

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday April 9, 2013 at 4:00 p.m. in Meeting Room 112, City Hall, with the following members present:

J. Hillen
C. Downer
A. Diamond
L. McNair
D. Kelly, Chair

Regrets: R. Funnell – Vice-Chair
B. Birdsell

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 A. Diamond,

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

Carried

Other Business

The Secretary-Treasurer advised that an Ontario Municipal Board hearing has been scheduled for Application A-5/13 at 41 Reid Court. The appeal will be heard on Thursday, May 2, 2013 at 10:00 a.m. at meeting room 112, City Hall. The application was for a lodging house separation distance variance and driveway width and was refused by the Committee.

The Secretary-Treasurer advised the room has been booked for the Ontario Municipal Board hearing for 692 Scottsdale Drive, being Application A-4/13, however notice from the Ontario Municipal Board has not been received to date. She noted the hearing is scheduled for March 1, 2013 at 10:00 a.m. in Room 112, City Hall.

The Secretary-Treasurer advised that an informal neighbourhood meeting regarding Application A-35/12 for 7 Crawford Street is being facilitated by City Staff on Thursday April 11, 2013 at 7:00 p.m.

The Secretary-Treasurer advised the Ontario Municipal Board decision was received from 402 Starwood Drive. She explained the Board dismissed the appeal of the owners and refused the variance to eliminate the legal off-street parking spaces.

Application: B-12/13
Owner: Ivan Noel
Agent: n/a
Location: 39 Wheeler Avenue
In Attendance: Ivan Noel
Leanne Perry

Staff advised no sign was required as the application was for a change of condition.

Mr. Noel explained he is working diligently and hopes to complete the conditions this year.

Chair D. Kelly questioned if the applicant was aware the same conditions apply.

Mr. Noel replied he was aware of the conditions recommended.

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 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, permission for change of condition for Part of Lots 21 and 22, Registered Plan 337, to be known as 35 Wheeler Avenue, a parcel with a frontage of 9.42 metres (30.9 feet) along Wheeler Avenue and a depth of 26.06 metres (85.4 feet), be approved, subject to the following conditions:

1. That the owner pays the watermain frontage charge of \$8.00 per foot of frontage for 30.90 feet (9.42 metres), prior to endorsement of the deeds.
2. That the owner 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.

3. The owner applies for sanitary and water laterals for the proposed severed lands and pays the rate in effect at the time of application, prior to the issuance of a building permit.
4. 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 endorsonation of the deeds.
5. 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.
6. 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.
7. That the owner pays the actual cost of the construction of the new driveway entrance and the required curb cut, with the estimated cost of the works as determined by the City Engineer being paid, prior to the issuance of a building permit.
8. That a legal off-street parking space be created on the severed lands at a minimum setback of 6-metres from the Wheeler Avenue property line.
9. That the owner shall pay for all the costs associated with the removal of the existing garage, a portion of the asphalt driveway and concrete pad from the lands to be severed to the satisfaction of the General Manager of Planning Services, prior to endorsonation of the deeds;
10. 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 endorsonation of the deeds.
11. 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; and that any proposed garage is detached and located to the rear of the dwelling or attached and recessed behind the main front wall of the dwelling.
12. That a site plan be submitted to, and approved by the General Manager of Planning Services, prior to the issuance of a building permit for the new dwellings on the severed parcel indicating:
 - a) The location and design of the new dwelling;
 - b) That the location of the new dwelling maintains a setback that is in character with the surrounding area;
 - c) No windows are permitted in the northerly (left) side yard of the dwelling on the severed parcel without the written approval of the property owner of 19 Wheeler Avenue and
 - d) Grading, drainage and servicing information.

