

Town-Initiated Zoning By-Law Amendment

Legal non-complying Lots, Buildings and
Structures and Those Resulting from Land
Acquisitions

Council June 23rd, 2009

Presentation Deferred from Development Services Committee
Public Meeting June 16, 2009

Content

- Preliminary Report received by DSC on May 5th 2009
- Need for the proposed Amendment
- Definitions
- Scenarios
 1. Non-complying lot
 2. Non-complying lot as a result of land acquisition
 3. Non-complying buildings & structures
 4. Non-compliance as a result of land acquisition

Implications where parking affected

Next Steps & Questions

The Need for Amendment

- **No consistent provision across all of the Town's By-laws:**

Only some parent By-laws deal with non-complying lots and others speak to lots made non-complying as a result of land acquisition

Error may occur due to inconsistency across parent zoning by-laws and different interpretation

- **Inconsistent terminology**
- **In some cases an application to the Committee of Adjustment is required to give relief from certain zone provisions that could not be met even if these were as a result of land acquisition**
- **It is unreasonable that owners' should be left with an non-complying lot / building through land acquisition and potentially constrained in terms of building expansion / redevelopment**
- **By-law 220-91 recognizes legal non-complying buildings, but not non-complying lots. This by-law will be repealed and the new provisions incorporated into each of the parent By-laws.**

Definitions

Public Authority –

Any Provincial, Regional or Municipal commission, board or authority or any quasi-public body that is controlled by a public authority such as a public transit commission.

This does not include Utilities Companies

Land Acquisition — obtaining legal title of land

Typically achieved by one of three means:

1. Expropriations Act

2. Planning Act — through the development application process

3. By negotiation

Scenario 1

Non-Complying Lot

The lot MUST be in existence prior to the effective date of this By-law

Permitted Uses include: Office, Light Industrial, Commercial School,
Personal Service Shop and Ancillary Retail.

Min. Lot Area required 2.1ha - whereas 1.8ha provided

Min. Lot Frontage required 60m - whereas 52m provided

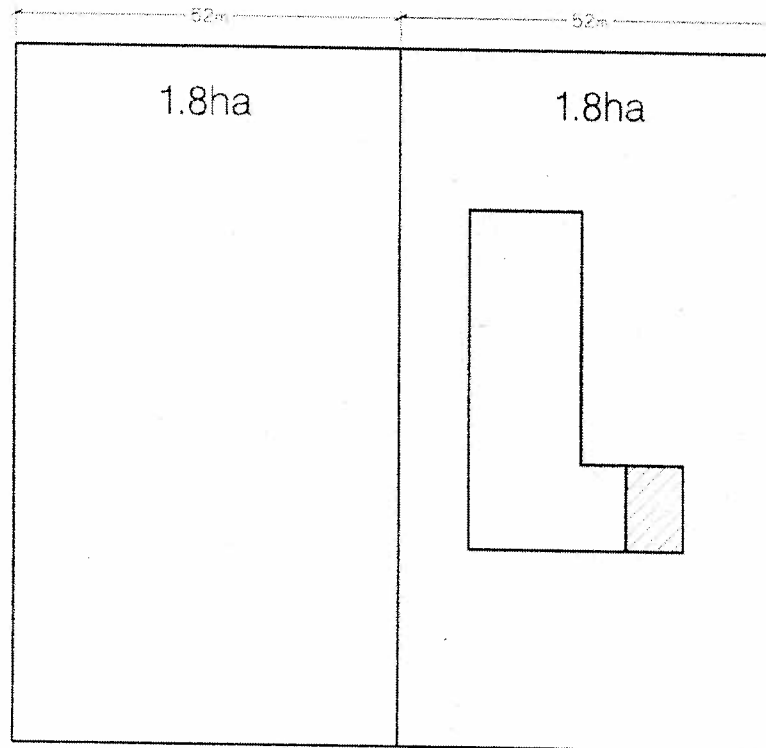
Scenario 1

Non-Complying Lot

The lot **MUST** be in existence prior to the effective date of this By-law

LOT A - vacant

This lot may be used for the purposes set out in the By-law and a building erected in accordance with all other zoning provisions



LOT B – Multi-unit office /workshop building

Proposed addition meets all other zoning provisions, and does not increase the level of non-compliance. Therefore an application to the Committee of Adjustment would not be necessary.

