

**VILLAGE OF NEW MARYLAND COUNCIL
PUBLIC HEARING**

Requested Amendment to the Village Zoning By-law
Subject Property – 6 Baker Brook Court (PID 75065078)
Wednesday, 19 December 2018

MINUTES

Present: Judy Wilson-Shee, Mayor
Alex Scholten, Deputy Mayor
Gisèle McCaie-Burke, Councillor
Tim Scammell, Councillor
Mike Pope, Councillor
Paul LeBlanc, Councillor
Cynthia Geldart, Chief Administrative Officer/Clerk
Karen Duncan, Assistant Clerk
Rob Pero, Building Inspector/Development Officer
Rockland Miller, Public Works Supervisor

Public in Attendance:	Dean Wood	Winston Nicholson
	Tammy Wood	Betty Nicholson
	Jason George	Ginger Nicholson
	Martine Stewart	Jim Gorham
	Ron Stewart	Anna Marie Gorham
	Dana Demmings	
	Brad Marshall, PAC Chairperson	
	Debra Connors, PAC Member	
	Scott MacIntosh, Applicant	
	Pam MacIntosh, Applicant	

1. Call to Order / Welcome / Opening Comments:

Mayor Wilson-Shee called the Public Presentation to order at 6:30 p.m. and welcomed the Village residents in attendance.

The Mayor explained the purpose of the hearing was to receive public response to a requested amendment to the Village Zoning By-Law to re-zone the property at 6 Baker Brook Court from Residential Zone R2, to Residential Zone R3, to permit a one-storey, four-unit, row-dwelling development.

The Mayor also extended a welcome to the applicants, Scott and Pam MacIntosh, and advised that the applicants would be available to respond to any questions or comments from the public, and to provide further clarifications about the specifics of their proposal.

Village Building Inspector and Development Officer (BIDO), Rob Pero was asked to guide the session for the remaining portions of the agenda.

2. Introductions:

BIDO Pero suggested that the session commence with introductions. Beginning with Council, each person present introduced themselves.

3. Overview of By-law Amendment Process (NB Community Planning Act):

BIDO Pero provided a brief explanation of the Village land use regulations and strategic planning documents that related to the developer’s proposal:

BIDO Pero also explained that each property owner within 100 metres of the subject property had also received a letter notifying of the Planning Advisory Committee meeting and the public hearing schedule including copies of the proposal details and the requested zoning by-law amendment in its draft form.

BIDO Pero explained that, the zoning by-law empowers Council and the Village Planning Advisory Committee to review and approve, subject to terms and conditions, a requested re-zoning of a property (which is under the authority of Council) and variances to the zoning by-law standards (which are under the authority of the PAC). He advised that once Council has had the opportunity to hear the comments from the public, and clarifications from the applicants, they would consider all aspects of the proposal at a future meeting and elect to decide how to proceed with the application.

He explained that, the purpose the hearing was to ensure residents had an opportunity to express their views to Council on the request to re-zone the subject property.

4. Review of Information Received to Date:

BIDO Pero identified the information that had been distributed in the public hearing package which included: the meeting agenda; a copy of the Village website public notification advertisement which is a requirement under the Community Planning Act (CPA); images related to the proposed development; a copy of the zoning map showing the property site location plan; a general area plan showing the location of the site relative to the neighborhood; a site plan prepared by the developer showing the layout of the building on the lot; a floor plan showing the layout for each individual unit; building elevations; and a 3D site rendering which illustrated the general aesthetics of the building. Also attached was some information that related to the Village’s future trails and bikeways objectives for the area; correspondence received from residents as part of the request for public input; and a record of the PAC Minutes from the December 10th, 2018 meeting.

Noted on the project site plan were a number of variances that would also require PAC approval subject to the zoning being approved.

Finally, it was explained that the Village’s Municipal Plan, Strategic Plan and Age-Friendly Community Action Plan each outline a general vision, objectives, and policies that relate to all aspects of our community’s future land use, growth and development. These plans are intended to be used by Council, Staff and Village residents to guide day-to-day decisions affecting all forms of development, including housing.

BIDO Pero noted that each of these planning and guidance documents specified as a priority objective for the Village to encourage sustainable compact development that fosters a greater number and diversity of housing options for residents of all ages. He also noted that the applicant’s proposal appeared to cater to a number of those strategic objectives for the Village

BIDO Pero then opened the floor to any comments and/or questions from residents in attendance.

