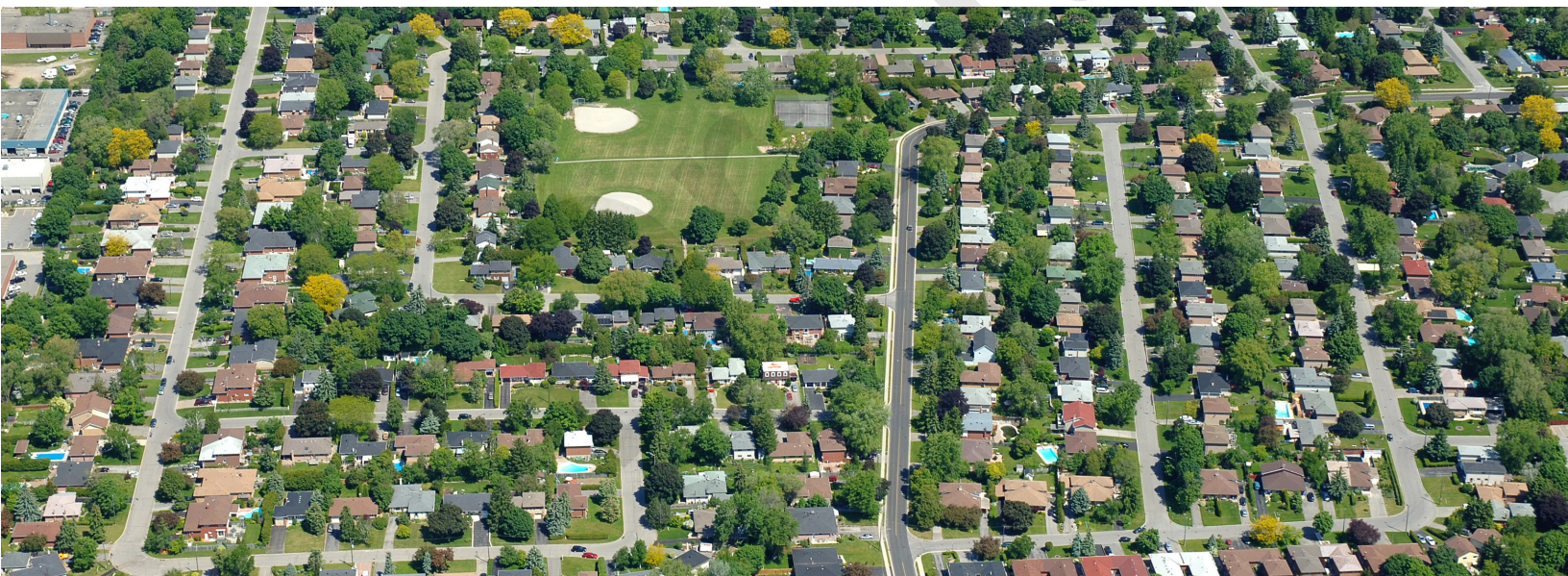


City of **MARKHAM**

Task 10: Review & Assessment of Residential Accessory Structures and Amenity Space

Comprehensive Zoning By-law Project



Markham Zoning By-law Consultant Team

Gladki Planning Associates, R. E. Millward and Associates,
Woodfield Consulting, Clarion Associates and Anthony Usher
Planning Consultant

August 11, 2015

Contents

1.	Introduction	1
2.	Accessory Buildings and Structures	2
2.1	Markham Official Plan	2
2.2	Parent Zoning By-laws and 2009 Staff Report	2
2.3	Other Municipal Zoning By-laws	3
2.4	Conclusions Regarding Accessory Buildings or Structures	6
3	Residential Amenity Space	8
3.1	Markham Official Plan	9
3.2	Markham's Parent By-laws	9
3.3	Other Municipal Zoning By-laws	10
3.4	Conclusions Regarding Residential Amenity Space	12
APPENDIX		
1.	Current Markham Zoning By-laws Provisions re Accessory Buildings	15
2.	Excerpt from the June 2009 Markham DSC	17
3.	Summary of Municipal Zoning By-law Provisions for Accessory Buildings and Structures	19
4.	Excerpt from Town of Oakville Zoning By-law re Accessory Buildings and Structures	33
5.	Toronto and Ottawa Zoning By-law Amenity Space Standards	35

1. INTRODUCTION

This paper addresses accessory residential structures and residential amenity space as part of a series of discussion papers prepared for the Markham comprehensive zoning by-law project. It builds on previous work completed by staff in 2009 that recommended changes to zoning standards for residential accessory structures. This paper also incorporates a review of zoning provisions from a number of other municipalities regarding residential accessory structures and residential amenity space.

A list of reference documents that were consulted as part of this review is provided at the conclusion of this paper. This report will be included as part of the public consultation for the comprehensive zoning by-law currently scheduled for the Fall of 2015.

2. ACCESSORY BUILDINGS AND STRUCTURES

Residential accessory structures are generally located at the side or rear of detached and semi-detached dwellings and townhouses. They include garden sheds, gazebos and pool enclosures, but in Markham's case, not swimming pools or detached garages which are regulated by separate provisions in the parent zoning by-laws or in the case of swimming pools by a separate by-law.

2.1 Markham Official Plan

There are no policies regarding either residential accessory buildings/structures in the new Official Plan. There are some general policies regarding compatibility of development with neighbouring buildings, but no specific provisions regarding these matters.

2.2 Parent Zoning By-laws and 2009 Staff Report

Thirty three of Markham's existing parent zoning by-laws contain zoning provisions relating to accessory buildings/structures falling into eight sets of standards with varying levels of complexity and detail (see appendix 1 for a detailed summary of existing by-law provisions). These were summarized in a Preliminary Report to Development Services Committee: Town initiated Zoning By-law Amendment Relating to Development Standards for Accessory Buildings and Structures in all Residential Zones In the Town of Markham, dated June of 2009. The report recommends an amendment to zoning provisions for residential accessory buildings and structures in order to apply consistent standards across all residentially zoned properties in Markham. The review was initiated to address concerns by some residents regarding the proliferation of such buildings and structures and raising questions in some instances about whether they should be permitted at all.

The fundamental issue at the time of the 2009 review revolved around the potential proliferation of accessory buildings and “outdoor rooms with accessory structures in rear yards” leading to a change in grade affecting stormwater runoff, loss of landscaped area, particularly soft landscaping, concerns around the visual impact of buildings and structures, overlook, and loss of privacy for adjacent residents. It is important to note that a number of concerns such as grading and noise cannot be addressed in the zoning by-law, but may be more appropriately resolved by enforcing other by-laws or procedures.

These standards regarding accessory buildings/structures in Markham’s existing zoning by-laws were grouped around the following topics:

- location of the accessory building or structure on the lot (generally at the rear or the interior side yard);
- setbacks from lot lines (from 0.5 to 1.2 metres);
- minimum separation distance from the main building on the lot (most zoning by-laws do not require this, but some require a 1.8 separation);
- maximum lot coverage (between 5 and 10 percent);
- maximum floor area (from 10 square metres on small lots to 75 square metres on rural lots); and
- maximum height (ranging from 3.6 to 4.5 metres).

In addition to reviewing Markham’s existing zoning by-laws the report also reviewed zoning by-laws from a number of other municipalities drawing from these common themes regarding regulations. These were summarized in Appendix 3 of the report.

The recommended amendments to the zoning by-laws to standardize the approach to accessory buildings or structures across Markham in the June 2009 report were never enacted. Council decided to put the matter off until further notice. The suggested changes to the accessory building and structure provisions from the June 2009 report are attached as Appendix 2.

In reviewing the zoning provisions for accessory buildings, an important consideration is that these standards will directly affect homeowners who should be able to understand the requirements without having to consult experts. An underlying objective with respect to formulating these recommendations therefore is to keep them clear and simple.

2.3 Other Municipal Zoning By-laws

2.3.1 Definitions

The June 2009 staff report recommended that the definition from by-law 177-96 be used as the standard definition for all Markham zoning by-laws. The definition in 177-96 reads as follows: accessory building or structure “means a separate building or structure, the use of which is customarily incidental, subordinate and exclusively devoted to a main use or main building located on the same lot”.

The staff report recommends that detached garages and swimming pools not be regulated under the provisions for accessory buildings or structures since these are currently dealt with through separate provisions and/or by-laws.

