

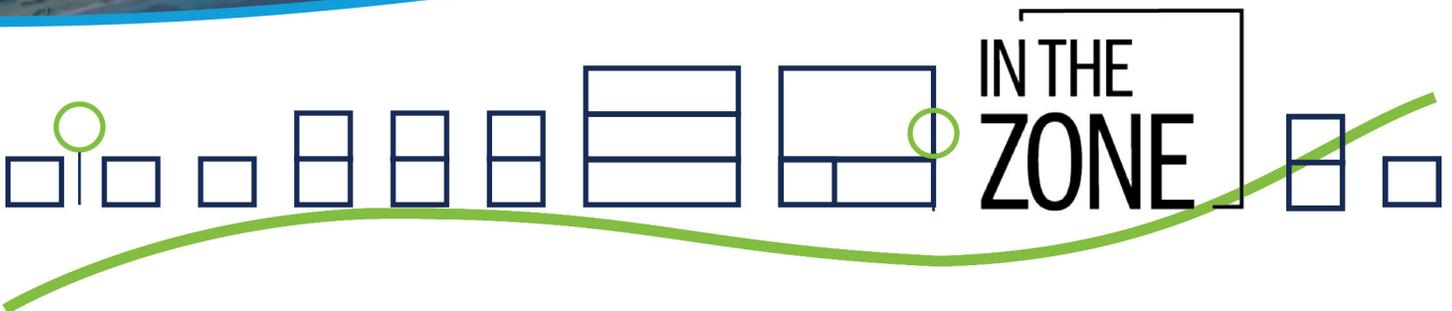
Prepared By:



Site Specific Exceptions Report

Town of Whitby Zoning By-law Review Study

December 2020



Whitby

Prepared For:

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1 Introduction



This report forms part of the Whitby Zoning By-law Review Study, a comprehensive phased undertaking that sets out to update Whitby's existing zoning by-laws into a new single Comprehensive Zoning By-law for the Town. The overall intent of the Zoning By-law Review Study is to create a new zoning by-law that will implement the Official Plan, that is clear, concise and easy to read and that provides necessary land use and built form direction while being flexible in implementation where appropriate.

Following separate Residential, Commercial, Mixed Use, Employment and Other Zone Reports, the objective of this report is to generally review and evaluate the site specific exceptions in the Town of Whitby's zoning by-laws. The undertaking includes a review of the site specific exceptions within existing Zoning By-Law #1784 ("1784"), Zoning By-Law #2585 ("2585") and the Oak Ridges Moraine Zoning By-Law #5581-05 ("5581-05").

The purpose of this report is to understand and outline how the Town's current site specific exceptions are organized and structured within each zoning by-law, as well as provide a high level summary of the key and recurring elements of these site specific exceptions, including permitted uses and provisions. The undertaking also includes a review of other municipalities' zoning by-laws to gain insight into best practices for structuring site specific exceptions and special provisions. The information summarized in this report is intended to assist in determining the content and organization of Whitby's new Comprehensive Zoning By-law, which will involve future consideration for how site specific exceptions and their provisions may be organized, addressed and carried forward.

The detailed review of each site specific exception and the decisions of how each will be carried forward into the new Comprehensive Zoning By-law will come at a later stage of the Study. The focus of this report is to gain an understanding of the nature of existing site specific exceptions, how they are documented and examples of best practices which could simplify the site specific exceptions. This report also sets out a process for reviewing the site specific exceptions for consolidation into the new Comprehensive Zoning By-law in the later phases of this Study.

The scope of this Study includes the entirety of Whitby, with the exception of the Brooklin expansion area.

Section 2 of this report broadly outlines the structure and organization of site specific exceptions in the three Whitby zoning by-laws.

Section 3 of this report provides a high level summary of the key elements and trends that are addressed within Whitby's current site specific exceptions.

Section 4 provides an overview of best practices from other zoning by-laws in Ontario.

Section 5 sets out a process for how Whitby's site specific exceptions will be reviewed and incorporated into the new Comprehensive Zoning By-law.

Section 6 summarizes some considerations from the analysis.

Section 7 addresses next steps in the Study.

2 Structure of Site Specific Exceptions in Existing Zoning By-Laws

2.1 Zoning By-law 1784

Site specific exceptions are located in numerous places throughout Zoning By-law 1784 and are organized in one of two ways, as described below.

2.1.1 Site Specific Exceptions Included within the Zone Section

Zoning By-law 1784 includes a list of site specific exceptions at the end of almost all zone sections, under an “Exceptions” heading. Within these zone-specific sections, most site specific exceptions are labelled based on the zone they are amending, followed by an associated site specific exception number and their location. For example, under Section 5: First, Second and Third Density Residential (R1, R2, R3) Zone, the first site specific exception listed is labelled:

**“R3-1: Exception 1,
Part Lot 22, Concession 2,
3820 Anderson Street”.**

For the most part, this labeling format is used for many site specific exceptions at the end of each zone, identifying which zone is being amended and where the site specific exception is located. However, some site specific exceptions do not contain the municipal address, simply the lot and concession or plan of subdivision, which can complicate locating the site specific exception.

Additionally, some site specific exceptions also include a “defined area” which is a description of the exact boundaries within which the provisions apply. However, other site specific exceptions do not include any location information within their titles or text.

Figure 1 provides an example of how more current site specific exceptions are typically labelled in Zoning By-law 1784.

<p>(iii)</p>	<p>R3B*-3: Exception 3 Part of Lot 22, Concession 3 Plan of Subdivision 18T-88028</p> <p>1. Defined Area</p> <p>The lands located north of Dryden Boulevard and east of Anderson Street and zoned R3B*-3 shall be subject to the provisions as hereinafter contained. Matters not specifically dealt with in this By-law shall be governed by the relevant provisions of By-law # 1784.</p>
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Figure 1. Zoning By-law 1784 R3B*-3 Site Specific Exception Format

Source: Town of Whitby Zoning By-law 1784

Site specific exceptions at the end of each zone section are generally listed in chronological order (for example, R2C*-1, R2C*-2, R2C*-3 and so on), however it should be noted that this is not always consistent, and some site specific exception sections skip numbers, repeat numbers or do not follow in exact numerical order. The text for all of the site specific exceptions within Zoning By-law 1784, including those at the end of each zone section, are set out in a list format as opposed to in a table format.

2.1.2 Site Specific Exceptions Included in Independent Section 12

In addition to the large number of site specific exceptions listed at the end of most zones, Section 12 dedicates almost 500 additional pages to site specific exceptions. This large number of site specific exceptions is likely owing to the age of Zoning By-law 1784.

Site specific exceptions within this section are listed alphabetically in order from A – Z. As there are more than 27 exceptions, a number value is added to each exception once the alphabet has been used (for example, 2-A, 2-B, etc.). This organization makes it difficult to follow and difficult to know how many site specific exceptions there are, when compared to using a typical numerical order starting at 1 (such as within Section 25 of Zoning By-law 2585).

