

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday August 28, 2014 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

R. Funnell, Chair
B. Birdsell (arrived at 4:26 p.m.)
C. Downer (left at 6:30 p.m.)
L. McNair (left at 4:24 p.m. and returned at 4:27 p.m.)
K. Ash

Regrets: J. Hillen

Staff Present: M. Witmer, Planner
L. Sulatycki, Planner
T. Russell, Secretary-Treasurer
S. Samuel, Legislative Coordinator

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Meeting Minutes

Moved by L. McNair and seconded by C. Downer,

“THAT the Minutes from the August 14, 2014 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

Secretary-Treasurer T. Russell informed the Committee that an appeal to the Ontario Municipal Board has been filed regarding 16 Maple Street (File A-72/14). This appeal was received today on behalf the Old University Residents Association regarding the Committee’s decision on this application. The basis for appeal was that the procedure for notification (sign) was not followed. A copy of the Appellant Form was provided to the Committee members.

Chair R. Funnell reminded the Committee members and members of the public wishing to address an application to speak into the microphone so everyone present can hear. He stated that anyone who wants to receive a written copy of the decision for any of the applications must submit a written request to the Secretary-Treasurer.

Committee member K. Ash stated that she had difficulties reading the copies of the applications that were sent via email. She stated that she is hoping to get paper copies of the applications when the agenda package is sent out by staff, commencing at the first meeting in October. Secretary-Treasurer T. Russell stated that she is concerned about staff resources, the amount of paper consumed, the additional cost of postage and if the applicant or the City provides the copies. Committee member K. Ash indicated that in other municipalities the onus is on the applicant to provide copies staff. Chair R. Funnell stated that he will leave it for staff to figure out how this can be managed.

Moved by K. Ash and seconded by B. Birdsell,

“THAT the Committee members be provided with copies of the submitted application forms at the same time the public notices are sent by staff.”

Carried

Application: **B-23/14**

Owner: **Wellington Catholic District School Board**

Agent: **Brian Beatty, Black, Shoemaker, Robinson & Donaldson Limited**

Location: **265 Edinburgh Road North**

In Attendance: **Nancy Shoemaker**

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Ms. N. Shoemaker replied that the sign was posted and that comments were received. She stated that she reviewed the comments and that staff are recommending that storm sewer easements be obtained. Ms. N. Shoemaker stated that she believed the application could still go ahead for a decision, with a condition that the easements be granted. However, she understood that Planning Services staff had consulted with Legal Services staff, and their opinion was since the easement is between private property owners, the easement must be mentioned in the application. Therefore, she stated that she agreed with the recommendation to defer and will return with a new application. Ms. N. Shoemaker stated that she also wanted

to speak with Engineering staff regarding the easement, as she believed a blanket easement would be most appropriate for this property.

Moved by L. McNair seconded by C. Downer,

“THAT Application B-23/14 for the Wellington Catholic District School Board at 265 Edinburgh Road North, be deferred sinedie, to allow the applicant additional time to include the request for storm sewer easements, and in accordance with the Committee’s policy on applications deferred sinedie, that the application will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application.”

Carried

Application: **A-82/14**

Owner: **1674775 Ontario Inc.**

Agent: **Nancy Shoemaker, Black, Shoemaker, Robinson & Donaldson Limited**

Location: **375 Southgate Drive**

In Attendance: **Nancy Shoemaker**

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Ms. N. Shoemaker replied that the sign was posted and that comments were received.

Chair R. Funnell stated that anyone who wants to receive written notice of the decision must submit a written request to the Secretary-Treasurer.

Ms. N. Shoemaker stated that this is one of the last industrial sites in this part of the Hanlon Buiness Park and that the Committee has granted similar variances in the Business Park. She indicated that this application is consistent with the area as other industrial malls with offices are nearby. She is in agreement with the recommended condition that the office uses be limited to 30% of the total gross floor area.

Secretary-Treasurer T. Russell informed the Committee that in the staff comments for File A-82/14 it noted that Heritage Planning noted that an Archaeological Assessment should be completed. Heritage Planner S. Robinson provided correspondence on August 27, 2014 that he no longer believes an Archaeological Assessment is required and has no further concerns for

archaeological resources on the subject property. A copy of the correspondence from S. Robinson, Planner was provided to the Committee members.

Secretary-Treasurer T. Russell informed the Committee that comments from Guelph Hydro Electric Systems Inc. were received after the comment package was prepared. Guelph Hydro recommended that a condition be added for File A-82/14 requiring the applicant to make arrangements for the underground servicing for the new building. Copies of Guelph Hydro's comments were provided to the Committee members.

Committee member K. Ash asked the applicant what type of storage facility is proposed. Ms. N. Shoemaker replied that she is not sure if there will be storage facility but the owner is considering a mini storage facility at the back of the property. She indicated that a concept plan had been prepared, but that the owner just wanted the flexibility to have the storage use permitted.

