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File: Z-8218
Planner: M. Tomazincic

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: CITY OF LONDON CITY WIDE ZONING BY-LAW MONITORING AMENDMENTS PERTAINING THE NEAR-CAMPUS NEIGHBOURHOOD AMENDMENTS PUBLIC PARTICIPATION MEETING ON SEPTEMBER 16, 2013

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner the following actions be taken with respect to the application of the City of London relating to City-wide Zoning By-law regulations:

- (a) the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on September 17, 2013, to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, to modify Section 2 (Definitions) of the Zoning By-law to exclude Private Garages from the Parking Area coverage calculation;
- (b) the proposed by-law attached hereto as Appendix "B" **BE INTRODUCED** at the Municipal Council meeting on September 17, 2013, to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, to modify Subsection 4.19(4)(c) to exempt a Private Garage from the regulations of this section when a Private Garage is an accessory building to a permitted use on a lot, but require such Private Garages to be subject to Subsection 4.1 (Accessory Uses) of the Zoning By-law; and,
- (c) the proposed by-law attached hereto as Appendix "C" **BE INTRODUCED** at the Municipal Council meeting on September 17, 2013, to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, to modify Section 5.3 and Table 5.3 relating to the interior side yard depth regulations for Residential R1-1 to R1-5 and R1-12 to R1-13 variations to require a minimum side yard depth of 1.2 metres (3.9 feet) except, where no private garage is attached to the dwelling, one side yard shall be 3.0 metres (9.8 feet).

PREVIOUS REPORTS PERTINENT TO THIS MATTER

- July 2002 – Report to Planning Committee – Residential R1 Zone Regulations for “Small-lots”
- September 2009 – Report to Planning Committee – Near-Campus Neighbourhoods Planning Amendments
- June 2012 – Report to Planning and Environment Committee – Near Campus Neighbourhood Planning Amendments
- August 2013 – Report to Planning Committee – Information report to the Planning and Environment Committee

PURPOSE AND EFFECT OF RECOMMENDED ACTION
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The purpose and effect of these recommended actions is to introduce a Zoning monitoring initiative for amendments adopted by Council on June 26, 2012, which included a comprehensive set of Official Plan and Zoning By-law amendments for lands City-wide and within the Near-Campus Neighbourhood areas, to introduce additional Zoning By-law amendments which provide greater clarity in the interpretation of the Zoning By-law and the implementation of the policies of the Official Plan.

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RATIONALE

1. The recommended amendments are consistent with the policies of the *Provincial Policy Statement, 2005*;
2. The recommended amendments are consistent with the policies of Chapter 3 (Residential Land Use Designations) of the Official Plan;
3. The recommended amendments are consistent with, and assist with the implementation of, several area studies that have been undertaken in the Near-Campus Neighbourhoods; and
4. The recommended amendments represent sound land use planning and orderly development of lands zoned for residential development.

PLANNING HISTORY

On June 18, 2012, at a public meeting of the Planning and Environment Committee, Planning Staff recommended that a comprehensive set of Official Plan and Zoning By-law amendments be introduced to provide clearer guidance for the development of lands in Near-Campus Neighbourhoods located in proximity to the University of Western Ontario and Fanshawe College. These amendments also included City-wide amendments to the Zoning regulations for various Residential R1 zones, Zoning regulations pertaining to the calculation of parking areas, and to the Zoning definitions.

These amendments were adopted by Municipal Council on June 26, 2012, with the exception of a matter related to reductions in building height which was referred back to Staff. On June 10, 2013, the Ontario Municipal Board dismissed two appeals, and ordered that the Near Campus Neighbourhood Zoning By-law, By-law No. Z.-1-122125, was in full force and effect as of the date that it was passed, save and except the by-law related to the appeals of Adamas Group Inc. in respect of its property located at 1461-1465 Oxford Street East and 613-629 First Street.

Now that these Zoning regulations are in force and effect, Municipal Staff have been able to evaluate their effectiveness in implementing the policies of the Official Plan and have identified three (3) further modifications which will provide greater clarity in the interpretation of the Zoning By-law and are recommending Zoning amendments to this effect.

