

## COMMITTEE OF ADJUSTMENT

### Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday February 26, 2013 at 4:00 p.m. in Meeting Room B, City Hall, with the following members present:

R. Funnell – Vice-Chair  
J. Hillen  
B. Birdsell  
C. Downer  
A. Diamond  
L. McNair  
D. Kelly, Chair

Regrets: Not applicable

Staff Present: M. Witmer, Planner  
K. Fairfull, Secretary-Treasurer  
M. Bunnett, Assistant Secretary-Treasurer

### Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

### Meeting Minutes

Moved by C. Downer and seconded by R. Funnell,

“THAT the Minutes from the February 12, 2013 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

### Other Business

There was no other business to report.

**Application:** B-8/13

**Owner:** James and Gwendolyn Phillips

**Agent:** Van Harten Surveing Inc., Jeff Buisman

**Location:** 5 Ardmay Crescent

**In Attendance:** Jeff Buisman

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

Mr. J. Buisman replied that the sign was posted and the staff comments were received. He explained that the property in question has a shared right-of-way which goes over an existing driveway. He further explained that the owners of 5 Ardmay Crescent do not use this driveway because they have an existing driveway on the other side of their property. He commented that the owners of 7 Ardmay Crescent would like to establish a new straight property line. He explained that the existing easement will be extinguished.

The Committee had no questions for the applicant.

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 A. Diamond and seconded by L. McNair,

“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 I & J, Registered Plan 346 and Part of Lot 2, Registered Plan 281 as in Instrument MS48191, municipally known as 5 Ardmay Crescent, (Lands to be Severed on a Severance Sketch prepared by Van Harten, dated January 30, 2013, project number 21189-13) an irregular parcel with a lot frontage along Ardmay Crescent of 2.9 metres and an area of 64 square metres, as a lot addition to the abutting parcel municipally known as 7 Ardmay Crescent, 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 the existing easement registered on title over 5 and 7 Ardmay Crescent, as in Instrument Numbers RO732998 and MS48191 be fully released and removed, and the owners of 5 Ardmay Crescent as the dominant land, quit claim to Instrument Numbers RO732998 and MS48191, prior to endorstation of the deeds.
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 March 1, 2014.
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:** B-9/13 and A-28/13

**Owner:** Yolanda Lang

**Agent:** Van Harten Surveying Inc., Jeff Buisman

**Location:** 87 Dublin Street South

**In Attendance:**        **Jeff Buisman**  
                                  **Nick Mostowy**

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

Mr. J. Buisman replied that the signs were posted and the staff comments were received. He explained that the same application was approved in 2006 but the severance was never finalized. He further explained that the new owner has chosen to proceed with the same severance application as last time and has added no fundamental changes to the application. He noted that the severance requires a number of variances for the severed parcel. He commented that they have considered constructing the new dwelling even further back than what is proposed on the plan. He referenced to a comment received from a neighbour which suggests moving the front porch back further so as not to encroach on the City street with future stairs. He commented that he agrees the suggestion is a good one and they will keep that in mind. He explained that the property is considered to be a through lot which places the detached garage in the front yard. He further explained that Bristol Street has been changed to a one way street. He noted that he believes that by accommodating a vehicle driving in to the proposed driveway, the City tree on the boulevard can be saved.

Mr. N. Mostowy, owner of 81 Dublin Street South, questioned if the direction of the proposed driveway will be perpendicular to Bristol Street.

Mr. J. Buisman replied that the driveway will lead in a straight line to the garage.

Mr. Mostowy explained that currently he has a temporary driveway which is perpendicular to Bristol Street. He commented that having the driveway for the new severed property created the same way would assist with the future creation of his driveway.

Mr. J. Buisman replied that they will address the driveway design once the site plan is finalized.

Planner M. Witmer commented that Planning Services has requested as a condition that they will review the elevations of the future dwelling and this is where they are able to comment on the driveway as well. He explained that the application will not go to Site Plan Committee but the site plan must be approved by the General Manager of Planning Services. He noted that a city tree is located close to the future driveway and if any pruning of this tree is necessary, the applicant must contact the City arborist prior to any pruning of the tree.

Committee member L. McNair recommended adding a condition regarding the design of the driveway under Planning Services condition number three.

The Committee members agreed to add the following condition: 3 e) The location and orientation of the driveway and detached garage.