13. That the Owner receive a demolition permit and removes the existing detached garage prior to the endorsement of the deeds.
14. That the applicant shall pay to the City cash-in-lieu of park land dedication in accordance with By-law (1989)-13410, as amended from time to time, or any successor thereof, prior to the endorsement of the deeds, at the rate in effect at the time of the endorsement.
15. Prior to the issuance of any building permit for the severed lands, the owner shall pay to the City, the City's total cost of reproduction and distribution of the Guelph Residents' Environmental Handbook, to the 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.
16. That prior to issuance of a building permit, the applicant makes arrangement for provision of overhead or underground hydro servicing to the severed parcel, satisfactory to the Technical Services Department of Guelph Hydro Electric Systems Inc. The servicing costs would be at the owner's expense.
17. That prior to endorsement of the deeds the parking area and required screening for the retained lot be developed in accordance with Zoning By-law regulations.
18. That prior to the endorsement of the deeds, the owner shall enter into an agreement with the City, registered on title, satisfactory to the City Engineer, agreeing to satisfy the above-noted conditions and to develop the site in accordance with the approved plans.
19. 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 April 12, 2014.
20. 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.
21. 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.
22. 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-13/13
Owner: Penretail Management
Agent: Fogler, Rubinoff LLP; Joel Farber
Location: 130 Silvercreek Parkway North
In Attendance: Adam Swartz

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

Mr. Swartz replied the notice sign was posted and comments were received from staff. He had no further information to add to the application.

Committee member L. McNair questioned if there is a limit to the term of a lease. He expressed concern about the unlimited length of time on the lease.

The Committee agreed the lease length should be to 2037.

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 J. Hillen,

“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 long term lease for Part Lot 6, Division E, Concession 1, known municipally as 130 Silvercreek Parkway North, a building for Winner’s retail store, to permit a lease for a period of 10 years (which commenced October 1, 1996) with an option to renew the term of the lease for six (6) additional terms of five (5) years each, to year 2037, be approved, subject to the following conditions:

1. 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 April 12, 2014.
2. 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 lease.”

Carried

The legal counsel for the next applications advised the Committee there are no regulations in the Planning Act for the length of a lease. She did note the lessee is required to pay land transfer tax after lease of 50 years but this is not a Planning Act matter.

Application: B-14/13, B-15/13 and B-16/13

Owner: Calloway Reit (Guelph) Inc.

Agent: Torkin Manes LLP; Stephanie Eiley

Location: 15-49, 1-9 and 11 Woodlawn Road West

In Attendance: Stephanie Eiley
Seth Zuk

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

Ms. Eiley replied the notice sign was posted and comments from staff were received. She noted their only concern is with respect to formalizing the access with Boston Pizza. She explained the access formed part of the conditions for site plan approval for Boston Pizza and this was never completed. She questioned why these terms need to form part of their consents. She requested the Committee consider amending the condition that the access be closed if a formal agreement cannot be reached.

Planner M. Witmer explained the Official Plan has a policy that encourages adjacent properties to be interconnected along main arterial roads to encourage traffic circulation. He noted Planning staff feels it would be beneficial to both parties to have the mutual access.

Ms. Eiley requested this not be included as a condition for the consents. She noted the Official Plan is not an obligation, it is a general encouragement. She noted the condition would force them to apply for and pay the fee associated with finalizing the easement.

Planner M. Witmer explained the Walmart site was constructed first. When Boston Pizza applied for site plan approval the easement was noted as a condition of this approval. He explained the site plan was approved without the easement in place and City staff has been corresponding with Boston Pizza to finalize this.

