

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday January 10, 2012 at 4:00 p.m. in Meeting Room 112, City Hall, with the following members present:

B. Birdsell
R. Funnell
J. Andrews
L. McNair – Chair
D. Kelly, Vice-Chair

Regrets: J. Hillen
A. Diamond

Staff Present: R. Kostyan, Planner
K. Fairfull, Secretary-Treasurer
M. Bunnnett, Assistant Secretary-Treasurer

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Meeting Minutes

Moved by B. Birdsell and seconded by D. Kelly,

“THAT the Minutes from the December 13, 2011 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

Election of Chair and Vice-Chair for 2012

The Secretary-Treasurer asked if there were any nominations from the floor for Chair of the Committee of Adjustment for 2012.

Moved by R. Funnell and seconded by J. Andrews,

“THAT L. McNair be nominated as Chair for the Committee of Adjustment for the year 2012.”

January 10, 2012 C of A Minutes

Chair L. McNair accepted the nomination.

There were no further nominations.

The Chair L. McNair was elected by acclamation.

The Secretary-Treasurer asked if there were any nominations from the floor for Vice-Chair of the Committee of Adjustment for 2012.

Moved by Ray Funnell and Jim Andrews,

“THAT D. Kelly be nominated as Vice-Chair for the Committee of Adjustment for the year 2012.”

Committee member D. Kelly accepted the nomination.

There were no further nominations.

The Vice-Chair D. Kelly was elected by acclamation.

The Secretary-Treasurer advised the Ontario Municipal Board has scheduled an appointment for hearing for Applications A-86/11 for 27 Westra Drive and A-87/11 for 29 Westra Drive. The hearing has been scheduled for Wednesday February 8, 2012 for one day.

The Secretary-Treasurer also advised the Ontario Municipal Board has scheduled an appointment for a hearing for Application A-83/11 for 12 Balfour Court. The hearing has been scheduled for Wednesday February 29, 2012 for one day.

The Secretary-Treasurer also advised the Ontario Municipal Board decided to adjourn, sine die, Application A-74/11 for 25 Ervin Crescent. The Board commented that this situation is similar to that of 61 Rickson Avenue, which was dealt with in September 2010 (and which the Board adjourned sine die), in that the position of the appellant could be impacted by:

- 1) the outcome of the decision on 387 Ironwood Road, if it addresses the interpretation of “new” accessory apartment in the ICB (this decision has not yet been released); or
- 2) the outcome of the appeals to By-law Number (2010)-19076 – for example, in this case, if the By-law is upheld, the proposed accessory apartment would comply (i.e. since it proposed a total of 5 bedrooms (rather than 6 or more) and is therefore not captured by the separation distance)

Based on all of the information, the Board adjourned the appeal sine die. The matter can be brought back to a hearing by the appellant on 45 days notice by the appellant to the City and the Board. The Board did not hear any evidence in this matter.

Application: B-3/12 and B-4/12

Owner: B-3/12: Home Depot Holdings
B-4/12: Calloway Reit (Guelph) Inc.

Agent: Calloway Reit (Guelph) Inc.

Location: 63 and 49 Woodlawn Road West

In Attendance: Emily Edmunds

Chair L. McNair questioned if the signs had been posted in accordance with Planning Act requirements and if the staff comments were received.

Ms. Edmunds replied the notice signs were posted and comments were received from staff. She advised they acted on direction of the Site Plan Committee during their review of the development of 49 Woodlawn Road, West that an internal driveway be provided between 49 and 63 Woodlawn Road, West. She advised the entranceway has been constructed but is cordoned off until approval is received for the mutual rights-of-way.

Application Number B-3/12

Having had regard to the matters under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of subdivision of the land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by R. Funnell seconded by B. Birdsell,

“THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for a right-of-way over Part of Lots 3 and 4, Registered Plan 169, identified as Parts 1, 2 and 3 on draft Reference Plan prepared by Van Harten Surveying Inc., known as project No. 19868-11 dated October 18, 2011, being part of the lands associated with 63 Woodlawn Road West, a right-of-way with a width between 7 metres and 7.988 metres for a connected internal roadway in favour of 49 Woodlawn Road West, be approved, subject to the following conditions:

1. That prior to endorsement of the deeds, the servient tenement (63 Woodlawn Road, West (Part of Lots 3 and 4, Registered Plan 169), being Parts 1, 2 and 3 on draft Reference Plan 61R-****), grants an access right-of-way approximately 7.988-metres (26.21 feet) to approximately 11.665-metres (38.27 feet) by a length of approximately 30.537-metres (100.19 feet), registered on title, in favour of the dominant tenement (49 Woodlawn Road, West (Part of Lot 4, Registered Plan 169),

being Part 4 on the draft Reference Plan 61R-*****), for an internal roadway connection/access.