Scenario 1 contd.

Non-Complying Lot

Proposed new wording:

A lot in existence prior to the effective date of this By-law that does not meet the lot area and/or lot frontage requirements of the applicable Zone, may be used and buildings thereon may be erected, enlarged, repaired or renovated provided the use conforms with the By-law and the buildings or structures comply with all of the other provisions of this By-law.

Scenario 2

Non-Compliance as a Result of Land Acquisition

For lots that currently comply with the By-law, but that are made non-complying due to land being acquired by a Public Authority, which reduces either lot area and/or lot frontage.

Proposed new wording:

Notwithstanding any other provision of this By-law, where, as a result of an acquisition of land by a public authority, the lot, after acquisition, is a non-complying lot, such non-complying lot may be used for any purpose permitted by this By-law within the Zone in which the lot is located.

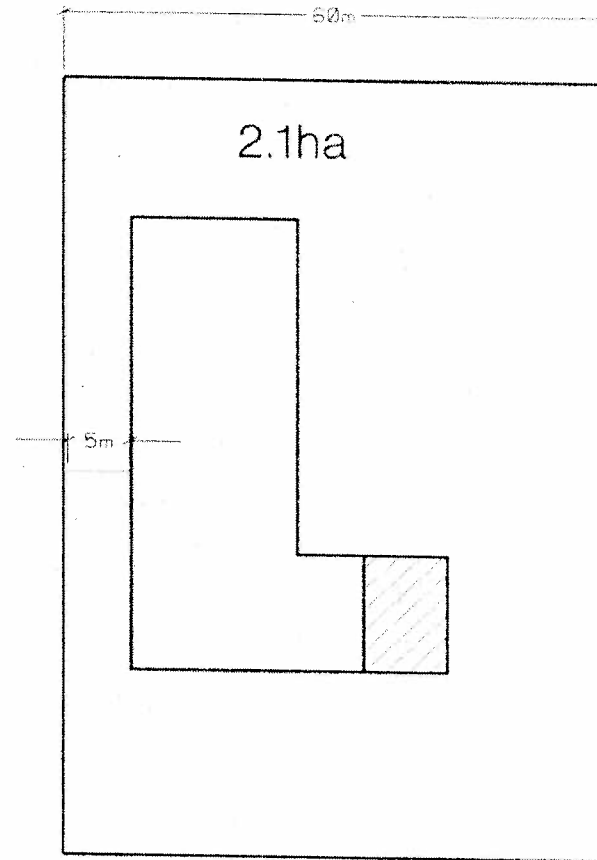
Scenario 3

Non-Complying Buildings and Structures

LOT B – Multi-unit office / workshop building.

Side yard setback is 5m when 6m is required.

The proposed addition would not increase the situation of non-compliance and it meets all other zoning provisions. An application to the Committee of Adjustment would not be required to permit the addition to a non-complying building.



Scenario 3

Non-Complying Buildings and Structures

Proposed new wording:

A non-complying building or structure may be enlarged, repaired or renovated provided that the enlargement, repair or renovation:

- a) Does not further increase the situation of non-compliance; and,***
- b) Complies with all other applicable provisions of this By-law.***

Scenario 4

Non-Compliance as a Result of Land Acquisition

Proposed new wording:

Notwithstanding any other provision of this By-law, where, as a result of an acquisition of land by a public authority, such acquisition results in a contravention of this By-law relating to minimum yards and/or setbacks, lot coverage, maximum permitted gross floor area or net floor area, maximum gross leasable floor area or maximum Floor Space Index (FSI), then the lands so acquired shall be deemed to continue to form part of the lot upon which the building or buildings are located in determining compliance with this By-law.