Within Section 12, site specific exceptions are generally labelled based on location in varying formats. The variation in format is due, in part, to the fact that these site specific exceptions span a period of over 50 years. For example,

- site specific exception (W) is labelled “**Part of Lot 18, Concession 1**” (location only);
- site specific exception (7-G) is labelled “**217 Garrard Road**” (municipal address only);
- site specific exception (7-F) is labelled “**Northeast Corner of Harold Street and Meadow Road, 229 Meadow Road and 16 Harold Street**” (location description and municipal address); and

- site specific exception (8-T) is labelled “**Concession 4, Part Lot 23, 400 Taunton Road East**” (location and municipal address).

There are also some unique labelling tactics such as site specific exception (F) which describes the use and location “**Retail Furniture Store North Side Dundas Street East, 200.72 meters East of Thickson Road, Lot 20, Concession 2**” or site specific exception (16-l) which simply says, “**Various Properties**”. For the site specific exceptions within Section 12, this labeling format makes it more onerous to determine what zone the property is located in, and where the property is located.

It is not clear why some site specific exceptions are listed within the zone section and others in Section 12, although it appears to be related to the timing of the by-law with the exceptions in the Section 12 being older than those included at the end of zone sections.

2.1.3 Mapping

Schedule B of Zoning By-law 1784 includes 19 different zone maps. Some site specific exceptions are identified on the maps, however many are not. This is misleading and confusing for readers of the by-law.

A few site specific exceptions include a full-page site specific location map at the end of the text.

2.2 Zoning By-law 2585

Similar to Zoning By-law 1784, Zoning By-law 2585 also includes site specific exceptions located at the end of each zone section, as well as in two separate site specific exception sections of the zoning by-law.

2.2.1 Site Specific Exceptions Included within the Zone Section

At the end of each zone section, site specific exceptions are labeled numerically by zone and location, such as the following example from Section 9 of the zoning by-law: “**Exception 1 (R2-1) 1145 Brock Street South**”. A select few of the site specific exceptions include location information under a “defined area” heading of the text, however almost all site specific exceptions located at the end of zone sections include an address or a location description within their title.

There are a few instances where site specific exceptions are simply listed at the end of the zone sections by their title, however the text below each title refers the reader to Section 25 in order to obtain the detailed information on the site specific exception.

2.2.2 Site Specific Exceptions Included in Independent Sections 17E and 25

The zoning by-law additionally includes two different site specific exception sections both titled “Exceptions”: Section 17E which is only 3 pages in length and only contains three non-repealed site specific exceptions and Section 25 which is almost 240 pages in length. While the site specific exceptions in Section 17E appear to relate to the Gas Bar zones, it is not clear why some site specific exceptions are located in this section and others in Section 25, although the date of amendment may be a reason. Site specific exceptions are labeled numerically within both of these sections.

Similar to Section 12 of Zoning By-law 1784, the site specific exceptions within these two separate sections are labelled based on their location/address, and do not include zone information in their title. This makes it difficult to know which zone is being changed without reading the full text of the site specific exception.

2.2.3 Mapping

The zone maps are shown in Schedule A of the zoning by-law. While some of the maps identify site specific exceptions, similar to Zoning By-law 1784, not all of the site specific exceptions are mapped.

At the end of some site specific exceptions, there are a few full-page location maps that include the boundaries of the site specific exception.

2.3 Zoning By-law 5581-05

The Oak Ridges Moraine Zoning By-law 5581-05 lists site specific exceptions at the end of each zone section where applicable, and does not include a separate site specific exceptions section. Each site specific exception is clearly labeled in chronological order at the end of a zone section, and each title specifies which zone has been amended. For example, Section 5.2: Oak Ridges Moraine Agricultural (ORM-A) Zone of the zoning by-law includes the “**Oak Ridges Moraine Agricultural Exception One (ORM-A-1) Zone**”, followed by “**Oak Ridges Moraine Agricultural Exception Two (ORM-A-2) Zone**”, and so on. None of the site specific exceptions outline or describe location.

2.3.1 Mapping

Site specific exceptions are mapped on Schedule A-1 of the zoning by-law, along with the parent zones.

3 Site Specific Exception Trends



3.1 Zoning By-law 1784

The following provides a brief overview of the types of site specific exceptions provided at the end of each zone section based on general land use category, as well as a discussion regarding site specific exceptions within Section 12. This is a high level review to inform the Study process, with detailed review of each specific exception to occur at a later stage of the Study.

3.1.1 Residential Zone Site Specific Exceptions

While some residential zone sections have no site specific exceptions or just one site specific exception, others include up to 14 different listed site specific exceptions.

Generally, only a few additional permitted uses were added for site specific exceptions, including home based business, accessory dwelling units, and smaller commercial uses such as a day nursery or a veterinary clinic. Within the higher density residential zones including the R4A*, R4B* and R5A* Zones, uses such as street, block and stacked townhouses and apartment dwellings were sometimes permitted, often followed by a list of provisions applicable to that use. Also included are additional requirements for elements such as internal roadways, yard setbacks, distances between buildings, parking and accessory structures and number of units, among others.

The common residential zone standards that were changed included lot coverage, lot frontage, lot depth and building height, as well as minimum side yard, rear yard and front yard standards. New setbacks and standards relating to garages and porches/verandas were also sometimes introduced.

3.1.2 Commercial Zone Site Specific Exceptions

Approximately half of Zoning By-law 1784's commercial zone sections include numbered and mapped site specific exceptions. Often these site specific exceptions added a use that aligns with the commercial uses permitted within the zone. For example, a small retail store within a kiosk added through site specific exceptions to the Gasoline Bar (GB) Zone.

Examples of uses added include an office, retail store, personal service establishment, nurseries, financial institution, drive through facility and automobile related uses. When a use was added, often additional provisions were included to regulate the use.

Common provisions included requirements for maximum floor space, floor space index, maximum lot coverage, maximum lot area and various parking requirements.

3.1.3 Employment Zone Site Specific Exceptions

Just over half of the employment zones include numbered and mapped site specific exceptions, and most add similar additional employment uses to those already permitted within a zone such as automobile complexes and sales dealerships, animal shelter, waste transfer station and the industrial processing and storage of brick/concrete products and related aggregates. Definitions are provided for most added uses.

The Prestige Industrial – Automobile Complex (M1A-AC Zone) does not outline any general zone regulations. Instead, this section only details two different site specific exceptions which include a list of provisions and definitions, one for an automobile complex and one for an automobile dealership complex.

3.1.4 Mixed Use Zone Site Specific Exceptions

Many of the site specific exceptions in the CMU* and MUR-VB zones changed the permitted uses, whether adding additional uses, restricting the residential uses or restricting commercial uses that do not occur with residential uses. A number of the site specific exceptions, particularly in the CMU* Zone, altered a range of standards, such as coverage, maximum floor space provisions, setbacks, etc.

3.1.5 Other Zone Site Specific Exceptions

For the Greenbelt and Open Space Zones, some of the site specific exceptions provide additional uses such as single detached dwellings, home based businesses, accessory buildings, farming/gardening plots and educational/tourist/recreational uses. Site specific exceptions within the Institutional Zone did not follow a specific trend.

