
Haldimand County Committee of Adjustment



Minor Variance

File Number: PLA-2024-208

Property Roll Number: 2180-155-004-00700-0000

Applicant: Allen David Prest, Allison Prest

Agent: No agent

Property Location: 405 Junction Road, North Cayuga. Legally Described as North Cayuga Concession 2 STR Part Lot 7 Registered Plan, 18R978 Part 2.

For consideration on: October 15, 2024

Summary

The applicants propose relief from the Secondary Suite and Accessory Uses, Buildings and Structures to Residential Uses sections of the Haldimand County Zoning By-law HC 1-2020 to permit a secondary suite on the subject lands that is taller than permitted. Planning staff recommends approval of this application as it meets the four tests of a minor variance.

Recommendation

THAT application PLA-2024-208 meets the four tests of a minor variance. Therefore, Planning staff recommend approval of this application subject to the following conditions:

- 1) That the applicant provide to the Building and Municipal Enforcement Division a permit or letter from the Niagara Peninsula Conservation Authority (NPCA) stating that all NPCA concerns have been addressed prior to receiving a building permit.

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 Secondary Suite and Accessory Uses, Buildings and Structures to Residential Uses sections of Zoning By-law HC 1-2020 as follows:

Development Standard(s)	Required	Proposed	Deficiency
Height of Building	6.5m	8.9m	2.4m

The Committee of Adjustment approved minor variance application PLA-2024-068 on June 11, 2024 to permit the construction of a new secondary suite on the subject lands. The minor variance approved the secondary suite to be 139.35 square metres (1,500 feet) in size whereas the Zoning By-law permits a maximum secondary suite size of 80 square metres (861 square feet), the secondary suite to be located 75 metres (246 feet) from the primary residence whereas the Zoning By-law permits a maximum distance of 45 metres (148 feet), and an accessory building (including the secondary suite) lot coverage of 342 square metres whereas the Zoning By-law permits a maximum accessory building lot coverage of 200 square metres. At the time of minor variance application PLA-2024-068, the subject lands contained a principle dwelling and accessory buildings; The applicant was proposing to construct a new secondary suite.

At the time of minor variance application PLA-2024-068, a basement was not included in the secondary suite plans and, subsequently, was not included as part of the requested relief for overall gross floor area. When the applicants applied for a building permit, a basement was included in the plans. The Building and Municipal Enforcement Division could not issue a permit unless the basement was removed from the secondary suite plans or another minor variance application was approved.

Discussion took place between Planning staff, Building staff, and the applicants and collectively it was decided that the best way to move forward was to switch the dwellings and apply for another minor variance application. The applicant is now proposing to switch the principle dwelling and secondary suite. The applicant is proposing that the existing principle dwelling become the secondary suite and the proposed secondary suite become the principle dwelling. This switch is a result of the gross floor area of the principle dwelling compared to the secondary suite. The gross floor area of the existing principle dwelling (to be converted into a secondary suite) is less than 139.35 square metres in size (1,500 square feet) and the gross floor area of the new build (primary dwelling) is 278.71 square metres (3,000 square feet). No additional relief with regards to gross floor area of the secondary suite, secondary suite location, or overall accessory building lot coverage is required to facilitate the switch or permit the basement. However, relief from the maximum building height provision is required to permit the principle dwelling to be converted into the secondary suite. In the "Agriculture (A)" Zone, a principle dwelling is permitted to a maximum building height of 11 metres (36 feet) and a secondary suite is permitted to a maximum building height of 6.5 metres (21 feet). Relief is requested to permit the principle dwelling to be converted into the secondary suite with a height of 8.9 meters (29 feet).

Site Features and Land Use:

The subject lands are located in the township of Canfield and front onto the west side of Junction Road. The subject lands have 207.24 metres (680 feet) of frontage and are approximately 12.64 hectares (31.23 acres) in area. The subject lands are used for agricultural purposes. The subject lands currently contain an existing single detached dwelling and accessory structures. The surrounding land uses are agriculture and rural residential in nature.

Existing Intensive Livestock Operations:

Not applicable.

Agency & Public Comments**Haldimand County Building & Municipal Enforcement Services:**

No comments or concerns.

Haldimand County Planning & Development Services – Development Technologist:

No comments or concerns.

Haldimand County Emergency Services:

No comments or concerns.

Haldimand County Water and Wastewater Engineering & Compliance:

No comments or concerns.

Niagara Peninsula Conservation Authority:

NPCA comments remain consistent with comments provided in May 2024. The subject lands are impacted by regulated watercourse, an unmapped floodplain, and possible unevaluated wetlands. NPCA has no objections to the proposed height and classifications of the buildings however due to the proposed location of the building and the possible unevaluated wetlands, NPCA requires the construction of the building plans be circulated to NPCA for approval and permit may be required. NPCA will need to see that:

- The proposed structure is setback a minimum of 15 m from the forest line to the north.
- ESC measures are utilized.
- If driveway is crossing watercourse to the north, a site visit will be required.

