



A People Place, A Change of Pace
SHELburne
ONTARIO, CANADA

Meeting Date: Monday, February 08, 2021

To: Mayor Mills and Members of Council

From: **Steve Wever, Town Planner**

Report: P2021-05

Subject: **Application for Zoning By-law
Amendment Z20/03
David & Kelly Montgomery
302 First Avenue East, Shelburne**

Recommendation

Be it resolved that Council receive Report P2021-05 as information.

Be it resolved that, subject to the consideration of any input received at the public meeting, By-law 04-2021, being a by-law to amend Zoning By-law 38-2007, as amended, by rezoning the lands known municipally as 302 First Avenue East and described legally as All of Lot 1, Part of Lot 2, Block 28, Plan 12A, in the Town of Shelburne, County of Dufferin, from Residential Type Two (R2) Zone to Residential Type Two Exception Five (R2-5) and Residential Type Four (R4) Zone as shown on Schedule "A1" to the By-law, be read a first, second, and third time and finally passed.

Background

An application for a Zoning By-law Amendment has been submitted by the owners David and Kelly Montgomery in conjunction with an application for Consent (Application B20/06) for the creation of a new residential lot. The purpose and effect of the application is to rezone the property at 302 First Avenue East, from Residential Type Two (R2) Zone to Residential Type Two Exception 5 (R2-5) for the proposed retained lot and Residential Type Four (R4) Zone for the proposed severed lot.

Analysis

The subject property is municipally known as 302 First Avenue East and is legally described as All of Lot 1, Part of Lot 2, Block 28, Plan 12A, Town of Shelburne, County of Dufferin. The property currently contains a one-storey single detached dwelling and attached garage.

The property is located at the intersection of First Avenue East and James Street North and is 923 square metres in area. The property is designated 'Residential (Low Density)' in the Official Plan and is located within the built boundary. It is currently zoned Residential Type Two (R2) Zone.

Concurrent to this zoning by-law amendment application, the applicant has submitted an application for consent for the purpose of severing a new residential lot from the existing property (Application B20/06). The Zoning By-law Amendment application applies to both the proposed severed and retained lands. A description of the subject lands and surrounding area as well as the proposed consent is provided in the related planning report for Application B20/06 (Report No. P2021-04).

Proposed Development

The applicant is seeking to re-zone the lots from Residential Type Two (R2) Zone to Residential Type Two Exception Five (R2-5) and Residential Type Four (R4) Zones.

The applicant proposes to develop the severed lot for a new single detached dwelling. As the new lot will not meet the minimum lot area requirement of the R2 Zone (464 square metres), the applicant is requesting to re-zone the severed lot to R4 which permits a lot area of 300 square metres.

A site-specific R2-5 Zone is proposed for the retained lot. The site-specific provisions proposed on the retained lot would recognize the existing exterior side yard (0.7 metre) and the existing setback from street centerline (22.3 m) for the existing dwelling. A reduced rear yard depth is requested to permit the proposed severance (6.4 metres to the existing attached garage, the existing dwelling would continue to apply with the minimum 7.5m rear yard requirement of the R2 Zone). The application also proposes to permit a converted dwelling with a maximum of three (3) units and tandem parking to satisfy the requirements for the proposed 3-unit dwelling (3 parking spaces in tandem). Relief from the Zoning By-law requirements related to dwelling units located below grade would also be required to permit dwelling unit(s) in the lower level of the existing dwelling which is defined as a "cellar" in the Zoning By-law.

The following table summarizes the requested site-specific provisions:

Regulations	R2	R4	Proposed Retained Lot	Proposed Severed Lot
Min. Lot Area	464 m ²	300 m ²	578 m ²	363 m ²
Min. Lot Frontage <ul style="list-style-type: none"> • Interior Lot • Corner Lot 	15.0 m 17.0 m	9.75 m 11.0 m	N/A 20.35 m	16.91 m N/A
Min. Front Yard	6.0 m	6.0 m	12.3 m (existing dwelling) and 11.65 m (existing porch)	6.0 m
Min. Exterior Side Yard	4.5 m	3.0 m	0.7 m (Existing)	N/A
Min. Interior Side Yard	1.2 m	1.2 m on one side; 0.6 m on the other	1.3 m	1.2 m (north) 0.6 m (east)
Min. Rear Yard	7.5 m	7.5 m	6.4 m (attached garage); 7.5m (dwelling)	7.5 m
Max. Setback from Street Centreline	20.0 m	16.0 m	22.3 m (existing dwelling)	13.5
Maximum Lot Coverage	35%	45%	25%	30%
Maximum Building Height	9.2 m	9.2 m	Existing	9.2 m
Parking	1 space per unit		3 spaces (1 tandem)	2
Maximum number of units in a converted dwelling	2		3	N/A
Location of dwelling units	Not permitted in a "Cellar" (>50% below grade)		Converted dwelling with dwelling unit(s) >50% below grade	N/A

