

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday March 13, 2012 at 4:00 p.m. in Meeting Room 112, City Hall, with the following members present:

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

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

Declarations of Pecuniary Interest

Committee member B. Birdsell declared a pecuniary interest for #3 on the Agenda being Application A-39/12 as he is the architect.

There were no further declarations of pecuniary interest.

Meeting Minutes

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

“THAT the Minutes from the February 28, 2012 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

The Secretary-Treasurer advised the Committee members the annual Ontario Association of Committees of Adjustment and Consent Authorities conference is held in Burlington from June 3, 2012 to June 6, 2012. Jeff Hillen and Antoin Diamond expressed interest to attend.

The Secretary-Treasurer advised a letter was received from the Ontario Municipal Board regarding application A-105/11 for 22 Mason Court, which was refused by the Committee. The

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Board advised the appeal has been withdrawn as the Interim Control By-law is no longer in effect.

The Secretary-Treasurer advised a memorandum of oral decision was issued by Ontario Municipal Board regarding Application A-83/11, 12 Balfour Court, which was distributed to Committee members. She explained the appeal is allowed and the accessory apartment size variance is authorized.

The Secretary-Treasurer advised a memorandum of oral decision was issued by Ontario Municipal Board regarding Applications A-86/11 for 27 Westra Drive and A-87/11 for 29 Westra Drive, which was distributed to Committee members. She explained the appeals were allowed and the side yard variances were approved.

The Secretary-Treasurer advised staff received an appeal for Applications B-10/10, B-11/10, A-12/10, A-13/10 and A-14/10 at 94 Maple Street. She noted the appeal was subsequently withdrawn before the documentation was forwarded to the Ontario Municipal Board.

The Secretary-Treasurer advised she had received requests for refunds from two applicants for applications that were to be considered by the Committee of Adjustment. She noted that after repeal of the Interim Control By-law the minor variances applications were no longer necessary and have been withdrawn. She provided background related to each file. Application A-22/12 for 87 McArthur Drive had paid the full application fee for consideration of the Committee. Application A-6/12 for 61 Vanier Drive paid the full application fee and a deferral fee.

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

“THAT the Secretary-Treasurer refund 50 % of the application fee (\$216.50) for Application A-22/12 at 87 McArthur Drive.”

Carried.

Moved by B. Birdsell and seconded by R. Funnell,

“THAT the Secretary-Treasurer refund the deferral application fee (\$217.00) for Application A-6/12 at 61 Vanier Drive.”

Carried.

The Secretary-Treasurer explained all the minor variance files and appeals related to the Interim Control By-law have been closed. She noted letters were sent to the Ontario Municipal Board and all applicants' advising of the change.

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Application: **A-37/12**

Owner: **Victoria Park Village Inc.**

Agent: **Adam Nesbitt**

Location: **1159 Victoria Road South**

In Attendance: **Adam Nesbitt**
 M. Staples

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

Mr. Nesbitt replied he received comments and posted the sign. He noted the use for a temporary sales office is not allowed in this zone however it is allowed in other residential zones. He explained staff has advised the administrative amendments to the Zoning By-law being recommended by staff will permit this use in the zone.

Committee member J. Andrews questioned if the outstanding conditions of the subdivision reference in the staff report relate to the construction trailer.

Planner R. Kostyan noted she spoke with Engineering Services staff about the proposal. She noted there are 13 conditions in the subdivision agreement related to site grading and the conditions would need to be satisfied prior to the building permit for the sales office being issued. She noted staff will not be strongly objecting to the request if the Committee would consider including the works that need to be completed before the sales trailer is constructed.

Chair L. McNair questioned if zoning amendment has not been applied for to date?

Planner R. Kostyan noted an application for red line amendment to the subdivision needs to occur which could take up to 1 year. She noted they have an approved draft plan of subdivision on file if they want to construct the project as approved by Council, they will need to obtain site plan approval, meet the requirements of the subdivision agreement and obtain a building permit.

Chair L. McNair questioned if there is intent to file a red line amendment to the approved plan.

Mr. Nesbitt replied they may need to move zone line and shift some lot lines so those changes may be coming in the plan, however this would not occur in the area where they plan to construct the sales trailer. He advised they agree with the recommendations from the planner and will work on fulfilling the conditions of the subdivision agreement.