The three site specific exceptions within the Development Zone state:

“No person shall use any lot or erect, alter or use any building or structure in the D(R) Zone shown on Schedule “A-1” attached to and forming part of this By-law, except in accordance with the uses permitted and zone provisions of Section 10A1, Brooklin Secondary Plan Development Zone (D).”

This provision should be dealt with as part of the Development Zone provisions rather than as a site specific exception.

The site specific exceptions to the Agricultural Zone typically addressed temporary uses.

3.1.6 Section 12

As Section 12 consists of 500 pages of site specific exceptions not sorted by zone, it is difficult to provide any meaningful assessment of the site specific exceptions within it.

That said, the following provides some commentary on trends and themes noted in this section.

Repealed

A common element seen in Section 12 are repealed by-laws.

Temporary Use and Holding

There are not many temporary uses noted in Section 12 and almost all of the temporary use exceptions have expired or are set to expire within the next few years. Similarly, many of the holding provisions have been repealed. Temporary use and holding provisions were more commonly seen in the more recent amendments, generally after the year 2000.

Plans of Subdivision

One of the more difficult elements of this Study will be finding a way to address the longer site specific exceptions that apply to draft plan of subdivisions. For these site specific exceptions, it is generally easier to tell which zones have been added or changed (usually multiple), as specific uses and provisions are outlined under new headings. Many of these site specific exceptions add lower density residential uses including single family detached dwellings, single family semi-detached dwellings and single family town house dwellings. "Single family" is used as a term to describe a residential use throughout Section 12 of the zoning by-law, but this term is not consistent with the rest of the zone sections or uses.

When a use or provision is introduced within a plan of subdivision, additional definitions are often added, even if the use or provision has already been defined somewhere else within the zoning by-law. This approach even includes typical provisions such as landscaped open space and exterior side wall, height and height of building and floor space index, among others. For commercial uses, definitions are commonly added for gross leasable area, gross floor area, floor space and personal service establishment. For residential uses, the following definitions were noted: cellar, basement, habitable room, living room exterior wall, zero decimal three metre reserve and visibility triangle.

The plans of subdivision typically include a full range of provisions for each different use. Many set out additional parking requirements, and some set out provisions for detached garages, as well as porches or verandahs.

The breadth and detail, as well as magnitude of these site specific provisions will be onerous to address in the new Comprehensive Zoning By-law in a manner that is succinct and clear to the reader. To further complicate things, many of the site specific exceptions that predate 2000 are unmapped.

Common Provisions and Commonly Added Uses

Some repeated provisions were noted. One of these is related to development setbacks from the Trans Canada Pipeline right-of way, as follows:

“All permanent buildings or structures shall be setback from the pipeline right-of-way, as owned by Trans Canada Pipelines or any of its successors, a minimum of 10.0 meters from said right-of-way.”

This provision could simply be added to the general provisions section of the zoning by-law.

Another common provision applicable in the Agricultural Zone is a single family dwelling must be “occupied by the bonafide farmer as a personal residence” in order to meet the intent of the Region of Durham Official Plan. These amendments date back to when lots were permitted to be created for retiring farmers. These types of severances are no longer permitted due to policy changes.

Specifically, within Section 12 of the zoning by-law, some other repeated uses added include home based businesses, nursery schools and day care centres, long term care facilities, automobile related uses, retail stores and personal service establishments, office and clinics, as well as places of entertainment and assembly.

3.2 Zoning By-law 2585

Zoning By-law 2585 has site specific exceptions listed at the end of most zones, as well as in Section 17E and Section 25. The following provides a brief overview of the types of site specific exceptions provided at the end of each zone section based on each general land use category, as well as a discussion regarding site specific exceptions within Sections 17E and 25.

3.2.1 Residential Zone Site Specific Exceptions

Common residential zone site specific exceptions include the permission for non-residential uses such as offices, clinics and personal service establishments added to different residential zones, especially within Whitby’s Downtown Residential Zones. Also, within Whitby’s Downtown Residential Zones, added uses include an apartment dwelling unit in lower density residential zones including the R1-DT and R2-DT Zones.

The R5A Zone includes many long and detailed site specific exceptions setting out specific provisions for higher density uses.

3.2.2 Commercial Zone Site Specific Exceptions

Only two of the commercial zones include numbered and mapped site specific exceptions: the Special Purpose Commercial (C2-S) Zone and the Central Commercial 3 – Downtown Zone (C3-DT). While offices were the most commonly added use, financial institutions, clinics, personal service establishments and retail stores were also noted. Maximum height provisions were also commonly changed in the C3-DT Zone.

3.2.3 Employment Zone Site Specific Exceptions

Two employment zones contain one numbered and mapped site specific exception each: the Select Industrial (M1A) Zone and the Restricted Industrial (M2) Zone. Select Industrial site specific exception 1(M1A-1) adds a new automobile sales dealership as a use, and provides a definition, however, does not provide any specific provisions for the use. Restricted Industrial site specific exception 1 (M2-1) is a holding provision which requires approval based on flood proofing measures.

3.2.4 Mixed Use Zone Site Specific Exceptions

The Commercial-Residential Downtown Zone (CR-DT) includes a few different site specific exceptions, some altering the zone provisions and others introducing new uses, such as community uses or a senior's apartment building.

3.2.5 Other Zone Site Specific Exceptions

Some of the other zones include one or two site specific exceptions, generally related to uses. One of the Open Space (OS) Zone site specific exceptions permits a parking lot and the other restricts the uses on the property to passive uses.

The Development (D) Zone includes two site specific exceptions for temporary uses that have expired, and the Institutional (I) Zone includes one repealed site specific exception. The two Downtown Institutional (I1-DT and I2-DT) Zones have one site specific exception each and include the addition of permission for an office use and a private club of a fraternal organization.

3.2.6 Gas Bar Site Specific Exceptions

Section 17E only contains three different site specific exceptions, all relating to the Gas Bar (GB and GB-CW) Zones. These three site specific exceptions relate to the addition of a retail store/kiosk with a list of applicable provisions.

3.2.7 Section 25

As Section 25 consists of over 200 pages of site specific exceptions not sorted by zone, it is difficult to provide any meaningful assessment of the site specific exceptions within it. Nonetheless, the following provides some commentary on trends and themes noted in this section.

Plans of Subdivision

Many of the site specific exceptions are for residential draft plans of subdivision. While the earlier ones are more likely to be for lower density uses, in the later years, they are for townhouses or apartments. Typically, these site specific exceptions include a long list of specific provisions (lot size, height, coverage, setbacks etc.) for each use and sometimes unique definitions. Commonly repeated definitions include floor space index, lot frontage, living room, zero decimal metre reserve, habitable room, yard, height

of building, basement, cellar, required living room windows, building code and parking space, among others.

Repealed

The majority of the repealed site specific exceptions are located within Section 25 of Zoning By-law 2585.

Temporary Use

Almost all of the temporary use site specific exceptions have expired or are set to expire within the next few years.

