

The Township of East Garafraxa

Consultant Planning Report to Committee of Adjustment

To: Committee of Adjustment Members

From: Fotenn Consultants Inc.

Date: January 22, 2025

Meeting Date: January 28, 2025

Applicant: Derek Knot, Ironwood Carpentry

Owner: Rob (Robert) and Joanne VanSydenborgh

Subject: Minor Variance A3-24
152179 12th Line,
Concession 13; West Part Lot 13, RP 7R4215 Part 1 and Part 2.

Official Plan Designation: Agricultural

Zoning: Rural Residential

1. BACKGROUND

The Subject Property is municipally known as 152179 12th Line and is legally described as Concession 13, West Part Lot 13, Part 1 and Part 2 on Reference Plan 7R-4215, Township of East Garafraxa. It is located on the east side of 12th Line, between 10th and 15th Sideroad. It is approximately 0.494 hectares (1.22 acres) in size with 64.68 metres of frontage onto 12th Line and a depth of 76.27 metres (refer to Appendix A). The Subject Property is currently occupied by a 2 storey single detached dwelling unit with an attached accessory structure including a loft, used as a garage.

The Subject Property is designated as 'Agricultural' in the Township's Official Plan (refer to Appendix B) and zoned 'Rural Residential' in the Township's Zoning By-law 60-2004 (refer to Appendix C).

2. PURPOSE OF APPLICATION

The Minor Variance Application seeks to address the zoning deficiency identified for the proposed attached accessory structure. The applicant has submitted a change of use building permit to convert the existing accessory structure from garage to an accessory attached dwelling unit. The proposed accessory attached dwelling unit will be contained within the existing accessory structure



which is attached to the main dwelling unit. The existing garage has a gross floor area of 200.67 square metres and there are no proposed changes to the existing footprint as part of this application. Please refer to Appendices D for the submitted site plan drawing.

Zoning By-law 26-2023 permits an accessory attached dwelling unit to have a maximum gross floor area of no more than 50% of the gross floor area of the main dwelling unit (3.14.2). The existing dwelling unit is 253.3 square metres in size, and 50% of the gross floor area would be 126.65 square metres. Given that the existing garage is 200.67 square metres, the proposed conversion of the existing garage to an accessory attached dwelling unit would not comply with the maximum gross floor area.

Therefore, the Minor Variance application requests relief from the maximum permitted gross floor area (GFA) for an accessory attached dwelling unit, Section 3.14.2 of Zoning By-law 26-2023.

The applicant has also requested relief from the interior side yard of 3.6 m for the existing building structure. Section 4.3 - Rural Residential Zone, Zoning By-Law 60-2004, as amended, requires a minimum interior side yard of 6 m. The reduced interior side yard is an existing condition and no changes to the side yard are proposed.

2. DISCUSSION

Conformity with Official Plan

The lands are designated as 'Agricultural' on Schedule A of the Township of East Garafraxa Official Plan. The County of Dufferin Official Plan designates the property as Countryside Area – Agricultural. The proposed conversion of attached accessory structure is a permitted use as per both the Township and County Official Plans.

Compliance with Zoning By-law

The lands are zoned 'Rural Residential' as per the Township's Zoning By-law 60-2004. Township-wide By-law Number 26-2023, introduced additional provisions for accessory dwellings in response to changes in Provincial policies, permit accessory dwelling units in zones which allow residential uses per provisions of Section 3.14.

It should be noted that the Township's Zoning By-law Number 60-2004, as amended through Township wide By-law Number 26-2023, permits accessory attached dwellings to have a maximum gross floor area of no more than 50% of the gross floor area of the main dwelling. However, the existing accessory structure has a GFA of 200.67 square metres, compared to the main dwelling's GFA of 253.3 square metres. This results in the accessory structure exceeding the permitted 50% threshold, necessitating relief to accommodate the additional GFA.

