MINUTES – Public Meeting
Community of Miltonvale Park
7: 30 p.m. Wednesday, July 31, 2013

PRESENT: Council: Chair Hal Parker, Councillors George Piercey, Gail Ling, Sheila MacKinnon, Tamsyn Cosh-MacKenzie, Connor Jay; **Staff**: Development Officer Sandy For, Administrator Shari MacDonald, and Planner Janice Harper; **Residents and Landowners** – Brian Chandler, Goops Wooldridge, Arnold MacRae, Enid and James Gallant, Brad Wooldridge, Andrew Frizzell, Vern Chowan, Pauline Smith, Nathan Stewart, Helen Shaw, Robin Boutilier

1. Call to Order: Chair Parker called the meeting to order at 7:32 p.m.

2. Purpose: Chair Parker outlined the purpose of the meeting, which was to allow residents and other interested persons an opportunity to review and make representation concerning the Community of Miltonvale Park Zoning and Subdivision (Development) Bylaw.

Goops Wooldridge raised a concern about the lack of notice for the meeting. It was noted that two ads were in The Guardian, as well as information was on the website. *(Posters were also placed in the community, as well as a sign was on the hall's exterior noticeboard, and information was on the Community Facebook page, as well as preliminary notice in the June newsletter).*

3. Introductions: Chair Parker introduced Councillors George Piercey, Tamsyn Cosh-MacKenzie, Gail Ling, Sheila MacKinnon, and Connor Jay, as well as Development Officer Sandy Foy and Planner Janice Harper.

4. Background: Chair Parker noted that under the *Planning Act*, Prince Edward Island municipalities have the option to assume responsibility for land use planning through the development and adoption of official plans and land use bylaws. Miltonvale Park has taken on responsibility for planning. The *Planning Act* guides the development of these documents, which may not be less stringent than provincial regulations. The Community is also located within the Charlottetown and Area Special Planning Regulations which also inhibits unserviced development within the municipality. Chair Parker explained that in areas where municipalities have not assumed responsibility for planning, the Province remains responsible for development control.

The bylaws are the tools by which the visions set out in the Official Plan are achieved.

Council reviewed and significantly revised the Official Plan and the development bylaws in 2009. After using the new bylaws for several years, several issues were identified for improvement:
1. Definitions were added or clarified.
2. The section on Signage was deleted, as it was felt that given the cost of enforcement, coupled with the Province's own improvements to provincial signage regulations, it

would be prudent to once again allow the Province to assume the regulation of signage in the Community.
3. The accessory building regulations were simplified. In areas outside Meadowvale Park (which is limited by smaller lot sizes), the permitted size of a baby barn has been increased.
4. A number of metric –Imperial conversions were made more accurate.
5. Several "housekeeping" type changes were made

5. Review of major changes:

The Development Officer, with the assistance of the planner, reviewed all the proposed changes from the 2009 version of the bylaws.

ZONING & SUBDIVISION CONTROL (DEVELOPMENT) BYLAW

This Bylaw is made under the authority of the *Planning Act*, R.S.P.E.I. 1988, Cap. **8** and the *Municipalities Act*, R.S. P.E.I.

1.4 AUTHORITY OF DEVELOPMENT OFFICER

Council may appoint a Development Officer whose duties shall be as provided in this Bylaw. The Development Officer shall have the authority to administer this Bylaw. Notwithstanding the foregoing, the Development Officer shall have the authority to approve or deny development permits, **severances and consolidations and subdivision approvals of up to 4 lots** in accordance with this Bylaw in all areas except for:

Discussion: This clarifies the power of the Development Officer, and what decisions have to come to Council.

2.10 "Baby Barn" – means an accessory building used for storage purposes which does not exceed **120** square feet **(11.15 m^2)** in floor area.

Discussion: The size of a baby barn was increased from 96 sq. ft., to allow for increased storage for items such as larger lawn mowers. A resident commented that this was insignificant, given the relatively small number of baby barns approved, annually.

2.13 "Building" – means any structure having a roof supported by columns or walls intended for the shelter, housing or enclosure of any person, animal or chattel, and includes a mini home or mobile home, **a fabric storage shed, a tarp barn, a steel structure, a trailer box, a trailer on wheels, or similar structure**.

