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# HALDIMAND COUNTY

## Report PDD-32-2023 Application for Site Specific Zoning By-law Amendment to Permit an Oversized Accessory Structure.



For Consideration by Council in Committee on December 12, 2023

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### OBJECTIVE:

To present a Zoning application to add a special provision to permit an accessory structure for storage which, exceeds the provisions of Zoning By-law HC 1-2020 for maximum lot area coverage for accessory structures and for building height.

### RECOMMENDATIONS:

1. THAT Report PDD-32-2023 Application for Site Specific Zoning By-law Amendment to Permit an Oversized Accessory Structure, be received;
2. AND THAT application PLZ-HA-2023-121, for a site specific amendment to the Haldimand County Zoning By-law HC 1-2020, to facilitate the approval an oversized accessory storage structure on the subject lands be approved for the reasons outlined in Report PDD-32-2023;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement, 2020 and A Place to Grow, the Growth Plan for the Greater Golden Horseshoe, 2020;
4. AND THAT the by-law be attached to Report PDD-32-2023 be presented for enactment.

**Prepared by:** John Douglas, MCIP, RPP, Senior Planner

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

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

**Approved:** Cathy Case, Chief Administrative Officer

### EXECUTIVE SUMMARY:

The applicants submitted an application for a Site Specific Amendment to Zoning By-law HC 1-2020 to facilitate the construction of a two-storey detached accessory structure for storage purposes. The site specific amendment is required to address deficiencies from Zoning standards for lot coverage and building height.

The total lot coverage for all accessory structures, including the proposed new storage building and existing garage, is 232 square metres (2,497.23 square feet), where lot coverage of up to 75 square metres (807 square feet) is permitted. The proposed stand-alone storage building, with the balcony, covers approximately 178 square metres (1,916 square feet). According to the submitted site plan, the existing detached garage on the subject property covers approximately 54.6 square metres (587.7 square feet).

The application also requests a building height of 7.5 metres (24.6 feet) where a height of 4.5 metres (14.7 feet) is permitted under the Zoning By-law.

Planning staff are of the opinion that the proposed accessory building for storage purposes is consistent with the Provincial Policy Statement 2020 (PPS), conforms with the policies of A Place to Grow: The Growth Plan for the Greater Golden Horseshoe (A Place to Grow), maintains the general intent and purpose of the Haldimand County Official Plan and Zoning By-law.

## **BACKGROUND:**

The subject property is legally described as Plan 140 Lot 10 Geographic Township of Rainham, and known municipally as 20 Featherstone Avenue. Featherstone Avenue runs west from Sweets Corners Road, and is north of and parallel to Lakeshore Road and the Lake Erie shoreline. The subject property is a large pie-shaped lot, approximately 0.9 hectares (2.23 acres) in area, and is located off the cul-de-sac at the end of the street. The lot has an existing single detached dwelling and a detached garage. The property is serviced by a private cistern and a septic system.

Surrounding land uses include: residential uses to the east; residential uses and Lake Erie to the south; predominantly agricultural lands to the west; and residential then agricultural uses to the north. The subject property is located outside of lands regulated by the Long Point Region Conservation Authority.

Initially, the applicant submitted an application for minor variance for the proposed accessory structure. Given that the application proposes total lot coverage 3 times greater than that allowed under the Zoning By-law, the applicant was advised that staff could not support the application for minor variance given it could not be considered 'minor in nature'. The applicant was advised that if they wished to proceed with the proposal an application to amend the Zoning By-law would be required. An application was submitted and is now before Council in Committee.

## **ANALYSIS:**

### **Provincial Policy Statement, 2020 (PPS)**

The Provincial Policy Statement, 2020 (PPS) provides policy direction on matters of 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. The PPS provide direction of key provincial interests, that must be consistently applied across the Province to ensure the collective, public good and quality of life are maintained or improved upon.

The PPS states that provincial plans and municipal official plans provide a framework for the comprehensive, integrated, place-based and long-term planning that supports and integrates the principles of strong communities, a clean and healthy environment and economic growth for the long-term.

Notwithstanding the above, the PPS is a high level policy document that does not provide direction regarding accessory structures that do not impact matters of provincial interest. Thus, the PPS is effectively silent and has limited applicability to this application. However, it is noted that the subject lands are located within an established lakeshore node (settlement area) and is recognized to facilitate some residential growth and development. The subject application is consistent with the policies of the PPS.