Most other municipal zoning by-laws have similar definitions with slight nuances to reflect local circumstances. For example Brampton captures detached garages in their definition, while Burlington excludes children’s play structures, patios or decks attached to the main building. The City of Toronto

uses the term “ancillary” rather than “accessory”, but otherwise has a similar definition. The City of Ottawa does not include tower antennas and satellite dishes as an accessory structure in residential zones.

Markham may wish to specifically exclude children’s play and other similar structures from the definition, as is done in Burlington in order not to burden residents with the possibility of over regulation affecting these types of structures.

2.3.2 Not used for human habitation

All zoning by-laws that have been reviewed stipulate that accessory buildings or structures cannot be used for human habitation. A similar recommendation was made for Markham by staff in their June 2009 report. Oakville also adds the restriction that the accessory building or structure cannot be used for an occupation for gain or profit, although Markham’s Official Plan defines home occupation as occurring in a residential building or accessory structure.

2.3.3 Location

For the most part, municipal zoning by-laws require that accessory buildings or structures be located in the rear yard or along the interior side yard of residential buildings. Markham’s existing zoning by-laws have a similar provision.

2.3.4 Maximum number of accessory buildings per lot

Not all municipal zoning by-laws regulate the number of accessory buildings or structures that can be located on a lot, presumably because the number will be effectively restricted by the other requirements, particularly floor area, coverage and setback provisions. The City of Ottawa limits the number of accessory buildings in certain residential lots to two. The June 2009 staff report recommends a maximum of two accessory buildings or structures on lots less than 0.1 hectare in size and three for lots between 0.1 and 0.4 hectares in size, with no restriction for larger lots. Existing Markham zoning by-laws are silent on this matter.

2.3.5 Maximum Gross Floor Area

Most zoning by-laws restrict the gross floor area of an accessory building or structure to between 10 and 97 square metres, depending on the size or width of the of the lot. Existing Markham zoning by-laws restrict the floor area for accessory buildings as follows: 194-82--750 square feet, or approximately 75 square metres; by-laws 196-82 and 91-79--70 square metres. Other Markham by-laws are silent on this matter, relying instead on the combinations of other restrictions to limit floor space. The June 2009 staff report to DSC recommends the following gross floor area restrictions for accessory buildings or structures in Markham: 10 square metres for lots under 0.1 hectares; 20 square metres for lots between 0.1 and 0.4 hectares and 50 square metres for rural residential lots greater than 0.4 hectares. This aligns well with other Ontario municipal zoning by-laws.

2.3.6 Setbacks

All municipal zoning by-laws that were reviewed include setbacks from rear, interior and exterior side lot lines. A number of by-laws require that the setback from the exterior side lot line be the same as the main building on the lot. Setbacks from the rear and interior side lot lines vary from 0.3 to 0.6 metres or are related to the height of the accessory building or structure. Existing Markham zoning by-laws include setback requirements of between 0.6 and 1.2 metres from the rear and interior side lot lines and

a number of by-laws include setbacks for exterior side lot lines equal to the front yard setback for the adjacent lot. The recommendations contained in the June 2009 staff report recommend a setback of 1.2 metres from the rear and interior side lot lines (which may be reduced to 0.5 metres if there are no openings facing these lot lines). The report also recommends the exterior side lot line setback be the same as for the main building on the site. This is in line with provisions in other zoning by-laws.

2.3.7 Minimum distance from the main building

A number of municipal zoning by-laws include a requirement that the accessory building or structure be located a minimum distance from the main building. In Toronto, if the height of the accessory building exceeds 2.5 metres or has a floor area greater than 10 square metres, it is required to be separated from the main building by 1.8 metres. In Ottawa no building or structure can be closer than 1.2 metres from any other building or structure on the same lot. In Oakville a separation distance of 2.0 metres is required from the main dwelling. The June 2009 report to the DSC is silent on this matter as are Markham's existing zoning by-laws. It may be appropriate, however, to consider including a minimum separation distance requirement from the main building as part of the new comprehensive by-law in order to ensure that all accessory buildings comply with building code regulations, whether they require a permit or not. This would also address potential concerns about buildings or structures constructed on top of a deck.

2.3.8 Height

All zoning by-laws include a maximum height requirement for accessory buildings or structures. These vary from 2.5 metres in Oakville; five metres in Hamilton, with a further restriction on the height of fascia eaves or overhangs, of 3 metres; 4.5 metres in Ottawa; and in Toronto, either 2.5 or 4 metres, depending on the distance from the main building. Markham's existing zoning by-laws limit the height of accessory buildings to 4.5 metres. The June 2009 report recommends a maximum height of 4.5 metres for lots of less than 0.4 hectares and 5.5 metres on larger lots. Height will need to be defined in the new by-law, perhaps differently for different zones, as discussed in the discussion paper for Task 5, Definitions.

2.3.9 Coverage and landscaped area

All municipalities reviewed include some form of regulation regarding how much space on the lot an ancillary building or structure can have, but municipalities have chosen different paths towards regulating the effects on lot coverage by ancillary buildings or structures. In Toronto no ancillary building or structure can occupy more than 10 percent of the lot. In Ottawa the maximum is 50 percent of the yard area in which the ancillary building or structure is located. In Oakville the restriction is either five percent of the lot area or 42 square metres of building area. In Hamilton the restriction is 30 percent of the yard in which the building is located. Most existing Markham zoning by-laws include a maximum lot area coverage for accessory buildings of 10 percent. Markham's parent zoning by-laws already contain maximum lot coverage provisions for the lot as a whole, typically ranging from 30 to 35 percent.

The June 2009 staff report to the DSC does not recommend regulating lot coverage for accessory buildings/structures directly. Rather it recommends a minimum requirement for landscaping in the rear yard of 25 percent for lots of less than 0.1 hectare in size; 40 percent for lots between 0.1 and 0.4 hectares in size; and 60 percent for lots greater than 0.4 hectares in size. In addition to the soft landscaping requirement, the intent is to rely on the limitation on the number and size of accessory buildings and structures to achieve limits on lot coverage. The June 2009 report recommends that swimming pools and detached garages be included in determining the calculation of rear yard landscaped open space requirements. The reason provided is to address the encroachment of non-landscape features into landscape areas.

2.3.10 Encroachments

Only the Hamilton by-law deals with encroachments for accessory buildings requiring that the maximum height of the underside of any fascia eaves, overhang or the lower ends of the roof joists, rafters or trusses be 3.0 metres and that an eave or gutter extend no more than 0.3 metres into a required yard. Other by-laws are silent regarding encroachment issues for accessory buildings. The 2009 staff report is also silent on these issues. By-law 177-96 does contain a number of regulations on encroachments affecting detached garages, but this represents a departure from how most other by-laws deal with accessory structures. In any case, the issue of whether and how to address encroachments for all types of buildings will need to be dealt with more generally when drafting the new comprehensive zoning by-law.

2.3.11 Other Provisions

The June 2009 staff report recommends a few additional provisions for accessory buildings and structures which may or may not need to be included in the new zoning by-law. These include: the use that is permitted on a lot may extend to the accessory building structure located on the same lot (this may not be a necessary provision, since it appears to be covered by the definition and general use provisions for each zone); the accessory building or structure may only be erected after the main building is built (this is similar to provisions in a number of other by-laws); and the accessory building or structure may not be located within a Registered Easement in favour of a public authority (this may best be addressed as a general provision in the zoning by-law affecting all buildings and structures, not just accessory buildings).

2.4 Conclusions Regarding Accessory Buildings or Structures

Although there is a great deal of similarity in the types of regulations that municipalities have included in their zoning by-laws to control the location, size and use of accessory buildings or structures, the actual metrics in the regulations vary depending on the history and characteristics of the municipality. In terms of complexity, municipalities like Toronto, Hamilton and Ottawa, which have had to consolidate a number of separate municipal laws have ended up with a fairly detailed and nuanced set of regulations. Other municipalities have been able to include more straightforward provisions that are derived from history and best practices.

In regulating accessory buildings or structures the challenge is the same as for other aspects of the zoning by-law; to provide for a set of regulations that address the fundamental concerns in as simple and straightforward a manner as possible and avoid overlap and duplication of regulations through a “belt and suspenders” approach.

The review that was undertaken by staff in June 2009 contains a set of proposed regulations that seem to address Markham’s needs and are well aligned with the types of regulations that appear in other municipal zoning by-laws. Other than perhaps the restriction on the number of accessory buildings per lot, which may be just as effectively controlled through a combination of the other provisions, these would seem to provide a good foundation to be incorporated into the new by-law.

