



TO: The Chair and Members of Development Services Committee

FROM: Jim Baird, M.C.I.P., R.P.P.
Biju Karumanchery, M.C.I.P., R.P.P.

A handwritten signature in black ink, appearing to be 'Jim Baird', with the initials 'B.K.' written below it.

DATE: June 1st, 2010

Re: **Infill Development in the Varley Village Area of Unionville**

Background

Subject Area and Context

This memorandum is in response to discussion at Development Services Committee on May 25, 2010 regarding a request from residents that the Town consider an Infill Housing By-law for the Varley Village neighbourhood.

The Varley Village area of Unionville, as described by the Unionville Ratepayers Association, extends north from Highway 7 to Carlton Road, and includes, amongst other streets, Sciberras Road, Fred Varley Drive, Fitzgerald Avenue, Krieghoff Avenue, Gainsville Avenue, and Pomander Road (See Figure 1 attached). There are approximately 765 properties in this area.

The older parts of the neighbourhood were built in the mid to late 1960's and early 1970's, and some of the newer streets were built in the late 1980's and early 1990's. Most of the homes in the area are ground oriented single detached dwellings, and are zoned R3 or R4 by By-law 11-72, as amended. Table 1(attached) summarizes the development standards that generally apply to the Varley Village area.

In the period between 2003 and 2010 there have been 33 variance applications, 37 building permit applications and 5 demolition permit applications.

Variance Application Processes

The notification requirements in the Planning Act work well and should be maintained

Discussion at Development Services Committee on May 25th included, amongst other suggestions, a request that the notification time period and the circulation area be increased for Committee of Adjustment applications. Staff are of the opinion that the requirements, as set out by the Planning Act, are appropriate and should be maintained.

In residential areas the Committee of Adjustment typically deals with requests for relief from specific development standards related to site specific proposals. An increased notification time period and/or circulation area for one neighbourhood implies that variance applications in that area are somehow different to variance applications in other parts of Town. Consequently, in staff's opinion there are no objective reasons to increase the notification time period or circulation area for this neighbourhood beyond that which applies to other areas of the Town.

If a proposal, in a residential neighbourhood, has an impact beyond a 60 metre radius its likely not a minor variance. However, if the Committee of Adjustment is of the opinion that residents interested in an application require more time to consider the matter, or that a wider circulation is warranted, they can defer the application to allow more time and/or they can request that the notice be sent to additional people.

Development Services Commission staff are of the opinion that the notification process prescribed by the Planning Act for variance applications is sufficient. The Planning Act notification requirements for variance applications ensure that the Committee of Adjustment can receive input from those people closest to the subject property and most likely to be effected by the proposal, prior to making their decision. Additionally, anyone interested in a variance application may make a submission to the Committee of Adjustment, even if they didn't receive mailed notification of the application, and became aware of the proposal by other means, such as through neighbours or by seeing a sign on the property (see discussion about signs below). However, to impose a wider circulation area or to extend the notification time period for all variance applications in an area without objective reasons could be viewed as inequitable, by applicants or residents in other areas.

A By-law amendment application is typically a request for a more substantive or wholesale change to provisions in a By-law (e.g. to allow additional uses not intended by the current zoning By-law). Proposals for By-law amendments typically have farther reaching implications that may extend well beyond the properties in the immediate vicinity of the proposal. Consequently, the Planning Act prescribes different processes, including notification requirements, to be used for these two different application types. The notification requirements for variances and By-law amendments both include a mailed notice and a sign posted on the subject property. Table 2 (attached) compares

the Planning Act notification requirements for Variance and By-law amendment applications.

Should Development Services Committee decide to increase the notification area for variances in a particular area, it should not exceed the 120 metre circulation required for Zoning By-law amendment applications. Staff are also of the opinion that the circulation notification time period should not be increased, given the Planning Act requirement that variance applications are to be considered within 30 days of the receipt of the application.

Interim Control By-law

Interim Control is not recommended for the Varley Village area at this time

Section 38 of the Planning Act authorizes Council to pass Interim Control By-laws, in order to temporarily restrict land uses, while the Town studies land use policies and zoning standards in an area of Town. In February 2010 Council did take the unusual step and enacted an Interim Control By-law for the Hughson Drive area, which is north east of the Woodbine Avenue and Highway 7 intersection, but only because the zoning By-law for the Hughson Drive area lacks proper development standards. That By-law only prescribes minimal development standards, i.e. minimum ground floor area and lot line setbacks, and does not contain minimum lot size requirements. However, the Varley Village area By-law 11-72 has development standards that are typical of many low density single detached residential areas in the Town. Given that this area compares to other areas of the Town, with respect to the general lot size and development standards that apply, staff are of the opinion that an Interim Control By-law for the Varley Village area is not required. A new Infill By-law with tighter zoning restrictions can be considered for the Varley Village area without the prior step of an Interim Control By-law.

