

Staff Report

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Report To:	Council		
Date of Meeting:	July 6, 2020	Report Number:	Addendum to Report PSD-015-20
Submitted By:	Faye Langmaid, Acting Director of Planning Services		
Reviewed By:	Andrew C. Allison, CAO	Resolution#:	
File Number:	PLN 8.6.7, COPA2019-0002 & ZBA2019-0019		
By-law Number:			
Report Subject:	Proposed Official Plan Amendment and Rezoning to Implement the Bowmanville Neighbourhood Character Study		

Recommendations:

1. That Report PSD-015-20 be received;
2. That Addendum Report PSD-015-20 be received;
3. That the Official Plan Amendment contained in Attachment 1 of Report PSD-015-20 be approved;
4. That the revised Zoning By-law Amendment that also repeals Interim Control By-law 2018-083 contained in either:
 - a) Attachment 2a of Addendum Report PSD-015-20, or
 - b) Attachment 2b of Addendum Report PSD-015-20 be approved;
5. That in accordance with Section 45(1.4) of the *Planning Act*, Council permit minor variance applications to be submitted for the lands subject to the Zoning By-law Amendment contained in Addendum Report PSD-015-20, provided the application is accompanied by a character analysis as determined by the Director of Planning;
6. That the Durham Regional Planning and Economic Development Department, the Ministry of Municipal Affairs and Housing and the Municipal Property Assessment Corporation be forwarded a copy of Report PSD-015-20, Addendum Report PSD-015-20 and Council's decision; and
7. That all interested parties listed in Addendum Report PSD-015-20 and any delegations be advised of Council's decision.

Report Overview

This is an addendum report to PSD-015-20, responding to delegations from the meeting on May 25 when this Report was referred to the July 6, 2020 Council Meeting. Based on discussions, some revisions have been made to the proposed Zoning By-law amendment contained in Attachments 2. There are two options for Council's consideration, option 2a and 2b.

Staff are recommending approval of the Official Plan and Zoning By-law amendments (option 2a) to implement the Bowmanville Neighbourhood Character Study (BNCS). The Zoning By-law Amendments in both options have been revised to include a section that will repeal the Interim Control By-law once the Zoning By-law Amendment comes into effect.

1. Background

- 1.1 Staff report PSD-015-20 considered by Council on May 25, 2020, recommended approval of an Official Plan amendment and Zoning By-law amendment to implement the Bowmanville Neighbourhood Character Study. Council passed the following resolution:

*Resolution #C-238-20
Moved by Councillor Hooper
Seconded by Councillor Zwart*

That Report PSD-015-20 – Proposed Official Plan Amendment and Rezoning to Implement the Bowmanville Neighbourhood Character Study, be referred to the July 6, 2020 Council Meeting.

- 1.2 The referral was intended to accommodate discussions between Planning Services staff and delegates representing properties at 62 and 64 Prospect Street and the Durham Region Home Builders Association (DRHBA). At the May 19, 2020 Planning and Development Committee meeting Andrew Rice and John McDermott requested exemptions be added to the proposed Zoning By-law Amendment for 62 and 64 Prospect Street. Concerns related to these properties were further discussed by Patty Rice at the May 25, 2020 Council Meeting.
- 1.3 Staff met with representatives from the Rice family on June 8th and June 23rd. Staff met with the Durham Region Home Builders Association (DRHBA) on June 9th. Their concerns and how staff have considered them are detailed in Section 2.

2. Discussion

- 2.1 Through discussions with the representatives for the Rice family, it was stated that they do not disagree with the intent of the study or zoning by-law, however they did restate their belief that allowance for lot coverage of 35 percent for both 62 and 64 Prospect Street and a building height of 9 metres at 64 Prospect Street was required to allow the development of a 2-storey home in keeping with the neighbourhood. It was acknowledged that an exception for height at 62 Prospect Street was not necessary. For lot coverage it was suggested that staff consider regulating lot coverage based on lot size, rather than basing it on the number of storeys a dwelling has.
- 2.2 There was also concern expressed with future potential negative impact should their property become legal non-complying. They were concerned their current house at 62 Prospect Street would be non-compliant with the proposed regulation in terms of lot coverage and garage size. They requested data as to how averages for existing setbacks, heights and coverages were determined by the consultant (MHBC) for the Bowmanville Neighbourhood Character Study. That information has been provided by staff. Data collected by Mr. McDermott was also shared with staff.

