



vallee

*Consulting Engineers,
Architects & Planners*

January 12, 2021

County of Norfolk
Robinson Administration Building
185 Robinson Street, Suite 200
Simcoe, ON N3Y 5L6

Attention: Nicole Goodbrand, Planner

**Reference: Planning Justification Report
Application for Zoning By-law Amendment I-Z-2014
G. Douglas Vallee Limited on behalf of Chris and Heather Nunn
726 McDowell Road East, Charlotteville, Norfolk County
Roll # 49303002100
Our Project 20-055**

Introduction:

G. Douglas Vallee Limited has been retained by Chris and Heather Nunn to make an application for a Site Specific Zoning By-law Amendment to permit an accessory residential dwelling unit (ARDU) to be located 160 metres from the main dwelling unit.

Application is also made to permit the subject lands to have two (2) driveway entrances.

This application:

- Complies with the Norfolk County Official Plan.
- Is consistent with the intent of the Provincial Policy Statement 2020.
- Adds to the mix of housing types established in the area.
- Generates an acceptable level of traffic.
- Utilizes private servicing infrastructure and do not create adverse effects on the County water and sanitary sewer systems.
- Protects existing significant woodlands.
- Avoids hazard lands.
- Represents good planning.

Site Description:

The lands are located at 726 McDowell Road East, Charlotteville, Norfolk County, outside the urban settlement boundary and to the east of Yuell Rd and south of McDowell Road east. Significant woodlands and a stream exist on the subject property and will be avoided. The lands are surrounded by agricultural croplands and wooded areas.