SIGNIFICANT DEPARTMENT/AGENCY COMMENTS

Wastewater and Drainage Engineering (WADE)

The WADE Division has no comment.

Upper Thames River Conservation Authority (UTRCA)

The Authority has no objections to the proposed amendment

PUBLIC LIAISON:	On August 22, 2013, Notice of Application was published in the <i>Public Notices and Bidding Opportunities</i> section of <i>The Londoner</i> . And on August 29, 2013, Notice Public Meeting was published in the <i>Public Notices and Bidding Opportunities</i> section of <i>The Londoner</i> .	0 replies were received
Nature of Liaison: Possible amendment to Section 2 of the Zoning By-law to modify the Parking Area definition to exclude Private Garages from the parking area calculation; possible amendment to Section 4.19 of the Zoning By-law to require that Private Garages located in the rear yard are to be regulated as accessory uses as set out in Subsection 4.1 of the Zoning By-law when a Private Garage is an accessory structure; and possible amendment to Section 5.3 and Table 5.3 of the Zoning By-law to permit 1.2 metre interior side yard depths for all Residential R1-1 to R1-5 and R1-12 to R1-13 variations while requiring that one side yard depth be a minimum of 3.0 metres where no private garage is attached to the dwelling		
Responses: None		

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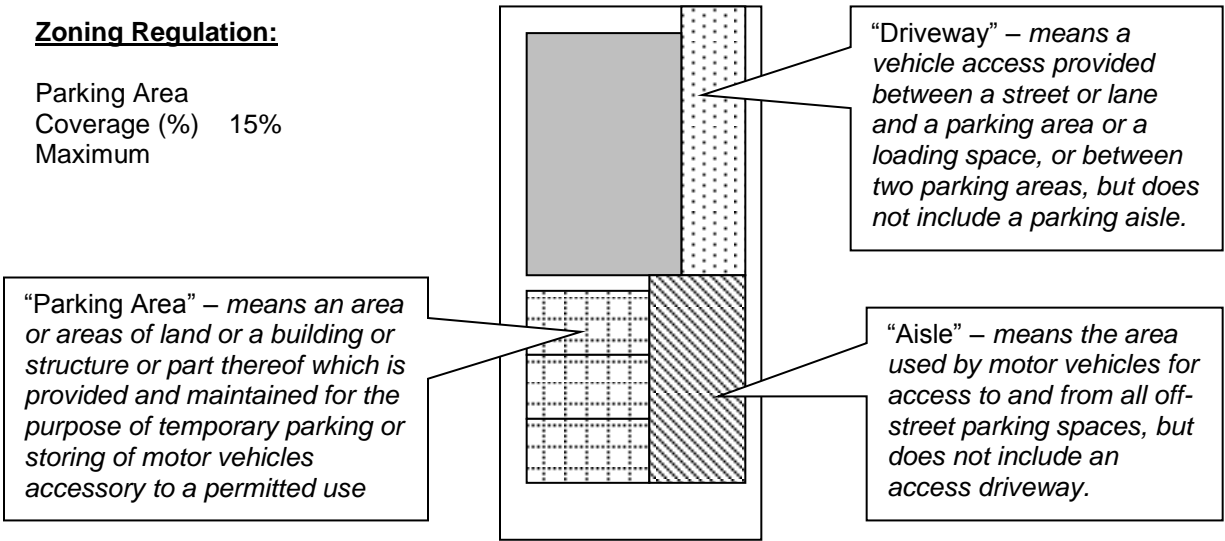
ANALYSIS

Calculation of Parking Area Coverage

Prior to the Zoning By-law amendments passed by Council on June 26, 2012, the Zoning By-law defined *Parking Area* as, “an area or areas of land or a building or structure or part thereof which is provided and maintained for the purpose of temporary parking or storing of motor vehicles accessory to a permitted use”.

