

To: Mayor and Members of Woodstock Council

From: Eric Gilbert, Manager of Development Planning, Community Planning

Implementation of Provincial Direction regarding Additional Residential Units (ARU)

REPORT HIGHLIGHTS

- The Province has recently amended the Planning Act through Bills 109, 23 and 97 to expand the as-of-right permissions for 'additional residential units' (ARU) in single detached, semi-detached and row-house dwellings, and in a structure ancillary to such dwellings.
- The changes to the Planning Act implemented through Bill 23 and Bill 97 direct municipalities to broadly permit up to 3 units per residential property (i.e. up to 2 ARUs in the principal dwelling, or one ARU in an ancillary structure and one ARU in the principal dwelling).
- This report provides Council with further information regarding additional Provincial direction respecting ARUs, with specific staff recommendations on proceeding with applications to amend the Official Plan and the City's Zoning By-law in this regard.

DISCUSSION

Purpose and Background

Woodstock City Council initiated amendments to the Official Plan and the City Zoning By-law in 2020 which came into effect in 2021 respecting Additional Residential Units. The amendments introduced Official Plan policies permitting additional residential units in areas designated Low Density Residential and Entrepreneurial District in the City, and permitted ARUs in the R2 zone (and the C3 Zone), in accordance with the following zoning provisions:

- Maximum of 2 ARUs per lot; 1 permitted within the existing dwelling and the other located within an accessory structure;
- ARU unit size to be no greater than 40% of the gross floor area of the principal dwelling on the lot, to a maximum of 100 m²;
- An ARU may be contained within the principal dwelling or in an accessory structure on the lot associated with a single detached dwelling or semi-detached dwelling;
- 1 additional parking space required per ARU, which may be provided in a tandem parking arrangement;
- A minimum of 50% of the front yard containing an ARU shall be provided and maintained as landscaped open space and such space shall not be utilized for parking space or parking aisle purposes;
- ARUs may be permitted within a building or structure accessory to a residential use provided the lot has a minimum lot area of 1000 m²;

- ARUs are not permitted within areas identified to be within areas within Conservation Authority Regulation Limits, on any lots that do not have frontage on an improved street, or lots that contain a boarding or lodging house, a group home, a garden suite, a duplex dwelling, a mobile home or a bed and breakfast establishment.

Bill 108, the *More Homes, More Choice Act, 2019*, came into effect in September 2019. This Act amended relevant provisions of the Planning Act to permit up to three residential units on a lot, including the principal dwelling and the establishment of an Additional Residential Unit (ARUs) in a single detached, semi-detached or row house dwelling and within a building or structure accessory to such dwellings.

The accompanying Planning Act regulations (O. Reg 299/19) sets out specific requirements and standards with respect to additional residential units, as follows:

- Each additional residential unit shall have one parking space that is provided and maintained for the sole use of the occupant of the additional residential unit and it may be a tandem space;
- An additional residential unit may be occupied by any person regardless of whether the person who occupies the additional residential unit is related to the person who occupies the primary residential unit and whether the person who occupies either the primary or additional residential unit is the owner of the lot; and
- Where the use of additional residential units is authorized, an additional residential unit is permitted, regardless of the date of construction of the primary residential unit.

The Planning Act was further amended through Bill 23 - *More Homes Built Faster Act*, requiring municipalities to permit ARUs on any 'parcel of urban residential land' (meaning a parcel of land within an area of settlement on which residential use, other than ancillary residential use, is permitted by by-law and that is served by municipal water and wastewater services). The Planning Act now contains the following:

Section 16 (3) - Restrictions for Residential Units

- (3) *No official plan may contain any policy that has the effect of prohibiting the use of,*
- a) two residential units in a detached house, semi-detached house or rowhouse on a parcel of urban residential land, if all buildings and structures ancillary to the detached house, semi-detached house or rowhouse cumulatively contain no more than one residential unit;*
 - b) three residential units in a detached house, semi-detached house or rowhouse on a parcel of urban residential land, if no building or structure ancillary to the detached house, semi-detached house or rowhouse contains any residential units; or*
 - c) one residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse on a parcel of urban residential land, if the detached house, semi-detached house or rowhouse contains no more than two residential units and no other building or structure ancillary to the detached house, semi-detached house or rowhouse contains any residential units.*

Same, parking

- (3.1) *No official plan may contain any policy that has the effect of requiring more than one parking space to be provided and maintained in connection with a residential unit referred to in subsection (3).*

Same, minimum unit size

(3.2) No official plan may contain any policy that provides for a minimum floor area of a residential unit referred to in subsection (3).