Holding

Holding zones are mostly all related to the development of residential uses, but there are some for industrial and commercial uses as well. These site specific exceptions typically require ensuring appropriate sanitary, water and storm servicing or the conservation of natural features prior to development.

Common Provisions and Commonly Added Uses

There was no overwhelming trend in commonly amended standards or permissions. Site specific exceptions that added or restricted uses were more common than those that simply amended a standard. The uses added in the site specifics were too varied and wide ranging to note any specific trend.

3.3 Zoning By-law 5581-05

Approximately half of the zones within Zoning By-law 5581-05 outline site specific exceptions, which are listed at the end of each zone section. This includes the Agricultural (ORM-A) Zone, the Residential Two (ORM-R2) and Three (ORM-R3) Zones, the Highway Commercial Two (ORM-C2) Zone and the Institutional (ORM-1) Zone.

3.3.1 Agricultural Zone

The Agricultural ORM-A Zone contains three different site specific exceptions, and one temporary use site specific exception which has expired. Two of these site specific exceptions include a list of amended zone regulations for single detached and converted dwellings, generally on a smaller lot with reduced setbacks, and the third permits a grocery and fruit market up to a maximum gross floor area of 307 meters².

3.3.2 Residential Zones

Both the Residential Two ORM-R2 Zone and the Residential Three ORM-R3 Zone include three site specific exceptions each. Most of these site specific exceptions include provisions for larger lot requirements than in the parent zone, while another permits a sausage kitchen, subject to lifting of a hold.

3.3.3 Highway Commercial Zone

The only site specific exception to the Highway Commercial ORM-C2 Zone includes the additional uses of an agricultural implement sales and service outlet and a recreational vehicle sales and service establishment, with specific provisions for the uses.

3.3.4 Institutional Zone

The Institutional ORM-1 Zone contains one site specific exception: a holding provision tied to the lands being serviced by municipal water and sanitary sewer facilities.

4 Best Practices of Other Municipalities



The purpose of this section is to identify best practices of other zoning by-laws in Ontario, for consideration of inclusion in Whitby's new Comprehensive Zoning By-law. The zoning by-laws reviewed in this Study were chosen based on the following factors:

- locale - to review zoning by-laws within southern Ontario;
- approval date - to review more recent zoning by-laws, such as East Gwillimbury and Vaughan, neither of which are in effect yet;
- clarity - to consider zoning by-laws that had been noted in other planning work as being clear, concise and well organized, such as Milton and Ajax; and
- uniqueness - to review zoning by-laws that brought a unique or interesting element, such as the use of colour in the zoning by-law in St. Catharines or illustrations in Oakville.

The following subsections identify site specific exception organization and mapping practices from other municipal zoning by-laws that could be considered for implementation in the Town's new Comprehensive Zoning By-law.

4.1 Organization

Site specific exceptions are generally organized in two primary ways within the example zoning by-laws:

- 1) Within each of the zone category sections; or
- 2) Within their own section, separate from the zone provisions.

As previously discussed, Whitby's existing zoning by-laws (1784 and 2585) employ both these methods within the same documents. This makes understanding and keeping track of all of the site specific exceptions within the Town confusing. No other municipality reviewed has done the same.

Most of the zoning by-laws reviewed include site specific exceptions (also called special provisions) within a separate section of each zoning by-law. This includes Ajax, Barrie, East Gwillimbury, Milton, Newmarket, Oakville, St. Catharines, Vaughan and Welland. Depending on the municipality, these separate sections are either broken down into subsections by zone category, or all of the site specific exceptions are listed numerically and not grouped in any specific order. For example, Section 13: Special Provisions of Barrie's Zoning By-law is broken into subsections for residential zones, commercial zones, industrial zones, etc., while Section 7: Exceptions of Ajax's zoning by-law simply provides a numbered list.

Unlike the other municipalities reviewed, the City of Welland locates their site specific exceptions section within a separate schedule of their zoning by-law. Schedule B: Special Exceptions of the Welland Zoning By-law is formatted to describe each special exception. The special exceptions are organized numerically and labelled by zone, with the location of each included at the bottom of each special exception (**Figure 2**).

7. **RL1-7**

1. The Zone Provisions of the RL1-7 Zone shall be those required in the RL1 Zone, with the westerly lot line designated as the front lot line. Notwithstanding the foregoing, the existing front yard setback of 3.9 metres for the most southerly residential dwelling (**72 Milkweed Trail**) shall be the required front yard setback.
2. That notwithstanding Sections 5.22, residential development will be permitted on private water and sanitary services which are ultimately connected to a municipal system.

(72, 86 AND 100 MILKWEED TRAIL)

8. **RL1-8**

1. That the provisions of the RL1-8 Zone shall be those provided for in the RL1 Zone with the westerly lot line designated as the front lot line.

(136 AND 188 MILKWEED TRAIL)

9. **RL1-9**

1. The Zone Provisions for the RL1-9 ZONE shall be those provided by the RL1 ZONE save and except the following:

Front Yard	Minimum 5.0 metres
Rear Yard	Minimum 6.5 metres

(PART OF SEAWAY HEIGHTS SUBDIVISION)

10. **RL2-10**

1. The Zone Provisions for the RL2-10 Zone shall be those of the RL2 Zone with the exception that the minimum exterior side yard requirements for semi-detached buildings will be 1.5 metres.

(JACKSON COURT WEST, JEFFERSON COURT WEST, SEAWAY HEIGHTS SUBDIVISION; PART OF TOWPATH VILLAGE 59M-230)

Figure 2. Welland Zoning By-law Schedule B: Special Exceptions

Source: City of Welland Comprehensive Zoning By-law 2017-117

The Towns of Grimsby and Innisfil are the only two in this review that include site specific exceptions at the end of each applicable zone section.

4.2 Format

Municipalities format their site specific exceptions two different ways: in a list or in tabular format. The majority of municipalities use a varied tabular format, including Ajax, East Gwillimbury, Newmarket, Oakville, St. Catharines, Grimsby and Vaughan. This type of organization provides clarity to the reader and gives the municipality the opportunity to highlight different heading categories that are important to each site specific exception. These headings may include the zone it is amending, the permitted uses and provisions being added or removed, the location and/or address of the site specific exception, the location of any relevant maps or schedules within the zoning by-law, and any other relevant information. The East Gwillimbury Zoning By-law outlines this clearly as shown in **Figure 3** and provides all their exceptions in tabular format.

Part 16.0 - Exceptions

The provisions of this By-law are modified as set out in Table 16A below, as follows:

- a) The first column sets out the exception number of each **Zone** exception which corresponds to an area of the **Town** identified on the Schedules by the same number, preceded by a dash and the letter “E”, denoting an exception;
- b) The second column identifies the **Zone** subject to the exception;
- c) The third column sets out the additional **uses** permitted in the **Zone** exception, if applicable;
- d) The fourth column sets out the prohibited **uses** in the **Zone** exception, if applicable;
- e) The fifth column sets out the new or modified standards for the **Zone** exception, if applicable;
- f) The sixth column sets out the location and/or address of the exception, as well as the corresponding Map on which the exception can be found; and,
- g) The seventh column sets out the site specific By-law Number through which the exception was approved, if applicable.

