

Summer Village of Norglenwold – Municipal Planning Commission

October 27, 2020

Agenda Item

253 Honeymoon Drive (Lot 14, Block 6, Plan 0323448)

Development Permit Application

Background:

Colbray Homes submitted an application on behalf of the registered owners Matt & Keisha Souster for a detached garage with guest house located on property 253 Honeymoon Drive (Lot 14, Block 6, Plan 0323448) in the Summer Village of Norglenwold. This property is located in the R-S District (Shoreline Residential). Dwelling plans were also applied for and are permitted with no variances required and meet all other requirements. The application before the Municipal Planning Commission is for the detached garage with guest house only.

The proposed detached garage with guest house meets the setback requirements for a side entry. The proposed lot coverage would be 49.6% and under the maximum 50%.

Discussion:

This application is before MPC for the following reasons:

- Guest House's shall not have a kitchen or other cooking facilities; therefore, a variance is required.
- An accessory building with a guest house above shall not exceed 7.62m (25ft.) in building height measured from grade, the proposed building height is 9m (30 ft.-5 5/8") therefore, a second variance is required.
- Accessory Buildings with the floor area over 53.51m² (576 ft²) are listed as a discretionary use in the Shoreline Residential (R-S) District, the proposed floor area is 100.42m² (1,081 ft²) and therefore is a discretionary use and the decision must come from the Municipal Planning Commission.
- Accessory building's footprint shall be no larger than 92.9m² (1000 ft²) in this district, this proposed footprint is 106.42m² (1,145.5 ft²) therefore, a third variance is required.

Recommendation:

When reviewing statutory documents, there is a hierarchy to language used. In the case of a Land Use Bylaw,

- a. "shall" and "must" means mandatory compliance;
- b. "should" means compliance in principle, but is subject to the discretion of the Development Authority where compliance is impracticable or undesirable because of relevant planning principles or circumstances unique to a specific application; and
- c. "may" means discretionary compliance or a choice in applying regulation. The regulation can be applied, enforced or implemented if the Development Authority chooses to do so, depending on site specific circumstances.

October 22, 2020

In regards to building height, the Land Use Bylaw is very clear that there "shall be no variance".

The definition of "guest house" is "an accessory building containing sleeping facilities for temporary usage only and may have a bathroom but shall not have a kitchen or other cooking facilities. A guest house provides overflow accommodation for a detached dwelling located on the same parcel"

Again, the bylaw is very clear that a guest house shall not include a kitchen or cooking facilities. The exclusion of cooking facilities is how the Land Use Bylaw differentiates between what is a dwelling and a guest house. One main building and two accessory buildings may be permitted on each lot. The main building is the dwelling, and one accessory building may be a guest house. However, there cannot be two dwellings on one property. It is for this reason that we have different regulations for guest houses and dwellings. Part 3, Section 1 of the Land Use Bylaw states that "an accessory building erected or placed on a parcel shall not be used as a dwelling unit".

After reviewing all relevant planning documents, it is the recommendation of administration to deny the application for the garage with guest house.

Conditions:

If approved, Administration would recommend the following conditions:

- An accessory building erected or placed on a parcel shall not be used as a dwelling unit.
- Electrical power from the property line to any buildings situated on this parcel to be constructed underground.
- The height of the garage with guest house shall not exceed 7.62m (25ft.) in building height measured from grade.
- In situations where a detached dwelling is being rented out and there is a guest house on the parcel, the guest house shall not be rented out to a separate party other than those renting the detached dwelling.
- Guest house means an accessory building containing sleeping facilities for temporary usage only and may have a bathroom, but shall not have a kitchen or other cooking facilities.
- The exterior of an accessory building must be finished to match or compliment the exterior finish of the main building.
- Completions Deposit of \$5,000.00

Authorities:

The MPC may:

- Grant a variance to reduce the requirements of any use of the LUB and that use will be deemed to comply with LUB.
- Approve application even though the proposed development does not comply or is a non-conforming building if:
 - It would not unduly interfere with the amenities of the neighborhood, or
 - Materially interfere with or affect the use, enjoyment, or value of neighboring parcels of land, And
 - It conforms with the use prescribed for that land or building in the bylaw.

October 22, 2020

- Consider a Variance only where warranted by the merits or the proposed development and in response to irregular lot lines, parcel shapes or site characteristics which create difficulties in siting structures within the required setback or in meeting the usual bylaw requirements, except there shall be no variance for Parcel Coverage or Building Height.

For a discretionary use in any district:

- The Municipal Planning Commission may approve an application for a Development Permit:
 - With or without conditions;
 - Based on the merits of the proposed development, including it's relationship to any approved statutory plan, non-statutory plan, or approved policy, affecting the site;
 - Where the proposed development conforms in every respect to this Land Use Bylaw; or
- May refuse an application for a development permit based on the merits of the proposed development, even though it meets the requirements of the Land Use Bylaw; or
- Subject to provisions of section 2.4 (2), the Municipal Planning Commission shall refuse an application for a development permit if the proposed development does not conform in every respect to the Land Use Bylaw.

Decision:

In order to retain transparency of the Commission, Administration recommends one of the following:

1. Approve the application with or without conditions (*Section 642 of the MGA*), or
2. Deny the application stating reasons why (*Section 642(4) of the MGA*).