Application B-9/13

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 and 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 of Lot 212, Registered Plan 8 (Lands to be Severed on a Severance Sketch prepared by Van Harten Surveying Inc. dated January 30, 2013, project no. 20880-12), to be known as 85 Dublin Street South, a parcel with a lot frontage along Dublin Street South of 11.6 metres and an area of 440 square metres, be approved,

subject to the following conditions:

1. That the owner pays the watermain frontage charge of \$8.00 per foot of frontage for 53.15 feet (16.2 metres), prior to endorsement of the deeds.
2. That the owner pays the sanitary sewer frontage charge of \$11.00 per foot of frontage for 53.15 feet (16.2 metres), prior to endorsement of the deeds.
3. That the owner pays to the City, as determined applicable by the City’s Director of Finance, development charges and education development charges, in accordance with City of Guelph Development Charges By-law (2009)-18729, as amended from time to time, or any successor thereof, and in accordance with the Education Development Charges By-laws of the Upper Grand District School Board (Wellington County) and the Wellington Catholic District School Board, as amended from time to time, or any successor by-laws thereof, prior to issuance of a building permit, at the rate in effect at the time of issuance of the building permit.
4. The owner applies for sanitary and water laterals including curb cuts and fills, for the proposed severed lands and pays the rate in effect at the time of application, prior to the issuance of a building permit.
5. That the owner enters into a Storm Sewer Agreement, as established by the City, providing for a grading and drainage plan, registered on title, prior to endorsement of the deeds.
6. That the owner constructs the new dwelling at such an elevation that the lowest level of the building can be serviced with a gravity connection to the sanitary sewer.

7. That prior to the issuance of any building permits on the proposed severed lands, the owner shall pay the flat rate charge established by the City per metre of road frontage to be applied to tree planting for the proposed severed lands.
8. That the owner pays the actual cost of the construction of the new driveway entrance including the required curb cut on the severed lands, with the estimated cost of the above-noted works as determined by the General Manager/City Engineer being paid, prior to endorsement of the deeds.
9. That the driveway for the proposed retained lands be located as shown on the applicants site plan.
10. That a legal off-street parking space be created on the severed lands at a minimum setback of 6-metres from the Bristol Street property line.
11. That the owner shall make arrangements satisfactory to the Engineering Department of Guelph Hydro Electric Systems Inc. for the servicing of the lands, prior to endorsement of the deeds.
12. Prior to the issuance of any building permit for the lands, the owner shall pay to the City, the City's total cost of reproduction and distribution of the Guelph Residents' Environmental Handbook, to all future homeowners or households within the project, with such payment based on a cost of one handbook per residential dwelling unit, as determined by the City.
13. Prior to the issuance of any building permit for the lands, the owner shall pay to the City cash-in-lieu of park land dedication in accordance with By-law (1989)-13410, By-law (1990)-13545 and By-law (2007)-18225, as amended from time to time, or any successor thereof.
14. That a site plan be submitted to, and approved by the General Manager of Planning Services and the City Engineer, prior to the issuance of a building permit for the new dwelling on the severed parcel indicating:
  - a. The location and design of the new dwelling;
  - b. All trees on the subject property, including the extent of their canopies that may be impacted by the development. Any trees within the City boulevard must also be shown, including appropriate protective measures to maintain them throughout the development process. The plan should identify trees to be retained, removed and/or replaced and the location and type of appropriate methods to protect the trees to be retained during all phases of construction.
  - c. The location of the new dwelling with a setback that is in character with the surrounding area;

- d. Grading, drainage and servicing information;
  - e. The location and orientation of the driveway and detached garage;
15. That no vegetation removal shall occur during the breeding bird season (May-July), as per the Migratory Bird Act.
  16. That the elevation and design drawings for the new dwelling on the severed parcel be submitted to, and approved by the General Manager of Planning Services, prior to the issuance of a building permit for the new dwelling in order for staff to ensure that the design of the new dwelling respects the character of the surrounding neighbourhood in all aspects including the proposed massing, building setbacks and the size and location of any proposed garage.
  17. That prior to the issuance of a building permit for the severed parcel, any required tree protection fencing be erected on-site and inspected by staff to the satisfaction of the General Manager of Planning Services.
  18. That the applicant pay to the City, as determined applicable by the City's Director of Finance, development charges and education development charges, in accordance with City of Guelph Development Charges By-law (2009)-18729, as amended from time to time, or any successor thereof, and in accordance with the Education Development Charges By-laws of the Upper Grand District School Board (Wellington County) and the Wellington Catholic District School Board, as amended from time to time, or any successor by-laws thereof, prior to issuance of a building permit, at the rate in effect at the time of issuance of the building permit.
  19. Prior to the issuance of a building permit, the owner shall obtain approval from the GRCA and submit a copy of the permit to the City.
  20. That prior to building or endorsation of the deed, the applicant makes arrangement for the hydro servicing of the new proposed lot, satisfactory to the engineering Department of Guelph Hydro Electric Systems Inc.
  21. That prior to issuance of a building permit, a permit be obtained from Grand River Conservation Authority to ensure conformance with the technical requirements for development in the Special Policy Area.
  22. That prior to endorsation of the deeds, the owner shall enter into an agreement with the City, registered on title, satisfactory to the General Manager/City Engineer, agreeing to satisfy the above-noted conditions and to develop the site in accordance with the approved plans.
  23. 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 March 1, 2014.