Exception No.	Zone	Permitted Uses	Uses Prohibited	Special Provisions	Location	By-Law No.
2	RU	i. All uses permitted in the RU zone		A separate driveway may be used for accessory farm employee accommodation. No future severance shall be permitted.	Pt. Lot 9, Conc. 8 (Map 14)	89-70 2010-001
		ii. Accessory Farm Employee Accommodation			Pt. Lot 15, Conc. 8 (Map 6)	
3	C1	Limited to:	i. Outdoor display and sales area associated with additional permitted uses (vi) through (vii).	Maximum gross floor area for retail stores: 1,000 m ²	Pt. Lot 19, Conc. 4 (Map 11) 20287 Woodbine Ave	
		i. Golf driving range			Pt. Lot 11, Conc. 2 (Map 4) 893 Mount Albert Rd	
		ii. Miniature golf course			Pt. Lot 1, Conc. 3 (Map 15) 2238 Davis Dr	
		iii. Garden centre			Pt. Lot 1, Conc. 3 (Map 15) 2220 Davis Dr	
		iv. Commercial recreation use				
		v. Equipment rental establishment				
		vi. Retail store				
		vii. Wholesale establishment which conduct retail sales on the same lot				
4	RU	Limited to: i. Motor vehicle repair garage			Pt. Lot 10, Conc. 4 (Map 13) 18928 Warden Ave	86-110 2002-57

Figure 3. East Gwillimbury Zoning By-law Exceptions Table

Source: Town of East Gwillimbury Comprehensive Zoning By-law 2018-43

This is a very similar approach to that used in Grimsby as shown in **Figure 4** and other zoning by-laws that SGL Planning & Design Inc. (SGL) has prepared.

Table 12: Permitted Use, Lot, Building and Structure Exceptions

Site Specific	By-law #	Address	Zone	Additional Permitted Uses	Sole Permitted Uses	Excluded Uses	Lot, Building and Structure Exceptions
3	75-12	Part Lot 278, Corporation Plan 4	RM3		Retirement home		Maximum # of units: 63 Parking spaces: one space for four units.
4	75-13	Part Lots 1 and 2, Plan 63	MS	Boarding house			
6	78-20	Lot 15, Concession 2	MS				Minimum lot frontage: 18.3 m.
12	80-38	Lots 3 & 4, Plan 143	RM2				Part 1 as shown on Schedule 11 of Appendix A: Minimum lot frontage: 17.68 m. Maximum dwelling units: 8 Minimum side yard (east side): 1.4 m. Minimum side yard (west side): 4.02 m. Part 2 as shown on Schedule 11 of Appendix A: Minimum lot frontage: 18.25 m. Minimum side yard (east side): 3.2 m. Minimum side yard (west side) 3.07 m.
14	81-39		HR				Minimum lot area: 0.43 ha
15	81-77		RM2(H)				Part 3 as shown on Schedule 12 of Appendix A: Minimum lot frontage: 9.27 m.
16	82-31		RM1				Maximum height: one storey.
16	82-31		TRM				Maximum height: one storey
17	82-58	129 Main St E	MS				Minimum lot frontage: 16.5 m.

Figure 4. Grimsby Zoning By-law Exceptions – Residential

Source: Town of Grimsby Zoning By-law 14-45

The Vaughan and Oakville zoning by-laws are similar, outlining site specific exception details in tabular format, however the tables sometimes additionally include site specific figures, maps or diagrams (**Figures 5 and 6**).

14.0 ZONE EXCEPTIONS

14.1

Exception Number 1	Legal Description: 275 Woodbridge Avenue
Applicable Parent Zone: RM2	
Schedule A Reference: 45, 46	Figure E Link (if applicable)
By-law / Tribunal Decision Reference	Figure T Link (if applicable)
14.1.1 Lot and Building Requirements	
1. The minimum yard requirements shall be as shown on Figure E-1.	
14.1.2 Parking	
1. The minimum number of required parking spaces shall be 8.	
2. The required parking spaces shall be located within the area shown as "Parking Area" on Figure E-1.	
14.1.3 Other Provisions	
1. The maximum number of dwelling units shall be 32.	
2. The maximum number of bedrooms within each dwelling unit shall be 1.	
3. The building or structure shall be built within the area shown as "Building Area" on Figure E-1.	

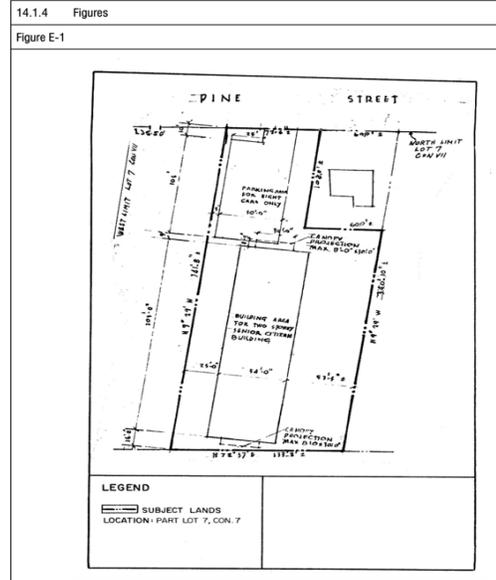


Figure 5. Draft Vaughan Zoning By-law Zone Exceptions Table

Source: City of Vaughan Proposed Third Draft Comprehensive Zoning By-law

16 (Old 838) Map 19(8)	80 Navy Street and 104-144 Robinson Street (Lot A, 1 and 2, Part of Lots 3 and 4, and Block 51, Plan 1) (Parts of Lot 14, Concession 4 S.D.S.)	Parent Zone: RM4 (2010-019) PL090432 (2010-024) PL100214
15.16.1 Zone Provisions		
The following regulations apply:		
a)	Maximum number of dwelling units	13
b)	Minimum lot frontage (Navy Street)	23.0 m
c)	Minimum flankage yard (Robinson Street)	1.4 m
d)	Minimum interior side yard (adjacent to 70 Navy Street)	3.0 m
e)	Minimum interior side yard, remainder of yard	0.0 m
f)	Minimum setbacks for a below-grade parking structure	0.0 m
g)	Minimum front yard and rear yard (Water Street)	As shown in Figures 15.16.1 and 15.16.2
h)	Maximum height	As shown in Figures 15.16.1 and 15.16.2
i)	Elevator shafts and associated equipment, roof access and projections are permitted on the roof deck provided they are located a minimum of 2.0 m from any roof edge to a maximum projection of 2.0 metres.	
j)	Maximum allowable projections into any yard for balconies and handrails (rear yard/ Water Street only), sills, belt courses, roof features, and eaves	0.9 m
k)	Maximum allowable projections for uncovered platforms, porches, entry features, and access stairs	Up to the front and flankage lot lines
l)	Maximum lot coverage	75%
m)	Minimum landscaping coverage	20%
n)	Motor vehicle access from Robinson Street is not permitted. A maximum of one driveway from Water Street is permitted.	
15.16.2 Special Site Figures		
Figure 15.16.1	Figure 15.16.2	
15.16.3 Special Site Provisions		
The following additional provision applies:		
a)	Rear yard is to be measured at the midpoint of the rear lot line perpendicular to the building face.	