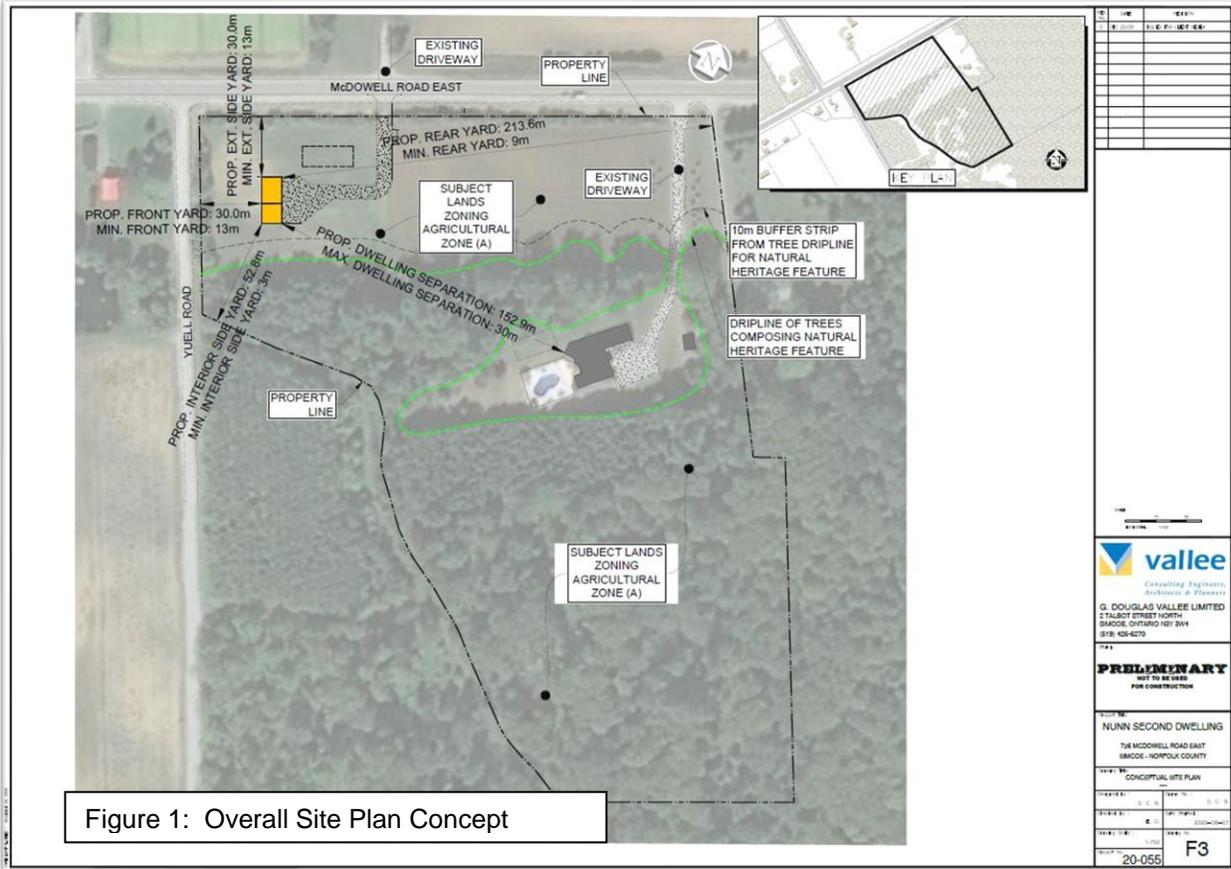


Figure 1: Overall Site Plan Concept

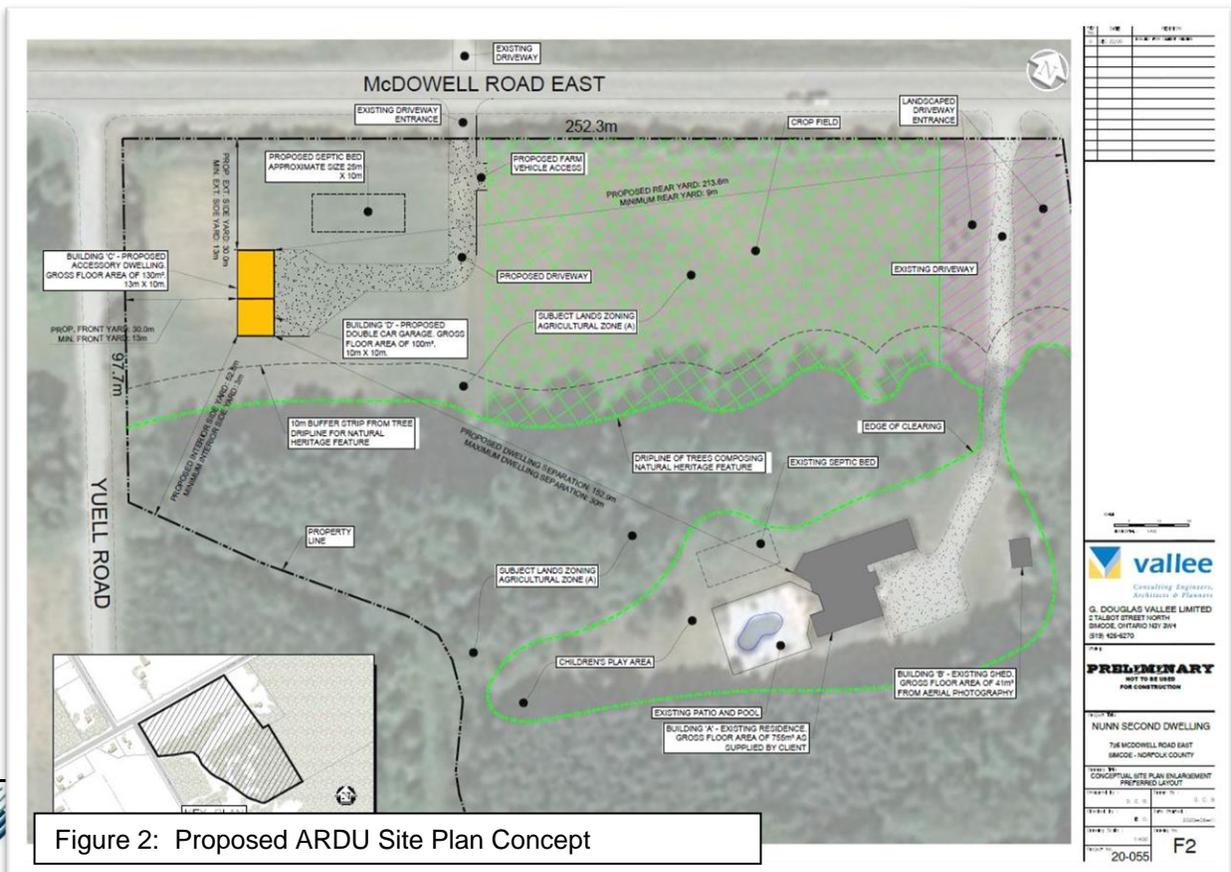


Figure 2: Proposed ARDU Site Plan Concept

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Background:

The accessory residential dwelling unit (ARDU) is necessary to provide the owner's oldest son and their aging parents with an independent form of housing in close proximity to the owners. The owner's son has significant disabilities that require readily available supervision. He is 19 years old and desires to have some independence of his own. His disabilities require wheelchair accessible bus transportation and a dwelling design that is completely accessible. While the owners and their son desire to remain in close proximity to each other for care purposes, locating the ARDU as far away as possible from the existing primary dwelling on the same lot help to provide a level of independence. Furthermore, the owner's parents are reaching an age where it would be appropriate to be located closer to their family. The home would be designed to allow for both the owner's son and parents to live together for the interim until the day comes where the owner's parents no longer require this housing. This allows for a level of indirect supervision of the owner's son should an emergency occur.

At the time of construction of the existing dwelling, an access permit was obtained for the existing driveway to the existing home. The owner hired a contractor to install the culvert and fulfill the terms of the permit. The owner was not made aware of the requirement to close the original access used for farm vehicle access, and therefore that access remains in place today.

Through pre-consultation and subsequent discussions with staff, a new permit would be required to keep both the original farm access and the new main dwelling access. It was also identified that justification is needed to keep both access. As such, this report includes justification for the proposed location of the ARDU and the original farm access, which would continue to be used for farm vehicle access and access for the ARDU.

Appendices to this report include the following:

- Appendix A - Draft Concept Plan for Accessory Residential Dwelling Unit
- Appendix B – Alternative locations for Accessory Residential Dwelling Unit
- Appendix C – Provincial Policy Statement 2020 Policy Compliance
- Appendix D – Norfolk County Official Plan Policy Compliance

This application was submitted to include the information and material required under Section 34 (10.1) of the *Planning Act* as part of a complete application.