5. Comments from the Public and Council:

- Ginger Nicholson, Baker Brook Court Resident: Further to her letter submitted to Council, Ms. Nicholson stated her biggest concern related to her school-aged child and the school bus stop at the Route 101/Baker Brook Court intersection. The proposed dwelling and driveways in the diagram suggest the development would be very close to the street. She perceived a safety risk for kids being dropped off at the end of the street, and cars coming and going and pulling out of the end of the driveways. She observed that the driveway further into the street may not be such a problem as compared to the others but viewed it as becoming a very congested area. She noted that the community mailboxes are in that area as well and that there are younger children in the subdivision who will continue to be taking the school bus.

BIDO Pero commented that the zoning by-law has standards for the location of driveways on a corner lot, that the nearest edge of the proposed driveway location is well beyond the 11-meter required offset specified in the zoning by-law, and so no variances or special approvals would be required. He also clarified that, for the mailbox location, Canada Post has superseding authority with respect to the current or future location of the mailboxes, so they would have the right and opportunity to move their mailbox to anywhere on the street if it was requested or deemed necessary. He also stated that he would note the matter in the file to be addressed.

Jason George, New Maryland Hwy Resident: Mr. George questioned that at the last PAC meeting it was discussed that the front lawn of the lot is facing New Maryland Highway, and therefore the proposed driveways have been interpreted to be on the side of the house?

BIDO Pero explained that: driveway locations relative to a corner lot are discussed in the zoning by-law and essentially the edge of the driveway cannot be any less than 11 meters from the projection of the front side property lines – where they intersect; there is nothing in the by-law that would prohibit a second driveway; there are limitations on the width of the driveways with respect to maintenance culverts, etc., but that in this particular case, regardless of the interpretation of where the front / side yards are located, there is no by-law conflict with respect to the driveways.

Dean Wood, Baker Brook Court Resident: Mr. Wood expressed concerns about the proposed development of the property with regard to safety. He observed that from his previous experience living in town houses, there is not very much storage and people end up using their garage for storage and park in the driveway. Most people have more than one vehicle, so they end up parking a vehicle on the street. He also noted that the Court is a difficult road to gain safe entry from the highway, and that even as an empty lot, it is still difficult to see around the corner. He also commented that upon slowing down to turn right into the subdivision, it is not uncommon to almost be hit from behind. This scenario has happened in the past.

Another concern he registered was with regard to the precedent. If this zoning change would be permitted, some other Developer would certainly come along and want the same type of variances and it can be very difficult to say no when the precedent has been set. He noted there is another lot on the street that could possibly be developed similarly in the future, which could lead to a change in the overall context of the neighborhood, a type of neighborhood he did not originally intend to invest in when purchasing his home.

Another issue of his concern related to the present information that suggested the development would mainly be marketed to seniors. Although that may be the intention, it does not guarantee who will be

living at the property in the future. He noted that human rights standards prevent marketing to just one age group.

BIDO Pero responded to the concern about the potential precedent and stated that no one is more concerned with precedent than the Planning Advisory Committee members. He advised that whenever PAC or Council review applications, the primary motive is to ensure that any kind of variances being considered are reasonably within the intent and objectives of the by-law. The uniqueness of the present application also factors into the whole assessment. He explained that, in this particular case, largely due to the uniqueness of the lot and the converging of the side property lines – basically the lot narrows as you move further away from the highway. So, the uniqueness of the lot makes any decision with respect to that property distinct from any assessment of a larger rectangular lot located further in on the street, or elsewhere.

Scott MacIntosh, Applicant: Mr. MacIntosh took the opportunity to thank the residents for attending and apologized for not being able to attend the PAC meeting due to work travel commitments. He explained he and his family have been residents of the Village since 2001 and advised he was listening carefully to the concerns expressed. Regarding concerns about parking, he noted that some thought had been given and that they are in compliance with the local regulations for parking per unit. He noted his similar experience with the row houses and that storage space would be provided in the garages. He stated that the leases will allow tenants to have 2 parking spots and expect that parking locations are to be respected. He agreed to also explore options for widening the driveways.

On the matter regarding the tenants, and the fact that you cannot restrict on the basis of age, he noted there are a couple of alternatives that can be considered. He noted that one can market selectively... but you just can't make restrictive decisions based on age. He commented that there are a couple of things in the business model, and the way these units are designed and priced, that should direct the units toward the senior market. He stated that he would get to assess tenants and operate the development in a way to reduce headaches for everyone.

