Greater Ottawa Home Builders' Association
Association des constructeurs d'habitations **d'Ottawa**

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Provincial Planning Policy Branch
777 Bay Street
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Toronto, ON M7A 2J3

Re: ERO #019-9210 Proposed amendment to Ontario Regulation 299/19 ADDITIONAL RESIDENTIAL UNITS, made under the Planning Act

Please accept the below from the Greater Ottawa Home Builders' Association (GOHBA) and its members as a submission to the government's request for feedback on 'Proposed amendment to Ontario Regulation 299/19 ADDITIONAL RESIDENTIAL UNITS, made under the Planning Act' (ERO 019-9210).

Our comments follow on and complement our previous submissions to:

- ERO# 019-6197 *Proposed Changes to Ontario Regulation 299/19: Additional Residential Units*
- ERO 019-8366 *Proposed Regulatory Changes under the Planning Act Relating to the Cutting Red Tape to Build More Homes Act, 2024 (Bill 185): Removing Barriers for Additional Residential Units*
- ERO 019-8369 *Proposed Planning Act, City of Toronto Act, 2006, and Municipal Act, 2001 Changes (Schedules 4, 9, and 12 of Bill 185 - the proposed Bill 185, Cutting Red Tape to Build More Homes Act, 2024)*

In addition to our comments, we support those submitted by the Ontario Home Builders' Association and our fellow municipal HBAs across the province.

GOHBA commends the Province of Ontario's continuous efforts to get more housing built and to, subsequently, lower the cost of housing for all Ontarians.

In order to help achieve our housing intensification goals specifically, GOHBA strongly supported enhancing the Minister's regulation-making authority to remove zoning barriers to building small multi-unit residential.

GOHBA fully supports the proposed regulations outlined in ERO #019-9210 on: Angular Planes; Maximum Lot Coverage; Floor Space Index; Minimum Lot Size; and, Building Distance Separation. However, there are a couple of modifications related to these proposed regulations we would like the government to take into account as progress moves forward on this regulation:

1. Angular plane: Fully in support of removal of all angular plane requirements for buildings with ARUs.
2. Maximum lot coverage: Member feedback has recommended that the 45% maximum lot coverage for all buildings and structures on parcels with ARUs **should be increased to 50%.**
3. Floor space index: Fully in support of removal of all floor space index requirements that apply to parcels with ARUs.
4. Minimum lot size: Fully in support of removing all minimum lot size/lot area requirements for parcels with ARUs.
5. Building distance separation: GOHBA is supportive of reducing this as much as possible. Member consensus has indicated that the 4-metre **maximum should be reduced to 3 metres.** Realistically, separation distances should be limited to the needs of the fire department and proper fire separation/rating, which 3 metres (or even less) would still accommodate adequately.
6. Stemming from point 5, if there is an existing garage or accessory structure that is closer than the identified maximum, allow for it to be converted or have an additional unit added so long as it maintains the same footprint.

As we have detailed in previous submissions, municipalities use these and other provisions in their zoning by-laws to limit intensification opportunities and frustrate the government's intent – to their own detriment.

Ottawa has a stock of over 400,000 existing homes – a significant source of new affordable housing through modifications to create additional dwelling units, multi-family units or shared accommodations, which are increasingly popular as people look for alternative ways to find a place that they can call home.

Furthermore, the City's Official Plan relies on increasing density in existing neighbourhoods for 25% of its new housing (about 46,000 new homes) to accommodate our growing population. Specifically this means converting approximately 15,000 current single-detached homes into multifamily buildings of about the same size with 3 or 4 housing units.

These regulations will help the City of Ottawa achieve its Official Plan housing goals related to neighbourhood intensification, and are timely as the City is in the middle of a comprehensive zoning by-law review.

GOHBA strongly urges the government to continue to accelerate implementation of the province's ARU framework to improve housing affordability and supply and remove municipal zoning by-law barriers that are limiting the development of ARUs.

Additional Considerations

In addition to what the government is currently proposing, GOHBA is concerned about other zoning by-law barriers that a municipality may use circumvent the intent of these regulations.

We urge the government to take additional steps to clarify that a municipality may not indirectly frustrate the intent of the changes directed to providing additional residential units by adopting regulations on the following issues.

Parking Minimums

GOHBA strongly supports the Minister removing zoning barriers to building small multi-unit residential, including removing parking minimums, reducing parking requirements for small infill lots, and allowing front-yard parking.

Current provisions in the Regulation restrict municipalities to being permitted to require up to one parking space per unit. However, demanding up to three parking spaces for three units on a typical residential lot in Ottawa will make most residential intensification or conversions unviable, and works against Ottawa's desire to utilize public transit.

Ideally, there would be no parking minimums for new infill units/ARUs.