Committee member K. Ash questioned if outdoor storage is proposed. Ms. N. Shoemaker replied that the storage will be totally enclosed in a building.

Committee member K. Ash proposed an additional condition that storage is only permitted within an enclosed building. Planner M. Witmer stated that Planning staff will support the Committee if they would like the storage facility limited to indoor storage only.

Committee member L. McNair stated he supports Committee member K. Ash's recommended condition and requested that the condition from Planning staff be worded to read "that all office uses combined".

Chair R. Funnell asked the applicant if she accepts the recommendation being put forward. Ms. N. Shoemaker replied that she believes that outdoor storage is permitted for this property under the current zone in the Zoning By-law. She stated that the intent is to have storage enclosed, but she asked why the Committee would be more restrictive on this property than the Zoning By-law already is.

Planner M. Witmer asked for a few minutes to review the Zoning By-law. Planner M. Witmer indicated that in reviewing with the applicant and consulting the Zoning By-law, outdoor storage is permitted within the B.1 Zone, provided it is restricted to goods manufactured on site. As a result, Planner M. Witmer stated that further restriction is not necessary.

Committee member K. Ash indicated that she would like to retract the condition she proposed regarding outdoor storage.

Having considered whether or not the variance(s) requested are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this

application has met the requirements of Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by K. Ash seconded by L. McNair,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Sections 7.1.1.1 and Section 7.1.1 of Zoning By-law (1995)-14864, as amended, for 375 Southgate Drive,

- a) to permit an industrial mall at 375 Southgate Drive, when the By-law does not permit an industrial mall within the B.1 Zone; and
- b) to permit an office use and a storage facility use, when the By-law does not permit an office or or storage facility use within the B.1 Zone,

be approved, subject to the following conditions:

- 1. That all office uses combined be limited to a maximum of 30% of the total gross floor area of the industrial mall building(s).
- 2. That prior to a building permit release, the applicant must make satisfactory arrangements with the Technical Service Department for the underground servicing for the new building. This will be at the applicant’s expense.”

Carried

Application:	A-84/14
Owner:	Cedarvale Developments Ltd.
Agent:	John Vos, Labreche Patterson & Associates Inc.
Location:	269 Grange Road
In Attendance:	John Vos Victor Labreche Alan Boynton Patti Brett Name not provided Steve Free Amanda Free Matt Robson

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. J. Vos stated that he is one of the consultants working on this application and that Mr. V. Labreche could address the Committee. He indicated that a package of information on this application was sent this afternoon for the Committee members and was unsure if this had been received. Chair R. Funnell replied that copies had been provided to the Committee members. Mr. V. Labreche replied that in his opinion the sign was posted and comments were received.

Chair R. Funnell reminded those attending that anyone who wants to receive written notice of the decision must submit a written request to the Secretary-Treasurer.

Mr. V. Labreche summarized the package of information submitted to the Committee. He indicated that a site plan submission is underway. He has met with City staff regarding the existing trees on the property and does not believe that trees are relevant to the variance. He indicated that some of the trees will be removed and replanted. He stated that a landscape plan was included in the information package and presented a large copy of the landscape plan.

Mr. V. Labreche stated that he feels the landscaping is very extensive in terms of the quality and quantity of materials on site. He says the variance is minor due to the extensive landscaping proposed on site. He stated he would like the Committee to approve this application to acknowledge that substantial work gone into the submissions at the applicant's risk, and that there are lots of amenity areas nearby within walking distance. He indicated that many Official Plans in Ontario encourage high density development and encourages these types of developments to locate near schools and parks in order to provide additional amenity areas. He acknowledged that staff are recommending deferral, but he would like this application to continue forward. He stated that they will accept a decision to defer if needed.

Chair R. Funnell asked Planner M. Witmer if Planning staff's comments still stand after considering the information package that was submitted. Planner M. Witmer replied that the information package was received late this afternoon and he has only read through the comments briefly and has not had a chance to review these comments with other staff members involved with the site plan. He stated that Planning staff's recommendation will stand so that the information submitted can be reviewed by site plan staff.

Committee member L. McNair asked how many parking spaces are proposed. Mr. V. Labreche replied that 88 parking spaces are required and 88 parking spaces are proposed. Committee member L. McNair acknowledged that some of the parking areas could be converted to amenity spaces, but then the parking areas would be deficient.

Planner M. Witmer stated that during the site plan review that some changes have been proposed regarding the accessible parking spaces and that this may affect the amenity area.

Moved by C. Downer seconded by B. Birdsell,

“THAT Application A-84/14 for Cedarvale Developments at 269 Grange Road, be deferred sinedie, to allow the applicant additional time to refine and finalize the ultimate common amenity area, and in accordance with the Committee’s policy on applications deferred sinedie, that the applications will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application.”

