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Info Item No. 1
North West Community Council
March 23, 2015

TO: Chair and Members of North West Community Council
Original Signed

SUBMITTED BY: 
Bob Bjerke, Chief Planner and Director, Planning and Development

DATE: February 27, 2015

SUBJECT: Accessory Buildings Requirements, Sackville

INFORMATION REPORT

ORIGIN

October 30, 2012 motion of North West Community Council meeting (Item 11.2.2)

“MOVED by Councillor Johns, seconded by Councillor Harvey that North West Community Council request staff to provide a report in regard to amending the Municipal Planning Strategy for Middle Sackville such that the size of an allowable secondary structure is related to the size of the lot. MOTION PUT AND PASSED.”

LEGISLATIVE AUTHORITY

HRM Charter, Part VIII, Planning & Development

BACKGROUND

On October 30, 2012 North West Community Council (NWCC) requested a staff report relative to amending the requirements for accessory buildings within the Sackville Plan area to enable larger accessory buildings. Although the motion of NWCC requesting the report references Municipal Planning Strategy amendments, the *HRM Charter* does not require planning policy support for these types of regulations. Accordingly, any future amendments to change the requirements for accessory buildings would be made only to the land use by-law.

Through discussions with the area councillor, it was determined that the request by Community Council relates specifically to an inquiry from a resident of the Berry Hill subdivision. Berry Hill is a large rural lot subdivision located in Middle Sackville. The subdivision spans two Plan Areas; the Sackville Plan Area and the Beaver Bank, Hammonds Plains and Upper Sackville Plan Area (Map 1). These two Plan Areas contain different requirements for accessory buildings.

Sackville Plan Area

Accessory buildings within the Sackville Plan Area are regulated under Sections 4.10 and 4.11 of the Sackville Land Use By-Law (LUB) (Attachment A). Under the LUB, accessory buildings are limited in area to 750 square feet (69.67 sq. m.) in all residential zones with the exception of accessory buildings related to a permitted resource use (agriculture, fishing or forestry) in the R-6 (Rural Residential) Zone. Accessory buildings in the R-6 Zone are limited in area by the zone's maximum lot coverage. It should be noted that structures that are attached to the main building (i.e., an attached garage) are not accessory buildings and would instead be subject to the requirements that apply to the main building.

Beaver Bank, Hammonds Plains and Upper Sackville Plan Area

Accessory buildings within the Beaver Bank, Hammonds Plains and Upper Sackville Plan Area are regulated under Sections 4.11 and 4.12 of the Beaver Bank, Hammonds Plains and Upper Sackville LUB (Attachment B). Under this LUB, accessory buildings are generally limited in area by the maximum lot coverage of the applied zone. However, there are two zones, the R-1 (Single Unit Dwelling) Zone and the R-2 (Two Unit Dwelling) Zone, where accessory buildings may not exceed 1,000 square feet (92.90 sq. m.) in area.

Berry Hill Subdivision

The Berry Hill subdivision spans two Plan Areas (Map 1) and is largely zoned R-6. However, because the subdivision takes in two Plan Areas, there are different requirements depending on which Plan Area within which a property is located. Consequently, there are properties located on the same street which have different requirements for accessory buildings. For instance, some properties are permitted accessory buildings that are limited by the maximum lot coverage while others may not exceed 750 square feet in area.

DISCUSSION

The majority of the Sackville Plan Area falls within the Urban Service Boundary, while the majority of the Beaver Bank, Hammonds Plains and Upper Sackville Plan Area falls outside of the Urban Service Boundary (Map 1). The requirements for accessory buildings in these two plan areas reflect this reality. Properties located within the Urban Service Boundary are generally smaller in size (minimum 6,000 square feet), due to the availability of municipal water and wastewater services, therefore the size of accessory buildings in these areas is more restricted to ensure compatibility and to reduce any potential conflict or impact on abutting properties.

However, for residents whose properties are located within the Sackville Plan Area, but outside of the Urban Service Boundary (i.e., on larger unserviced lots) the 750 square foot limit on accessory buildings could understandably raise questions. This is especially the case in areas such as Berry Hill where abutting properties appear to have the same zoning (R-6) but fall under different plan areas, resulting in different zoning requirements.