Planning Review:

The proposed Zoning By-law amendment was prepared in light of several planning documents including the *Planning Act*, the Provincial Policy Statement, the County Official Plan and Zoning By-law.

Planning Act

Section 2 of the *Planning Act* outlines matters of provincial interest.

Section 3 of the *Planning Act* requires that, in exercising any authority that affects a planning matter, planning authorities “shall be consistent with the policy statements” issued under the Act and “shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be”.

Section 34 of the *Planning Act* allows for the consideration of amendments to the zoning by-law.

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Provincial Policy Statement (2020)

The Provincial Policy Statement was recently updated and took effect on May 1, 2020. The subject land is identified as being within a Settlement Area according to the Provincial Policy Statement, 2020 (PPS).

The PPS provides policy direction for appropriate land use planning and development patterns to achieve healthy, liveable, and resilient communities that will protect resources of provincial interest, public health and safety, the quality of the natural and built environment and will facilitate economic growth.

Rural lands and natural heritage features are generally protected and allow for various types of development to occur that do not have a negative impact. The PPS encourages new forms of housing, agriculturally related, and on-farm diversified uses while ensuring public health and safety.

The proposed amendment to the zoning by-law to permit an accessory dwelling unit in a location greater than 30 metres from the main dwelling does not offend the policies of the PPS.

A decision by Council to approve the Zoning By-law amendment will be consistent with PPS, 2020. Details describing the applicable Provincial policies and how the application is consistent with the PPS are included in Appendix C.

Norfolk County Official Plan

The lands are primarily designated Agricultural in accordance with the Official Plan. There is a forest and a creek that exist on the lands which are designated Significant Woodlands and Hazard Lands. The proposed amendment to increase the maximum separation distance between the main dwelling and the proposed Accessory Dwelling Unit is in compliance with the Official Plan policies and is necessary to locate the ARDU away from environmentally sensitive areas. The details of compliance with the Official Plan are demonstrated in Appendix D.

Several sections of the Official Plan apply when considering zoning by-law amendments and are discussed in detail under Appendix D. On a high level, details of the Official Plan policies are captured by the overarching Goals and Objectives. Section 2.2 of the Official Plan set out six “Goals and Objectives” to which the following four apply to the proposed development:

- Protecting and Enhancing the Natural Environment;
- Maintaining and Enhancing the Rural and Small-Town Character;
- Maintaining a High Quality of Life; and
- A Well Governed, Well Planned and Sustainable County.

The proposed zoning by-law amendment achieves the ‘Goals and Objectives’ of the Official Plan. The proposed location of the accessory dwelling unit protects the natural environment by ensuring suitable separation distance from the Significant Woodlands and avoids Hazard lands. The new accessory dwelling unit will add to the rural character of the area.

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The amendment will facilitate a building that adds to the variety of housing forms, will be designed in a manner that is safe, aesthetically appropriate, and caters to the ageing and people with disabilities.

The application is subject to a public process to ensure transparency and provide an opportunity for the public to provide comments.

The proposed application to increase the maximum separation distance between the main dwelling and the Accessory Dwelling unit from 30 metres to 160 metres is in keeping with the general purpose and intent of the Official Plan.

A decision by Council to approve the Zoning By-law amendment will be consistent with County Official Plan. Details describing the applicable Provincial policies and how the application is consistent with the Official Plan are included in Appendix D.

Norfolk County Comprehensive Zoning By-law 1-Z-2018

The lands are currently zoned Agricultural Zone (A). Accessory residential dwelling units are permitted subject to Sections 12.1, 3.2.1, and 3.2.3 of the zoning by-law.

The proposed development will comply with the Section 12.1.1 of the Agricultural Zone provisions. Amendments to Section 3.2.3 b) ii. and 3.2.3 h) are requested. Compliance with these provisions is detailed in the charts below, including those provisions that require an amendment.

Zoning Table for Section 12.1	Agricultural Zone (A)	Notes:
12.1.1 PERMITTED USES		
	e) Dwelling, single-detached; r) accessory residential dwelling unit, subject to Subsection 3.2.3;	Complies
12.1.2 ZONE PROVISIONS AGRICULTURAL USES		
a) Minimum Lot Area i) lot	40 hectares	Existing
b) Minimum Lot Frontage i) Interior ii) Corner	30m 30m	Complies
c) Front Yard Setback	13m	Complies
d) Exterior Side Setback	13m	Complies
a) Interior Side Yard Setback	3m	Complies
b) Rear Yard Setback	9m	Complies
c) Min separation between a farm processing facility	30m	N/A – no processing facilities nearby

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and a dwelling on an adjacent lot		
h) Maximum Building Height	11m	Complies

