a lot of record and the ‘RH’ Zone has been the applied zoning of the subject lands since at least 1986 (former Haldimand Zoning By-law 1-H 86). In terms of impact or consequences of property zoning, the ‘RH’ and ‘A’ Zone share the same maximum residential accessory building size provision. In the current Haldimand County Zoning By-law HC 1-2020, the ‘A’ Zone permits a taller residential accessory building (6.5 metres) than the ‘RH’ Zone (4.5 metres). In the former Haldimand Zoning By-law 1-H 86, both zones permitted a residential accessory building height of 6.5 metres. It is Planning staff’s intention to amend the maximum residential accessory building height from 4.5 metres to 6.5 metres for the ‘RH’ Zone as per previous practice when Planning staff prepare the annual general update and amendment to the Zoning By-law for Council’s consideration. Further, the ‘RH’ Zone scopes the use of the subject lands to residential use. As such, after reviewing the misalignment of the Official Plan designation and zoning of the subject lands, Planning staff have no concerns with the zoning of the subject lands continuing as ‘Hamlet Residential (RH)’ Zone.

The proposal conforms to the Haldimand County Official Plan.

Haldimand County Zoning By-law HC 1-2020

The purpose of the Haldimand County Zoning By-law 1-2020 is to control the use of land within the County by stating exactly how land may be used, where buildings and other structures can be located, the types of buildings that are permitted and how they may be used, and the lot sizes and dimensions,

parking requirements, building heights and setback from the street. The Zoning By-law implements the Official Plan and is legally enforceable.

The subject lands are zoned 'Hamlet Residential (RH)' Zone and are subject to the 'Hazard Land' overlay. The 'RH' Zone permits a single family dwelling and residential accessory building subject to criteria including a maximum lot coverage of 10% of the lot area or 200 square metres (2,153 square feet) in size, whichever is less, and 4.5 metres (14.8 feet) in height. The applicant is proposing to construct a residential accessory building on the subject lands that is 372 square metres (4,000 square feet) in size and 6.5 metres (21.3 feet) in height (Attachment 2). A zoning deficiency chart is included as Attachment 3.

The purpose of the maximum size and height provisions are to ensure that residential accessory structures are appropriate for residential properties and compatible with the surrounding area. Compatibility refers to the size and massing of the building considering abutting and surrounding land uses, and technical matters such as lot coverage and drainage.

The residential accessory building is proposed in the northwest corner of the subject lands (Attachment 2). The subject lands are 0.53 hectares (1.32 acres) in size; the lot coverage of the residential accessory structure is seven percent (7%) of the lot area. The proposed residential accessory building abuts a commercial property with a large building (Blue Barn Furnishings) and parking lot to the west and agricultural lands in crop production to the north. There are no buildings (houses or barns) located to the north. The existing single family dwelling, which is located on a hill on the subject lands, buffers the residential properties to the east from the proposed residential accessory building. There is one single family dwelling across the road. The proposed residential accessory building will be setback from the road and smaller than the abutting commercial building. While the subject lands are zoned 'Hamlet Residential (RH)' Zone, as discussed in the section above, the subject lands and surrounding area are not located in a settlement area; they are located in the prime agricultural area of the County, where barns (with no size restrictions) are permitted. The height of the proposed residential accessory building is consistent with other agricultural and rural residential accessory structures permitted in the area (the 'A' Zone, which predominately surrounds the subject lands, permits a maximum residential accessory building height of 6.5 metres (21.3 feet)). The subject lands will continue to be zoned 'Hamlet Residential (RH)' Zone which does not permit commercial and industrial or other uses, except for home-based businesses subject to strict criteria (maximum size, setbacks from property lines and adjacent houses, number of employees, etc.) that continue to apply.

Given the above, it is Planning staff's opinion that the proposal for a large residential accessory building for personal storage in principle is appropriate for the subject lands and compatible with the surrounding area. Therefore, it is Planning staff's opinion that the proposal conforms to the general intent of the Zoning By-law. Planning staff recommend that a special provision be added to the zoning of the subject lands to permit the proposed residential accessory structure. Additionally, Planning staff recommend that a Holding (H) provision be affixed to the zoning of the subject lands to deal with technical implementation of the proposal and prevent a building permit from being issued until such time as:

- The Planning & Development Division has approved an elevation and landscaping plan prepared by a qualified professional to ensure the building fits with the characteristics of the surrounding area;
- The Planning & Development Division, GRCA, and MTO have approved a grading plan prepared by a professional engineer;
- The GRCA has issued a permit;
- The MTO has issued an MTO Building and Land Use Permit; MTO Entrance Permit; and if required, Individual Encroachment Permits for servicing connection/infrastructure within MTO property limits.

Planning staff recommend that Council delegate its authority to remove the H provision to the General Manager of Community & Development Services once the conditions of the H provision are satisfied. This streamlines the development process, recognizes that a principle of land use decision has been made by Council, and that the H removal process is technical in nature.

The draft Zoning By-law is included as Attachment 4. The delegation of H provision removal authority by-law is included as Attachment 5.

Conclusion

It is Planning staff's opinion that the subject application is consistent with the Provincial Policy Statement (2020), conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, conforms to the general intent of the Haldimand County Official Plan and Haldimand County Zoning By-law HC 1-2020, and is desirable for the appropriate development of the subject lands.

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

The development sign was posted on the subject lands and the applicant confirmed such on February 24, 2022. The notice of public meeting was circulated on or before March 15, 2022.

