

PLANNING REPORT

Township of South Frontenac

Planning Department

Prepared for Committee of the Whole

Agenda Date: January 26, 2016

Date of Report: January 18, 2016

**Subject: Township-Initiated Housekeeping Amendment to the
Township of South Frontenac Comprehensive Zoning By-law**

Summary of Recommendation:

The recommendation is that the Committee consider amendments to the Comprehensive Zoning By-law to correct a number of minor errors/omissions both in the mapping and in the text of the document. In order to properly make these changes an amending by-law must be passed dealing with every proposed correction (informally termed a “housekeeping bylaw”).

Purpose of the Report:

The purpose of this report is to bring to the Committee housekeeping amendments to the Township’s Comprehensive Zoning By-law - proposed by the Planning Department. The report includes map schedules.

Background

The Comprehensive Zoning By-law for the Township, has been in full force and effect since 2005 and was prepared to implement the policies of the Official Plan as required by the Planning Act. Using the By-law since 2005, staff periodically become aware of minor errors/omissions in the by-law that need to be corrected and a housekeeping by-law is necessary to correct them. At this time a number of mapping errors have been noticed and clarity in the wording is needed on two sections of the text.

Discussion

The following is a list of the proposed ten amendments that would help to correct the by-law along with an explanation and rationale for the changes. It should be emphasized that the changes to the zone maps are mostly technical in nature and simply reflect errors during map preparation. Some of the amendments were already recently presented to the Committee of the Whole.

Text Changes

There has been concern expressed by Planning over interpretation of the following sections:

1. Section 5.10.2 Existing Buildings Within 30 Metres (98.4 ft.) of a Waterbody or Watercourse does not permit buildings to be reconstructed. The definition reads as follows:

“Where a building has been erected prior to the date of passing of this By-law on an existing lot and said building has less than the minimum 30 metre (98.4 ft.) setback from the highwater mark of a waterbody or watercourse, then said building may be repaired, renovated or strengthened to a safe condition provided there is no enlargement of the gross floor area or increase in height. In addition, no living space shall be added below grade to any existing building or structure.”

This wording allows any building within the 30 metre setback to be renovated, strengthened and made more structurally sound **but it does not permit it to be taken down and reconstructed.**

This section is meant to implement the intent of the Official Plan which is:

- i) that all new construction should be well setback from any waterbody with a minimum setback of 30 metres,
- ii) that existing buildings within the 30 metre setback, once removed, should be set back further so that, some day, all buildings will be well set back from waterbodies to ensure protection of our lakes into the future,
- iii) that existing buildings within the setback may stay as legal non-complying structures but they lose this legal status when they are removed.

The Township has always interpreted that, when the walls of the building are removed, the building is considered to be gone and it cannot be reconstructed at its present location without a minor variance. However, this interpretation should be 'built-in' to section 5.10.2 so that the meaning is more clear.

It should also be noted that the Building Department has not agreed with this interpretation – they believe that renovations may include building from the foundation up on the same footprint.

Thus, a new sentence should be inserted to say that reconstruction is prohibited. Also, an explanation of reconstruction should be included so that the section reads as follows: (changes in bold type)

"Where a building has been erected prior to the date of passing of this By-law on an existing lot and said building has less than the minimum 30 metre (98.4 ft.) setback from the highwater mark of a waterbody or watercourse, then said building may be repaired, renovated or strengthened to a safe condition provided there is no enlargement of the gross floor area or increase in height. **Reconstruction of the building is prohibited.** In addition, no living space shall be added below grade to any existing building or structure.

For the purposes of interpreting section 5.10.2, once the walls of an existing structure within the minimum 30 metre setback have been removed, the land is deemed to be vacant and the structure may not be reconstructed within the 30 metre setback."

