

March 26, 2025

Trustees

RE Legal non-conforming

At the February 14, 2025, LTC meeting the issue of legal non-conforming was raised a number of times in the town hall session. One community member asked the planner (through the chair) where staff find support for the proposition that Bylaw 122 did not create any legal non-conforming situations. The community member pointed out that the APC based their conclusions and recommendations on their belief that Bylaw 122 created a substantial number of legal non-conforming situations. The APC majority's recommendations now form the basis of Bylaw 129 house size and setback considerations.

The chair referred to the three staff reports which provided a detailed review of the legal non-conforming issue that details the basis for the conclusion that Bylaw 122 did not create any legal non-conforming situations with respect to dwelling size and setbacks. In acknowledging the community member's position, the chair indicated that more clarity may be required. The trust planner addressed this issue directly at the meeting stating:

It is the staff's professional opinion that the only situation of legal non-conforming created by Bylaw 122 is in terms of building height. (44:10 of the meeting recording)

This important piece of information was not included in the meeting minutes for February 14 LTC meeting. The minutes show that a community member pointed out that:

... the trustees mandate to fix the bylaw is built on the false assumption that (Bylaw 122) created legal non-conforming situations and trustees have not made an effort to correct this misinformation.

The minutes of the February 14 LTC meeting do not offer any further comment by trustees to clarify their position on the important issue of whether Bylaw 122 created any legal non-conforming situations regarding house size or siting under the current bylaw.

Given the importance of the differing views about the legal non-conforming issue, it is surprising that the March 27, 2025, staff report makes no reference to this issue. It should be noted that the February 6, 2025, staff report "Bylaw No. 122 and Legal Non-conforming FAQ" should have put this issue to rest. Apparently, it did not. At least 10 of the letters posted in the public correspondence in the last week have referred to legal non-conforming situations to support Bylaw 129.

My question to trustees is simple: Do you accept the staff's clear and unequivocal professional opinion that Bylaw 122 did not create any legal non-conforming situations with respect to dwelling size and setbacks? A simple yes or no answer by each trustee would be helpful in resolving outstanding differences on this important issue that is at the heart of the divide in our community.

Failure to directly address this important issue could call into question the viability of any new bylaw affecting dwelling size and siting that is based on the supposition that Bylaw 122 created legal non-conforming situations that need to be addressed.

Once the uncertainty around legal non-conforming is resolved, it will be much easier to find common ground for our community to collectively support the goals in our OCP and the Trust mandate.

Thank you for considering my views.

Paul Petrie