

TOWNSHIP OF WELLINGTON NORTH

COMMITTEE OF ADJUSTMENT

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APPLICATION A5/11

Applicant: Noah Martin and Verna Martin

THE LOCATION OF THE SUBJECT PROPERTY is described as Part of Lot 18, Concession 10, RP 61R9990; Part 1, with a civic address of 7044 Sideroad 7 West. The property is approximately 1.86 hectares (4.59 Acres) in size and occupied by a residential dwelling.

THE PURPOSE AND EFFECT OF THE APPLICATION is to provide relief from the required maximum size of an accessory structure under the Wellington North Zoning By-law. The subject lands are zoned a combination of Agricultural (A) and Natural Environment (NE). Other variances may be considered where deemed appropriate.

4. The Secretary Treasurer confirmed that the original notice was mailed to surrounding property owners within 120 metres and required agencies on August 30, 2011 as well as posted on the property.
5. Linda Redmond, Township Planner, reviewed her comments dated September 6, 2011.

The variance requested would provide relief from the maximum floor area requirement for a detached accessory structure on a residential lot. The applicants are proposing to construct a 371.6 sq m (4000 sq ft) accessory structure whereas 92.9 sq m (1000 sq ft) would normally be the maximum. The applicants have stated that they intend to use a portion of the building as a garage and personal storage and the remainder to store excavating equipment.

The Planning Department had concerns with the size and scale of the proposed structure. In addition we have concerns with the use of the building. The Committee should be satisfied that the application would maintain the general intent and purpose of the Official Plan and Zoning By-law, and would be desirable and appropriate for the development of the subject property. Approval of this variance should be conditional that the proposed use of the structure will be for personal storage only and not for commercial or residential purposes except as permitted and regulated under the home industry criteria as outlined in section 6.14.

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Under the Wellington County Official Plan the subject property is designated Prime Agricultural and Core Greenlands. Section 13.7 of the Plan provides consideration for minor variances provided the general intent of the Official Plan and Zoning By-law are maintained and the variance is minor and desirable for the appropriate development of the land. Consideration should be given as to whether compliance with the by-law would be unreasonable, undesirable or would pose an undue hardship on the applicant.

Under the Wellington North Zoning By-law the subject lands are zoned Agricultural (A) and Natural Environment (NE). The applicants are proposing to construct a 371.6 sq.m (4000 sq.ft.) accessory structure in order to store personal vehicles, lawn and garden equipment as well as excavation equipment. The zoning by-law limits the size of all accessory structures on residential properties. As such, the following relief is required:

1. To allow a combined area of 371.6 m² (4000 sq.ft) for an accessory structure, whereas the by-law allows a maximum of 92.9 m² (1000 sq.ft.) for all accessory structures.

Section 5.3 of the by-law defines “accessory” as “a use, building or structure which is incidental, subordinate, and exclusively devoted to the main use, building or structure located on the same lot and in the same zone as such use, building or structure and which is not used or intended for use as human habitation unless permitted by the provisions of certain zones of this By-law. The intent of an accessory structure is one which is clearly secondary and devoted to the main permitted use and should not be used for gain or profit or for human habitation.

This application is for a minor variance to allow an oversized accessory structure. The reason stated for the large size is to accommodate excavation equipment storage. At this time staff was unaware of the nature of this business with respect to size and scale. The current zoning by-law does not permit an excavating or contractors yard within the Agricultural zone if this is in fact the use of the building. The Provincial Policy Statement (PPS) and Wellington County Official Plan provide policy direction related to permitted uses within PRIME AGRICULTURAL areas which include agricultural uses, secondary uses (home industries and home occupations) and agriculture-related uses. Home Industries are one type of Home Business which may be permitted “*as a means of supplementing farm incomes and providing services in agricultural areas.*” Home Industries are also expected to be small in scale with a limited number of employees, and minimal off-site impacts. Examples include minor equipment repair, woodworking, crafts, and welding.

