
HALDIMAND COUNTY

Report PDD-28-2023 Follow-up to Report PDD-19-2023 Zoning By-law Amendment to Permit a Secondary Suite on a Private Road - Moon

For Consideration by Council on October 16, 2023



OBJECTIVE:

To consider a Zoning By-law Amendment to permit the construction of a seasonal secondary suite on a lot fronting on to a private road, requiring relief from various provisions of the Haldimand County Zoning By-law, within the Hamlet of Nanticoke.

RECOMMENDATIONS:

1. THAT Report PDD-28-2023 Follow-up to Report PDD-19-2023 Zoning By-law Amendment to Permit a Secondary Suite on a Private Road - Moon be received;
2. AND THAT application PLZ-HA-2023-098 to amend the Haldimand County Zoning By-law HC 1-2020 from 'Agriculture (A)' to 'Agriculture (A (H)) - Holding' with a special exception be approved for the reasons outlined in Report PDD-28-2023;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement, 2020 and the Growth Plan for the Greater Golden Horseshoe, 2020;
4. AND THAT the zoning amendment by-law be presented for enactment;
5. AND THAT the Holding (H) Provision removal by-law be presented for enactment and the General Manager of Community & Development Services be granted authority to remove the Holding (H) Provision when all conditions relating to the matter are satisfactorily addressed.

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

Approved: Cathy Case, Chief Administrative Officer

EXECUTIVE SUMMARY:

The applicant submitted a Zoning By-law Amendment application to permit the construction of a secondary suite on a lot fronting onto a private road. The application is also seeking relief from the required front yard setback; interior side yard setback; eave/gutter setback; accessory building height; and maximum floor area for a secondary suite. This report is to follow up on discussion raised at the October 10th Council-In-Committee Public Meeting and the option to amend the proposal for a secondary suite from a year-round permanent residential use to a seasonal dwelling use. The amendment to a seasonal use is intended to seek conformity with the Haldimand County Official Plan and Haldimand County Zoning By-law which permit seasonal residential uses on private roads. It is noted that the development of a vacation home on a private road is subject to a Limited Services Agreement. Completion of this agreement, as well as matters raised by Building and By-law Enforcement Services for a survey plan to confirm property line and deficiencies, as well as First Nations concerns regarding an Archaeological Report are noted through the Holding (H) provision.

The subject lands are designated 'Hamlet' in the Haldimand County Official Plan and zoned 'Agriculture (A)' in the Zoning By-law HC 1-2020. The subject lands are located in the Hamlet of Nanticoke, along Nanticoke Creek and known municipally as 20 Nanticoke Valley Road.

Planning staff are of the opinion that this revised proposal does conform to the Provincial Policy Statement and Haldimand County's Official Plan and that the application maintains the intent of the Zoning By-law HC 1-2020.

BACKGROUND:

The subject application was submitted to facilitate the construction of an accessory building including a secondary suite at 20 Nanticoke Valley Road with site-specific provisions, which was heard at the October 10th Council-In-Committee (CIC) Public Meeting. The Staff report did not recommend support of the application based on the policy framework and the fact that the use was intended for year-round occupancy on a private road. Committee deferred the matter and directed staff to work with the applicant to determine if they would be agreeable to adjusting from a year-round residency to seasonal for the secondary suite in an effort to move towards conforming with County policy. That work has been completed and the agent has confirmed the application is agreeable to this change. Based on this change, there is a policy basis to move the application forward with a positive recommendation subject to a number of conditions that are laid out in the Analysis section.

ANALYSIS:

The Provincial Policy Statement, 2020 (PPS) and Provincial Growth Plan provide policy direction on matters of the provincial interest related to land use planning and development. The *Planning Act* directs those decisions affecting planning matters "shall be consistent" with the policies of the PPS and conform to the Growth Plan. Both policy documents note that growth and development shall be directed into settlement areas, including hamlets – which Nanticoke is classified as. Secondary Suites are also permitted through the *Planning Act*.

