

July 4, 2020

**The Mayor and Members of Council,
Corporation of the Municipality of Clarington,
40 Temperance Street,
Bowmanville, Ontario
L1C 3A6**

**Attention: Ms. Anne Greentree
Municipal Clerk**

**Re: Neighbourhood Character Study / Report PSD-015-20
Proposed Official Plan and Zoning By-law Amendments
62 Prospect Street and the Easterly Portion of 129 Scugog Street (64 Prospect Street)**

Dear Mayor Foster and Members of Council,

On behalf of myself and Mr. Don McGregor, we appreciate the opportunity afforded myself and our Consultant, John McDermott, to provide both oral and written submissions to Staff in relation to the proposed Official Plan and Zoning By-law Amendments intended to implement the Neighbourhood Character Study. Based upon our review of the revised drafts of the proposed by-law amendment attached as Addendums 2A and 2B to Report PSD-015-20, the concerns previously expressed with respect to lot coverage and the width of garage doors have been addressed.

We note that Staff have indicated a preference for the proposed draft by-law as set out in Addendum 2a to Report PSD-015-20. Given that Addendum 2B incorporates the requested exception to allow for the erection of a dwelling at 64 Prospect Street having a height of 9 metres, we respectfully request that Council adopt the draft by-law in the form set out in Addendum 2B.

Background

Following our depositions before the Planning and Development Committee on May 19, 2020, and subsequently before Council on the evening of May 25, 2020, our Consultant undertook a detailed study of the character of the properties located north and south of 62 and 64 Prospect Street in keeping with the character assessment criteria now being advanced by the Municipality. This information was provided to Staff and subsequently refined based upon more exacting measurements.

By way of a detailed submission, dated June 26, 2020, addressed to Mr. Pellarin, a well reasoned rationale was advanced to provide for the relief requested in relation to each of our concerns and issues as well as various other comments and recommendations, some of which have been incorporated into the draft of the proposed amendments. A copy of the June 26, 2020, submission, prepared by our Consultant, is attached for your review and information.

Height Exception - 64 Prospect Street

The requested exception will facilitate a modest increase of 0.5 metres in the height of a dwelling on the property located at 64 Prospect Street. The proposed height of 9 metres is both reasonable and appropriate in view of the proposed means of measuring height relative to the mid point of the front lot line, a significant change in and of itself, the need to provide for lot grading and drainage, environmental conditions related to the height of the ground water table, and, the need to advance a building design which is sensitive to climate change consistent with the intent of the the Provincial Policy Statement, May 2020.

Based upon a detailed analysis of the adjacent properties to the north and south of the lands in question, we respectfully submit that the relief sought by way of the requested site specific exception set out in paragraph (iii) of Section 12.2.1(h), entitled Exceptions, of Addendum 2B, will not undermine the character of the community or negatively affect the use and enjoyment of adjacent residential properties.

The requested exception, as set out in Addendum 2B, will not impact upon the streetscape as suggested by the picture of the dwelling under construction on page 9 of the Staff Report. Unlike the property at 64 Prospect Street, the lot located adjacent the south-west corner of Duke and Pine Streets is a corner lot. While Staff advise that the height of the structure under construction is 8.6 metres, field measurements confirm that the dwelling is setback from the front yard property line adjacent Duke Street a distance of approximately 4.5 metres, the minimum front yard requirement under the provisions of By-law No. 84-63, the By-law which is currently in force and effect.

Furthermore, while we have not been able to confirm the nature of any variances granted for the property in question, it would appear that a variance was granted to allow for encroachment of the dwelling to within 1.8 metres of the exterior side lot line on Park Street as opposed to the 6 metre requirement applicable to lands zoned within the Residential Type One (R1) Zone under By-law No. 84-63. In addition, although we do not have a legal survey of the property, it would appear that the lot coverage of the proposed dwelling is in the order of 40 percent as provided for under the current zoning regulations.

Clearly, the setback of the dwelling under construction from Duke Street and Pine Street is inconsistent relative to the setback of the dwelling on the adjacent property on Duke Street. Consequently, the dwelling under construction impacts upon the character of the streetscape by virtue of the reduced front and exterior side yards. This is further accentuated by the fact that a covered porch extends into the front yard a distance of approximately 1.5 metres. The effect of such reductions and encroachments is to increase the perceived massing of the structure relative to the existing built form of the community.

In contrast, in accordance with the provisions of the draft by-law amendment, a dwelling on the property located at 64 Prospect Street would need to be setback at least 10 metres from the property line, and, would be restricted to a maximum lot coverage of 35 percent with side yards of 1.8 metres as required under the proposed amendment set out in Addendum 2B to the Staff Report. The 10 metre setback, coupled with the reduced lot coverage, must be taken into consideration when considering the massing and design of a structure relative to adjacent properties, and, both the public and private realms which establish the character of the streetscape and community. It is further noted that the 9 metre height provision is the maximum height permissible and is effective to provide the degree of flexibility necessary to facilitate construction of a dwelling given the factors previously noted in our submissions to both Council and Staff.

Lot Coverage Provisions

We appreciate the fact that the draft zoning by-law amendment has been revised to provide for a lot coverage factor of 35 percent for lots having an area of less than 650 square metres. This provision will allow for the existing and proposed levels of development on the two properties in question, namely 62 and 64 Prospect Street, as outlined on the drawings attached to the June 26, 2020, submission prepared by our Consultant.

Based upon our review of the lot coverage provisions, a lot of slightly less than 650 square metres would be allowed to develop a ground floor area footprint, inclusive of the garage, of 228 square metres subject to compliance with all other provisions of the by-law, inclusive of the minimum required yards and setbacks from property lines. A ground floor area of less than or equal to 228 square metres is considered reasonable and appropriate in the context of the built form of the community today.