Discussion: There was confusion raised whether a travel trailer would be considered a "building"; however there is a separate definition for recreational vehicle in the definition section which would include RVs. Section 4 (pg. 18 of the proposed bylaws) clarifies when a development permit is required. Concern was raised that the inclusion of "trailer" was too vague. The planner noted that some municipalities require anything over a certain size, such as 64 sq. ft. to require a permit. A resident put forward the following alternate definition "roofed and walled structures built for permanent use. Buildings are any human made structure used or intended for supporting or sheltering any use or continuous occupancy." The planner noted that with engineering advancements there are large tents now used as arenas and barns, and that trailer boxes are being used as restaurants and as housing in other jurisdictions. It was suggested that the number of trailer boxes could be limited on a property. The planner noted that the ***use*** *of the trailer box may determine whether it a permit would be required. Residential or commercial uses may differ, as would other considerations, such as health and safety or parking. A landowner asked if a permit would be required for a car trailer. The planner noted that there is nothing in the plan dealing with temporary use. The definition was chosen to clarify what might be considered a structure, although another option could be to require a permit for anything over a certain size, such as 64 sq. ft. The definition gives the Council some flexibility. It was suggested that Council could police bylaws after a certain number of complaints, or if the neighbours on both sides complain.*

A resident noted that he moved to Miltonvale Park as he was unable to get a development permit in West Royalty, and appreciated the flexibility of the community at that time, and suggested that the community can grow by being flexible.

He also noted that enforcement is seen to be inconsistent.

Chair Parker noted that bylaws from across the province were examined in the development of these bylaws.

A landowner noted that he now lives in Charlottetown, and could have had a separate garage of only 10x18 feet; however, he was as permitted to construct an attached garage 36x34, with a 12 foot section to attach it to the main house.

2.19 **"Change of Use"** – means the change of use of a parcel of land or a building from one **type of permitted use to another type of permitted** use or an increase in the intensi**fication** of use, including an increase in the number of dwelling units.

Discussion: *"Change of use" triggers a development application and clarification was sought for the definition.*

2.44 "Existing Parcel" – means a parcel of land that existed on July 9, 1994, **except where provincial legislation or regulation establishes otherwise."**

Discussion: Provincial regulations require increased road frontage and an "existing parcel" date of February 3, 1979 for accesses to collector roads.. This date was confirmed today for properties along the Rustico Road, which is a collector highway, with officials from Transportation and Infrastructure Renewal (TIR) and Municipal Affairs. This new definition meets the requirements of the Planning Act and will trigger a review of applications from Transportation and Infrastructure Renewal. It has been the practice of the Community to send applications on the Rustico Road, or those with possible site distance issues to TIR for approval.

2.62 **"Intensification" - means the development of a property or lot at a higher density than previously existed and includes redevelopment or development within existing communities, infill development, or development on vacant lots or underdeveloped lots within a built-up area, conversion or the change of use of an existing structure or land use, and the creation of apartments or other accommodation in dwellings.**

Discussion: "Intensification" is discussed in the bylaws, but no definition was previously included. A resident expressed concern about the construction of a duplex that he felt was not permitted, and suggested that rules were not followed at that time..

3.5 Units of Measure

*Discussion***:** *All imperial/metric standards have been reviewed and revised for accuracy and consistency throughout the document.*

4.3 <u>PAYMENT OF FEES</u>

Notwithstanding any Section of this Bylaw, development permits are not valid and will not be recognized until the application fee and any other required fees are paid in full and the said permit is acquired by the developer.

A schedule of fees will be established by resolution of Council **who may amend the fee schedule, which is part of the Bylaw,** to reflect the costs related to processing the applications.

*Discussion***:** *Council was advised that the development fees, which have not changed, should be included within the bylaw.*

4.8

(2) Notwithstanding any other provisions of this Bylaw, a vacant lot having less than the minimum width or area required, may be used for a purpose permitted in the zone in which the lot is located and a building may be erected on the lot provided that all other applicable provisions in this Bylaw are satisfied.

Discussion: The phrase "held in separate ownership" was deleted from the first line, after "vacant lot".

4.16 MAIN BUILDING

No person shall erect more than one main building on a lot except:

(a) in the General Commercial (C1) Zone;
(b) in the Residential Mobile Home Park (MHP) Zone; and
(c) in the Agricultural (A1) Zone for other than residential use except on a farm;
(d) in the Public Service and Institutional Zone (PSI)**; and**
(e) in the Light Industrial (M2) Zone.

