

COMMUNICATION 130201

Received From: Lennox Smith
Addressed To: Committee of the Whole
Date: November 12, 2019
Topic: Concern over changes to pool By-law (Rear yard setback).

SUMMARY

The Town of Carleton Place Building Department has received a concern from a local resident over a change that was recently made to the Town's Pool By-law and the impact it has on his property at 77 Stonewater Bay. The change in question is the increased setback from a rear property line which abuts the side yard of an adjacent property.

BACKGROUND

The recent By-law change increased the rear yard setback from 1.2m to 3m for any pool proposed in the rear yard of a property when it abuts the side yard of the property behind it. The changes were recommended by the Chief Building Official (CBO), to address an aging By-law that no longer seemed to adequately factor the change in the size and placement of lots within the Town of Carleton Place. The change in setback was recommended in an effort to maintain greenspace due to the decrease in lot sizes, and negative implications such as excessive noise and water splashing onto neighbouring properties due to the previous lower setback.

These potential issues were addressed in the changes to the new By-law to ensure that the Town of Carleton Place allows a buffer zone that will reduce these issues to a reasonable level. The 1.2m setback that was originally in place was increased to 3m to provide a guard from the issues noted above.

COMMENTS

After review by the Committee of the Whole and while awaiting final approval by Council, the owner of Above and Beyond Pools attended the office on September 9, 2019 to apply for a permit for 148 Dulmage Street. At that time, the CBO advised him that the Town had updated its Pool By-law and changed a number of items. He specifically asked the Chief Building Official (while in the presence of the Building Clerk) about items that specifically affected the 148 Dulmage Street application. We reviewed the changes that affected his application, and he decided to hold off on applying for the permit until after the new By-law was passed, and he seemed generally pleased with the changes discussed. There was no mention or discussion about the property at 77 Stonewater Bay where Mr. Ramsay resides, and the Owner did not request a copy of the proposed new By-law at this time.

On September 16, 2019 the owner of Above and Beyond Pools again attended our office to apply for the permit for 77 Stonewater Bay. At the time of application, the Applicant was advised that the new Pool By-law changes would not allow the pool to be installed that far into the rear yard due to the setback increase to 3m from 1.2m. The Applicant reported back to the owner of the property (Mr. Ramsay) about the changes. The application and payment were not accepted for this application at this time.

After that meeting Mr. Ramsay and the owner of Above and Beyond Pools attended the

office again, and the reasons for the changes were reiterated and they were advised that the pool could not be approved in the manner they proposed. Mr. Ramsay was given the option of writing to Council (see letter attached as Appendix which would prompt a report from the Chief Building Official to discuss at Committee. "Appendix A".

The site at 77 Stonewater Bay has approximately 7.63m (25ft) from the house to the rear yard. Although the proposed pool installation would not work within the parameters of the new By-law, other pool options would work within the space available, with the above ground pool being the most plausible) Please see the attached photo in "Appendix B", and the as built survey in "Appendix C" that shows the lot and the rear yard of the property.

There are no provisions in the current Pool and Pool Enclosures By-law for variances. Variances are primarily a planning function and are not suggested or encouraged as an option that should be built into by-laws for items like pools, due to the fact that they encourage a monetary based solution instead of compliance with the regulations set forth.

The Chief Building Official made the changes to the By-law based on years of experience with different pool regulation by-laws in various jurisdictions. The abutting of a rear yard to side yard has been consistently one of the most often disputed areas to deal with during pool applications and installations. The Chief Building Official supports the current By-law setback of 3m as a reasonable setback to maintain a buffer zone with the abutting property, however the final decision on this manner rests with Council. A change back to the 1.2m will resolve this situation, however it may cause more aggravation in the future, if a neighbour takes exception to the close proximity of a pool to their property line, house walls and windows. The trend of creating smaller lots with reduced rear yards has the potential to cause problems if the by-law provisions are changed back to 1.2m

Options available to Committee include:

1. Uphold the 3m setback in the current Pool and Pool Enclosures By-Law;
2. Allow a variance of 1.8m (from 3m to 1.2m) for 77 Stonewater Bay due to the timing of the application with the passing of the new By-law;
3. Revert back to the previous 1.2m setback which will require an amendment to the By-law

STAFF RECOMMENDATION

THAT Council support Option 2 – allow a variance to the Pools and Pools Enclosures By-law 87-2019 of 1.8m (from 3m to 1.2m) for the rear yard setback for 77 Stonewater Bay due to the timing of the application with the passing of the new By-law.

APPENDIX A

Lennox Smith
Chief Building Official for the Town of Carleton Place
175 Bridge Street,
Carleton Place,
ON K7C 2C8



Dear Sir,

I am writing this letter asking for a variance to the new pool bylaw for 77 Stonewater Bay in Carleton Place.

I am asking that you reconsider the rear yard pool setback from 3m to 1.2m as per the former bylaw. The new bylaw will have our pool put 2 feet from the house, which would mean that when I walk out my back door, I would essentially be walking into the pool. The footings (underground supports) are 2 ½ feet wide and under the new bylaw, this won't work. A window well and faucet are both located there as well. If we put the pool where you suggest us to, we would have to remove a 30 foot tall spruce tree as well.

I met with Mr. Ian Watson, owner of Above and Beyond Pools and Spas, over the last few years [since 2017], and was assured that the bylaw that Ian had at that time would allow a pool to fit on this property [and it did!].

On September 9th 2019 we went over everything again, exchanged a significant cash deposit for the pool, and Ian went to apply for the permit. He was asked to wait until the new bylaws came out. When the new bylaws came out around Sept. 16th they now no longer allowed a pool to fit on this property. Had he had know that this would be an issue, he would have pushed it through and submitted everything then. This predates the new bylaw coming into effect.

My wife and I were looking forward to "enjoyment of life" coming into our retirement years with a pool and a pool would certainly be beneficial for my wife's arthritis.

I am requesting a variance to put in our pool, not a change to the bylaw. I would appreciate your reconsideration on this matter.

Sincerely,


Brent Ramsay

77 Stonewater Bay
Carleton Place, On
613-257-9635

APPENDIX B



