



## Report to Council

Department: Development Services

Division: Planning

Date: December 6, 2021

Prepared by: Rita Jabbour, RPP, Manager, Planning Services

Report Number: PLANNING2021-25

Subject: Revisions to Rear Yard Encroachments for Porches,  
Decks and Sunrooms

Number of Pages: 8 including attachments

### Recommendation(s)

**That** Planning report number PLANNING2021-25 entitled Revisions to Rear Yard Encroachments for Porches, Decks and Sunrooms prepared by Rita Jabbour, RPP, Manager, Planning Services dated December 6, 2021 be received, and

**That** Bylaw Number 2098, being a Bylaw to amend Bylaw Number 1037, the Comprehensive Zoning Bylaw for the Town of Essex to limit the encroachments of decks, porches, and sunrooms into a required rear yard, be adopted.

### Purpose

To recommend adoption of a zoning amendment to limit the height of porches and decks encroaching into a rear yard and prohibit the encroachment of sunrooms into a rear yard.

## Background and Discussion

Subsection 9.5 of Zoning Bylaw 1037, Permitted Encroachments into a Required Yard, sets out various building features that may encroach into a *required yard*.

The required yards dictate the building setbacks from each lot line, namely a required minimum front yard, side yard, and rear yard. Together, they establish the permitted building envelope (the area within the lot where the main building can be located). **No part of the main building can extend into a required yard unless specifically permitted in the zoning by-law.**

An illustration of required front, side, and rear yard setbacks are provided below:



Bylaw 1037 permits the encroachment of decks, porches, and sunrooms into a required rear yard. The following definitions apply:

**“Deck”** means a structure having a floor open to the sky, with a supporting structure below. It may include perimeter guardrails, fixed seating and vertical visual screening. A terrace is deemed to be a deck.

**“Porch”** means an unheated structure, with a floor and a fixed roof directly above, primarily intended to provide sheltered access to a building. It may include perimeter guardrails, a door, seasonal screens or windows.

**“Sunroom”** means an unheated three (3) season room, three season room being a room designed and intended to be used throughout the spring, summer and fall seasons, but not in the winter season.

Examples of decks, porches and sunrooms are provided below:



Figure 1. A deck



Figure 2. A Porch



Figure 3. A sunroom (*source: patioenclosure.com*)

Under the current regulations, decks, porches, and sunrooms may encroach into a required rear yard as follows:

	Permitted Height	Permitted Encroachment/width
Decks	0.2 metres or less 0.2 metres to 1.2 metres Greater than 1.2 metres	No restriction Up to 1.2 metres of a side and rear yard Porch exemptions apply
Porches	No limit	Up to 2.5 metres (8.2 feet) into a required rear yard  Maximum width of encroaching porch is 2.5 metres
Sunrooms	No limit	Up to 2.5 metres (8.2 feet) into a required rear yard  Cannot exceed a floor area of 10m <sup>2</sup> (107ft <sup>2</sup> ) for that portion of the sunroom located in a required rear yard.

#### Proposed Zoning Amendment

On August 23, 2021, Council held a special Council meeting to consider amendments to Bylaw 1037 regarding the extensions of decks, porches, and sunrooms into required rear yards. **A copy of the public presentation is attached to this report.**

Amendments were proposed in response to resident complaints about the construction of elevated building extensions (decks, porches, and sunrooms) into required rear yards, which, in their opinion, significantly compromise their enjoyment of their own properties.

A rear yard often serves as an “Amenity Area” where inhabitants of a dwelling spend their leisure time. Recreational facilities such as pools and hot tubs are often located in a rear yard. Consequently, porches, decks and sunrooms are also located in rear yards. The zoning by-law **does not set a specific height limit of a deck or porch or sunroom** that encroaches into a rear yard. Consequently, a two storey

dwelling could have a combination first storey sunroom and second storey deck or sunroom above within the required rear yard.

At the public meeting, Council was presented with two (2) options to address the issue of rear yard encroachments:

1. Delete zoning provisions allowing the extension of porches and decks into required rear yards, OR
2. Limit encroachments of porches and sunrooms to porches and sunrooms of one (1) storey only, measured at grade.

Council received one (1) public delegation concerning the matter from Peter Valente, of Valente Development Corporation. Council directed administration to discuss the amendment further with Mr. Valente and propose a solution that satisfies both parties. Administration has now had the opportunity to consult with Mr. Valente.

The following amendments are thus proposed:

- Continue to allow a 2.5m encroachment of porches and decks into a rear yard but limit the height of those structures to a maximum of 0.6m (2 ft);
- Delete provisions allowing any encroachments of sunrooms into a required rear yard; and,
- Extend the width of a deck or porch to 3.6m (12 feet) (Delegation Request).

Mr. Valente has also requested consideration of an exemption to lot coverage for porches. Decks are exempt from being included in the calculation of lot coverage as they are often



permeable and are not roofed. Porches, however, are roofed structures by definition and are thus not exempt.

Administration has reviewed this request and is not in support of amending provisions respecting lot coverage for roofed porches. Any hard surface needs be accounted for in the lot coverage as it directly impacts stormwater management/drainage schemes previously approved for a residential development. Under no circumstances should a roof area be exempt from lot coverage requirements. Should Council wish to consider this request, a new zoning bylaw amendment must be initiated (new public notice, new public meeting).

Bylaw 2098, attached to this report, implements the proposed zoning amendments. Should this Bylaw be adopted, it will be subject to a 20-day appeal period, after which time has lapsed and pending no appeals, the amendments will be final and binding.

## **Financial Impact**

Notwithstanding an appeal of the proposed amendments, the minimal costs to notify interested parties of the decision and the revising of the applicable Bylaws to reflect the amendments, is absorbed through the Operating budget for planning. Since this is a municipally initiated zoning amendment, no costs can be recouped through application fees or deposits.

## **Consultations**

Kevin Girard, Director, Infrastructure Services

Kate Giurissevich, Director, Corporate Services

Kevin Carter, Chief Building Official/Manager, Building Services

Jeff Watson, Planner

## Link to Strategic Priorities

- ☐ Manage, invest and plan for sustainable municipal infrastructure which meets current and future needs of the municipality and its citizens.
- ☐ Create a safe, friendly and inclusive community which encourages healthy, active living for people of all ages and abilities.
- ☐ Provide a fiscal stewardship and value for tax dollars to ensure long-term financial health to the municipality.
- ☒ Manage responsible and viable growth while preserving and enhancing the unique rural and small town character of the community.
- ☐ Improve the experiences of individuals, as both citizens and customers, in their interactions with the Town of Essex.
- ☐ Improve the Town's capacity to meet the ongoing and future service needs of its citizens while ensuring the corporation is resilient in the face of unanticipated changes or disruptions.



### Report Approval Details

Document Title:	Revisions to Rear Yard Encroachments (Decks, Porches and Sunrooms).docx
Attachments:	- Bylaw 2098.docx - General ZBL Amendments Presentation - Final.pdf
Final Approval Date:	Nov 26, 2021

This report and all of its attachments were approved and signed as outlined below:



**Lori Chadwick, Director, Development Services - Nov 26, 2021 - 11:33 AM**



**Doug Sweet, Chief Administrative Officer - Nov 26, 2021 - 12:52 PM**