2. Section 5.11 of the by-law REPLACEMENT OF BUILDINGS OR STRUCTURES, should be removed completely. This section reads as follows:

"5.11 REPLACEMENT OF BUILDINGS OR STRUCTURES

A building or structure, including a legal non-conforming and/or legal non-complying building or structure, may be replaced with a new building or structure in the case of partial or complete destruction caused by fire, lightning, explosion, tempest, flood or act of God, or demolition permit required by the Corporation of the Township of South Frontenac or other authority for safety, health or sanitation requirements, providing such building or structure is

serviced by a potable water supply and sewage disposal system approved by the appropriate responsible authority. A building permit will only be issued, in the absence of zoning relief, provided no enlargement of the footprint or increase in gross floor area is proposed and provided the permit is applied for within 12 months of the partial or complete demolition/destruction. The replacement building shall be located on and not increase the footprint or gross floor area of the non-conforming building. The applicant shall provide proof to the satisfaction of the Chief Building Official that there will be no increase in the size of the building footprint or gross floor area and that the replacement building will be located within the same footprint as the non-conforming/non-complying building. Where applicable, floodproofing and avoidance of erosion hazards should be considered.”

This section is intended to permit any building within the 30 metre setback to be reconstructed if it is destroyed by fire or storm or if it is dilapidated to the point where the Township orders it to be removed. This section is a measure of fairness to permit property-owners to rebuild after destruction that is beyond their control.

However, it has been the subject of some controversy because many property-owners will argue that they should be allowed to reconstruct because their structure has deteriorated to the point where it is unsafe and unusable. However, this state of dis-repair is often the result of neglect where the building has been neglected – perhaps moss has grown on the roof for example and water has been allowed to enter into the walls.

It is proposed that section 5.11 be removed completely and deal with each proposed reconstruction through the minor variance process.

3. **Definition of Mobile Home: The definition of Mobile Home presently reads as follows:**

“**MOBILE HOME** shall mean any dwelling that is designed to be made mobile, and constructed or manufactured in accordance with the Ontario Building Code Act and CSA standards for mobile homes to provide accommodation for one or more persons, but does not include a modular home or travel trailer as defined herein.”

The Chief Building Official has advised that the definition should be changed to delete the reference to the ‘Ontario Building Code Act’ since it does not apply to mobile homes.

4. **Definition of Top-of-Bank: The definition of Top-of-Bank presently reads as follows:**

"TOP OF BANK (Slope) shall mean a point which is the beginning of a significant change in the land surface, then from which the land surface slopes downward (at a grade of 30% or more) towards an abandoned or existing waterbody or watercourse. When two (2) or more slopes are located together, the slope that is highest and farthest away from the watercourse shall be the slope considered for the top of bank and must be at least a 30% grade at a point at the highwater mark."

This definition should be amended to specify that, when there are 2 or more slopes separated by plateaus leading away from the shore of a waterbody, then it is only the first slope that is considered for the top-of-bank calculation. The definition should read:

"TOP OF BANK (Slope) shall mean a point which is the beginning of a significant change in the land surface, then from which the land surface slopes downward (at a grade of 30% or more) towards an abandoned or existing waterbody or watercourse. When there are two (2) or more slopes located together separated by plateaus, the slope that is the closest to the water is considered for the top-of-bank calculation."

5. The waterfront lots in the Badour Farm subdivision in Bedford District slope steeply down from the road to the highwater mark of Bob's Lake. The homes here are constructed as close to the water's edge as the setback rules will allow. Planning has received many requests to locate detached garages in the front yards of these lots. As the Committee may be aware, the zoning by-law does not permit accessory structures in the front yard. The reason for this restriction is to ensure that unsightly buildings or sheds are not located in plain view and dominate the streetscape.

The waterfront lots in Badour Farm cannot accommodate structures behind the houses because the minimum water setback will not permit it. However, Planning undertook a land use survey here and noted that, the land slopes down to the water from the road and often is heavily treed. Also, the lots themselves are very deep and the homes here on average are 150 metres from the road. For these reasons no garage or other accessory building located in the front yard would be exposed to view from the street. Thus, there should be no reason to require accessory structures to be placed only in the back yard.