Carried

Application: **A-85/14**

Owner: **3642968 Canada Inc.**

Agent: **Michael Lipkus, IBI Group**

Location: **613 Scottsdale Drive**

In Attendance: **Michael Lipkus**
 Michel Dorais

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. M. Lipkus replied that the sign was posted and comments were received. He stated that he agreed with the comments provided.

The Committee had no questions for staff or the applicant.

Chair R. Funnell reminded those attending that anyone who wants to receive written notice of the decision must submit a written request to the Secretary-Treasurer.

Having considered whether or not the variance(s) requested are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this application has met the requirements of Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by B. Birdsell seconded by K. Ash,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 6.4.2, Row 4 of

Zoning By-law (1995)-14864, as amended, for 613 Scottsdale Drive, to permit a gas bar/convenience kiosk to be located 4.3 metres (14.1 feet) from the front lot line, be approved.”

Carried

Application: **A-83/14**

Owner: **Denise Peruzzi**

Agent: **Chris Heslop**

Location: **26 Bristol Street**

In Attendance: **Chris Heslop**
 Denise Peruzzi

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. C. Heslop replied that the sign was posted and comments were received. He stated that he wanted to bring to the Committee’s attention that at the time of application submission he was not aware that the Grand River Conservation Authority (GRCA) charges a minor variance application review fee.

Chair R. Funnell asked the Secretary-Treasurer if she was familiar with this fee. Secretary-Treasurer T. Russell replied that the GRCA does charge a fee for reviewing applications within the GRCA’s regulated area. Applicants are notified of this fee on the cover sheet that is provided with the application.

Chair R. Funnell stated that the GRCA’s fee is not part of the City’s jurisdiction. Planner M. Witmer clarified that the subject property is located within a special policy area and floodplain and the GRCA does review applications and charge a fee.

Mr. C. Heslop stated that fee seems excessive since he is only building a fence. Chair R. Funnell indicated to the applicant that the matter is between himself and the GRCA.

Committee member L. McNair acknowledged that in the GRCA’s comments that it did not reference to the fence being in the front yard.

Having considered whether or not the variance(s) requested are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this

application has met the requirements of Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by K. Ash seconded by L. McNair,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Sections 4.20.9, 4.20.10.2, and 4.20.10.3 of Zoning By-law (1995)-14864, as amended, for 26 Bristol Street,

- a) to permit a fence 1.83 metres (6 feet) and 1.22 metres (4 feet) in height to be located in the front yard, when the By-law requires that any fence located in the front yard shall not exceed 0.8 metres (2.6 feet) in height;
- b) to permit a fence 1.83 metres (6 feet) in height to be located in the exterior side yard from the midpoint of the main building to the rear property line and 0 metres from the street line, when the By-law requires that any fence located in the exterior side yard shall not exceed 1.9 metres (6.2 feet) in height from the midpoint of the main building to the rear property line and up to 0 metres from the street line;
- c) to permit a fence 1.83 metres (6 feet) and 1.22 metres (4 feet) in height to be located in the remaining exterior side yard, when the By-law requires that any fence located in the exterior side yard shall not exceed 0.8 metres (2.6 feet) in height in the remaining exterior side yard,

be approved, subject to the following condition:

- 1. That prior to the erection of the fence, the applicant submit a detailed design of the proposed fence and material, in metric units, to the City’s Planning and Engineering staff for approval.”

Carried

Application: A-69/14

Owner: Yang Shao and Yun Qin

Agent: Frank Qiu

Location: 705 Eramosa Road

In Attendance: Yang Shao
John Sterling
Frank Qiu

Secretary-Treasurer T. Russell informed the Committee that comments from Guelph Hydro Electric Systems Inc. were received after the comment package was prepared. Guelph Hydro recommended that a condition be added for File A-69/14 requiring the applicant to make arrangements for the possible relocation of the existing underground hydro service to the house. Copies of Guelph Hydro's comments were provided to the Committee members.

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. Y. Shao stated that he had difficulty speaking due to language difficulties and asked that his translator speak on his behalf. Mr. J. Sterling replied that from his understanding the sign was posted and comments were received. He indicated that comments were acceptable and was aware of the Environmental Impact Study. He stated that a similar application was brought forward to the Committee a year ago asking for a one-storey addition and since additional room was needed, they are now requesting permission for a two-storey addition.

Committee member L. McNair asked why a scoped environmental study is needed. Mr. J. Sterling clarified that it is a two-storey addition and that the one-storey addition that received previous approval was never completed. He stated that due to this situation that is why the Environmental Impact Study was never completed, as the owner wanted to receive approval for the two-storey addition before going ahead with the study.