Public Comments:

Planning staff received written correspondence from a resident that lives south of the subject lands at 4938 Highway 3. His correspondence states: I disagree with the rezoning of 4935 Highway #3 Cayuga Planning Application #PLZ-HA-2021-211. I oppose the Zoning Application because I don't want to see a big warehouse out my front window and the traffic is just unreal let alone adding even more with trucks making deliveries.

Planning Comment: It is Planning staff's opinion that the subject application is appropriate and compatible. To ensure the proposed residential accessory building fits with the character of the area, Planning staff are requiring an elevation and landscaping plan prior to issuance of building permits. Planning staff have discussed the façade of the building and potential landscaping with the applicant; it is the applicant's intent for the building to be attractive and the applicant provided examples of building facades to Planning staff as part of the application package. Also, the intended use of the building is for personal storage and the zoning of the subject lands will continue as 'Hamlet Residential (RH)' which permits a dwelling and limited home-based business opportunities. Home-based business opportunities on the subject lands would be the same as any other rural residential lot and would include a home office in the existing single family dwelling or home occupation (occupation, personal service, business, arts and crafts) in the existing single family dwelling or accessory building up to 50 square metres (538 square feet) and home-based industry (craft trade, guide or service) up to 200 square metres (2,153 square feet).

Point being, a large commercial or industrial business that could create traffic concerns is not permitted on the subject lands.

Staff and Agency Comments:

Haldimand Norfolk Health Unit – No comments received.

Haldimand County Building Department – MTO and GRCA approval required.

Haldimand County Development & Design Technologist – No concern for this proposal. A grading plan is required before building permits are issued to ensure that drainage will not flow over to adjacent properties and to indicate and establish how the driveway/access will be modified to accommodate the new garage.

Haldimand County Emergency Services/Fire Department – No objections.

Haldimand County Forestry Operations – Forestry doesn't have any concerns with the proposed storage building construction, as there will be no impacts on County owned trees or Woodlands regulated pursuant to the Forest Conservation By-law 2204/20.

Municipal Property Assessment Corporation – No comments received.

Six Nations Council – No comments received.

Mississaugas of the Credit First Nation – No comments received.

CN Railway – No comments received.

CP Railway – No comments received.

Grand River Conservation Authority (GRCA) – The GRCA comments are included as Attachment 6 and map included as Attachment 7. The subject lands are regulated by the GRCA. A permit from the GRCA is required.

Ministry of Transportation (MTO) – The MTO has completed its review of municipal file no. PLZ-HA-2021-211 in accordance with the *Public Transportation and Highway Improvement Act* Section 38(2) and 38(11). The following outlines our position.

MTO have no objection to the zoning by-law amendment; however, the applicant should be made aware of the following:

Highway 3 along the subject property is a **Class 2B – Provincial Arterial** with a posted speed of 60 km/hr, and is designated as a **Controlled Access Highway** (CAH). As such, all requirements, guidelines and best practices in accordance with this classification and designation shall apply.

The owner should be aware that the property falls within MTO's Permit Control Area (PCA), and as such, MTO Permits are required before any demolition, grading, construction or alteration to the site commences. In accordance with the Ontario Building Code, municipal permits may not be issued until such time as all other applicable requirements (i.e.: MTO permits/approvals) are satisfied. As a condition of MTO permit(s) MTO will require the following for review approval:

Site Plans: showing any proposed grading and servicing, in addition to the proposed building. While these drawings will not need to be to scale, please ensure all features are fully dimensioned.

- MTO setback for the subject site is 8.0m from the MTO property line for any feature integral to operate the site (above/below ground structures, septic systems, parking, etc.).
 - The proposed concept plan exceeds the required 8.0m setback.
- The site plan will need to denote the access/driveway modifications proposed, see "concept plan mark-up.png" attached (Attachment 8).
 - MTO Comment 1: How will the proposed accessory building be accessed, north of the existing driveway?
 - MTO Comment 2: The existing "turn-around" is currently located within the MTO 8.0m setback, and will be requirement of the MTO permit(s) to be removed or relocated to achieve 8.0m from the abutting MTO property limit.
- Multiple MTO Permits will be required for this site:
 - 1 – MTO Building and Land Use Permit will be required for the site.
 - 1 – MTO Entrance Permit will also be required for this site.

- To address the change in ownership, and permitted uses on site.
- Individual Encroachment Permits will be required, should any servicing connections/infrastructure be required or upgraded within MTO property limits.

MTO has recently launched a MTO Highway Corridor Management System (HCMS) web-portal, with “View MTO Control Areas”, “Request a Pre-Consultation”, “General Inquiry” and “Apply for MTO Permit” functions (<https://www.hcms.mto.gov.on.ca>). This platform has been developed to better serve the general public and development sectors to track the status of a submission. Once submitted the file will be assigned to the appropriate MTO staff to facilitate.

Trans-Northern Pipelines Inc. – We can confirm that TNPI has NO infrastructure in the mentioned area.

Bell Canada – No comments received.

Enbridge – No comments received.

Hydro One High Voltage – No comments received.

Hydro One Local – Hydro One has no concerns regarding this application.

Metro Loop – No comments received.

Rogers Communications – No comments received.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Location Map.
2. Concept Plan.
3. Zoning Deficiency Chart.
4. Draft Zoning By-law.
5. Draft Holding Provision Removal By-law.
6. GRCA Comments.
7. GRCA Map.
8. MTO Concept Plan Mark-up.