However, this definition had been interpreted to *exclude* the other hard surface areas such as driveways and aisles, which are an indivisible component of a lot’s parking system, because they are separately defined in the City’s Zoning By-law. As a result, these hard surface areas had been permitted to be constructed in excess of the maximum parking area coverage in conformity with the zoning regulations. The result was a “Parking Area” (as defined above) comprised of 15% of lot coverage *plus* a driveway *plus* a parking aisle which collectively occupy a large portion of the lot (as illustrated in Figure 1 below).

Figure 1



Therefore, on June 26, 2012, Council amended the definition of *Parking Area* to clarify that *access driveways, aisles, driveways, and parking spaces* are to be included in maximum parking area coverage calculations to create a clearer level of expectation with regard to the maximum amount of hard surfacing area that will be permitted for vehicular movement. And given the recommended expansion to the components that comprise the parking area calculation (such as access driveways, aisles, and driveways), the parking area coverage regulation was increased from 15% of the lot to 25% to ensure that residential parking areas are still able to be accommodated in the interior side yard and rear yard in the Residential R1, R2 and R3 zone variations.

However, through the implementation of the Zoning By-law, as amended above, *Private Garages* are also interpreted to comprise part of the overall Parking Area and thus is included in the Parking Area Coverage calculation given that a *Private Garage* is defined as:

*a detached accessory building or a portion of a main building designed or **used for parking or storage of motor vehicles** of the occupants of the dwelling and in which there are no facilities for repairing or servicing such vehicles for gain or profit. For the purposes of this By-Law, a garage includes a carport*
[Emphasis added]

The result is that when the Zoning By-law, as amended above, is implemented, the portion of the lot allocated to *Private Garages* is effectively double-counted: once for the calculation of parking area coverage and a second time for the calculation of building coverage given that the Zoning By-law defines “coverage” as:

the percentage of a lot covered by the first storey of all buildings and structures on the lot including the principal building or structure, all accessory buildings or structures and all buildings or structures attached to the principal building or structure [Emphasis added]

Therefore, it is recommended that the lot coverage allocated to *Private Garages* be calculated as part of the total building coverage, and excluded from the parking area coverage. The building coverage calculation is a more appropriate statistic given that a Private Garage is often directly incorporated into the principal building and is therefore an integral component of the overall built form on a lot.

Additionally, when a *Private Garage* is not incorporated into the principal building and is a separate and detached structure on the lot, Section 4.1 of the Zoning By-law lists additional specific regulations pertaining to lot coverage for accessory buildings. As a result, it is appropriate under these circumstances to interpret Private Garages as part of the building coverage to allow these additional specific regulations to apply.

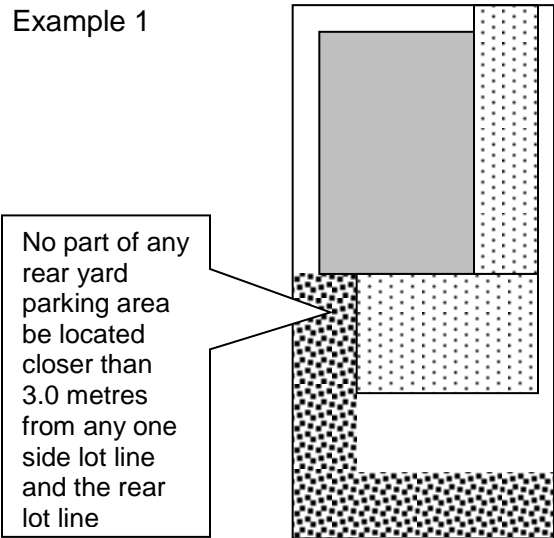
Setback requirements for Private Garages to the Rear and Side Lot Lines

Prior to the Zoning By-law amendments passed by Council on June 26, 2012, the Zoning By-law did not include any setback regulations for parking areas in the rear yards on lands zoned Residential R1, R2, R3, R4 and R11. This resulted in instances where there was insufficient snow storage capacity, loss of rear yard amenity space, as well as negative impacts on abutting properties related to noise and lights of automobiles.

