

September 21, 2018 City Council

Application No. D06-2018-022

Mayor and Council c/o Office of the City Clerk

26 Francis Street

P.O. Box 9000

Lindsay, On K9V 5R8

EDITED NOTES FROM DOUG CARROLL, PLANNER

3 Crestwood Ave., Lindsay

Report PLAN2018-073:

The report states the platform is not a permitted use in the Rural Residential Type Three (RR3) Zone, and as it is 9 m. high, it does not comply with the requirement in the Zoning By-law.

We agree the platform is not in compliance with one (1) of the requirements, being the height provision for accessory structures. The permitted height of an accessory structure *“shall not exceed 5 metres (16.4 ft.)”*.

If the platform is constructed at the permitted height of 5 m. it will provide a clearer view into the yards of adjacent properties than at 9 m. The platform is 4 m. (13.12 ft.) higher than permitted.

The maximum permitted height of houses in this neighbourhood is 11 m. and the platform is 2 m. lower than that height. Therefore windows and doorways in houses are permitted to be 2 m. higher than the platform.

This platform is similar to an uncovered tree-house, which is an accessory structure to a house. The definition of **ACCESSORY BUILDING** is *“a detached building or structure on the same lot as the main building devoted exclusively to an accessory use.”*

The definition of **STRUCTURE** is *“anything that is erected, built or constructed of parts joined together with a fixed location on the ground, or attached to something having a fixed location in or on the ground”*.

This accessory structure also conforms to the use and location requirements for accessory Structures and Uses because it is:

- *an “accessory use”;*
- *“erected in a side or rear yard”;*
- *“erected not closer than 2 metres from a rear lot line and 2 metres from the side lot line”.*

Given these definitions and requirements, we disagree with the report that the platform is not a permitted use in the (RR3) Zone. It's our opinion that the platform is an accessory structure as it conforms to the definitions of **ACCESSORY BUILDING** and **STRUCTURE**.

Further, it is our opinion that this accessory structure also conforms to the applicable use and location provisions in the Zoning By-law.

2017 Growth Plan:

We don't know if City planning staff consulted with the planners at the Ministry of Municipal Affairs and Housing (MMAH) to determine if the Growth Plan is to be interpreted to prohibit an accessory structure in the back yard of a lot in a residential neighbourhood. We believe this accessory structure is not related to "growth" in the City. We note the Growth Plan does not contain a definition of use or accessory use. We believe this application is not contrary to any policy or definition in the Growth Plan.

2014 Provincial Policy Statement:

Again, we don't know if City planning staff consulted with MMAH planners to determine if the PPS is to be interpreted to prohibit an accessory structure in the back yard of a lot in a residential neighbourhood. We believe this accessory structure is not likely a matter of Provincial interest. We note the PPS does not contain a definition of use or accessory use. We believe this application is not contrary to any policy or definition in the PPS.

Conclusion:

We trust you'll conclude that the platform:

- is a permitted accessory use, as defined in the By-law;
- conforms to the use and setbacks in the By-law;
- if constructed at the permitted height of 5 m., will have a less obstructed view into the yards of adjacent properties;
- is at a height that is appropriate because of the natural slope of the lot, together with the density of the coniferous and deciduous tree foliage, provides greatest visual buffer;