Discussion: The M2 zone was added, as it was seen to be a logical requirement for some businesses.

4.23 ACCESSORY STRUCTURES

(1) Accessory uses, buildings and structures, including detached garages, shall be permitted on any lot but shall not:

(a) be used for human habitation except where a dwelling is a permitted accessory use;

(b) be located within the front yard;

(c) be built closer than 1.5 m. (5') to any lot line, except that common garages for semi-detached dwellings may be centred on a mutual side lot line;

(2) Except in a light industrial, commercial zone or on a farm or resource use property, accessory uses, buildings and structures shall not:

(a) exceed 4.57 m. (15') in height above grade;

(b) exceed 65 m^2 (700 sq. ft.) of floor area per building;

(c) exceed a maximum of two (2) buildings per property with a maximum total floor area of 93 m^2 (1,000 sq. ft.);

(4) No accessory building or structure over 11 m^2 (120 sq. ft.) shall be constructed:

(a) prior to the time of construction of the main building to which it is accessory, or

(b) prior to the establishment of the main use of the land where no main building is to be built.

(5) All accessory buildings shall be included in the calculation of maximum lot coverage as described in the lot requirements for the applicable zone;

(6) Satellite dishes greater than 2 feet in diameter shall not be erected in any zone in the Community unless a special permit has been issued by Council;

(7) Notwithstanding the above provisions, Council may issue special development permits for the following uses, provided they would be architecturally compatible with adjacent structures and no permanent injury would be caused to adjoining properties. Council may also impose conditions on the following developments:

(a) an accessory structure located within the front yard or flanking side yard of a lot,
(b) an accessory building exceeding 111.5 m^2. (1200 sq. ft.) for a lot exceeding 3 acres in area, where Council is satisfied the need for the increased size is warranted
(c) an accessory building exceeding 15 feet in height

Discussion: *It was felt that this proposed section sets some parameters but gives guidelines and some flexibility. It was queried as to whether a house has to be*

built in front of a garage, but a special permit could be granted to permit the garage in the front of flanking side yard. It was felt by one resident that 1000 sq. feet was too small for an accessory building. It was suggested that each permit could be addressed individually with an architect's drawing and if neighbours gave approval. It was noted that parameters are needed so landowners have a reasonable expectation of what is permitted, and it would not be possible to have people on both sides of a proposed development sign off. Most new residential construction now includes an attached garage. Accessory buildings are in addition to any attached storage. Farm properties are not restricted with accessory buildings. It was suggested that road frontage could be used to dictate the size of accessory buildings, somehow. If people are denied applications, they have the ability to appeal decisions of Council.

4.25 GARDEN SUITES

the garden suite is connected to the same water and sewage services as the principal dwelling on the lot, and that, in the case of connection with a septic tank system, the capacity of the system is adequate to accommodate both the principal dwelling and the garden suite;

Discussion: The requirement to connect the electrical services to the same as the main dwelling was deleted, to conform with the rest of the province, and to eliminate onerous paperwork required of people with garden suites.

SECTION # 6 Signage The entire section is deleted and the sections which follow were re-numbered.

Signage regulation is costly and time consuming. The Province recently revised their signage regulations, and Council feels that having the Province regulate and enforce signage in the municipality would be adequate.

SECTION # 7 – RESIDENTIAL MOBILE HOME PARK ZONE (MHP)

7.3 Lot Requirements

(c) each mobile home or mini-home space shall meet the following requirements:

(i) minimum area of 3,000 square feet (278.9 $\mathbf{m^2}$),

Discussion: This addition of square metres corrected an omission in the

previous version.

7.4 <u>OTHER REQUIREMENTS</u>

(a) mobile home park grounds, facilities, outdoor furnishings, and equipment shall be maintained in good repair and sanitary condition;

(b) a mobile home park shall have an operator providing daily supervision;

(c) sufficient covered receptacles shall be provided for garbage, refuse, and liquid wastes, and removal of wastes shall be done at least once a week;

(d) all areas shall be kept free of litter, rubbish and inflammable material;

(e) all lots/sites shall be served by a piped common water and sewage disposal system, and each mobile home shall be connected to the system;

(f) all lands within the mobile home park shall be landscaped in such a way as to provide a suitable residential environment,

(g) each site shall have access on a continuous right-of-way which is not less than 25 feet (25') 7.5 m wide, and is connected to a public road; and each lot shall have access to a public road;

(h) the travelled portion of a right-of-way shall be surfaced with a minimum width of 20 feet (6 m) of pavement;

(i) the maximum allowable size for accessory buildings is 96 square feet (8.9 m^2) in floor area and they may be located no closer than 5 feet (1.5 m) from any lot line. Accessory buildings shall not be located in a Front Yard or Flankage Yard.