In Council's motion, it was requested that staff consider relating accessory building size to lot size within the Sackville Plan Area. Staff have reviewed this consideration and advise that a more appropriate measure may be to relate the size of an accessory building to the size of the main building on the lot. In 2009, this approach was taken in the Eastern Passage/Cow Bay Plan Area for residential properties outside the Urban Service Boundary. Under that LUB (Attachment C) accessory buildings are permitted to a maximum of 80% of the footprint of the main dwelling up to a maximum of 1,250 square feet. If this percentage yields a footprint area less than the current maximum, the accessory building can be built to a maximum footprint area of 750 square feet. Relating the size of the accessory building to the size of the main dwelling helps to ensure that the accessory building remains primarily accessory and does not become the dominant feature of the property.

Conclusion

It is important that land use requirements reflect current community standards and the condition within the Berry Hill subdivision is a good example of how an existing regulation may no longer be suitable for a neighbourhood. However, staff has observed that the existing requirements appear to be satisfactory for the majority of residents, and accordingly a planning exercise to consider amending the requirements for accessory buildings in this area is not warranted at this time. Nonetheless, staff, through future secondary planning processes in this area, will undertake public consultation to consider the appropriateness of a variety of general land use regulations including those applicable to accessory structures.

FINANCIAL IMPLICATIONS

None.

COMMUNITY ENGAGEMENT

There was no community engagement included in preparing this Information Report. However, any future planning process would involve community engagement and the engagement process will be consistent with the intent of the HRM Community Engagement Strategy.

ATTACHMENTS

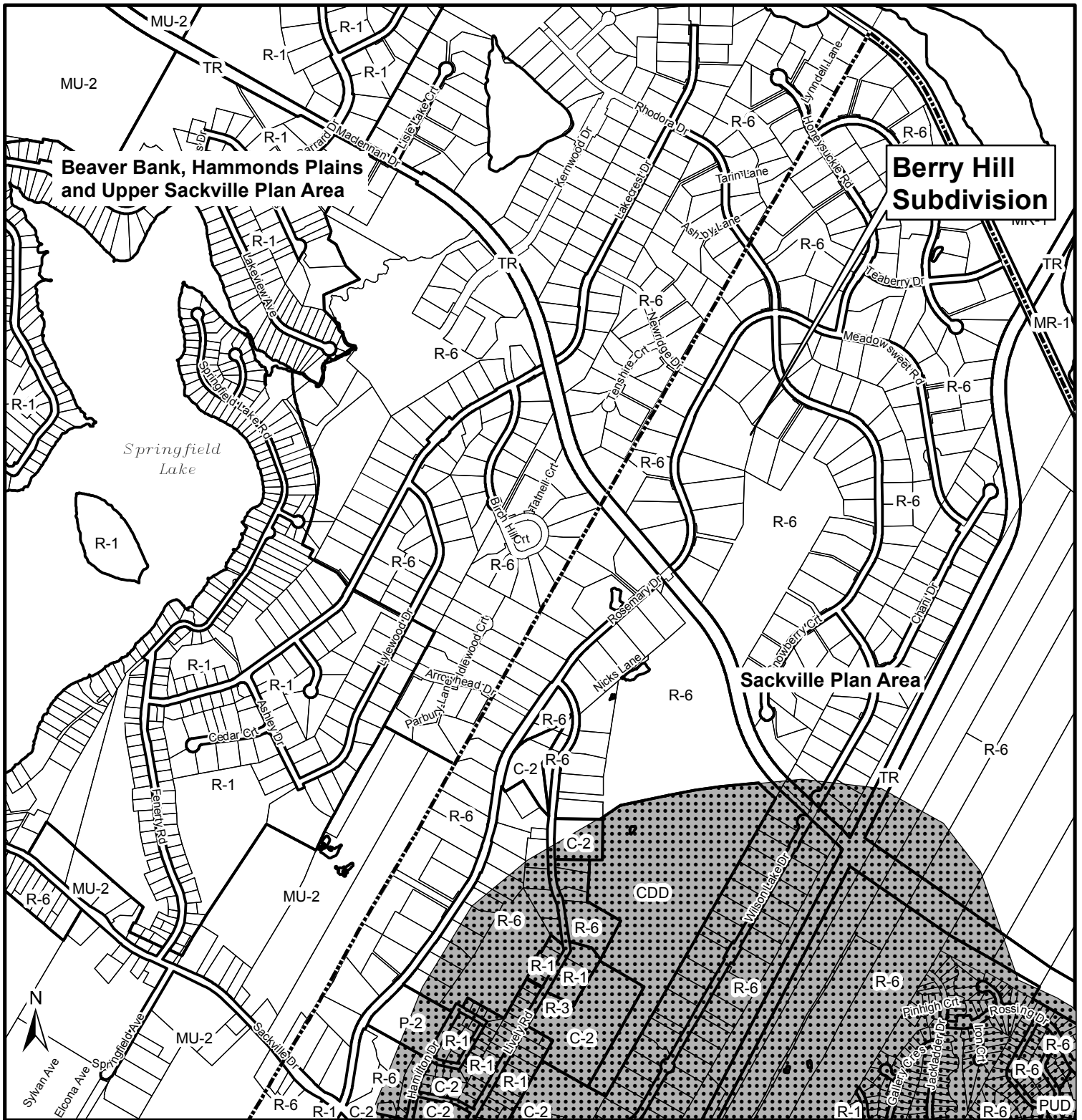
- Map 1 Plan Area Boundary and Zoning
- Attachment A Excerpt from the Sackville Land Use By-law
- Attachment B Excerpt from the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-law
- Attachment C Excerpt from the Eastern Passage/Cow Bay Land Use By-law

