

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday April 24, 2012 at 4:00 p.m. in Meeting Room 112, City Hall, with the following members present:

R. Funnell
J. Hillen
B. Birdsell
A. Diamond
L. McNair – Chair

Regrets: D. Kelly, Vice-Chair
J. Andrews

Staff Present: R. Kostyan, 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 r. Funnell and seconded by A. Diamond,

“THAT the Minutes from the April 10, 2012 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

The Secretary Treasurer informed that a decision was received from Ontario Municipal Board regarding Application A-1/11 for 129 Baxter Drive which was an appeal regarding Interim Control By-law and accessory apartment size. The application was refused by the Committee. The Ontario Municipal Board dismissed the appeal regarding Interim Control By-law and dismissed the appeal on the accessory apartment size.

The Secretary Treasurer advised that the owner for Application A-15/12 at 106 Clough Crescent has requested a refund of the deferral fee paid. She informed the Committee that the

application was deferred at the February 14th meeting due to a request from the Committee for staff to investigate the installation and approval of dual water meters.

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

“THAT the Secretary-Treasurer refund ½ of the deferral fee (\$108.50) for Application A-15/12 at 106 Clough Crescent.”

Applications: **B-18/12 and B-19/12**
Owner: **2144113 Ontario Limited**
Agent: **Black, Shoemaker, Robinson and Donaldson**
Location: **935 and 945 Southgate Drive**
In Attendance: **Nancy Shoemaker**

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

Ms. Shoemaker replied the notice sign was posted and comments were received from staff. She explained industrial mall buildings have been constructed at 945 Southgate Drive and development is currently being considered on the abutting parcel. It was noted that during site plan review a greater side yard would be required 935 Southgate Drive, therefore an application for severance as a lot addition was submitted for consideration of the Committee. In addition there would be mutual rights-of-way and easements for circulation and parking between the two properties.

There were no questions from the members of the Committee.

Application Number B-18/12

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

Moved by B. Birdsell 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 a right-of-way over Part of Lot 12, Concession 7,

municipally known as 935 Southgate Drive, identified as Parts 9, 13 and 10 on a draft Reference Plan prepared by Black, Shoemaker, Robinson & Donaldson, known as project 12-9112-1, dated March 23, 2012, in favour of 945 Southgate Drive, to be utilized as a mutual access over the shared driveways and over the mutual parking areas, be approved, subject to the following conditions:

1. The Owner shall submit to the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan, indicating the location of buildings, landscaping, parking, circulation, access, lighting, grading and drainage and servicing on the said lands to the satisfaction of the Director of Planning and the City Engineer, prior to the issuance of a building permit. Furthermore, the owner shall develop the said lands in accordance with the approved site plan.
2. That prior to endorsation of the deeds, the servient tenement (935 Southgate Drive), grants a right-of-way over Parts 9, 10 and 13, registered on title, in favour of the dominant tenement (945 Southgate Drive) for mutual vehicular access and circulation over the mutual parking areas.
3. That prior to endorsation of the deeds, the owner's solicitor certifies that the right-of-way/easement in favour of the dominant tenement (945 Southgate Drive) has been granted and registered on title.
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 April 27, 2013.
5. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the endorsement of the deed.
6. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorsement of the deed, that he/she will provide a copy of the registered deed/instrument as registered in the Land Registry Office within two years of issuance of the consent certificate, or prior to the issuance of a building permit (if applicable), whichever occurs first.
7. That a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the draft Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk."

Carried.

Application Number B-19/12

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

Moved by B. Birdsell 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 of Lot 12, Concession 7, municipally known as 945 Southgate Drive, a parcel (Parts 9, 10 and 13 as illustrated on a draft Reference Plan prepared by Black, Shoemaker, Robinson & Donaldson, project number 12-9112-1, dated March 23, 2012) with a frontage along Southgate Drive of 4.6 metres and a depth of 271.01 metres, as a lot addition to 935 Southgate Drive, along with a right-of-way over Parts 1, 2 and 5 in favour of 935 Southgate Drive, to be utilized as a mutual access over the shared driveways mutual parking areas for both properties, be approved, subject to the following conditions:

1. That the proposed severed parcel of land with a width of approximately 4.60-metres (15.09 feet) by a depth of approximately 271.01-metres (889.14 feet) be conveyed to the abutting owner 935 Southgate Drive as a lot addition only (Form 3 Certificate).
2. That the following covenant is incorporated in the deed:-
"The conveyance of (Severed Lands - legal description - Lot and Plan), City of Guelph, County of Wellington, designated as (Part and 61R-Plan Number) as a lot addition only to (Legal Description of Lands to be joined with - Lot and Plan), and shall not be conveyed as a separate parcel from (Legal Description of Lands to be joined with - Lot and Plan)."
3. That prior to endorsonation of the deeds, the servient tenement (945 Southgate Drive), grants a right-of-way over Parts 1, 2 and 5, registered on title, in favour of the dominant tenement (935 Southgate Drive) for mutual vehicular access and circulation over the mutual parking areas.
4. That prior to endorsonation of the deeds, the owner's solicitor certifies that the right-of-way/easement in favour of the dominant tenement (935 Southgate Drive) has been granted and registered on title.
5. That prior to endorsonation of the deeds, the owner's solicitor certifies that the right-of-way/easement in favour of the dominant tenement (945 Southgate Drive) has been granted and registered on title.

