



PLANNING REPORT for the TOWNSHIP OF PUSLINCH

Prepared by the County of Wellington Planning and Development Department

DATE: February 18, 2016
TO: Kelly Patzer, Development Coordinator
Township of Puslinch
FROM: Sarah Wilhelm, Senior Planner
County of Wellington
SUBJECT: **2016 HOUSEKEEPING AMENDMENT TO ZONING BY-LAW 19/85**
Township-wide Zoning By-law Amendment
ATTACHMENT: Table of Proposed Changes

SUMMARY

The purpose of this report is to provide our preliminary comments on a housekeeping amendment to the Township's Zoning By-law. We would recommend that a public meeting be scheduled so that notice may be given to statutory agencies and members of the public.

INTRODUCTION

Housekeeping changes or amendments are intended to keep a zoning by-law relevant with other policy or legislation, user friendly, accurate and manageable. The proposed housekeeping changes have come to light through day to day usage of the document and are to edit, clarify and update the By-law. The housekeeping amendment has been developed in consultation with Robert Kelly, Chief Building Official and Kelly Patzer, Development Coordinator.

PROPOSAL

The housekeeping amendment will:

1. Amend, add and remove definitions and general provisions
2. Amend zone preambles for additional clarity
3. Add or amend other provisions
4. Add minimum distance separation regulations and definitions
5. Amend certain housing and agricultural regulations
6. Amend and add bed and breakfast regulations

A "Table of Proposed Changes" is attached to this report to provide a description, reason and details of the housekeeping amendments proposed. Many of the changes are to clarify or improve definitions, general provisions and other sections of the by-law (see item 1 to 5, 7 to 12 and 15 of the Report Attachment). The following topics will be discussed in additional detail (the number shown in brackets cross-references the attached "Table of Proposed Changes"):

- Separation distance for group homes (6)
- Mini Lakes (13)
- Minimum Distance Separation (MDS) (14)
- Temporary residence during construction (16)
- Second units (17)
- Farm help dwellings (18)
- Bed & Breakfast Establishments (19)
- Map change (20)

DISCUSSION

Separation Distance for Group Homes

In February 2015, the Ontario Human Rights Commission (OHRC) corresponded with municipalities on the topic of “Applying a human rights lens in zoning, licensing and municipal decision-making”. Examples were given of municipalities that have removed minimum separation distance (MSD) and other zoning restrictions for group homes. The Township’s Zoning By-law currently has a 10 km separation distance between group homes. As there is no planning justification for this distance and in light of the Ontario Human Rights Code we would recommend removal of the separation distance.

Mini Lakes

As part of the housekeeping amendment Mini Lakes has requested that the recreation building area cap be increased from 500 sq.m (5,382 sq.ft.) to 1,100 sq.m (11,841 sq.ft.) for the following reasons:

“The existing 500 sq.m. provision is a hold-over from the original 1990 zoning by-law and represented the existing building. That building however will need to be replaced probably within the next 3 years and in order to meet guidelines for accessibility (assuming the Built Environment Standard isn’t already in effect) and building and fire code requirements for the number of people expected to attend at functions like member meetings, a larger building footprint would definitely be required.” Dianne Paron, Mini Lakes

Other proposed changes are to add the date of passing of By-law 9/13 and provide additional clarification of lot coverage.

Minimum Distance Separation (MDS)

The MDS Formulae are intended to minimize nuisance complaints about livestock facilities due to odour and thereby reduce potential land use conflicts. There are two formulae: MDSI and MDSII. MDSI is applied to ensure that appropriate setbacks are provided from existing livestock facilities to proposed development. MDSI is usually dealt with by the County. MDSII is applied to ensure that a new or expanded livestock facility provides appropriate setbacks from existing development. MDSII is usually dealt with by staff of the local building department.

The Province and County both provide a policy basis to apply MDS. The Provincial Policy Statement provides the following policy direction for MDS implementation in Prime Agricultural and Rural Areas (Secondary Agricultural):

“New land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the minimum distance separation formulae.” (Section 1.1.5.9 & 2.3.3.3)

The County Official Plan also provides similar policy direction for Prime and Secondary Agricultural Areas of the County (Section 6.4.10 & 6.5.6).