24. 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.
25. 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.
26. 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](mailto:cofa@guelph.ca)) or supplied on a compact disk."

Carried

#### Application A-28/13

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 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 4.7 Row 3, Table 5.1.2 Rows 3, 4 and 6 and Section 4.5.1 of Zoning By-law (1995)-14864, as amended, for a property to be known municipally as 85 Dublin Street South,

- a) to permit a lot area of 440 square metres when the By-law requires a minimum lot area of 460 square metres,
- b) to permit a lot frontage along Dublin Street South of 11.6 metres when the By-law requires a minimum lot frontage equal to the average of the existing lot frontages within the City Block Face (and not greater than 15 metres),
- c) to permit a front yard set-back for the proposed new dwelling of 2.5 metres from the Dublin Street property line when the By-law requires the dwelling to be



- constructed with a front yard set-back equal to the average of the existing setbacks within the City Block Face (2.9 metres),
- d) to permit the proposed roofed porch to be located 1 metre from the Dublin Street property line when the By-law requires that the roofed porch be setback a minimum of 2 metres from the Dublin Street property line, and
  - e) to permit the proposed detached garage to be located 2.5 metres from the Bristol Street property line when the By-law requires that no accessory building be located in a required front yard and that a minimum front yard of 7.5 metres be provided (along Bristol Street) and that accessory buildings located on through lots shall have a setback the same as the nearest adjacent main building (32.9 metres), be approved,

subject to the following condition:

1. That the conditions imposed for Application B-9/13 be and form part of this approval.”

Carried.

**Application:** B-10/13 and  
B-11/13

**Owner:** Reid’s Heritage Homes Ltd.

**Agent:** Alfred Artinger

**Location:** 1 Samuel Drive and  
51 Laughland Lane

**In Attendance:** Alfred Artinger

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

Mr. Artinger replied the notice signs were posted and comments were received from staff. He explained part of the subdivision approval process required noise attenuation walls along Clair Road. He explained that rather than make the homeowner responsible for the maintenance of the walls they will form part of the condominium corporation for the subdivision and be maintained by the corporation.

Application Number B-10/13

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 L. McNair and seconded by C. Downer,

“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 an easement over Part Lot 19, Registered Plan 61M-177, more particularly described as Part 1 on Reference Plan 61R-20004, 1 Samuel Drive, an easement with a width of 12.530 metres and a depth of 11.872 metres, for protection of a noise attenuation wall, be approved, subject to the following conditions:

1. That prior to endorstation of the deeds, the servient tenement 1 Samuel Drive (Lot 19, Registered Plan 61M-177), grants an 1.530-metres (5.02 feet) to approximately 1.524-metres (5.00 feet) by approximately 11.740-metres (38.52 feet) to approximately 11.872-metres (38.95 feet) for protection of the proposed noise attenuation wall over Lot 19, Registered Plan 61M-177, being Part 1 on Reference Plan 61R-20004, registered on title, in favour of the dominant tenement Westminister Woods Limited.
2. That prior to endorstation of the deeds, the owner’s solicitor certifies that the easement in favour of Westminister Woods Limited, Lot 19, Registered Plan 61M-177, being Part 1 on Reference Plan 61R-20004, has been granted and registered on title.
3. 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 March 1, 2014.
4. 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.
5. 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.
6. 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-11/13

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 L. McNair and seconded by C. Downer,

“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 an easement over Part of Block 168, Registered Plan 61M-143, more particularly described as Part 1 on Reference Plan 61R-20005, 51 Laughland Lane, an easement, irregular in shape with a width of 1.524 metres, for protection of a noise attenuation wall, be approved, subject to the following conditions:

1. That prior to endorsonation of the deeds, the servient tenement 51 Laughland Lane (Block 168, Registered Plan 61M-143, Part 40 on Reference Plan 61R-10757), grants an 1.524-metres (5.00 feet) by approximately 21.622-metres (70.94 feet) to approximately 24.670-metres (80.94 feet) for protection of the proposed noise attenuation wall over Block 168, Registered Plan 61M-143, Part 40 on Reference Plan 61R-10757, being Part 1 on Reference Plan 61R-20005, registered on title, in favour of the dominant tenement Westminister Woods Limited.
2. That prior to endorsonation of the deeds, the owner’s solicitor certifies that the easement in favour of Westminister Woods Limited, Block 168, Registered Plan 61M-143, Part 40 on Reference Plan 61R-10757, being Part 1 on Reference Plan 61R-20005 has been granted and registered on title.
3. 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 March 1, 2014.
4. 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.
5. 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.

6. 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

The meeting adjourned at 4:25 p.m.

D. Kelly  
Chair

Kim Fairfull, ACST  
Secretary Treasurer

Minna Bunnnett, ACST(A)  
Assistant Secretary-Treasurer