

Niagara Escarpment Hearing Office
Bureau des audiences sur
l'escarpement du Niagara



ISSUE DATE: April 12, 2021

CASE NO.: 20-045

PROCEEDING COMMENCED UNDER subsections 25(5.1) and 25(8) of the *Niagara Escarpment Planning and Development Act*, R.S.O. 1990, c. N.2, as amended

Appellant: See Appendix 1 - Appellant List
Applicant: Frank Medeiros
Respondent: Niagara Escarpment Commission
Subject of appeal: Approval of a Development Permit Application to construct a one and a half storey accessory building on a lot with an existing single-dwelling
Reference No.: S/R/2020-2021/307
Property: Part Lot 37, Concession 12
Address/Description: 795385 Collingwood-Clearview Townline
Municipality: Township of Clearview
Upper Tier: County of Simcoe
NEHO Case No.: 20-045
NEHO Case Name: Close v. Ontario (Niagara Escarpment Commission)

APPEARANCES:

Parties

Counsel*/Representative

Frank Medeiros	Mina Youssef*
David Close	Self-represented
Steve Sam Cohen	Self-represented
Mary Ruby	Self-represented
Niagara Escarpment Commission	Judy Rhodes-Munk and Natalia Gerrard

HEARD: March 2, 2021 and March 29, 2021 by telephone conference calls
ADJUDICATOR(S): Laurie Bruce, Hearing Officer

PROCEDURAL ORDER

[1] The matter before the Niagara Escarpment Hearing Office (“NEHO”) is the appeal of a Development Permit issued to Frank Medeiros for the construction of a one and a half storey four-car garage with an elevated storage area on his 4.26 hectare (“ha”) property. The Niagara Escarpment Commission (“Commission”) conditionally approved his Development Permit application.

[2] Five appeals of the Development Permit were received from the following appellants:

- a. David Close
- b. Susan de Souza-Close
- c. Steve Sam Cohen
- d. Wood Hill
- e. Mary Ruby

[3] Two Pre-hearing Conferences (“PHCs”) have been held by telephone conference call (“TCC”) during which the parties discussed issues of concern. These PHCs were held on March 2, 2021 and March 29, 2021. Between the first and the second TCC, Mr. Medeiros and his consultant, Babek Naghash, re-designed and re-located the proposed garage. The re-designed garage now includes recreation facilities including fixtures (i.e. toilet, sinks and shower) that will require water and sewage servicing. The re-design was provided to the appellants shortly before the March 29th TCC.

[4] This Order provides procedural directions which were set to help advance discussions between the parties on the Development Permit and the re-designed and re-located garage.

[5] Since the re-designed garage now requires sewage servicing, the NEHO has asked Mr. Medeiros to identify how the sewage will be handled. Specifically, Mr. Medeiros will need to determine if the existing septic system has adequate additional capacity and if

not, how the sewage will be managed. If a modified or second septic system is required, available information on location and design should be provided to the Commission, the parties and the NEHO, in advance of the next PHC. Mr. Medeiros expressed confidence that this information could be obtained quickly.

[6] The appellants wished to see a requirement in the Conditions of Approval for vegetative plantings to screen the garage. Mr. Medeiros committed to vegetative plantings to create a visual buffer. The Commission advised the Parties that the requirement for a landscape plan could be an additional condition of the Development Permit in addition to the site plan. The Commission will provide draft wording to address this suggested condition.

[7] The Commission stated that a second dwelling is not permitted on this property. While Condition 8 speaks to use, Judy Rhodes-Munk, planner with the Commission, stated that if the recreation facility as set out in the re-designed garage had been included in the original application, there would have been an additional condition, which would be registered on title stating that the garage cannot be used as a second dwelling. Ms. Rhodes-Munk agreed to provide the wording that the Commission typically uses when including this condition.

[8] Ms. Ruby raised a concern about the relative height of the garage in comparison to the house. Mr. Cohen also expressed concern that the two buildings located close together created a visual wall. In response to these concerns, Mr. Medeiros and his consultant, Mr. Naghash, agreed to produce a graphic depicting the vertical and horizontal relationship between the residence and the proposed garage.

ORDER

[9] The NEHO orders that:

- a. A third PHC will be held at **10 a.m. on Wednesday, April 28, 2021**. The dial-in information will be provided to the parties by the Case Coordinator.

- b. Mr. Medeiros will identify how the sewage from the re-designed garage will be managed and will provide this information to the parties by **Thursday, April 22, 2021**.
- c. Mr. Medeiros will have a drawing prepared that depicts the vertical and horizontal relationship between the residence and the proposed garage. This will be provided to the parties by **Monday, April 26, 2021**.
- d. The Commission will provide draft wording for a condition that requires a landscape plan to be provided along with the site plan. This information will be provided to the parties by **Monday, April 26, 2021**.
- e. The Commission will provide draft wording for a condition that restricts the use of the garage as a second dwelling. This information will be provided to the parties by **Monday, April 26, 2021**.

Procedural Directions Ordered

“Laurie Bruce”

LAURIE BRUCE
HEARING OFFICER

If there is an attachment referred to in this document,
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**Niagara Escarpment Hearing Office
Environmental Review Tribunal**

A constituent tribunal of Ontario Land Tribunals

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

Appendix 1 – Appellant List

Appellant Name	File No.
David Close	20-045
Susan de Souza-Close	20-046
Steve Sam Cohen	20-047
Wood Hill	20-048
Mary Ruby	20-049