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902-490-4210, or Fax 490-490-4208.

Report Prepared by: Thea Langille, Major Projects Planner, 902-490-7066

Original Signed

Report Approved by: Kelly Denty, Manager, Development Approvals, 902-490-4800



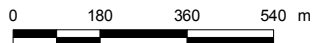
Map 1 - Plan Area Boundary and Zoning
Sackville



Urban Service Area

- Sackville Zones**
- R-1 Single Unit Dwelling
 - R-3 Mobile Dwelling
 - R-6 Rural Residential
 - C-2 Community Commercial
 - TR Transportation Reserve
 - CDD Comprehensive Development District

- Beaver Bank, Hammonds Plains and Upper Sackville Zones**
- R-1 Single Unit Dwelling
 - R-6 Rural Residential
 - MU-2 Mixed Use Two
 - MR-1 Mixed Resource
 - TR Transportation Reserve



Beaver Bank, Hammonds Plains and Upper Sackville and Sackville Land Use By-Law Areas

HRM does not guarantee the accuracy of any representation on this plan.

Attachment A
Excerpt from the Sackville Land Use By-law

PART 2: DEFINITIONS

In this by-law the word "shall" is mandatory and not permissive. Words used in the present tense shall include the future; words used in the singular number shall include the plural and words used in the plural number shall include the singular. The word "used" shall include "intended to be used", "arranged" and "designed". All other words shall carry their customary meaning except for those defined hereinafter:

- 2.1 ACCESSORY BUILDING OR STRUCTURE means a building or structure which is used exclusively for an accessory use and which is not attached in any way to the main building and which conforms with all applicable requirements of this by-law. (SCC-Jun 26/95;E-Jul 22/95)**

PART 4: GENERAL PROVISIONS FOR ALL ZONES

4.10 ACCESSORY USES AND BUILDINGS

Provisions made under this by-law to permit uses, buildings, and structures shall, unless otherwise stated by this by-law, also be deemed to include any accessory uses buildings or structures provided that:

- (a) the accessory use, building, or structure is located within the same zone as the principal building or use it is intended to serve or is located within an abutting zone in which the principal use or building is permitted;**
- (b) the accessory use building or structure is located on a lot which directly abuts or is directly across a public street or highway, private road or private right-of-way from the lot containing the principal building or use it is intended to serve; and**
- (c) all other applicable conditions and requirements of this by-law are satisfied. (MC/SC-Jun 26/95;E-Jul 22/95)**

4.11 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
 - (i) be used for human habitation except where a dwelling is a permitted accessory use;**
 - (ii) be built closer to the front lot line than the minimum distance required for the main building, or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
 - 1. in any Residential Zone buildings or structures which are accessory to residential uses shall not be located closer to any side or rear lot line than four (4) feet (1.2 m);**
 - 2. common semi-detached garages may be centred on the mutual side lot line;******