As noted above, the variance application also requests relief from an interior side yard of 3.6 m for the existing building structure, whereas Section 4.3 - Rural Residential Zone, Zoning By-Law 60-2004, as amended, requires a minimum interior side yard of 6 m. The reduced interior side yard is an existing condition and no changes to the side yard are proposed. As indicated by the applicant, the building was constructed in 1992, prior to the enactment of the current Zoning By-law provisions. Based on this context, it is our professional opinion that the variance for the interior side yard should be recognized as a legal non-complying condition.

We have also reviewed the application in accordance with the Minimum Distance Separation (MDS) provisions. A review of the surrounding area within 500 m of the subject property revealed sheds but no evidence of active livestock facilities or manure storage structures. As neither the subject property nor adjacent lands currently host such facilities, it is concluded that the proposed accessory attached dwelling unit does not require an MDS assessment.

The table below provides a review of the proposed accessory dwelling's compliance with the applicable zoning provisions as prescribed through By-law Number 60-2004 and 26-2023.

Zoning Provision	Proposed	Compliance
Zoning By-law 60-2004, as amended and Zoning By-law 26-2023 to amend By-law 60-2004, as amended		
4.3.2 (i) Minimum Lot Area - 1.0 Hectares	0.49 Ha (4935.4 sq m) (as provided by applicant)	Legal non-conforming
4.3.2 (ii) Minimum Lot Frontage - 60 m	20 m	Legal non-conforming
4.3.2 (iii) Minimum Yard Requirements a) Front Yard - 20 m (per Zoning By-law 26-2023) b) Interior Side Yard - 6 m d) Rear Yard - 20 m	Front Yard - 30 m Interior Side Yard (east) - 6 m Rear Yard - 20 m Interior Side Yard (west) – 3.96 m	Legal non-complying; The building existed on the subject lands prior to the enactment of the current Zoning By-law; and it is our opinion that the variance should be recognised as a legal non-complying condition.
4.3.2 (iv) Maximum Lot Coverage - 10 % (per Zoning By-law 26-2023)	5.36%	Yes
Minimum dwelling floor area – 160 sq m	253.3 sq m	Yes
4.3.2 (v) Maximum Height – 10.5 m	5.98 m	Yes
3.15.9 Parking Space – 1.5 parking space per dwelling unit	Three (3) parking spaces provided	Yes
Regulations for Accessory Dwelling Units, Zoning By-law 26-2023, to amend By-law 60-2004, as amended		

3.14.1 General Provisions

<p>Notwithstanding any other provisions of this by-law to the contrary, in a zone where residential uses are permitted a maximum of two (2) Accessory Dwelling Units shall be permitted in accordance with the following:</p>	<p>1 accessory dwelling unit</p>	<p>Yes</p>
<p>3.14.1 i) b) A maximum of one (1) Accessory Attached Dwelling Unit may be located within a permitted single detached dwelling, semi-detached dwelling or street townhouse dwelling, if there is no more than one (1) Accessory Detached Dwelling Unit on the lot;</p>	<p>One (1) accessory attached dwelling unit proposed on site.</p>	<p>Yes</p>
<p>3.14.1 ii) Shall only be permitted provided that appropriate water and sanitary services and servicing capacity is available to the satisfaction of the Township.</p>	<p>The structure will be serviced by private well and proposed septic tank and will be further reviewed through the Building Permit review.</p>	<p>Yes</p>
<p>3.14.1 iii) In all cases the Accessory Dwelling Unit shall be clearly secondary and subordinate to the main dwelling.</p>	<p>Height, massing and access shows that the accessory attached dwelling unit clearly secondary and subordinate</p>	<p>Yes</p>
<p>3.14.1 iv) The height of the Accessory Dwelling Unit shall not exceed the height of the main dwelling.</p>	<p>Height of main building = 5.98 m Height of ADU = 5.5 m</p>	<p>Yes</p>
<p>3.14.1 v) Driveway access to both the main dwelling and any Accessory Dwelling Unit shall be limited to the existing number of driveways so that</p>	<p>Access to ADU is through the existing driveway shared with the main dwelling.</p>	<p>Yes</p>

