

Subject: Presentation on "Regularizing" Non-Conforming Structures

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Mayor & Council - copied below is the two-minute presentation I gave at last night's Council meeting.

Brian Platts

Further to last week's Council agenda item regarding non-conforming structures on single-family properties, I would like to respond to a few points made during your deliberation on the matter.

As I pointed out last week, the practice of Planning Staff recommending to Council that existing legal non-conformities be "regularized" as part of Development Variance Permit applications, is a fairly recent approach. As a result, we have houses & structures that comply with the Zoning Bylaw; others that are legally non-conforming; and now a third category is those that were non-conforming but have now been "regularized". It's getting confusing, isn't it?

In response to a question, the Manager of Planning used the example of a neighbourhood where a large number of houses are legally non-conforming because the style conflicts with current Zoning Bylaw. The rationale for regularizing such non-conformities together with a DVP application, is that in the event a fire burned a non-conforming house to ashes, the property owner would be able to re-build the exact same house and not be subject to the current zoning regulations.

This concern over non-conforming structures is curious because it is so selective. There are literally hundreds and hundreds, if not thousands, of non-conforming structures on single family lots throughout the District. There is nothing inherently wrong with this fact either. Legal non-conformities are going to be created almost every time the Zoning Bylaw is amended.

If Planning deems it desirable to regularize non-conformities together with DVP applications, then what about the vast majority of homeowners whose houses are non-conforming but who live within the Zoning Bylaw and never apply for a DVP? Shouldn't their homes be regularized as well? Why not save a lot of trouble and simply pass a Bylaw amendment regularizing all existing legal non-conformities on single family lots? Or better yet, simply quit altogether the practice of regularizing non-conforming structures.

It is certainly helpful for staff to identify existing non-conformities in reports on variance applications, however, there is no reason to change their status unless presented with a specific instance of hardship, like being unable to sell or obtain a mortgage. Otherwise, I have yet to see or hear about a property owner requesting the regularization of existing legal non-conformities, so why trouble yourselves with it?