3.2 Accessory Uses to Residential Uses		
3.2.1 Accessory residential dwelling unit shall be permitted in single detached, semi-detached, street townhouses, and accessory buildings or structure and located on the same lot as the primary dwelling, subject to the following provisions:		
a) not exceed a building height of 8 metres in the Agricultural Zone (A);		Complies
b) occupy any part of a front yard, except: i. an accessory building or structure in an Agricultural Zone (A) which shall occupy no part of a required front yard;		Complies
c) occupy any part of a required exterior side yard;		Complies
d) be nearer than 1.2 metres of a lot line within an interior side yard or 1.2 metres of an interior lot line within a front yard;		Complies
e) be nearer than 1.2 metres of an interior lot line within a rear yard except: i. in the case of a mutual private garage in the rear yard on a common interior side lot line, no separation distance is required;		Complies
ii. in the case of a rear lot line adjoining a private or public lane, no setback is required;		N/A
f) in the case of a through lot, be nearer than 6 metres from any street line or the average setback of the nearest structures whichever is less;		N/A
g) occupy more than 10 percent of the lot area, ... excluding Agricultural Zone (A) where a maximum size of 200 square metres of usable floor area is permitted to a maximum of 10 percent of the lot area. Swimming pools shall not constitute a structure for the purposes of this provision;		Lot Area: 67,300m ² x 10% = 6,370m ² All accessory dwellings to not exceed 200m ² of usable floor area. An attached garage is not included in the usable floor area calculation. Complies
h) be established on any lot until or unless the main building or use to which it is accessory is established.		No change

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3.2.3 Accessory Residential Dwelling Units	
Accessory residential dwelling unit shall be permitted in single detached, semidetached, and street townhouses and located on the same lot as the primary dwelling, subject to the following provisions:	
a) accessory residential dwelling units shall be regulated by the applicable provisions pertaining to the primary use for each lot and by the provisions of Subsection 3.2 Accessory Uses to Residential Uses of this By-Law as applicable;	Complies
b) Notwithstanding Subsection 3.2.3 a), and in lieu of the applicable provisions of Subsection 3.2, where an accessory residential dwelling unit is located in an accessory building or structure, the following shall apply:	
i. be nearer than 3.3 metres of a lot line within an interior side yard or rear yard except:	Complies
a. in the case of a mutual private garage in the rear yard on a common interior side lot line, no separation distance is required;	N/A
b. in the case of a rear lot line adjoining a private or public lane, no setback is required	N/A
ii. be located a maximum of 30 metres from the primary dwelling;	Proposed maximum 160m
c) the accessory residential dwelling unit shall have its own exterior entrance separate from the exterior entrance to the primary dwelling unit, but shall not be permitted on an elevation, or facade of the building that faces a public street or private road; and shall have no means of internal access to the primary dwelling unit, except that access to a primary and second dwelling through a common vestibule entry is permitted;	N/A
d) one (1) off-street parking space shall be provided for the accessory residential dwelling unit in addition to the minimum required parking spaces for the primary dwelling, and in accordance with provisions in the Off-Street Parking Section of this By-Law;	Complies

e) the maximum number of residential dwelling units permitted per lot shall be two (2), including the accessory residential dwelling unit;	Complies
f) only one (1) accessory residential dwelling unit is permitted on a lot occupied by a primary dwelling unit. Where an accessory residential dwelling unit is located on a lot, none of a garden suite, a boarding or lodging house, or rooming house are permitted on that lot. If a garden suite a boarding or lodging house, or rooming house already exists on a lot, an accessory residential dwelling unit is not permitted;	Complies
g) an accessory residential dwelling unit shall not be permitted in a vacation home or any other dwelling intended for vacations, recreation, seasonal or short-term accommodation purposes;	Complies
h) all accessory residential dwelling units shall be required to meet all legislation, regulation and By-Law standards and requirements and all appropriate permits must be issued prior to the establishment of the accessory residential dwelling unit;	The proposed change is to allow a 2nd driveway access to the property considering the Entrance By-law provisions. See justification.
i) the accessory residential dwelling unit shall not be larger than 45 percent of the total gross floor area of the primary dwelling unit excluding any deck or unenclosed porch;	Complies
j) accessory residential dwelling units are only permitted in dwelling units connected to municipal or private water services and sanitary sewer system or private septic systems;	Complies
k) accessory residential dwelling units are not permitted in buildings or structures with a legal non-conforming use unless relief from the Zoning By-Law has been approved through a Zoning By-Law Amendment or Minor Variance in order to establish such accessory residential dwelling unit;	Complies
l) a minimum of 50 percent of the front yard shall be maintained as landscaped open space.	Complies

[Summary of Zoning By-law review](#)

Concerns were raised during pre-consultation regarding the proposed ARDU as follows:

- The size of the proposed ARDU
- The location of the ARDU in relation to the entrance
- The removal of any farmable land from production

As such the following is provided as justification to address these 3 concerns:

[Size of ARDU](#)

The proposed ARDU originally included the attached garage in the useable floor area. This has since been removed from the calculation as the definition for usable floor area under Section 2.170 excludes a garage attached to a building. As such the dwelling will not exceed 130m² of usable floor area. All accessory buildings and structures on the property will not exceed 200m² of usable floor area.

[The Location of the ARDU with the Entrance](#)

It has been identified that a driveway access permit was issued to permit the construction of a new access to the primary residence of the owners. This has been constructed with visual improvements through a mix of deciduous and coniferous trees that line the driveway. The permit for the existing dwelling driveway access required the decommissioning of the original driveway access as the by-law only permits 1 entrance per property for a residence.