2. That prior to endorsement of the deeds, the owner's solicitor of 63 Woodlawn Road, West (Part of Lots 3 and 4, Registered Plan 169), being Parts 1, 2 and 3 on draft Reference Plan 61R-*****) certifies that the access right-of-way in favour of 49 Woodlawn Road, West (Part of Lot 4, Registered Plan 169), being Part 4 on the draft Reference Plan 61R-*****), has been granted and registered on title.
3. That prior to endorsement of the deeds, the owner of 63 Woodlawn Road, West (Part of Lots 3 and 4, Registered Plan 169), being Parts 1, 2 and 3 on draft Reference Plan 61R-*****) shall have an Ontario Land Surveyor prepare a reference plan identifying the access right-of-way.
4. That the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for endorsement, prior to January 13, 2013.
5. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the endorsement of the deed.
6. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorsement of the deed, that he/she will provide a copy of the registered deed/instrument as registered in the Land Registry Office within two years of issuance of the consent certificate, or prior to the issuance of a building permit (if applicable), whichever occurs first.
7. That a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the draft Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk."

Carried.

Application Number B-4/12

Having had regard to the matters under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of subdivision of the land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by R. Funnell seconded by B. Birdsell,

“THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for a right-of-way over Part of Lot 4, Registered Plan 169, identified as Part 4 on draft Reference Plan prepared by Van Harten Surveying Inc., known as project No. 19868-11 dated October 18, 2011, being part of the lands associated with 49 Woodlawn Road West, a right-of-way with a width between 7 metres and 7.988 metres for a connected internal roadway in favour of 63 Woodlawn Road West, be approved, subject to the following conditions:

1. That prior to endorsonation of the deeds, the servient tenement (49 Woodlawn Road, West (Part of Lot 4, Registered Plan 169), being Part 4 on the draft Reference Plan 61R-*****) , grants an access right-of-way approximately 7.00-metres (22.97 feet) to approximately 11.665-metres (38.27 feet) by a length of approximately 66.144-metres (217.01 feet), registered on title, in favour of the dominant tenement (63 Woodlawn Road, West (Part of Lots 3 and 4, Registered Plan 169), being Parts 1, 2 and 3 on draft Reference Plan 61R-*****) , for an internal roadway connection/access.
2. That prior to endorsonation of the deeds, the owner’s solicitor of 49 Woodlawn Road, West (Part of Lot 4, Registered Plan 169), being Part 4 on the draft Reference Plan 61R-*****) certifies that the access right-of-way in favour of 63 Woodlawn Road, West (Part of Lots 3 and 4, Registered Plan 169), being Parts 1, 2 and 3 on draft Reference Plan 61R-*****) , has been granted and registered on title.
3. That prior to endorsonation of the deeds, the owner of 49 Woodlawn Road, West (Part of Lot 4, Registered Plan 169), being Part 4 on the draft Reference Plan 61R-*****) shall have an Ontario Land Surveyor prepare a reference plan identifying the access right-of-way.
4. That the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for endorsement, prior to January 13, 2013.
5. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the endorsement of the deed.
6. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorsement of the deed, that he/she will provide a copy of the registered deed/instrument as registered in the Land Registry Office within two years of issuance of the consent certificate, or prior to the issuance of a building permit (if applicable), whichever occurs first.

7. That a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the draft Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk."

Carried

Application: A-5/12

Owner: The Roman Catholic Episcopal Corporation of the Diocese

Agent: Paul J. Bolland Architect

Location: 171 Emma Street

In Attendance: Paul Bolland
Sandy Halloran

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

Mr. Bolland replied the notice signs were posted and comments were received from staff. He explained the church was constructed in 1971 and request is being submitted to construct a one storey office addition. He noted there was one resident concerned with the parking on the property. He advised they require 120 parking spaces and will be providing 140 spaces after the addition is constructed.

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 J. Andrews seconded by D. Kelly,

"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 8.2 Row 4 of Zoning By-law (1995)-14864, as amended, for 171 Emma Street, to permit a 212 square metre (2,281.9 square foot) one storey addition be setback 33.14 metres (108.72 feet) from Renfield Street when the By-law requires a maximum front and exterior side yard of 20 metres (65.61 feet), be approved, subject to the following condition:

1. The Owner agrees to submit and receive approval from the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan indicating the location of buildings, landscaping, parking, circulation, access, lighting, grading and drainage and servicing to the satisfaction of the General Manager of Planning and Building and the General Manager/City Engineer, prior to the issuance of a building permit. Furthermore, the owner shall develop the said lands in accordance with the approved site plan.”