Application B-14/13

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 J. Hillen,

“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 4 and 5, Registered Plan 169, described as Parts 1, 2, 5 and 6 on draft reference plan prepared by Van Harten Surveying Inc., being project number 19868-11, dated February 21, 2013, municipally known as 15-49 Woodlawn Road West, an irregular parcel with a lot frontage along Woodlawn Road West of 52.64 metres and an area of 3.877 hectares, subject to rights-of-ways and easements in favour of 1-9 Woodlawn Road West and 11 Woodlawn Road West, for traffic circulation, pedestrian ingress and egress, parking, utilities and municipal services, be approved, subject to the following conditions:

1. That the owner of the proposed severed parcel 'A' (15, 43, 45, 47 and 49 Woodlawn Road, West) with a frontage along Woodlawn Road, West of 52.64-metres (172.70 feet) shall provide the proposed severed parcel 'B' (1, 3, 5, 7 and 9 Woodlawn Road, West); and the proposed severed parcel 'C' (11 Woodlawn Road, West) mutual right-of-way and easements in perpetuity for vehicle traffic circulation, pedestrian ingress and egress, parking, utilities and municipal services. Furthermore, the right-of-way and easements are to be endorsed and registered on title, prior to endorsement of the deeds or within one (1) year of the consent, whichever occurs first.
2. 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 April 12, 2014.
3. 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.
4. 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.
5. 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-15/13

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 J. Hillen,

“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 6, Registered Plan 169, described as Parts 4 and 8 on draft reference plan prepared by Van Harten Surveying Inc., known as project number 19868-11, dated February 21, 2013, municipally known as 1-9 Woodlawn Road West, an irregular parcel with a lot frontage along Woodlawn Road West of 92.381 metres and an area of 1.894 hectares, subject to rights-of-ways and easements in favour of 15-49 Woodlawn Road West and 11 Woodlawn Road West, for traffic circulation, pedestrian ingress and egress, parking, utilities and municipal services, be approved, subject to the following conditions:

1. That the owner of the proposed severed parcel 'B' (1, 3, 5, 7 and 9 Woodlawn Road, West) at the corner of Woodlawn Road, West and Woolwich Street, with a frontage along Woodlawn Road, West of 92.381-metres (303.09 feet) shall provide the proposed severed parcel 'A' (15, 43, 45, 47 and 49 Woodlawn Road, West); and the proposed severed parcel 'C' (11 Woodlawn Road, West) mutual right-of-way and easements in perpetuity for vehicle traffic circulation, pedestrian ingress and egress, parking, utilities and municipal services. Furthermore, the right-of-way and easements are to be endorsed and registered on title, prior to endorsement of the deeds or within one (1) year of the consent, whichever occurs first.
2. 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 April 12, 2014.
3. 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.
4. 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.
5. 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-16/13

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 J. Hillen,

“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 Lots 5, 6 and 7, Registered Plan 169, described as Parts 3 and 7 on draft reference plan prepared by Van Harten Surveying Inc., known as project number 19868-11, dated February 21, 2013, municipally known as 11 Woodlawn Road West, an irregular parcel with a lot frontage along Woodlawn Road West of 59.306 metres and an area of 6.742 hectares, subject to rights-of-ways and easements in favour of 15-49 Woodlawn Road West and 1-9 Woodlawn Road West, for traffic circulation, pedestrian ingress and egress, parking, utilities and municipal services, be approved, subject to the following conditions:

1. That the owner of the proposed severed parcel 'C' (11 Woodlawn Road, West), with a frontage along Woodlawn Road, West of 59.306-metres (194.57 feet) shall provide the proposed severed parcel 'A' (15, 43, 45, 47 and 49 Woodlawn Road, West); and the proposed severed parcel 'B' (1, 3, 5, 7 and 9 Woodlawn Road, West) mutual right-of-way and easements in perpetuity for vehicle traffic circulation, pedestrian ingress and egress, parking, utilities and municipal services. Furthermore, the right-of-way and easements are to be endorsed and registered on title, prior to endorsement of the deeds or within one (1) year of the consent, whichever occurs first.
2. That the existing access between 35 Woodlawn Road West and Parcel B shown on the draft Reference Plan be formally recognized through an access easement, registered on title, prior to endorsement of the deeds.
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 April 12, 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: A-33/13
Owner: Patricia, James and Chris Hall
Agent: n/a
Location: 54 Yarmouth Street
In Attendance: Glen Sproule
Jim Hall
Patty Hall
Mike Hall

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

Ms. Hall replied the notice sign was posted and comments were received from staff. She explained they want to convert the commercial unit to residential use which will result in four residential units in the building.