Committee member D. Kelly questioned if the conditions recommended and the 3 year time period would satisfy staff requirements.

Planner R. Kostyan replied staff still have concerns as there are many requirements that need to be completed before any building permit could be issued for the sales trailer.

M. Staples who owns the property that borders the property expressed concern that a sales trailer for a period of three years is not a temporary use. She noted the parking for the sales trailer will infringe on the buffer for the wetlands. She questioned why the existing club house could not be used for their sales office. She further noted the trailer would not be connected to City water and sanitary services. She expressed further concern the sales trailer was located too close to the mutual property line.

Planner R. Kostyan noted the location of the sales office and parking lot will be reviewed by the Environmental Planner as part of the site plan approval process. She replied she was unsure if city services to the trailer was mandatory.

Chair L. McNair questioned if the concern about the location of the sales trailer relative to the mutual property line could be forwarded to the Site Plan Committee for their review.

Planner R. Kostyan replied she will advise the site plan committee members. She noted the site plan has not been finalized so what is before the Committee may be different. She explained the applicant is only requesting a variance to the use at this time.

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 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 4.21.1 of Zoning By-law (1995)-14864, as amended, for 1159 Victoria Road South, to establish a temporary real estate sales office when the By-law does not permit occasional uses in the R.4A-39 zone, be approved, subject to the following conditions:

1. That the owner enters into a Site Plan Agreement registered on the title of the property prior to the issuance of a building permit, requiring that the real estate sales office be removed within three (3) years of the issuance of the building permit.
2. That prior to the issuance of a building permit, the owner satisfies conditions 2 to 14 of the Draft Plan of Subdivision pertaining to grading and site alteration.”

Carried

Application: A-38/12
Owner: Rosemary Herbinson
Agent: Rosemary Herbinson
Location: 304 Exhibition Street
In Attendance: Joyce Herbinson
Jeremy Shrubbs

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

Ms. Herbinson replied the notice signs were posted and comments were received. She explained her house faces Exhibition Street and a rear addition is being proposed, which would be constructed in line with the existing building walls. She noted there are emails and letters submitted in support of the application.

There were no questions from the Committee.

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 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 the requirements of Table 5.1.2 Row 6 and Section 5.1.2.7 of Zoning By-law (1995)-14864, as amended, for 304 Exhibition Street, to permit a 6 metre by 7.3 metre (20 foot by 24 foot) 1½ storey addition to be situate 1.4 metres (4.75 feet) from Robertson Drive when the By-law requires an exterior side yard setback equal to the average of the existing setbacks within the existing block face [6.8 metres (22.5 feet)], be approved.”

Carried

Committee member B. Birdsell, having declared a pecuniary interest for the next application, left the room.

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Application: **A-39/12**

Owner: **Alan and Darlene Pasmore**

Agent: **Alan and Darlene Pasmore**

Location: **42 Alma Street South**

In Attendance: **Alan and Darlene Pasmore**

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

Mr. Pasmore relied the notice sign was posted and comments were received from staff. He noted there was concern expressed by Building Services staff concerning windows along the left side lot line. He assured the Committee members they have no intention of installing windows along that lot line on the second floor.

There were no questions from the members of the Committee of Adjustment.

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 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 5.1.2 Row 7 and Section 4.5.1.2 of Zoning By-law (1995)-14864, as amended, for 42 Alma Street South, to permit

- a) a 65 square metre (700 square foot) second storey addition to be situate 0.78 metres (2.56 feet) from the left side yard when the By-law requires that any new additions have a setback of 1.5 metres (4.92 feet) from the side yard;
- b) a 2.4 metre by 2.4 metre (8 feet by 8 feet) shed to be situate 0.3 metres (1 foot) from the rear lot line and 0.38 metres (1.26 feet) from the right lot line when the By-law requires that accessory buildings shall not be located within 0.6 metres (1.97 feet) from any lot line,

be approved.”

Carried

Committee member B. Birdsell was summoned back to the room.