Carried

Application: B-7/12, A-8/12 and A-9/12

Owner: Monte Cirotto Real Estate Ltd. / Kathleen Cirotto

Agent: Van Harten Surveying Inc.

Location: 43 and 51 Stevenson Street North

In Attendance: Jeff Buisman
Monte Cirotto

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

Mr. Buisman replied the notice signs were posted and comments were received from staff. He noted Mr. Cirotto received approval for severance however when the survey work was completed it was discovered a portion of 51 Stevenson Street, North was located on the adjacent property. As a result, an application for severance as a lot addition has been submitted along with a request for a maintenance easement, which was a suggestion from staff.

There were not questions from the members of the Committee.

Application Number B-7/12

Having had regard to the matters under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of subdivision of the land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by D. Kelly seconded by B. Birdsell,

“THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for severance of Part Lot 38, Registered Plan 230 (Part 5 on a draft Reference Plan prepared by Van Harten Surveying Inc., project no. 19861-11, dated November 8, 2011), 43 Stevenson Street North, a parcel, irregular in shape, with an area of 16.6 square metres, as a lot addition to 51 Stevenson Street North, along with a maintenance easement (Part 7 on a draft Reference Plan prepared by Van Harten Surveying Inc., project no. 19861-11, dated November 8, 2011), with a width of 1.2 metres in favour of 51 Stevenson Street North, to allow for maintenance of the building wall and retaining wall, be approved, subject to the following conditions:

1. That the proposed severed parcel of land be conveyed to the abutting owner as a lot addition only (Form 3 Certificate).
2. That the following covenant is incorporated in the deed:
"The conveyance of (Severed Lands - legal description - Lot and Plan), City of Guelph, County of Wellington, designated as (Part and 61R-Plan Number) as a lot addition only to (Legal Description of Lands to be joined with - Lot and Plan), and shall not be conveyed as a separate parcel from (Legal Description of Lands to be joined with - Lot and Plan)."
3. That prior to endorsation of the deeds, the servient tenement (43 Stevenson Street, Part of Lot 38, Registered Plan 230, Part 4 on the draft reference plan 61R-*****), grants a maintenance easement with a width of approximately 1.20-metres (3.94 feet) wide by a depth of approximately 27.946-metres (91.69 feet), for the maintenance of the building wall and retaining wall of 51 Stevenson Street, registered on title, in favour of the dominant tenement (51 Stevenson Street, Part of Lot 38, Registered Plan 230, Part 2 on the draft reference plan 61R-*****).
4. That prior to endorsation of the deeds, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying the severed parcel and the maintenance easement.
5. That prior to endorsation of the deeds, the owner's solicitor certifies that the maintenance easement, in favour of the dominant tenement (51 Stevenson Street, Part of Lot 38, Registered Plan 230, Part 2 on the draft reference plan 61R-*****), has been granted and registered on title.
6. That the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for endorsement, prior to January 13, 2013.

7. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the endorsement of the deed.
8. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorsement of the deed, that he/she will provide a copy of the registered deed/instrument as registered in the Land Registry Office within two years of issuance of the consent certificate, or prior to the issuance of a building permit (if applicable), whichever occurs first.
9. That a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the draft Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk."

Carried.

Application Number A-8/12

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 D. Kelly and 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, a variance from the requirements of Table 5.1.2 Row 7 of Zoning By-law (1995)-14864, as amended, for 51 Stevenson Street North, to permit a right side yard of 0.19 metres (0.62 feet) after conveyance from Application B-7/12 when the By-law requires a minimum side yard of 1.5 metres (4.92 feet), be approved, subject to the following condition:

1. That the conditions imposed for application B-7/12 be and form part of this approval."

Carried

Application Number A-9/12

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 D. Kelly 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, a variance from the requirements of Table 5.1.2 Row 4 and 7 of Zoning By-law (1995)-14864, as amended, for 43 Stevenson Street North, to permit a left side yard of 1.10 metres (3.6 feet) when the By-law requires a minimum side yard of 1.5 metres (4.92 feet) and to permit a lot frontage of 11.9 metres (39.04 feet) measured at the setback line, when the By-law requires a minimum lot frontage of 15 metres (49.2 feet), be approved, subject to the following condition:

1. That the conditions imposed for application B-7/12 be and form part of this approval.”

Carried

Application: B-1/12 and B-2/12

Owner: Helmuth Slisarenko / Gertrude Johnson

Agent: Astrid J. Clos Planning Consultant

Location: B-1/12: 1475-1483 Gordon Street
B-2/12: 1499 Gordon Street

In Attendance: Sam Johnson
Astrid Clos

The Secretary-Treasurer advised sign posting was not required for this application.

Chair L. McNair questioned if staff recommendations were received.