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 A. Diamond and seconded by C. Downer,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Sections 6.3.1.1 and 6.3.2.1.3 of Zoning By-law (1995)-14864, as amended, for 54 Yarmouth Street, to permit a residential dwelling unit on the main floor in an area previously occupied by a commercial use, thus eliminating any commercial uses in the building, when the By-law permits residential dwelling units with commercial uses in the same building and the By-law does not permit dwelling units on the main floor level (i.e. the first storey), be approved, subject to the following condition:

1. That the conversion of the commercial unit on the main floor to a residential unit apply to the current and existing building only and be limited to 79 square metres.”

Carried.

Application: A-32/13
Owner: Nelson Matthew and Seena Nelson
Agent: Nelson Matthew
Location: 707 Stone Road East
In Attendance: Nelson Matthew

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

Mr. Matthew replied the notice sign was posted and comments from staff were received. He had no further information to add to the application.

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

Moved by L. McNair and seconded by J. Hillen,

“THAT in the matter of an application under Section 45(2)(a)(i) of the Planning Act, R.S.O. 1990, c.P13, as amended, permission to extend the legal non-conforming use for 707 Stone Road East, with a 7 metre by 4.7 metre single storey addition which is located 13.9 metres from the right side lot line and 76.8 metres from the rear lot line, be approved, subject to the following conditions:

1. That prior to the issuance of a building permit, the owner shall demonstrate to the satisfaction of the General Manager/City Engineer that the existing septic system has adequate capacity to support the proposed addition.
2. That prior to the issuance of a building permit, the owner shall have an Ontario Land Surveyor show the location of the septic tank and tile bed, relevant to the existing property line.
3. That prior to the issuance of a building permit, the owner shall satisfy the City's Chief Plumbing/Sewage System Inspector, that the septic tank and tile bed are located in accordance with all appropriate regulations.
4. That the addition be used for storage purposes only and not be used for human habitation or a home occupation.”

Carried.

Application: A-35/13

Owner: B. O'Hara, C. Wilson, M. Craig and M. Gilbertson

Agent: Ben O'Hara

Location: 46 Meadowview Avenue

In Attendance: Ben O'Hara
Mary MacLeod
Justin Finamore

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

Mr. O'Hara replied that he received staff comments and notice signs were posted. He explained he and his partners purchased the property at 46 Meadowview 4 years ago and since that time they have completed renovations on the interior of the building. At this time they are requesting permission to replace the roof structure and install solar panels on the new roof which allows for feedback into the grid in partnership with Guelph Hydro and Ontario Power Authority. He addressed the concern with the letter submitted and noted they will be installing a hip roof which is lower.

Committee member J. Hillen noted the side yard does not comply with the current zoning. He questioned when the building was constructed and what the zoning was at that time.

Mr. O'Hara replied the building was constructed in the 1960's and he was unsure of the side yard requirements at that time.

Ms. MacLeod explained she owned 233 Waterloo Avenue, directly east of the property. She spoke to the affect of the pitched roof on shadowing her rear yard and kitchen window. She spoke to the affect of the building height when considering the difference in elevation between the subject property and properties on Waterloo Avenue. She submitted pictures of the subject property from her rear yard area.

In response to the concerns expressed Mr. O'Hara advised he is a graduate of landscape architecture and is educated on shading analysis. He ran the property through Google sketch-up for sun analysis and submitted pictures to the Committee members. He explained the new roof bumped up an additional 2 metres for demonstration purposes will not have significant impact on the shading of the rear yard. He noted any shading occurs after 5:00 p.m. which does not have an effect on any plants growing.