Guideline 1 of the Implementation Guidelines for the Minimum Distance Separation (MDS) Formula states the following:

“MDS Formulae and criteria are to be referenced in Official Plans, included in zoning by-laws and applied in designations and zones where livestock facilities are a permitted use. MDS will be applied in Prime Agricultural Areas and Rural Areas as defined by the Provincial Policy Statement, 2005.”

MDS is not included in the Puslinch Zoning By-law. There is however, a requirement for 180 m separation from adjacent barns of an intensive agricultural use in the Estate Residential and Rural Residential Zones. These requirements are proposed to be removed as MDS would be the appropriate replacement. By including MDS provisions in the zoning by-law, MDS will be considered “applicable law” for building permit issuance.

The housekeeping amendment would introduce two new general provisions, one for MDSI and another for MDSII. These are the same as, or very similar to other provisions elsewhere in the County. Corresponding definitions have also been included to support MDS implementation and are consistent with the MDS Guidelines.

Temporary Residence during Construction

The Township currently follows a Council approved policy of March 1, 2013 for dealing with a temporary residence during construction of a new one. These take the form of either:

1. a temporary mobile home when a new dwelling is constructed on a vacant lot; or
2. a temporary single detached dwelling when a new dwelling is constructed on the same lot.

The current policy requires minor variance approval for either circumstance. The proposed regulations would allow these temporary residences as of right-of-right subject to the following:

- only apply to the Agricultural (A) Zone
- restrict the timeframe of the temporary residence to 12 months after the building permit for the new dwelling is issued
- require that the Chief Building Official be satisfied with water and sewage, securities to ensure removal of temporary dwelling

Second Units

In 2011, the province approved Bill 140, the Strong Communities through Affordable Housing Act. This legislation was intended to ensure that a full range of housing, including affordable housing, is provided in Ontario. County staff is in the process of reviewing County Official Plan policies relative to the legislation. Once the County review is complete, we would recommend that Puslinch Council revisit the provision of second units in the Township.

Under the current policy environment, in Prime and Secondary areas of the County, the Official Plan allows for an accessory apartment unit within the main residence on a lot, provided that adequate water supply and sewage disposal systems are available. In Country Residential Areas the Plan permits residential uses in single detached houses at low densities.

We have prepared new regulations to allow for accessory apartments within the main dwelling on an agricultural or estate residential lot. In all cases, the unit cannot exceed 45% of the principal dwelling but no more than 100 m² (1,076 sq.ft.) and must connect to the existing well and septic system. In the case of estate residential lots, there is a maximum of 55 sq.m (592 sq.ft.) above grade proposed. Accessory apartments are not to be permitted in a detached building or structure.

Farm Help

The current by-law does not permit farm help as-of-right. New farm help residences may only be permitted through a site-specific zoning by-law amendment. The new provisions for a “secondary dwelling accessory to a farm” would allow for a farm help dwelling as-of-right for farms with a minimum lot area of 35 ha (86 ac). There are standards included to ensure that the second dwelling would be located within a 61 m (200 ft) radius of the farm residence and share a common driveway. New definitions are included.

Bed and Breakfast

Currently, a bed and breakfast (B&B) is a defined use in the by-law, but is not a permitted use in any zone. The Housekeeping amendment would:

- Provide for an expanded bed and breakfast establishment definition with up to five guest rooms
- Allow for a bed and breakfast establishment in the Agricultural (A) Zone
- Add new parking requirements for B&B establishments
- Add B&B establishments to the list of uses not considered to be a home occupation for clarification purposes

Map Change

A map change is proposed to remove kennel zoning (A-2) from the severed lands of application B47/15 (Watson) located at Part Lot 10, Concession 4. This would satisfy a condition of approval of the severance as the new lot would be too small for a kennel under the Township’s Dog Control By-law.

PUBLIC AND AGENCY COMMENTS

There are no public or agency comments at this time as the application will be circulated at the time of public meeting notice.

NEXT STEPS

We would recommend that the public meeting for this amendment be scheduled. Materials associated with the housekeeping amendment should be available to the public at the Township office prior to the public meeting date. Following the public meeting, Township Council may further consider any matters raised by the public, statutory agencies and any other comments and concerns identified. We will be in attendance at the public meeting to present the amendment and hear public comments and Council discussion.

Our planning recommendations will be provided following the public meeting and resolution of any outstanding issues.

Respectfully submitted
County of Wellington Planning and Development Department



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