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# Haldimand County Committee of Adjustment



## Minor Variance

**File Number:** PLA-2024-189

**Property Roll Number:** 2180-158-003-06600-0000

**Applicant:** Marta Janeckova

**Agent:** No agent

**Property Location:** 21 Erie Ave South, Legally Described as Rainham Concession 4, Part Lot 7 Registered Plan 18R2763 Parts 1, 3, 6

**For consideration on: October 15, 2024**

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## Summary

The applicant proposes relief from the maximum accessory structure area and to permit accessory structures in the form of cargo containers in the “Hamlet Residential (RH)” Zone of the Haldimand County Zoning By-law HC 1-2020. Planning staff recommends deferral of this application to allow the applicant time to provide a septic evaluation and confirm the side yard setbacks.

## Recommendation

THAT application PLA-2024-189 be deferred to allow the applicant time to provide a septic evaluation and confirm the side yard setbacks.

**Prepared by:** Chris Tang, MCIP, RPP, Planner, Planning and Development

**Reviewed by:** Krystina Wheatley, Acting Supervisor, Planning and Development

## Details of the Submission:

**Proposal:** Relief is requested from the Accessory Uses, Buildings and Structures to Residential Uses and Cargo Containers used for Storage Purposes sections of Zoning By-law HC 1-2020 as follows:

Development Standard(s)	Required	Proposed	Deficiency
% Lot Coverage	100m <sup>2</sup>	138.21m <sup>2</sup>	38.21m <sup>2</sup>
Storage Container	Not permitted n/a	Permit 2, 2.4x6m each	4.10 not permitted in Residential Zones

The relief is requested to permit more accessory structure area than is permitted by the Haldimand County Zoning By-law HC 1-2020 and two (2) cargo containers on the subject lands, whereas the Haldimand County Zoning By-Law HC 1-2020 prohibits cargo containers on residentially zoned lots.

The development is existing as shown on the Owner's Sketch. The relief is requested to address a Municipal Enforcement (By-law) concern. If the minor variance is not approved, the applicant will be required to remove a shed(s) and the cargo containers from the subject lands to bring the subject lands into conformance with the Haldimand County Zoning By-law HC 1-2020.

**Site Features and Land Use:**

The subject lands are located in the Hamlet of Fisherville and front onto the east side of Erie Avenue South. The subject lands have 22.86 metres (75 feet) of frontage and are 0.28 hectares (0.69 acres) in size. The subject lands currently contain a single detached dwelling and accessory structures, including a detached garage, sheds, and two (2) cargo containers. The subject lands are privately serviced via a well and septic system. The surrounding land uses are generally residential and agricultural in nature.

**Existing Intensive Livestock Operations:**

Not applicable.

**Agency & Public Comments**

**Haldimand County Building & Municipal Enforcement Services:**

Confirmation that the cargo containers meet the minimum distance from the septic system per part 9 of Ontario Building Code (OBC) and the minimum setbacks of Section 4.2 of the Zoning By-Law is required.

**Haldimand County Planning & Development Services – Development Technologist:**

A Grading/Drainage plan is required to confirm the additional storage containers / accessory structures will not have an adverse impact on the neighbouring properties.

**Haldimand County Emergency Services:**

No comments or concerns.

**Haldimand County Water and Wastewater Engineering & Compliance:**

No comments or concerns.

**Hydro One:**

No comments received.

**Municipal Property Assessment Corporation:**

No comments received.

## Mississaugas of the Credit:

No comments received.

## Six Nations:

No comments received.

## Public:

Adjacent neighbour made verbal comment with concerns to drainage issues.

**Planning Comment:** To address grading/drainage concerns with respect to the accessory structures, the Development Technologist recommends a grading/drainage plan be required as a condition of approval. Planning staff recommends that a lot grading agreement also be required as a condition of approval to legally bind the applicant to the grading/drainage plan, once approved by the Development Technologist.

## Planning Analysis

A minor variance is required to meet four tests under Section 45(1) of the *Planning Act*:

1. Does the application conform to the general intent of the Official Plan?

### Planning staff comment:

The subject lands are designated “Hamlet” in the Haldimand County Official Plan. Single detached dwellings and accessory structures are permitted in “Hamlet” designation. However, the Official Plan does not provide policy direction on accessory structures and cargo containers; they are regulated via the Haldimand County Zoning By-law HC 1-2020. It is Planning staff’s opinion that the proposal maintains the general intent of the Official Plan.

2. Does the application conform to the general intent of the Zoning By-law?

### Planning staff comment:

The subject lands are zoned “Hamlet Residential (RH)” in the Haldimand County Zoning By-law HC 1-2020. The applicant recently installed two (2) cargo containers on the subject lands. The installation has created Zoning By-law conformance issues with respect to the Accessory Uses, Buildings and Structures to Residential Uses and Cargo Containers used for Storage Purposes sections of the Zoning By-law.