 Proposed Site-Specific Provisions

Provincial Policy Statement (PPS)

The proposal is supported by the following PPS policies:

- Promoting efficient development and land use patterns (s. 1.1.1 a);
- Accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons) (s. 1.1.1 b);
- Promote cost-effective development patterns to minimize land consumption and servicing costs (s. 1.1.1.e);
- Settlement areas shall be the focus of growth and development (s. 1.1.3.1);
- Within settlement areas, sufficient land shall be made available through intensification and redevelopment (s.1.1.2)
- Land use patterns within settlement areas shall be based on densities and a mix of land uses which efficiently use land and resources; are appropriate for, and efficiently use available infrastructure and avoid the need for uneconomical expansion; support active transportation; and are transit supportive (s. 1.1.3.2 a, b, e & f);
- Planning authorities shall promote opportunities for intensification and redevelopment where suitable existing infrastructure is available to accommodate projected needs (s. 1.1.3.3);
- Appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form (s. 1.1.3.4);
- Maintain at all times the ability to accommodate residential growth for a minimum of 15 years through residential intensification and redevelopment and, if necessary, lands designated and available for residential development, and land with servicing capacity sufficient to provide at least a 3-year supply of residential units through lands suitably zoned to facilitate intensification and redevelopment (s. 1.4.1);
- Provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area, by permitting and facilitating all housing options required to meet social, health and well-being requirements of current and future residents, all types of residential intensification including additional residential units, and directing new housing towards locations where adequate infrastructure and public service facilities are provided (s. 1.4.3 b, c);
- Establishing development standards for residential intensification, redevelopment and new residential development which minimize the cost of housing and facilitate compact form; and
- Planning authorities may allow lot creation only if there is confirmation of sufficient reserve sewage system capacity and reserve water system capacity within municipal services (s. 1.6.6.6).

Growth Plan for the Greater Golden Horseshoe

The proposal is supported by the following Growth Plan policies:

- Focusing growth and development within the delineated built-up area (s. 2.2.1.2 c);
- To provide a diverse range and mix of housing including additional residential units and affordable housing to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes (s. 2.2.1.4 c);
- Encourage intensification generally throughout the delineated built-up area (s. 2.2.2.3 c) and ensure lands are zoned and development is designed in a manner that supports the achievement of complete communities (s. 2.2.2.3 d); and
- Prioritizing planning and investment in infrastructure and public service facilities that will support intensification (s. 2.2.2.3 e).

County of Dufferin Official Plan

The proposal is supported by the following County of Dufferin Official Plan policies:

- Encourage intensification within the existing built boundary/built up area wherever feasible and appropriate (s. 3.4.2 a);
- Encourage intensification within the urban settlement area that is of an appropriate scale and character and subject to other policies of the County Official Plan, including the availability of servicing, and the protection of existing stable neighbourhoods (s.3.4.2 b);
- Intensification will include: infill residential development and new residential development of vacant land or underutilized land within the built-up area (s.3.4.2 (c) ii);
- Urban settlement areas will have municipal sewage, water and appropriate stormwater services and provide a range of land uses and densities, and a mix of housing types (s.3.3.2 c); and
- Local municipalities are encouraged to promote intensification, infill and redevelopment of vacant/underutilized sites (s.3.3.2 e).