Ms. Clos replied the staff recommendations were received. She advised it is taking additional time to complete the technical reports required to finalize the proposal and as such additional time is needed.

Application Number B-1/12

Having had regard to the matters under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of subdivision of the

land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by J. Andrews seconded by D. Kelly,

"THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, permission for change of condition for consent for severance of Part of Lots 2 and 3, Registered Plan 74, municipally known as 1475-1483 Gordon Street, a parcel (Parts 3 and 7) with a frontage along Gordon street of 6.6 metres and an area of 167 square metres, as a lot addition to 1499 Gordon Street, subject to a right-of-way over Part 7 with a frontage along Gordon Street of 3 metres in favour of 1475-1483 Gordon Street and together with a right-of-way over Part 2 with a frontage along Gordon Street of 7 metres in favour of 1499 Gordon Street, to be utilized as a mutual access to Gordon Street, be approved, subject to the following conditions:

1. That the proposed severed parcel of land be conveyed to the abutting owner as a lot addition only (Form 3 Certificate).

2. That the following covenant is incorporated in the deed:-

"The conveyance of (Severed Lands - legal description - Lot and Plan), City of Guelph, County of Wellington, designated as (Part and 61R-Plan Number) as a lot addition only to (Legal Description of Lands to be joined with - Lot and Plan), and shall not be conveyed as a separate parcel from (Legal Description of Lands to be joined with - Lot and Plan)."

3. That prior to endorsation of the deeds, the servient tenement (1475-1483 Gordon Street), grants an easement with a width of approximately 7.00-metres (22.97 feet) by a depth of approximately 45.69-metres (149.90 feet) (Parts 2 and 5), for a mutual right-of-way for access to Gordon Street, registered on title, in favour of the dominant tenement (1499 Gordon Street).

4. That prior to endorsation of the deeds, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying the severed parcel and the easement.

5. That prior to endorsation of the deeds, the owner's solicitor certifies that the easement, in favour of 1499 Gordon Street, has been granted and registered on title, in perpetuity.

6. That the owner of 1475-1483 Gordon Street shall pay the actual costs associated with the closure of the existing driveway entrances within the Gordon Street right-of-way, with the estimated cost of the works as determined necessary by the City Engineer being paid, at the time of any future redevelopment of the property.

7. That prior to the endorsation of deeds the zoning of the severed and retained parcels be amended so that the resultant parcel to be known as 1475-1483 Gordon Street (parts 1, 2, 4 & 5 on the severance sketch) is zoned to permit the existing uses and the resultant parcel to be known as 1499 Gordon Street (parts 3, 6, 7 & 8 on the severance sketch) is zoned to permit future development.
8. That an access easement having a minimum width of 7.0m be granted over the southerly portion of the lands in favour of 1499 Gordon Street.
9. That prior to the endorsation of the deeds, the owner shall enter into an agreement with the City, registered on title, agreeing to close any existing driveways not located within the mutual access easement at the time of the future redevelopment of the parcel.
10. That the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for endorsement, prior to January 13, 2012.
11. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the endorsement of the deed.
12. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorsement of the deed, that he/she will provide a copy of the registered deed/instrument as registered in the Land Registry Office within two years of issuance of the consent certificate, or prior to the issuance of a building permit (if applicable), whichever occurs first.
13. That a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the draft Reference Plan (version ACAD 2000 – 2002) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk.”

Carried.

Application Number B-2/12

Having had regard to the matters that are to be had regard to under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of subdivision of the land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by J. Andrews seconded by D. Kelly,

"THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for severance of Part of Lot 2, Registered Plan 74, municipally known as 1499 Gordon Street, a parcel (Parts 4 and 5) with an area of 554 square metres, as a lot addition to 1475-1483 Gordon Street, subject to a right-of-way over Part 5 with a width of 7 metres in favour of 1499 Gordon Street and together with a right-of-way over Part 7 with a frontage along Gordon Street of 3 metres in favour of 1475-1483 Gordon Street, to be utilized as a mutual access to Gordon Street, be approved, subject to the following conditions:

1. That the proposed severed parcel of land be conveyed to the abutting owner as a lot addition only (Form 3 Certificate).
2. That the following covenant is incorporated in the deed:-

"The conveyance of (Severed Lands - legal description - Lot and Plan), City of Guelph, County of Wellington, designated as (Part and 61R-Plan Number) as a lot addition only to (Legal Description of Lands to be joined with - Lot and Plan), and shall not be conveyed as a separate parcel from (Legal Description of Lands to be joined with - Lot and Plan)."