Figure 6. Oakville Zoning By-law Exception Table

Source: Town of Oakville Zoning By-law 2014-014

Other examples of site specific exceptions organized in tabular format include Ajax (**Figure 7**), Milton (**Figure 8**), Newmarket (**Figure 9**) and St. Catharines (**Figure 10**). These four examples of site specific exception tables are all located within a separate section of each zoning by-law.

List of Exceptions

The following exceptions apply to the properties specified:

Exception	Zoning	Map	By-law	File Reference
1	RM4	28		A14/74, SP2/75, 18CDM 75-54
i) Location: 92 Church Street ii) Legal Description: Part 1, Plan WR-159 iii) Additional Uses: Offices on the ground floor of the apartment building Except as amended herein, all other provisions of this By-law, as amended, shall apply.				

Exception	Zoning	Map	By-law	File Reference
2	R1-B	44	91-89	
i) Location: 14 Emperor Street ii) Legal Description: Part 9, Plan 40R-7493 iii) Additional Uses: Esthetician service Exception 2 is continued on the next page.				

Figure 7. Ajax Zoning By-law Exception Table

Source: Town of Ajax Zoning By-law 95-2003

13.1.1 List of Special Provisions

The following exceptions apply to the properties specified:

Section No.	By-law No. (Date Enacted)	Zone	Exception No.
Property Address and/or Legal Description			
Special Provisions			
13.1.1.1	75-2002 109-2004 (Dec 20/04)	RLD	*1
57 Martin Street (Martin House)			
i) Only Uses Permitted a) business or professional office, with the exception of a medical practitioner; b) dwelling unit in the main and upper portion of a commercial building.			
13.1.1.2	61-85 125-2005 (Sept 26/05)	C3	*2
1580 Derry Road East (Mattamy Hawthorne Village Commercial)			
i) Additional Permitted Use a) fitness centre ii) Zone Standards b) Maximum Total Combined Gross Floor Area: 1550m ²			

Figure 8. Milton Zoning By-law Exception Table

Source: Town of Milton Comprehensive Zoning By-law 016-2014

8.1.1 List of Exceptions

The following exceptions apply to the properties specified:

Exception 1	Zoning CC-1; R4-N-1	Map 11	By-Law Reference 1979-50, Schedule 'E'	File Reference
i) Location:	220, 222, 224, 226 Eagle Street; 278 to 290 Cawthra Boulevard			
ii) Legal Description:	Lots 33, 47, 48 and 49, Registered Plan 344			
iii) Development Standards:				
(a) Lot Area per Dwelling Unit (minimum):				111 m ²
(b) Floor Space Index (maximum):				0.95

Exception 2	Zoning OS-2-2	Map 8	By-Law Reference 1981-96	File Reference
i) Location:	470 Crossland Gate			
ii) Legal Description:	Block 92, Plan 65M-2212			
iii) Uses:	A Club House; <i>Banquet Facilities</i> ; and, Private Indoor Recreation Facilities shall also be permitted.			

Exception 3	Zoning R1-B-3	Map 4	By-Law Reference 1983-41	File Reference
i) Location:	241 Old Main Street			
ii) Legal Description:	Concession 1 E.Y.S., Part of Lot 98, 65R-11175			
iii) Additional Uses:	A school for aquatic instruction is permitted in conjunction with a <i>residential use</i> .			

Figure 9. Newmarket Zoning By-law Exceptions

Source: Town of Newmarket Zoning By-law 2010-40

Special Provision	Zone	Schedule A	Schedule B	Location	By-law
34	A3 & A1	12, 13, 18, 19	11	1179 and 1215 Fourth Avenue	
1.	Additional permitted uses in Area 1 as shown on Schedule B11:			Farm Market Retail Wine Sales Outlet	
2.	Provisions for Farm Market				
a)	Minimum lot area:			0.4 ha	
b)	Minimum lot frontage:			30 m	
c)	Minimum side yard:			6 m	
d)	Minimum front yard:			12 m	
e)	Minimum flanking yard:			12 m	
f)	Minimum rear yard:			7.5 m	
g)	Maximum height:			14 m	
h)	Maximum lot coverage:			30%	
i)	Minimum parking requirement:			1 parking space for every 19 m ² of gross leasable floor space.	
3.	Provisions for retail wine sales outlet				
a)	Maximum floor area of retail wine sales outlet:			140 m ²	
b)	Minimum flanking yard:			10.6 m	
4.	Additional permitted uses in Area 2 as shown Schedule B11:			Cottage Winery	
5.	Provisions:				
a)	Maximum floor area of cottage winery:			186 m ²	

Figure 10. St. Catharines Zoning By-law Exceptions

Source: City of St. Catharines Comprehensive Zoning By-law 2013-283

In comparison to these examples, Barrie, Innisfil and Welland are the only municipalities that set out their site specific exceptions and special provisions in a list format, similar to the same format as the rest of their zoning document. The City of Barrie makes use of tables for specific provisions where applicable, typically when many new uses and/or requirements are added.

4.3 Mapping

Most of the municipalities reviewed map their site specific exceptions on the same maps and/or schedules as the parent zones. This includes Barrie, East Gwillimbury, Innisfil, Milton, Newmarket, Oakville, Welland and St. Catharines. The readability of these maps and the ability to identify site specific exception boundaries is heavily dependent on the scale of each map and how each site specific exception is labelled.

To assist in providing direction, the site specific exception tables in Oakville, Ajax, Newmarket and St. Catharines (as seen in **Figures 6, 7, 9** and **10** above) include a column that identifies which zoning by-law map a site specific exception is shown on.

In addition to identifying special provisions on Schedule A, which includes all parent zones, the City of St. Catharines has two additional schedules that contain individual site specific maps (**Figure 11**).