Town of Shelburne Official Plan

In the Official Plan, the property is within an area designated “Residential” within the built boundary and is subject to Section 4.2 of the Plan including the following objectives, uses and criteria:

- To direct the majority of future housing development to the designated residential area through intensification, redevelopment and greenfield development on full municipal services (s. 4.2.2 a);

- To encourage and support the intensification of previously developed residential areas to optimize the use of land and infrastructure (s. 4.2.2 g);
- Council should promote intensification within the built-up area, including within existing residential area (s. 4.2.3.5 a);
- Intensification will be permitted in the form of accessory dwelling units in conjunction with non-residential uses and by the conversion of existing dwellings to accommodate a second unit (s. 4.2.3.5 b);
- In order to preserve the existing housing stock, the conversion of existing single detached dwelling should be permitted subject to the criteria set out in Section 4.2.3.6 a which include:
 - The Zoning By-law shall permit a second unit within single detached, semi-detached or townhouse dwellings and establishing regulations for the minimum lot area and frontage, minimum and maximum floor areas, permitted exterior alterations, parking requirements and other provisions;
 - Second units shall not be permitted on private or partial services and shall be subject to confirmation of adequate servicing capacity;
 - The requirements of the Ontario Building, Fire and Electrical Safety Codes must be satisfied;
 - The proposed development implements the Town's urban Design Guidelines for any proposed exterior alterations;
 - The proposed development will not have negative impacts on areas of natural heritage and will not create unsafe conditions in relation to natural or human-made hazards.

The current Official Plan policies and Zoning By-law provisions for second units pre-date more recent amendments to the Planning Act which require as follows:

Section 16(3) (Official Plans):

Additional residential unit policies

- (3) An official plan shall contain policies that authorize the use of additional residential units by authorizing,
- (a) the use of two residential units in a detached house, semi-detached house or rowhouse; and
 - (b) the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse.
- 2019, c. 9, Sched. 12, s. 2 (1).

Section 35.1 (Zoning By-laws):

By-laws to give effect to additional residential unit policies

35.1 (1) The council of each local municipality shall ensure that the by-laws passed under section 34 give effect to the policies described in subsection 16 (3). 2011, c. 6, Sched. 2, s. 6.

Regulations

(2) The Minister may make regulations,

- (a) authorizing the use of residential units referred to in subsection 16 (3);
- (b) establishing requirements and standards with respect to residential units referred to in subsection 16 (3). 2011, c. 6, Sched. 2, s. 6.

Regulation applies as zoning by-law

(3) A regulation under subsection (2) applies as though it is a by-law passed under section 34. 2011, c. 6, Sched. 2, s. 6.

Regulation prevails

(4) A regulation under subsection (2) prevails over a by-law passed under section 34 to the extent of any inconsistency, unless the regulation provides otherwise. 2011, c. 6, Sched. 2, s. 6.

Exception

(5) A regulation under subsection (2) may provide that a by-law passed under section 34 prevails over the regulation. 2011, c. 6, Sched. 2, s. 6.

Regulation may be general or particular

(6) A regulation under subsection (2) may be general or particular in its application and may be restricted to those municipalities or parts of municipalities set out in the regulation. 2011, c. 6, Sched. 2, s. 6.

Ontario Regulation 299/19 under the Planning Act establishes the following requirements for additional residential units:

Requirements and standards — additional residential units

- 2.** The following requirements and standards are established with respect to additional residential units:
 1. Each additional residential unit shall have one parking space that is provided and maintained for the sole use of the occupant of the additional residential unit, subject to paragraph 2.
 2. Where a by-law passed under section 34 of the Act does not require a parking space to be provided and maintained for the sole use of the occupant of the primary residential unit, a parking space is not required to be provided and maintained for the sole use of the occupant of either additional residential unit.
 3. A parking space that is provided and maintained for the sole use of the occupant of an additional residential unit may be a tandem parking space.
 4. An additional residential unit may be occupied by any person regardless of whether,
 - i. the person who occupies the additional residential unit is related to the person who occupies the primary residential unit, and
 - ii. the person who occupies either the primary or additional residential unit is the owner of the lot.
 5. Where the use of additional residential units is authorized, an additional residential unit is permitted regardless of the date of construction of the primary residential unit.

By-law prevails

- 3.** A by-law passed under section 34 of the Act that requires that no parking space be provided and maintained for the sole use of the occupant of one or both additional residential units prevails over the requirement set out in paragraph 1 of section 2.

The Act does not require municipalities to permit the conversion of an existing single detached dwelling to allow a total of 3 units, but does require provisions for a second unit within the main dwelling and a third unit in a detached accessory building for a total of 3 units on a residential property. The regulations also require that municipalities are limited to requiring 1 parking space per dwelling unit and that “tandem parking” (e.g. parking one vehicle being another in residential driveway) must be permitted to address these parking requirements for additional residential units.