Site Plan Control

It is not appropriate to use site plan control in most ground oriented residential areas

Section 41 of the Planning Act authorizes Council to pass a Site Plan Control By-law. The Town's Site Plan Control By-law (By-law 262-94, as amended) identifies the types of development that are subject to Site Plan Control. Single detached and semi-detached and most street townhouse dwellings, outside of the Town's heritage areas, are exempt from site plan control. The Oakcrest/Sabiston area and Elgin Street are exceptions. In the Town of Markham Site Plan Control is used primarily in relation to industrial and commercial development, high and medium residential development, and in heritage areas. It is a tool that builds upon zoning that is used to implement urban design guideline objectives and other development related requirements, such as servicing and landscaping, and often requires agreements to ensure that development is built as proposed.

In a ground oriented residential context, site plan control is not expected to produce the results anticipated by some residents. Even a streamlined Site Plan Control application process will add an unwarranted amount of time and money to a residential building proposal, and will have significant staffing and resource implications for the Town. Consequently, Development Services Commission staff are of the opinion that Site Plan Control should not be applied to the Varley Village area.

Infill By-law

It is worth exploring the possibility of adding infill housing provisions to the By-law for the Varley Village area

There are five separate infill zoning By-law amendments, that amend four of the Town's parent By-laws. The infill provisions generally apply to the older areas of Markham, Thornhill, and Unionville (refer to attached memo to Development Services Committee, dated May 25, 2010). The infill By-laws were enacted in the early 1990's by Council after considerable study and public consultation. They were passed in an effort to ensure that re-development was compatible with existing development and to ensure that the impact of redevelopment on the character of the neighbourhood was minimized. Although the infill housing By-laws apply to different parts of the Town, the provisions of these different By-laws vary only slightly.

A proposal to add infill provisions could be controversial. There will likely be a range of public opinion on the merit of additional zoning regulations (It is for this reason that not all built up areas of Town were included by Council in the original Infill By-laws of the early 1990's.) However, staff, under the direction of the Unionville Sub-committee and in consultation with the Unionville Ratepayers Association, can explore the possibility of adding similar infill housing provisions to By-law 11-72, as amended.

The concerns recently identified to Development Services Committee by area residents include a number of issues, such as the relation of new homes to existing dwellings, construction activity on the streets and their impacts, such as noise, environmental impacts related to tree removal and waste disposal, and the nature of variances approved by the Committee of Adjustment. A number of these issues are already addressed by existing Town policies and regulations, such as the tree and noise By-laws.

With regards to the nature of variances approved by the Committee of Adjustment, the Committee of Adjustment has the authority to, and may authorize a variance if they are satisfied that each of four Planning Act tests is satisfied. The variance is to:

1. be a minor variance from the provisions of the By-law. This test relates to adverse impact.
2. be desirable in the opinion of the Committee of Adjustment for the appropriate development or use of the land, building or structure. This

test relates to capability – e.g. alike but not necessarily identical, existing together harmoniously

3. maintain the GENERAL INTENT & PUPOSE of the Zoning By-law
4. maintain the GENERAL INTENT & PURPOSE of the Official Plan

Consequently, the Committee of Adjustment must be satisfied that the proposed development is in keeping with the character of the neighbourhood, based on the circumstances of each application.

Other issues raised are outside the Town's jurisdiction. For example, it is beyond the Town's ability to regulate how many homes can be reconstructed on a street at any one time.

Conclusion

It is suggested that the Unionville Sub-committee and Town staff establish a process of consultation with representatives of the Unionville Ratepayers Association to consider the scope and possible merit of an Infill Housing By-law for the Varley Village area. The Unionville Sub-committee should report back to the Development Services Committee in the Fall, at which time the Development Services Committee may provide direction on whether to authorize staff to prepare a draft by-law and schedule a Public Meeting.

Table 1 - R3 and R4 by By-law 11-72, as amended

	Minimum						Maximum	
	Lot Frontage	Lot Area	Front Yard	Side Yard		Rear Yard	% Lot Coverage	Height
				One storey	Two Storey			
R3	60	7,500	27	4	6	25	331/3	25
R4	50	6,250						
All dimensions are in imperial.								

Table 2 - Variance & By-law Amendment Applications Notification Requirements

	Application Type	
	Variance	By-law Amendment
Time of Notification	Hearing within 30 days of application submission	No specific time. However, if a decision is not made within 120 days the applicant may appeal to the Ontario Municipal Board
Notice of Hearing (C of A)/Public Meeting (Zoning)	<ul style="list-style-type: none"> i. at least 10 days before the day of the hearing. ii. mail to every owner of land within 60 metres of the property to which the application applies; and iii. a notice is placed on the property. 	<ul style="list-style-type: none"> i. at least 20 days before the day of the Public Meeting. ii. mail to every owner of land within 120 metres of the property to which the application applies; and iii. a notice is placed on the property.

Figure 1