There are some additional considerations which may be worth thinking about, such as:

- Consider if occupations should be permitted in accessory buildings. Permitting home occupations would be consistent with Markham’s Official Plan definition. Such permission could

Task 10: Residential Accessory Structures and Amenity Space

possibly include regulations similar to exiting by-law 53-94, which requires that, in the case of home occupations in accessory buildings, these buildings must comply with the setback requirements for the main building. .

- Consider whether to exempt such structures as retaining walls, statues, light standards, air conditioning units, children's play structures, solar panels etc. from the definition of accessory building/structure.
- Consider whether to include a separation distance from the main building or instead introduce a separation distance from any other building on the lot.
- Consider whether it is necessary to address accessory structures located on top of a deck that is attached to a house, or if this issue would be best dealt with by relying on a separation distance requirement from the main building for accessory buildings/structures as suggested above.
- Consider how to align the accessory building and structure requirements with requirements for detached garages and swimming pools in the swimming pool by-law.

In terms of format, presentation, clarity and ease of understanding, the Town of Oakville's approach to regulating accessory buildings and structures is worth considering. This is reproduced as Appendix 4 to this report.

3 RESIDENTIAL AMENITY SPACE

This section will examine potential ways to address amenity space for multi-unit residential buildings, including apartment buildings and residential units in mixed use buildings. Amenity space for single and semi-detached buildings is generally not directly addressed in most zoning by-laws, since other by-law provisions such as lot sizes, setback requirements and restrictions on the placement of accessory buildings, in effect provide for private amenity space for these types of dwellings. Common amenity space requirements in low density residential areas are also addressed through the provision of parks and other public spaces. Similarly townhouses are typically not subject to the amenity space provisions of zoning by-laws, since rear yard setbacks and requirements for a percentage of the lot to be landscaped address amenity space issues for the most part. There are some exceptions regarding communal amenity space requirements for cluster townhouses and/or stacked townhouses in some municipal zoning by-laws. There are some exceptions in some of the existing site specific by-laws related to by-law 177-96 in Markham. These will be discussed below.

Only existing Markham Bylaw 177-96 includes a reference to outdoor amenity area. Other existing Markham parent zoning by-laws do not contain amenity space requirements. With the increased emphasis for future development on intensification, multi-unit residential and mixed use buildings will become more prevalent. Thus, it will be necessary to incorporate amenity space provisions into the new by-law to address the needs of future residents of these buildings. This will be the focus of the next part of this paper.

3.1 Markham Official Plan

There are a number of references in chapter 6 of the new Markham Official Plan to provision of private amenity space. The most direct reference is in Section 6.1.6.6 c) which states that it is the policy of Council to ensure that development is designed to provide outdoor amenity spaces for the use of occupants of the development. Section 6.1.6.3 states that it is Council policy to encourage the provision of publically accessible open spaces, which are different than amenity space for residents. Section 6.1.8.5 speaks to designing and placing buildings on a site to achieve adequate private open space and amenity areas as well as common landscaped amenity areas. This provision relates to the placement of buildings, and thus, the objective of achieving open space and amenity areas as referenced in this section would likely be best accomplished through the site plan approval process or other provisions of the zoning by-law related to the siting of buildings. However, by implication, the policy also speaks to the importance of including amenity space provisions in the zoning by-law.

3.2 Markham's Parent By-laws

By-law 177-96 defines outdoor amenity space as “an outdoor space, unobstructed by *buildings* or *structures* and which cannot be travelled upon by *motor vehicles*”. Earlier versions of the definition include a reference to “landscaping” . The term “landscaping” is defined in a number of parent zoning by-laws in a similar way to the following definition in by-law 177-96: landscaping “means trees, shrubs, flowers grass or other horticultural elements, decorative stonework, screening or other architectural elements, all of which are designed to enhance the visual amenity of a property and shall not include parking areas, driveways or ramps and shall not be used for the parking of motor vehicles”.

A number of site specific by-laws which are associated with by-law 177-96 contain requirements and conditions regarding the provision of “outdoor amenity space”, for single detached, semi-detached and townhouse dwellings. For example, Section 7.105, which relates to courtyard semis and street townhouses in CA3 and R2-LA zones in Berczy Village, requires a minimum outdoor amenity space of 30 metres which may include an unenclosed porch. Sections 7-190 and 7-192, which deal with some of the lands in Cornell, require a minimum of 40 metres of outdoor amenity space with 7 metres on one side for certain single detached units with attached private garages. Section 7.196, which deals with lane-based single detached dwellings in parts of Cathedral Town, requires a minimum of 60 square metres of outdoor amenity space per single detached unit. Section 7.398 which deals with single detached units east of the Woodbine By-Pass requires a minimum of 40 square metres of outdoor amenity space per unit. Section 7.416 which applies to townhouse units in part of Cathedral Town requires a minimum of 27 square metres of outdoor amenity space per unit which may include a flat roof of an attached private garage.

In general, these site specific by-laws require more outdoor amenity space for single detached dwellings and less for townhouse dwellings. The number varies by zone and area, presumably reflecting the character of the area. With respect to landscaped open space, many site specific by-laws include porches, decks or the flat roofs of garages in the calculation of landscaped open space.

As a general observation, Markham has a patchwork and inconsistent approach to requirements for outdoor amenity space. Some of the zones affected by site specific by-laws also contain requirements for landscaped open space, which are in addition to the outdoor amenity area requirements. Many other zones, not covered by the site specific by-laws, do not require outdoor amenity space, but do require landscaped space. Other zones have neither outdoor amenity space non landscaped open space requirements, but rely on setbacks for the provision of outdoor space. There do not appear to be amenity space requirements for buildings with multi-unit dwellings other than some townhouse

developments, although there are landscape space requirements for these buildings in most zones that permit them.

3.3 Other Municipal Zoning By-laws

A number of approaches to the provision of amenity space in other Ontario municipal zoning by-laws will be examined. In addition, the issues of whether to include both personal and shared (or communal) amenity space and whether to distinguish between indoor and outdoor amenity space will also be explored. In this section the terms amenity space and amenity area will be used interchangeably. Some by-laws refer to amenity space, others to amenity areas; these are one and the same.

3.3.1 Definitions

Toronto defines amenity space as “indoor or outdoor space on a lot that is communal and available for use by the occupants of a building on the lot for recreational or social activities”. Ottawa defines amenity area as “the total passive or active recreational area provided on a lot for the personal, shared or communal use of the residents of a building or buildings, and includes balconies, patios, rooftop gardens and other similar features, but does not include indoor laundry or locker facilities”.

Hamilton defines amenity area as: “the area of a residential lot intended for recreational purposes, and shall include areas that are landscaped, patios, privacy areas, balconies, communal lounges, swimming pools, play areas and similar uses, located on the same lot, but shall not include a building’s service areas, parking lots, aisles or access driveways”. Mississauga defines amenity areas as: “an area designed for active or passive recreational uses, such as, but not limited to, children’s play areas, seating areas, sports facilities and fitness rooms for the shared or communal use of the residents of a dwelling”.

There are two tendencies in these definitions. Toronto and Mississauga define amenity space as “shared” or “communal”, whereas Ottawa and Hamilton include both personal and communal space in their definitions.

3.3.2 Private Amenity Space Standards

Municipal zoning by-laws typically include requirements for total as well as specific percentages for common or shared amenity space, but not private amenity space. Some bylaws include private amenity spaces, such as balconies, in their definitions and calculations of amenity area, but do not require that private amenity space be provided, only that a certain percentage of total amenity area be available for common use.

The one exception, based on the by-laws that were reviewed, is the City of Guelph which requires a minimum of 20 square metres per unit of private amenity area for cluster and ground level townhouses and 10 square metres per unit of private amenity area for stacked townhouses located above grade. Guelph includes a number of other very specific requirements regarding the location and dimensions for the provision of the private open space for these types of townhouses.

In other municipal zoning by-laws townhouse developments, including stacked and cluster townhouses, private amenity space is assumed to be addressed by setback and landscaping requirements much like the requirements for detached and semi-detached dwellings.