Ron Stewart, Baker Brook Court Resident: Mr. Stewart expressed concern the PAC unanimously agreed that their recommendation to Council would be in support of approval of a re-zoning of the property from R2 to R3. He believed the attending residents put forward several good arguments and felt as if their views were being blown off. He commented on the point about the property shape, and that the by-law states “where a lot abuts 2 streets the lesser lot line shall be deemed the lot frontage”, which means the New Maryland Highway. He also noted the by-law section relating to “Lots with side property lines that are parallel to each other...”; and commented there's not a parallel property line on that site. He expressed that what the developer is proposing is a noble cause for the Village, but the residents' concern is with their own existing properties and their thought is that there is a better place for the development. He stated that that the lot is not suitable for that size of a development, and that the zoning regulations were established for a good reason to protect front property lines and non-conforming developments; they are designed to prevent encroachments that interfere with properties. He related that rental properties in the past have been atrocious on their street and they went through 4 months of problems with very little help from the Village or the RCMP. He was cautious not to say that the applicant's clientele would be the same. His real concern was for the lot. The parking had already been talked about, the blind corner, the precedent being made and the concern for the possible development on a lot that could become available in the future. He noted the following: their properties are investments; the electrical services come in front the back, and there are no overhead lines on the street side. He believed the ‘front’ of the lot should be interpreted as the portion facing Baker Brook. He noted that if you asked anyone in a group of people where the front of that property

is, they'll say it's facing Baker Brook, which means that the rear of the property is facing the downhill side, and if you read the by-laws, that requires a 7.5 meter setback. What's being proposed is a 1.8-meter setback which is equivalent to 6 feet – from the property line to the “back” of the building.

Mr. Stewart stated, “I think we can all agree – I don't think anyone in the room would be comfortable with that closeness to their property and that's not a side yard, that's a back yard.” He noted again, that the deck is typically on the back of a building where most people do their barbequing. He felt certain that the Village must have a by-law with regard to how close you can have a barbeque to the back of your house. His final comment related to the fact that an approval would allow the new development to be out in front of the remaining houses on the street, which is not desirable. He wished to remind everyone that it's not just a rezoning from R2 to R3, it's also 5 variances and that really should speak volumes as to the size of the development for the size of the lot. He stated the proposal is just not suitable for that lot. He stated that it was a noble thing the developer is proposing and it's important to provide alternate housing solutions. He also acknowledged the applicant's investment in time and money. He asserted that there is other land in the Village that would suit the development, and strongly encouraged the Village to acknowledge the residents' concerns and work with the developer to establish a property more suitable to the development.

For the sake of clarity, BIDO Pero referred to PAC's expression for support for the re-zoning and that the support was conditional upon the building size being reduced to minimize the number of required variances. Practically that would likely mean a reduction to a 3-unit building, and that support from PAC for a 3-unit building, or a re-scaled concept, was influenced by the comments received from the public. He also noted that it was the number of requested variances that moved the Committee in that direction.

On the subject of barbeques and fire pits, BIDO Pero clarified that there are local fire prevention policies administered through the Fire Chief and Fire Department in relation to fire pits, but not barbeques. He also reiterated the clarification as to how the zoning by-law definitions apply in the determination of which edge of a corner lot is ruled to be the front, to which Mr. Stewart restated his disagreement, in that the Baker Brook Court edge should be ruled the front of the lot, in his opinion.

Jason George, New Maryland Hwy Resident: Mr. George questioned how the civic address of 6 Baker Brook Court was determined; and how the lot has been marketed/advertised for sale as an indication of where the front of the lot is located.

BIDO Pero clarified that, for the purposes of assessing the required setbacks, staff must follow the definitions and criteria in the zoning by-law irrespective of the civic address that has been selected for a property. The zoning by-law directs that the front of the parcel is the edge that faces New Maryland Highway. Civic addressing for a corner lot would be dictated by the proposed driveway location.

Mr. George asked to revisit the discussion regarding the variances and referenced the 6-foot (1.8 metre) variance off of his property line. He expressed that he and his wife are not happy with the distance between the building and the property line; he believed that a re-design should be a possibility and that the stated opposition should speak for itself.

BIDO Pero reiterated that, with respect to the proposed 1.8 metre setback from Mr. George's property line, no variance is required as the 1.8 metre distance is the by-law minimum setback from what the zoning by-law directs is the side yard in this particular instance.

Mr. George also stated concern about the two decks proposed to be 1.8 m from his daughter's bedroom, as he also described to PAC.

BIDO Pero advised that the decks could be located generally as shown on the plan without requiring a variance approval.