It is proposed to include a special provision in the zoning for these lots to permit accessory buildings in the front yard.

6. The definition of Building Height presently reads as follows:
"Building Height shall mean the vertical distance between the established grade and the highest point of the building or structure but does not include chimneys antennas or other similar objects."

The by-law should specify that the height of buildings should be measured from the average established grade. This change has been requested by the Chief Building Official.

7. The provisions of section 21 – Urban Industrial Zone should be changed. As The Committee is aware, some controversy resulted from the realization that the Urban Industrial zone permitted a motor vehicle repair garage (which may include an

auto body shop) and that it allowed structures to be as high as 50 feet. These two provisions seem incompatible with development in the hamlets considering that residential uses occur in proximity. Note also that the Official Plan does not contemplate auto body shops in the hamlet so this use should not have been in the UI zone in the first place.

Subsections 21.2 and 21.3 should be changed to specify that an auto body repair shop is not permitted and to reduce the maximum permitted building height from 15 metres (50 ft.) to 11 metres (36.1 ft.).

Loughborough Mapping Changes

8. Schedule “B” the zoning map for Loughborough District has three errors that should be corrected. These are:
 - i) Part of Lot 7, Concession V. A residential lot at Sydenham Lake accessed by Sheila Lane, is erroneously zoned Recreational Resort Commercial (RRC). This zone should be changed to Limited Service Residential Waterfront (RLSW).
 - ii) Part of Lots 20 & 21, Concession VII. The zoning for a large 150 acre parcel of land at the end of Walsh Road is not properly shown on the Map schedule. This is the Greek Orthodox Church Camp which was rezoned approximately ten years ago to permit a retreat camp with an assembly hall, dormitories and recreation facilities. It should be properly zoned Community Facility (CF-3) to permit this use.
 - iii) Part of Lot 10, Concession XII. The Scouts Canada Otter Lake Camp located at the end of Salmon Lake Road beside Frontenac Park is zoned Rural (RU). Planning had discussions with the owners of this land in the past and the proper zoning for the land was discussed. This property should be zoned Community Facility (CF) to recognize its long standing use as a scout camp.

Attachment #1 shows the locations of these three properties.

Storrington Mapping Change

9. Schedule “C” the zoning map for Storrington District has an error that should be corrected as follows:
 - i) Part Lot 20, Concession X; A large rural lot at Dog Lake, accessed by Osborne Lane and Christel Lane, is incorrectly zoned as partially Rural (RU) and partially Limited Service Residential-Waterfront (RLSW). Recently three severances were approved on this land which necessitates the proper delineation of these zones. The zoning boundaries of the RLSW zones should now properly conform to the lot lines of the new waterfront lots that were created.

Attachment #2 shows the location of this property.

Bedford Mapping Change

10. Schedule “D” the zoning map for Bedford District has an error that should be corrected as follows:
 - i) Part Lots 25 & 26, Concession X; A flag-shaped lot at Wolfe Lake, accessed by Lee Road, is technically incorrectly zoned as Limited Service Residential-Waterfront (RLSW) to recognize that it is accessed by a private lane. However, because the long finger of land (or handle of the flag) extends all the way south (approximately 861 metres) to Lee Road,

the lot technically has frontage on a public road and, thus, should be zoned Waterfront Residential (RW) and not RLSW.

Attachment #3 shows the location of this property.

CONCLUSION

The Planning Department expects to advertise these changes and bring them forward to a public meeting with Council within the next month.

RECOMMENDATION

It is recommended that the Committee receive the Planning Report dated January 18, 2016, regarding corrections to minor errors/omissions to the Comprehensive Zoning By-law for information.

Submitted/Approved by: Lindsay Mills
attachment

Prepared by: Lindsay Mills