3. boat houses and boat docks may be built to the lot line when the line corresponds to the high water mark; and
 4. accessory buildings and structures in a P-2 (Community Facility) Zone shall not be built closer to any side or rear lot line than eight (8) feet (2.4 m) or one half the height of such building or structure, whichever is the greater.
 - (iii) exceed fifteen (15) feet (4.6 m) in height in any Residential Zone except for accessory resource related buildings uses in an R-6 (Rural Residential) Zone;
 - (iv) exceed seven hundred and fifty (750) square feet (70 m²) in any Residential Zone except for accessory resource related buildings in an R-6 (Rural Residential) Zone; nor
 - (v) be built within eight (8) feet (2.4 m) of the main building in any Residential Zone or twelve (12) feet (3.7 m) in any other zone.
- (b) Notwithstanding anything else in this by-law, drop awnings, clothes poles, flag poles, garden trellises, fences and retaining walls shall be exempted from the requirements of Subsection (a) above.
- (c) **Notwithstanding section 4.11(a)(ii), 4.11(a)(iii) and 4.11(a)(v), an accessory building or structure, excluding boat houses, in any Residential Zone may exceed fifteen (15) feet where all of the following conditions can be met:**
- (i) **the height does not exceed the height of the main building or twenty-two (22) feet, whichever is less;**
 - (ii) **the side walls of the building do not exceed a height of 12 feet;**
 - (iii) **side and rear yards for the building are no less than required in Section 4.11(a)(ii) or (1/2) the height of the accessory building, whichever is greater**
 - (iv) **the building is located no less than required in Section 4.11(a)(v) or one half (1/2) the height of the accessory building height from the main building or any other building, whichever is greater**
 - (v) **the building or structure is not located in the required front yard;**
 - (vi) **the lot shall have a minimum area of 40,000 square feet (3,716 m²);**
 - (vii) **all other applicable provisions of this By-law are met. (NWCC-Jul 10/03;E-Jul 12/03)**

4.11A SHIPPING CONTAINERS AS ACCESSORY BUILDINGS

- (a) **Shipping containers may not be used as accessory buildings to a residential use. Shipping containers may be used as accessory buildings only in an business park zone, or in conjunction with a recreation use, pursuant to applicable requirements for accessory buildings and pursuant to applicable zone standards including those relating to setbacks, screening and landscaping. Notwithstanding the foregoing, shipping containers intended for non-recreation use shall not be permitted on any property which abuts a residential, park or institutional zone or use.**
- (b) **Shipping containers may not be placed in the front or flanking yard of any lot, or between the main building and any street.**
- (c) **No shipping container may be used in any zone as a dwelling or other form of accommodation, including offices. (NWCC-Jul 11/02;E-Jul 20/02)**

Attachment B

Excerpt from the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-law

4.11 ACCESSORY USES AND BUILDINGS

Provisions made under this by-law to permit uses, buildings, and structures shall, unless otherwise stated by this by-law, also be deemed to include any accessory uses buildings or structures provided that:

- (a) the accessory use, building, or structure is located within the same zone as the principal building or use it is intended to serve or is located within an abutting zone in which the principal use or building is permitted;
- (b) the accessory use building or structure is located on a lot which directly abuts or is directly across a public street or highway, private road or private right-of-way from the lot containing the principal building or use it is intended to serve; and
- (c) all other applicable conditions and requirements of this by-law are satisfied.

4.12 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
 - (i) be used for human habitation except where a dwelling is a permitted accessory use;
 - (ii) be used for the keeping of livestock except where agriculture is a permitted use;
 - (iii) be built closer to the front lot line than the minimum distance required for the main building, or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
 - 1. common semi-detached garages may be centred on the mutual side lot line; and
 - 2. boat houses and boat docks may be built to the lot line when the line corresponds to the high water mark; and
 - 3. **accessory uses or buildings in any C-5 (Hammonds Plains Commercial) Zone shall not be located in the front yard or flankage yard. (RC-Feb 9/10;E-Apr 3/10)**
 - (iv) exceed fifteen (15) feet (4.6 m) in height in any R-1 (Single Unit Dwelling) Zone or R-2 (Two Unit Dwelling) Zone **or C-5 (Hammonds Plains Commercial) Zone (RC-Feb 9/10;E-Apr 3/10);**
 - (v) exceed one thousand (1000) square feet (90 m²) in any R-1 (Single Unit Dwelling) Zone or R-2 (Two Unit Dwelling) Zone;
 - (vi) be built within eight (8) feet (2.4 m) of a dwelling unit or twelve (12) feet (3.7 m) of any other main building.
- (b) Notwithstanding anything else in this By-law, drop awnings, clothes poles, flag poles, garden trellises, fences and retaining walls shall be exempted from the requirements of Subsection (a).
- (c) **Notwithstanding sections 4.12 (a)(iii), 4.12(a)(iv) and 4.12(a)(vi), an accessory building or structure, excluding boat houses, in any R-1 (Single Unit**

