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To: Mayor and Members of Council

From: Ryan Windle, Director Planning Services Department

Date: October 18, 2021

Subject: **Request from Delpark Homes Ltd. for an exemption from the two-year freeze on submitting an application for Minor Variance related to a site specific Zoning By-law Amendment**

File: ZBA2018-0026 (Cross reference S-C-2018-0005)

The Biglieri Group has submitted a letter, on behalf of Delpark Homes Ltd. (Delpark), to the Mayor and Members of Council seeking approval to submit Minor Variance applications for 5 lots in their plan of subdivision that is currently under construction at 1539 Prestonvale Road, Courtice. A copy of the letter is attached to this memo (**Attachment 1**).

Delpark Homes Ltd. received approval of their Draft Plan of Subdivision and Zoning By-law Amendment applications in March 2020. Due to delays resulting from the global pandemic Zoning By-law Amendment 2020-012 became final and binding in May 2020.

As the request letter indicates, Delpark has been working on finalizing the detailed engineering design of the subdivision and marketing the lots. At the time of drafting this memo the registration of the plan is imminent. Through detailed engineering, including site triangle requirements at Prestonvale Road, and siting specific building models on individual lots, a total of five lots have been identified where Minor Variances are being sought.

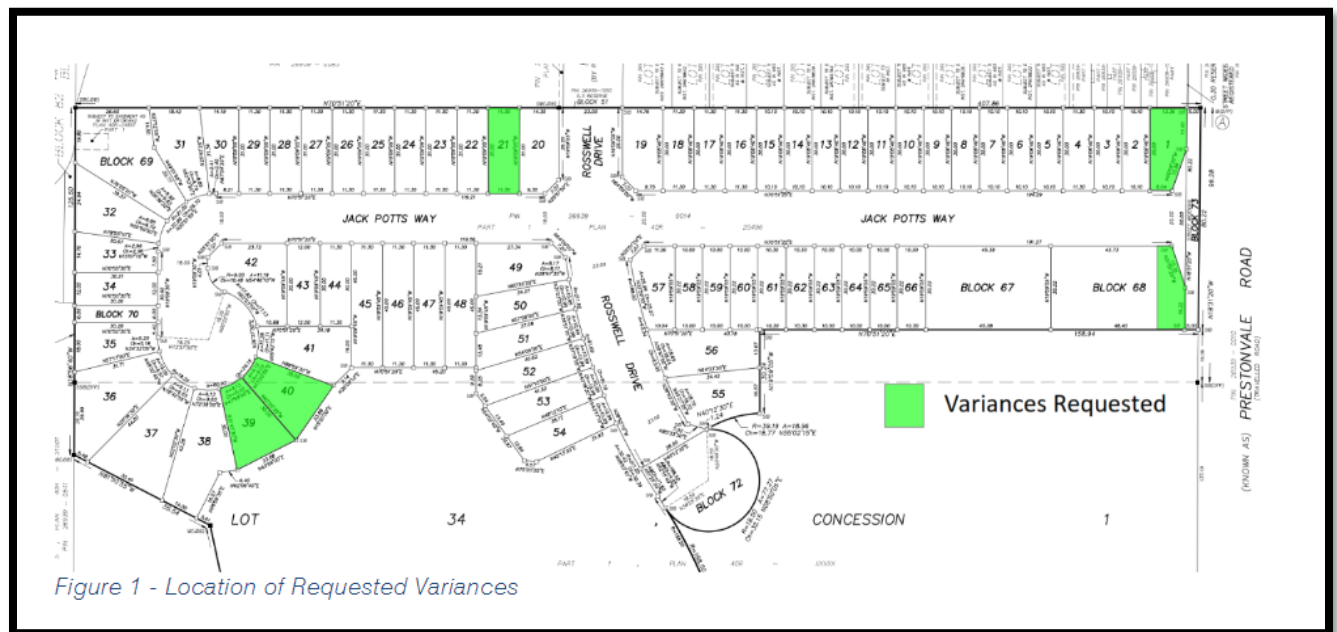
The *Planning Act* states that an applicant may not submit Minor Variance applications to the Committee of Adjustment prior to the second anniversary of when the site-specific Zoning By-law comes into effect. The only exception to this provision is if Council by resolution permits a request to submit applications for the subject lands.

The purpose of these sections of the Act is to provide a timeout after an application has gone through the public process and a decision by Council has been made. The timeout can prevent what could be viewed as an abuse of process where a landowner simply files a Minor Variance after the Zoning By-law Amendment has been approved.

It is not uncommon for minor issues to arise as the result of detailed engineering, technical issues or a particular building model or building features are requested once the lots are marketed.