Application: A-40/12
Owner: Marjorie and Jonathan Puskas
Agent: Jonathan Puskas
Location: 71 Mary Street
In Attendance: John Puskas

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

Mr. Puskas replied the notice sign was posted and comments were received from staff. He explained they want to construct an addition which would project 1.65 metres beyond the front wall of the house. He explained they have a two bedroom and 1 bathroom house presently and with their expanding family the additions will result in a four bedroom 2.5 bathroom house.

The members of the Committee expressed their appreciation for the pre-consultation the owner undertook with neighbours.

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 A. Diamond 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 Table 5.1.2 Row 14 and Section 5.1.2.7 of Zoning By-law (1995)-14864, as amended, for 71 Mary Street, to permit

- a) a 3 metre by 4.4 metre (10 feet by 14.4 feet) garage addition be situate 10.2 metres (33.7 feet) from the front yard property line when the By-law requires that any additions have a setback from Mary Street equal to the average of the existing setbacks within the existing block face [11.26 metres (36.9 feet)];

- b) to permit the garage addition to project 2.8 metres (9.1 feet) from the front wall of the dwelling [1 metre (3.5 feet) beyond the front porch] when the By-law requires that attached garages shall not project beyond the main front wall of the building or where a roofed porch is provided, the garage may project equal to the projection of the porch to a maximum of 2 metres (6.5 feet),

be approved, subject to the following condition:

1. The applicant makes satisfactory arrangement with the Technical Services Department of Guelph Hydro Electric Systems Inc. for the relocation of the overhead service to the house. This will be at the owner's expense."

Carried

Application: A-35/12

Owner: Giuseppe, Maria and Steven Fava

Agent: Steven Fava

Location: 7 Crawford Street

In Attendance: Steven Fava

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

Mr. S. Fava replied the sign was posted as required. He explained that he is asking for a deferral. He noted there were comments received from concerned neighbours regarding his variance and would like to address those concerns prior to proceeding with the variance application. He explained he is hoping this will prevent the application from being appealed to the Ontario Municipal Board by a concerned neighbour.

Moved by R. Funnell seconded by A. Diamond,

"THAT Application A-35/12 for Maria, Giuseppe and Steven Fava at 7 Crawford Street, be deferred sinedie, in response to the applicant's request to meet with the neighbours to discuss a possible compromise, and 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-36/12

Owner: Cui Hua Huoa and Ying Chen

Agent: Tony Facciolo

Location: 539 Edinburgh Road South

In Attendance: Tony Facciolo

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

Mr. T. Facciolo replied that the sign was posted and the staff comments were received. He explained that the variance is needed to maintain a wider driveway for parking of vehicles.

Committee member R. Funnell questioned if the driveway has already been established.

Mr. T. Facciolo replied that the previous owner had completed all of the work. He explained the current owner has now applied for building permits.

Committee member B. Birdsell questioned the applicant what the distance is from the driveway to the property line on the left side of the property.

Mr. T. Facciolo replied the driveway is right up to the property line where a retaining wall is located.

Committee member J Andrews questioned staff whether this application is a result of a complaint.

Planner R. Kostyan replied that an accessory apartment has been established without a permit. She commented the current driveway is wider than what the By-law permits and that the parking space depth does not comply.

Chair L. McNair questioned staff if the applicant has to remove the accessory apartment if the variance is refused.

Planner R. Kostyan replied that 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 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 and Table 5.1.2 Row 12 of Zoning By-law (1995)-14864, as amended, for 539 Edinburgh Road South, to permit:

- a) a driveway width of 7.4 metres (24.3 feet) which constitutes 81% of the front yard when the By-law permits a driveway to occupy 56% of the front yard [5.1 metres (16.8 feet)];
- b) two required exterior off-street parking spaces with a depth of 4.79 metres (15.7 feet) when the By-law requires a minimum depth of 5.5 metres (18 feet), be refused.

Reasons for refusal being:

1. The variances are not minor in nature,
2. The variances do not meet the intent of the Zoning By-law.”

Carried

Application: A-32/12
Owner: Tanveer Asim and Asim Ali Mir
Agent: Imad Ali Syed
Location: 129 Baxter Drive
In Attendance: Imad Syed

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

Mr. I. Syed replied that the sign was posted and the staff comments were received. He explained that after discussing the application with the neighbours, he is proposing minor changes to the variance requests. He explained he is withdrawing the variance request regarding the 0.5 metre landscape strip requirement.