3. That prior to endorsation of the deeds, the servient tenement (1475-1483 Gordon Street), grants an easement with a width of approximately 7.00-metres (22.97 feet) by a depth of approximately 45.69-metres (149.90 feet) (Parts 2 and 5), for a mutual right-of-way for access to Gordon Street, registered on title, in favour of the dominant tenement (1499 Gordon Street).
4. That prior to endorsation of the deeds, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying the severed parcel and the easement.
5. That prior to endorsation of the deeds, the owner's solicitor certifies that the easement, in favour of 1499 Gordon Street, has been granted and registered on title, in perpetuity.
6. That the owner of 1475-1483 Gordon Street shall pay the actual costs associated with the closure of the existing driveway entrances within the Gordon Street right-of-way, with the estimated cost of the works as determined necessary by the City Engineer being paid, at the time of any future redevelopment of the property.
7. That prior to the endorsation of deeds the zoning of the severed and retained parcels be amended so that the resultant parcel to be known as 1475-1483 Gordon Street (parts 1, 2, 4 & 5 on the severance sketch) is zoned to permit the existing uses

and the resultant parcel to be known as 1499 Gordon Street (parts 3, 6, 7 & 8 on the severance sketch) is zoned to permit future development.

8. That an access easement having a minimum width of 3.0m be granted over the northerly portion of the lands in favour of 1475-1483 Gordon Street.
9. That prior to the endorsation of the deeds, the owner shall enter into an agreement with the City, registered on title, agreeing to close any existing driveways not located within the mutual access easement at the time of the future redevelopment of the parcel.
10. That the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for endorsement, prior to January 13, 2012.
11. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the endorsement of the deed.
12. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorsement of the deed, that he/she will provide a copy of the registered deed/instrument as registered in the Land Registry Office within two years of issuance of the consent certificate, or prior to the issuance of a building permit (if applicable), whichever occurs first.
13. That a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the draft Reference Plan (version ACAD 2000 – 2002) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk.”

Carried

Application: B-6/12 and A-7/12

Owner: Vance Wright Construction Limited

Agent: Black, Shoemaker, Robinson, Donaldson Ltd.

Location: 106 Sunnylea Crescent

In Attendance: Bruce Donaldson

Vance Wright

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

Mr. Donaldson replied the notice sign was posted and comments were received from staff. He explained the owners proposes to construct an apartment building on the subject property and has requested consent for right-of-way over Part 3 to recognize an existing driveway serving 99 Sunnylea Crescent and consent for sanitary sewer connection over Part 6 for 100 Sunnylea Crescent along with a side yard variance on the northwest side of the property to accommodate a vestibule. He explained when the site plan was being reviewed by staff they suggested the entrance to the building be enlarged resulting in the variance being necessary.

Application Number B-6/12

Having had regard to the matters under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of subdivision of the land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by R. Funnell seconded by B. Birdsell,

“THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for easements and right-of-way over 106 Sunnylea Crescent, being,

- a) an easement over Part of Lot 29, Registered Plan 528 (Part 6 on a draft Reference Plan prepared by Black, Shoemaker, Robinson & Donaldson Ltd., project no. 00-3313-12, dated January 7, 2011), an easement with a width of 3.05 metres which runs along the right side lot line, for protection of an existing storm sewer lateral serving 100 Sunnylea Crescent,
- b) an easement over Part of Lot 28, Registered Plan 528 (Part 3 on a draft Reference Plan prepared by Black, Shoemaker, Robinson & Donaldson Ltd., project no. 00-3313-12, dated January 7, 2011), an easement with a width of 8.409 metres and an area of 48.2 square metres, for protection of an existing watermain serving 99 Sunnylea Crescent,
- c) a right-of-way over Part of Lot 28, Registered Plan 528 (Part 2 on a draft Reference Plan prepared by Black, Shoemaker, Robinson & Donaldson Ltd., project no. 00-3313-12, dated January 7, 2011), a right-way with a width along Sunnylea Crescent of 2.096 metres and an area of 8.5 square metres, to recognize an existing driveway serving 99 Sunnylea Crescent,

be approved, subject to the following conditions:

1. That prior to endorsation of the deeds, the servient tenement (106 Sunnylea Crescent, Part of Lots 28 and 29, Registered Plan 528), being Part 3 on the site plan, grants an easement approximately 4.22-metres (13.85 feet) to approximately 8.409-metres (27.59 feet) wide by approximately 5.15-metres (16.90 feet) to approximately 15.00-metres (49.21 feet) long, along Sunnylea Crescent and along the left side lot line, registered on title, in favour of the dominant tenement (99 Sunnylea Crescent, Part of Lot 28, Registered Plan 528, for the protection of an existing 38mm water, 150 storm and 150 sanitary laterals.
2. That prior to endorsation of the deeds, the servient tenement (106 Sunnylea Crescent, Part of Lots 28 and 29, Registered Plan 528), being Part 6 on the site plan, grants an easement approximately 3.05-metres (10.00 feet) wide by approximately 15.343-metres (50.34 feet) to approximately 21.37-metres (70.11 feet) long, along Sunnylea Crescent and the right side lot line, registered on title, in favour of the dominant tenement (100 Sunnylea Crescent, Part of Lot 29, Registered Plan 528, for the protection of an existing 150mm storm service lateral.
3. That prior to endorsation of the deeds, the servient tenement (106 Sunnylea Crescent, Part of Lots 28 and 29, Registered Plan 528), being Part 2 on the site plan, grants a right-of-way approximately 2.096-metres (6.88 feet) to approximately 2.98-metres (9.78 feet) wide by approximately 2.69-metres (8.83 feet) to approximately 5.15-metres (16.90 feet) long, along Sunnylea Crescent and along the left side lot line, registered on title, in favour of the dominant tenement (99 Sunnylea Crescent, Part of Lot 28, Registered Plan 528, for the protection of an existing driveway.
4. That prior to endorsation of the deeds, the owner's solicitor of 106 Sunnylea Crescent, Part of Lots 28 and 29, Registered Plan 528, certifies that the easement (Part 3) in favour of 99 Sunnylea Crescent, Part of Lot 28, Registered Plan 528, has been granted and registered on title.
5. That prior to endorsation of the deeds, the owner's solicitor of 106 Sunnylea Crescent, Part of Lots 28 and 29, Registered Plan 528, certifies that the easement (Part 6) in favour of 100 Sunnylea Crescent, Part of Lot 29, Registered Plan 528, has been granted and registered on title.
6. That prior to endorsation of the deeds, the owner's solicitor of 106 Sunnylea Crescent, Part of Lots 28 and 29, Registered Plan 528, certifies that the right-of-way (Part 2) in favour of 99 Sunnylea Crescent, Part of Lot 28, Registered Plan 528, has been granted and registered on title.
7. That prior to endorsation of the deeds, the owner of 106 Sunnylea Crescent, Part of Lots 28 and 29, Registered Plan 528, shall have an Ontario Land Surveyor prepare a reference plan identifying the easements and right-of-way.

8. That the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for endorsement, prior to January 13, 2013.
9. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the endorsement of the deed.
10. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorsement of the deed, that he/she will provide a copy of the registered deed/instrument as registered in the Land Registry Office within two years of issuance of the consent certificate, or prior to the issuance of a building permit (if applicable), whichever occurs first.
11. That a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the draft Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk."

Application Number A-7/12

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 R. Funnell 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, a variance from the requirements of Table 5.4.2 Row 8 of Zoning By-law (1995)-14864, as amended, for 106 Sunnylea Crescent, to permit a 1.94 metre by 2.84 metre (6.36 foot by 9.31 foot) enclosed entry be situate 2.5 metres (8.2 feet) from the right side yard when the By-law requires a minimum side yard of 3 metres (9.84 feet), be approved, subject to the following conditions:

1. The Owner agrees to submit and receive approval from the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan indicating the location of buildings, landscaping, parking, circulation, access, lighting, grading and drainage and servicing to the satisfaction of the General Manager of Planning and Building and the General Manager/City Engineer, prior to the issuance of a building permit.

Furthermore, the owner shall develop the said lands in accordance with the approved site plan.

2. That prior to issuance of a building permit, the owner make satisfactory arrangements with the Technical Services Department of Guelph Hydro Electric Systems Inc. for servicing the new building via a new underground service.”

Carried

Application: B-5/12
Owner: Donna Cooper / Jean Duffus-Hill
Agent: Roland Holdings Ltd.
Location: 408 Willow Road
In Attendance: None

The Assistant Secretary-Treasurer acknowledged she received correspondence from the applicant requesting the application be withdrawn.

Application: A-10/12
Owner: Lynda Frangos
Agent: Hopewell Children’s Home
Location: 221 Elmira Road South
In Attendance: Stephen Salt
Andreas Krause
Martin VanDam
John Oosterhuis
Melissa Turner

The Assistant Secretary-Treasurer summarized an opposing letter received from a resident at 140 Freshmeadow Way. She advised the Committee had an opportunity to view the letter prior to the application being heard.

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

Mr. M. VanDam, a board member for Hopewell Children's Home, replied the sign was posted and the staff comments were received. He explained the amenity area will not be used much by the group home residents. He further explained the purpose for a respite group home is to provide relief to families with developmentally challenged adult children and noted four to six temporary residents would occupy the dwelling at any time. He noted a meeting was held with the neighbours on January 4, 2012 to address any concerns. He explained they are considering removing the existing second storey deck and to screen the property with fencing to alleviate any privacy issues. He commented parking will not be an issue; the existing driveway can accommodate as many as six vehicles. He continued by commenting that their existing group home on Stephanie Drive has not received any complaints from neighbours. He explained they are prepared to improve the yard area at 221 Elmira Road North and the smaller amenity area will not have an impact for the operation of the respite group home. He continued by describing details of Hopewell Children's Homes.

