



Municipality of Port Hope

Staff Report

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Report Title: Official Plan Amendment (OP01-2022) and Zoning By-law Amendment (ZB01-2022) - Additional Residential Units (ARUs)

Report to: Planning & Development Committee

Date of meeting: June 21, 2022

Report Author:

Meridian Planning Consultants on behalf of the Municipality of Port Hope

Department responsible:

Planning & Development

Report Number: PD-22-22

Recommendation:

That a by-law be presented to Council to adopt Official Plan Amendment No. 11 (File No. OP01-2022) that will amend the Official Plan in order to align it with Provincial Policy regarding Additional Residential Units; and

That a by-law be presented to Council to authorize a Zoning By-law Amendment (File No. ZB02-2022) that will amend the Comprehensive Zoning By-law 20/20210 to permit up to two (2) Additional Residential Units on residential and rural properties in the Municipality of Port Hope.

Highlights:

- The Province has made a significant change to land use policy to address the affordable housing crisis. The effect of Bill 108, *More Homes More Choices Act* is a requirement for municipalities to permit up to two additional residential units (ARUs) on lands containing detached houses, semi-detached houses or rowhouses.
- Two ARUs plus the primary residential dwelling results in a total of up to three residential units permitted on certain land parcels. The ARUs are permitted within the primary dwelling unit and as a separate dwelling located on the property in an accessory structure.

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- A Public Meeting was held on May 10, 2022 to present the proposed municipally-led amendments to the Official Plan and Zoning by-law. Public comments have been considered and are provided below under Communication and Public Engagement.

Background:

This is a follow up report to the April 19, 2022 update report from the Manager, Planning which explained that the Zoning By-law Housekeeping review had been separated into two streams: 1) ARUs and 2) the balance of the proposed housekeeping changes to the Comprehensive Zoning By-law. The intent is to expedite Official Plan and Zoning By-law amendments to allow for expected ARU building permit applications during the 2022 construction season. On May 10, 2022, the MPH hosted a Public Meeting to present the draft Official Plan and Zoning By-law amendments. The comments made at the public meeting in addition to written agency, departmental and public comments have been considered in the preparation of this report.

Discussion:

This section provides a high-level analysis of the relevant provincial and municipal land-use and development policies that apply to the proposed municipally-led applications.

Bill 108, *The More Homes More Choices Act*:

With the implementation of Bill 108, *The More Homes More Choices Act*, the Provincial rationale for directing municipalities to facilitate the establishment of ARUs appears to be as follows:

- Increased supply of affordable housing;
- Increased supply of rental housing;
- Increased housing options and flexibility to address a range of housing needs;
- Make more efficient use of existing housing stock; and
- Make more efficient use of land, infrastructure and public services.

There have been a number of amendments to Provincial legislation that are designed to support increased housing affordability and availability. One of the ways the Province has supported this public interest is by requiring municipalities to enact Official Plan policies and Zoning By-law provisions to allow for the establishment of ARUs.

Planning Act:

As a result of Bill 108, the *Planning Act* ARU provisions require that municipalities update their Official Plan policies to authorize the use of 'additional residential units' by authorizing:

- The use of two residential units in a detached house, semi-detached house or rowhouse; and
- The use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse.

The Act also requires that the Council of each local municipality shall ensure their Zoning By-laws give effect to the policies described above.

Planning Act regulations (O. Reg. 299/19):

Ontario Regulation 299/19 sets out a number of specific requirements and standards with respect to ARUs. This includes:

- Each ARU shall have one parking space that is provided and maintained for the sole use of the occupant of the ARU, and it may be a tandem space - however, a municipality can decide at its own discretion to require one parking space for each ARU, or one parking space only for the first ARU or to require no parking spaces at all;
- An ARU may be occupied by any person regardless of whether the person who occupies the ARU is related to the person who occupies the primary residential unit and whether the person who occupies either the primary or ARU is the owner of the lot; and,
- Where the use of ARUs is authorized, an ARU is permitted regardless of the date of construction of the primary residential unit.