Having considered a change or extension in a use of property which is lawfully non-conforming under the By-law as to whether or not this application has met the requirements of Section 45(2) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by K. Ash seconded by L. McNair,

"THAT in the matter of an application under Section 45(2)(a)(i) of the Planning Act, R.S.O. 1990, c.P13, as amended, for permission to extend the legal non-conforming use at 705 Eramosa Road, to construct a two-storey addition to the right side of the building which will be located 29 metres (95.14 feet) from the front yard property line and 7.62 metres (25 feet) from the right side yard property line,

be approved, subject to the following conditions:

1. That prior to the issuance of any building permit for any additions to the existing structure, a Scoped Environmental Impact Study prepared by a qualified environmental consultant shall be submitted, reviewed and approved to the satisfaction of the General Manager of Planning Services.
2. That prior to the issuance of a building permit, the applicant make arrangements with the Technical Services Department of Guelph Hydro Electric Systems Inc. for the

possible relocation of the existing underground hydro service to the house. This will be at the applicant's expense."

Carried

Application: **A-87/14**
Owner: **Miles Hayes**
Agent: **N/A**
Location: **33 Hunters Lane**
In Attendance: **Miles Hayes**

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. M. Hayes replied that the sign was posted and comments were received.

The Committee members had no questions.

Chair R. Funnell reminded those attending that anyone who wants to receive written notice of the decision must submit a written request to the Secretary-Treasurer.

Having considered whether or not the variance(s) requested are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this application has met the requirements of Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by K. Ash seconded by C. Downer,

"THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.15.1.5 of Zoning By-law (1995)-14864, as amended, for 33 Hunters Lane, to permit the existing accessory apartment to have an area of 91.9 square metres (989 square feet, 31% of the gross floor area), when the By-law requires that an accessory apartment not exceed 45% of the total floor area of the building and shall not exceed a maximum of 80 square metres (861.1 square feet) in floor area, whichever is lesser, be approved."

Carried

Application: **A-88/14**

Owner: **Linda Sharpe**

Agent: **Heather Myles and Stephen Clark**

Location: **160 Norfolk Street**

In Attendance: **Heather Myles**
 Stephen Clark
 Gerald Punnett
 Linda Sharpe
 Julie Schmidt
 Jayne Patrick

Secretary-Treasurer T. Russell advised the Committee that a revised Notice of Public Meeting was prepared and mailed to acknowledge additional variances required for off-street parking. A copy of the revised Notice was previously provided to the Committee members.

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. S. Clark replied that the sign was posted and comments were received.

Committee member K. Ash asked if the applicants to explain their application due to the number of variances requested. Mr. S. Clark replied that they currently have an accepted offer on the property conditional on the outcome of this application. He said that he is proposing to use 24 percent of the floor space for a small retail and repair establishment. Ms. H. Myles stated that the business cannot be expanded as it will be contained within the existing rooms of the dwelling. She stated that her personal service establishment is currently operating in another location with one parking space and she is hoping to relocate her business to the subject property which will use the remaining space on the main floor. Mr. S. Clark stated that the variance is also to recognize a reduction in off-street parking. Ms. H. Myles stated that much of the space included in the gross floor area is used by hallways, a foyer, a bathroom, a kitchen, and a bay window, which will not contribute to parking needs. Mr. S. Clark indicated that 90 to 95 percent of the clientele for the personal services establishment take public transit or walk to the business. He stated that parking will not be any more congested than it is now. He indicated that State Farm insurance used the building for 10 years and used the existing right-of-way and parking with no issues. He stated that they will give incentives for customers to park off-site by paying for a customer's bus pass or parking pass.

Chair R. Funnell asked if the existing right-of-way is a legal joint driveway. Mr. S. Clark replied that it is a deeded easement. Ms. H. Myles presented photos of the driveway and parking areas to the Committee.

Committee member K. Ash asked if the applicants plan on living in the residence and where the living areas are. Mr. S. Clark replied that the loft and partially finished basement would be living areas.

Committee member L. McNair asked staff if it was not for the repair and retail service then there would not be a variance needed. Planner L. Sulatycki stated that the OR zone permits a personal service establishment use; however, due to the size of the personal establishment use a parking variance is required. She added that the additional uses requested have also contributed to the additional parking variances required.

Committee member L. McNair asked if the parking requirement has decreased because of the repair use. Planner L. Sulatycki replied that if the applicant wanted to use the entire main floor for the personal services establishment the parking required would be 1 space per 16.5 square metres, which is also the same for the retail component; however, the repair component only requires 1 space per 33 square metres.

Committee member L. McNair asked if it is necessary to break up the parking requirement for repair versus retail use since it is the same operator. Planner L. Sulatycki replied that this is how Zoning staff interprets the parking variance and the different uses may affect the building permit needed.