According to real estate listings, the existing dwelling at 302 First Avenue East has a main floor area of approximately 130 square metres (1,400 square feet) with additional living space in the finished lower level basement (defined as a “cellar” in the Zoning By-law, with 4 bedrooms. The dwelling is of sufficient size to permit up to 3 dwelling units; however, it is expected that at least one of the units will be located within the lower level. As the Zoning By-law does not permit dwelling units in a “cellar” where more than 50% of the vertical space between the finished floor and ceiling is below grade, the proposed Zoning By-law Amendment includes a provision to permit dwelling unit(s) below grade. A building permit will be required and compliance with Building, Fire and Electrical Safety codes must be demonstrated for the proposed dwelling units.

One parking space is available within the attached garage and at least 2 additional parking spaces can be accommodated within the existing driveway.

While each application is reviewed on its own merits and based on the specific attributes of the subject property, the development proposal and other factors which may vary by location, it is noted that site-specific zoning provisions for a converted dwelling with up to 3 units have been approved previously for a property on Wellington Street, a property on Greenwood Street, and a property on Owen Sound Street.

Additional analysis and evaluation of this residential infill development proposal is provided in Report P2021-04 for the related consent application B20/06. The current application for re-zoning of the property is recommended as a requirement of the conditions of approval of the lot severance.

Financial Impact

A payment in lieu of the dedication of parkland is required as a condition of the severance to create the new residential lot, and the payment of development charges will be required for the new single detached dwelling on the proposed severed lot prior to building permit availability. The Development Charges Act provides that up to 2 additional residential units may be added within an existing single detached dwelling without requiring the payment of development charges if the units have a gross floor area that is less than the dwelling unit already in the building. The property owners are responsible for all costs associated with servicing and developing the lots.

Policies & Implications (if any) Affecting Proposal

Town of Shelburne Official Plan
Town of Shelburne Zoning By-law 38-2007

Consultation and Communications

The application was circulated to the required agencies and the public meeting was advertised in accordance with the Planning Act. No objections to the approval of the application have been received as of the time of preparing this report. Comments received are summarized and attached to the related report P2021-04 for Consent application B20/06.

Supporting Documentation

Consent Sketch (related to Consent application B20/06)

Prepared by:

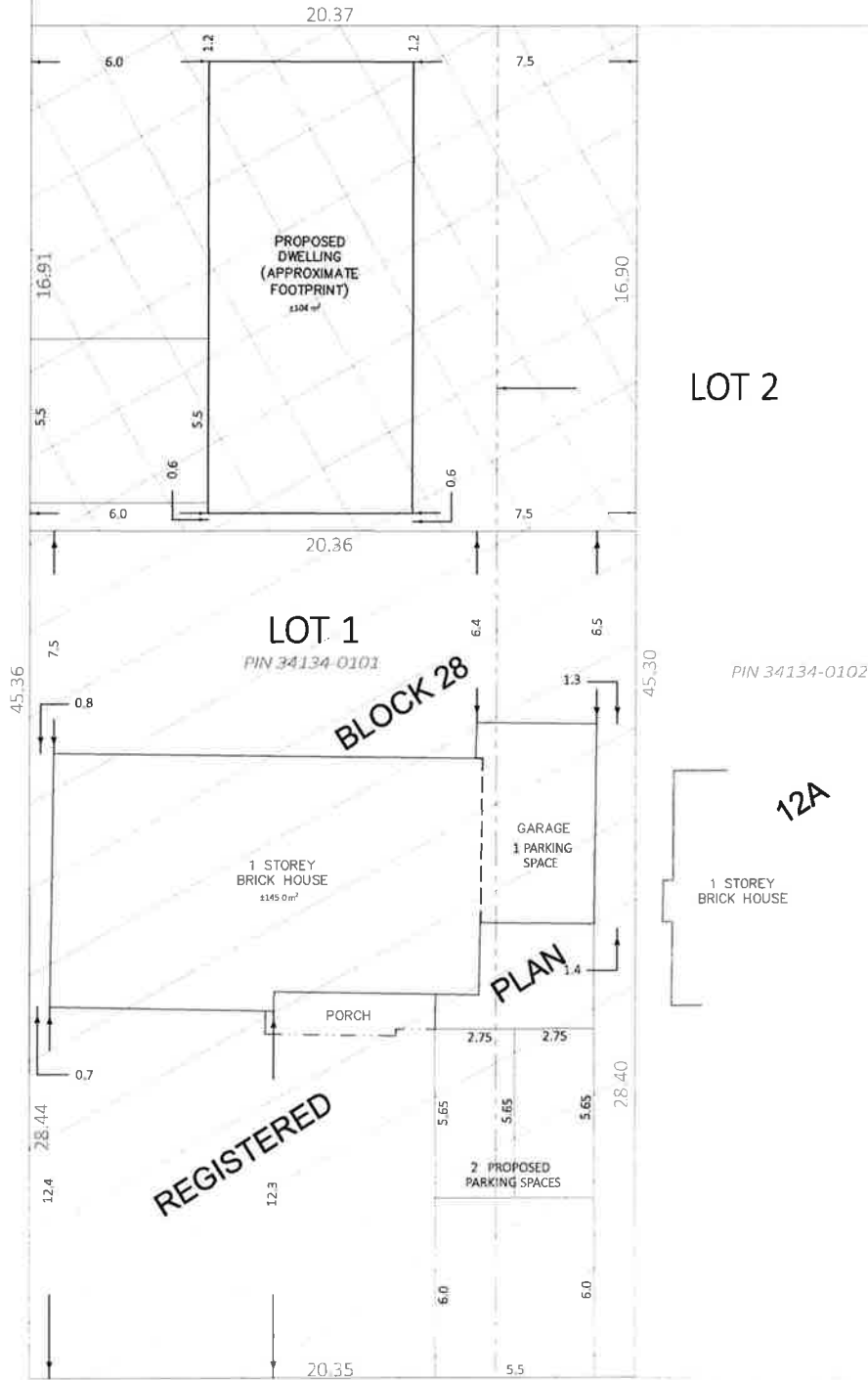
Reviewed by:

Jenna Daum, Planner

Steve Wever, Town Planner

JAMES STREET
(15.088 WIDE)
PIN 34134-0112

LANE
(6.035 WIDE)
PIN 34134-0109



FIRST AVENUE
(20.117 WIDE)
PIN 34134-0111

ZONING BY-LAW 38-2007

EXISTING: RESIDENTIAL TWO (R2) ZONE

PROPOSED SEVERED: RESIDENTIAL TWO SITE SPECIFIC (R2-#) ZONE

PROPOSED RETAINED: RESIDENTIAL FOUR (R4) ZONE

	REQUIRED (R2-#)	RETAINED (R2-#)	REQUIRED (R4)	SEVERED (R4)
• MINIMUM LOT AREA	= 464m²	= 578m²	= 300m²	= 344m²
• MINIMUM LOT FRONTAGE	= 15.0m	= 20.6m	= 9.75m	= 16.9m
• MINIMUM FRONT YARD	= 6.0m	= 12.3m	= 6.0m	= 6.0m
• MINIMUM EXTERIOR SIDE YARD	= 4.5m	= 0.7m	= 3.0m	= N/A
• MINIMUM INTERIOR SIDE YARD	= 1.2m	= 1.3m	= 1.2m	= 1.2m
• OTHER SIDE	= N/A	= N/A	= 0.6m	= 0.6m
• MINIMUM REAR YARD	= 7.5m	= 7.5m	= 7.5m	= 7.5m
• MAXIMUM SETBACK FROM STREET CENTERLINE	= 20.0m	= 22.3m	= 16.0m	= 13.5m
• MAXIMUM LOT COVERAGE	= 35%	= 25%	= 45%	= 30%
• MAXIMUM BUILDING HEIGHT	= 9.2m	= 6m	= 9.2m	= 9.2m



**CONCEPT PLAN ON
ALL OF LOT 1 AND PART OF LOT 2
BLOCK 27
REGISTERED PLAN 12A
TOWN OF SHELBURNE
COUNTY OF DUFFERIN**

SCALE 1 : 150



DENOTES SEVERED PARCEL

AREA = 345 m²±



DENOTES RETAINED PARCEL

AREA = 578 m²±

TOTAL AREA = 923 m²±

NOTE:

THIS IS NOT A PLAN OF SURVEY
ALL DIMENSIONS AS SUBJECT TO FINAL SURVEY

BOUNDARY INFORMATION SHOWN HEREON IS BASED ON RECORDS FOUND AT THE LAND
REGISTRY OFFICE, REGISTERED PLAN 12A AND PLAN OF SURVEY BY LLOYD THOMSON
O.L.S. DATED DECEMBER 2, 1965.