Mr. George expressed his feeling that his concerns seem to be falling on deaf ears but did acknowledge the developer's intent to bring the proposed type of housing to the community. He restated his view that the location and lot configuration is not appropriate and that he didn't expect to have a 4-unit dwelling next door when he purchased his property.

Scott MacIntosh, Applicant: Mr. MacIntosh discussed how he arrived at the proposed design, with no wish to cause disruption to the neighborhood. He commented that 7.5 metre setbacks from a street are standard, but that 6-metre front and rear setbacks do exist in the community. The Municipal Plan outlines goals to increase density and allow infill development, and that the somewhat pie shape to the lot dictated the building could be parallel to only one side, i.e. Baker Brook Court. He commented that the proposed front setback to Route 101 ranges between 3.8 metres to 8.2 metres and that although the lot coverage is 42 percent, for which there is no precedent locally, he stated his awareness of precedents elsewhere in other municipalities that have been approved in considering municipal objectives. He commented that there are no R3 housing options presently in the Village. He also assured that the residents' comments are registering with him.

Jason George, New Maryland Hwy Resident: Mr. George expressed his opinion that Village staff should have spoken up sooner to the developer regarding the scope of the variances being requested.

Dean Wood, Baker Brook Court Resident: Mr. Wood reiterated that the by-law requirements should be respected and not be varied to such great extents.

Brad Marshall, PAC Chairperson: Mr. Marshall commented that a process is required to be followed and each aspect was thoroughly considered over the course of a lengthy discussion by the PAC. He explained the Committee's support for the R3 zoning was conditional on a revised concept which minimised or eliminated the extent of the variance requests, likely requiring a reduction to a 3-unit design. He stated that the position of PAC considered the Village's Municipal Plan objectives and the demographic needs. He noted that the public comments at the PAC meeting were not taken lightly and that the Committee membership is representative of the community and they identify with the needs of residents at large and the concerns of the local residents.

Dean Wood, Baker Brook Court Resident: Mr. Wood acknowledged that it's a worthwhile concept, but there is a lot of vacant land in the Village where it would be better suited.

Ron Stewart, Baker Brook Court Resident: Mr. Stewart restated his consternation about the PAC unanimous support to re-zone the property.

Jim Gorham, Baker Brook Court Resident: Mr. Gorham cited multiple enquiries he's received about development opportunities on the double lot opposite to his home. He cautioned Council to be careful about spot re-zoning and allowing the possible evolution of a high-density neighborhood on the street that is close to amenities in the City, such as Costco. He related his experience with rental properties he owns in the City and the risk of parking becoming a major problem. His experience required him to

purchase an adjacent property to accommodate the growing number of tenant and visitor vehicles. Tenant selection criteria may also be lowered to ensure full occupancy. He commented that the College Hill area in the City has changed from primarily single-family area to converted multi-unit homes that now resembles a student ghetto.

Dean Wood, Baker Brook Court Resident: Mr. Wood observed that the lot is already zoned for a duplex, which fits with the residents’ understanding of the development potential for the lot, and also meets the objective of the Municipal Plan and asked Council to consider accordingly.

BIDO Pero, after a pause in the forthcoming comments from the attendees, advised that he would return the floor back to the Mayor to conclude the session.

6. Closing Comments and Adjournment:

The Mayor called three times for additional comments in favour of the proposal. Hearing none, the Mayor then called three times for additional comments in opposition to the proposal, to which there was no reply.

The Mayor concluded the Public Hearing by thanking the applicants Scott and Pam MacIntosh, and all the residents in attendance for their participation. She commented that public notification and consultation are inherent to the by-law amendment process to ensure residents have an opportunity to be informed, and to have a mechanism to express their input on land use approvals that are requested of Council.

The Mayor advised that Council would consider the Applicant’s request for enactment of the draft by-law amendment at a future meeting and that, after thorough deliberation, a decision by way of vote at a future formal session of Council would determine the status of the application. She noted that Council may elect to: enact the draft by-law amendment as requested; enact an amended version of it; or, refuse the application.

Mayor Wilson-Shee advised that BIDO Rob Pero could be contacted if there were further questions with respect to the public review and by-law amendment process. She thanked everyone again for attending and called for a motion to adjourn.

Moved by Councillor Tim Scammell and **seconded by** Councillor Gisèle McCaie-Burke that the public hearing be adjourned.

Session Adjourned at 7:30 pm

Respectfully Submitted,

Robert Pero
Building Inspector/Development Officer

Judy Wilson-Shee
Mayor