Mr. G. Punnett stated that he is representing his wife Ms. Veronica Punnett, who owns the neighbouring property at 150 Norfolk Street. He stated he is also appearing for Mr. J. Moon, who is an adjacent property owner who is in opposition to this application. He indicated that there is an error in the staff comments provided by Heritage Planning as it mentions 159 York Road, so his opinion is that the Heritage Planning comments do not apply to this application. He further indicated that Planning staff has not done any testing or surveying to determine how many parking spaces are required. He indicated that the easement was signed in 1916 and does not deal with commercial or personal services access. He provided copies of the easement to the Committee members. He stated that the easement allows for the right of 160 Norfolk Street to personally use the driveway to get to the rear of the property and does not allow outside users. He states that the owner of 150 Norfolk Street pays the taxes on the property and maintains the driveway. He presented photos of the property showing the parking area on 160 Norfolk Street and said the drawing submitted with the application shows only a portion of a fence in the rear yard when actually it is an opening in the fence. Mr. G. Punnett stated that the applicants do not have an uninterrupted access to the subject property and Ms. Punnett is not willing to provide commercial access.

Committee member L. McNair asked what property was previously used for. Mr. G. Punnett replied it was a residence. Committee member L. McNair clarified that he thought it was previously used as an insurance office. Mr. G. Punnett replied that it was used for an insurance office but was also used as a residence for many years and that the driveway was never envisioned for commercial access.

Committee member C. Downer asked if State Farm was the previous owner or tenant of the property. Mr. G. Punnett replied that Mr. Kihs owned the property and he used it as an office. Committee member C. Downer asked if there were any issues at the time regarding the easement. Mr. G. Punnett said there were lots of arguments. Committee member asked if at that time access to the rear was disallowed. Mr. G. Punnett replied no as the owner at the time did not use all the parking at the rear and allowed vehicles to use 160 Norfolk Street for vehicles to turn around.

Committee member K. Ash asked who owns 150 Norfolk Street. Mr. G. Punnett replied that Ms. Veronica Punnett is the owner. Committee member K. Ash asked if Ms. V. Punnett is objecting to this application. Mr. G. Punnett replied yes and that he is representing her.

Committee member B. Birdsell asked staff if the principle for commercial parking is for drivers to be able to drive in, turn around, and drive out or if they can back out. Planner L. Sulatycki replied that all non-residential uses are only allowed to enter and leave in a forward motion only to avoid backing out on a street. Committee member B. Birdsell stated that aside from the objection from Mr. G. Punnett, there does not appear to be room to back out and turn around for a commercial use because the width is only 9 feet wide. He also asked if this is an instance where the owners will live and work on the property. Ms. H. Myles replied yes. Committee member B. Birdsell stated that with three parking spaces there will be no space for visitors to the residence. Ms. H. Myles responded that visitors would be coming outside of business hours so it should not be an issue. Committee member B. Birdsell asked if staff could comment on the easement and if there is enough room to exit the property. Planner L. Sulatycki asked for a couple minutes so that this could be calculated.

Mr. G. Punnett commented that when Mr. Kihs owned the property and had the insurance office at least one car parked on the property was his personal car and sometimes he parked a second car on his property as well, leaving one spot open. He stated that it is not an uninhibited access to the rear as it is limited to the terms of the agreement that was signed by the parties.

Ms. L. Sharpe, the current owner of 160 Norfolk Street, said she purchased the property from Mr. Kihs and when she purchased it, it had been vacant for 3 to 4 months and had been used for the State Farm insurance office. She indicated that because the property had been vacant for some time, the parking had been taken over by 150 Norfolk Street with some of Mr. Punnett's clients parking on her property. She stated that there were 4 parking spaces when she moved in because the fence was not erected at that time, and that when she bought the property, no stipulations were mentioned about the easement for the driveway. She stated that she backs into the parking spaces and drives out as there is enough space to do so. The parking for 150 Norfolk Street does not have enough room to back into the parking area so often they turn around on the subject property, and Ms. L. Sharpe stated this was acceptable as long as vehicles are not parked on her property for a lengthy period of time. She stated that prior to Mr. Kihs owning the property, it was owned by Mr. Heath and the parking was used and purchased for the Moon Heath law office as they did not have adequate parking. Ms. L. Sharpe stated she erected the fence so that others realize it is a separate property.

Chair R. Funnell asked if Ms. L. Sharpe was aware of the document that Mr. G. Punnett provided. Ms. L. Sharpe replied no and she stated that she checked with her lawyer Mr. David Smith yesterday and he stated that it is a deeded access with no stipulations. Chair R. Funnell stated that the Committee is not going to interpret the legal meaning of the easement as they are not qualified.

Mr. G. Punnett said that the driveway should not be used as a commercial entrance.

Ms. H. Myles showed the Committee on the overhead projector a copy of a letter from Mr. H. Kihs regarding the driveway access.