Ms. MacLeod advised she did not agree with the findings. She noted the new roof will result in loss of half of the sunlight in her rear yard.

Committee member A. Diamond noted the shading could have a lot to do with the existing trees along the lot line.

Committee member L. McNair agreed with the assertion that sun beyond 5:00 p.m. will not have impact on her garden.

Ms. MacLeod was more concerned about lighting in her patio and rear yard.

Mr. Finamore owner of 237 Waterloo Avenue expressed concerns with respect to life safety with a steel roof so close to his property and ice and snow from the roof falling. He expressed further concern that a hopper to collect the water at the side of the building will run to back of the property and onto his property if over-filled. He expressed concerns about the existing windows along the lot lines, and about the affect the functioning of the solar panel with large trees on the property and noted that the small fence installed is eroding.

Mr. O'Hara noted there are valid concerns about the snow and advised ice guards will be installed around the building. He noted the solar panels will be at the front of the building only and guards will be installed to protect the tenants entering and exiting the building. He noted the retaining wall and fence have been in poor shape and explained they plan to continue to clean up the property and fix the retaining wall. With respect to the collection of water, he explained they will be diverting water to the north and south sides of the building which will retain 5,000 litres of rainwater so there should not be concern about them overflowing.

Committee member L. McNair questioned if a building permit is required for the new roof.

Planner M. Witmer replied a building permit is required. He noted if there was concern about grading and drainage on the property, the Committee could consider including a condition that grading and drainage be reviewed with the building permit application.

Ms. McLeod further noted the Committee could consider at 5/12 pitch which would decrease the height of the building.

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

Moved by L. McNair and seconded by A. Diamond,

“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 46 Meadowview Avenue, to replace a flat roof with a pitched roof creating a building height of 8.2 metres (26.9 feet), as measured from the mid-span of the new roof, and to permit a side yard of 1.9 metres (6.36 feet) when the By-law requires that the minimum side yard is equal to one-half the building height [4.1 metres (13.45 feet) but not less than 3 metres (9.84 feet), be approved, subject to the following condition:

1. That Engineering staff review the grading and drainage as part of the review of the building permit for the new roof.”

Carried.

Application: A-37/13
Owner: Mark and Ana Parkinson
Agent: n/a
Location: 47 Old Colony Trail
In Attendance: Ana Parkinson
Mark Parkinson
Maddy Summerlee

The Secretary-Treasurer advised that additional emails in support of the application were received after the comment deadline.

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

Mrs. A. Parkinson replied that she posted the sign as required and received the staff comments. She summarized the details of her business Caring Touch. She commented that by showing some pictures, she is hoping that the Committee has a better understanding of the space she is currently able to provide for her clients. She noted that her business is not visible when viewing the residential dwelling from the outside. She explained that they are enclosing a portion of the basement so that they will comply with parking requirements. She also explained that they need the space to be able to comply with Public Health requirements. She stated that the requirement is to have clean instruments separate from dirty instruments; they require a separate sink for cleaning purposes. She noted that the extra space does not create more traffic in the neighbourhood. She commented that her employee has been a great asset and if the space is reduced to comply with the By-law requirements, it would not allow them to work together.

Ms. M. Summerlee commented that she supports the owner's comments and that the decision of the Committee will affect her employment status.

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 C. Downer and seconded by A. Diamond,

"THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Sections 4.19.1 (i) and 4.19.1 (ii) of Zoning By-law (1995)-14864, as amended, for 47 Old Colony Trail,

- a) to permit a 49 square metre (527.4 square foot) personal service establishment (aesthetics) when the By-law requires that the total floor area occupied by a home occupation within the enclosed portion of the dwelling unit shall not exceed 33 square metres (355.2 square feet), and

- b) to permit the home occupation, operated by the property owner and one non-resident employee, occupy 53.8% of the basement floor area when the By-law requires that where the home occupation has a non-resident employee, partner or associate, a maximum of 10% of the floor area of the basement may be occupied by a home occupation [9.1 square metres (98 square feet)], to a maximum of 33 square metres,

be approved, subject to the following conditions:

1. That the Personal Service Establishment home occupation be limited to a business providing personal aesthetical services only.
2. That the home occupation be limited to a total area of 49 square metres in the basement.”

