

COMMITTEE OF THE WHOLE (WORKING SESSION) OCTOBER 30, 2001

**AMENDMENT TO ZONING BY-LAW 1-88
CITY OF VAUGHAN
SATELLITE DISHES
FILE: 15.79**

Recommendation

The Commissioner of Planning recommends:

1. THAT Staff be directed to prepare the necessary amendments to the Zoning By-law to implement the following standards respecting satellite dishes/antennae:
 - a) that dishes less than .9m square or in diameter be attached to the main building, and be no higher than the height of the building; and
 - b) that the current standards be maintained for dishes greater than .9m square or in diameter and antennae.
2. THAT an implementing by-law be forwarded to a future meeting of Council for enactment.

Purpose

To review the provisions and standards of the Zoning By-law with respect to satellite dishes and provide Council with recommended amendments thereto.

Background - Analysis and Options

On October 12, 1999, Council directed Staff to undertake a review of the requirements and standards of the Zoning By-law, with respect to satellite dishes; and,

- “1. That the recommendation contained in the following report of Councillor Ferri, dated October 4, 1999, be approved; and,
2. That ham radio antennae also be included in the review.”

On October 10, 2000, Council adopted a recommendation from the Commissioner of Planning & Urban Design that a public hearing be scheduled. The Public Hearing was subsequently held on April 2, 2001. No one appeared before Council.

The current standards of the Zoning By-law 1-88 that govern the use of satellite dishes were prepared in the early 1990's when large satellite dishes were common, thereby requiring significant rear and side yard setbacks. Current technology having greatly reduced the size of satellite dishes, and together with the current trend towards smaller lots, it is appropriate to review these standards.

By-law 1-88 Standards

Satellite dishes are defined as *“any device used or intended to be used to send and/or receive signals to/from satellites.”* Current satellite dishes range in size from 3m (10 feet) to 0.5m (18 inches) for the newer digital services (such as ExpressVu and Star Choice) and must face south to receive the signals.

Satellite dishes are regulated under Section 3.14(g), which applies to residential areas, and Section 6.1.11, which regulates dishes in employment and commercial zones. Section 3.14 g) states:

“A satellite dish shall be permitted only in the rear yard, provided such dishes are set back from the rear and side lot lines a minimum of 1.5m or the equivalent of the minimum side yard, whichever is greater. The maximum height of any such satellite dish shall be 4.5m measured from grade level to the highest point of the structure.”

Section 6.1.11, states:

“Notwithstanding Subsection 3.14(g) a satellite dish shall be permitted in any Employment Area or C7 Service Commercial Zone provided:

- a) The satellite dish shall not be located in the front or exterior side yard or between any main building and a streetline;
- b) The satellite dish shall comply with the minimum yard and maximum height requirements of the Zone as shown in Schedule “A”;
- c) Notwithstanding paragraph (b) above, a satellite dish may encroach a maximum of 1.5m into the minimum side yard requirement, except where there is a mutual driveway, provided the satellite dish is located a minimum of 6m above finished grade.”

Antennae are devices for the receiving and transmitting of radio signals, including amateur (ham) radio and digital television, such as LookTV.

Height of radio antennae are not currently regulated by By-law 1-88 as Section 3.5 specifically exempts radio towers and antennae from height restrictions. Antennae are, however, subject to setback requirements.

Federal and Provincial Governments

Industry Canada is responsible for the Radio Communication Act which divides users into two groups:

1. stations which require a site specific radio authorization such as businesses, telephone companies, cellular radio companies, government agencies and utilities; and,
2. stations that do not require a site-specific authorization such as radio service (GRS), amateur radio and receiving earth stations. Industry Canada renders a licensing decision, usually at the local or regional level and no licensing decision is required for the second group since no license is required or one has already been issued.

In July 1987, the Federal Department of communications funded a study entitled “Canada Municipalities and the regulation of Radio Antennae and their Support Structures” which concluded that municipal governments, “do not have lawful jurisdiction to create enforceable rules which relate directly to radio communication, but a properly framed by-law relating only incidentally to radio-communications, may co-exist with federal legislation, provided such by-laws do not unduly restrict the conduct of radio services or the operation of federal licensed radio stations.