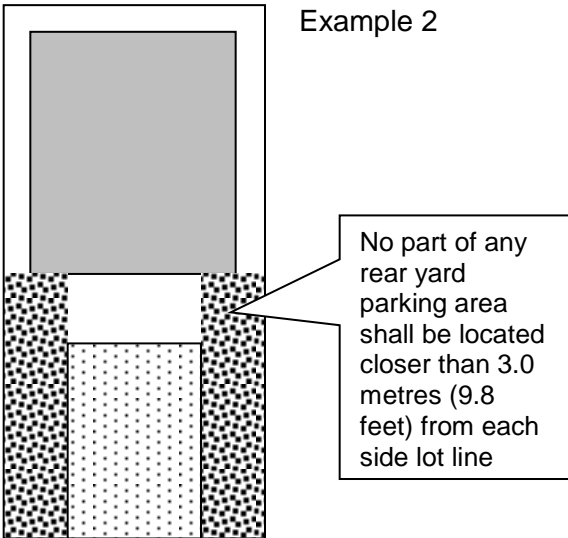
Therefore, the Zoning By-law was amended to require that no part of any rear yard parking area accessed from a public street be located closer than 3.0 metres (9.8 feet) from the rear lot line and 3.0 metres (9.8 feet) from any one side lot line (as illustrated in Figure 2, Example 1 below). And where access to a rear yard parking area is obtained by a lane, no part of any rear yard parking area shall be located closer than 3.0 metres (9.8 feet) from each side lot line (as illustrated in Figure 2, Example 2 below).

Figure 2

Example 1



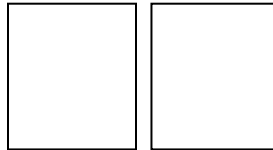
Example 2



However, since a *Private Garage* is interpreted to comprise part of the overall Parking Area, as previously described, when a *Private Garage* is an accessory structure located in the rear yard it is also subject to these regulations notwithstanding the fact that subsection 4.1.(4)(c) of the Zoning By-law already regulates the setback requirements of Accessory Uses.

Therefore, it is recommended that the Zoning By-law be amended to clarify that when a *Private Garage* is an accessory building to a permitted use on a lot, such *Private Garages* shall comply with the regulations for accessory uses (as set out in Subsection 4.1 of the Zoning By-law) and not the Parking regulations for the Residential R1, R2, R3, R4, and R11 zone variations (as set out in Section 4.19 of the Zoning By-law).

Although this amendment may result in the location of *Private Garages* within the 3.0 metre setback requirements for uncovered parking areas illustrated above, given that the intent of the 3.0 metre setback was to provide snow storage capacity, limit the loss of rear yard amenity



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space, and mitigate negative impacts on abutting properties, a *Private Garage* located within this setback fulfills this intent given that it inherently accommodates its own snow storage on its roof, it does not reduce the landscaped open space requirements of the Zoning By-law, and it internalizes impacts related to noise and automobile headlights.

Interior Side Yard Regulations for Residential R1 zones

There are 17 zone variations within the Residential R1 zone. These zone variations can generally be grouped into “Small-lot” residential zone variations, which have lot frontages of 12 metres (39 feet) or less, and “Large-lot” residential zone variations, which have lot frontages exceeding 12 metres. The zone variations classified as “Small-lot” are Residential R1-1 to R1-5 and R1-12 to R1-13.

Prior to the Zoning By-law amendments passed by Council on June 26, 2012, the Zoning By-law required a minimum interior side yard depth of 1.2 metres for the above “Small-lot” zone variations.

However, the requirement for a minimum of 1.2 metre interior side yard depth had inadvertently helped to facilitate the establishment of mutual driveways in Near-Campus Neighbourhoods given that two undersized lots could be created by way of consent with each lot contributing an interior side yard depth of 1.5 metres, for example, to create a 3.0 metre mutual driveway to allow for the passage of vehicles to a rear yard parking area. To avoid potential private property disputes and to facilitate the development of freehold lots which are unencumbered by abutting lands it is desirable for each single detached dwelling with no attached garage to provide a 3.0 metre side yard depth to allow for the movement of vehicles.