Carried.

Application: **A-36/13**
Owner: **Kristine Koning**
Agent: **n/a**
Location: **5 Gladstone Avenue**
In Attendance: **Kristine Koning**
 Kaitlyn Koning

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

Ms. K. Koning replied that the sign was posted and she did receive the staff comments. She explained that the garage will be a foot higher than what is allowed in the By-law. She further explained that the garage will be used for storage and for storing of vehicles.

Committee member L. McNair commented that existing houses in the neighbourhood have roofs with a 6/12 pitch and this proposed garage has a pitch of 12/12, which seems incompatible.

Ms. K.Koning explained that the pitch is required for storage above and that the extra foot will give extra room for accessing the upper level without bumping heads on the ceiling.

Committee member J. Hillen commented that the site plan shows a 4 foot setback but looks like it might be around 2 feet instead. He continued by commenting that he is concerned that this might be an issue when the building permit is being issued.

Planner M. Witmer commented that he can only assume that the proposed garage is going to be 4 feet from the property line. He explained that the required setback is 2 feet. He also explained that the existing shed might interfere with the location of the new garage.

Ms. K. Koning replied that her contractor will ensure the garage be built two feet from the fence. She commented that the existing shed will be removed once the garage is built.

Committee member L. McNair questioned if a condition should be added that the shed must be removed.

Planner M. Witmer replied that he agrees that this condition should be included.

Committee member C. Downer questioned if the condition could state that it has to be removed upon completion of the garage so the owner is able to use the existing shed.

Planner M. Witmer commented that the current location of the shed is in the way of the proposed garage.

Ms. K. Koning noted that the shed has already been moved out of the way.

Planner M. Witmer commented that the proposed condition regarding the removal of the shed is hence irrelevant.

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

Moved by L. McNair and seconded by J. Hillen,

“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 4.5.2.1 of Zoning By-law (1995)-14864, as amended, for 5 Gladstone Avenue, to permit a 4.9 metre by 11.6 metre (16 foot by 38 foot) detached garage with a height of 3.91 metres (12.83 feet) when the By-law requires that in a residential zone, the height of an accessory structure shall not exceed 3.6 metres (11.83 feet), measured at the mid point between the eave and the ridge, be approved, subject to the following condition:

1. That all or any portion of the detached garage not be used as habitable space or for a home occupation.”

Carried.

Application: A-30/13 and A-31/13

Owner: 785412 Ontario Limited

Agent: Subhash Chugh

Location: 44 Speedvale Avenue West

In Attendance: Subhash Chugh
Wendy Davenport

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

Mr. S. Chugh replied that he posted the sign as required and he received the staff comments. He explained that he bought the property in November of 2012. He further explained that his proposal is to demolish the existing house and construct two single detached dwellings on the existing two lots. He noted that he had pre-consultation meetings with City staff where it was brought to his attention that a road widening dedication will be required. He noted that the lots are already shallow and he is trying to establish legal off-street parking spaces for both lots. He also noted that this will not leave room for a big backyard. He commented that it was later discovered by Engineering staff that there might be a storm sewer trunk on one of the lots which he found surprising because there were no easements registered on title. He noted that the sketch provided with the staff comments indicates the possible location of the trunk and that staff does not seem to have detailed information on the exact location. He explained that staff is asking him to pay for locating and surveying the sewer trunk. He commented that, in his opinion, the City should do the work of locating the trunk; the sketch provided has no accuracy on the location or direction of the sewer line.

