

Memo

To: Aaron Butler
From: Callum Shedden
Date: June 26, 2017
Re: Glendale Community Zoning District - Roomers and Boarders

I have reviewed the Town's Comprehensive Zoning By-law with respect to the issue of the permitted use in the Glendale Community Zoning District of Roomers and Boarders to a maximum of 2 persons per dwelling.

The CBZ contains the following definitions which are relevant to this discussion:

LODGING HOUSE means a residential dwelling or portion thereof in which roomers or boarders are harboured, received or lodged, with or without meals, for gain or profit, but shall not include a bed and breakfast establishment, an accessory residential unit, hotel, hospital, nursing home, home for the young or the aged or institution, if the hotel, hospital, home or institution is licensed, approved or supervised under any other general or special Act.

LODGING UNIT means living accommodation which does not include the exclusive use of both a kitchen and a bathroom.

RESIDENTIAL UNIT means a set of self-contained habitable rooms located in a building or structure that is used or intended for use as a residential premises which contains kitchen and bathroom facilities that are intended for the exclusive use of the unit and has a private means of egress to the outside of the building or structure, or from a common hallway or stairway inside the building or structure in which it is located.

ROOMER or BOARDER means a person other than the lessee, tenant, owner or person related thereto, who rents living accommodation within a dwelling unit, without separate cooking facilities or a separate entrance and where lodging is provided for compensation for a term of not less than 28 days.

11.3 RESIDENTIAL (R1) ZONE

In the Glendale Community Zoning District – Residential (R1) Zone, no land shall be used and no building or structure shall be used, altered or erected except in accordance with the following uses and provisions:

11.3.1 Permitted Uses:

(f) A lodging house or a bed and breakfast establishment in accordance with Section 6.5

(g) Roomers and boarders (maximum of 2 persons per dwelling)

Discussion

In my review of the CBZ, the only zone which lists a lodging house as a permitted use is the Residential (R1) Zone in the Glendale Community Zoning District.

It is my opinion that the inclusion of roomers and boarders to a maximum of 2 persons as a permitted use in the Glendale residential zones is to distinguish between a residence and a lodging house based on the number of roomers or boarders who reside therein.

By permitting up to 2 roomers or boarders in the Glendale residential districts the implication is that any more than 2 boarders or roomers would result in the residence being considered to be a lodging house, which is only permitted in the Glendale Residential (R1) zone.

The *Planning Act*, permits the Town to regulate the use of land through zoning by-laws. Section 35(2) of the *Planning Act* stipulates that this authority does not include the authority to distinguish between persons who are related or unrelated with respect to their occupancy or use of a building, including the occupancy of a single residential unit or lodging unit. This section essentially implements the decisions made under the Ontario Human Rights Code which prohibit discrimination in rental housing on the basis of relationship of the occupants.

Zoning regulations can control residential density based on physical intensity of use, as opposed to differentiating on the basis family ties. A zoning by-law which defines a form of accommodation by reference to lodging units or residential units, such as a Lodging House in the Town's CBZ, is in conformity with the *Planning Act* in that it regulates based on the type of occupancy rather than the relationship of the occupants to each other.

Conclusion

It is my opinion that the restrictions with respect to the number of roomers or boarders who can live in a residence are lawful in the Glendale Community Zoning District.

I do have concerns with the implication that roomers and boarders are not permitted in any of the other Community Zoning Districts in the CBZ. I don't see any justification for such an exclusion or how it would be enforced.