Legal Non-complying

- 2.3 Zoning By-laws are required to recognize legal non-conforming buildings and structures in accordance with Section 34(9) of the Planning Act. Zoning By-law 84-63 uses the terms Legal Non-Conforming when referencing uses that legally existed prior to the to the date of the passing of a by-law and Legal Non-Complying for building or structures that do not meet the regulations set out for the zone in which such building or structure is located but legally existed prior to the date of the passing of the by-law. For example, a house was constructed in the 1860's and a zoning by-law for the area came into effect in the 1980's. The house was built with a side yard setback of 0.75 metres where the zoning by-law requires 1.2 metres. Although the house does not comply with the regulations of the zone it is in, it is deemed to be legal.
- 2.4 A review of the data collected by both Mr. McDermott and MHBC indicates that although existing properties may become legal non-complying with one or more regulations of the proposed zoning, many are already in that position with the regulations contained in Zoning By-law 84-63. Staff are unaware of issues related to the sale of properties that have legal non-complying buildings and structures, zoning compliance letters are typically issued by Planning Services advising of compliance/non-compliance to zoning requirements.

Height

- 2.5 During discussions a desire to construct a two storey house with 9 foot ceilings and a roof pitch of 8/12 was expressed for 64 Prospect Street. A cross section drawing was

provided by the Rice's indicating an overall height of 8.8 metres. Flexibility was requested to raise the basement because they have required a sump pump in the basement at 62 Prospect starting in 2016 for a house built over 50 years ago and are concerned that future construction at 64 Prospect would have similar water issues.

- 2.6 Staff have tested the desire to have a two storey home with 9 foot ceilings and an 8/12 roof pitch and found this could be achieved with an 8.3 metre height provided the basement is not elevated (see Figure 1). Based on the desire to elevate the basement, design changes could be made such as reducing the height of the second floor to 8 ft or incorporating different roof pitches. Figures 2 and 3 depict how the height can change when incorporating a 7/12 (8.1 metres) or 6/12 roof pitch (7.9 metres). Based on this analysis and the example of 2 storey dwellings that exist in the study area discussed in Section 2.21, staff are not supportive of the request for a 9 metre height. However, if Council determines the request for the height exemption is appropriate, approval of the Zoning By-law Amendment contained in Attachment 2b could be granted.