### **A Place to Grow – Growth Plan for the Greater Golden Horseshoe, 2020 (A Place to Grow)**

The purpose of A Place to Grow is to address challenges related to the magnitude of forecasted growth and changes in the Greater Golden Horseshoe over the next thirty (30) years. Planning decisions must conform to the Growth Plan.

Similar to the PPS, the Province's A Place to Grow deals with higher order land use planning matters across the Province such as curbing sprawl, encouraging intensification, balancing land uses, planning for infrastructure, protecting finite resources, etc. as the Greater Golden Horseshoe dramatically grows and changes in the long-run.

As with the PPS, A Place to Grow does not provide specific direction regarding accessory structures, however, similar to the PPS, the lands are noted as an existing settlement area and are intended to accommodate residential uses and limited growth. Staff are of the opinion that the subject application conforms with the policies of A Place to Grow.

### **Haldimand County Official Plan**

The Haldimand County Official Plan (OP) creates the long-term framework for guiding land use changes in the County by protecting and managing the natural environment, directing and influencing growth patterns and facilitating the vision of the County as expressed through its residents. The OP also provides the avenue through which Provincial Policy is implemented into the local context.

The subject property is designated as "Resort Residential Node" on Schedule D.9 of the OP, which is intended to recognize the variety of land uses that exist, permit resort residential development within the nodes and protect the open nature of the lakeshore resource. Seasonal residences are the preferred type of dwellings along the Lakeshore, with a limited amount of year-round residences and new year-round residential infilling development also permitted; these policy permissions include accessory buildings to existing residential dwellings. The policies of the OP do not provide direction regarding accessory structures size and scale; however, the use is permitted. Staff are satisfied that the subject application conforms to the policies of the OP.

### **Haldimand County Zoning By-law HC 1-2020**

The subject property is zoned "Lakeshore Residential (RL)" in Haldimand County Zoning By-law HC 1-2020. Section 4.2 of the Zoning By-law sets out the criteria related to accessory structures:

#### **4.2 Accessory Uses, Buildings and Structures to Residential Uses**

No building, or structure which is accessory to any permitted residential use in any zone shall:

- a) be established on any lot until or unless the main building or use to which it is accessory is established;

**Planning Comment:** The main building and use on the lot have been established. The subject application conforms with this subsection.

- b) exceed a building height of 4.5 metres (14.7 feet) in the R1, R2, R3, R4, R5, R6 and RL zones and 6.5 metres (21.3 feet) in all other zones where the use is permitted;

**Planning Comment:** According to this subsection, the maximum permitted building height is 4.5 metres (14.7 feet) based on the lot being within the RL zone. The subject application is requesting a height of 7.5 metres (24.6 feet), exceeding the maximum permitted height by 3.0 metres (9.8 feet). The intent of this subsection is to mitigate potential impacts on neighbouring properties such as overshadowing and overlook.

The proposed accessory structure is located near the south lot line of the subject property. Based on the location of the proposed accessory building and the size of the subject property, staff find it likely that any significant shadow impacts will be limited to the subject property itself.

The proposed accessory structure includes a second floor balcony which faces south, looking over the rear yard of the neighbour to the south, towards Lake Erie. The proposed site plan shows that both the first and second storeys of the accessory structure are to be used for storage purposes. As a storage building, staff understand there may be occasional overlook of the

neighbour's property which is primarily over the rear portion of south neighbours back yard. Staff may have had some concerns regarding overlook, if the second storey was proposed to be used as an accessory dwelling, however, that is not the applicant's stated intention, is not part of the subject application and is not permitted under current zoning regulations.

Given that any approval of this application would be for a storage building only, staff are of the opinion that it does not conflict with this subsection of the Zoning By-law.

- c) occupy any part of a required exterior side yard or required front yard;

**Planning Comment:** The proposed accessory structure for storage does not occupy any part of a required side or front yard. The subject application conforms with this subsection.

- d) be nearer than 1.0 metres (3.3 feet) of a lot line within an interior side yard or 1.0 metres (3.3 feet) of an interior lot line within a front yard;

**Planning Comment:** The balcony of the proposed accessory structure would be the closest portion of the building to a lot line. That portion would be located approximately 7.0 metres (23 feet) from the interior side lot line. Staff are satisfied that this standard of the Zoning By-law has been met.