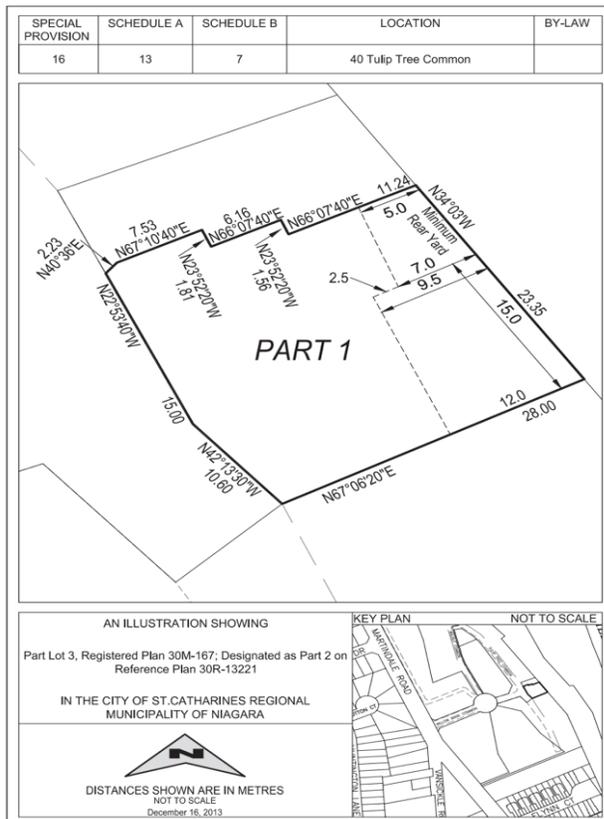


Figure 11. St. Catharines Zoning By-law Schedule B

Source: City of St. Catharines Comprehensive Zoning By-law 2013-283

The Towns of Grimsby and Ajax organize parent zone and site specific exception mapping in a unique way. The Town of Grimsby includes two copies of each map schedule on pages adjacent to one another. The first map indicates the location of each parent zone (**Figure 12**), and the second indicates the location of each site specific exception, labeled by their corresponding site specific exception number (**Figure 13**). Ajax uses the same method.