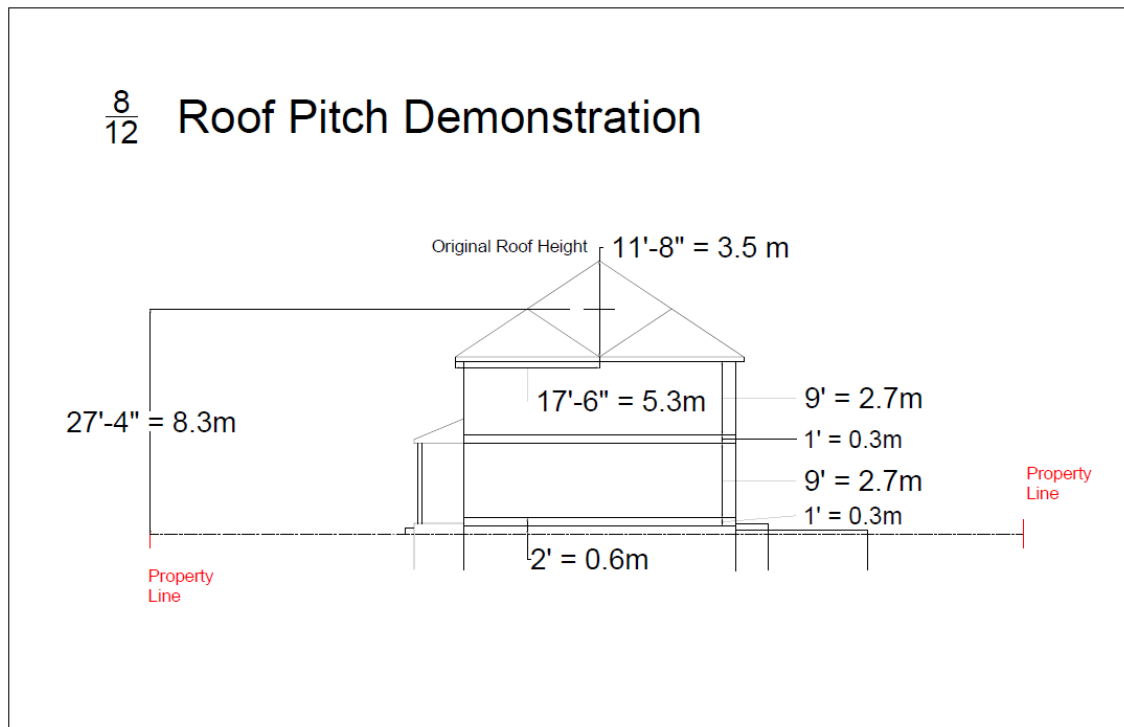


Figure 1 Two Storey House with an 8/12 Roof Pitch

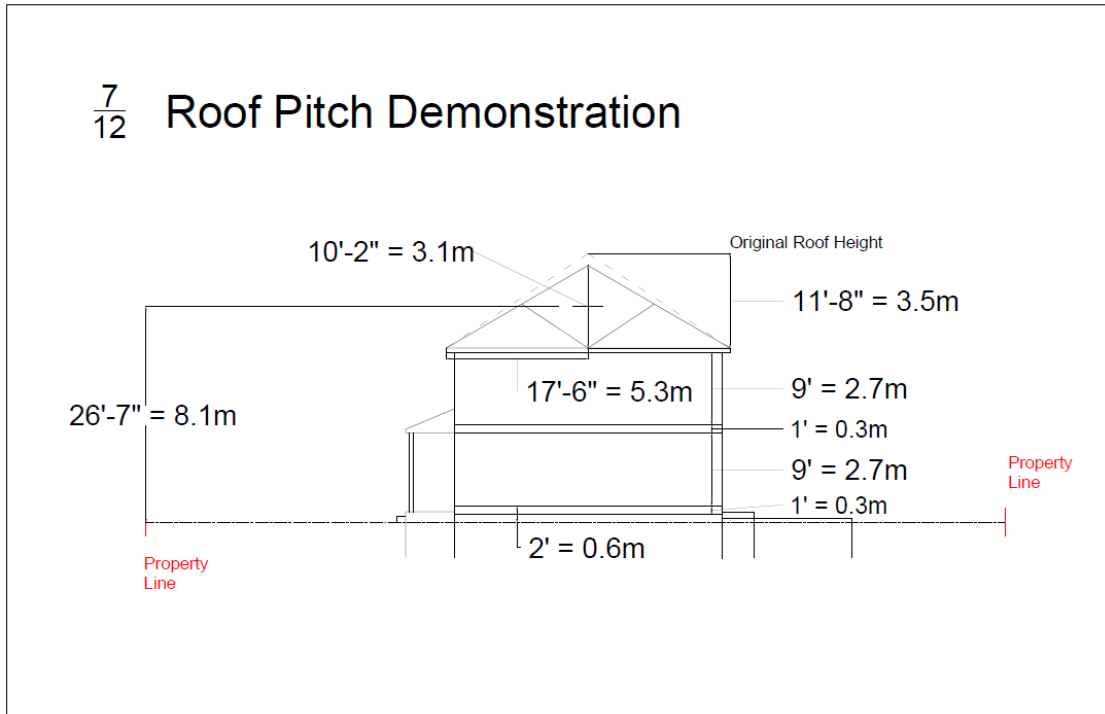


Figure 2 Two Storey House with an 7/12 Roof Pitch

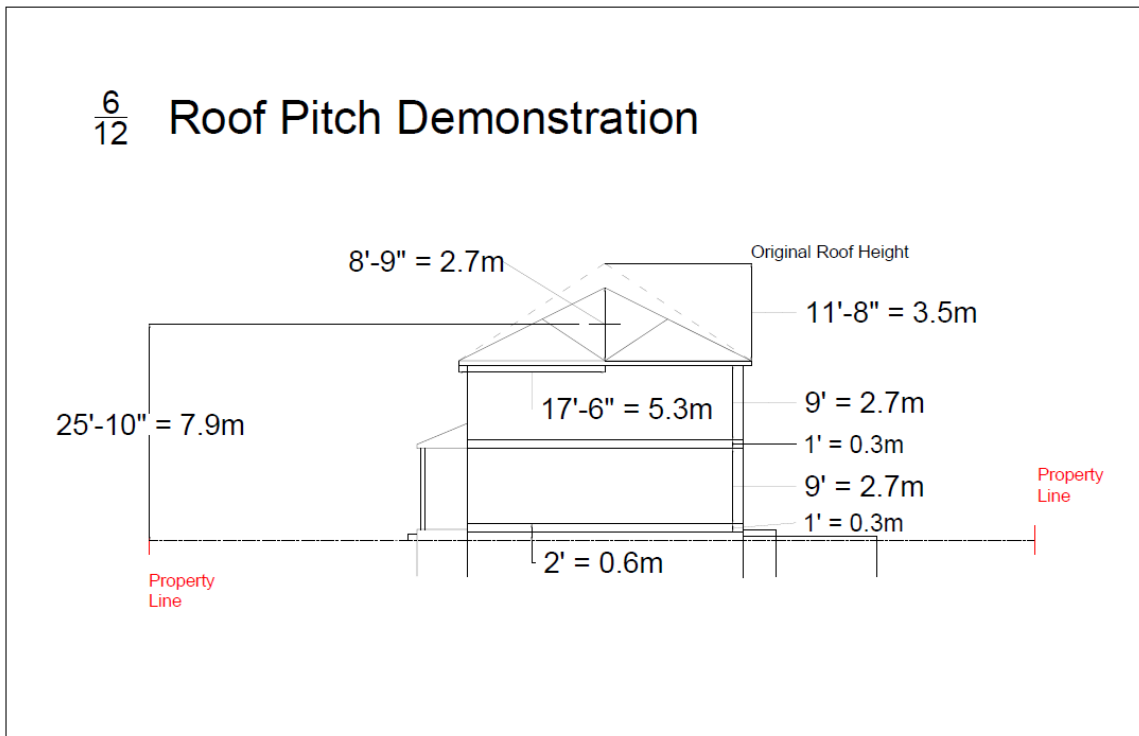


Figure 3 Two Storey House with an 6/12 Roof Pitch

Lot Coverage

2.7 In terms of lot coverage, it was specifically suggested that lots with less than 650 m² be permitted to have a lot coverage of 35% and that a lesser lot coverage be attributed to larger lots. Staff has conducted further analysis to determine the number of lots within the study area regarding average lot size and coverage.

	Number of Lots Within Study Area Zoned R1	Percentage of the Total Number of Lots	Average Lot Coverage
Lots over 800 m ²	339	36 %	18.2%
Lots between 650 m ² and 799 m ²	165	17.5%	23.0%
Lots less than 650 m ²	438	46.5%	27.6 %