Alternatively, municipalities should only be allowed to require, at most, up to one parking spot for the primary unit, or, if more than one parking space is required, then two of the parking spaces may be tandem parking spaces.

The primary focus of Ontario Regulation 299/19, as it currently reads, is the establishment of requirements and standards relating to parking for additional residential units. The Regulation provides that each additional residential unit "shall" have one parking space provided and maintained for the sole use of the occupant of the additional residential unit. This is a more onerous than the requirement under the *Planning Act* following Bill 23, which states that no official plan may contain any policy that has the effect of requiring more than one parking space to be provided and maintained in connection with an additional residential unit (clearly contemplating standards of less than 1 parking space).

The remaining provisions of the Regulation are unaffected by Bill 23. However, we recommend that they be maintained in the Regulation as they provide helpful clarification on what restrictions cannot be imposed on additional residential units, including:

- That the occupant may be the owner of the lot and/or related to the occupant of the primary unit;
- That additional residential units are permitted regardless of the date of construction of the primary residential unit; and
- That a tandem parking space is sufficient to meet a minimum parking space requirement.

Permission to Tear Down & Rebuild / Additions

Municipalities may frustrate intensification by making demolition of an existing building unduly onerous, or not allow reasonable modifications / additions as-of-right to the existing structure

in order to facilitate transition to a duplex or triplex (like a second kitchen or separate entranceway).

We urge the government to not be tentative, but rather take a bolder approach and allow for new construction in addition to conversions and renovations as soon as possible. Ontario has a significant portion of aging existing buildings that will reach the end of their lifespan. Limiting the construction of more units solely through the adaptive re-use of existing structures is a missed opportunity to further the goals of both residential intensification, energy efficiency, and accessibility upgrades.

Definition of Water and Sewage Services

The requirement to be connected to "full" municipal water and sewage services needs to be clarified to not include stormwater, only drinking water and wastewater.

As an example, the City of Ottawa, through its Infrastructure Master Plan, is proposing to require that all new infill development must manage its own stormwater on-site, because the city does not know if / does not believe it has the capacity to take on additional stormwater from intensification units. It is often not possible to provide on-site storm water treatment in addition to parking and/or tree obligations. The compounding effect is that additional residential units cannot be provided.

Additionally, stormwater infrastructure is a municipal responsibility and development charges are collected in order to provide the service. ***While it is not appropriate to collect development charges for a municipal service that must then also be provided privately on site, that is exactly what the City of Ottawa is proposing to do.***

Maximum Heights

There has been a lot of public discussion on zoning rules as they relate to infill/intensification in residential neighbourhoods.

GOHBA strongly urges the government avoid concern about number of storeys and instead adopt a maximum height of 14 metres (46 feet) from grade for low-rise lots.

This is not actually far off the height of most common two-storey homes currently (approximately 10 metres/30 feet - considering two storeys, pitched roof and partially-above grade basement).

Currently, Ottawa is considering a new zoning by-law that, while introducing 4 units per lot, would still limit 60% of residential lots to a height of 8.5 metres – which would severely limit the opportunities for low-rise multi-unit homes.

Neighbourhood character analysis

Neighbourhood character studies ("streetscape character analysis" in Ottawa), have been used to hamper new housing in existing neighbourhoods and often creates conflict within a community.

A streetscape character analysis is currently required for new development or additions to homes in Ottawa's "mature neighbourhoods." These neighbourhood zones are the most central, key to the city's transit corridor, and cover the prime areas where density is the most needed.

This type of analysis is subjective, based on perceptions of attractiveness and opposes critical densification in the city's most desirable areas to live.

Fundamentally, a neighbourhood character analysis restricts development to something that looks similar to what already exists, instead of focusing on increasing density and providing housing for our growing population.

Education Development Charges

There is a policy gap in regards to education development charges on ARUs. Although the government promotes no DCs on ARUs, this is not strictly the case.

The *Education Act* permits the imposition of Education Development Charges (EDC) for certain types of development. Subsection 257.52(3) states, however, the creation of "one or two additional dwelling units as prescribed" are exempt from having to pay EDCs.

The Regulation prescribes the exemption. It states a residential semi-building (it does not say a lot, new construction or existing building) may add one additional dwelling unit without having to pay EDC provided the new unit is equal to or smaller in size than the existing unit.

It is important to note that the *Development Charges Act* is more specific and it defines what is exempt in existing houses and new residential buildings. These updates were included in the *DC Act* in 2022 but the same changes were not made to the *Education Act*.

The maximum number of ARUs exempt from EDCs in a semi-detached building is one, and occurs when "the gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the dwelling unit already in the building". As stated in the previous sentence, "already in the building" is the key term. This means that a second ARU in a semi would not be exempt and would have to pay EDCs.