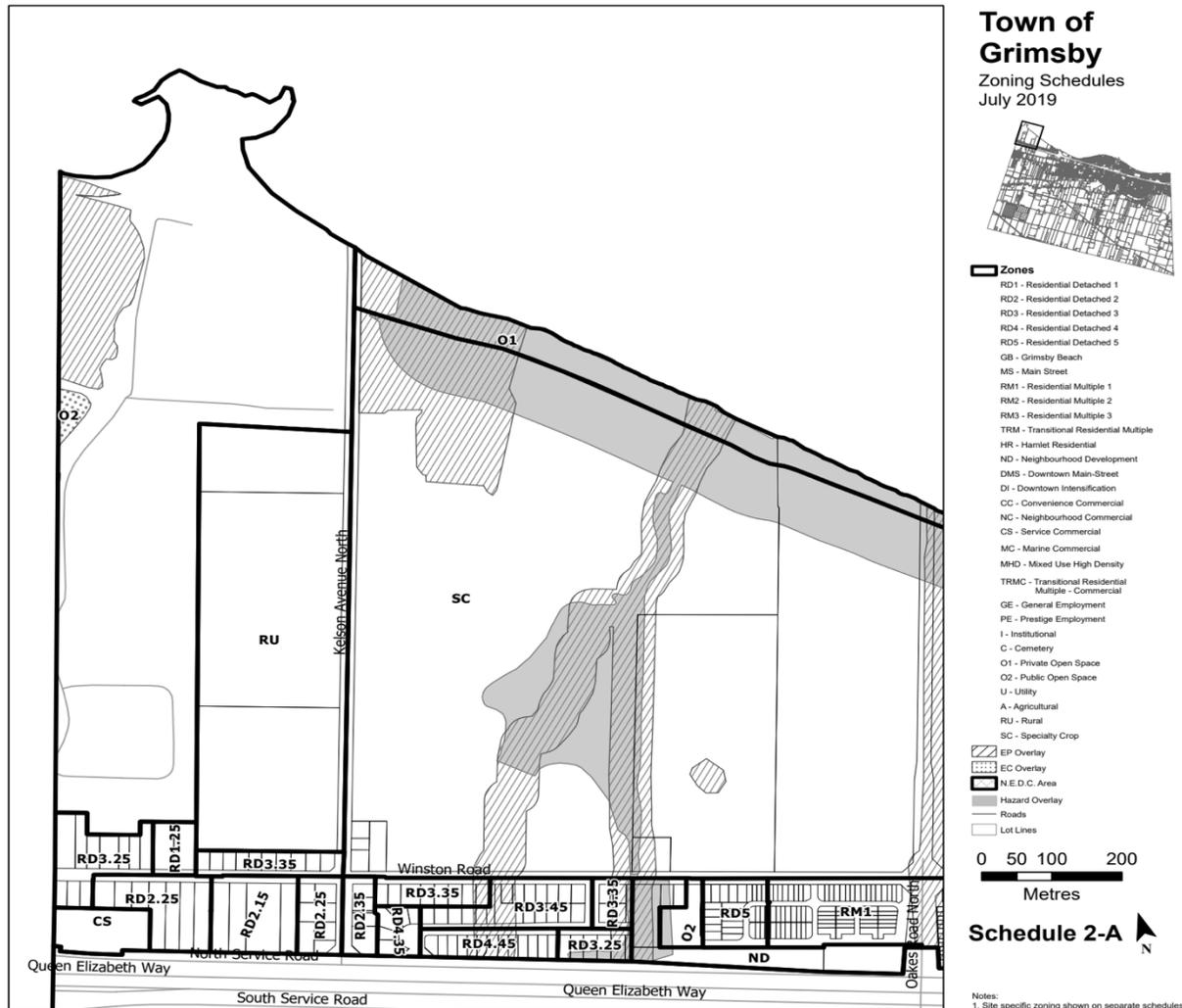


Figure 12. Grimsby Zoning By-law Parent Zone Schedule 2-A

Source: Town of Grimsby Zoning By-law 14-45

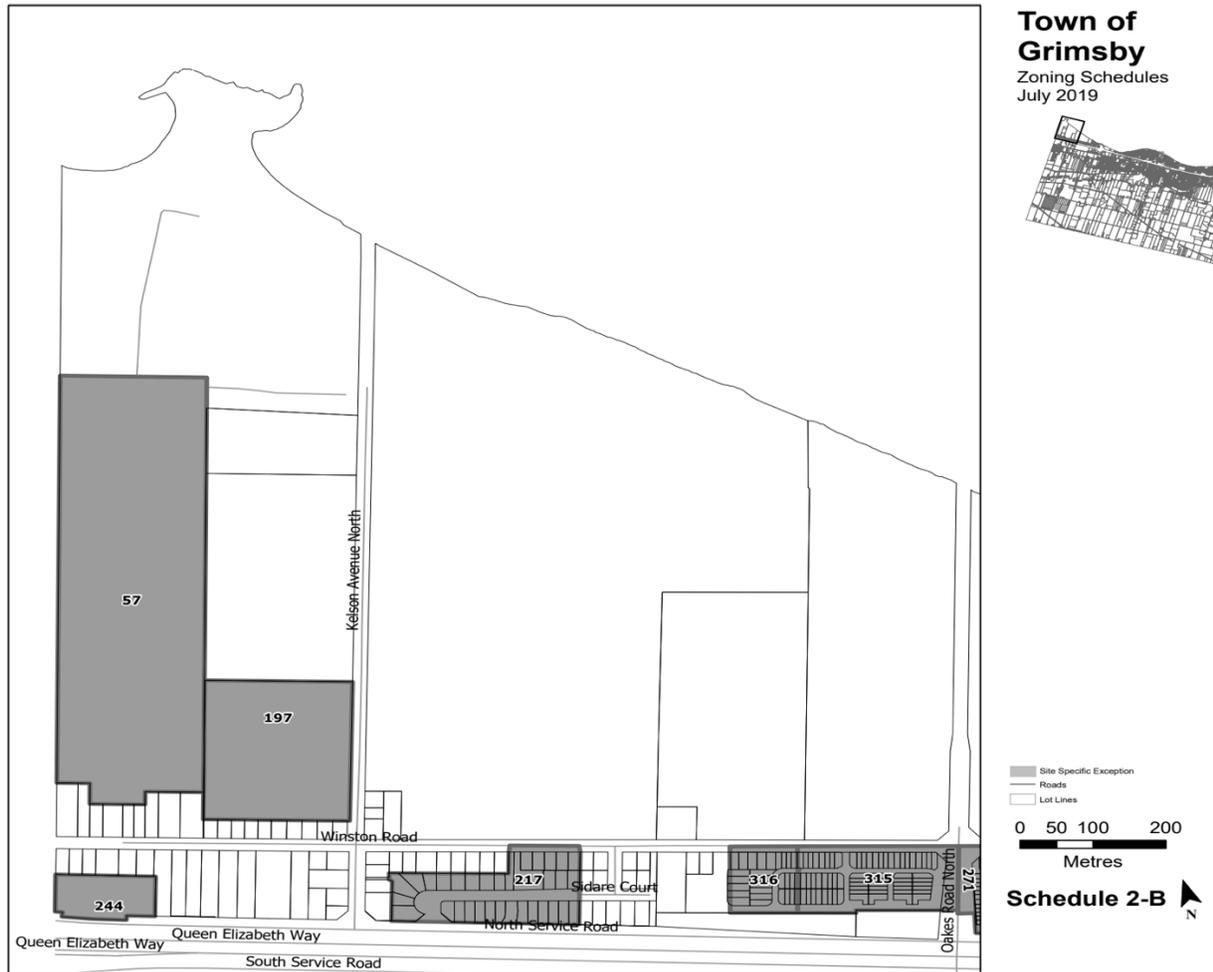


Figure 13. Grimsby Zoning By-law Exception Schedule 2-B

Source: Town of Grimsby Zoning By-law 14-45

4.4 Holding Provisions and Temporary Uses

Most of the municipalities reviewed have included holding provisions and sometimes temporary use provisions within separate sections of their zoning by-laws, separate from their site specific exception sections. Additionally, Ajax, Milton, Newmarket and Oakville also include a separate section for interim control zones. This approach is in contrast to how holding provisions and temporary uses are currently organized within Whitby’s three zoning by-laws, which are spread throughout the documents in various zone and site specific exception sections.

5 Proposed Process



The detailed review of Whitby's site specific exceptions will include deleting those that are no longer relevant as well as deleting any site specific exceptions that have been repealed or any temporary uses that have expired. In addition, wherever possible, the content of site specific exceptions will be reduced.

Once the new parent zoning provisions are created, some of the site specific exceptions may become obsolete as their permissions may be permitted as-of-right under the new zoning. Thus, each exception will be reviewed against the final zoning to carry forward only the portions of the existing exception that are needed. As a result, the review of site-specific exceptions will need to occur once the new Comprehensive Zoning By-law is in its final draft.

In order to undertake the review, each of the site specific exceptions will be mapped so that the existing exception can be compared to the new zone. Overlapping site specific exceptions will also be identified.

A challenging component of this process will be reviewing the complicated site specific exceptions which contain amending provisions for multiple zones. Further consideration in Phase 2 will consider how best to address these larger, complicated site specific exceptions.

6 Further Considerations



The following provides a summary of preliminary findings of this report:

- Both Zoning By-law 1784 and 2585 include site specific exceptions at the end of each applicable zone section, as well as in separate “exception” sections. This organization makes it difficult to comprehend how many site specific exceptions there are, and it is unclear why certain site specific exceptions are located in different locations.
- The labeling of site specific exceptions is very inconsistent amongst the Town’s zoning by-laws. While some outline the site specific exception number, zone being amended and the location of the site specific exception, some are only labeled by one of these factors. A clear and consistent labeling system for each site specific exception will need to be created.
- Most plans of subdivision are included within the separate “exception” sections, which makes sense considering they typically amend multiple zones. However, some are still located at the end of each zone category, making this organization inconsistent.
- While some site specific exceptions are mapped on the schedules, it does not appear that all are. Consideration should be given towards how to approach the mapping of these zones, and whether they should be included on the same maps as the parent zones, or on separate maps. Information from the best practice review will assist in assessing these options.
- The majority of the example zoning by-laws from the best practice review included site specific exceptions in tabular format, and in a separate section of each zoning by-law. This format made each site specific exception easy to identify and understand. The format for Whitby’s site specific exceptions should consider these examples.
- How the Town’s site specific exceptions are numbered and labeled has implications on how they are mapped. By setting out the site specific exceptions by zone, each zone’s site specific exception can start at #1. This means more of them can stay in the single and double digits, but the site specific exception must be labeled with the zone, for example, RD-12, which would indicate site specific exception number 12 of the RD zone. Categorizing and labeling site specific exceptions by zone would assist in providing clarity to the reader.
- Within Zoning By-law 1784 and 2585, there are many repealed and expired temporary use zones that will need to be removed. Many of these do not have any zone or location information within the zoning by-law text.
- Most of the example zoning by-laws reviewed place holding provisions and temporary use provisions into separate sections from their site specific exception

sections. This is in contrast to the Town's zoning by-laws, which include holding and temporary use provisions with site specific exception. Consideration should be given to where holding and temporary use provisions are located in the new zoning by-law.

- Consideration should be given to whether certain additional uses should be permitted as-of-right within parent zones in order to reduce the number of site specific exceptions, as many additional uses added within site specific exceptions already align with the uses permitted within a parent zone. The Town's new Comprehensive Zoning By-law should be regularly updated to reflect changes in circumstances, and new uses.
- Opportunities to make the zoning by-law more flexible to reduce the number of site specific amendments needs to be considered. The zoning by-law should be considered as an enabling tool more than a regulating or restrictive tool that requires a large number of site specific exceptions and amendments.
- Within Zoning By-law 1784 and 2585 there are often repeated provisions that could easily be incorporated into a parent zone or into the general provisions of the zoning by-law. For example, a large number of site specific exceptions throughout repeat a requirement for setbacks from the Trans Canada Pipeline right-of-way.
- Many definitions are continuously repeated within the site specific exceptions. These definitions should be moved to the definitions section of the new by-law.

7 Next Steps



The purpose of this report is to identify and summarize the key elements and organizational aspects of Whitby's numerous site specific exceptions. The report explores how site specific exceptions and provisions are labeled, organized and structured. It also provides a high level summary and identifies reoccurring trends in existing site specific exceptions.

This information is intended to assist in determining the content and organization of Whitby's new Comprehensive Zoning By-law, which will involve future consideration of how site specific exceptions and provisions may be organized, addressed, improved upon and carried forward.

In Phase 2 of the Study, the information prepared within this report and in the other Phase 1 reports will be used to provide recommended courses of action for the content and organization of the Town's numerous site specific exceptions.