Table 1: Lots within the BNCS area based on lot area and average lot coverage

- 2.8 The analysis revealed that the larger lots have less coverage, and smaller lots have over 25% recommended by MHBC. As a result, staff have made modifications to the Zoning By-law Amendment contained in Attachment 2 to permit single detached dwellings with lots less than 650 m² to have a lot coverage of 35%. Lot coverages of 30% are proposed for lots between 650 m² and 799 m² and 25% for lots over 800 m². The proposed lot coverage remains unchanged for semi-detached dwellings as a lot would need to accommodate two units as opposed to one.
- 2.9 The exemption language for porches when calculating lot coverage was clarified. The exemption is up to a maximum area. An area of up to 12.0 m² is exempt from lot coverage on interior lots and an area of up to 20 m² is exempt on exterior lots.
- 2.10 An additional 5% lot coverage was previously added for accessory buildings and structures (e.g. decks and sheds). Permission has also been added to include rear yard unenclosed porches in the additional 5% lot coverage. This will help to reduce the need for homeowners to apply for a minor variance where a builder constructs a new home to the maximum allowable lot coverage. To date, this has been more of an issue in new subdivisions where houses are designed to maximum lot coverage and setbacks. However, it is considered an appropriate approach here as well.

Garages

- 2.11 Modifications to the proposed zoning by-law have been made to allow a two-car attached garage for 15m lot frontage. The regulation for the combined width of a garage door(s) is now 6 metres for lots with 15 metres of frontage or more. 62 Prospect has a double car garage door, so by removing the limitation of 3 metres per garage door, the garage is now in compliance with the proposed regulations. Allowing two car garages on less than 18 m lot frontage was also an issue raised by the DRHBA.
- 2.12 The Rice family questioned why specific properties were granted exceptions in the proposed by-law and why one is not considered for their property. The exceptions included were a direct result of previous Council decisions related to specific development proposals. If Council wishes to provide an exception to 64 Prospect Street for height they can choose to do so. An alternative Zoning By-law Amendment is found in Attachment 2b.
- 2.13 It should be noted that an exception for 79 Division Street previously proposed has been removed. There is an approved minor variance on the property which makes the need for an exception redundant.

DRHBA

- 2.14 After discussions with the Durham Region Home Builders Association a revision to the proposed zoning by-law amendment was provided and reviewed. DRHBA provided a response on June 18, 2020 identifying concern with the established building line, lot coverage, landscape open space and building height.
- 2.15 DRHBA requested that the front yard setback be a minimum of 6 metres or less rather than using the Established Building Line. The established building line was chosen so that the front yard setback would be more consistent with what is existing in the immediate vicinity of a dwelling. A maximum setback of 2 metres from the established building line is proposed to add flexibility where existing setbacks are close to the street.
- 2.16 DRHBA requested that one storey dwellings be permitted at 45%, 1.5 storey dwellings be permitted at 40% and greater than 1.5 storey be 35% lot coverages, respectively. They referred to the mandate of intensification to support this request.
- 2.17 Staff acknowledge that the proposed lot coverages are less than what is permitted in greenfield (new) subdivisions, while being greater than the averages found within the study area. Section 4 of PSD-015-20 outlines that the Official Plan does not focus intensification on existing neighbourhoods rather there are policies requiring new developments respect and reinforce the physical character of these neighbourhoods including height and scale of buildings and their setbacks. The proposed Zoning By-law is the implementation tool to realize the intent of these policies. The lot coverages that exist in the three subject areas are much lower than what is found in greenfield

subdivisions. However, the modification discussed in Section 2.7 would allow smaller lots to have greater lot coverages and larger lots to have lesser lot coverages.

- 2.18 Intensification does not equate with replacing a modest home with a grand one and multiple garages. Intensification is adding more units than what is currently provided.
- 2.19 DRHBA also requested that 2 car garages be allowed on 11 metre lots. They stated that this could help solve on street parking issues. To accommodate a two car driveway on an 11 metre lot DRHBA requested the front yard landscape open space be reduced to 40%. The aim of the 10% reduction is to permit a two car driveway on an 11 metre lot and thus, increasing the marketability value of a new the home in this established neighbourhood.
- 2.20 The Urban Residential Type One (R1) zone requires a minimum lot frontage of 15 metres for a single detached dwelling, therefore an 11 metre lot is not permitted. A semi-detached dwelling requires 18 metres frontage for two units and could not accommodate a double car garage with 40% landscape open space. If someone proposes an 11 metre lot for a single detached dwelling, a rezoning application would be required and they could request other exceptions at that time.
- 2.21 DRHBA claims that the proposed building height is only suitable for tiny homes, and the maximum should be increased to 10 metres. Staff have examined plans of new two storey homes within the area while the Interim Control By-law has been in effect.
- 2.22 For the first example, Council granted an exemption to Interim Control By-law 2018-083 to permit a height of 8.6 metres as opposed to 8.0 metres. Based on the building permit information, this home only exceeds the proposed maximum height of 8.5 metre by 0.1 metre (3.93 inches). The second example is under the required 8.5 metres maximum height. As seen in Figures 4 and 5, these houses are both two stories with a number of steps to the front door. These figures show the regulations were written with the intent to allow 2 storey homes.