no new entrance from the street shall be created.		
3.14.1 vi) One Parking Space shall be provided for each Accessory Dwelling Unit, in addition to the required parking for the existing use on the lot.	Three (3) separate parking space provided	Yes
3.14.1 vii) Shall not be permitted within hazardous lands as identified by the applicable Conservation Authority.	Not located within hazardous lands	Yes
3.14.1 viii) Shall be required to conform to all Ontario Building Code and Ontario Fire Code regulations.	Complies and/or will be reviewed further through Building Permit review.	Yes
3.14.1 ix) Shall be required to conform to Minimum Distance Separation calculated using Schedule "B" to this By-law.	There does not appear to be any livestock facilities within the surrounding 500m, the proposal complies with the requirements of 3.14.1 ix) and proposed accessory dwelling unit does not require an MDS assessment	Yes
3.14.2 Accessory Attached Dwelling Units		
Accessory Attached Dwelling Units are permitted within the existing main dwelling or attached to the main dwelling, subject to the provisions in Section 3.14.1 and the following:	One (1) accessory attached dwelling proposed	Yes
3.14.3 i) Where an Accessory Attached Dwelling Unit is being added via an exterior addition to the main dwelling it shall be located on the side or the rear of the building;	Located on the same lot to the side of the existing main dwelling; existing garage converted to secondary dwelling unit	Yes

<p>3.14.3 ii) The maximum gross floor area of an Accessory Attached Dwelling Unit shall be no more than an amount equal to 50% of the gross floor area of the main dwelling.</p> <p>253.3 (Main dwelling GFA) – 126.65 (50% of the main dwelling GFA) = 126.65 sq m (max. permitted GFA)</p>	<p>Proposal Accessory Dwelling Unit GFA – 200.67 sq m</p> <p>Relief requested to increase the maximum permitted dwelling unit to 80%.</p>	<p>No</p>
<p>3.14.3 iv) Accessory Attached Dwelling Units shall comply with the regulations for the permitted uses of the zone in which the building is situated.</p>	<p>The proposed accessory dwelling unit will be located within the existing accessory structure, which is attached to the main dwelling unit, with no alterations to the existing footprint of the overall structure. The accessory attached dwelling unit complies with the provisions outlined in Section 3.14.3 ii) of the Zoning By-law 26-2023, as a legal non-complying structure.</p>	<p>Yes</p>

3. COMMENTS FROM OTHER DEPARTMENTS AND AGENCIES

This application was circulated to various Township and County departments and other agencies as prescribed under Section 45 of the Planning Act on December 19, 2024. Comments received (refer to Appendix E) as of the date of this report are as follows:

RJ Burnside (Township Engineers) (received January 17, 2025):

RJ Burnside has recommended that the approval for the new sewage system, intended to service the additional dwelling unit, include a condition requiring the installation and maintenance of a Level IV Treatment Unit. This unit should have a minimum nitrate removal capability of 75% to ensure compliance with environmental standards.

The applicant confirmed that the existing sewage system will continue to service the existing house.

Grand River Conservation Authority (GRCA) (received December 6, 2025):

The subject property at 152179 12th Line is not regulated by the GRCA under Ontario Regulation 41/24.

4. PLANNING ACT – FOUR TESTS OF A MINOR VARIANCE

Section 45(1) of the Planning Act prescribes four tests for a minor variance to determine its appropriateness and supportability which are as follows:

- Test 1:** Is the general intent and purpose of the Official Plan maintained?
- Test 2:** Is the general intent and purpose of the Zoning By-law maintained?
- Test 3:** Is the variance minor?
- Test 4:** Is the variance desirable for the appropriate development or use of the lands in question?

Test 1: Is the general intent and purpose of the Official Plan maintained?

The proposed use of attached accessory dwelling unit meets the intent of the Official Plan as accessory dwellings are an as-of-right permitted use on lands designated as Agricultural Land Use. Furthermore, the accessory dwelling addresses the Township’s Housing policies as outlined under Section 9.1.5 Housing of the Official Plan which states “The Township shall encourage the development of a range and mix of housing options and densities which are appropriate for the Township to meet projected market-based and affordable housing needs of current and future residents including permitting secondary residential units.”