Provincial Policy Statement (2020):

The 2020 updates to the Provincial Policy Statement (PPS) introduced a number of new and updated policies intended to increase the supply and mix of housing, including:

- Requiring that a range of 'housing options' and densities be planned for in order to meet projected housing demand;
- Added references to the terms 'affordable and market-based/market demand' to the policies pertaining to the determination of housing need;
- Requiring that planning decisions be aligned with Housing and Homelessness Plans; and
- Replacing the term 'second unit' with 'additional residential unit'.

Planning Recommendation:

The draft Official Plan and Zoning By-law amendments will ensure that the Official Plan and Zoning By-law are consistent with the Provincial Policy Statement (2020).

With respect to whether one or two ARU's should be permitted in rural areas, a review of neighbouring municipalities indicates that the Municipality of Clarington permits one ARU while the Township of Hamilton permits two ARUs in rural areas.

Building upon public comments from the May 10, 2022 public meeting, it is recommended that up to two ARU's be permitted in rural areas as well. It is recognized that servicing may be a constraint in some cases and it will be up to the proponent to justify at the time of building permit whether services are adequate for the one or two ARU's proposed on a rural lot. As a result, both the Official Plan and Zoning By-law Amendments have been modified to permit two ARU's in all rural areas except within the Oak Ridges Moraine, where only one ARU is permitted.

In order to protect the character of rural areas, the recommended Zoning By-law now requires that all components of an ARU in the rural area be located no further than 40 metres from the main dwelling. This will ensure that the ARU is within the existing development cluster on a property. Site specific factors such as topography, slope, and septic tank location will play a role in siting of the ARU in the accessory structure. Final location of the ARU will be determined between the landowner and the building department.

The general intent of Bill 108 is to provide gentle intensification in urban areas. There is concern that permitting two ARUs in the rural area may lead to misdirected intensification. However, further analysis suggests that lot sizes are significantly larger in the rural area compared to urban areas in the MPH. Permitting up to two ARUs in rural areas would not significantly cause intensification or significant population growth in the rural area.

While it is recommended that the municipality permit up to two ARUs in the rural area, it cannot override the policy direction in the Oak Ridges Moraine Conservation Plan, 2017. Specifically, ARUs are not permitted in accessory buildings in any areas of the ORM. Furthermore, only one ARU in total is permitted in any areas of the ORM. These recommendations have been incorporated into the draft by-laws being presented.

Comments were also made at the Public Meeting on tiny homes, which are small self-contained dwelling units that may be prefabricated and brought onto a site or built on site. Such a home may be defined as a modular home, which is defined in the MPH Zoning By-law as a prefabricated building or structure which is designed to provide a

permanent dwelling unit for one or more persons and which is placed on a finished permanent foundation. In order to recognize that a modular home can be considered an ARU, it is proposed to modify the definition of ARU in the recommended By-law to indicate that an ARU can be a modular home. It is noted that if a modular home is proposed, it will be required to comply with the Ontario Building Code as determined by the Chief Building Official.

Some tiny homes may also come with wheels. However, such a unit would be defined as a mobile home as currently defined in the MPH Zoning By-law, with mobile homes only permitted in a mobile home park. This is not proposed to change in the proposed draft ARU inclusions in the Zoning By-law, as mobile homes are designed to be mobile. It is also noted that the definition of 'modular home' in the Zoning By-law indicates that a modular home does not include a mobile home, a travel trailer or tent trailer or a trailer as otherwise defined. Lastly, according to Section 4.27.1 of the Zoning By-law, the use of any tent, trailer or motor vehicle for human habitation, except where such tent, trailer or motor vehicle is located in a campground, in a trailer park or in a mobile home park is prohibited. This is also not proposed to change in the recommended ARU By-law.

Lastly, the County of Northumberland has indicated that it will be very likely that existing sewage disposal systems in the rural area will be too small to accommodate an ARU and as a consequence, options for the homeowner will be to either enlarge or replace the existing system, which may be cost-prohibitive. On this basis, the County recommends that MPH give consideration to permitting a second sewage disposal system on a rural property to service a detached ARU. As a consequence, and to provide some additional flexibility to rural homeowners, it is recommended that the ARU By-law permit a separate septic system for a detached ARU.