Discussion: Small lot sizes necessitate smaller accessories buildings.

SECTION #12 – LIGHT INDUSTRIAL ZONE (M2)

12.2 PERMITTED USES

No building or part thereof and no land shall be used for purposes other than:

(i) (1) Manufacturing and Assembly
(2) Warehousing
(3) Transport Operations**- including trailer storage**
(4) Activities connected with the Automobile Trade other than a scrap yard
(5) Wholesale Operations

Discussion: Trailer storage is clarified as a permitted us for transport operations.

17.4 NOTICE TO PROPERTY OWNERS

(a) Subject to Section 18.5 when an application for a re-zoning is being considered by Council, all affected property owners within a five hundred foot (500') (152 m) radius of the subject property shall be notified by **Council.**

*Discussion***:** *The "Administrator" was replaced by "Council", who may still be represented by the Administrator, Chair, Development Officer, or other staff.*

Original ***19.4*** ***CHANGES TO EXISTING LOTS***

(1) No person shall reduce the dimensions or change the use of any lot in an approved subdivision where Council deems these would be a detrimental effect on neighbouring property owners.

(2) Where an application to subdivide land would change the dimensions or the use of a lot in an existing approved subdivision, Council shall notify all property owners within 500 feet (152 metres) of the boundaries of the lot in writing, informing them

of the details of the application and soliciting their comments.

Proposed Changes read:

18.4 CHANGES TO EXISTING LOTS

(1) No person shall reduce the dimensions of any lot in **any residential zone** where Council deems th**is** would **have** a detrimental effect on neighbouring property owners.

(2) **Where an application to subdivide land would change the dimensions of the lot in any residential zone, all affected property owners within a five hundred foot (500') (152 m) radius of the subject property shall be notified of the application by Council informing them of the details of the application and soliciting their comments.**

Discussion: Due to the possibility of a "Subdivision" being one or multiple lots (and therefore unclear as to when notification was required), it was decided to require changes in any residential zone to trigger notification to neighbours.

18.5 SPECIAL REQUIREMENTS – AGRICULTURAL (A1) ZONE

Discussion: Section 2 "For the purposes of this Section "existing Parcel" shall mean a Parcel of land which was held in separate ownership as of July 9, 1994." is deleted, as it is defined in the definition section.

19.9 APPLICATION AND APPROVAL PROCESS

...

(7) **Preliminary approval of a subdivision shall be valid for a twelve-month period, or such additional time as may be authorized by Council.**

Discussion: This makes the preliminary approval of a subdivision consistent with the development permit.

18.10 FINAL APPROVAL

1. Final subdivision approval shall be granted by Council only after the applicant has complied fully with all applicable requirements

of this Section and has submitted seven (7) copies of a final subdivision plan showing all lots pinned and certified by an accredited member of the Association of Prince Edward Island Land Surveyors.

(a) Notwithstanding section 1, Council may waive requirement for survey plan where lots are in excess of 10 acres.

3 (d) **notwithstanding subsections a, b and c, Council may require** a digital file containing the (real earth) geographic co-ordinates of said plan of subdivision.

Discussion: The purpose of a survey is to determine boundaries, which is more crucial on smaller lots, which have less margin for error in the location of buildings. The Province does not require surveys for subdivisions over 10 acres. The Community would ask for a clearly marked geo-linc map. Surveys may still be done; however, if the landowner wishes.

20.2 OFFENCES AND PENALTIES

A person who violates any provision of this Bylaw is guilty of an offence and liable on summary conviction.

(a) (1) Every person who contravenes any provision of this bylaw is guilty of an offence and liable on summary conviction

(a) on a first conviction, to a fine not exceeding $2,000;

(b) on a subsequent conviction, to a fine of not more than $400 for each day upon which the contravention has continued after the day on which he was first convicted.

(2) Any prosecution for an offence under subsection (1) may be instituted within one year after the time when the contravention occurred.