Had the regulations of the Zoning By-law required these “Small-lot” zone variations to provide a 3.0 metre side yard depth where there was no attached garage, each of these undersized lots described above would have had to receive additional special zoning permission or minor variances to reduce the interior side yard depth from 3.0 metres to 1.5 metres. However, since the “Small-lot” zoning regulations permitted a minimum of 1.2 metre side yard depths, additional special zoning permissions or minor variances were not required.

Conversely, the Zoning regulations for the “Large-lot” zone variations provide an interior side yard depth of (as stated in Section 5.3(4) of the Zoning By-law):

- 1.2 metres (3.9 feet);
- plus an additional 0.6 metres (2.0 feet) for any portion of the side yard adjacent to a part of the building exceeding one storey in height and for each additional storey thereafter;
- ***except that, where no private garage is attached to the dwelling, one side yard shall be 3.0 metres (9.8 feet).***

The comprehensive set of amendments passed by Council on June 26, 2012 included the adoption of Official Plan policies requiring parcels created through consent to have the ability to function independently by avoiding the use of easements or shared facilities (such as mutual driveways).

To implement this Official Plan policy, Section 5.3(4) of the Zoning By-law (described above), which previously applied to “Large-lot” zone variations was amended to encompass the “Small-lot” zone variations as well to avail of the Zoning regulations which require one side yard depth to be 3.0 metres where there was no attached garage. However, in doing so, the regulation which requires “...an additional 0.6 metres (2.0 feet) for any portion of the side yard adjacent to a part of the building exceeding one storey in height and for each additional storey thereafter...” also applied.

As a result, the amendments which had been adopted to discourage the use of mutual driveways resulted in the “Small-lot” zone variations requiring an additional 0.6 metres of side yard depth for each storey in height above the first storey. These additional 0.6 metres of side yard depth related to building height are not required to implement the Official Plan policy of avoiding the creation of mutual driveways and have created some concern relating to the construction of “Small-lot” subdivisions in developing areas of the City.

Therefore, it is recommended that the Zoning By-law be amended such that the interior side yard depth regulations restore the minimum 1.2 metre setback, delete the 0.6 metre variable attributed to building height, and continue to include a 3.0 metre side yard depth on one side where no attached garage is provided.

CONCLUSION

On June 26, 2012 Council adopted a comprehensive set of Official Plan and Zoning By-law amendments for lands City-wide and within the Near-Campus Neighbourhood areas. Now that these Zoning regulations are in force and effect, Municipal Staff have been able to evaluate their effectiveness in implementing the policies of the Official Plan and are recommending three (3) amendments to provide greater clarity in the interpretation of the Zoning By-law.

PREPARED BY:	SUBMITTED BY:
MICHAEL TOMAZINCIC, MCIP, RPP MANAGER, PLANNING REVIEW COMMUNITY PLANNING AND DESIGN	JIM YANCHULA, MCIP, RPP MANAGER, COMMUNITY PLANNING AND DESIGN
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

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Appendix "A"

Bill No. (number to be inserted by Clerk's Office)
2013

By-law No. Z.-1-13_____

A by-law to amend By-law No. Z.-1 to
amend a City-wide definition.

WHEREAS The City of London has applied to amend the City-wide definition of
"Parking Area";

AND WHEREAS this rezoning conforms to the Official Plan;

THEREFORE the Municipal Council of The Corporation of the City of London
enacts as follows:

- 1) Section 2.0, Definitions, to By-law No. Z.-1 is amended by amending the definition of
"Parking Area" by adding the following to the end of last sentence of the definition:

"but shall exclude Private Garages."

The inclusion in this By-law of imperial measure along with metric measure is for the purpose of
convenience only and the metric measure governs in case of any discrepancy between the two
measures.

