

To: **Planning Advisory Committee
Inverness County Council**

From: **Planning Staff (EDPC)**

Date: **July 7, 2022**

Reference: **Maximum Size Limitations on Accessory Buildings mandated in the General Provision Section of the Port Hastings Land Use By-Law.**

Recommendation:

It is the recommendation of Staff that Council amend the *Port Hastings Land Use By-Law* to increase the maximum size of accessory buildings in the areas where the current size limitations occur. Staff recommend increasing the existing area restriction of 69.7 m² (750 ft²) to 130 m² (1,400 ft²) and to include a percentage limiting the size of accessory buildings based on the total lot area of a property. The proposed amendment would give consideration to larger properties allowing them to accommodate proportionately larger accessory structures. Staff also recommend the addition of architectural guidelines with regard to accessory buildings, in order to maintain a consistent built form in residential areas.

Analysis:

Part 5 of the *Port Hastings Land Use By-Law* under Accessory Buildings states that accessory uses, buildings and structures shall be permitted in any zone within the Planning Area, but shall not be used for habitation. The section of the by-law on accessory buildings states the following:

- Part 5. 1. c) Accessory buildings with no windows or perforations on the side of the building which faces the said lot line, may be located a minimum of 2 feet from the said side or rear lot line in any residential zone.
- (i) except for non-residential accessory buildings in Rural Mixed Use (RM-1) Zone or accessory buildings in an industrial zone, not exceed 15 feet in height;
 - (ii) not exceed 750 square feet in total floor area;**
 - (iii) not be built within 6 feet of the main building;
 - (iv) not be considered an accessory building if attached to the main building in any way; and
 - (v) not be considered an accessory structure if located completely underground.

Part 5 of the Land Use By-law consists of the *General Provisions for all Zones*. Therefore, the section in the 'General Provisions' dealing with accessory buildings automatically applies to all properties regardless of the area lot size. Whether or not they are located in areas serviced by municipal services the accessory buildings shall not exceed 69.7 m² (750 ft²), therefore a proposed garage that is larger than 69.7 m² (750 ft²) cannot be issued a Development Permit.

As lot sizes vary in residential zones, larger lots can accommodate larger accessory structures. The current area limitation of 69.7 m² (750 ft²) may not be realistic when applied to considerably larger properties. For example, Heatherton despite having municipal sewer services, has a wide range of lot sizes and quite a number are very large lots. The proposed amendment would allow the larger serviced lots to be capable of containing a larger accessory building.

Planning Staff recently received a request for a development permit for a 1,080 ft² accessory building in Heatherton. Presently, the Land Use By-law only allows accessory buildings to be a maximum of 750 ft² where there are municipal services. In addition, the *Port Hastings Municipal Planning Strategy* does not mention the ground size or height of a structure as something can be dealt with through the variance procedure, therefore the application could not be considered.

The property of the applicant is 3,900 m² (41,980 ft²) in size, it is zoned Residential (R-1) and requested a variance to allow for an accessory structure 100.3 m² (1,080 ft²). The requested accessory building size in this case would be less than 0.05 percent of the property lot area but did not meet the requirements of the current by-law. In comparison, other municipalities within Nova Scotia seem to be more accommodating toward the size of accessory buildings, some offering a larger area allowance based on the lot area of the property, some applying a percentage limit of the total lot area (ex. 10% of lot area), and some having no area restrictions for accessory structures at all. By other standards in similar municipalities the request would be well within the allowed size for an accessory building, given its large property area.

The current by-law does not give consideration to the many various lot sizes within residential zones. Therefore, Staff recommend increasing the existing area limitation to 130 m² (1,400 ft²) with the addition of a percentage limit of five (5) percent of the total lot area to accommodate for larger properties. Examples of the effect the percentage limitation would have on typical lot sizes for Residential zones are shown in Figure 1 of this report. The current by-law also outlines height and placement standards but lacks requirements for the overall look of the structure. To prevent an inconsistent built form Staff also recommend providing architectural guidelines for accessory buildings to maintain a consistent architectural aesthetic within neighbourhoods. This will ensure accessory structures are designed with consideration to the existing built form in an area.