- e) be nearer than 1.0 metre (3.3 feet) of an interior lot line within a rear yard except:
- i. in the case of a mutual private garage or a mutual boathouse in the rear yard on a common interior side lot line, no setback is required,
  - ii. in the case of a lot line abutting a navigable watercourse, no setback is required for a boathouse, dock, pier or wharf where the boathouse, dock, pier or wharf abuts the watercourse;

**Planning Comment:** The applicant's site plan shows the proposed accessory structure to be closest to the south lot line of the subject property. According to the site plan the south wall of the accessory structure would be located 9.48 metre (31.1 feet) from the south property line. However, this does not account for the 2.44 metre (8 feet) balcony at the south side of the accessory structure. The side yard setback with the balcony would be approximately 7 metres (23 feet) from the lot line. The proposed side yard setbacks exceed the 1.0 metre (3.3 feet) setback required in the Zoning By-law. Staff are satisfied that this standard of the Zoning By-law has been addressed.

- f) occupy more than 10% of the lot area to a maximum of 75 square metres (807 sq. feet) of useable floor area, whichever is lesser, for all accessory buildings or structures together, in the R1, R2, R3, R4, RL residential Zones; 100 square metres (1,076 sq. feet) of building area on those lots measuring 0.4 hectares (1 acre) or less in all other zones where the use is permitted, and 200 square metres (2,152 sq. feet) of building area on those lots measuring 0.4 hectares (1 acre) or more in all other zones where the use is permitted. Swimming pools shall not constitute a structure for the purposes of this provision;

**Planning Comment:** In the RL zone, an accessory structure may not occupy more than 10% of the lot area to a maximum of 75 square metres (807 sq. feet) of useable floor area, whichever is lesser, for all accessory buildings or structures together. The total lot coverage of all accessory structures resulting from the subject application has been calculated to be 232 square metres (2,497.23 sq. feet), which significantly exceeds the 75 square metre (807 sq. feet) maximum in the RL zone. The application for a site specific Zoning By-law amendment is required to allow the 232 square metres (2,497.23 sq. feet) of accessory structures proposed through the subject application.

The intent of this section of the Zoning By-law is to ensure that sufficient landscaped open space is retained while still allowing accessory structures on residential lots. It is also intended to

ensure that accessory buildings do not dominate the property and negatively impact on the area characteristic. While some residential lots can be quite small, the subject property is approximately 0.9 hectares (2.23 acres) in area. Although the proposed accessory structure is quite large, it is still only 2.58 percent of the lot area. It is noted that while the proposed structure is larger than permitted for the RL zone, the property is adjacent to the Agriculture (A) zone, which does not have limits on agriculturally related buildings, and there is an existing barn and accessory buildings to the west of the subject lands which are larger than the requested relief. In that comparison, the proposed structure would not be out of character with structures that could be further built on the adjacent farm parcels.

- g) be permitted for a secondary suite which is permitted on the lot in accordance with this By-law;

**Planning Comment:** Section 4.55 of Haldimand Zoning By-law HC 1-2020 prohibits secondary suites in the RL zone. In general, the RL zone has been established to recognize existing seasonal residential uses near Lake Erie. Most of the lots in the RL zone pre-date the Zoning By-law. Lot sizes vary significantly in size from very small to large. Some lots are too small for a septic system and have holding tanks instead. There are many lots in the RL zone without direct access to a publicly maintained road. New development on holding tanks or private roads is generally not supported. As a result of the large variation in lot sizes, and the prevalence of access through private roads, accessory dwellings/secondary suites are prohibited in the RL zone. It is acknowledged that not all properties possess all of these characteristics, and some could be considered for secondary suite permissions through a zoning amendment process. That use has not been requested as part of this application. This has relevance given some of the concerns staff have received from the public and which are described below.

The County (Planning & Development and Building & Municipal Enforcement Services Divisions) have received objections to the subject application. The objectors advise that they understand from the owners that the second floor of the proposed accessory structure is to be used as a dwelling. As noted above, a secondary suite is not a permitted use in the RL zone. Having received these concerns, staff asked the applicant's agent if the applicants wanted to amend the application for a site specific zoning by-law amendment to include an accessory dwelling on the second floor of the proposed accessory structure. The answer was no, with the agent confirming that this building will be used storage space only.