The Haldimand County Official Plan similarly supports these types of uses but aligns residential tenure (year-round vs. seasonal) with the type of road access. Specifically, year-round residency requires municipal road frontage and access, while seasonal residency (generally defined as spring to fall) is permitted on private roads subject to certain conditions. The Official Plan describes private roads as "roads that are not owned or maintained by the County but are under private ownership and provide vehicular access to more than one property". Nanticoke Valley Road is a private road. A single detached dwelling is permitted as of right (i.e. without the need for a planning application) on existing lots of record provided the servicing policies are satisfied (i.e. the lots have access and frontage on an open public road; the lots are capable of accommodating a water supply system and an on-site sanitary sewage system designed and installed as per the *Ontario Building Code*; and the sites have appropriate drainage patterns). The Official Plan prohibits further development of year-round residences on lots fronting onto private roads because private roads were historically created without engineering oversight and are not constructed to the standard of a municipal road, are held in private ownership and have no formal oversight, and are not maintained or plowed by the County. This policy framework extends to accessory dwelling units or secondary suites as they are considered additional independent dwellings and an extension of permanent year-round development. Further development of year-round dwellings can lead to property and life safety concerns, liability on the County, and pressure for assumption and upgrades in the area. The Official Plan does permit seasonal uses on private roads and through County policy with the requirement for a Limited Servicing Agreement. A Limited Servicing Agreement is an acknowledgment between the land owner and the County that identifies limitations on the provision of services, and that the County cannot guarantee the provision of emergency services

on private roads. The agreement is registered on title and confirms that any development on private roads protects the interest of the County by informing residents of the potential constraints.

However, it is acknowledged that there are a number of private roads within the municipality and to recognize a certain level of development, seasonal dwellings, or vacation homes, may be permitted. This provides some opportunity for residential uses to be constructed and value added to the lands. While there are still concerns relating to private roads, in particular to the level of service that can be maintained to these lots, the seasonal nature of the use is seen to mitigate some of the potential issues during the inclement weather months in winter.

It is Planning staff's opinion that the agent has satisfactorily justified the amended application and that the amended application conforms to the overall intent and purpose of the objectives and policies of the OP.

Zoning By-law Amendment

The Haldimand County Zoning By-law HC 1-2020 also permits seasonal dwellings, or vacation homes, on private roads subject to a Limited Servicing Agreement. A Limited Services Agreement is a legal document that is registered on title to outline the fact that the municipality cannot guarantee the provisions of services on private roads, in particular to emergency services. The agreement is entered into by the land owner and the County and is registered on title so as to carry on title with future owners.

The proposed zoning by-law amendment would provide site specific provisions to permit the secondary suite to be located on a private road on a seasonal basis. This is consistent with the policies of the Official Plan and Zoning By-law.

The remaining provisions as requested through the zoning amendment include:

- Accessory Building Front Yard Setback – 1 metre (3 feet)
- Accessory Building Interior Side Yard – 0.7 metre (2.3 feet)
- 4.20(c) Minimum eave/gutter setback (accessory building) – 0 metre
- Accessory Building Height – 8 metres (26.2 feet)
- Maximum Secondary Suite Area – 112.2 sq. metres (1,207 sq. feet)

The majority of the requested relief are considered appropriate and they will not have any adverse impacts on the surrounding neighbourhood. While a zero (0) metre setback is generally not considered appropriate, the request is for the eaves/gutters only and any maintenance can be completed on-site (roof) without the direct need to access or use the neighbouring property. Additionally, the 0.7 metres (2.3 feet) building setback will allow for any site or property maintenance to be carried out on the subject lands.

A Holding (H) Provision is also being proposed in the by-law to ensure that components previously identified through report PDD-19-2023 from Building and By-law Enforcement Services regarding a survey plan to confirm property lines and zoning relief be provided, and both First Nations communities request for an archaeological report be completed and accepted; as well as to require the Limited Servicing Agreement be registered on title. Once these conditions have been addressed, the Holding (H) provision can be removed by the GM of Community & Development Services.

With the modifications to the by-law so that the secondary suite is permitted on a seasonal basis and inclusion of the Holding (H) provision to address certain legal and technical matters, staff are of the opinion that the proposed site-specific Zoning By-law Amendment maintains the general intent and purpose of the Zoning By-law and Official Plan.

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

REFERENCES:

None.

ATTACHMENTS:

None.