Chair L. McNair questioned staff if the registration of the accessory apartment will be cancelled once the dwelling is changed to a group home.

Planner R. Kostyan replied this is correct. She further noted the owner can extend the amenity area towards the front if desired but the By-law requirement is to provide the amenity area in the rear 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 J. Andrews and 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, a variance from the requirements of Table 4.25 Row 4 of Zoning By-law (1995)-14864, as amended, for 221 Elmira Road South, to permit an amenity area of 79 square metres (850.34 square feet) for a six bedroom group home of when the By-law requires a minimum amenity area equal to 12 square metres (129.16 square feet) for each resident (including live-in staff or receiving family) and shall not be less than 100 square metres (1,076.39 square feet), be approved."

Carried

Application: A-2/12

Owner: S & W Developments Inc.

Agent: Zelinka Priamo Ltd.
Location: 297-299 Eramosa Road
In Attendance: Nancy Reid-Oldbridge
Kevin VanOryen

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

Ms. Nancy Reid replied the sign was posted and they received staff comments. She explained after reading staff comments, they are requesting deferral for February 14, 2012 meeting.

Chair L. McNair questioned if February 28, 2012 meeting would work due to the February 14, 2012 meeting being full already.

Ms. Reid-Oldbridge replied they are in agreement with February 28, 2012 date.

Committee member R. Funnell questioned if the parking report will be brought in to the meeting.

Ms. Reid-Oldbridge replied they are discussing the report at the next site plan meeting and will bring this request to their attention.

Moved by R. Funnell and seconded by J. Andrews,

“THAT Application A-2/12 for S & W Developments Inc. at 297-299 Eramosa Road, be deferred to the February 28, 2012 meeting and that the deferral application fee be paid prior to reconsideration of the application.”

Carried

Application: A-3/12
Owner: Sandra and Alfredo Hernandez
Agent: n/a
Location: 245 Deerpath Drive
In Attendance: Sandra Hernandez
Alfredo Hernandez

January 10, 2012 C of A Minutes

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

Ms Hernandez replied the sign was posted but she does not recall seeing the staff comments. After reading through staff comments, she proceeded by explaining the application is for an oversized two bedroom accessory apartment which was built without a building permit.

Committee member R. Funnell questioned whether the owner realizes the apartment is substantially oversized.

Ms. Hernandez replied at the time they did not realize how large the area of the apartment is but explained the basement is very large and a part of the basement is being used for the main unit.

Committee member J. Andrews commented the Zoning By-law limits accessory apartments to 80 square metres.

Ms. Hernandez replied the layout of the basement, especially the bathroom at the rear, makes it hard to design the apartment in any other way.

Planner R. Kostyan commented there are ways to make the apartment smaller. She noted the accessory apartment cannot exceed 45% of the total floor area of the building or like in this case, cannot exceed 80 square metres in floor area. She explained the apartment takes up 23.66% of the gross floor area which is not the issue. She noted the dwelling itself is very large. She further explained there is no issue with parking.

Committee member R. Funnell commented the accessory apartment is very large and the applicant should try to work with City staff to comply with the By-law.

Committee member B. Birdsell commented the 80 square metre size regulation is not relevant due to the large gross floor area of the building. He continued by noting there is no issue with parking and the accessory apartment is still subordinate to the main unit.

Committee member D. Kelly commented the total square footage of the dwelling is 4650 square feet which makes the accessory apartment subordinate.

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 and seconded by J. Andrews,

“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 of Zoning By-law (1995)-14864, as amended, for 245 Deerpath Drive, to permit a 102.19 square metre (1,100 square foot) two bedroom accessory apartment in the basement when the By-law permits a maximum area of 80 square metres (861.1 square feet), be approved.”

Carried

Application: A-1/12
Owner: Regine Ross
Agent: Rene Luypaert
Location: 114 Bristol Street
In Attendance: Rene Luypaert
Dave Kendrick

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

Mr. Luypaert replied the sign was posted on the front lawn and was re-posted once it went missing, he also received the staff comments. He explained the application is to allow a two bedroom apartment on the main floor. He advised he is withdrawing his variance request for the parking and will comply with a width of 40% of the front yard. He explained he will remove the excess parking area and leave a landscaped space required by the By-law.

Committee member D. Kelly questioned when the apartment was constructed and if a building permit was obtained.