As well, if the ARU is not part of the main building (ie, a coach house), it also is not exempt from paying EDCs.

Implementation timelines

GOHBA urges the province to implement timelines for municipalities to conform with new zoning regulations.

For example, the City of Ottawa delayed integration of the province's direction on two ADUs/ARUs so long that it was almost a year after the announcement that changes to Ottawa's zoning were finally approved.

Addressing issues with Committees of Adjustment

Dealing with a municipality's Committee of Adjustment has become more of a political exercise when it should be a technical one.

In Ottawa, development proponents are so frustrated that many are choosing to apply for zoning bylaws (which opens them up to a number of the impediments listed above) instead of dealing with the Committee of Adjustment, which should be the more time efficient and cost effective exercise.

A significant portion of this frustration is that Committees are denying applications for things beyond scope – in Ottawa in particular the Committee is denying applications based on trees that have nothing to do with the proposal, and have staff concurrence.

The other significant issue is delays in processing and approvals due to the scheduling of hearings with local Committees of Adjustment.

Subsection 45(4) of the Planning Act requires a Committee of Adjustment to hear an application within 30 days of receipt by the Committee. In Ottawa it is typically 60 days after receipt that a hearing is scheduled and up to 90 days before a hearing is held. Timelines are even worse in Mississauga (90-120 days) and Toronto (120-150 days).

The Planning Act is silent about the consequences of not scheduling a hearing within the thirty-day timeframe – as called for in the Provincial Policy Statement - because there are none.

Therefore Committees of Adjustment across the province have no incentive to improve hearing timelines, and there is no opportunity for the applicants to seek decision/resolution through alternative means.

Ideally, the province should eliminate the Committee of Adjustment altogether – which would remove a layer of bureaucracy, red tape and shorten timelines on desired intensification projects - and have municipal staff, through Delegated Authority, approve severances, easements, lot line adjustments, etc.

At a minimum, an applicant should have the right to petition for a non-decision to the LPAT on consent

It is clear that Committees of Adjustment have to change their approach to scheduling hearings in order to keep up with their workloads, reduce backlogs and meet their statutory requirements of the Planning Act.

One of the prime examples of needed change is the frequency and number of hearings scheduled by a particular Committee of Adjustment.

In Ottawa, for example, the Committee of Adjustment meets 2 times a month (the first and third Wednesdays of the month), February – November, and just once in December and January, for a total of 22 hearings per year.

If Committees of Adjustment just shifted to meeting every other week, they could easy add 3 more meetings per year and still have flexibility with regards to major holidays throughout the year.

GOHBA has made multiple appeals to our local Committee of Adjustment regarding their scheduling of hearings, to no avail.

Specifically, our local Secretary-Treasurer has pointed out that the Planning Act is silent about the consequences of not scheduling a hearing within the thirty-day timeframe - because there are none.

The Secretary-Treasurer has also pointed out that there is no statutory right to a decision within that same time-period for minor variances.

In the Planning Act there are specific reference to timelines for consideration of Official Plan Amendments, Zoning Amendments, Subdivision Applications and Consents. The major outlier is applications for minor variance.

Essentially, Committees of Adjustment across the province have no incentive to improve hearing timelines because there no consequences for missing the thirty-day timeframe, and there is no opportunity for the applicants to seek decision/resolution through alternative means.

Of course, the residential construction and professional renovation industry is dependent upon the Committee hearing applications in a timely manner.

However, the reality is that it is not just the industry who are dependent on timely hearings – it is also the residents of the municipality who want to live in the homes being considered.

Timely hearings and decisions also affect a municipality's own intensification housing targets, which are critical to meeting the needed housing supply for our growing population and fulfilling municipal growth strategies and Official Plans.

As it appears that Committees of Adjustment across the province are not willing to change their ways in order to keep up with their workloads, reduce backlogs and meet their statutory requirements of the Planning Act, the provincial government needs to amend the Planning Act so that there are consequences to not scheduling a hearing within the thirty-day timeframe.

Specifically, an applicant should have the right to petition for a non-decision to the LPAT on consent. This can be accomplished by adding language from Section 53 (consent) to Section 45:

> *(xx) If an application is made for a variance or a permission and the council or the Minister fails to make a decision under subsections (1) or (2) on the application within 90 days after the day the application is received by the clerk of the municipality or the Minister, the applicant may appeal to the Tribunal with respect to the application by filing a notice with the clerk of the municipality or the Minister, accompanied by the fee charged by the Tribunal.*

Conclusion

We thank the Ministry for the opportunity to comment on this proposal and look forward to continuing to work with the provincial government on how to encourage and enable housing.

We are pleased to answer questions or provide further information as requested.

Sincerely,

Jason Burggraaf
Executive Director