Scenario 4

Non-Compliance as a Result of Land Acquisition

Multi-unit office / workshop building

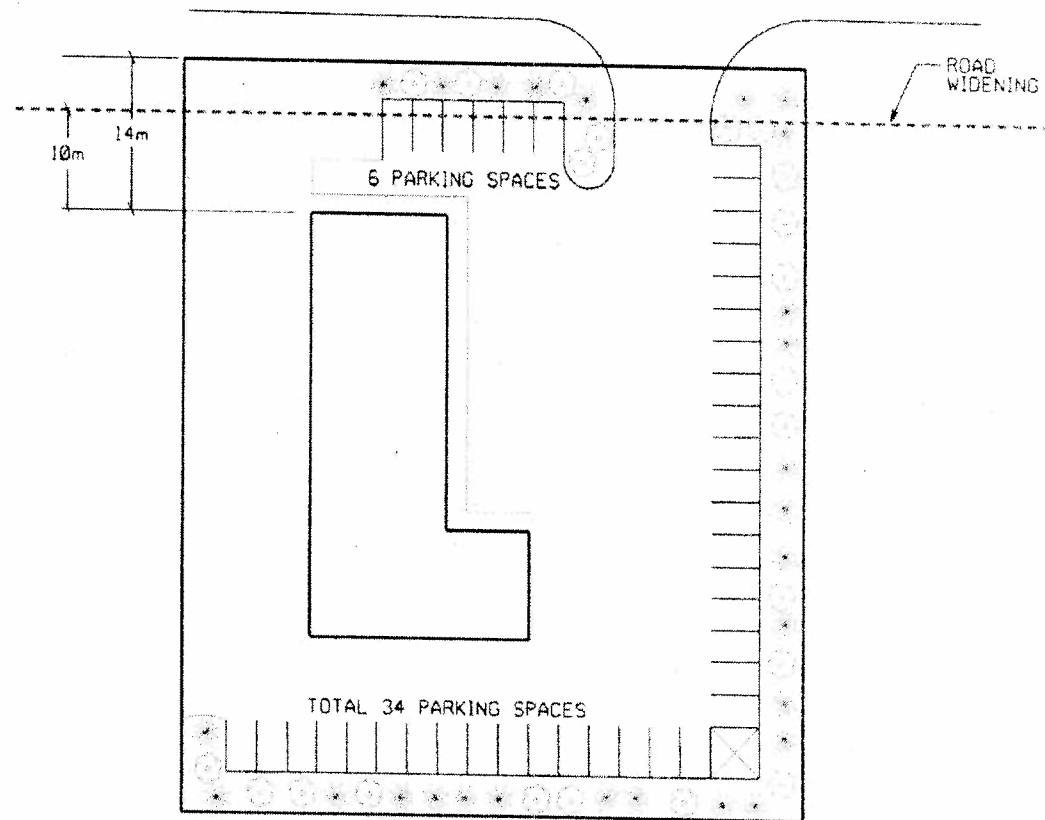
Road widening requirements result in:

Front yard setback of 10m whereas 14m is required;

Loss of 8 required parking spaces that cannot be provided elsewhere on site;

Building now exceeds max. lot coverage.

The acquired lands shall continue to be used when set backs & coverage are calculated



Amendment to Parking Standards

By-law 28-97 will have the following section inserted

Non-compliance as a Result of land Acquisition

Notwithstanding any other provision of this By-law, where, as a result of an acquisition of land by a public authority, such acquisition results in a contravention of this By-law relating to the minimum required number of parking spaces, minimum size of parking spaces, minimum width of a driveway, location of parking spaces and/or driveways or minimum required setbacks and/or yards for driveways and/or parking spaces, then the lands so affected are deemed to comply with this By-law to the extent it complied with this By-law on the day before the acquisition was finalized."

Summary & Recommendation

- **16 Notices were mailed**
- **Notice of the Public Meeting posted in Economist & Sun and Thornhill Liberal**
- **No written submissions have been received and no member of the public spoke at the Public Meeting**
- **Subject to any questions and input from any member of the public, staff recommend that the By-law amendment be enacted**
- **Questions**

Terminology

Non-Complying Lot

The LOT itself (the parcel of land – whether vacant or with a building on it)

The land use is legal and complies with the applicable zone

But the lot does not meet either or both -

Minimum Lot Area

Minimum Lot Frontage

Why might a lot be Non-complying?

- **Historic - lot creation pre-dates any applicable Zoning By-law**
- **Previous land taking**

Terminology

Non-Complying Building or Structure

The use of the land and buildings is legal and complies with the applicable zone

However, the size, placement, height of any building or structure on the lot does not comply with the applicable Zoning By-law. Development standards affected include;

- **Minimum yard set back**
- **Min. or Max. Gross Floor Area**
- **Maximum lot coverage**