Since the original driveway was not decommissioned, it remains in place, and therefore today the site has two (2) driveway accesses.

In addition to amending Section 3.2.3 h), it is requested to site specifically permit an exemption of the Entrance By-law to permit 2 entrances or to recognize the existing access as a farm entrance as permitted by the By-law. By-law 2016-32 is the By-law to Regulate Entrances onto Municipal Roads and Highway.

Schedule 'B' to By-law 2016-32 represents the 'Norfolk County Property Entrance Guidelines' which achieve a number of public and County interests including the protection of the public through the orderly control of traffic movements onto and from municipal roads. The 'location of entrances section' of the guidelines discusses the reasons and criteria for locating **new** entrances. More specifically the guidelines discuss that new entrances will not be permitted in various locations considering the proximity to bridges and intersections subject to speed limit criteria. It is noted that the original entrance site lines remain open. Any growth of vegetation that creates sightline issues will be addressed as necessary.

On an 80km/hr road, the guidelines require a distance of 180 metres from a driveway to an intersection, whereas the existing original access is approximately 100 metres away from the existing intersection of Yuell Rd and McDowell Rd East. There is another existing driveway directly across the street from this access and the same proximity to the intersection, both of which have existed for 60 years or longer. It is noted that the guidelines also include provisions to ensure an entrance is not located within 30 metres of a bridge or structure including residential, farm or field entrances.

The section controlling the number of entrances indicates that it is the County's policy to limit the number of entrances to a property to the number required for the safe and reasonable access to the road, with acknowledgment of any applicable zoning by-law, and in general conformity with subsections including:

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- Allowing 1 entrance per property for a residence;
- Allowing 1 entrance per property for a farm; and
- Allowing 1 field entrance per farm with additional field entrances where natural obstructions within the field prevent reasonable access across the field.

Analysis of the Entrance and By-law Guidelines and Compatibility

The primary use of the subject lands is for a single detached dwelling which is quaintly nestled within an area surrounded by protected woodlands. The residential use has outdoor amenity spaces including an inground swimming pool surrounded by a deck and concrete patio. There is an open space to the west of the pool and patio area which is used as the children's play area equipment. Adjacent to the west between the forest and primary dwelling is a large septic tile bed and tanks. An accessory building for keeping various items related to the maintenance of the property is located to the northeast of the primary dwelling and a small pool pump house is located towards the end of the pool and patio area. (See Figure 2 and Appendix B)

These existing site features (Pool, septic system, existing buildings) eliminates the ability to locate the ARDU within 30 metres of the primary dwelling. This triggers the need for an amendment to the zoning by-law.

Alternative locations outside the established area for the primary dwelling and outdoor features have been considered as follows:

Alternative Location 1:

It was considered to locate the ARDU near the primary access driveway. Several years ago, trees and gardens were planted along the sides of the driveway which creates an appealing character and streetscape along McDowell Rd East.

It is possible to locate the ARDU near this existing driveway. However, this is not the desired location of the property owner and other impacts are created which are discussed further below.

There are several impacts created if the proposed ARDU is located near the existing driveway and are discussed as follows and can be seen in Figure 3 (Appendix B):



- a) A wheelchair bus requires a significant amount of area to make a 3-point turn. Lands and landscaping would need to be removed to make accommodations for a driveway and wheelchair bus.
- b) If the original entrance is to be removed, then this access will be the farm access. Additional removal of landscaped lands for farm vehicle access would be required to provide access from the road to the farmlands.
- c) The path of travel for farm vehicles would be closer to and in the front yard of the ARDU and is not desirable.

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- d) Prevailing winds are typically from the southwest which has the potential to carry greater amounts of dust towards the ARDU in this location.
- e) The ARDU is primarily for the owner's son who desires, in the longer term, a form of independence from his parents, yet remain on the same property.