Planner L. Sulatycki stated that 160 Norfolk Street has 3.5 metres to back out, but when the driveway width of 150 Norfolk Street is taken into account, there would be 6.24 metres to back out. She said there is nothing in the Zoning By-law that specifies a minimum width for an access aisle, but for access aisles for commercial businesses are usually 6 to 7 metres.

Committee member L. McNair asked what the current use of the property is. Mr. S. Clark replied that the current use is residential. Committee member L. McNair asked if this is a change of use application. Planner L. Sulatycki replied that personal services establishment is not considered a change of use under the Ontario Building Code but the retail and repair use will need a change of use/occupancy permit for that portion. She indicated that she did not look at it from the perspective of a change of use but rather a minor variance as most of the main floor will be used by a permitted use. The OR zone does permit accessory uses; however, the retail use is not considered accessory to the personal services establishment.

Committee member L. McNair stated that it appears that the dwelling has been converted back to entirely residential use and he is wondering what property can now be used for. Planner L. Sulatycki replied that any use, even if it was a permitted use, would probably generate additional parking and possible variance. The Secondary Plan for the downtown area designates this property as Mixed Use which allows small scale retail uses.

Ms. L. Sharpe asked what the easement document entailed for her clarification. Chair R. Funnell stated that Legal staff have not reviewed the document. Ms. L. Sharpe clarified that one of the letters submitted from 15 Liverpool Street stated that 160 Norfolk Street abuts her property, when in fact it abuts 150 Norfolk Street. Chair R. Funnell indicated that the comment letter likely resulted from the property being in the notice circulation area.

Mr. G. Punnett stated that the easement is a registered document and is available to the public or staff at any time.

Chair R. Funnell reminded those attending that anyone who wants to receive written notice of the decision must submit a written request to the Secretary-Treasurer.

Committee member B. Birdsell stated that he will support the application being refused as the applicant has not demonstrated adequate parking for the 10 spaces required under the Zoning By-law or adequate access to and from the required parking.

Committee member K. Ash clarified that there are three variances being requested, with one related to a use and the other two related to parking. She stated that she agrees with Committee member B. Birdsell and does not believe this application should be approved in its current form. She believes that the Committee of Adjustment is not the appropriate mechanism given the evidence provided. She stated that the requested variance to reduce the number of parking spaces is not minor in nature and that the intent of the Official Plan is to redevelop this area for commercial uses, but given the dwelling's current form it is more appropriate for residential use. She stated that she does not believe it conforms to the Zoning By-law and is not desirable for the appropriate development of the lands as a commercial use given that adequate parking is not available, and therefore she believed that the application is not minor in nature.

Committee members L. McNair and C. Downer did not support the motion. Due to the tie vote, Chair R. Funnell Chair announced that he would support the motion to refuse the application.

Having considered whether or not the variance(s) requested are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this application has met the requirements of Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved B. Birdsell by seconded by K. Ash,

"THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Sections 6.5.1, 4.13.4.2, and 4.13.3.1 of Zoning By-law (1995)-14864, as amended, for 160 Norfolk Street,

- a) to permit the retail of musical instruments comprising an area of 18.5 square metres (199.13 square feet) and to permit the repair of musical instruments comprising an area of 11.5 square metres (123.78 square feet) within the existing dwelling, when the By-law requires that the OR Zone does not permit a retail establishment or a repair service;
- b) to permit a total of three (3) off-street parking spaces be provided for the retail establishment use, repair service use, personal service establishment use, and residential use, when the By-law requires that a total of ten (10) off-street parking spaces be provided for the following uses: retail establishment use (based on 1 space per 16.5 square metres of gross floor area), repair service use (based on 1 space per 33 square metres of gross floor area), personal service establishment use

(based on 1 space per 16.5 square metres of gross floor area), and residential use (based on 1 space per unit); and

- c) to permit the off-street parking area to provide means of ingress and egress to and from a Street or lane in a forward or backward motion, when the By-law requires that every off-street parking area for non-residential uses shall be provided with adequate means of ingress and egress to and from a Street or lane, in a forward motion only,

be refused, for the following reasons:

- a) the application is not minor in nature;
- b) the application is not desirable for the appropriate development of the lands; and
- c) the application does not conform to the general intent of the Zoning By-law.”

Carried

The Committee recessed at 5:55 p.m. and reconvened at 6:30 p.m.

Chair R. Funnell reminded the Committee members and members of the public wishing to address an application to speak into the microphone so everyone present can hear. He stated that anyone who wants to receive a written copy of the decision for any of the applications must submit a written request to the Secretary-Treasurer.