3.3.3 Common or Shared Amenity Space Standards

The focus of most municipal zoning by-laws regarding amenity space, is to require common amenity space, whether indoor or outdoor, to address the needs of residents of multi-unit residential buildings. Some units in multi-unit buildings may have access to small outdoor spaces through private balconies, but these do not compensate for the need for larger amenity areas providing recreation spaces, walking areas, children's play areas or meeting rooms for residents; hence the focus on requiring common amenity areas in municipal zoning by-laws

Ottawa requires six square metres per dwelling unit of total amenity area in apartment buildings, mixed use buildings with more than nine units, stacked dwellings with more than nine units, retirement homes and residential care facilities and 10 percent of the gross floor area of rooming houses. At least 50 percent of the total area must be communal. Ottawa's also requires that the communal amenity area be aggregated in areas up to 54 square metres and that where more than one aggregate area is provided at least one be more than 54 square metres. In late 2013 Ottawa approved by-law amendments to its amenity space provisions, which increase the requirements for a three unit dwelling to 45 square metres and low rise apartment dwelling up to 8 units to 15 square metres. It also increases the requirement for communal amenity area for these buildings and rooming houses to 100 percent of total amenity area required.

Toronto's requirement for amenity space applies to apartment buildings and mixed use buildings with more than 20 units in a number of zones, although, some zones that permit apartment buildings require only outdoor open space for these buildings, rather than amenity space. Where amenity space is required, four square metres of amenity space for each dwelling unit is to be provided of which at least two square metres is indoor amenity space and at least 40 square metres is outdoor amenity space and directly accessible from the indoor amenity space. Only 25 percent of the outdoor amenity space can be a green roof. See Appendix 4 for amenity space and amenity area provisions in Toronto and Ottawa zoning by-laws.

Mississauga has a requirement similar to Ottawa's and Toronto's for multi-unit buildings, but simply requires a minimum of 5.6 square metres of amenity area per dwelling unit or 10 percent of the site area. Mississauga also requires that a minimum of 40 percent of the lot be landscaped.

Guelph's requirement for common amenity area for developments with less than 20 units in R3A (residential townhouse) zones is a minimum of five square metres per dwelling, which is aggregated into areas of not less than 50 square metres. For stacked and cluster townhouse developments with less than 20 units, the requirement is 10 square metres per dwelling unit (this is in addition to the private amenity area requirements described earlier). In R 4 (apartment) zones the requirement is much higher: a minimum of 30 square metres per dwelling unit, up to 20 dwellings, and 20 square metres per unit for developments with more than 20 dwellings. There is no private amenity space requirement for these areas.

Other municipalities also have much greater requirements for amenity areas. For example, Waterloo requires 15 square metres of amenity area (including balconies) per apartment dwelling unit in a Commercial One zone. Burlington requires 25 square metres per unit, or per bedroom, depending on the zone, with a reduction to 15 square metres for each efficiency (bachelor) unit in apartments, stacked townhouses and retirement homes. Vaughan and Windsor vary the requirements by unit size as follows:

Bachelor	15 sq. m. minimum
One Bedroom Unit	20 sq. m. minimum
Two Bedroom Unit	55 sq. m. minimum
Three Bedroom Unit	90 sq. m. minimum
Four Bedroom Unit or larger	110 sq. m. minimum (Vaughan only)

Varying the amenity space requirements based on unit size, as in Vaughan and Windsor, is premised on addressing different needs based on assumptions about potential household size in larger units. It does however have the effect of discouraging the provision of larger units by imposing more stringent requirements than for smaller units and may conflict with other City objectives to encourage larger units in multi-unit residential buildings.

3.4 Conclusions Regarding Residential Amenity Space

Based on a review of provisions in other Ontario municipal zoning by-laws, here are three main issues that need to be addressed as part of the new comprehensive zoning by-law regarding residential amenity space in multi-unit developments: 1) should the requirement distinguish between common and private amenity space; 2) should the requirement distinguish between outdoor and indoor amenity space; and 3) what is the appropriate amount of space to be provided and how should it be measured. An underlying consideration for Markham is to determine how complex or simple to make these regulations. Some municipalities have detailed provisions that are varied by unit and development size. Others are quite straightforward.

The following summarizes requirements for residential amenity areas in multi-unit residential buildings that will need to be considered when drafting of the new comprehensive zoning by-law:

- Determine if amenity area is defined to include private balconies and patios or if the requirement is to apply only to the provision of common space and if it does include private balconies and patios, whether there should be a minimum requirement for the common amenity area. Toronto and Mississauga define amenity space as shared or communal, whereas Ottawa and Hamilton include both personal and communal space. In the case of Ottawa at least 50 percent of the amenity space must be communal, but for certain types of buildings (small apartments, rooming houses) 100 percent of the space is to be communal.
- Determine if the requirement should distinguish between outdoor amenity space and indoor amenity space and if so, how this would align with requirements which may exist for landscaped open space elsewhere in the by-law. For example, Toronto requires two square metres per unit of indoor common amenity space and at least 40 square metres per development of outdoor amenity space that is directly accessible from the indoor amenity space. Mississauga requires that 40 percent of the lot area be landscaped.
- Determine if there should be a minimum threshold number of units after which the regulations would apply. Toronto's requirements apply to developments with more than 20 units. Ottawa's requirements generally apply to developments with more than nine units.
- Determine the size requirement of amenity space per unit. Toronto requires 4 square metres of common amenity space per unit (2 of which must be indoor). Ottawa generally requires a total of 6 square metres of private and common amenity space. Mississauga requires 5.6 square metres per unit of common amenity space.

Task 10: Residential Accessory Structures and Amenity Space

- Determine if the requirement should be the same for each unit regardless of size, or if the requirement should vary based on unit size, taking into consideration that a higher requirement for larger units may discourage the development of larger units in multi-unit buildings. Determine the size of the requirement per unit.
- If the decision is to distinguish between indoor and outdoor amenity space, consider if there should be direct access from some of the indoor to some the outdoor space, as in the case of Toronto.
- Determine if there should be a private open space requirement for stacked and cluster townhouses. For example, Guelph requires 20 square metres of private amenity area for cluster and ground level townhouse and 10 square metres for stacked townhouses. Other municipalities are silent on this.

Draft

References

City of Hamilton. Zoning By-law 05-200, May 11, 2010

City of Markham Official Plan, June 2014.

-----Zoning By-law 177-96, consolidated November, 2014.

City of Ottawa. Zoning By-law 2008-250, October 8, 2014.

<http://ottawa.ca/en/residents/laws-licenses-and-permits/laws/city-ottawa-zoning-law/zoning-law-2008-250-consolidation>

City of Toronto. City of Toronto Zoning By-Law 569-2013, May 9, 2014. <http://www1.toronto.ca/wps/portal/>

Draft

APPENDIX 1:
Current Markham Zoning By-laws
Provisions re Accessory Buildings

TABLE 1

Table 1. Current Markham Zoning By-Laws Accessory Buildings Provisions

By-Laws	Accessory Building Provisions
162-78, 118-79, 72-81, 153-80, 163-78, 72-79, 145-78, 221-81, 184-78, 250-77, 134-79, 90-81	<p>6.2.1 Except as may be provided herein, all accessory buildings which are not part of the main building shall be erected in the rear yard and shall be at least .6 metres from the nearest lot line and shall not occupy more than five (5) percent of the area of the lot, and no person shall erect any accessory building on a corner lot or through lot at a lesser distance from the street line on which adjoining residential lot(s) front than the depth of the front yard required for a dwelling on any adjoining lot.</p> <p>6.2.2 Any accessory building may be erected as part of the main building or attached thereto provided all yard and area requirements of this by-law with respect to a main building are complied with. For the purpose of this paragraph, an accessory building attached to the main building by a breezeway shall be deemed to be part of the main building.</p> <p>6.2.3 No accessory building shall be erected prior to the erection of the main building except where it is necessary for the storage of tools or materials for use in the construction of the main building for which a building permit has been issued, and no such accessory building shall, prior to the erection of the main building, be sued for any purpose other than storage.</p> <p>6.2.4 No accessory building erected separately from the main building shall exceed a height of 4.5 metres.</p>
2571, 1767, 151-75, 2150, 2237, 2612, 2489,	<p>4.3.1 Except as may be provided herein, all accessory buildings which are not part of the main building shall be erected in the rear yard and shall be at least 2 feet from the nearest lot line and shall not occupy more than ten (10) percent of the area of the lot, and no person shall erect any accessory building on a corner lot or through lot at a lesser distance from the street line on which adjoining residential lot(s) front than the depth of the front yard required for a dwelling on any adjoining lot.</p> <p>4.3.2 Any accessory building may be erected as part of the main building or attached thereto provided all yard and area requirements of this by-law with respect to a main building are complied with. For the purpose of this paragraph, an accessory building attached to the main building by a breezeway shall be deemed to be part of the main building.</p> <p>4.3.3 No accessory building shall be erected prior to the erection of the main building except where it is necessary for the storage of tools or materials for use in the construction of the main building for which a building permit has been issued, and no such accessory building shall, prior to the erection of the main building, be sued for any purpose other than storage.</p> <p>4.3.4 No accessory building erected separately from the main building shall exceed a height of 15 feet.</p>
83-73, 127-76, 122-72,	<p>In any RRH or RR1 zone, no accessory building shall:</p> <ol style="list-style-type: none"> 1. be located in a front or side yard of a residential building;