Dwelling) Zone may exceed fifteen (15) feet in height if the following conditions are met:

- (i) the height does not exceed the height of the main building or twenty-five (25) feet, whichever is less;**
 - (ii) the side walls of the building do not exceed 12 feet in height;**
 - (iii) side and rear yards for the building are no less than required in Section 4.12(a)(iii) or (1/2) the height of the accessory building, whichever is greater;**
 - (iv) the building is located no less than required in Section 4.12(a)(vi) or one half (1/2) the height of the accessory building height from the main building or any other building, whichever is greater**
 - (v) the proposed building or structure is not located in the required front yard;**
 - (vi) the lot shall have a minimum area of 40,000 square feet (3,716 m²);**
 - (vii) all other applicable provisions of this By-law are met.**
- (WRCC-Aug 25/03;E-Aug 30/03)**

Attachment C
Excerpt from the Eastern Passage and Cow Bay Land Use By-law

4.11 **ACCESSORY BUILDINGS**

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
- (i) be used for human habitation except where a dwelling is a permitted accessory use;
 - (ii) be built closer to the front lot line than the minimum distance required for the main building, or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
 - 1. **in any residential zone in the Urban Service Area, except the RA (Rural Area) Zone (HECC-May 11/09;E-May 30/09), buildings or structures which are accessory to residential uses shall not be located closer to any side or rear lot line than four (4) feet (1.2 m), except that within the Heritage Hills development as shown on Schedule A-1, the required setback shall be 2 feet (0.61m) (HECC-Oct 1/09;E-Oct 24/09); (HECC-Jul 7/11;E-Jul 30/11)**
 - 1.(a) **in any residential zone located outside the Urban Service Area, buildings or structures which are accessory to residential uses shall not be located closer to any side or rear lot line than eight (8) feet (2.4 metres) or one half the height of such accessory building or structure, whichever is greater.” (HECC-Jul 7/11;E-Jul 30/11)**
 - 2. common semi-detached garages may be centred on the mutual side lot line;
 - 3. boat houses and boat docks may be built to the lot line when the line corresponds to the high water mark; and
 - 4. accessory buildings and structures in a P-1 (Community Facility) Zone, P-2 (Community Facility) Zone, a I-1 (Light Industry) Zone or a I-2 (General Industry) Zone shall not be built closer to any side or rear lot line than eight (8) feet (2.4 m) or one half (1) the height of such building or structure, whichever is the greater.
 - (iii) **no accessory building in any residential zone in the Urban Service Area shall be greater than 15 feet (4.57 metres) in height, from the established grade to the highest point of the roof surface, nor have a footprint greater than 750 square feet (69.68 square metres) in area. (HECC-Jul 12/01;E-Aug 5/01) (HECC-May 11/09;E-May 30/09), except on properties within the Heritage Hills development as shown on Schedule A-1 where lots are identified as being of classification D, E, F and G, on which lots the maximum height shall be 12 feet (3.7m), the maximum floor area shall be 350 square feet (32.5 square metres), and only one accessory building shall be permitted per lot (HECC-Oct 1/09;E-Oct 24/09); (HECC-Jul 7/11;E-Jul 30/11)**
 - (iii)(a) **no accessory building in any residential zone located outside the Urban Service Area shall exceed the height of the main dwelling, nor have a footprint that exceeds 80% of the footprint of the main dwelling up to a**

- maximum of 1,250 square feet (116.13 square metres) or 750 square feet (69.68 square metres), whichever is the greater. (HECC-Jul 7/11;E-Jul 30/11)**
- (iii)(b) no accessory building in any residential zone located outside the Urban Service Area having a roof pitch of 4:12 or less shall exceed a maximum wall height of 16 feet (4.88 metres) measured from the established grade to the underside of the soffit;” (HECC-Jul 7/11;E-Jul 30/11)**
 - (iv) be built within eight (8) feet (2.4 m) of the main building in any Residential Zone or twelve (12) feet (3.7 m) in any other zone.
 - (v) be used for the keeping of livestock, except where agriculture is a permitted use.
 - (vi) No accessory building shall be located closer to the front lot line than the dwelling on the property in any Residential Zone. (HECC-Jul 12/01;E-Aug 5/01)**
- (b) Notwithstanding anything else in this By-law, drop awnings, clothes poles, flag poles, garden trellises, fences and retaining walls shall be exempted from the requirements of Subclause 4.11(a)(ii)1.