The study provides guidance as to limits of municipal competence in this area. In particular, in regard to zoning and land use controls, it was concluded that a municipality may not regulate:

1. local ordinances (i.e. by-laws), whether general land use prohibitions (zoning) or specific ordinances attempting to deal with radio antennae or towers, are ineffectual to the extent that they propose to prohibit the siting of either a licensed or unlicensed antenna. Nor may they require that antenna be co-located on an antenna farm or other manner. (p.104)
2. municipal rules may not expressly control or limit the type or height of an antenna system or support structure, for aesthetic or any other purposes. (p.105)

Industry Canada encourages applicants for radio-communication systems to consult with municipalities to discuss land use concerns, but have concluded that:

“Radio-communications is a field exclusively within the legislative competence of the federal government. Therefore, a municipal by-law, or provincial legislation would not be deemed to be valid should it have the effect of, for example:

- prohibiting the siting of an antenna structure.
- expressly controlling or limiting the height or type of antenna structure for aesthetic or any other purpose; or,
- imposing local building codes on the structure.”

There may be instances where municipal by-laws can co-exist with federal regulation, but municipal enactments will not be valid if they impinge on areas within federal jurisdiction.

The Ministry of Municipal Affairs (MMA) prepared a Planning Issue Info-Sheet in June, 1988. Although it was reviewing the large satellite dishes at the time, the findings apply to the newer dishes. The report notes that a “...*properly framed municipal by-law dealing with local zoning and relating only incidentally to radiocommunications may co-exist with federal legislation provided the by-law neither prohibits nor unduly restricts the conduct of federally-licensed radio stations.*” It further provides that any restrictions may be acceptable as long as the “*operative capacity of the antenna is not restricted or impaired and the cost of compliance is not unreasonable.*” Since the operation of a satellite dish does not necessarily depend on height, some restriction in height for a satellite dish may be acceptable.

There is no real difference in jurisdiction between controls over radio and television transmitters and antennae/satellite dishes as these are both federally regulated. The municipality has limited jurisdiction and can not impinge upon the ability of the antennae and satellite dishes to receive signals.

Other Municipalities

Staff have contacted 6 municipalities to determine restrictions on antennae and satellite dishes. The results of this survey are below:

- no height restriction on antennae are required within the residential areas for the municipalities of Aurora, Brampton, Mississauga, Markham and Richmond Hill;
- none of the municipalities specifically regulate the smaller satellite dishes;

- all municipalities impose height, location and setback requirements in residential areas;
- the maximum height varies between 4 and 5m, while the City of Toronto restricts antennae and dishes no higher than the main building on the lot;
- all municipalities require satellite dishes to be located in the rear yard; some have more restrictive requirements, such as Brampton which requires views of neighbouring properties to be maintained;
- Aurora restricts circular satellite dishes in residential areas to a maximum diameter of 3.1m (10.2 feet), or if not circular to a maximum length or width of 3.1 metres; and
- setbacks vary between 1.2 m to 1.8m; The City of Toronto requires a maximum setback equivalent to the diameter of the satellite dish.

Proposed Zoning Standards

Regulation of antennae, including those used for amateur radio and digital television services, could impinge on federal jurisdiction. The height of an antenna directly impacts its ability to send and receive signals. In this respect, the current height exemption should be maintained, which is consistent with the approach taken by other municipalities.

Satellite dishes with a maximum diameter of 0.9m (3 feet), or alternatively a maximum length and width of 0.9m, should be addressed separately from the current zoning requirements. Satellite dishes from the 2 main providers fall within this size limitation.

Staff recommends that the only restriction placed on the smaller satellite dishes be that they be attached to the interior side or rear of the main building on the lot, and be no higher than that building. These requirements should be applied in Residential, and Employment Zones and the C7 Service Commercial Zone. This requirement is recommended so that the dishes will not be attached to accessory structures, such as sheds, which may have reduced setbacks, or to a tree or a pole/tower.

Satellite dishes larger than 0.9m in diameter should continue to be regulated by the current zoning standards. These larger dishes pose a greater concern with regard to setbacks and the current standards seem to be working. Although the trend is towards smaller satellite dishes, these larger dishes remain in use and programming is still available to them. As such, they cannot be prohibited due to federal regulations.

Conclusion

The surrounding municipalities do not specifically regulate the smaller satellite dishes, and a cautious approach to regulation is prudent in this respect. The Radiocommunications Act limits the ability of the municipality to regulate any type of transmitting/receiving satellite dish and antennae. The proposed amendments to the zoning by-law respect these limitations, while assuring a uniform approach to regulation across the City. Should Committee concur, the "Recommendation" of this report can be adopted.

Attachments

N/A

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Respectfully submitted,

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