However, for the reasons outlined in Mr. McDermott's submission of June 26, 2020, the prescription of lot coverage solely on the basis of lot area creates a further problem for property owners. By way of example, under the proposed by-law now before Council, a lot having an area of between 651 metres would be restricted to the construction of a dwelling with a ground floor plate of 195 square metres, that is a dwelling which is substantially smaller than that permitted on a lot with an area of 649 square metres despite the two lots being basically of the same area. Similarly, at 25 percent lot coverage, a lot having an area of 800 square metres would be restricted to a ground floor plate of 200 square metres. In other words, a lot of 800 square metres, which is approximately 23 percent larger in area than a lot having an area of 650 square metres, would be restricted to a dwelling which is approximately 14 percent smaller.

To resolve this inconsistency, we propose that Section 12.2.1(c), entitled Lot Coverage, of the proposed by-law amendment be further revised to read as follows, namely:

Single Detached Dwelling

The maximum lot coverage of all buildings and structures shall not exceed 35 percent of the area of the lot or 228 square metres, whichever is the less.

Such a provision would ensure that the building is of a proper proportion to the lot area and recognizes that a single detached dwelling with a ground floor area of 228 metres or less is not out of character with the built form of the community in cases where the lot approaches 650 square metres or greater. The proposed revision would eliminate the opportunity, as a matter of right, to introduce a significantly larger dwelling where the area of the lot is 1,000 square metres or greater as is the case with respect to several properties on Prospect Street alone.

It follows that, where a property owner proposes to erect a structure with a ground floor plate of greater than 228 square metres, an application would be required to either amend the zoning by-law or, if the nature of the proposal provided for a minor exceedance from both a quantitative and qualitative perspective relative to adjacent properties in the neighbourhood, an application for a minor variance. In response to an application for a minor variance, Municipal Staff would be able to review the requested relief based on the merits of the application having regard for the use and character of adjacent properties and to advise the Committee of Adjustment accordingly. Similarly, in the case of an application for a by-law amendment, Staff would undoubtedly be requested to provide a report to Council advising of the merits of the requested relief. Under either scenario, an opportunity would exist for input from neighbouring property owners and other stakeholders in the community.

It is respectfully suggested that the foregoing provision provides for a more equitable approach which creates certainty and avoids ambiguity and speculation. It will further assist in meeting the goals and objectives of the Community Character Study by clearly limiting the opportunity for the introduction of homes, either on vacant lots of record or through the redevelopment of properties, which are out of scale with the character of adjacent dwellings.

Should Council direct such an amendment to the proposed by-law, it is further recommended that the subsection (iii) of Section 12.2.1(c), which provides for an additional lot coverage of 5 percent for unenclosed balconies, porches and accessory buildings or structures, be deleted. It is suggested that this clause should be replaced by a provision which reads as follows, namely:

(iii) the maximum lot coverage of an unenclosed porch/ balcony and/or accessory structure shall not exceed 5 percent of the total lot area

This would avoid a situation where the principal residential structure and a porch, balcony or other accessory structure would occupy 40 percent of the area of the lot as is presently permitted within the Residential Type One (R1) Zone provisions of By-law No.84-63.

Concluding Remarks

Incorporating the requested site specific exception with respect to 64 Prospect Street, as set out in the draft by-law attached to the Staff Report as Addendum 2B, will not undermine the intent of the proposed by-law amendment or result in the introduction of a housing form which is inconsistent with the established character of Prospect Street, north and south of the subject property. Rather, it will contribute to the character of the community in a manner which reinforces the built form by reason of providing for a modest variation in housing form which is responsive to climate change, known environmental constraints, and, the flexibility to provide for an architectural design which accommodates higher interior ceilings and open spaces within the dwelling.

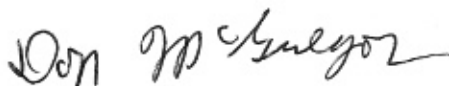
Similarly, the proposed revisions concerning lot coverage will, as previously noted, provide for variation in the built form based on the area of the lot but not allow for the introduction of new dwellings which are out of character, by reason of massing and design, with the built form of established neighbourhoods. Based upon the information set out in Section 2.7 of the Staff Report, the maximum 35 percent rule would apply to approximately 46.5 percent of all properties within the study area zoned within the Residential Type One (R1) Zone, and, would require further review and consideration of a proposal to construct a dwelling in excess of 228 square metres in response to the development of a vacant lot of record and/or the redevelopment of a property where the area of the lot is greater than 650 square metres. Based upon our knowledge of the neighbourhood, it is suggested that there are a limited number of vacant lots of record which would be affected by the proposed lot coverage provisions and the restriction concerning the ground floor area.

In closing, we respectfully submit that the minor nature of the relief being sought in relation to 64 Prospect Street is both reasonable and appropriate, and, in-keeping with the overall intent of the proposed by-law amendment. Furthermore, adoption of the draft by-law attached as Addendum 2B to the Staff Report PSD-015-20, dated July 6, 2020, will allow for the infilling of development in a manner which assists in creating a stable and resilient community structure. Accordingly, we respectfully request that Council adopt the by-law attached as Addendum 2B to the July 6, 2020, Staff Report and that due consideration be given to revising the provisions concerning lot coverage.

Sincerely yours,



Patricia and Andrew Rice
62 Prospect Street



Don McGregor
64 Prospect Street

copy to: Mr. Carlo Pellarin
Manager of Development Review