



Councillor Angelo Bentivegna

Ward 6

Councillor Statement

Millcroft Residents,

I am releasing the following statement to make sure that there is no misinformation filtering through our community.

As you know, Branthaven opted to go through the Committee of Adjustments to seek relief from the zoning by-law in order to build townhouse units consisting of 12 buildings with 67 units. When an applicant applies to the CoA, the application is circulated to Site Planning, Site Engineering, Transportation, Forestry and Building so they can evaluate the requested variances against the four tests required to be met within the Provincial Policy Statement.

As we are all aware, the CoA refused the application for variances to the Zoning By-law, over the recommendation of the City Planning staff to approve the variances on the basis that they met the **applicable statutory tests**. Branthaven then appealed the Committee's refusal to the Ontario Land Tribunal (OLT) formerly LPAT.

The four tests are as follows:

1. Is it in keeping with the general intent and purpose of the official plan?
2. Is it in keeping with the general intent and purpose of the zoning by-law?
3. Is it desirable for the appropriate development or use of the land, building or structure?
4. Is the proposal minor in nature?

In reviewing applications for minor variances to the Zoning By-law, City Planning staff provide their professional opinion on whether an application for minor variances meet the 'four tests' that minor variances are assessed against. In this case, Planning staff provided their opinion that the proposed variances met the four tests. The Planning Act requires that a Committee of Adjustment may authorize variances from the Zoning By-law if those variances meet those 'four tests'. In considering whether or not the 'four tests' have been met, the Committee of Adjustment must consider the professional opinion of Planning staff along with the applicant and any other person that speaks in favour or against an application. The Planning Act then requires the Committee of Adjustment to set out its reasons for its decision, along with an explanation of the effect, if any, that written comments and oral comments had on a Committee's decision.



When Committee of Adjustment decisions are made, they can be appealed to the OLT in several ways. The applicant may appeal if they are not satisfied with the decision. An interested resident may appeal if they are not satisfied with the decision. The Director of Planning may appeal, if in his/her opinion, the decision is inconsistent with the application of the city's planning policies and instruments. The City typically only becomes actively involved in an appeal of a matter, where Planning staff feel that there has been a misapplication of its planning policies, or where they think the Committee "got it right" and the decision is being challenged. While Committee of Adjustment decisions are property specific, a decision might set a precedent that could affect the application or misapplication of the city's policies in other similar situations across the City. In these rare cases the City would participate at the appeal after receiving Council's instructions to do so. This was the process followed in the Branthaven matter.

I want to be sure that residents are clear and understands that Council members discussing "In-Camera" sometimes referred to "CLOSED" sessions must follow the legislated Municipal Act of Ontario #239.....The duty of Council is to maintain complete confidentiality with all aspects, of conversations including votes and must be taken very seriously. The release of confidential information can result in significant consequences financially or other implications to Council members or Municipalities. Release of information about potential claim, identification of individuals etc. can result in liability or the loss of a potential defense for the Municipality. The discussion of terms of proposed contracts or negotiating positions could result in lost bargaining power and increased costs to the municipality

In closing, if you and/or any neighbors decide to participate either as a "Party" (retaining a planner or witnesses) or as a "Participant" (as many did at the CoA meeting by giving oral submissions) to the Ontario Land Tribunal please click the following link <https://olt.gov.on.ca/appeals-process/forms/>. The following link contains a general overview of how citizens can participate in the hearing process <https://www.ontario.ca/document/citizens-guide-land-use-planning/ontario-land-tribunal>.

As always, if you need further information or assistance with the process please contact me.

Sincerely Angelo

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