Based on a technical review of the draft ARU By-law presented at the public meeting, it is also recommended that the ARU By-law:

1. Refer to Section 5.5.3.2 of the Zoning By-law, which only permits second driveways in Residential Zones, subject to certain conditions being met; and,
2. Not restrict the use or development of a second driveway to access a detached ARU in a rural zone, provided the road authority with jurisdiction permits the use or development of the driveway.

Proposed Official Plan amendment:

The proposed changes to the Official Plan include:

- Authorizing the use of two residential units within a detached house, semi-detached house or rowhouse;

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- Authorizing the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse;
 - Permitting ARUs in all appropriate land use designations.

Proposed Zoning By-law amendment:

The following matters have been considered in the preparation of the final recommended Zoning By-law Amendment:

- Dwellings and lots must be large enough to accommodate the ARUs and provide for adequate parking, landscaping and outdoor amenity areas and room for servicing if in the rural area - it is for this reason that in urban areas, lots must have a lot frontage of 15 metres to be eligible for a second ARU and in rural areas, the minimum lot area is required to be 0.4 hectares;
- The ARUs must be clearly secondary and subordinate to the principal dwelling on the lot and limited in size - this is why in both urban and rural areas, ARU's are restricted in size so that they are subordinate to the main use;
- Existing or proposed municipal or private water supply and wastewater disposal services are adequate to accommodate the establishment of ARUs - this will be determined at the time of building permit;
- Access to the rear yards is available for pedestrians if the ARU is located in the rear yard - it is for this reason that the Zoning By-law requires unobstructed pedestrian access from the street and parking area to the ARU;
- The general character of existing areas should be respected - it is for this reason that the Zoning By-law only permits one entrance in the wall facing the street and restricts the height and size of ARU's;
- Provincial regulations dictate that only one parking space may be required for an ARU and it may be provided as a tandem space (i.e. in front of or behind another space) - the Zoning By-law proposes to require one additional space (which can be tandem) for the first ARU only (the second ARU will not require a parking space);
- ARUs will need to meet various health and safety requirements, including compliance with any related Zoning by-law provisions and Ontario Building Code and Fire Code requirements - this is true for all development in MPH.

Communication and Public Engagement:

The Statutory Public Meeting held on May 10, 2022 was communicated to the public by advertisement in the newspaper and on the municipal website, updated social media content, promotion on TV screens in municipal recreation facilities, and updated

posters. Those who are subscribed to the Zoning By-law project page also received an email notifying them of updates to the project page.

The May 10, 2022 public meeting included questions from the public and responses from the consultant and municipal staff. In general, members of the public in attendance were supportive of the municipality moving forward with permissions for ARUs as a tool to address the affordable housing crisis. A few members of the public asked why only one ARU was being permitted in rural areas and what process would be followed if an ARU was proposed in a rural area.

As a result of the above public inquiry, a further review of ARU best practices in rural areas was completed and the results are included in the planning recommendation included in the conclusion below.

Financial Considerations:

It should be noted that the construction of ARUs could trigger a re-assessment of the current market value of the overall property by MPAC. It is anticipated that the construction value of an ARU in a separate building could range from \$100,000-\$150,000. The addition of an ARU into an existing building may cost significantly less, based to where the ARU is proposed and the modifications required to ensure the ARU complies with the Ontario Building Code and the Fire Code. A MPAC re-assessment could increase the value of properties with ARUs and increase tax revenue for the MPH.

Conclusion:

It is recommended that the attached Official Plan Amendment be adopted and the Zoning By-law Amendment be passed.

It is recognized that there will be considerable interest in the short term to develop ARU's once the Official Plan Amendment is adopted and the Zoning By-law Amendment is passed. As a result, it is proposed to update the Municipality's website to provide some advice and assistance to those looking to develop an ARU in MPH. Lastly, it is noted that once the Official Plan Amendment is adopted and the Zoning By-law Amendment is passed, they come into effect immediately as there is no appeal of either instrument permitted by the Planning Act.

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Attachments:

Attachment 1: Official Plan Amendment (OP01/2022)

Attachment 2: Zoning Bylaw Amendment (ZB01/2022)