**APPENDIX 2:
Excerpt from the June 2009
Markham DSC**

Draft

Proposed Standards for Accessory Buildings and Structures in Markham

	Residential zones with a lot area ≤ 0.1 ha (1,000m ²)	Residential zones with a lot area > 0.1 ha (1,000m ²) and < 0.4 ha (4,000m ²)	RRH and Rural Residential lots having a lot area of 0.4 hectares or greater
Permitted Yards	Interior side and rear yards		
Minimum setback from rear and interior side lot lines	1.2 m (1)	1.2 m (1)	1.2 m (1)
Minimum setback from exterior side lot line	No closer than the main building from the exterior side lot line.		
Maximum floor area per accessory building or accessory structure (not including a detached garage)	10.0 m ²	20.0 m ²	50.0 m ²
Maximum height	4.5 m	4.5 m	5.5 m
Maximum number of accessory buildings or accessory structures per lot	2 (2)	3 (2)	n/a

SPECIAL PROVISIONS

- (1) May be reduced to 0.5 metres if there are no openings in the wall of the accessory building or accessory structure facing the rear or interior side lot line;
- (2) The maximum number of accessory buildings or accessory structures per lot includes any detached private garage. The maximum number of detached private garages per lot is one.

Rear Yard Soft Landscaping Requirement

For the purpose of the proposed By-law, soft landscaping means the percentage of the relevant yard comprised of any combination of flowers, grass, shrubs, sod, trees or other horticultural elements that is not covered by architectural elements, including but not limited to asphalt, buildings, brickwork, concrete, stonework or structures.

	Residential zones with a rear yard area $\leq 75\text{m}^2$)	Residential zones with a rear yard area $> 75\text{m}^2$ and $< 140\text{m}^2$	RRH and Rural Residential lots having a rear yard area of 140m ² or greater
Minimum Percentage Soft Landscaping in Rear Yard	25%	40%	60%

**APPENDIX 3:
Summary of Municipal Zoning
By-law Provisions for Accessory
Buildings and Structures**

City		Accessory use Provisions			
City	Definition	Zoning Mechanism	Provisions		
City of Ottawa By-law 2008-250	Accessory means aiding or contributing in a secondary way to a principal use to carry out its function, and having regard to this definition: (a) an accessory use is a land use that is accessory to a principal use; (b) an accessory building is a building that houses an accessory use; (c) an accessory structure is a structure, that is not a land use, but is accessory to a principal use and this definition is broadened to include tower antennas and	<p>I</p> <p>Zoning Mechanism</p> <p>(1) Minimum Required Setback from a Front Lot Line</p> <p>(2) Minimum Required Setback from a Corner Side Lot Line or a Rear Lot Line abutting a street</p> <p>(a) for a garage, carport or temporary car shelter with direct vehicular access</p> <p>(b) other cases</p> <p>(3) Minimum Required Setback from an Interior Side Lot Line or Rear Lot Line not abutting a street</p> <p>(a) For a marine facility where it abuts a</p> <p>(b) For shared garages or carports erected on a common side lot</p> <p>(c) For children's play structures and for walkable decking serving an above-</p>	<p>II</p> <p>R1, R2, R3, R4, R5, V1, V2 and V3 Zones (By-law 2010-123)</p> <p>Same as required for principal building. (By-law 2008-326) (By-law 2008-462)</p> <p>Same as minimum corner side yard set back</p> <p>1.2 m</p>	<p>III</p> <p>AG, EP, ME, MR, RC, RG, RH, RI, RM, RR and RU Zones (By-law 2010-123)</p> <p>Same as minimum corner side yard or rear yard setback respectively</p> <p>0 m</p>	<p>IV</p> <p>All Other zones</p> <p>(i) Abutting a residential zone: a distance equal to the height of the structure</p> <p>(i) Abutting a residential zone: a distance equal to the height of the structure</p>

Task 10: Residential Accessory Structures and Amenity Space

	satellite dishes.	<p>ground swimming pool or hot tub (note: for the purposes of this provision, the height of a play structure means the highest point designed)</p> <p>(d) For above ground pools or hot tubs not equipped with walkable decking and not contained within a</p> <p>(e) Other accessory buildings or structures, or situations not otherwise specified above (By-law 2013-359)</p> <p>(4) Minimum Required Distance from Any Other Building Located on the same lot, except for a hot tub</p> <p>(5) Maximum Permitted Height (see also Section 64)</p> <p>(6) Maximum Permitted Size</p>	<p>(ii) Not abutting a residential zone - 0.6 m</p> <p>0.6m</p> <p>(i) In a front or interior side yard - same as principal building</p> <p>(ii) In a rear yard - 0.6 m</p> <p>(i) In a front, interior side or corner side yard - same as principal</p> <p>(ii) In a rear yard - 1 m</p> <p>0 m</p> <p>(a) AG, RU Zones - 12 m (By-law 2009-164)</p> <p>(b) RU1 to RU4 subzones and all other zones - 6 m</p> <p>(a) Aggregate of all accessory buildings not to exceed a lot coverage of 50% of the yard in which they are located, with a maximum cumulative floor area of 55 m² as measured from the exterior walls of the building (By-law 2009-302)²</p> <p>(b) In an RM zone:</p>	<p>Not abutting a residential zone: 0.6 m</p> <p>0.6m</p> <p>Abutting a residential zone: 0.6 m</p> <p>Not abutting a residential zone - 0 m</p> <p>6 m</p> <p>No restriction</p>
--	-------------------	---	--	---

		<p>(i) A maximum of 10 m² is permitted for a maximum of one accessory building associated with a mobile home site; and</p> <p>(ii) A maximum cumulative total gross floor area of 300 m² may be used for accessory buildings or structures whose sole purpose is to provide space for tools, equipment, materials and similar items, or for accessory uses needed to maintain the mobile home park; and must not be used for storage for individual mobile home sites, nor for commercial storage. (By-law 2010-123)</p>
		<p>(c) In all other column III zones, aggregate of all accessory buildings not to exceed 5% of the total lot area or 150m², whichever is the greater (By-law 2009-164) (By-law 2010-123)</p>
	<p>(7) Maximum Number of Accessory Buildings Permitted on a lot 2</p>	<p>No restriction</p>
<p>Town of Oakville Zoning By-law 2014-014</p>	<p>Accessory building or structure means a building or structure used for an accessory</p>	<p>6.5.1 General Provisions a) An <i>accessory building</i> or <i>structure</i> shall be located on the same <i>lot</i> as primary <i>use</i> to which it is associated. b) An <i>accessory building</i> or <i>structure</i> shall not be used for human habitation or an occupation for gain or profit, unless otherwise permitted by this By-law. 6.5.2 Regulations</p>