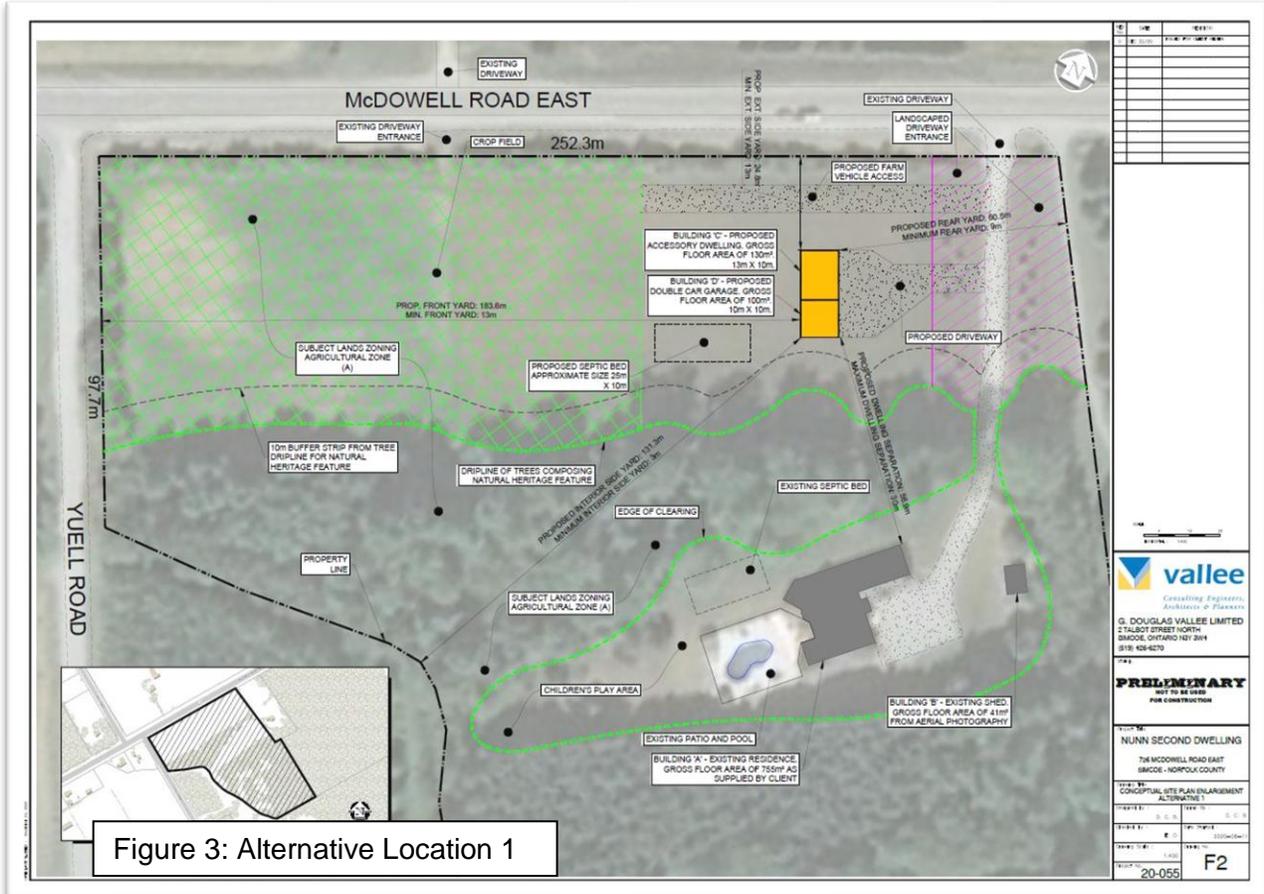


Figure 3: Alternative Location 1

There seems to be only two benefits to locating the ARDU near the primary entrance as follows:

- a) Only one entrance would be used for all farm vehicles, wheelchair bus transportation, and access to the primary dwelling.
- b) The entrance is located approximately 260 metres away from the intersection of Yuell Rd and McDowell Rd East.

It is our opinion that locating the ARDU near the primary entrance creates more negative impacts than benefits, and does not facilitate the desired independence of the owner's disabled son.

Alternative Location 2:

The proposed ARDU, driveway, and septic tile bed could be located in the middle of the field along McDowell Rd East. This location is not recommended as the lands for field crops will be split into two smaller areas and will not be easily or efficiently accessed. An extended driveway would also be required which is not practical.

It is our opinion that Alternative 2 as shown in Figure 4 (Appendix B) is not reasonable and should be avoided.