Test 2: Is the general intent and purpose of the Zoning By-law maintained?

The requested minor variance meets the general intent and purpose of the Township’s Zoning By-law as the resulting conversion of existing accessory structure from garage to secondary dwelling units remains subordinate to the main dwelling as well as meets all other applicable general zoning provisions. The requested minor variance is to permit an increase in the maximum gross floor area (GFA) to 80% for a proposed accessory attached dwelling unit, whereas Zoning By-Law Amendment 26-2023, permits a maximum gross floor area of an accessory attached dwelling unit to be no more than 50% of the gross floor area of the main dwelling.

The variance application also proposes to recognize an interior side yard of 3.6 m for the existing dwelling, whereas Section 4.3 - Rural Residential Zone, Zoning By-Law 60-2004, as amended, requires a minimum interior side yard of 6 m. The reduced interior side yard is an existing condition and no changes to the side yard are proposed. Given that the building was constructed in 1992, before the current Zoning By-law provisions took effect, it is our opinion that the variance for the interior side yard should be recognized as a legal non-complying condition.

As no changes are proposed to the existing building envelope or footprint, and the intent of the proposed development is to legally convert the existing garage into an accessory attached dwelling unit, relief will be required to increase the permitted gross floor area of the accessory structure. No new structures are being introduced as part of this proposal, and any development resulting from the approval of this minor variance application would be confined to interior renovations, with no alterations to the building envelope or overall massing. Hence, it is our opinion that it maintains the general intent and purpose of Zoning by-law.

Test 3: Is the variance minor?

The determination of whether a requested variance is minor is not a mathematical consideration, but rather, an assessment of the degree of impact from the resulting development.

The proposed accessory attached dwelling unit is to be accommodated within the existing accessory structure on the subject property. As such, no new impacts are anticipated as a result of approval of the requested variance and the resulting development. Therefore, it is our opinion that the proposed variance is minor in nature.

Test 4: Is the variance desirable for the appropriate development of the lands in question?

The requested minor variance facilitates the conversion of the existing accessory garage structure into an accessory attached dwelling unit, aligning with the housing objectives of the Township Official Plan and the Provincial policies by increasing housing options and diversity. This development is permitted under the Township's Official Plan and applicable Zone. It represents a form of gentle intensification that remains secondary to the main dwelling, ensuring compatibility with the surrounding neighborhood. By utilizing the existing structure without altering its footprint, the proposal maintains the character of the area while efficiently contributing to housing availability. It is our professional opinion that the variance is desirable and appropriate for the development on subject lands.

5. CONCLUSION

The applicant is seeking approval from the Township of East Garafraxa for relief from Zoning By-law Number 26-2023, being a By-law to amend Zoning By-law 60-2004, as amended, with respect to the property located at 152179 12th Line. Zoning By-law provision 3.14.2 ii) permits a maximum gross floor area of no more than 50% of the main dwelling's gross floor area for the proposed accessory attached dwelling unit on the subject property, whereas the existing accessory structure proposed for conversion into an accessory attached dwelling unit has a gross floor area of 200.67 square metres. The existing dwelling unit is 253.3 square metres in size, and 50% of the gross floor area would be 126.65 square metres. Given that the existing accessory structure size is 200.67 square metres, the proposed conversion of the existing garage to an accessory attached dwelling unit does not comply with the maximum gross floor area.

The requested variance is intended to facilitate the conversion of the existing accessory structure to an accessory attached dwelling unit and there are no anticipated impacts on the subject property or the surrounding neighbourhood.

It is our opinion that the requested variance meets the general intent and purpose of the Official Plan and Zoning By-law, is minor in nature, and is desirable for the appropriate development of the subject lands for the following reasons:

- / Facilitates the conversion of an existing accessory structure to an accessory attached dwelling unit that is clearly secondary and subordinate to the existing main dwelling on the property; and,
- / No new impacts are anticipated on the subject property or surrounding neighbourhood as a result of this development.

