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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 G. KOTSIFAS, P.ENG MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL
SUBJECT:	APPLICATION BY: CITY OF LONDON CITY WIDE ZONING BY-LAW AND MINIOR VARIANCE APPLICATIONS PERTAINING THE NEAR-CAMPUS NEIGHBOURHOOD AMENDMENTS MEETING ON AUGUST 20, 2013

RECOMMENDATION
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That, on the recommendation of the Managing Director, Planning and City Planner and the Managing Director, Development and Compliance Services and Chief Building Official, the following actions be taken:

- (a) the Managing Director, Planning and City Planner **BE DIRECTED** to prepare a Zoning By-law amendment that includes the following matters:
  - i) amend Section 2 of the Zoning By-law to modify the Parking Area definition to exclude Private Garages from the parking area calculation;
  - ii) amend 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,
  - iii) amend Section 5.3 and Table 5.3 of the Zoning By-law Z-1 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 (9.8 feet) where no private garage is attached to the dwelling;
- (b) a special meeting of the Planning and Environment meeting be convened on Monday, September 16, 2013 at 2:30pm for the purpose of holding a public participation meeting in connection with the proposed Zoning By-law amendment referred to in paragraph (a) above; and,
- (c) the action taken by Civic Administration to initiate Minor Variance applications for various lots zoned Residential R1-1 to R1-5 and R1-12 to R1-13 seek relief from the regulations of the Zoning By-law pertaining to the interior side yard depth **BE ENDORSED**.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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- 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

PURPOSE AND EFFECT OF RECOMMENDED ACTION
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The purpose and effect of these recommended actions is to seek endorsement from Municipal Council for the Minor Variance applications that have been proactively initiated by Civic Administration to facilitate the issuing of building permits for lands zoned Residential R1-1 to R1-5 and R1-12 to R1-13 and to amend the Zoning By-law to reduce the side yard depth requirements and other related amendments.

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## PLANNING HISTORY

On June 18, 2012, at a public meeting of the Planning and Environment Committee, Planning Staff recommended that a comprehensive Official Plan and Zoning By-law amendment 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. This comprehensive set of amendments included amendments to the Official Plan policies pertaining to Residential Land Use designations as well as the various sections of the Zoning By-law, including the side yard depth requirements for lands zoned Residential R1-1 to R1-5 and R1-12 to R1-13. 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.

## ANALYSIS

### **Intent of the amendments to Section 5.3(4) and Table 5.3**

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 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 comprehensive set of amendments adopted as part of the Near-Campus Neighbourhood Strategy, the above “Small-lot” zone variations required a minimum interior side yard depth of 1.2 metres (as stated in Table 5.3 of the Zoning By-law).

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 to permit 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 Table 5.3 and Section 5.3 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 adopted as part of the Near-Campus Neighbourhood Strategy 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, 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

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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 Near-Campus Neighbourhood 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 side yard depths related to building height were not the focus of the Near-Campus Neighbourhood amendments and are not required for the implementation of the Near-Campus Neighbourhood Strategy.

### **Great Near-Campus Neighbourhoods Strategy & Background Research**

The City of London began a major policy initiative in 2007 to develop a holistic approach dubbed *Closing the Gap: New Partnerships for Great Neighbourhoods Surrounding our University and Colleges*. Based on this extensive consultation and research, Staff prepared and presented a report to Council on March 3, 2008 which was circulated to various stakeholders and interested parties for review.

In November 2008, Staff reported back to Planning Committee to present the results of the public consultation sessions. As part of this report, Staff rebranded the *Closing the Gap* strategy to the *Great Near-Campus Neighbourhoods Strategy* and introduced an implementation plan which outlined “how” and “when” the 10 strategies will be implemented and by “whom”. On November 17, 2008 Council adopted the 10 strategies outlined in the *Great Near-Campus Neighbourhoods Strategy* and accompanying Implementation Plan.

A draft set of Official Plan, Zoning By-law, and Site Plan By-law amendments were presented at a meeting of the Planning Committee on September 28, 2009 with a recommendation that the proposed amendments be circulated to:

- the Town and Gown Committee
- the London Housing Advisory Committee
- the Urban League of London
- the London Developers Institute
- the London Home Builders Association, and
- the London Area Planning Consultants

In addition to the above recommendations, on October 5, 2009 Council also resolved that the draft Near-Campus Neighbourhoods planning amendments be circulated to various stakeholders and interested parties for comments and feedback prior to presenting the proposed amendments to Council for adoption. As a result of the recommendation to circulate the proposed policies, Planning Staff held several more information sessions and presented to various community associations to provide information and solicit feedback.