Mr. Luypaert replied the apartment was constructed two years ago and a building permit has been applied for but this could not be issued due to the Interim Control By-law.

Mr. Kendrick, a resident at 49 Vanier Drive commented the application deals with a variance to the Interim Control By-law. He explained the purpose of the By-law was to stop the registration of accessory apartments and lodging houses in Wards 5 and 6. He further commented the Interim Control By-law has been appealed to the Ontario Municipal Board and until a decision is rendered, in his opinion, the Interim Control By-law should stay in place. He commented it cannot be anticipated how the proposed By-law might be modified by the Ontario Municipal Board. He proceeded to comment that by allowing the applicants to proceed with registering the apartments, the Committee would be overturning the by-law.

Chair L. McNair questioned staff if the apartment would meet the regulations of the current and proposed regulations.

Planner R. Kostyan replied this is correct.

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 D. Kelly and seconded by R. Funnell,

“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 Interim Control By-law (2010)-19019 to permit a 69.1 square metre (744 square foot) two bedroom accessory apartment in the basement when the Interim Control By-law in place does not permit the establishment of an accessory unit for any R.1 and R.2 zoned properties in Ward 5 and a portion of Ward 6, be refused.

Reasons for refusal being:

1. The application would not meet the intent of the Zoning By-law
2. The application would not meet the intent of the Interim Control By-law.”

Moved by L. McNair, with no seconder, to defer the application. He explained the Committee has been advised a report might be going to City Council dealing with the Interim Control By-law which may result in some properties not requiring minor variance approvals. Staff advised there was still a motion on the floor to be considered. The Committee voted on the main motion.

Carried

Application: A-6/12

Owner: William Beardmore / George Brandt

Agent: n/a

Location: 61 Vanier Drive

In Attendance: William Beardmore
Peter Mena

David Kendrick
Sue Bauer
Guy Bauer
John Campbell
Mark Boynton
Gina Artuso
Gary Artuso
Paul Reginato
Lesley Shepherd
Carl Smith
Kirk White
Karen White
Karen Sonoski
Brenda Smith
David Oscar
Sue Pennant
John Fryxell
Vladimir Rasper
Jarka Rasper
Paul Freeman

The Assistant Secretary-Treasurer advised a letter opposing the application was submitted by the Old University Neighbourhood Resident's Association.

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

Mr. Beardmore replied the sign was posted and he did receive the staff comments. He explained he is asking for a deferral due to the report going to council regarding Interim Control By-law in January 30, 2012.

Moved by J. Andrews and seconded by B. Birdsell,

"THAT application A-6/12 for William Beardmore and George Brandt at 61 Vanier Drive be deferred for a maximum of 60 days and that the applicable deferral fee be paid prior to reconsideration of the application."

Carried

Planner R. Kostyan informed the City Council agenda will be posted online prior to the meeting.

Application: **A-4/12**

Owner: **Narain and Maya Sambhwani**

Agent: n/a

Location: 553 Edinburgh Road South

In Attendance: Narain and Maya Sambhwani

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

Mr. Sambhwani replied the sign was posted and they did receive staff comments. He explained he is uncertain why he needed a variance for the parking.

Planner R. Kostyan replied the legal off-street parking space depth does not meet the By-law requirement. She explained the driveway is 4.75 metres deep when the by-law requires a depth of 5.5 metres. She continued by explaining that two legal off-street parking spaces on the driveway with a depth of 5.5 metres are required for the accessory apartment.

Mr. Sambhwani explained they purchased the house in 1986 and the apartment already existed, including the wiring for the stove. He further explained they only updated the floors and electric wiring. He commented the City received a complaint due to the renovations being done.

The Secretary-Treasurer advised the Committee that accessory apartments were not permitted prior to the 1995 Zoning By-law.

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 R. Funnell and seconded by D. Kelly,

“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 4.13.3.2.2 of Zoning By-law (1995)-14864, as amended, to permit two off-street exterior parking space depths of 4.755 metres (15.6 feet) when the By-law requires a minimum exterior parking space depth of 5.5 metres (18.04 feet), and a variance from Interim Control By-law (2010)-19019 to permit a 46.82 square metre (504 square foot) one bedroom accessory apartment in the basement when the Interim Control By-law in place does not permit the establishment of an accessory unit for any R.1 and R.2 zoned properties in Ward 5 and a portion of Ward 6, be refused.

Reasons for refusal being:

1. The application does not meet the intent of the Interim Control By-law,
2. The application does not meet the general intent of the Zoning By-law due to insufficient off-street parking.”

Carried

The meeting adjourned at 7:30 p.m.

L. McNair
Chair

Minna Bunnett, ACST(A)
Assistant Secretary-Treasurer

Kim Fairfull, ACST
Secretary-Treasurer