ITEM	13
MANAGER'S REPORT NO.	42
COUNCIL MEETING	92/06/15

TO: ACTING MUNICIPAL MANAGER 1992 June 10

FROM: DIRECTOR PLANNING AND BUILDING Our File: 16.300

SUBJECT: ZONING REGULATIONS AFFECTING SINGLE FAMILY RESIDENCES, SIZE OF ACCESSORY BUILDINGS.

PURPOSE: To respond to concerns raised by Ms. V. Brandlmayr about the regulations affecting the maximum size of accessory buildings.

RECOMMENDATION:

1. THAT a copy of this report be sent to:

   Ms. Vicky Brandlmayr
   4314 Portland Street
   Burnaby, B.C. V5J 2N4

R E P O R T

1.0 BACKGROUND

At its meeting of May 11, 1992, Council received a presentation from Vicky Brandlmayr responding to the report of the Director Planning and Building that was considered by Council the previous week, pertaining to the size of accessory buildings permitted under the Zoning Bylaw.

In particular, Ms. Brandlmayr was concerned that the bylaw amendment prevents her from access to the Board of Variance to obtain relief from the Zoning Bylaw in order to construct an accessory building 150 sq. ft. in excess of that permitted by the Zoning Bylaw.

In response to this concern, Council requested that staff prepare a report responding to the question of allowing the Board of Variance to rule on accessory buildings; why staff recommended that type of change to the Zoning Bylaw and the impact the Board of Variance has had on accessory buildings in the past.

2.0 THE AMENDED ZONING BYLAW AFFECTING ACCESSORY BUILDINGS

Prior to December 1991, the maximum size of accessory buildings was limited to the lesser of 10 percent of the lot area or 602.8 sq. ft. of gross floor area. In order to allow the construction of accessory buildings on smaller lots, the amendments removed the maximum size based on lot size, but retained the limit of 602.8 sq. ft. of gross floor area for accessory buildings. The amendment also clarified the meaning of gross floor area so that the term was considered part of development density. This clarified the term consistent with the intent of the Municipal Act concerning 'density'.

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The size of accessory buildings is considered a fundamental part of the bulk of development on single family dwelling lots. Since the floor area of accessory buildings is considered as total floor area rather than the more restrictive above ground floor area, the new amendment favours the development of detached accessory buildings over their incorporation within the principal buildings. Given this favourable treatment, there is concern that there may be a tendency to build very large outbuildings that may be bulky in size as a way to minimize cellar development while still maximizing total developable floor area.

The upper limit for accessory buildings of 602.8 sq. ft. corresponds to a large two bay garage with some floor space left over for other uses such as a workshop. This size is seen to provide a reasonable balance between accessory building coverage and lot size, while preventing excessively large outbuildings that may result in the proliferation of incompatible uses such as automotive repairs and machine shops in single family areas.

3.0 THE BOARD OF VARIANCE

Section 958 (2) of the Municipal Act (attached to this report) states that the Board of Variance may order that a minor variance be permitted from the requirements of the zoning bylaw as long as, among other things, the exemption does not "(c) vary permitted uses and densities under the applicable bylaw." or "(d) defeat the intent of the bylaw." Density is defined in Section 943 as "the density or use of the land, parcel or area, or the density of use of any buildings or structures located on the land or parcel, or in the area."

Prior to the adoption of the amendments to the Zoning Bylaw affecting single family dwellings, the Board of Variance considered appeals regarding accessory buildings that are in excess of the maximum size permitted in the Zoning Bylaw (602 sq. ft.), but not in excess of the total maximum floor area for the lot. Before the amendments to the bylaw there was lack of clarity in the relationship between the maximum size of accessory buildings and the definition of development density which cannot be varied by the Board. The amendments to the Zoning Bylaw clarified the issue of development density for both principal and accessory building in single family areas.

Appeals dealing with the issue of the size of accessory buildings for single and two family dwellings, on the basis of hardship, constituted about ten percent of the appeals to the Board of Variance over the last 5 years. A review of the appeals shows that the mean size of all of the appeals is 772 sq. ft., and the median (midpoint) is 755 sq. ft. The large majority of the appeals involved the construction of garages to park and restore automobiles.

4.0 CONCLUSION

The intent of the recent changes to the Zoning Bylaw affecting single family residences was to control the apparent bulk of buildings. The size of accessory buildings is an integral part of the development density of single family lots, and has a significant impact on the apparent bulk of the buildings and their relationship to other buildings in a neighbourhood. As noted above, the amendments to the Zoning Bylaw will favour to some degree the building of accessory buildings in that the floor area is not considered the more restrictive 'above grade' floor area.

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As noted previously, the maximum size for accessory buildings of 602.8 sq. ft. corresponds to a generous two bay garage with additional room for a workshop. Permitting larger accessory buildings could result in the encouragement of uses that are incompatible with single family areas and the construction of buildings that are out of character with the neighbourhood.

The Municipal Act allows the Board of Variance to make minor variances from the Zoning Bylaw on the basis of hardship, except with relation to land use or density of development or variances which defeat the aim of the bylaw. The new amendments clarified the definition of development density so that the intent of the Municipal Act and of the municipal zoning amendments would be met.

The new amendments have been in place for about six months. Staff will monitor the effects of the new bylaw as the impact of the new regulations on dwellings becomes apparent. Once a sufficient number of dwellings has been constructed, staff will review the amendments and recommend whether any further amendments should be made. It is expected that such a review will be appropriate at the end of this year.

When this review is commenced, the issue of the maximum size of accessory buildings will be considered. This review will be mindful of the original objectives of the changes to single family regulations.

A.L. Parr, Director
PLANNING AND BUILDING

BG/mm
Attach:

cc: Chief Building Inspector

Interpretation

943. (1) In this Part

"adopt", with respect to an official plan or bylaw, includes an amendment or repeal;

"board" means the governing and executive body of a regional district;

"density" where used in relation to land, a parcel of land or an area, means the density of use of the land, parcel or area, or the density of use of any buildings and structures located on the land or parcel, or in the area;

"greater board" means the corporate body, incorporated by an Act, with responsibility for the provision of water or sewage and drainage services;

"local government" means

Jurisdiction of board of variance

962. (1) Where a person alleges that

(a) compliance with

(i) a bylaw respecting the siting, dimensions or size of a building or structure, or the siting of a mobile home in a mobile home park,

(ii) the prohibition of a structural alteration or addition under section 970 (5), or

(iii) a subdivision servicing requirement under section 989 (1) (c) in an area zoned for agricultural or industrial use,

would cause him undue hardship, or

(b) the determination by a building inspector of the amount of damage under section 970 (8) is in error,

that person may make application to a board of variance for an order under subsection (2) or (3).

(2) On an application under subsection (1) (a), the board of variance may, after hearing the applicant and any person notified under subsection (5), and on finding that undue hardship would be caused to the applicant if the bylaw or section 970 (5) is complied with, order that a minor variance be permitted from the requirements of the bylaw, or that the applicant be exempted from section 970 (5), so long as the variance or exemption does not, in the board's opinion,

(a) result in inappropriate development of the site,

(b) substantially affect the use and enjoyment of adjacent land,

(c) vary permitted uses and densities under the applicable bylaw, or

(d) defeat the intent of the bylaw.

(3) On an application under subsection (1) (b), the board of variance may set aside the determination of the building inspector and make the determination under section 970 (8) in its place.