Hydro One:

No comments or concerns with application.

Municipal Property Assessment Corporation:

No comments received.

Mississaugas of the Credit:

No comments received.

Six Nations:

No comments received.

Public:

No comments received.

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 “Agriculture” in the Haldimand County Official Plan. Secondary Suites are permitted in the “Agriculture” designation subject to the following criteria and the regulation of the Zoning By-law:

- a) The secondary suite may be contained within the principal dwelling or in an attached or standalone structure on the lot that is secondary in nature to the primary single detached, semi-detached dwelling, or street townhouse dwelling;

Planning staff comment: The secondary suite will be a standalone structure on the subject lands.

- b) A maximum of two secondary suites may be permitted on a lot with one of the secondary units located within the principal dwelling. The unit is clearly subordinate to the primary residential unit in the dwelling;

Planning staff comment: One secondary suite is proposed on the subject lands.

- c) The secondary units must be subordinate in size to the principle dwelling on the lot;

Planning staff comment: The secondary suite will be fifty percent (50%) of the size of the principle dwelling following conversion of the existing principle dwelling into the secondary suite and construction of the new principle dwelling. It is the opinion of Planning staff that the secondary unit will be subordinate in size to the principle dwelling.

- d) Adequate on-site parking for all the residential units is provided;

Planning staff comment: The Zoning By-law requires two (2) parking spaces be provided from the primary dwelling and one (1) parking space be provided for the secondary suite. The subject lands are sufficiently sized to provide parking for both uses.

- e) Adequate servicing capacity exists for all of the dwelling units on the lot;

Planning staff comment: The existing, principle dwelling (to become the secondary suite) is on private services. The new primary dwelling will need to be serviced by a new cistern and

septic system or will need to be connected to the existing systems. The applicants will need to satisfy all *Ontario Building Code* requirements related to private servicing to obtain building permits. No concerns with regards to private servicing were raised by staff through the commenting process.

- f) A secondary dwelling unit cannot be severed from the lot of the principal dwelling;

Planning staff comment: The secondary suite is not anticipated to be severed from the lot and will not be supported under the current Provincial policy.

- g) The secondary suite complies with Provincial building and fire code requirements; and

Planning staff comment: The secondary suite will need to satisfy all applicable *Ontario Building Code* requirements as part of the building permit process.

- h) The exterior appearance of the dwelling is not significantly altered to accommodate the unit.

Planning staff comment: Planning staff have no concerns with the appearance of the proposed secondary suite. The secondary suite will be the converted primary dwelling. The converted secondary suite is located on a large agricultural property, and is setback and hidden from the road and dwellings on adjacent lots.

It is the opinion of Planning staff that the proposal maintains the intent and purpose of the OP.

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

Planning staff comment:

The subject lands are zoned “Agriculture (A)” Zone. Secondary Suites are permitted in the “A” Zone. The Zoning By-law sets out regulations for secondary suites related but not limited to:

- Number of secondary suites per lot;
- Distance from the Primary Residence
- Size of the Secondary Suite
- Accessory Building Lot Coverage
- Height

The applicant is seeking relief for maximum building height to facilitate the conversion of the principle dwelling into a secondary suite. The Zoning By-law permits a maximum height of 6.5 metres (21 feet) whereas 8.9 metres (29 feet) is proposed, creating a deficiency of 2.4 metres (8 feet). The intent of limiting the height of secondary suites is to ensure that they are accessory to the principle dwelling in terms of size and scale; This includes both function and appearance. The principle dwelling is existing and will be converted into the secondary suite. The converted secondary suite has an appropriate gross floor area for a secondary suite; The height does not contribute to a high / inappropriate gross floor area. The converted secondary suite is setback and hidden from the road due to tree cover and adjacent dwellings and will not appear overly

tall. The proposed secondary suite will meet the other secondary suite zoning in the Zoning By-law and previously approved minor variance application PLA-2024-068.

It is the opinion of Planning staff that the application conforms to 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:

The subject application will permit the conversion of the principle dwelling into a secondary suite to allow for a livable secondary suite on the subject lands, while at the same time, permit the construction of a new principle dwelling. The size of the proposed principal dwelling will be twice as large as the converted secondary suite. The converted secondary suite will be subordinate to the principal dwelling. The height of the converted secondary suite will not negatively impact the subject lands and the surrounding properties. The secondary suite will create additional housing stock which is supported by both Provincial and County Policies.

It is the opinion of Planning staff that the subject application is appropriate and desirable development for the subject lands.

4. Is the application minor?

Planning staff comment:

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

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

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 1.
3. Owner's Sketch 2.