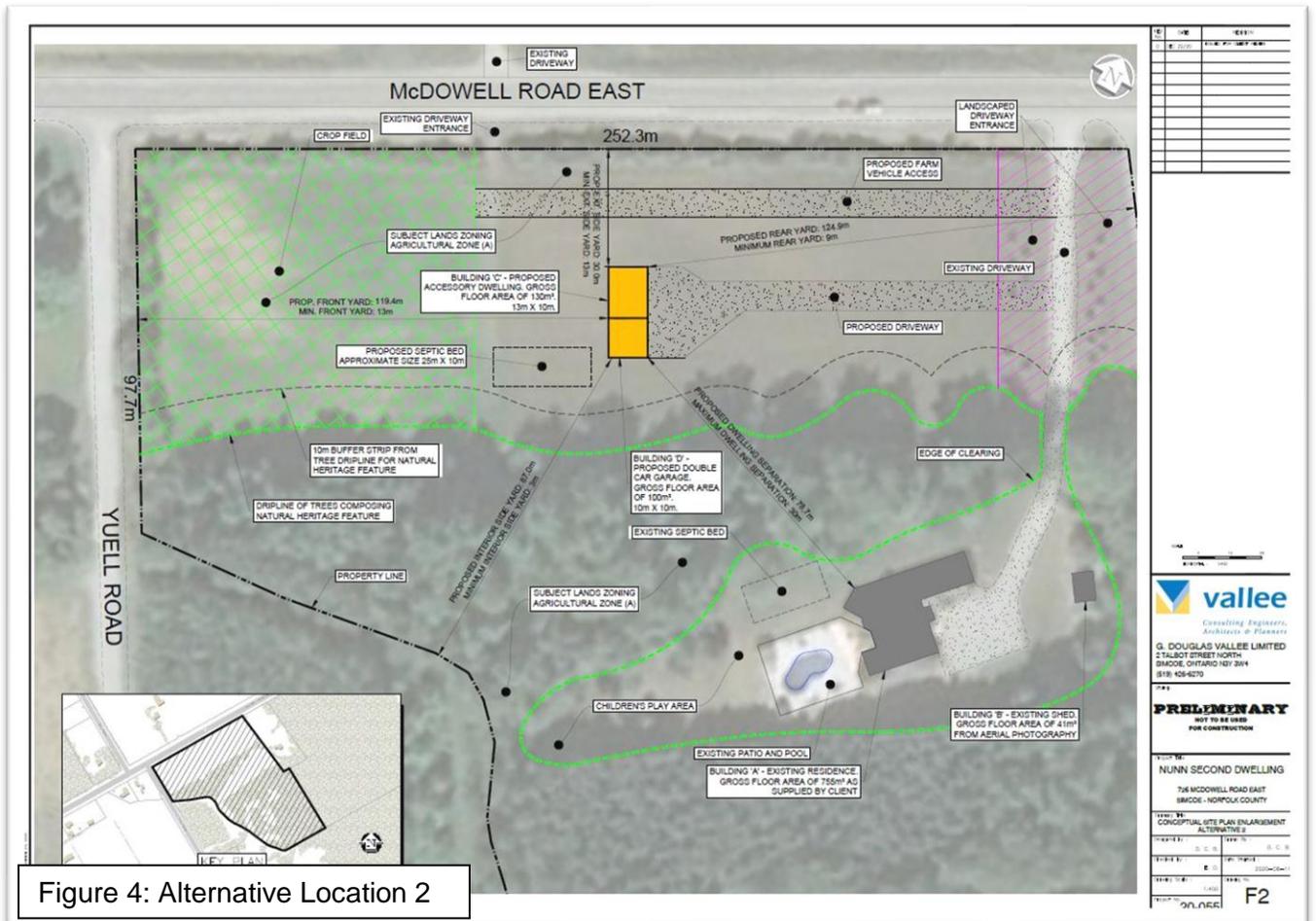


Figure 4: Alternative Location 2

Alternative Location 3 (preferred location):

Figure 5 and Appendix B, identify the proposed preferred location of the ARDU, entrance, and septic tile bed. This location achieves the following:

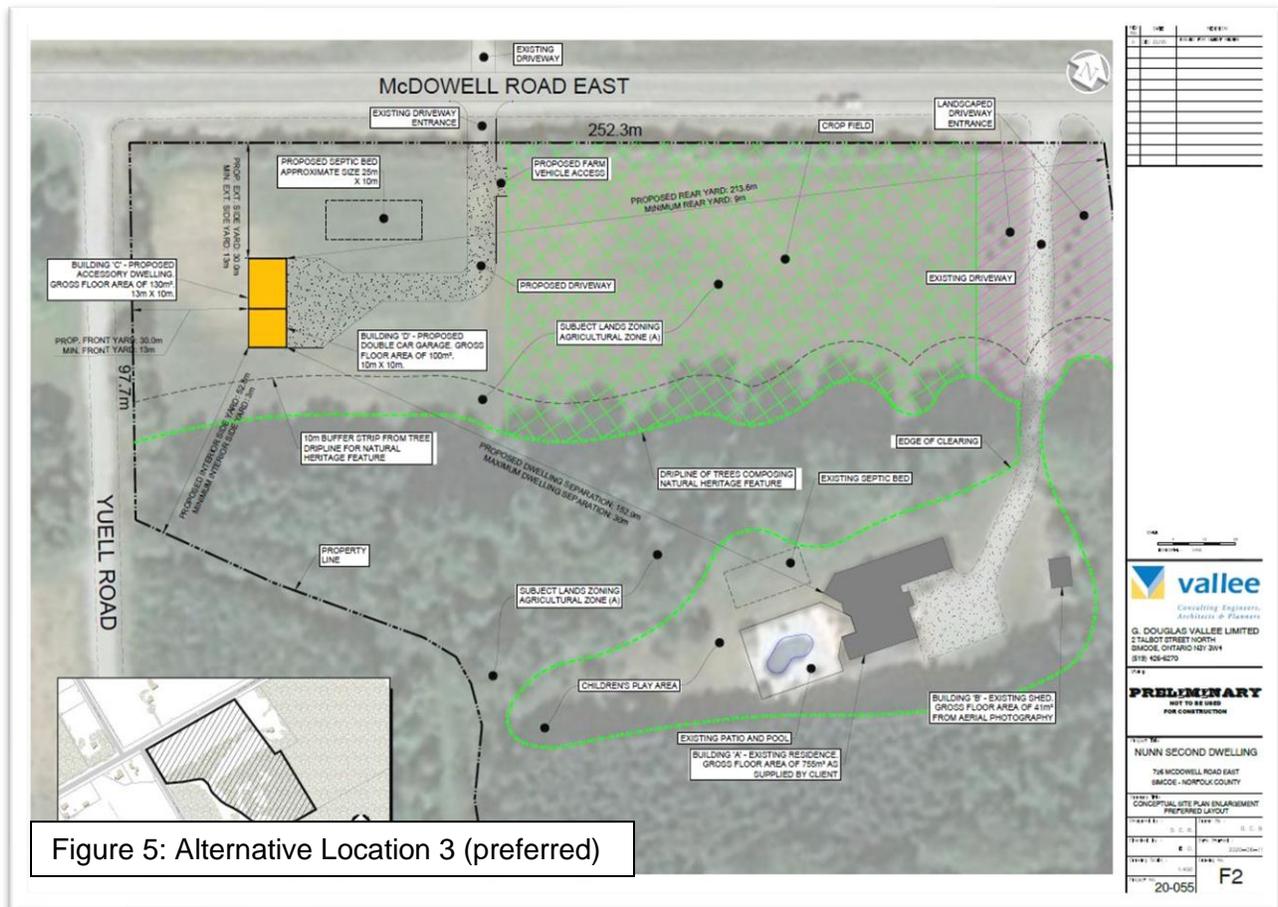


Figure 5: Alternative Location 3 (preferred)

