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Ref: **ZONING AMENDMENT BYLAW (RETAINING WALLS) NO. 2033, 2020**
A BYLAW TO AMEND THE WHISTLER ZONING AND PARKING BYLAW NO. 303, 2015

Mayor and Council

Please accept our input with regards to the new zoning amendment bylaw NO 2083, 2020.

We are writing this based on our experience with an outstanding variance request (DVP 01197) that was posted late August. We have been in communication with both the planning and building departments who informed us of this zoning amendment.

Let me first summarize the changes and clarification that we would like to request and then discuss the rationale behind each:

1. Stipulate whether the retaining wall has to be within the building envelope of the property.
2. Clearly stipulate that the base of the first retaining wall must be 1.22 meters from the parcel line or within the building envelope if they are not aligned.
 - There can be a 1:4 (1 rise: 4 run) starting at the parcel line and a 1.22 meter high wall above this grade.
 - This will provide for 1.525 meter height
 - Figure 5-C shows this but it is not stipulated and in conversation with the planning department they stated if not stipulated there is no setback.
3. Subsequent walls must adhere to the same distance, grade, and height restrictions
4. Add a stipulation that there must be a 1.22 meter setback from the top of the final wall that can be used only for landscape features. Building constructs such as exterior walls, walkways, and driveways have to start after the setback
5. Walkways must adhere to current minimum width restrictions

Points 1, 2 and 4 above are actual clarifications changes, number 3 is just restating what is in the zoning amendment proposal and 5 we are stating for completeness.

Rationale behind the additions are driven by our direct experience with the situation driving the variance application referred to above. There are four main factors that drive these recommendations/request; safety, snow clearing and buildup, privacy, and impact to neighbouring property value. Safety and snow issues are highly inter-related as are privacy and property value impact.

In order to ensure there is clarity on some of the comments we are making it is best to summarize the situation with the referenced variance application.

- Parcel line is 3 meters from the building envelope
- Exterior wall of property is on the building envelope line and three meters from parcel line
- Retaining wall base is <1 meter from parcel line (variance request is to take this to 0 meter from parcel line versus the 3 meters)
- At highest point retaining wall is approximately 2.5 meters above our property (variance request also addresses this)

We have enclosed two images to visually assist in the example, for reference the fence in the second image is 1.22 meter high.

- Snow will build up on the property at the base of this wall adding to the snow challenges increasing the risk of damage due to drainage and pressure from additional snow.
- There is nothing to stop snow from being pushed over side of the wall. Given our experience there is absolutely no way to stop/enforce this from occurring. Attempts to do so can and does lead to acrimony.
- With a walkway and driveway at such a height above the neighbouring property, there is risk of debris, people and objects falling. It would not take too much for a car to skid off the edge.
- With a walkway along the top of the retaining wall people can easily look down onto and into the neighbouring property. Enabling people to look into the neighbouring home completely eliminates any sense of privacy.
- The invasion of privacy and view from within a neighbouring property out to an up to a walkway and driveway will have a negative impact on the value of that property.

If we use the above example without the clarifications and additions we suggest, with respect to parcel line and building envelope, you could easily end up with:

- First wall at parcel line with height of 1.22 meters
- Second wall at 1.22 meters from first wall with height of 1.525 meters
- Total height of 2.745 meters with option of walkway and driveway right on top of that height
- Potentially a third wall another 1.22 meters back (2.44 meters from parcel line) with another 1.525 meters for a total height of 4.27 meters with option of walkway or driveway right on top of this wall.

Even with the first two walls there is a very high risk of snow issues and safety concerns and no privacy for the property at the bottom of the line.

One final request/suggestion we would like to make, again based on our unfortunate experience. This process has to be a permission-based model versus a forgiveness model. Variance requests, for bylaws such as this, should be made ideally as part of the plan approval process. There will be cases that this may not be possible and when not before the actual specific aspect is built. This will avoid acrimony as well as potential legal issues all around.

In our case the variance is effectively a fait accompli and it is an incredibly difficult situation. Both my wife and I suffer from chronic Lyme disease and moved to Whistler to lower our stress and to improve our health. The situation we are in due to the current process has impacted our health significantly, hopefully we can help avoid others having to experience the same.

We appreciate the opportunity to raise our concerns and also constructively provide concrete recommendations based directly on our experience. The interactions we have had with Jay, Nelson, and Joe in the building department and Clancy in the planning department have been exemplary.

Our confidence is very high that RMOW will prioritize safety and privacy, especially in these times.

Your sincerely

Tim Cantin-Vincent

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