Comments

In light of these legislative changes, Planning staff have reviewed the existing Official Plan policies and the provisions of the City's Zoning By-Law and have identified that the following changes are required in order to bring the policies and zoning provisions into conformity with Provincial legislation regarding ARUs:

Official Plan

With respect to Official Plan policies, staff review has revealed that the existing policies require some modification to reflect the legislative changes to the Planning Act. Specifically, the existing policies that generally permit ARUs in single, semi-detached and townhouse units, will need to be modified to permit up to 3 residential units within all residential designations, excepting areas that are subject to specific constraints (e.g. hazard lands, servicing capacities, restricted access, such as private roads, lot sizes unsuitable for additional residential units etc).

The proposed amendments to the Official Plan would predominantly affect the Low Density Residential policies for the City of Woodstock in Section 7.2.4 and would include the following:

- Requiring that the City establish appropriate zoning provisions to allow for ARUs in single detached, semi-detached and townhouse dwellings in the R1, R2, R3 & HD Zone (as required by Provincial legislation), where they are satisfied various development review criteria can be met, such as:
 - maximum of two additional residential units per lot (i.e. up to two in the principle dwelling and/or one in an ancillary structure);
 - principle dwelling must have direct, individual vehicular access to a public street;
 - any increased demand for on-street parking on nearby streets can be adequately addressed;
 - the ARU(s) must be clearly secondary and subordinate to the principal dwelling on the lot and limited in size (e.g. maximum percentage of the principal dwelling and maximum gross floor area caps);
 - dwellings and lots are large enough to accommodate the ARU and provide for adequate parking, landscaping and outdoor amenity areas;
 - not permitted where a lot or dwelling already contains other accessory units/uses (e.g. boarding/lodging house, garden suite, converted dwelling unit, bed and breakfast etc.);
 - existing infrastructure and public services serving the area are adequate to accommodate the establishment of ARUs;
 - potential impacts on environmental and/or heritage resources and any environmental constraints (e.g. natural and man-made hazards, noise, vibration emissions etc.) can be satisfactorily addressed;
- An ARU cannot be severed from the lot containing the principle dwelling;
- The City may consider the use of other supplementary tools and measures to assist in ensuring ARUs are appropriately regulated, including registration and/or licensing, on-street parking regulations, new/updated property standards by-laws etc.

Zoning By-law Provisions

It is expected that a number of changes to the City's Zoning By-Law will be required to implement the Provincial direction as contained in Bill 23.

The following is an overview of a number of zoning provisions that are required to be updated:

Number of ARUs per Lot

Currently, the City Zoning By-law provides a maximum of two ARUs per lot, one in the principal dwelling and one in an accessory building. This provision will need to be updated to permit two ARUs within a principal dwelling, or one within a principal dwelling and one within an accessory building.

Where Permitted

Generally, ARUs are being authorized in zones that permit single-detached, semi-detached and townhouse (or row house) units and may be permitted in the principal dwelling and an accessory structure (in accordance with Provincial direction in this regard). In Woodstock, this would mean that any such dwellings located in an R1, R2, R3, or HD Zone would be eligible for up to two ARUs in either the principal dwelling or an accessory structure, subject to relevant zoning provisions.

Lot Area and Lot Frontage

It is recommended that the current approach of relying on the underlying lot area and frontage provisions of the respective zones be maintained. For example, if the noted minimum zone requirements for a single-detached dwelling in an R1 Zone are 15 metres (frontage) and 465 m² (area), these would be the same minimum provisions that would apply to the establishment of an ARU, subject to other provisions that would apply to an ARU, such as parking, and provision of landscaped open space.

Maximum Size per Unit

Several municipalities have identified ARUs as being 'accessory' or 'secondary' to the principal residential use of the lot, stipulating by definition that such unit is to be subordinate or ancillary to the principal use, without specifically indicating limits on gross floor area (GFA). This approach would suggest that any ARU that is less than 50% of the overall principal dwelling GFA would be considered 'accessory' or 'secondary'.

The current zoning provisions limit an ARU unit size to be no greater than 40% of the gross floor area of the principal dwelling on the lot, to a maximum of 100 m². It is recommended that a clarification be included that notwithstanding this maximum gross floor area, an ARU may occupy the whole of a basement of a dwelling. This would allow for a more efficient division of floor space within a dwelling to accommodate an ARU.

Compliance with Zoning Provisions

Generally, and similar to the lot area and lot frontage provisions discussed previously, ARUs to date, have been required to comply with the existing yard and setback provisions of their respective zones. The legislative changes to the Planning Act did not exempt ARUs from complying with municipal zoning by-laws performance standards.