Applications: **A-53/14, A-54/14, A-55/14**

Owner: **1280 Gordon Holdings Inc.**

Agent: **Scott Jackson, Coletara Development**

Location: **1274, 1280, 1288 Gordon Street**

In Attendance: **Bert Arnold**
 Scott Jackson
 Helmut Strobel
 Joel Verkey

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. S. Jackson replied that the sign was posted. Mr. B. Arnold replied that the staff comments were received.

Mr. B. Arnold asked if staff could explain the revised condition recommended by Planning Services. Planner M. Witmer proposed to modify the conditions recommended by Planning staff by deleting both and replacing with a single condition. He stated that Planning staff had worked with the applicant to ensure that this condition was acceptable. Planner M. Witmer explained that through an active site plan application staff are in discussions with the applicant regarding a possible land dedication to the City for the future completion of a trail network. He stated that the revised condition was worded in such a way to provide clarity regarding the rear yard setback if the land dedication does occur. Mr. B. Arnold indicated that the applicant agrees with the revised condition.

Committee member L. McNair stated that he is concerned about the reduction in amenity space. Mr. B. Arnold replied that amenity space will be provided with the lands to be dedicated and the south part of the property will be a wildlife corridor so he feels there is more than ample amenity space. Planner M. Witmer stated he concurs with the reasoning provided by Mr. B. Arnold. He added that the City has a plan to extend a public trail through the rear of the property so that will compensate for some amenity space reduction.

Committee member L. McNair stated he would feel more comfortable if there was a condition that made the conditions conditional upon the land dedication as he felt that this application was premature without the dedication being in place.

Mr. B. Arnold commented that the project is subject to site plan approval and the review is well underway and he does not feel it is necessary to couple the variance with the dedication as it will be considered in the site plan approval process.

Application A-53/14

Having considered whether or not the variance(s) requested are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this application has met the requirements of Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by K. Ash seconded by B. Birdsell,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Section 5.4.2.4.1 and Table 5.4.2, Rows 9 and 13 of Zoning By-law (1995)-14864, as amended for 1274 Gordon Street,

- a) to permit a minimum common amenity area of not less than 30 square metres (322.9 square feet) per dwelling unit for each unit up to 20 and for each additional dwelling unit, not less than 12. 37 square metres (133.14 square feet) [total of 2,839 square metres] provided, when the By-law requires that a minimum common amenity area of not less than 30 square metres per dwelling unit for each unit up to 20 is provided and for each additional dwelling unit, not less than 20 square metres (215.27 square feet) of common amenity area be provided and aggregated into areas of not less than 50 square metres (538.19 square feet) is provided [total of 4,220 square metres required];
- b) to permit a minimum rear yard of 6.5 metres (21.32 feet), when the By-law requires that minimum rear yard be equal to 20% of the lot depth [50 metres] or one-half the building height [7 metres] is provided, whichever is greater, but in no case less than 7.5 metres (24.6 feet); and
- c) to permit a minimum landscaped open space of 20% of the lot area for building heights from 5 to 10 storeys, when the By-law requires that the minimum landscaped open space of 40% of the lot area for buildings from 5 to 10 storeys be provided,

be approved, subject to the following condition:

1. That the variance to permit a reduced rear yard setback of 6.5 metres only apply to the surveyed and staked limits of the Significant Natural Area in the event this becomes the new rear lot line.”

Carried

Application A-54/14

Having considered whether or not the variance(s) requested are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this application has met the requirements of Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by K. Ash seconded by B. Birdsell,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Section 5.4.2.4.1 and Table 5.4.2, Rows 9 and 13 of Zoning By-law (1995)-14864, as amended for 1280 Gordon Street,

- a) to permit a minimum common amenity area of not less than 30 square metres (322.9 square feet) per dwelling unit for each unit up to 20 and for each additional dwelling unit, not less than 12.37 square metres (133.14 square feet) [total of 2,839 square metres] provided, when the By-law requires that a minimum common amenity area of not less than 30 square metres per dwelling unit for each unit up to 20 is provided and for each additional dwelling unit, not less than 20 square metres (215.27 square feet) of common amenity area be provided and aggregated into areas of not less than 50 square metres (538.19 square feet) is provided [total of 4,220 square metres required];
- b) to permit a minimum rear yard of 6.5 metres (21.32 feet), when the By-law requires that minimum rear yard be equal to 20% of the lot depth [50 metres] or one-half the building height [7 metres] is provided, whichever is greater, but in no case less than 7.5 metres (24.6 feet); and
- c) to permit a minimum landscaped open space of 20% of the lot area for building heights from 5 to 10 storeys, when the By-law requires that the minimum landscaped open space of 40% of the lot area for buildings from 5 to 10 storeys be provided,

be approved, subject to the following condition:

1. That the variance to permit a reduced rear yard setback of 6.5 metres only apply to the surveyed and staked limits of the Significant Natural Area in the event this becomes the new rear lot line."