METRIC:

DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY
DIVIDING BY 0.3048.

No.	BY	DATE	REVISION
3	TDM	DEC 04/30	PREPARED FOR SUBMISSION
2	TDM	NOV 17/20	UPDATE ZONING
1	TDM	SEPT 09/20	PROPOSED SEVERANCE
PREPARED FOR: DAVID & KELLY MONTGOMERY 302 FIRST AVENUE EAST			

THE CORPORATION OF THE TOWN OF SHELBURNE

BY-LAW NO. 04-2021

BEING A BY-LAW TO AMEND BY-LAW 38-2007, AS AMENDED.

WHEREAS an Official Plan has been approved for the Town of Shelburne.

AND WHEREAS authority is granted under Section 34 of the Planning Act, R.S.O. 1990, C.P.13 and amendments thereto, to enact this By-law.

NOW THEREFORE the Council of the Corporation of the Town of Shelburne enacts as follows:

1. That Schedule “A” of By-law 38-2007, as amended, be further amended by rezoning the land known municipally as 302 First Avenue East and described legally as All of Lot 1, Part of Lot 2, Block 28, Plan 12A in the Town of Shelburne, County of Dufferin, from Residential Type Two (R2) Zone to Residential Type Two Exception Five (R2-5) Zone and Residential Type Four (R4) Zone as shown on Schedule “A1” to this By-law.
2. That subsection 4.2.3 of By-law 38-2007, as amended, be further amended by inserting one exception zone after subsection 4.2.3.4, as follows:

“4.2.3.5 Residential Type Two Exception Five (R2-5) Zone

Notwithstanding the permitted uses, regulations and definitions in subsections 3.4.1 (ii), 3.4.2, 3.15.6 (ii), 4.2.1, 4.2.2, 5.41 and 5.68, on the lands zoned R2-5 the following special provisions shall apply:

 - i) The permitted uses shall include a converted dwelling with a maximum of three (3) dwelling units, subject to all other applicable regulations of this By-law except that:
 - a) A maximum of two (2) dwelling unit(s) shall be permitted in the lower level of the existing dwelling if all other requirements of subsection 3.4.1 (ii) are met;
 - b) Tandem parking within a driveway in the front yard including the required front yard shall be permitted to satisfy the requirements for three (3) dwelling units.
 - ii) Minimum Exterior Side Yard: 0.7m for the existing dwelling
 - iii) Minimum Rear Yard: 6.4m for the existing attached garage
 - iv) Maximum Setback from Street Centreline: 22.3m for the existing dwelling.”
3. That except as amended by this By-law, the subject lands as shown on Schedule “A1” to this By-law shall be subject to all other applicable regulations of By-law 38-2007, as amended.
4. Schedule “A1” attached hereto forms part of this By-law.
5. This By-law shall take effect from its date of passage by Council and shall come into force either upon approval by the Local Planning Appeal Tribunal or upon compliance with Section 34 of the Planning Act, R.S.O. 1990, C.P. 13.

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND ENACTED THIS 8th DAY
OF FEBRUARY 2021.**

.....
MAYOR

.....
CLERK

Zone change from R2 to R2-5

Zone change from R2 to R4

EXPLANATORY NOTE

The purpose and effect of this amendment to Zoning By-law 38-2007 is to change the zoning of the property described legally as All of Lot 1, Part of Lot 2, Block 28, Plan 12A in the Town of Shelburne, County of Dufferin, from Residential Type Two (R2) Zone to Residential Type Two Exception Five (R2-5) Zone and Residential Type Four (R4) Zone as shown on Schedule “A1” to this By-law.

The amendment relates to a consent application, file number B20/06, which severs the property into 2 residential lots from one existing residential lot containing an existing dwelling. The re-zoning of the land to R2-5 (retained land) and R4 (severed land) applies appropriate zone standards to recognize the existing dwelling on the retained lot and the proposed conversion of the existing dwelling to a converted dwelling with 3 units, and for the proposed development of a single detached dwelling on the severed lot. A minimum of 3 parking spaces are required for the proposed converted dwelling (1 space per unit) and tandem parking within a driveway in the front yard including the required front yard is permitted for the purposes of satisfying the required parking. Notwithstanding the definition of a “cellar”, up to two (2) of the three (3) dwelling units in the proposed converted dwelling may be located in the lower level of the dwelling if the other requirements for converted dwellings and dwelling units are met.