(b) The Judge presiding on any prosecution under this Bylaw may fix the costs of prosecution to be paid by the person found guilty hereunder.

Discussion: This is directly from the Planning Act.

20.3 ENFORCEMENT

The Community is entitled to all of the enforcement remedies set

forth in Section 24 of the Planning Act R.S.P.E.I. 1988, Cap. P-8

Discussion: It would be a decision of Council whether to proceed, and fines would be set by the judge.

21.1 EFFECTIVE DATE

This Bylaw shall come into force effective ___.

Discussion: The bylaw will be effective on the date that the Minister signs the new bylaw.

21.2 REPEAL

The Community of Miltonvale Park Zoning and Subdivision Control (Development) Bylaw, **2009** is hereby repealed.

Discussion: The old bylaw will be repealed and replaced with the new version.

It was noted that the numbering in the separate handout circulated tonight and online listing the changes may no longer be accurate due to editing; however, the content of the changes remains true. As well, page 56 in the printed version of the bylaws circulated is blank. In the version which will eventually be approved, the empty page will be removed and subsequent pages renumbered.

The zoning map included with the handout has not changed from the 2009 version.

6. Questions and Comments from the Public

A resident suggested that the Community deal with the several outstanding planning issues, before moving forward with changes to the bylaws. Concern was again noted from several residents about the inclusion of a "trailer with wheels" in the "building" definition, and the planner was questioned as to the origins of that particular definition. The planner noted that it was a combination of several definitions. She also has resource books of definitions from which to draw. She noted that many definitions have gray areas, and it would not be reasonable to expect total agreement from everyone.

The question to consider that is the **use** of the building/trailer, and if is it a permitted use. Intensification is not allowed in a non-conforming property. Some trailer boxes were grandfathered in, as they were placed on the properties prior to the adoption of the 2009 bylaw. Uses that were legally in existence are permitted to continue at the same level.

Council will make the final determination of the definition of "building." The planner noted that Council must decide where to "draw the line", and should ensure that the definitions are clean and clear. Reasonableness is also employed. A landowner suggested

that it should be up to the neighbours, as to what is permitted. It was noted by staff, that sometimes complaints are lodged, but may not always be valid.

It was again noted by a resident that rules weren't always followed in the past, and he didn't feel it was fair that they have to be followed now.

Councillor Ling noted that she felt this was not a fair statement, and that Council and staff were working hard to ensure the rules were followed, and noted that she had to follow the regulations to establish a garden suite at her home, and was not given special treatment. People must work within the rules to accomplish what they are trying to do.

It was asked if Mr. Chandler's trailer would be grandfathered in, and if the province defines a trailer as a structure.

The Development Officer noted that he does not go out of his way to pick on people; but checks with Planning Board and Council for direction. He has 35 years experience in the area of land use. In response to a query regarding other truck trailers in the community, Mr. Foy noted that he investigated three which were brought to his attention, which all appeared to have been grandfathered in as non-conforming uses, as all had been on the properties for many years.

Council needs a trigger for change of use, especially if commercial activity is involved. A property may be infringing on a neighbour's rights, or there may be parking and safety issues.

The planner noted that wording or definitions are not directed towards specific cases, but that wording is chosen for general good planning principles.

The Chair noted that the primary concern of Council is safety, and that Council tries to be reasonable. It was noted that when complaints come to Council they have to be written signed complaints. A landowner suggested that many issues should be able to be "talked through."

Council's interpretation is that tarp barns, trailer boxes have always required permits, and this wording clarifies this position. Planning Board and two planners were also consulted on this issue.

Council will most likely chose to give first reading to the document this evening and will make further amendments at the 2nd reading which will take place on Tuesday, August 6.

A resident noted that he hoped Council listened to the opinions of those present at the meeting, otherwise it was a waste of their time.

7. Summary of Written Submission(s)
The written opinion received from a land-owner regarding the definition of a "building" was already included in the above-noted discussion.

8. Adjournment of the Public Meeting

The public meeting will be followed tonight by a Special Council meeting to give first reading to the bylaws. A second Council meeting is planned for Tuesday, August 6 at 7:30 p.m. All Council meetings are open to the public.

The public meeting was adjourned by Chair Parker at 9:42 p.m.

_____ _____

Chair Administrator

August 6, 2013

Date Approved