	<p>purpose, including a detached private garage, that is:</p> <p>a) located on the same lot as the primary use, building, or structure; and,</p> <p>b) is not used for human habitation or an occupation for gain or profit unless otherwise permitted by this By-law.</p>	<p>a) The maximum height for an accessory building or structure shall be 4.0 metres, measured from grade.</p> <p>b) In a front or interior side yard the minimum yard for an accessory building or structure shall be the same as for the dwelling on the lot.</p> <p>c) In a flankage or rear yard, the minimum yard from any lot line shall be 0.6 metres, provided that the accessory building or structure has a minimum separation distance of 2.0 metres from the dwelling.</p> <p>d) Notwithstanding subsections (a) above, an accessory building or structure shall have a maximum height of 2.5 metres, measured from grade, in the following locations:</p> <ul style="list-style-type: none"> i) A flankage yard; or, ii) That portion of a rear yard defined by a distance equal to the minimum flankage yard required for the dwelling in the applicable zone from the flankage lot line. <p>e) The maximum lot coverage shall be the greater of 5% of the lot area or 42.0 square metres of building area, except as specified otherwise by this By-law. This lot coverage shall be additional to the maximum lot coverage for the dwelling.</p>
<p>City of Toronto Zoning By-law 569-2013</p>	<p>Ancillary means naturally and normally incidental, subordinate in purpose or floor area, and exclusively devoted to a permitted use, building or structure.</p>	<p>10.5.60 Ancillary Buildings and Structures</p> <p>10.5.60.1 General</p> <p>(1) Application of this Article</p> <p>The regulations in Article 10.5.60 apply to ancillary buildings or structures in the Residential Zone category, if they are ancillary to dwelling units or residential buildings.</p> <p>(2) Living Accommodation in Ancillary Buildings</p> <p>An ancillary building in the Residential Zone category may not be used for living accommodation.</p> <p>(3) Food or Sanitary Facilities in Ancillary Buildings</p> <p>An ancillary building in the Residential Zone category may have:</p> <p>(A) food preparation facilities and sanitary facilities if the ancillary building is for indoor amenity space required by this By-law; or</p> <p>(B) either food preparation facilities or sanitary facilities, but not both, if the ancillary building is used for any purpose other than an indoor amenity space required by this By-law.</p> <p>(4) Ancillary Building or Structure Construction Timing</p> <p>In the Residential Zone category, no above-ground part of an ancillary building or structure may be erected prior to the erection of the main walls and completion of the roof of a residential building on the same lot.</p> <p>10.5.60.10 Location</p> <p>(1) Ancillary Buildings or Structures Not Permitted in Front Yard</p> <p>An ancillary building or structure in the Residential Zone category may not be located in a front yard.</p>

	<p>10.5.60.20 Setbacks</p> <p>(1) Parts of an Ancillary Building or Structure to which a Required Building Setback Applies in the Residential Zone category, required minimum ancillary building setbacks apply to all parts of an ancillary building or structure above-ground and below-ground, excluding footings.</p> <p>(2) Ancillary Buildings or Structures - Rear Yard Setback</p> <p>Subject to regulation 10.5.60.20(5), in the Residential Zone category:</p> <p>(A) if an ancillary building or structure is on a through lot, and a residential building on an adjacent lot fronts on the street that abuts the rear lot line of the through lot, the required minimum rear yard setback for the ancillary building or structure is equal to the required minimum front yard setback for the residential building on the adjacent lot;</p> <p>(B) if an ancillary building or structure is on a lot with a lot depth greater than 45 metres, and its height is greater than 2.5 metres or its floor area is greater than 10 square metres, the required minimum rear yard setback for the ancillary building or structure is equal to half the height of the ancillary building or structure; and</p> <p>(C) in cases other than those set out in (A) or (B) above, the required minimum rear yard setback for ancillary buildings or structures is 0.3 metres.</p> <p>(3) Ancillary Buildings or Structures - Side Yard Setback</p> <p>Subject to regulations 10.5.60.20(6) and (7), in the Residential Zone category, the required minimum side yard setback for an ancillary building or structure:</p> <p>(A) in a side yard, is the required minimum side yard setback for the residential building on the lot;</p> <p>(B) in a rear yard and less than 1.8 metres from the residential building on the lot, is the same as the required minimum side yard setback for the residential building; and</p> <p>(C) in a rear yard and 1.8 metres or more from the residential building on the lot, is as follows:</p> <p>(i) if it is on a corner lot, and a residential building on an adjacent lot fronts on the street that abuts the side lot line of the corner lot, the ancillary building or structure must be set back from the side lot line that abuts the street a distance equal to the required minimum front yard setback for the residential building on the adjacent lot;</p> <p>(ii) if it is on a lot with a required minimum lot frontage of 21.0 metres or more, and its height is greater than 2.5 metres or its floor area, is greater than 10 square metres, the required minimum side yard setback is equal to half the height of the ancillary building or structure; and</p> <p>(iii) in cases other than those set out in (i) and (ii) above, the required minimum side yard setback is 0.3 metres.</p> <p>(4) Ancillary Building or Structure - Setback from a Lane</p> <p>Despite regulations 10.5.60.20(2), (3) and (5) to (11), an ancillary building or structure in the Residential</p>
--	--

	<p>Zone category may be no closer than 2.5 metres from the original centreline of a lane.</p> <p>(5) Detached Private Garages - Rear Yard Setback In the Residential Zone category, the required minimum rear yard setback for an ancillary building or structure containing a parking space must comply with regulation 10.5.60.20(2), except:</p> <p>(A) if the rear lot line abuts a lane and vehicle access to the parking space in the ancillary building is from the lane, the required minimum rear yard setback is 1.0 metres, subject to regulation 10.5.60.20(4); and</p> <p>(B) if it is on a through lot, and vehicle access is from the street abutting the rear lot line, the required minimum rear yard setback is the greater of:</p> <p>(i) the required minimum front yard setback for a residential building on the adjacent lot that fronts on the same street that the rear lot line abuts; or</p> <p>(ii) 6.0 metres.</p> <p>(6) Detached Private Garages - Side Yard Setback In the Residential Zone category, the required minimum side yard setback for an ancillary building or structure containing a parking space must comply with regulation 10.5.60.20(3), except:</p> <p>(A) if a side lot line abuts a lane, and vehicle access to the parking space is from the lane, the required minimum building setback from that side lot line is 1.0 metres, subject to regulation 0.5.60.20(4); and</p> <p>(B) if it is on a corner lot, and vehicle access is from the street abutting the side lot line, the required minimum side yard setback is 6.0 metres.</p> <p>(7) Detached Private Garages Situated on More than One Lot Despite regulation 10.5.60.20(3) and (6), if an ancillary building or structure contains the required parking spaces for dwelling units on abutting lots in the Residential Zone category, it may be located on the common side lot line.</p> <p>(8) Swimming Pools or Similar Ancillary Structures Containing Water - Rear Yard Setback Despite regulation 10.5.60.20(2), in the Residential Zone category, the required minimum rear yard setback for an outdoor swimming pool or other ancillary structure used to hold water, such as a fountain or artificial pond, is as follows:</p> <p>(A) on a lot with a residential building other than an apartment building:</p> <p>(i) 25.0 metres, if it is a through lot and if an adjacent lot fronts on the street abutting the rear lot line of the through lot;</p> <p>(ii) 3.0 metres, if it is a corner lot and if an adjacent lot fronts on the street abutting the side lot line of the corner lot;</p> <p>(iii) 1.2 metres in all other cases; and</p> <p>(iv) no minimum rear yard setback is required if the water surface area is 1.0 square metres or less; and</p> <p>(B) on a lot with an apartment building:</p>
--	--

		<p>(i) 7.5 metres, if it is a through lot;</p> <p>(ii) 4.5 metres in all other cases; and</p> <p>(iii) no minimum rear yard setback is required if the water surface area is 3.0 square metres or less.</p> <p>(9) Swimming Pools or Similar Ancillary Structures Containing Water - Side Yard Setback Despite regulation 10.5.60.20(3), in the Residential Zone category, the required minimum side yard setback for an outdoor swimming pool or other ancillary structure used to hold water, such as a fountain or artificial pond, is as follows:</p> <p>(A) on a lot with a residential building other than an apartment building:</p> <p>(i) the greater of 1.2 metres or the side yard setback required by regulation 10.5.60.20(3);</p> <p>(ii) if it is a corner lot, the required minimum side yard setback for the residential building, plus 1.5 metres, from the side lot line abutting a street; and</p> <p>(iii) no minimum side yard setback is required if the water surface area is 1.0 square metres or less; and</p> <p>(B) on a lot with an apartment building:</p> <p>(i) 4.5 metres;</p> <p>(ii) if it is a corner lot, 7.5 metres from the side lot line abutting a street; and</p> <p>(iii) no minimum side yard setback is required if the water surface area is 3.0 square metres or less.</p> <p>(10) Ground Mounted Heating or Air-Conditioning Devices - Front Yard Setbacks and Side Yard Setbacks In the Residential Zone category, for a heating or air-conditioning device that is mounted on the ground:</p> <p>(A) despite regulation 10.5.60.10(1), the device may be located in a front yard, if it is at least 6.0 metres from the front lot line; and</p> <p>(B) despite regulation 10.5.60.20(3)(A), the device may be in a side yard, if it is no closer to the side lot line than the lesser of:</p> <p>(i) 0.9 metres; or</p> <p>(ii) the required minimum side yard setback for the residential building on the lot.</p> <p>(11) Open Platforms - Rear Yard Setbacks and Side Yard Setbacks Despite regulation 10.5.60.20(2) and (3), in the Residential Zone category, the required minimum rear yard setback and side yard setback for a platform, such as a deck or similar structure, with a minimum of 50% of the total area of its exterior sides above the platform's floor open to the outside, and that is located no closer to the residential building on the lot than 0.3 metres, is the greater of:</p> <p>(A) 0.3 metres; or</p> <p>(B) a distance equal to the highest vertical distance between any part of the floor of the platform and the ground below it.</p> <p>10.5.60.30 Separation</p> <p>(1) Minimum Separation Between Residential Buildings and Ancillary Buildings or Structures of a Certain</p>
--	--	--