In addition, Planning Staff also conducted consultation with individual stakeholder groups as the results of the above consultation and feedback precipitated additional modifications to the draft planning amendments. It should be noted, that the issue related to the additional 0.6 metres of side yard depth had never been identified as a cause for concern.

### **Information available to Municipal Council**

The Planning Staff report presented to Municipal Council at the time of the adoption of the Near-Campus Neighbourhood amendments indicated that the Zoning By-law contains “...specific regulations for the zone variations ranging between R1-6 to R1-11 and R1-14 to R1-16 requiring that one side yard depth be 3.0 metres when no attached garage is provided.”

Council was informed that “...the R1-1 to R1-5, R1-12 and R1-13 zone variations, some of which are common within areas of near-campus neighbourhoods, are not subject to this 3.0 metre regulation” and that this “...has inadvertently helped to facilitate the establishment of mutual driveways in near-campus neighbourhoods when two deficient lots are created by way of consent.”

Council was also informed that the intent of the regulation requiring a 3.0 metre (9.8 feet) side yard depth where there is no attached garage, is to facilitate the Zoning By-law regulation which requires vehicular parking areas to be located in the rear yard, interior side yard, or a driveway leading to a legal parking space (including a garage). Where no private garage is attached, the

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only remaining legal parking areas are the interior side yard, rear yard, or a driveway leading to the interior side yard or rear yard. And in order for a vehicle to be able to pass through the interior side yard to gain access to the rear yard, one side yard must have a minimum width of 3.0 metres.

Given the above, Council was informed that the general regulations of the R1 zone were recommended to be amended such that the R1-1 to R1-5, R1-12 and R1-13 zone variations will be required to ensure that one side yard depth is 3.0 metres when no attached garage is provided, “...to strengthen the criteria for the establishment of a mutual driveway.” This information was the basis for which Municipal Council made their decision to amend the interior side yard depth requirement for the Residential R1 Zone.

On August 7, 2013, upon receiving a written decision of the June 10, 2013 Ontario Municipal Board hearing, the consolidated version of the Zoning By-law was posted on-line which highlighted the change in the interior side yard depth regulation for the “Small-lot” zone variations from a minimum of 1.2 metres to a minimum of 1.2 metres, plus an additional 0.6 metres for each storey of height above the first storey. The requirement for an additional 0.6 metres of side yard depth requires some home builders to seek relief from the regulations of the Zoning By-law until an amendment to the Zoning regulation can be adopted.

### **Recommended Action**

In order to assist some home builders who require building permits with a side yard depth of 1.2 metres to construct homes that have been sold, Civic Administration initiated Minor Variance applications for the applicants to seek authorization from the Committee of Adjustment (C of A) to grant minor variances from the 1.8 metre side yard depth regulations of the By-law. It is anticipated that the majority of these applications will appear before the C of A on August 26, 2013.

In addition to the above action, Civic Administration have initiated a Zoning By-law amendment to regularize a 1.2 metre side yard depth for “Small-lot” zone variations and clarify other minor Zoning matters such as the exclusion of “Private Garages” from the parking area calculation and to clarify that “Private Garages” located in the rear yard are to be regulated under the accessory use provisions when a Private Garage is an accessory structure.

<b>CONCLUSION</b>
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Given that the above two recommended actions have been proactively initiated by Civic Administration in order to rectify these issues as expeditiously as possible, the recommendations of the Managing Director, Planning and City Planner and the Managing Director, Development and Compliance Services and Chief Building Official request that Municipal Council endorse these actions and allow Civic Administration to continue to resolve these matters.

In order to regularize a 1.2 metre side yard depth for “Small-lot” zone variations and clarify other minor Zoning matters, it is also recommended that a special meeting of the Planning and Environment meeting be convened prior to the meeting of Municipal Council on September 17, 2013 for the purpose of holding a public participation meeting in connection with the proposed Zoning By-law amendment.

PREPARED BY:	REVIEWED BY:
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RECOMMENDED BY:	RECOMMENDED BY:
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