6. RECOMMENDATION

THAT the Consultant Planning Report be received for information;

AND THAT prior to the Committee of Adjustment making a decision with respect to Application A3-24, they should be satisfied that the proposed variance meets Township objectives and consider any appropriate comments from the neighbours and agencies;

AND THAT should the Committee of Adjustment deem the proposal minor in nature and appropriate for the lands, as well as maintaining the general intent and purpose of the Official Plan and Zoning By-law, the following conditions should be established:

1. The proposed accessory attached dwelling unit under the approval of Application A3-24 shall be in conformity with the design and location of the plans submitted with the application.
2. The owner/applicant shall obtain a building permit application within one year of the final date of appeal of A3-24.
3. The owner/applicant shall obtain approval for the new sewage system that includes the installation and maintenance of a Level IV Treatment Unit.
4. The approval of the variance shall apply only to the conversion of the existing accessory structure to an accessory attached dwelling unit.
5. The owner/applicant shall satisfy all conditions of the variance no later than one year from the end of the appeal period established under the Planning Act.

7. DOCUMENTS

Appendix A: Key Map

Appendix B: Zoning Map

Appendix C: Official Plan Map

Appendix D: Site Plan

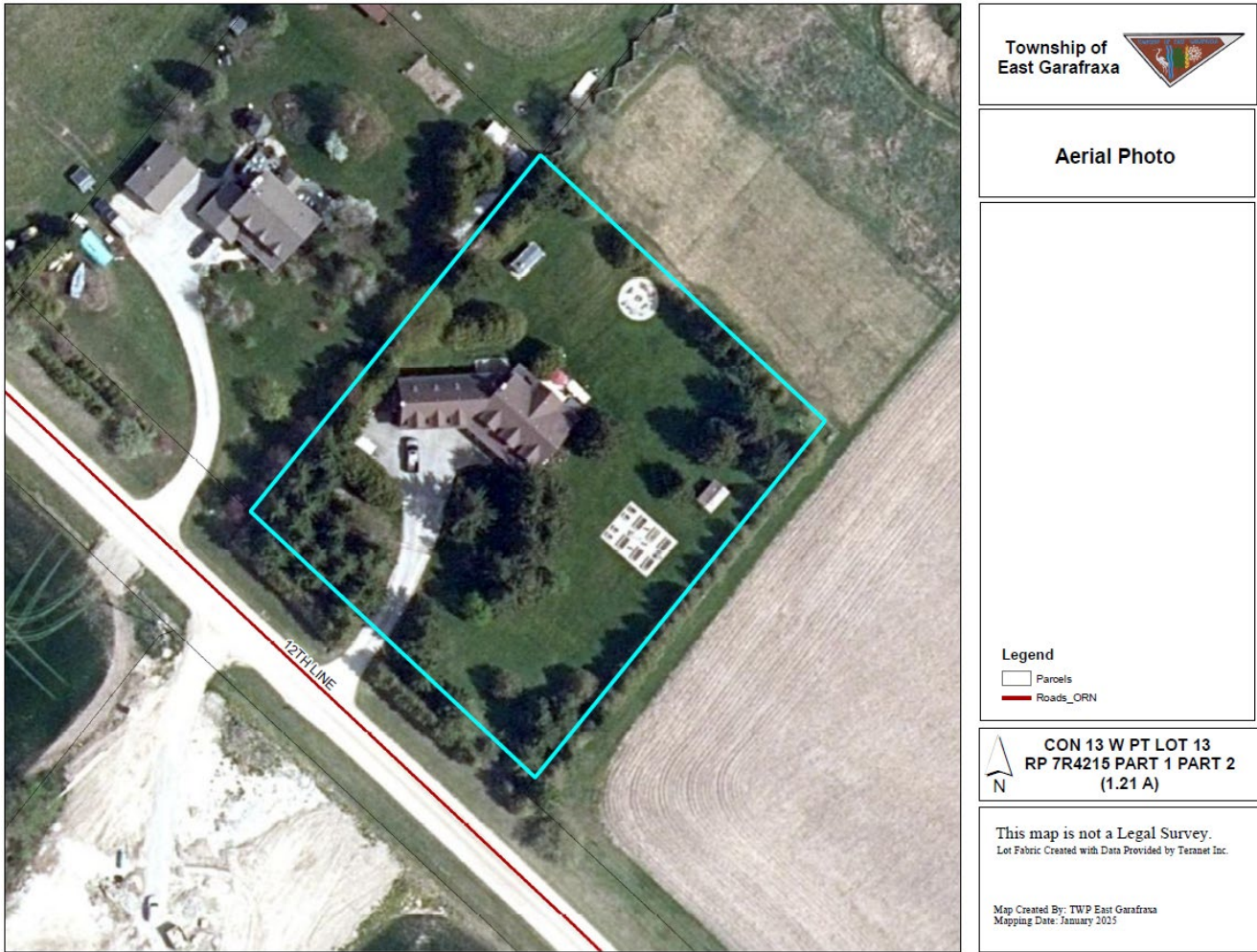
Appendix E: Comments Received

Submitted by:



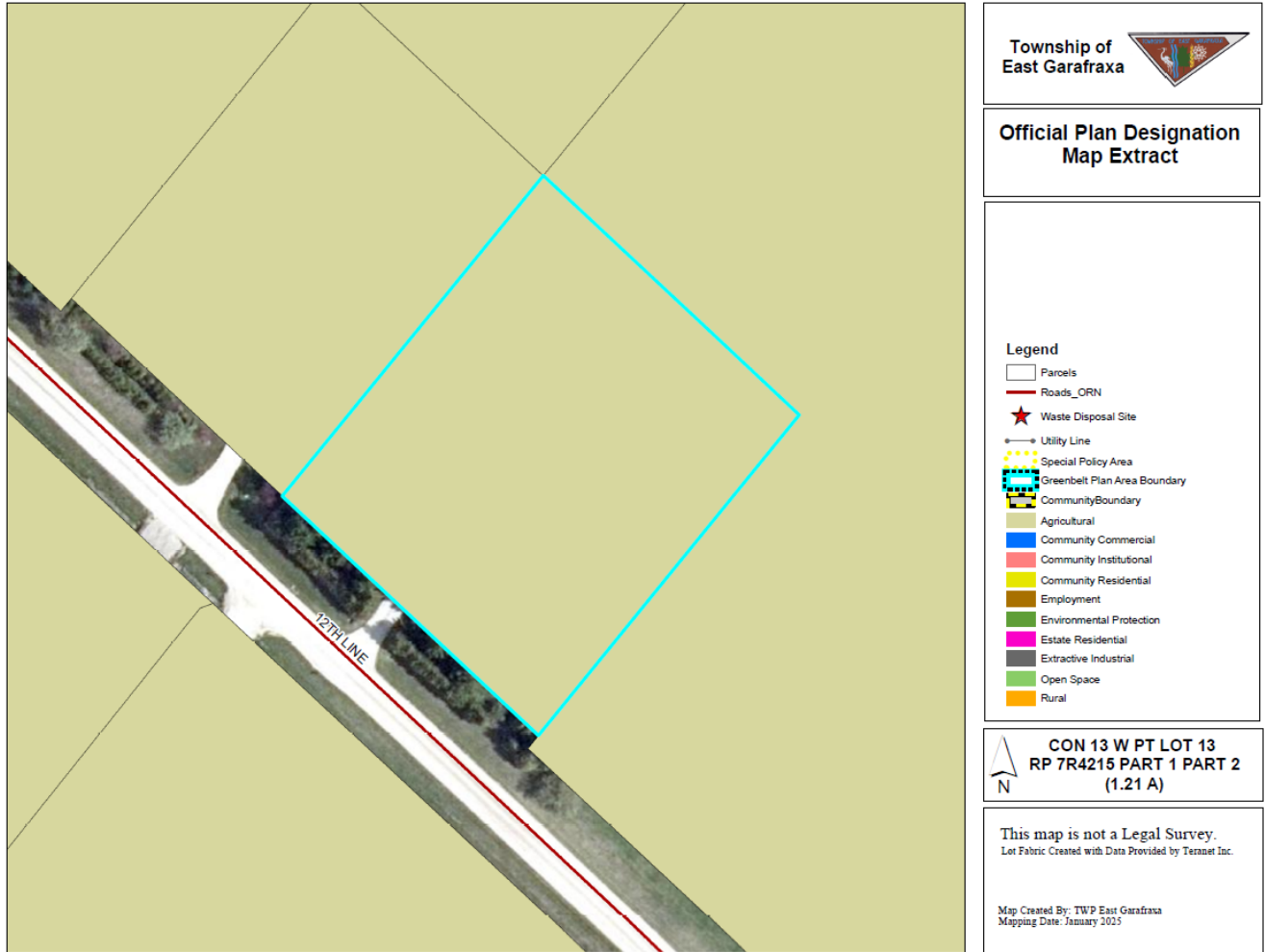
Jennifer Maestre, MCIP, RPP
Fotenn Planning Consultants Inc.