<p>Size</p>	<p>In the Residential Zone category, an ancillary building or structure with a height greater than 2.5 metres, or a gross floor area greater than 10 square metres, must be at least 1.8 metres from a residential building on the same lot.</p> <p>(2) Maximum Separation Between Residential Buildings and Ground Mounted Heating or Air-Conditioning Devices in a Rear Yard</p> <p>A heating or air-conditioning device that is mounted on the ground in the rear yard of a lot in the Residential Zone category may be no more than 2.0 metres from the rear main wall of the residential building.</p> <p>10.5.60.40 Height</p> <p>(1) Determining the Height of Ancillary Buildings or Structures</p> <p>In the Residential Zone category, the height of an ancillary building or structure is the distance between average grade and the elevation of the highest point of the ancillary building or structure.</p> <p>(2) Maximum Height of Ancillary Buildings or Structures</p> <p>The permitted maximum height of an ancillary building or structure in the Residential Zone category is:</p> <p>(A) 2.5 metres, if the ancillary building or structure is located less than 1.8 metres from the residential building on the lot; and</p> <p>(B) 4.0 metres in all other cases.</p> <p>(3) Maximum Storeys for Ancillary Buildings or Structures</p> <p>An ancillary building or structure in the Residential Zone category may not have more than one storey.</p> <p>(4) Entrances to Ancillary Buildings or Structures</p> <p>The permitted maximum height of the top of an entrance into an ancillary building or structure in the Residential Zone category is 2.5 metres above the average elevation of the ground along the entrance to the ancillary building or structure.</p> <p>(5) Height Restrictions for Platforms</p> <p>In the Residential Zone category, a platform, such as a deck or similar structure, other than a green roof, may not be:</p> <p>(A) located on top of any ancillary building; and</p> <p>(B) attached to an ancillary building or structure containing a parking space, if the platform is more than 1.2 metres above the ground at any point below the platform.</p> <p>10.5.60.50 Floor Area</p> <p>(1) Exclusion from Floor Space Index</p> <p>In the Residential Zone category, the gross floor area of ancillary buildings is not included for the purpose of area.</p>
-------------	---

		<p>(2) Lot Coverage Requirement for Swimming Pools or Similar Ancillary Structures Containing Water in the Residential Zone category, the water surface area of an outdoor swimming pool or other structure used to hold water, such as fountains or artificial ponds:</p> <p>(A) is not included in the calculation of lot coverage; and</p> <p>(B) the water surface area may not exceed 15% of the lot area.</p> <p>calculating the total gross floor area and floor space index for a lot.</p> <p>(2) Maximum Floor Area of Ancillary Buildings or Structures</p> <p>The total floor area of all ancillary buildings or structures on a lot in the Residential Zone category, other than an outdoor swimming pool or other structure used to hold water, must not be greater than:</p> <p>(A) 60.0 square metres for a lot with a lot frontage of 12.0 metres or more; and</p> <p>(B) 40.0 square metres in all other cases.</p> <p>(3) Maximum Floor Area of an Ancillary Building or Structure Close to a Residential Building on the Same Lot</p> <p>In the Residential Zone category, the permitted maximum floor area of an ancillary building or structure located less than 1.8 metres from a residential building on the lot is 10.0 square metres.</p> <p>10.5.60.60 Permitted Encroachments</p> <p>(1) Roof Projections for Ancillary Buildings</p> <p>In the Residential Zone category, the eaves of a roof on an ancillary building may encroach into the required minimum building setback in Clause 10.5.60.20 a maximum of 0.3 metres, if the eaves are no closer to a lot line than 0.15 metres.</p> <p>10.5.60.70 Lot Coverage</p> <p>(1) Lot Coverage Requirement for Ancillary Buildings and Structures</p> <p>An ancillary building or structure on a lot in the Residential Zone category, other than the water surface area of an outdoor swimming pool or other ancillary structure used to hold water, such as fountains or artificial ponds:</p> <p>(A) is included in the overall calculation of lot coverage; and</p> <p>(B) the area of the lot covered by all ancillary buildings and structures may not exceed 10% of the lot area.</p> <p>(2) Lot Coverage Requirement for Swimming Pools or Similar Ancillary Structures Containing Water</p> <p>In the Residential Zone category, the water surface area of an outdoor swimming pool or other structure used to hold water, such as fountains or artificial ponds:</p> <p>(A) is not included in the calculation of lot coverage; and</p> <p>(B) the water surface area may not exceed 15% of the lot area.</p> <p>ACCESSORY BUILDINGS IN ALL ZONES</p> <p>Unless otherwise provided for in this By-law, no accessory building shall be used for human habitation.</p>
City of Hamilton	Accessory shall mean a use which	

<p>Zoning By-law 05-200</p>	<p>is commonly incidental, subordinate and exclusively devoted to the main use or main building situated on the same lot.</p>	<p>RESIDENTIAL ZONES, DOWNTOWN D5 AND DOWNTOWN D6 ZONES AND INSTITUTIONAL ZONES</p> <p>a) No accessory building shall be located within a front yard.</p> <p>b) All buildings accessory to a residential use shall not exceed a gross floor area, including areas devoted exclusively to parking, of 97 square metres, or exceed 30% lot coverage of the yard in which the accessory buildings are located. This regulation shall not apply to an inground swimming pool.</p> <p>c) Accessory buildings having a maximum gross floor area of less than 10.0 square metres and a maximum building height of 3.0 metres may be located in a required rear yard or a required side yard.</p> <p>d) Buildings accessory to a residential use shall have a maximum building height of 5.0 metres. The maximum height of the underside of any fascia eaves, overhang or the lower ends of the roof joists, rafters or trusses shall be 3.0 metres.</p> <p>e) The following regulations shall apply to buildings accessory to a residential use which have a gross floor area between 10.0 square metres and 18 square metres:</p> <p>i) Side Yard 0.6 metres</p> <p>ii) Rear Yard 0.6 metres</p> <p>iii) In no case shall an eave or gutter extend more than .3 metres into a required yard; and,</p> <p>iv) Where such accessory building is designed and intended for parking of motor vehicles, such accessory building shall be set back a minimum of 6.0 metres from any street line.</p> <p>f) Accessory buildings greater than 18 square metres in gross floor area shall conform to the regulations required for dwelling type to which the building is accessory to.</p> <p>g) Buildings greater than 18 square metres of gross floor area and accessory to an Institutional use shall conform to the regulations of the principle use.</p>
<p>City of Mississauga By-law 0225- 2007</p>	<p>Means a subordinate building or structure on the same lot as the main building or subordinate to part of the main building and used exclusively as an accessory use.</p>	<p>4.1.2 Accessory Buildings and Structures</p> <p>4.1.2.1 A maximum of one (1) accessory building, structure and/or one (1) detached garage and/or one (1) gazebo and/or one (1) pergola shall be permitted per lot in R1 to R11, R15, RM1, RM2, RM7 and RM8 zones in compliance with the regulations contained in Table 4.1.2.2 - Accessory Buildings and Structures. (0308-2011), (0297-2013)</p> <p>4.1.2.1.1 Where a lot in R1 to R11 and R15 zones contains more than one (1) detached dwelling unit, a maximum of one (1) gazebo and/or one (1) pergola and/or one (1) accessory building or structure per detached dwelling unit shall be permitted. (0308-2011), (0297-2013)</p> <p>4.1.2.2 A maximum of one (1) accessory building or structure, other than a detached garage, and/or one (1) gazebo and/or one (1) pergola per lot shall be permitted in R16, RM3 to RM6, RM9 and RA1 to RA5 zones, in compliance with the regulations contained in Table 4.1.2.2 - Accessory Buildings and Structures. (0297-2013)</p>