Parking

Some municipalities in Ontario have opted to waive the parking requirements for one ARU to facilitate the creation of ARUs in established neighbourhoods. The current parking provisions as contained within the City's Zoning By-Law for ARUs requires one parking space per accessory unit in addition to the parking required for the principal dwelling (typically 2 spaces per unit in the City of Woodstock) and permitting the additional space to be provided in tandem with another parking space (as opposed to requiring each space to have direct, 'unobstructed' access to a street). For clarity, where a single-detached dwelling typically permits 2 parking spaces to be accommodated on the lot, the construction of an ARU on the same lot would require 1 additional space, bringing the total to 3 (or in the case of an ARU in a principal dwelling and in an ancillary structure, 4) .

Although it is noted that these parking requirements may preclude ARUs from some residential properties in the City with narrow lot frontages or minimal front yard depths, Council has consistently identified the provision of adequate parking as being a primary concern when considering applications that would increase the number of dwelling units on a property. The City's Zoning By-law defines a parking space as an area exclusive of any aisles or ingress and egress lanes, for the temporary parking or storage of motor vehicles and may include spaces within a private garage. The By-law further directs that all required parking spaces must be used exclusively for that purpose and must not be used for any other purpose.

While landscaped open space is not directly related to parking, the City's Zoning By-law currently requires that a minimum of 50% of the front yard of a residential lot (being the space between the front of the house and the front lot line) must be maintained as landscaped open space. City Council and the Committee of Adjustment have been reluctant to provide relief of this provision historically however City Council could choose to reduce this requirement to accommodate more parking on residential lots and facilitate greater numbers of ARUs throughout the City.

ARUs in Accessory Structures

With respect to ARUs located in detached accessory structures, the permitted size and location of these structures is governed by the 'standard' setback, height and floor area provisions as contained in Section 5.1.1.1- Table 1- Regulations for Accessory Buildings, Uses and Structures. These provisions include:

- Maximum permitted height of 4 m (13.1 ft);
- Minimum rear yard setback of 1.2 m;
- Minimum interior side yard setback of 1.2 m;
- Maximum permitted size of 10% of lot area to a maximum of 75 m² of floor area.

The current zoning provisions for ARUs have included a larger minimum lot area requirement of (1000 m² or 0.25 ac) for the establishment of an ARU in a detached accessory structure. Plate 1, Lot Size Analysis, included as an attachment to this report is a map depicting lot sizes within R1 Zones in the City to provide a high level analysis of how many properties would be eligible for an ARU within an accessory building based on the lot size requirements. The analysis indicates:

- If the minimum lot area requirement for an ARU in a detached accessory structure was 1000 m², approximately 850 properties would be eligible.
- If the minimum lot area requirement for an ARU in a detached accessory structure was 666 m², approximately 2950 properties would be eligible.

- If the minimum lot area requirement for an ARU in a detached accessory structure was 540 m² (the minimum lot size for a corner lot in the R1 zone), approximately 5160 properties would be eligible.

An ARU within a detached accessory structure would also be required to comply with the overall lot coverage for all structures on the lot, which is typically 40-45% of the lot area for R1 lots, 41-47% for R2 lots, 45% for a R3 lot containing a townhouse, and 25% for a HD lot containing a single detached or semi-detached dwelling.

It is recommended that the existing maximum height restrictions continue to apply for accessory buildings to ensure that ARUs in residential rear yards remain a single storey in height to mitigate concerns about privacy in rear yards and to maintain the City's standards respecting accessory buildings in residential areas.

Next Steps

In light of the foregoing, Planning staff recommend that the City proceed with amendments to the Official Plan and the City's Zoning By-law that implements Provincial direction regarding ARUs. Going forward, and with Council's direction, staff will initiate applications to amend both the Official Plan and Zoning By-law, consulting widely with the public, agencies and stakeholders in an effort to provide broad opportunity for input prior Council's consideration of said applications.

It is noted that there are no rights of appeal for any Official Plan Amendment or Zoning By-Law Amendment with respect to ARUs. The only possible appeal is by the Minister of Municipal Affairs and Housing.

RECOMMENDATION

It recommended that the Council of the City of Woodstock direct staff to proceed with amendments to the Official Plan and Zoning By-law related to the implementation of policies and provisions enabling Additional Residential Units in accordance with Provincial direction as set out in the *More Homes Built Faster Act* and accompanying regulations.

SIGNATURES

Authored by:

Eric Gilbert, MCIP, RPP
Manager of Development Planning

Approved for submission by:

Gordon K. Hough, RPP
Director

Woodstock

R1 Type Lot Selection

Legend

Lots greater than 1000 square metres (approx. 850)

Lots greater than or equal to 666 square metres, but less than 1000 square metres (approx. 2070)

Lots greater than 540 square metres, but less than 666 square metres (approx. 2240)

