

## Planning Services Department

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**To:** Mayor and Members of Council  
**Cc:** CAO and Department Heads  
**From:** Carlo Pellarin, Manager, Development Review  
**Date:** May 25, 2020  
**Subject:** **Report PSD-015-020 – Proposed Official Plan Amendment and Rezoning to Implement the Bowmanville**  
**File No:** **PLN 8.6.7, COPA2019-0002 & ZBA2019-0019**

Further to the memo included in the Council Update on Friday May 22. This memo provides a suggested further edit to the zoning by-law amendment implementing the Neighbourhood Character Study.

At the Planning and Development Committee meeting Mr. Rice, and his consultant Mr. McDermott spoke to fact that by using averages for the three neighbourhood areas, the proposed by-law amendment would be creating legal non-conforming situations for some existing dwelling setbacks, garage sizes, lot coverages, etc. On Friday Mr. McDermott contacted me to advise that he had done a detailed evaluation of his client's property and immediately surrounding houses, and found that they all had aspects on non-conformity with the proposed by-law and wanted an exemption to the draft by-law, as he believed that making the property non-conforming would potentially negatively impact the value of the property at resale.

He advised that solicitors on behalf of a purchaser can back out of deal due to a property being legal non-conforming, or as a minimum demand a minor variance application be made to legalize the legal non-conforming situation. Both having potential negative impacts for the vendor. Mr. McDermott had advised he would share his findings with staff, but that has not arrived as of yet.

Staff cannot recall ever seeing a minor variance application for a legal non-conforming situation. Subsection 34(9) of the Planning Act grandfathered existing legal structures. Nevertheless, to address the concern a revision has been drafted to recognize all buildings and structures legally existing as of May 25, 2020, assuming the proposed Zoning By-law is approved this evening. All buildings and structures that comply with the regulations in place at that date are considered legal, regardless of whether they comply to the regulations of the new draft by-law.

Staff believe this is approach addresses the concern raised about creating legal non-conforming situations and avoids providing additional exemptions for specific properties.

Sincerely,

A handwritten signature in blue ink, appearing to read "Carlo Pellarin". The signature is fluid and cursive, with the first name "Carlo" written in a larger, more prominent script than the last name "Pellarin".

Carlo Pellarin

Corporation of the Municipality of Clarington

By-law Number 20\_\_\_\_ - \_\_\_\_\_

being a By-law to amend By-law 84-63, the Comprehensive Zoning By-law for the Corporation of the Municipality of Clarington

Whereas the Council of the Corporation of the Municipality of Clarington deems it advisable to amend By-law 84-63, as amended, of the Corporation of the Municipality of Clarington for ZBA 2019-0019;

Now Therefore Be It Resolved That, the Council of the Corporation of the Municipality of Clarington enacts as follows:

1. Section 12. Urban Residential Type One (R1) Zone is amended by adding a new section 12.2.1 as follows:

**“12.2.1 Neighbourhood Character Overlay**

The following alternate regulations shall apply to the “Urban Residential Type One (R1) Residential Zone” and all special exceptions to that zone located within the Neighbourhood Character Overlay identified on Schedule ‘3’:

- a. For the purpose of Section 12.2.1, the term:
  - i) Height of Dwelling means the vertical distance, measured between the lowest fixed grade, and
    - a) In the case of a flat roof, the highest point of the roof surface,
    - b) In the case of a mansard roof, the deck roof line, and
    - c) In the case of a gable, hip or gambrel roof, the average height between the eaves and the ridge.
  - ii) Established building line means the average yard setback from the street line to existing principal buildings on one side of the street measured a minimum of four lots on either side of the lot within the same zone category.
  - iii) Fixed grade means the elevation of the ground at the front line measured at the midpoint of a lot.
  - iv) Soft landscaping means the portion of a lot comprised of any combination of flowers, grass, shrubs, sod, trees or other horticultural elements that is not covered with impervious surfaces. It does not include any buildings or structures, any hard surface areas such as, but not limited to, driveways, parking areas, decorative stonework, walkways, patios, screening or other landscape architectural elements.

- b. Buildings and structure legally existing as of May 25, 2020 are deemed to conform with the regulations of this zone.
- c. Yard Requirements
  - i) Front Yard and Exterior Side Yard
    - a) 6.0 metres minimum to the garage or carport
    - b) Minimum to the dwelling is the established building line
    - c) Maximum to the dwelling is 2.0 metres from the established building line
  - ii) Interior Side Yard (minimum)
    - a) 3.0 metres on one side where there is no attached garage;
    - b) 1.2 metres for dwellings 1.5 storeys or less; and
    - c) 1.8 metres for dwellings greater than 1.5 storeys
- d. Lot Coverage (maximum)
  - i) For dwellings 1.5 storeys or less 35 percent
  - ii) For dwellings greater than 1.5 storeys 30 percent
  - iii) A covered and unenclosed porch/balcony having no habitable floor space above it is excluded from the maximum lot coverage subject to the following:
    - a) In the case of an interior lot, the maximum total area of 12.0 square metres is permitted within the front yard.
    - b) In the case of an exterior lot, the maximum total area of 20.0 square metres is permitted within the front yard and/or exterior side yard.
- e. Landscaped Open Space (minimum)
  - i) Overall 40 percent
  - ii) Front yard 50 percent, which must be soft landscaping
- f. Building Height (maximum) 8.5 metres
- g. Special Regulations
  - i) The maximum permitted width of a garage door is 3 metres and the combined width of garage doors on an attached garage shall not exceed 6 metres and the following, whichever is less:
    - a) Where facing the exterior side lot line for all dwellings 25 percent of the exterior side lot line
    - b) Where facing the front lot line for single detached dwellings 25 percent of the front lot line
    - c) Where facing the front lot line for semi-detached dwellings 35 percent of the front lot line

- ii) A garage or carport doors or openings shall be setback a minimum of 1.0 metres from the front or exterior side wall of the dwelling.
- iii) Height of floor deck of an unenclosed porch above finished grade must not exceed 1.0 metres.
- iv) Entrances for an apartment-in-house can be in the front yard through a common entrance with the principal dwelling. Where a separate entrance is provided it must be in the side or rear yard.

h. Exceptions

- i) Minimum front yard setback for a garage at 73 and 74 Lambs Lane is 9.8 metres.
- ii) Maximum lot coverage for a single detached dwelling at 79 Division Street is 43 percent.
- iii) Notwithstanding 12.2.1 b. i) c., c.i), d. ii), and f. ii), 10 Victoria Street shall be subject to the following zone regulations:
  - a. Front yard setback (maximum) 6.5 metres
  - b. Lot coverage (maximum) 43 percent
  - c. Front yard landscape open space (minimum) 35 percent
  - d. A garage door may not extend in front of the front wall of the dwelling.

2. Section 26 is amended by adding a new section 26.8 as follows:

**“26.8 Overlay Zones**

In addition to the permitted uses and zoning regulations for each zone there are Overlay Zones. Where applied the Overlay Zones are read together with the zone regulations. In the event of conflict, the more restrictive regulation applies except in the case of a special exception. The Overlay Zones are shown on the Schedules to this By-law.”

- 3. Schedule ‘3’ to By-law 84-63, as amended, is hereby further amended by adding the “Neighbourhood Character Overlay” as illustrated on the attached Schedule ‘A’ hereto.
- 4. Schedule ‘A’ attached hereto shall form part of this By-law.
- 5. This By-law shall come into effect on the date of the passing hereof, subject to the provisions of Section 34 of the Planning Act.

By-Law passed in open session this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

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Adrian Foster, Mayor

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C. Anne Greentree, Municipal Clerk