Table 4.1.2.2 - Accessory Buildings and Structures

Column	A	B	C	D	E
Line	TYPE	Detached Garage	Gazebo	Other Accessory Building and Structure	Pergola (0297-2013)
1.0					
2.0	MAXIMUM NUMBER PERMITTED PER LOT	1 ⁽¹⁾	1	1	1
3.0	SIZE				
3.1	Maximum Floor Area	75 m ²	n/a	10 m ²	n/a
3.2	Maximum area occupied (0297-2013)	n/a	10 m ²	n/a	10 m ²
3.3	Minimum rectangular area measured from the inside face of walls (width x length)	2.75 m x 6.0 m	n/a	n/a	n/a
3.4	Minimum unobstructed area for parking (width x length x height)	2.75 m x 5.2 m x 2.0 m	n/a	n/a	n/a
3.5	Maximum percentage of the total perimeter permitted to be enclosed by walls, lattice, doors and/or windows (0297-2013)	n/a	50%	n/a	0%
4.0	MAXIMUM LOT COVERAGE	10% of the lot area ⁽²⁾	n/a ⁽²⁾	n/a ⁽²⁾	n/a ⁽²⁾
5.0	MAXIMUM HEIGHT:				
5.1	Sloped roof - highest ridge (0325-2008)	4.6 m	3.0 m	3.0 m	n/a
5.2	Flat roof	3.0 m	3.0 m	3.0 m	n/a
5.3	Highest point of the structure (0297-2013)	4.6 m	3.0 m	3.0 m	3.0 m
6.0	MAXIMUM HEIGHT OF EAVES	3.0 m	n/a	n/a	n/a

7.0	MINIMUM SETBACK TO FRONT LOT LINE	The greater of 6.0 m or the same distance to the street as the front wall of the dwelling on the same lot
8.0	MINIMUM SETBACK TO EXTERIOR SIDE LOT LINE	The exterior side yard regulations of the applicable zone shall apply
9.0	MINIMUM SETBACK TO INTERIOR SIDE LOT LINE FOR ACCESSORY BUILDINGS AND STRUCTURES LOCATED IN AN INTERIOR SIDE YARD	The interior side yard regulations of the applicable zone shall apply (3)(4)
10.0	MINIMUM SETBACKS TO INTERIOR SIDE AND REAR LOT LINES FOR ACCESSORY BUILDINGS AND STRUCTURES LOCATED IN THE REAR YARD	
10.1	WHERE LOT AREA GREATER THAN OR EQUAL TO 750 m ²	1.2 m (5)
10.2	WHERE LOT AREA LESS THAN 750 m ²	0.61 m (5)
11.0	MINIMUM SETBACK OF A DETACHED GARAGE LOCATED IN THE REAR YARD TO THE DWELLING ON THE SAME LOT (0297-2013)	1.2 m
11.1	deleted by 0297-2013	n/a

NOTES: n/a means not applicable.

(1) Only one (1) detached garage or one (1) attached garage shall be permitted per lot.

(2) The maximum lot coverage in an applicable zone is inclusive of the combined total area used for all accessory buildings and structures. For a pergola, lot coverage equals the total area occupied. (0297-2013)

(3) In zones where the interior side yard is regulated by the number of storeys, the interior side yard to an accessory structure shall comply with the yard required for a one (1) storey dwelling.

(4) In zones having a combined width of interior side yards regulation, accessory structures shall comply with the required interior side yard regulation and the combined width of interior side yards regulation.

(5) See Subsection 4.1.8 of this By-law.

		<p>(6) On two (2) adjoining lots in a Residential Zone, a detached garage with a joint party wall is permitted.</p> <p>4.1.2.3 Decks and/or balconies are not permitted on top, above or projecting from any part of an accessory building or structure.</p> <p>4.1.2.4 For the purpose of Subsection 4.1.2, a deck, porch and/or balcony shall not be considered to be an accessory building or structure.</p> <p>4.1.2.5 For the purpose of Subsection 4.1.2, a building or structure, other than an attached garage, that is connected to a dwelling by an underground corridor or hallway, or by a corridor or hallway above grade with a width less than 5.0 m at any point, shall be considered an accessory building or structure. (0379-2009)</p>
--	--	---

**APPENDIX 4:
Excerpt from Town of Oakville Zoning By-law re Accessory Buildings and Structures**

6.5 Accessory Buildings and Structures

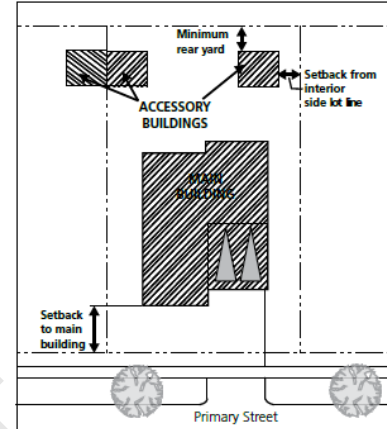
The following regulations apply to *accessory buildings* and *structures*:

6.5.1 General Provisions

- a) An *accessory building* or *structure* shall be located on the same *lot* as primary *use* to which it is associated.
- b) An *accessory building* or *structure* shall not be used for human habitation or an occupation for gain or profit, unless otherwise permitted by this By-law.

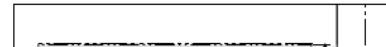
6.5.2 Regulations

- a) The maximum *height* for an *accessory building* or *structure* shall be 4.0 metres, measured from *grade*.
- b) In a *front* or *interior side yard* the *minimum yard* for an *accessory building* or *structure* shall be the same as for the *dwelling* on the *lot*.
- c) In a *flankage* or *rear yard*, the *minimum yard* from any *lot line* shall be 0.6 metres, provided that the *accessory building* or *structure* has a *minimum separation distance* of 2.0 metres from the *dwelling*.
- d) Notwithstanding subsections (a) above, an *accessory building* or *structure* shall have a maximum *height* of 2.5 metres, measured from *grade*, in the following locations:
 - i) A *flankage yard*; or,
 - ii) That portion of a *rear yard* defined by a distance equal to the *minimum flankage yard* required for the *dwelling* in the applicable *zone* from the *flankage lot line*.
- e) The maximum *lot coverage* shall be the greater of 5% of the *lot area* or 42.0 square metres of *building area*, except as specified otherwise by this By-law. This *lot coverage* shall be additional to the maximum *lot coverage* for the *dwelling*.



Property owners should check for easements on their lot prior to placing an accessory building or structure. Most easements prohibit buildings and structures and the easement holder may demand that the building or structure be moved.

A porch appurtenant to a detached dwelling shall be considered an accessory structure for the purpose of calculating lot coverage.



**APPENDIX 5:
Toronto and Ottawa Zoning By-law
Amenity Space Standards**

Draft

City of Toronto

Amenity Space for an Apartment Building

In the R zone, an apartment building with 20 or more dwelling units must provide amenity space at a minimum rate of 4.0 square metres for each dwelling unit of which:

- (A) at least 2.0 metres for each dwelling unit is indoor amenity space;
- (B) at least 40.0 square metres is outdoor amenity space in a location adjoining or directly accessible to the indoor amenity space; and
- (C) no more than 25% of the outdoor component may be a green roof.

City of Ottawa

I Land Use	II Total Amenity Area	III Communal Amenity Area	IV Layout of Communal Amenity Area
(1) Apartment Building, low rise of more than four dwelling units (Subject to By-law 2014-189)	6m ² per dwelling unit, and 10% of the gross floor area of each rooming unit	A minimum of 50% of the required total amenity area	Aggregated into areas up to 54 m ² , and where more than one aggregated area is provided, at least one must be a minimum of 54 m ²
(2) Apartment Dwelling, mid rise, Apartment Dwelling, high rise (By-law 2014-292)			
(3) Mixed Use Building, with 9 or more dwelling units or rooming units			
(4) Stacked dwelling of 9 or more dwelling units			
(5) Retirement Home			
(6) Retirement Home, Converted			
(7) Residential care facility	10% of the gross floor area of each rooming unit	All of the total amenity area	
(8) Planned Unit Development	As per dwelling type	As per dwelling type	As per dwelling type
(9) Other uses	Not required		