Figure 4: New two storey house measuring 8.6 metres in height.



Figure 5: New two storey houses on Concession Street measuring under 8.0 metres in height.

2.23 A height of 10 metres would enable the construction of a three storey house which is not in keeping with the heights of most of the houses in these established neighbourhoods.

- 2.24 Addendum report PSD-019-20 on the agenda for the June 29, 2020 Planning and Development Committee provides an example of proposed three storey townhouse dwellings that are designed at a height of 10 metres.
- 2.25 In discussions with the representatives for the Rice family, it was suggested that a lower height for houses with flat roofs be considered. The proposed 8.5 metre height could have the ability to accommodate a three storey dwelling with a flat roof. The Zoning By-law Amendment in Attachments 2a and 2b has been revised to include a maximum height of 7.5 metres for a flat roof dwelling.
- 2.26 Through discussions with the DRHBA, it was suggested that architectural control be considered as an alternative to the regulations that are being proposed. The proposed zoning regulations are intended to set a building envelope that is more in keeping with the character of the area. It has not been written in a strict sense as to replicate the exact character but to provide more sensitivity in terms of heights, lot coverage, landscape open space, setbacks and garages.
- 2.27 As noted in section 7.8 of PSD-015-20, architectural control could be implemented but would also require a site plan process. This would add cost for the control Architect's fee as well as the site plan application process itself. It would also take additional time to process the approvals. Architectural control is used together with zone regulations in greenfield areas, it is not used to address matters of setback, lot coverage, building height, as spelled out by the provisions of the zoning by-law
- 2.28 Staff recognize that not all lots within the study area are the same. As a result, where a project cannot meet the proposed regulations, an applicant would have the opportunity to make an application for a minor variance. Provided the application meets the four tests required by the Planning Act and is accompanied by a supportive character analysis as discussed in section 7.12 of PSD-015-20, an applicant would most likely receive a positive recommendation from staff, providing all other requirements are met. The overall time to process an application is typically 50 days, including the appeal period with an application fee of \$750, currently.
- 2.29 Eight minor variance applications have been processed in the study areas since the establishment of the Interim Control By-law. All applications received a supportive recommendation from staff. In two cases, variances were also needed for relief from existing regulations in Zoning By-law 84-63.
- 2.30 Council has also granted exemptions from the Interim Control By-law to allow new construction to proceed on 4 properties. In three of those cases, staff were supportive of the requests while the fourth case proceeded directly to Council without staff involvement.

- 2.31 Staff developed a character analysis form that applicants used to support a minor variance or exemption to the Interim Control By-law where necessary. This form can continue to be used going forward to support a request for a minor variance. Where an applicant has difficulty navigating the form, staff will assist in completing the form.

3. Conclusion

- 3.1 In consideration of all agency, staff and public comments, it is respectfully recommended that the Official Plan Amendment and Zoning By-law Amendment to implement the Bowmanville Neighbourhood Character Study be approved. Further, it is recommended that Interim Control By-law 2018-083 be repealed.

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Attachments:

Attachment 1 – Report PSD-015-20
Attachment 2a – Proposed Zoning By-law Amendment (Preferred Option)
Attachment 2b – Proposed Zoning By-law Amendment (Option B)

Interested Parties:

List of Interested Parties available from the Department.