APPENDIX A: Key Map



For Illustration purposes. This is not a plan of survey.

APPENDIX B: Official Plan Map



For Illustration purposes. This is not a plan of survey.

APPENDIX C: Zoning Map



Township of East Garafraxa

Zoning Map Extract and Aerial Photo

Legend

- Parcels
- Roads_ORN
- Utility Line
- Bylaws & Exceptions
- Tree Protection Area
- Community_Boundary_OP_Meridian
- <all other values>
- Agricultural
- Business Park
- Environmental Protection
- Estate Residential
- Extractive Industrial
- General Commercial
- Hamlet Residential
- Highway Commercial
- Industrial
- Institutional
- Open Space
- Recreation
- Rural
- Rural Residential
- Solid Waste Disposal

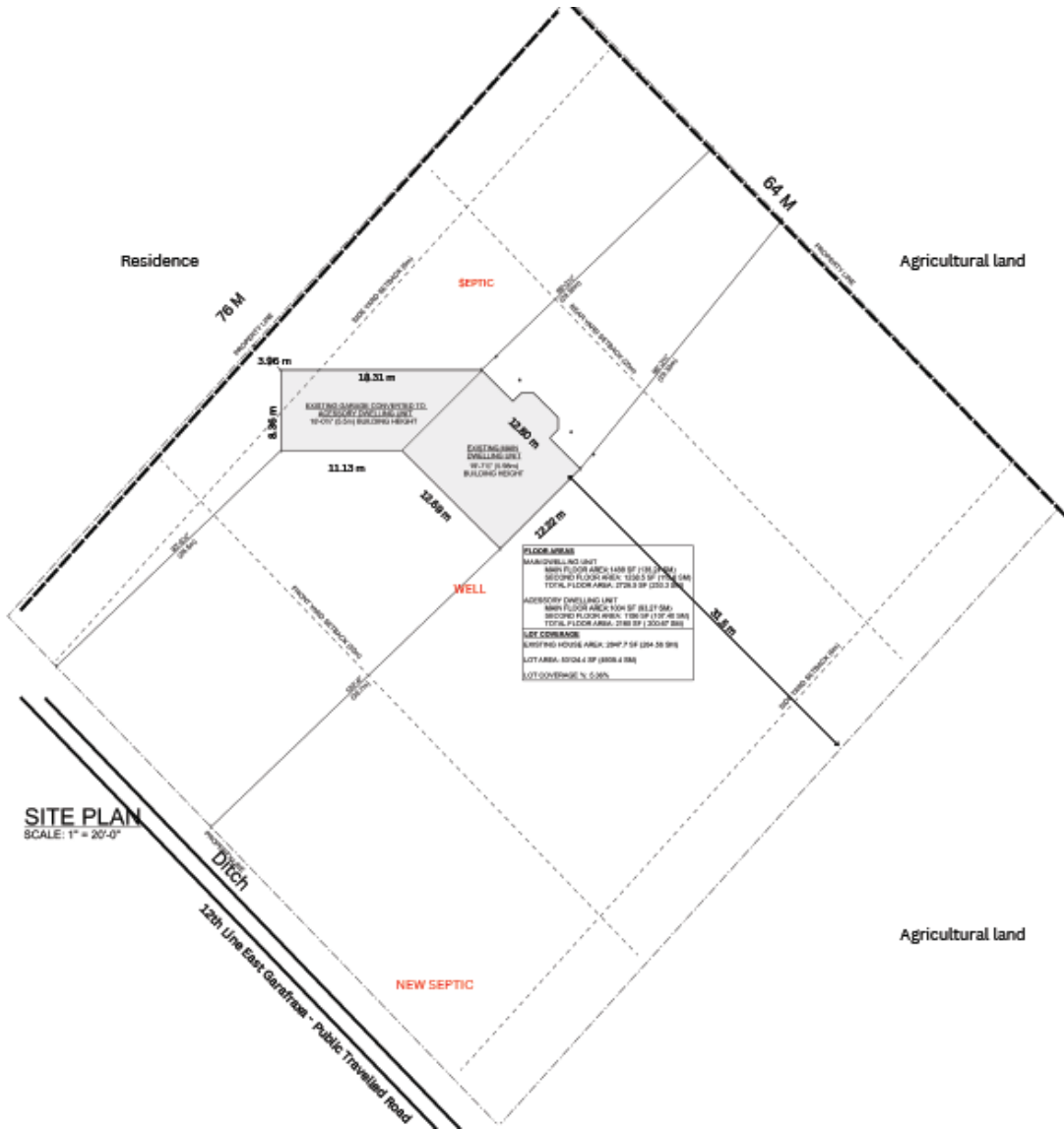
**CON 13 W PT LOT 13
RP 7R4215 PART 1 PART 2
(1.21 A)**

This map is not a Legal Survey.
 Lot Fabric Created with Data Provided by Teraset Inc.

Map Created By: TWP East Garafraxa
 Mapping Date: January 2025

For Illustration purposes. This is not a plan of survey.

APPENDIX D: Site Plan



Site Plan (As provided by the Applicant)

APPENDIX E: Comments Received



January 17, 2025

Via: Email (planning@eastgarafraxa.ca)

Township Planning Consultant - Fotenn
Township of East Garafraxa
065371 Dufferin County Road 3, Unit 2
East Garafraxa, ON L9W 7J8

**Re: 152179 12th Line
Township File No. A3-24
Project No.: 300059602.0000**

It is our understanding that the existing sewage system will service the existing house, and a new sewage system will service the additional dwelling unit. The approval should include a condition that as part of their new sewage system for the additional dwelling unit that a Level IV Treatment Unit with minimum nitrate removal capabilities of at least 75% is installed and maintained for the property.

Yours truly,

R.J. Burnside & Associates Limited

A handwritten signature in black ink that reads 'Carley Dixon'.

Carley Dixon, P.Eng.
CD:CD

Cc. Jennifer Maestre, Fotenn (Via: Email)
Jayati Trivedi, Fotenn (Via: Email)

GRCA Comments - A3-24 - 152179 12th Line, East Garafraxa

From Andrew Herreman <aherreman@grandriver.ca>

Date Mon 1/6/2025 9:56 AM

To Jayati Trivedi <trivedi@fotenn.com>

CAUTION: This email is from an external sender. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Jayati,

The subject property is not regulated by the Grand River Conservation Authority under Ontario Regulation 41/24. As such, we will not be providing comments on this application.

Sincerely,

Andrew Herreman (he/him), CPT
Resource Planning Technician
Grand River Conservation Authority

400 Clyde Road, PO Box 729

Cambridge, ON N1R 5W6

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