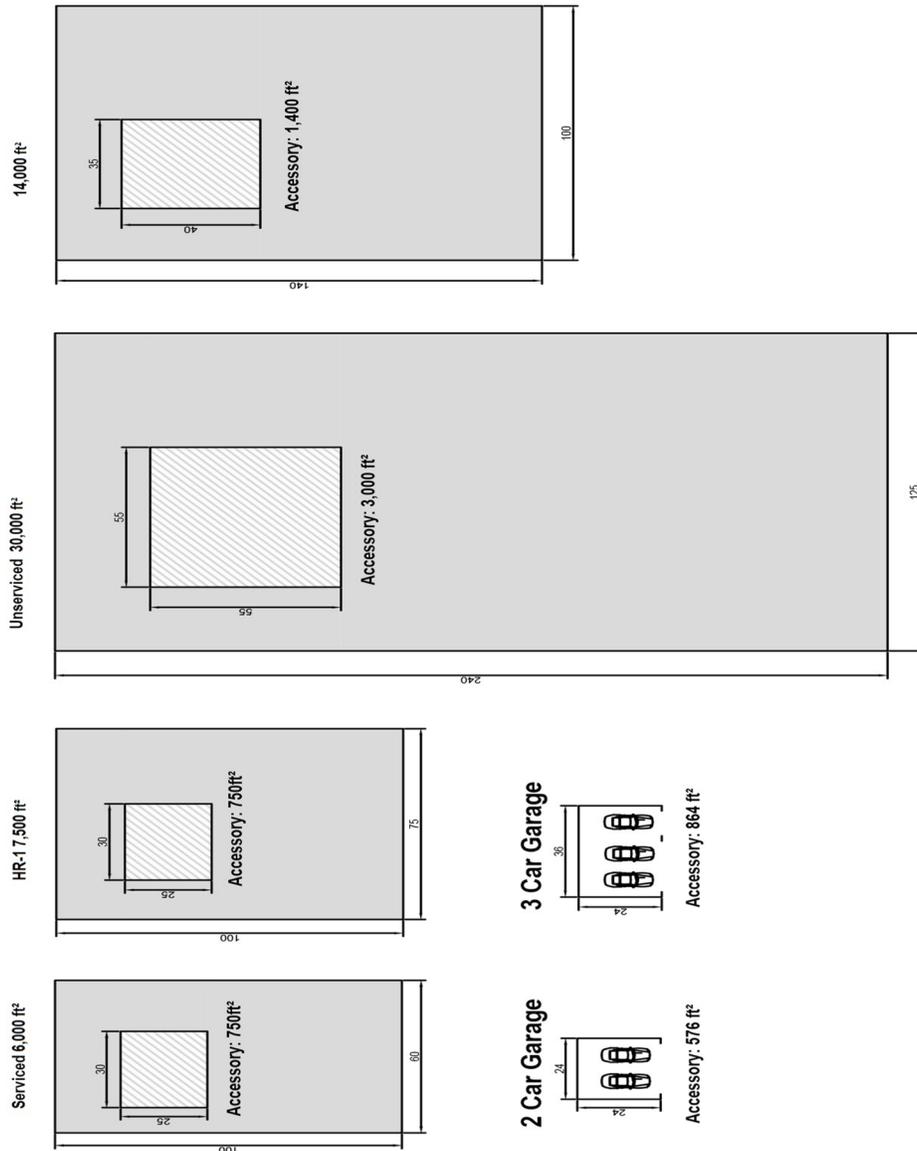


Fig. 1: Examples of building and lot sizes.

Proposed Amendment:
A BY-LAW TO AMEND THE LAND USE BY-LAW
FOR THE MUNICIPALITY OF THE COUNTY OF INVERNESS

The *Port Hastings Land Use By-law* is hereby amended as follows:

1) In Part 5 adding the following text in bold:

Accessory Buildings

Part 5.1

- c) Accessory buildings with no windows or perforations on the side of the building which faces the said lot line, may be located a minimum of 2 feet from the said side or rear lot line in any residential zone.
 - (i) except for non-residential accessory buildings in Rural Mixed Use (RM-1) Zone or accessory buildings in an industrial zone, not exceed 15 feet in height;
 - ii) not exceed 130 m² (1,400 ft²) in total floor area, or 5% of the total lot area, whichever is greater;**
 - iii) be consistent in architectural style with the main building on the lot;**
 - iv) not be built within 6 feet of the main building;
 - v) not be considered an accessory building if attached to the main building in any way; and;
 - vi) not be considered an accessory structure if located completely underground.

This is to certify that the resolution of which this is a true copy, was duly passed at a duly called meeting of the Council for the Municipality of the County of Inverness held on the ____ day of _____ 2022

Given under the hand of the Municipal Clerk and under the corporate seal of the said Municipality this ____ day of _____ 2022.

Keith MacDonald, CAO