

Planning Fact Sheet

Land Use Bylaw: 21-2
Planning & Development Department
Date: December, 2021



Setbacks and Minimum Lot Standards

Municipal Council has directed staff to seek public input on the appropriateness of the setback and minimum lot standards in the Land Use Bylaw. Input gathered will be summarized and presented to Council in February for their review.

Background

Setbacks are the minimum distance from a building or other structure and the boundaries of that property.

Setbacks Vs Buffers

Although the terms are often used interchangeably there are important distinctions between *setbacks*, *buffers* and *separation distances*.

Setbacks typically refer to a minimum distance between a built structure such as a house or deck and the property boundary. As such they are often referred to yards (front yard), (side yard) etc.

A *buffer* is a set distance from a physical feature such as the top of a bank, cliff or watercourse. The Land Use Bylaw includes 15m shoreline buffers for tidal waters and watercourse buffers for other waterbodies. These buffers have been increased to 30m in some areas where there is a greater risk from storm-surges, flooding and erosion.

The Land Use Bylaw also includes *separation distances* such as those for wind turbines or manure storage. These are distances from off-site objects or features such as the nearest dwelling or well. One of the important differences between these terms is that under the Municipal Government Act, only setbacks are eligible for variances.

Purpose of Setbacks

Setbacks serve a variety of purposes depending on the use and neighbourhood. Some relate to health and safety such as the ability to respond to a fire or get equipment around structures for construction or maintenance. Others relate to maintaining the character of a neighbourhood with consistent front setbacks or to ensure there is adequate room for streetscape trees or larger rear yards. There can also be very practical reasons for setbacks such as separating incompatible land uses or providing buffers for noise and privacy. More recently environmental concerns have been considered such as the Recreational Residential zone (RRec) where Municipal Planning Strategy policy seeks to balance environmental concerns with development.

5.5.6 Many of the areas that are desirable for cottage and, increasing, permanent residents are also sensitive environments or areas that present hazards to development. Natural features like steep slopes, eroding coastlines, and sensitive waterbodies need to be carefully considered when development happens in these areas. These are often also areas where there is strong market demand for subdivision . . . Zone standards shall include large lot sizes and setbacks as a means to reduce the intensity of development and its impact on the natural environment.

Setbacks and Minimum Lot Standards

Cumberland has the most arable land of any county in Nova Scotia, including 30 percent of the province's Class 2 soils, the best agricultural soils in Nova Scotia. Protecting this valuable resource is mandated by the Province through Statements of Provincial Interest and supported by Council in the Agriculture Zone which is *... intended to prioritize agricultural activities and to reduce the non-agricultural development and fragmentation of productive agricultural lands*. The mechanisms to affect this policy includes favouring agricultural uses and requiring large lot sizes and setbacks and reduced opportunities for subdivision.

Cumberland features large areas of land supporting forestry, renewable energy development, mining, quarrying, and other resource-based activities. Council Policy in the Municipal Planning Strategy seeks to protect and balance these uses with other development by requiring larger lot sizes and setbacks and limiting land uses.

These extractive and processing industries typically depend on large, unfragmented tracts of land to reach maximum efficiency, and to reduce conflicts with other uses. In this designation, resource uses will generally take priority over residential or commercial development. Council recognizes the value in ensuring there is land on which resource-based industries and other activities that require unfragmented tracts of land can occur.

Opportunities to Reduce Setbacks:

A variety of measures allow setbacks to be relaxed depending on the circumstances.

Existing Undersized Lots: Where a lot was created before the current bylaw and doesn't meet the current minimum lot size, all setbacks may be reduced by 50% for main buildings only.

Setback Encroachments: some architectural features such as canopies or bay windows are permitted to encroach up to 1m within the setbacks while decks, porches, verandas, fire escapes, exterior staircases and wheelchair ramps can encroach up to 2.5 m within setbacks.

Conformity with Existing Adjacent Setbacks: Front setbacks may be reduced to 2m to match setbacks of other main buildings on the same street within 60 metres and within the same zone.

Non-conforming Structures: Where an existing structure is closer than setbacks allow, they may be replaced or enlarged, renovated provided they don't make the situation any worse.

Variations: Development Officers may also grant a variance to setback requirements provided:

- It doesn't violate the intent of the land-use by-law.
- The difficulty experienced is not general to properties in the area.
- The difficulty doesn't result from an intentional disregard for the land-use by-law.

Complicating Issues

There are several factors that contribute to difficulties surrounding setbacks:

- Inappropriately zoned lots. The Agriculture zone was applied to properties with class 2 soils including many lots previously subdivided and intended for development. This applies restrictions such as larger setback on lots that should have been zoned otherwise.
- Undersized lots. There are numerous lots created long before any regulations were in place regarding lot sizes and setbacks. Most of these lots are also in heavily built up, high demand cottage country. Increasing pressure to add new buildings and expand existing ones inevitably creates complications.

Setbacks and Minimum Lot Standards

- Accessory buildings. Although setbacks on undersized lots are reduced by 50% for main uses there is no provision to relax setbacks for accessory buildings.
- Education. Despite an immense public engagement effort during the last planning review in 2017 – 2018, many people remain unaware of changes to the Land Use Bylaw until applying for permits.

QUESTIONS ON SETBACKS AND LOT SIZES

How do large lot sizes and setbacks “reduce the intensity of development and its impact on the natural environment?”

Larger lot sizes and setbacks help in several ways.

- By reducing the overall area covered by development, providing more room for vegetation.
- By discouraging the clearing of trees near setbacks to make way for development. Trees and shrubs provide a significant benefit in slowing major rainfall events leading to less erosion and cooler water temperatures. There is no other easy mechanism available to limit clearing trees and vegetation.
- They help act as a buffer for phosphorus loading. Phosphorus comes from many sources including agricultural run-off, poorly maintained or older septic systems and cleaners and other products used by homeowners and cottagers. An increase in phosphorus along with warmer temperatures from climate change pose a serious risk to lakes throughout Atlantic Canada leading to toxic algae blooms such as those that have occurred in Mattatall Lake. Climate change and increased development pressures will aggravate this problem in the future.

How do large lot sizes and setbacks protect agriculture, forestry, and other resource-based activities?

- By separating incompatible uses. Forestry and agriculture are important industries in Cumberland. New residential development can interfere with these industries as people move to rural areas for scenic beauty and open landscapes but then oppose activities related to those industries.
- By making it a bit more difficult to subdivide and thereby fracturing these resource lands.

COMMENTS:

Residents are encouraged to provide input on this issue by contacting.

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The deadline for receiving comments is January 31, 2022