Planning staff are required to analyze and report on applications as they are submitted. The application received is requesting relief to permit an oversized accessory structure for storage purposes. If Council decides to approve the application as submitted, residential use of the accessory structure would be illegal and subject to enforcement. If the applicant decided at a future date to seek permission to use a part of the accessory structure for residential purposes, a new application to amend the Zoning By-law would be required.

- h) be used for human habitation or an occupation for gain or profit, unless otherwise permitted by this By-law;

**Planning Comment:** As noted above, an accessory dwelling(s) is prohibited in the RL zone. Notwithstanding concerns raised by neighbours about the future use of the accessory structure for human habitation, Planning staff are required to analyze and report on applications as they are submitted. The subject application states that the proposed accessory structure is for storage purposes only. Staff have reviewed the subject application for what the applicant has confirmed it is, an application to permit an oversized accessory structure on the subject lands.

- i) have any portion of the eaves closer to the lot line than half of the required setback; and

**Planning Comment:** Staff are satisfied that the proposed accessory structure setback exceeds the required 1.0 metres (3.3 feet) setback. The eaves will not be within the required side yard setback. This subsection has been met.

- j) a detached pergola or similar structure less than 16 square metres in area is not subject to the provisions of 4.2 'a' to "i".

**Planning Comments:** The subject application does not include a detached pergola or similar structure. This subsection is not applicable.

In summary, the zoning provisions were reviewed and considered in context of the Provincial Policy Statement, 2020, the Provincial Growth Plan for the Greater Golden Horseshoe 2020, and the Haldimand County Official Plan. The Zoning By-law will implement the specific provisions relating to a proposed accessory structure for the existing residential use, and while larger than permitted in the applicable zone provisions, the requested relief is acceptable in terms of the context and characteristics of the subject lands and maintains the general intent of the Zoning By-law. As such, Planning staff recommend approval of this application and passing of the attached by-law (Attachment 4).

## **FINANCIAL/LEGAL IMPLICATIONS:**

Not applicable.

## **STAKEHOLDER IMPACTS:**

**Public:** Several objections to the proposal have been received from the public. Please see the correspondence within (Attachment 5).

**Building and Municipal Enforcement Services:** The subject property is zoned Lakeshore Residential, with a request to permit a two-storey stand alone accessory structure for storage purposes. The Planning Justification Report addresses zoning deficiencies – exceeds permitted lot coverage, and building height. Proposal is non-compliant with sections 4.2 b) and 4.2 f) of Haldimand County Zoning By-law HC 1-2020:

### Section 4.2 Accessory Uses, Buildings and Structures to Residential Uses

No building, or structure which is accessory to any permitted residential use in any zone shall:

- b) exceed a building height of 4.5 metres in the R1, R2, R3, R4, R5, R6 and RL zones and 6.5 metres in all other zones where the use is permitted;
- f) occupy more than 10% of the lot area to a maximum of 75 square metres of useable floor area, whichever is lesser, for all accessory buildings or structures together, in the R1, R2, R3, R4, RL residential Zones; 100 square metres of building area on those lots measuring 0.4 hectares or less in all other zones where the use is permitted, and 200 square metres of building area on those lots measuring 0.4 hectares or more in all other zones where the use is permitted. Swimming pools shall not constitute a structure for the purposes of this provision;

**Planning & Development, Development Technologist:** Need to show water runoff control, leading or directing it away from the property and the neighbor's property. Perhaps through use of grading, show drainage path of the water coming down from the roof, and downspout leaders.

**Long Point Region Conservation Authority (LPRCA):** The subject property is outside the area regulated by the LPRCA.

**Mississaugas of the Credit First Nation (MCFN):** Circulated for comments. No comments received at the time of the writing of this report.

**Six Nations of the Grand River:** Circulated for comments. No comments received at the time of the writing of this report.

## **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

## **REFERENCES:**

None

## **ATTACHMENTS:**

1. Location Map.
2. Owner's Sketch 1.
3. Owner's Sketch 2.
4. Draft Zoning By-law Amendment.
5. Correspondence from the Public.