Planner M. Witmer commented that from a planning land use perspective they have no concerns but Engineering staff has specified that the sewer trunk is located on one of the lots and Planning staff will support the recommendation from Engineering staff.

Committee member L. McNair questioned whether staff has reasonable information that the sewer is indeed at that location as indicated on the sketch.

Planner M. Witmer replied that Engineering staff indicated that the storm sewer is mainly for overflow purposes.

Committee member A. Diamond questioned if the applicant will be responsible for the research of locating the sewer trunk.

Committee member L. McNair commented that, in his opinion, if there was no easement registered on title and no supporting documentation, the City should assist the applicant.

Ms. W. Davenport, a neighbouring property owner, commented that the storm sewer goes right through the property in question and through her property. She expressed a concern of the storm sewer possibly breaking and creating flooding while constructing the new dwellings. She commented that she could support one dwelling but not two.

Committee member C. Downer commented that the Committee does not have enough information on the storm sewer situation and that perhaps a deferral of the application is needed.

Planner M. Witmer commented that Planning staff can coordinate a meeting with Engineering staff and the applicant to discuss the storm sewer situation to be able to move forward with the application.

Mr. S. Chugh commented that at the pre-consultation meeting it was discussed that the storm sewer might be straddling the lot line but it appears that we still do not know where it is located. He noted that the onus is entirely on him to complete and pay for the research to locate the sewer. He explained that he might not be able to build a house where he is planning. He commented that he is not looking for a decision on the application today.

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

“THAT Application A-30/13 and A-31/13 for 785412 Ontario Ltd. at 44 Speedvale Avenue, West, be deferred sinedie, to allow staff and the applicant to identify the existing storm sewer location 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.”

Carried.

A brief discussion took place between the Committee members regarding the deferral fees.

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

“THAT the applicant not be responsible for payment of the deferral fees for Applications A-30/13 and A-31/13 at 44 Speedvale Avenue West.”

Carried.

Application: A-34/13
Owner: Elavalakaner Kanakaratham
Agent: n/a
Location: 54 Walman Drive
In Attendance: Elavalakaner Kanakaratham
Les Schmidt

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

Mr. E. Kanakaratham replied that the sign was posted and the staff comments were received. He explained that he purchased the property 3 years ago. He further explained that he wanted to create a five bedroom lodging house but this was not allowed at the time. He commented that he has since created a sixth bedroom. He explained that he realized later that he was able to apply for a lodging house but that the distance must be 100 metres from another lodging house. He noted that his dwelling is not very close to the existing lodging houses.

Committee member D. Kelly questioned staff what initiated the application.

Planner M. Witmer commented that the variance application is a result of pro-active enforcement.

Mr. E. Kanakaratnam commented that he has applied for a lodging house certification by himself.

Mr. L. Schmidt states that the landlord is an honourable man but he had owned properties on Walman and Koch for a while. He expressed concern about complete deterioration of the area the past 10-15 years. Properties go to waste, 5-6 people in the house but they are breaking most of the rules. When people say that they can't make money in a rental, it's not true, the money is good. He indicated he did not see the need to have families having more lodging houses around them.

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. Hillen and seconded by L. McNair,

"THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 4.25 Row 3 of Zoning By-law (1995)-14864, as amended, for 54 Walman Drive, to permit a six bedroom lodging house within 96 metres of an existing lodging house located at 638 Edinburgh Road South and within 99 metres of an existing lodging house located at 28 Koch Drive, when the By-law requires that a minimum separation between buildings being used as a Lodging House Type 1 shall be 100 metres, be approved, subject to the following condition:

1. That the owners apply for and receive registration and/or certification of the lodging house within no longer than 60 days of the date of the Committee of Adjustment's decision. "

Carried.

The meeting adjourned at 6:38 p.m.

D. Kelly
Chair

Kim Fairfull, ACST
Secretary Treasurer

Minna Bunnett, ACST(A)
Assistant Secretary-Treasurer