

# Deputation to Town of Georgina March 6, 2019

By N. Didomenico

Requesting Clarity on Definition of

“Substantial” as used in the Section 41 (1) of the Planning Act

# Section 41 (1) of the Planning Act

## Site plan control area

41 (1) In this section,

"development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined in subsection 164 (4) of the *Municipal Act, 2001* or subsection 3 (1) of the *City of Toronto Act, 2006*, as the case may be, or of sites for the location of three or more mobile homes as defined in subsection 46 (1) of this Act or of sites for the construction, erection or location of three or more land lease community homes as defined in subsection 46 (1) of this Act. R.S.O. 1990, c. P.13, s. 41 (1); 1994, c. 4, s. 14; 2002, c. 17, Sched. B, s. 14 (1); 2006, c. 32, Sched. C, s. 47 (8).

## The Term "Substantially" is not defined in the Planning Act

- Why does The Town's Definition of "Substantial" Matter?
  - Alterations and or additions that are deemed substantial result in significant extra fees charges, and administrative burdens
- Town bylaw states that alterations < 40% trigger the need for a "Minor" Site Plan Amendment
- Fees for a Minor Site Plan amendment
  - \$3,600 +15% = \$4,140
  - Development charges approx. \$2 / square ft
  - Region Fee \$3,200 (for properties on Regional roads)
- Is less than 40% additional usable area a threshold for "substantial"?
  - If so then how much less?
  - When does an alteration cease to be "Substantial"

# Proposed Daycare Expansion

- Current Facility Operating in Keswick (Learning Together Child Care)
  - Single Classroom ( 24 pre school children)
  - Total Building Area 1765 square feet ( excluding 200 sq. ft existing attached concrete porch)
- Currently Planned Expansion ( accommodate up to 15 additional children)
  - Enclose & winterize existing concrete porch 230 sq. ft = 13%
  - New Winterized Extension to porch area 168 sq. ft = 10%
  - New Extension to bathroom 48 sq. ft = 2%
  - Total New Usable area = an increase of 25%
- Estimated Total Build Cost \$20,000 ( excluding fees and charges)
- Fees + Charges \$8,000 = 40% of actual Build Cost
  - Is an expansion substantial when the fees are equivalent to 40% of the build cost?

**SITE INFORMATION**

**GENERAL**

ZONING	R1-124 RESIDENTIAL
USE	DAY NURSERY
FLOOR AREA	1,765 SF - 164.8M
ADDITIONS	445 SF - 41.3 SM

**BUILDING CODE NOTES**

ASSEMBLY OCCUPANCY IN BUILDING CLASSIFIED AS:

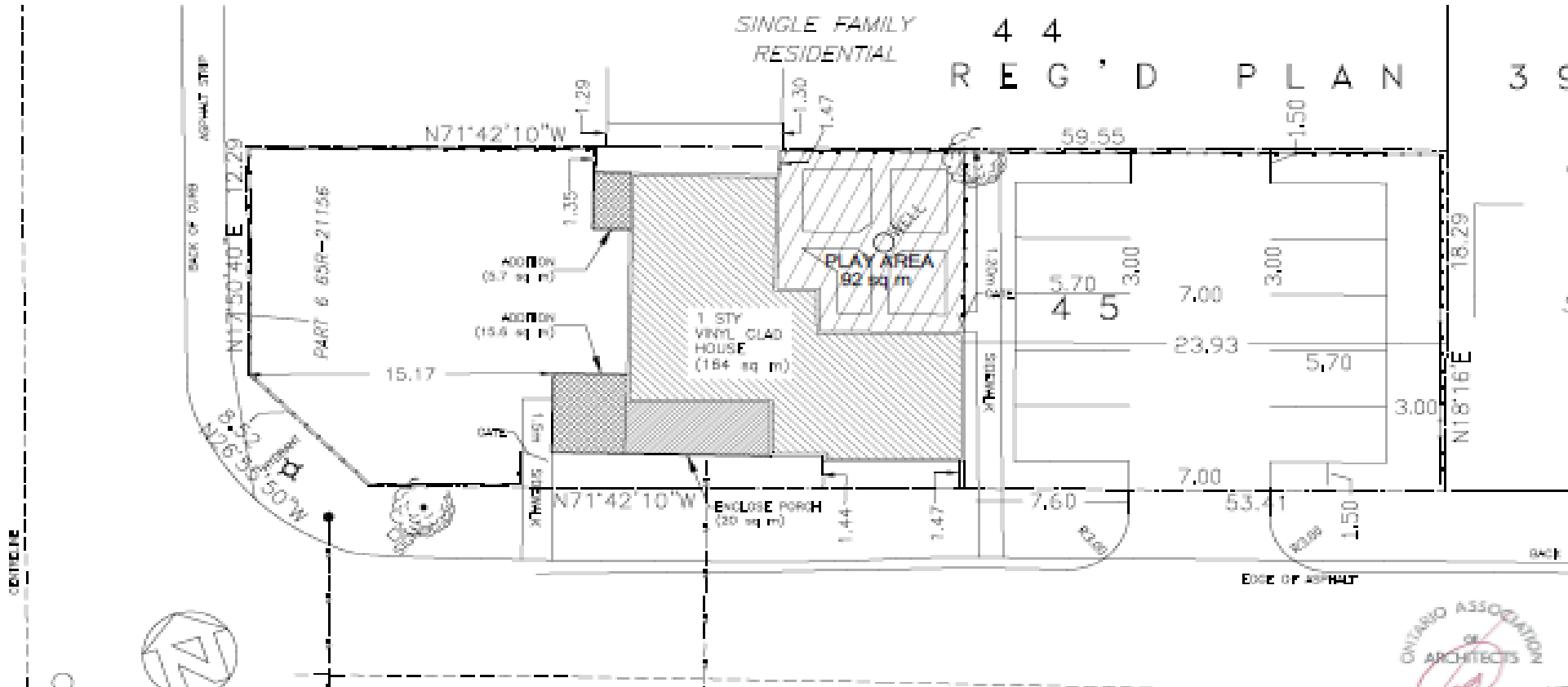
3.2.2.28 - GROUP A DIVISION 2, ONE STOREY, NO BASEMENT

**NOTES**

ALL CONSTRUCTION TO MEET OR EXCEED MINIMUM ONTARIO BUILDING CODE (OBC) STANDARDS AND ALL OTHER CODES AND LOCAL AUTHORITIES HAVING JURISDICTION, AS APPLICABLE.