This By-law shall come into force and be deemed to come into force in accordance with Section
34 of the *Planning Act, R.S.O. 1990, c. P13*, either upon the date of the passage of this by-law
or as otherwise provided by the said section.

PASSED in Open Council on September 17, 2013.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading – September 17, 2013
Second Reading – September 17, 2013
Third Reading – September 17, 2013

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Appendix "B"

Bill No. (number to be inserted by Clerk's Office)
2013

By-law No. Z.-1-13_____

A by-law to amend By-law No. Z.-1 to amend a City-wide parking regulation for lands zoned Residential R1, R2, R3, R4, and R11.

WHEREAS The City of London has applied to amend a City-wide parking regulation for lands zoned Residential R1, R2, R3, R4, and R11;

AND WHEREAS this rezoning conforms to the Official Plan;

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

- 1) Section 4.19, Parking, to By-law No. Z.-1 is amended by adding the following new sentence to the end of paragraph 4.19.4)c)(a):

“For the purposes of this By-law, where a Private Garage is an accessory use to a permitted use on a lot, such Private Garages shall be exempt from this regulation but shall comply with the provisions for accessory uses set out in Subsection 4.1”

The inclusion in this By-law of imperial measure along with metric measure is for the purpose of convenience only and the metric measure governs in case of any discrepancy between the two measures.

This By-law shall come into force and be deemed to come into force in accordance with Section 34 of the *Planning Act, R.S.O. 1990, c. P13*, either upon the date of the passage of this by-law or as otherwise provided by the said section.

PASSED in Open Council on September 17, 2013.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading – September 17, 2013
Second Reading – September 17, 2013
Third Reading – September 17, 2013

Appendix "C"

Bill No. (number to be inserted by Clerk's Office)
2013

By-law No. Z.-1-13_____

A by-law to amend By-law No. Z.-1 to amend a City-wide interior side yard depth regulation for lands zoned Residential R1-1 to R1-5 and R1-12 to R1-13.

WHEREAS The City of London has applied to amend a City-wide interior side yard depth regulation for lands zoned Residential R1-1 to R1-5 and R1-12 to R1-13;

AND WHEREAS this rezoning conforms to the Official Plan;

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

- 1) Section 5.3, Regulations, to By-law No. Z.-1 is amended by adding the following new Regulation after 5.3(3) and renumber accordingly.
- *) INTERIOR SIDE YARD - R1-1 TO R1-5 AND R1-12 TO R1-13 VARIATION (MINIMUM)

1.2 metres (3.9 feet); except that, where no private garage is attached to the dwelling, one side yard shall be 3.0 metres (9.8 feet).
- 2) Current section 5.3(4), Regulations, to By-law No. Z.-1 is amended by replacing “R1-1 TO R1-17” with “R1-6 TO R1-11 AND R1-14 TO R1-17” after “Interior Side Yard –” in the first line.
- 3) Table 5.3, Residential R1 Zone Regulations for R1 Zone Variations, to By-law No. Z.-1 is amended by deleting the Minimum Interior Side Yard Depth (Line 12) regulation and replacing it with the following new Minimum Interior Side Yard Depth regulation:

Column A		B	C	D	E	F	G	H	I	J	K	L	M	N	O
12	INTERIOR SIDE YARD DEPTH (m) MINIMUM	See Section 5.3(*)					See current section 5.3(4)					See Section 5.3(*)		See current section 5.3(4)	

Column A		P	Q	R
12	INTERIOR SIDE YARD DEPTH (m) MINIMUM	See current section 5.3(4)		

The inclusion in this By-law of imperial measure along with metric measure is for the purpose of convenience only and the metric measure governs in case of any discrepancy between the two measures.

This By-law shall come into force and be deemed to come into force in accordance with Section 34 of the *Planning Act, R.S.O. 1990, c. P13*, either upon the date of the passage of this by-law or as otherwise provided by the said section.

PASSED in Open Council on September 17, 2013.

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First Reading – September 17, 2013
Second Reading – September 17, 2013
Third Reading – September 17, 2013