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The Official Plan and the Provincial Policy Statement directs most industrial and commercial uses to Hamlets or Urban Centres. The Agriculture First policy of Section 6.4.2 states that “*As a general rule, land use activities that support agriculture will be encouraged and land use activities that do not support agriculture will be discouraged*”.

The Wellington North Zoning By-law permits certain home industries which are defined as *a small scale occupation or business conducted for gain or profit as a secondary use to the main permitted use*. An excavation storage/yard would require a zone amendment in order to locate on this property as a home industry. The criteria under section 6.14 (Figure 1) would be used to determine whether or not the use could meet the size and scale as outlined within this.

Figure 1 - 6.14 HOME INDUSTRY REGULATIONS

Home industries, where listed as a permitted use, are subject to the following regulations:

- a) It is secondary to the main use on the lot and does not create a traffic hazard or nuisance;
- b) It may include such uses as a carpentry shop, a welding shop, a machine shop, furniture fabrication, assembly and repair; a tool and repair shop, and a small engine repair shop but shall not include autobody repairs or automobile sales, service and repair; automotive washing establishment, the sale of gas, or a wrecking yard;
- c) There is no outside storage of materials, containers, or finished products;
- d) The maximum square footage of any or all buildings or structures or part of a building or structure used for a home industry shall not exceed 185.5 m² (2,000.0 ft²) of ground floor area;
- e) At no time may any home industry employ on-site more than two people who do not reside on the lot on which such home industry is conducted;
- f) There shall be no advertising other than a non-illuminating sign, which has a maximum size of one m² (10.8 ft²);
- g) No building or structure used for a home industry shall be located within 22.8 m (74.8 ft) of a lot line, nor within 121.9 m (400.0 ft) of a lot line of a vacant lot (less than 4.1 ha (10 ac) in size) or within 121.9 m (400.0 ft) of a residence on a separate lot.

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6. Correspondence/Comments received:
 - Maitland Valley Conservation Authority
 - no objection subject to conditions

7. Questions/Comments

Persons present who wish to make oral and/or written submissions in support of the proposed minor variance.

The Applicant was present to answer any questions regarding the application.

Persons present who wish to make oral and/or written submissions against this application.

Earl Bennett, 7038 Sideroad 7 West, stated that he has concerns with the future use of the property. His concern is that when Mr. Martin sells the property how can a future owner be prevented from operating a business, such as equipment repair. He was not concerned with the building being used for storage as long as there is something indicating it can only be used for storage.

Those wishing to be notified of the decision were asked leave their name and address with the secretary-treasurer.

Committee – Comments and Questions

Councillor Lennox confirmed that the requested variance is for the size of the structure and that an additional variance would be required if the applicant wished to build in the NE Zone.

Councillor Yake indicated that the proposed building seemed excessive in size for personal storage and questioned if the excavation equipment is part of a home business or small business.

Ms. Redmond informed the Committee that her comments are based on the information in the application. There is no indication if there is a business.

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Councillor Goetz questioned how a small property can have an agricultural zoning.

Ms. Redmond explained that instead of a Rural Residential zoning it was given a Reduced Agricultural zoning because of its size.

Mayor Tout agreed with the concerns raised regarding use of the building and future use. Mayor Tout questioned if the storage is for commercial business and not personal use.

Mr. Martin explained that part of the reason for requesting a 4,000 sq. ft. building was to make sure it is big enough as he did not want to have to go through this process again. He owns excavation equipment and is a licensed septic installer. He wants a shed big enough to store materials inside and keep the property tidy. The use of the shed would probably be half personal and half business.

Ms. Redmond stated that the installation of septic is a service required in a rural and agricultural area. Such businesses are sometimes allowed in rural areas. She requested time to review the application with Mr. Martin to determine if his proposal will require a zone amendment.

Moved by: Councillor Goetz

Seconded by: Councillor Burke

THAT the minor variance applied for in Application A5/11 be deferred.

Resolution No. 2

Carried

8. Adjournment (7:18 p.m.)

Moved by: Councillor Lennox

Seconded by: Councillor Yake

That the Committee of Adjustment meeting of September 12, 2011 be adjourned.

Resolution No. 3

Carried