The applicant has provided a map of the lots where the minor variances would be requested (see Figure 1 below) and a brief outline of the nature of each variance is provided as follows:

- Lot 1: Requires relief from exterior side yard setback
- Block 68 (Easterly townhouse unit): Requires relief from exterior side yard setback and the maximum garage projection limitation
- Lot 21: Requires relief on the maximum lot coverage regulation
- Lot 39: Requires relief from the rear yard setback
- Lot 40: Requires relief from the rear yard setback



Staff have no objection to Council granting Delpark permission to file Minor Variance applications for the subject lands to address specific issues identified as a result of detailed engineering and siting specific models on the lots.

Council's decision to allow Minor Variance applications to be filed cannot be construed as an indication of support for the proposal. The Minor Variance applications, if allowed, would be reviewed for compliance to the four tests under the *Planning Act* and processed and reviewed in the same manner as any other Minor Variance application. Ultimately the Committee of Adjustment will render decisions on the proposed applications, which are subject to appeal to the Ontario Land Tribunal (OLT).

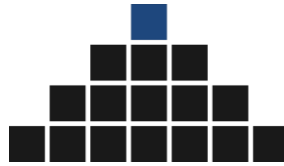
If Council wishes to allow this application, the attached resolution should be passed (**Attachment 2**).



Ryan Windle, MCIP, RPP, AICP
Director of Planning and Development Services

Attachments:

- Attachment 1: Letter from The Biglieri Group Ltd. On behalf of Delpark Homes Ltd.
- Attachment 2: Proposed Council Resolution



BUILDING YOUR IDEAS - INTO BIG PLANS
THE BIGLIERI GROUP LTD.

August 6, 2021

Municipality of Clarington
Clerk's Department
40 Temperance Street
Bowmanville, Ontario
L1C 3A6

Attention: Ms. June Gallagher, Municipal Clerk

Dear Ms. Gallagher,

**RE: Request for Council Resolution to Proceed with Minor Variance Applications
Part of Lot 34, Concession 1, Darlington
1539 Prestonvale Road
Lots 1, 21, 39, 40, Block 68-1, Plan 40M-xxxx
TBG Project No. 17473**

The Biglieri Group Ltd. has been retained by Delpark Homes Ltd. to prepare planning applications for the lands municipally known as 1539 Prestonvale Road ("subject site"). Draft Plan of Subdivision and Zoning By-law Amendment applications were submitted in 2019 for a 78-unit residential development consisting of 66 single-detached dwellings and 12 townhouse units.

The implementing zoning by-law, By-law 2020-012, and Conditions of Draft Plan Approval were adopted by Clarington Council on March 2, 2020. The By-law came into effect on May 21, 2020 following a two-month delay since adoption as a result of the pandemic.

Since the By-law 2020-012 coming into effect and issuance of the Conditions of Draft Plan, Delpark Homes has been working on detailed designs and is aiming to register the subdivision in the coming weeks. Following the approval of the detailed engineering designs and required sight triangles along Prestonvale Road, minor variances for several lots are required in order to accommodate the preferred building typologies. The location of the lots are shown on **Figure 1**.

As By-law 2020-012 came into effect less than two years ago, a Council Resolution is required to proceed with minor variance applications. Without a resolution to proceed we will not be able to submit these applications until May 2022, the two-year anniversary of By-law 2020-012 coming into effect.

Therefore, we are respectfully requesting Council to provide a resolution to proceed with minor variance applications for the subject site. This would allow for building permits to be submitted and a timely construction of the dwellings.

We trust you will find all in order, however if you have any questions or require additional information, please contact us at your earliest convenience.

PLANNING | DEVELOPMENT | PROJECT MANAGEMENT | URBAN DESIGN

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Figure 1 - Location of Requested Variances

Respectfully,
THE BIGLIERI GROUP LTD.

Mark Jacobs, MCIP, RPP
Senior Planner

CC. Cindy Strike, Manager, Development Review
Eddy Chan, Delpark Homes

Council Resolution #C-____-2021

Moved By _____

Seconded By _____

Whereas on May 20, 2020 By-law 2020-012 became final and binding for lands owned by Delpark Homes Ltd., at 1539 Prestonvale Road; and

Whereas Delpark Homes Ltd. wishes to submit five Minor Variance applications to facilitate development on lots for single-detached and townhouse dwellings within an approved Plan of Subdivision (S-C-2018-0005); and

Whereas subsections 45(1.2), 45(1.3) and 45(1.4) of the *Planning Act* prohibit Delpark Homes Ltd. from requesting a minor variance to Zoning By-law 84-63, as amended, before the second anniversary of the first day that the site-specific amendments came into effect, unless Council has declared by resolution that such a request is permitted; and

Council wishes to permit Delpark Homes Ltd. to make Minor Variance applications respecting their property.

NOW THEREFORE BE IT RESOLVED THAT,

1. Council hereby permits Delpark Homes Ltd. to file Minor Variance applications for lands associated with By-law 2020-012 on Lots 1, 21, 39, 40, and Block 68, Plan 40M-xxxx; and,
2. By granting permission to Delpark Homes Ltd. to make Minor Variance applications for the lands associated with By-law 2020-012, Council is in no way expressing any opinion regarding the planning merits of the subject applications.