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Planner R. Kostyan commented the driveway width variance will then be for 8.17 metres and not for 8.67 metres. She clarified that the dwelling is located 1.25 metres from the right side property line.

Chair L. McNair expressed concern regarding drainage where the paved walkway leads down between the houses.

Mr. I. Syed explained City Engineering and Zoning staff confirmed to him that there is no regulation prohibiting him from creating a walkway between the houses. He continued by explained the contractor pointed out that the houses are not aligned and he recommended paving the area from the driveway leading down between the houses. He commented the patterned concrete on both sides of the driveway has been used for parking and he is aware he is creating a violation when parking a vehicle there. He explained he would like to further amend his variance application to include only the right side of the driveway (stamped concrete area) as part of the driveway variance since only this side will be used for parking.

Committee member J. Hillen questioned the applicant if he can provide a width of the asphalted area of the driveway, not including the concrete.

Mr. I. Syed replied the drawing on the notice is showing both asphalt and concrete and he does not have the measurement of only the asphalt available.

Planner R. Kostyan clarified to the Committee that with the proposed changes of maintaining the landscaped strip of 0.5 metres, and not including the left side of the patterned concrete, the driveway will now occupy approximately 61.9% of the front yard and this would still be over the allowed maximum driveway width of 7.5 metres.

Committee member D. Kelly commented, after several attempts to re-calculate the modifications, that she does not feel comfortable with making a decision today based on rushed calculations. She noted that it would be in the best interest of the applicant to ask for a deferral and return with a revised application.

Mr. I. Syed asked for a deferral so that he can revise the application.

Moved by R. Funnell and seconded by D. Kelly,

“THAT Application A-32/12 for Tanveer Asim and Asim Ali Mir at 129 Baxter Drive, be deferred to allow for re-submission of accurate drawings for the amended application 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

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Application: A-31/12
Owner: Rajdevinder and Satinder Kambo
Agent: Imad Ali Syed
Location: 127 Baxter Drive
In Attendance: Imad Syed

Planner R. Kostyan noted for Committee's information that a previous Committee of Adjustment variance was approved for the property. She explained the variance permits 4 off-street parking spaces in lieu of 5 required for an accessory apartment and a home occupation.

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

Mr. I. Syed replied that the sign was posted and that the staff comments were received. He explained, as per previous application for 129 Baxter Drive, he is withdrawing the variance request regarding the 0.5 metre landscape strip requirement. He continued by explaining that he also would like to withdraw his variance request for the additional concrete walkway.

Committee member B. Birdsell questioned if the applicant has a dimension of the garage available.

Mr. I. Syed replied that he does not have the width of the garage handy.

Secretary-Treasurer K. Fairfull informed the Committee that the width of the garage is 19.33 feet as per the applicant's measurement submitted with the variance application.

Committee member B. Birdsell questioned the applicant whether the concrete walkway close to the property line is used for parking vehicles.

Mr. I. Syed replied that it is not used for parking but the right side of the driveway is.

Planner R. Kostyan replied that after the applicant's revisions, the remaining driveway width would be 7.42 metres which occupies 48.5% of the front yard. She noted a driveway width of 5 metres would be sufficient for the accessory apartment parking requirements.

Committee member D. Kelly noted that engineering's comments have a concern regarding drainage but it does not reflect the area between the houses. She continued by explaining she is uncomfortable with proceeding with the application until a revised application has been received.

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Committee member R. Funnell commented that due to the changes being made to the application, it would be in the best interest of the applicant to defer the application.

Committee member B. Birdsell explained to the applicant it would be preferred if the plans could accurately indicate what materials are being used on the front yard. He also explained it would help the Committee if the plans could also indicate the details of the swale.

Mr. I. Syed replied he could find out if a site visit with engineering staff is possible. He continued by requesting a deferral.

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

“THAT Application A-31/12 for Rajdevinder and Satinder Kambo at 127 Baxter Drive, be deferred sinedie, to allow for re-submission of accurate drawings for the amended application 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

The meeting adjourned at 6.34 p.m.

L. McNair
Chair

Kim Fairfull
Secretary-Treasurer

Minna Bunnett
Assistant Secretary-Treasurer