THE QUEENSWAY Y.R. 12



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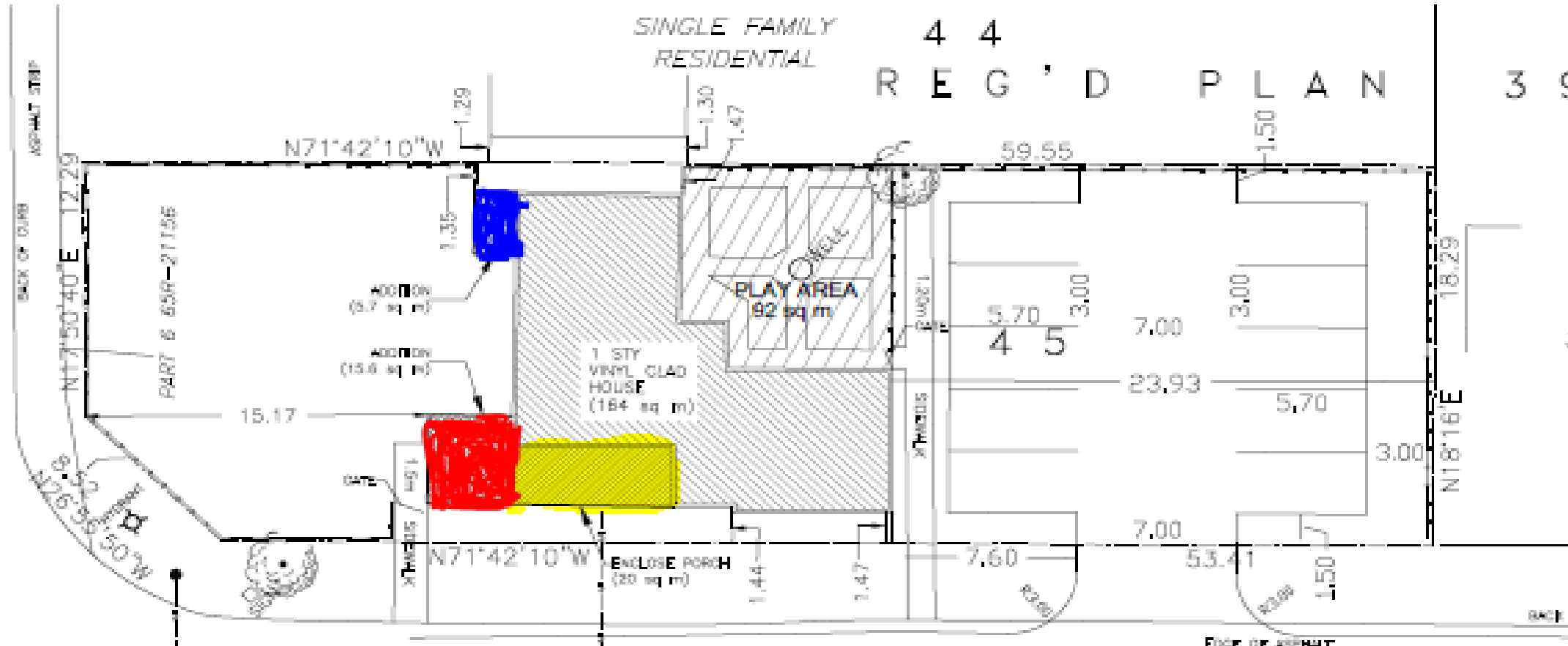


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# Where is the “Substantial” Threshold Set ?

- \$7000 of the fees payable to the Town and Region are fixed irrespective of size of expansion
- Is 25% “Substantial”?
  - \$8,000 in fees and charges for a \$20,000 build?
- What about simply the existing porch at 13% new usable area ?
  - \$7,400 in fees and charges for a \$5,000 build cost?
- What about simply the bathroom extension at 2 % of additional area?
  - \$7,100 in fees and charges for a \$1,000 build cost
- “Minor” Amendment for a “Substantial” addition?
  - Bylaw language seems out of sync with Planning Act language

# 50% - A Logical Threshold

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[http://www.co.lake.ca.us/Government/Directory/Water\\_Resources/Department\\_Programs/Flood\\_Management/Substantial\\_Damage\\_Improvement.htm](http://www.co.lake.ca.us/Government/Directory/Water_Resources/Department_Programs/Flood_Management/Substantial_Damage_Improvement.htm), 6/15/2010, DA 6/21/11, OST)

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. "Substantial improvement" means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.



# The Exercise of Authoritative Discretion comes with a Social Responsibility to do the “Right Thing”

- Unwarranted administrative burden coupled with significant fees, charges and levies discourages and impedes the creation of badly needed licensed childcare spaces
- A “Head Tax” on the creation of safe, regulated, licensed daycare spaces is bad public policy that endangers the lives of children and deprives them of the quality service they rightly deserve
  - Over \$30,000 in fees charges and levies ( excluding consultants fees) for rezoning and Site Plan Approval paid to Town, Region and LSRCA for the Original Build
  - Additional \$7,500 To Town, Region and LSRCA to increase zoning from 30 to 39
  - Town, Region and LSRCA additional \$10,500 for proposed expansion

Thank you for the Opportunity to bring this important matter to your attention

Pleased to take your questions