Carried

Application A-55/14

Having considered whether or not the variance(s) requested are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this application has met the requirements of Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by K. Ash seconded by B. Birdsell,

"THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Section 5.4.2.4.1 and Table 5.4.2, Rows 9 and 13 of Zoning By-law (1995)-14864, as amended for 1288 Gordon Street,

- a) to permit a minimum common amenity area of not less than 30 square metres (322.9 square feet) per dwelling unit for each unit up to 20 and for each additional dwelling unit, not less than 12. 37 square metres (133.14 square feet) [total of 2,839 square metres] provided, when the By-law requires that a minimum common amenity area of not less than 30 square metres per dwelling unit for each unit up to 20 is provided and for each additional dwelling unit, not less than 20 square metres (215.27 square feet) of common amenity area be provided and aggregated into areas of not less than 50 square metres (538.19 square feet) is provided [total of 4,220 square metres required];
- b) to permit a minimum rear yard of 6.5 metres (21.32 feet), when the By-law requires that minimum rear yard be equal to 20% of the lot depth [50 metres] or one-half the building height [7 metres] is provided, whichever is greater, but in no case less than 7.5 metres (24.6 feet); and
- c) to permit a minimum landscaped open space of 20% of the lot area for building heights from 5 to 10 storeys, when the By-law requires that the minimum landscaped open space of 40% of the lot area for buildings from 5 to 10 storeys be provided,

be approved, subject to the following condition:

1. That the variance to permit a reduced rear yard setback of 6.5 metres only apply to the surveyed and staked limits of the Significant Natural Area in the event this becomes the new rear lot line.”

Carried

Application: **A-89/14**

Owner: **Bernhard and Waltraud Hasselwander**

Agent: **N/A**

Location: **95 Dean Avenue**

In Attendance: **Bernhard Hasselwander**

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. B. Hasselwander replied that the sign was posted but that he did not receive comments. Chair R. Funnell stated the comments were mailed to the applicant. Secretary-Treasurer T.

Russell provided a copy to the applicant. Chair R. Funnell asked Mr. B. Hasselwander to take a few minutes to read over the comments. Chair R. Funnell asked if the applicant was in agreement with the comments. Mr. B. Hasselwander replied yes.

Committee member L. McNair asked the applicant if the intent was to tear down the existing carport and rebuild a garage or is the intent to leave the existing carport there and enclose it. Mr. B. Hasselwander replied that he had taken a legal carport and converted into an illegal garage and would like to correct the situation by legalizing the garage. Committee member L. McNair noted that the staff comments mention a building permit and requested clarification if the applicant needs a building permit if the carport is already enclosed. Planner M. Witmer stated that a building permit was not obtained for this work and this is the first step in the process to legalize the garage. He added that following the Committee's decision a building permit will be required.

Having considered whether or not the variance(s) requested are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this application has met the requirements of Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by B. Birdsell seconded by L. McNair,

"THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.1.2, Row 7 of Zoning By-law (1995)-14864, as amended, for 95 Dean Avenue, to permit a right side yard setback of 0.6 metres (1.97 feet) for an attached garage, when the By-law requires that a minimum side yard of 1.5 metres (4.9 feet) be provided, be approved."

Carried

Application:	A-86/14
Owner:	Finterra Realty Inc.
Agent:	Neil Nobel, Tambro Construction
Location:	28 Bett Court
In Attendance:	Neil Nobel Maria Finoro Bert Tami

Secretary-Treasurer T. Russell informed the Committee that comments from Guelph Hydro Electric Systems Inc. were received after the comment package was prepared. Guelph Hydro recommended that a condition be added for File A-86/14 requiring the applicant to make arrangements for the servicing of the new lot via an underground service. Copies of Guelph Hydro's comments were provided to the Committee members.

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. N. Nobel replied that the sign had been posted and that comments were received. He stated that he is in agreement with the comments provided.

The Committee had no questions for the applicant or staff.

Having considered whether or not the variance(s) requested are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this application has met the requirements of Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by L. McNair seconded by K. Ash,

"THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Sections 7.3.5.4.2.1 and Table 7.4, Row 4 of Zoning By-law (1995)-14864, as amended, for 28 Bett Court,

- a) to permit a building height of 10.3 metres (33.8 feet), when the By-law requires a maximum building height of 8 metres (26.2 feet); and
- b) to permit a right side yard of 5.5 metres (18.04 feet), when the By-law requires a minimum side yard of 6 metres (19.69 feet) be provided,

be approved, subject to the following condition:

1. That prior to the issuance of a building permit, the applicant make arrangements with the Technical Services Department for servicing of the new lot via an underground service. A kabar unit is also required in order to service the new lot to the North. This will be at the applicant's expense."

Carried

The meeting was adjourned by B. Birdsell at 6:58 p.m.

R. Funnell
Chair

T. Russell
Secretary-Treasurer