- Complies with zoning setbacks and all other provisions of the zoning by-law with exception to the maximum separation distance and provisions for compliance with other by-laws (By-law 2016-32 being a By-law to Regulate Entrances onto Municipal Roads and Highway);
- Provides appropriate access to the proposed ARDU for wheelchair bus transportation services.
- Provides appropriate access for farm vehicle assess to the portion of production lands for growing crops and avoids impacts on the ARDU including dust and insecticide sprays being carried from prevailing winds from the southwest;
- Prevents the removal of the landscaped portion of the existing main driveway to the primary residence.
- Does not impact on any adjacent property;
- Is surrounded by vegetation along both Yuell Rd and McDowell Rd East to provide a semi-private buffer from both roads;
- Allows for flexibility for wheelchair bus transportation and its ability to maneuver a 3 point turn.
- Provides independence to the owner's son.
- Provides accommodation for the owner's aging parents.

The removal of farmable land from production

There is an existing driveway entrance directly across the street from the 'existing original' entrance serving a dwelling located at 727 McDowell Rd East. The lands in the area are agricultural. Farm vehicles travel these roads to access various parcels of production lands. Even though this original driveway entrance was to be removed as a condition of issuance of the new entrance permit, this original entrance is more practical for farm vehicles, it preserves the greatest amount of agricultural lands, and it avoids the negative impacts generated from farming as demonstrated in Alternative 1 and 2 described above.

Although limited in area, the lands have been farmed periodically and are considered production lands. The owner may desire to permit the rental of the available lands for crop production. Accordingly, the owner wishes to preserve as much of the field production lands as possible. Both the Provincial Policy Statement and County Official Plan encourage the protection of agricultural lands. Therefore, it is our opinion that Alternative 3 (preferred location) achieves preserving the greatest amount of production lands as possible while reducing impacts on the ARDU from farming activities, and is more desirable than limiting the property to a single entrance.

Existing Original Access is Not New

Although the existing original access is considered not to be legal as a result of the issuance of the entrance permit, physically the entrance is **not new**. The By-law discusses the location of **new** entrances. In this instance, it is requested that in light of the justification for the proposed location of the ARDU through the analysis of the 3 alternative locations, it is requested that consideration be given to grant permission for the 2nd entrance as a farm access and driveway for the ARDU or simply as a 2nd entrance.

Future Severances Avoided

It is recognized that there is a concern with the location of the proposed ARDU from a future severance perspective. The further away from the main dwelling an ARDU is constructed, the greater the pressure is to consider a severance. The owners have no intention of severing the lands as the proposed ARDU is intended to serve as their disabled son's residence. To maintain the intent of the policy and be in keeping with good planning principles, it is recommended that a site-specific provision be included in the implementing zoning by-law to prohibit future severances.

Additional Information for Consideration

In respect to safety related to the request to permit two entrances, the owners note that there has not been a safety issue since they moved into their home in 2018, and they are not aware of a safety issue or concern spanning the last 60 years related to the 'existing original' access.

Regarding alternative locations for the ARDU, the owners prefer option 3 to locate dwelling to the northwesterly area of the property. Alternative locations 1 and 2 are not desired by the owners or their son, they create unnecessary challenges for providing farm vehicle access, and use more lands than necessary for the construction of a driveway addition to facilitate 3 point turns for wheelchair bus transportation. Greater impacts would be created if the ARDU is not located in alternative location 3 and are not desirable.

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Conclusion:

The proposed site specific zoning amendment to permit the ARDU to be constructed 160 m away from the existing single family dwelling is appropriate considering the following:

- 1) The ARDU is required to support the applicant's special needs 19 year old son, who desires independence, but requires family support and monitoring.
- 2) The ARDU is required to support the applicants parents in their senior years.
- 3) The proposed location does not impact farming activities.
- 4) The proposed location utilizes the existing original property driveway.
- 5) The proposed location preserves the greatest amount of agricultural production lands.
- 6) A special provision is proposed to prevent a future severance.
- 7) The original driveway location does not appear to have created any traffic or safety issues.

It is our opinion that the proposed amendment is appropriate and that either the existing original entrance be recognized as a farm entrance, or that an exemption be provided to allow the existing entrance to remain. The owners will make application for a new entrance permit to allow both entrances.

Accordingly, it is requested that Council support the proposed zoning by-law amendment and the request for a 2nd entrance to the property.

Yours truly,



Eldon Darbyson, BES, MCIP, RPP
Director of Planning
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