The applicant is seeking relief from the maximum cumulative accessory structure area provision and to permit two (2) accessory structures in the form of cargo containers on the subject lands. The Zoning By-law permits a cumulative accessory structure area up to ten percent (10%) of the lot area to a maximum of 100 square metres (1,076 square feet) of building area on lots measuring 0.4 hectares (0.99 acres) or less. The applicant is requesting a cumulative accessory structure area of 138.21 square metres (1,487 square feet). The Zoning By-law prohibits cargo containers to be located in residential zones, including the “RH” Zone. The applicant is requesting

to permit two (2) cargo containers on the subject lands. The use of the cargo containers is for personal storage.

The intent of limiting the size or area of residential accessory structures is to ensure they remain accessory to the primary use on lots, to ensure they do not negatively impact the character of an area, and to ensure they do not negatively impact neighbouring lots. The cumulative accessory structure area on the subject lands represents less than five percent (5%) of the lot area. The accessory structures (detached garage, sheds, cargo containers) are generally sized for personal storage. The accessory structures (with the exception of the detached garage) are well screened from the street and fenced off from the neighbouring lots, in particular the lot to the south (23 Erie Avenue South). The cargo containers and sheds are well setback from the dwelling and amenity area on the lot to south. Additionally, the lot to the south contains two (2) large accessory structures, one aligning directly with the cargo containers. To address the neighbour's concern regarding lot grading and drainage, Planning staff recommend that a lot grading/drainage plan and lot grading agreement be required as a condition of approval. Overall, the accessory structures are accessory to the primary use of the subject lands and blend in and do not impact the character of the area or neighbouring lots. Therefore, Planning staff have no concerns with the cumulative size or area of the accessory structures.

The reason cargo containers are prohibited on residential properties, including "RH" zoned lots, is their appearance. However, on a case-by-case basis they can be contemplated on residential lots. The cargo containers are located behind the existing detached garage, are not visible from the road, and are fenced from the neighbouring properties. The cargo containers are well setback from the dwelling and amenity space on the lot to the south (23 Erie Avenue South). The lot to the south contains two (2) large accessory structures that are constructed with similar material to the cargo containers and are similar in appearance. Given the size of the subject lands and the location of the cargo containers on the subject lands, the cargo containers do not negatively impact or alter the character of the area or the neighbouring lots from an appearance perspective. Therefore Planning staff have no concerns with permitting the cargo containers on the subject lands for personal storage.

It is the opinion of Planning staff that the subject application maintains the general intent of the Zoning By-law.

3. Is the application desirable for the appropriate development of the lands in question?

**Planning staff comment:**

For the reasons listed above, it is Planning staff's opinion that the application is appropriate for the subject lands.

4. Is the application minor?

**Planning staff comment:**

For the reasons listed above, it is Planning staff's opinion that the subject application is minor.

The subject application meets the four tests of a minor variance.

However, the Haldimand County Building and Municipal Enforcement Division has commented that they require a septic evaluation to ensure the cargo containers meet the minimum distance from the septic system as per the OBC and the minimum setbacks of Section 4.2 of the Zoning By-law. Planning staff recommends that the application be deferred to allow the applicant time to provide a septic evaluation and confirm the side yard setbacks. Depending on the septic evaluation, the location of the cargo containers may need to be adjusted and Planning staff would like the opportunity to review and condition the approval to require that the development generally be in line with the Owner's Sketch. Planning staff have no concerns with the grading/drainage plan being a condition of approval as it should not change the general location of the cargo containers.

Should the Committee desire to approve this application without a septic evaluation and confirmation of setbacks, Planning staff recommend the following conditions of approval:

1. That the development generally be in line with the approved Owner's Sketch.
2. That the applicant confirm the accessory structures meet the minimum setbacks of Section 4.2 of the Haldimand County Zoning By-law HC 1-2020.
3. That a letter from the Planning & Development Division indicating their requirements, regarding a lot grading/drainage plan to address surface drainage of the property, have been satisfied. Please note that grading plans must be prepared/stamped/signed by a qualified Professional Engineer as per Haldimand County Design Criteria. Contact the Development and Design Technologist at 905-318-5932 ext. 6253 for further clarification regarding required extent/limits. Please allow approximately six (6) to eight (8) weeks for completion of this process.
4. That the applicant provide proof of registration of a lot grading/drainage agreement on the title of the subject lands. Contact the Planner at 905-318-5932 ext. 6203 for further clarification regarding the agreement application and process. Please allow approximately two (2) to four (4) weeks for completion of this process following approval of the partial lot grading/drainage plan.
5. That a septic evaluation be completed and submitted **to the Secretary Treasurer**, who will give it to the Haldimand County Building and Municipal Enforcement Division for approval. Please allow approximately six (6) months for completion of the septic evaluation. Please contact the Building and Municipal Enforcement Division at 905-318-5932 for further clarification.

## **Notice Sign and Applicant Discussion**

A public notice sign was posted in accordance with the Planning Act, R.S.O. 1990, c. P.13 on 10/1/2024

A copy of the staff report has been provided to the applicant.

## **Attachments:**

1. Location Map.
2. Owner's Sketch.