6. That the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for endorsement, prior to April 27, 2013.
7. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the endorsement of the deed.
8. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorsement of the deed, that he/she will provide a copy of the registered deed/instrument as registered in the Land Registry Office within two years of issuance of the consent certificate, or prior to the issuance of a building permit (if applicable), whichever occurs first.
9. That a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the draft Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk."

Carried.

Application: **A-18/12**

Owner: **Trudy Dickinson**

Agent: **n/a**

Location: **61 Kirkland Avenue**

In Attendance: **Trudy Dickinson**
 Mark Goldberg
 Ursula McMurry
 Michael McMurry

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

Ms. Dickinson replied the notice sign was posted and comments were received. She advised she proposes to construct a new dwelling on the property with side yard setbacks of 4 feet. She noted the building elevations were submitted with the application for review.

Michael McMurry advised his mother resides adjacent to the subject property. He complimented the applicant with proposing a sensitive design to the existing dwellings in the neighbourhood. He questioned if there were controls in the municipality respecting the potential loss of sunlight.

Chair L. McNair noted the roof was sloped which will minimize the impact. He noted the Committee does not have the authority to deal with sunlight.

Trudy Dickinson explained she tried to redesign so building would not be so high as her original proposal.

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 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 5.1.2 Row 7 of Zoning By-law (1995)-14864, as amended, for 61 Kirkland Avenue, to permit a 204.7 square metre single detached dwelling with right and left side yards of 1.22 metres (4 feet) when the By-law requires a minimum side yard of 1.5 metres (4.92 feet), be approved.”

Carried

Application: A-56/12
Owner: Christopher Bitton
Agent: n/a
Location: 33 Mercer Street
In Attendance: Christopher Bitton
Mike Vandervelt

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

Mr. Bitton replied he notice sign was posted and comments were received from staff. He explained that they want to construct a rear addition in line with the existing building walls which are 3 feet from the side lot line.

There were no questions from the members of 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 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 Table 5.1.2 Row 7, for 33 Mercer Street, to permit a 4.2 metre by 6.4 metre (13.92 foot by 21.04 foot) 1½ storey addition to be constructed in line with the existing building walls, 0.88 metres (2.89 feet) from the left side lot line when the By-law requires a minimum side yard of 1.5 metres (4.92 feet), be approved.”

Carried

Application: A-57/12
Owner: 2132338 Ontario Ltd.
Agent: Van Harten Surveying Inc.
Location: 56 Lemon Street
In Attendance: Charles Nash
Jamie Laws

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

Mr. J. Laws replied that the signs were posted and the staff comments were received. He explained the property is on the corner of Lemon and Stuart Streets. He noted there is currently a driveway located where the proposed garage would be built. He explained they are applying for variances for a rear yard setback and depth of the interior garage parking space. He

continued by explaining that they are able to accommodate an interior garage space depth of 5.49 metres and have modified the drawings to illustrate this.

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 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 5.1.2 Row 8 and Section 4.13.3.2.2 of Zoning By-law (1995)-14864, as amended, for 56 Lemon Street, to permit a 4.57 metre by 5.89 metre (14.99 foot by 19.32 foot) attached garage addition:

1. be located 1.15 metres (3.77 feet) from the rear yard property line when the By-law requires a minimum rear yard of 4.63 metres (15.19 feet), and,
2. have within the garage an interior parking space depth of 5.49 metres (18.01 feet) when the By-law requires a minimum interior parking space depth of 6 metres (19.68 feet),

be approved subject to the following condition:

1. That the existing L-shaped private amenity area located in the right side yard shall be maintained and shall not be compromised with further building expansions.”

Carried

Application: A-55/12
Owner: Keith Waechter
Agent: n/a
Location: 21 Maude Lane
In Attendance: Keith Waechter
Lisa Weinberg

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

Mr. K. Waechter replied that the sign was posted and he did receive the comments from staff via email. He explained that he applied for a hot tub permit after the hot tub was installed and then found out the hot tub must be located 5 feet from the property line. He continued by explaining that the existing deck has been built around the hot tub making it almost impossible to move the hot tub.

Committee member R. Funnell questioned if the applicant would be in agreement with a condition that states that the variance will be valid during the life of the existing hot tub. He continued by explaining that if the hot tub is removed or replaced, the new hot tub would then have to be located the required 5 feet from the property lines.

Mr. K. Waechter replied he would need to then also replace the deck to accommodate the new hot tub.

Planner R. Kostyan commented that there is already a concrete pad under the existing hot tub.

Committee member B. Birdsell noted that the Engineering staff has commented on the approved drainage plan for the property and it is recommended the applicant discuss this with the staff.

Planner R. Kostyan commented that the Engineering staff did not have any issues with the drainage but the drainage plan still needs to be finalized. She noted that there is no knowledge of when the grading will be completed and she would like to change Planning staff's condition regarding the 90 day limit to: "...within 60 days of the final grading being completed".

Chair L. McNair commented to the applicant that it was nice to see positive comments from the neighbours but he noted that the letter given to them for signing erroneously mentioned that the hot tub is located 2 feet from the property line.

Mr. K. Waechter explained that it was a typing error on his behalf.

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 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 Section 4.5.5.3 and Table 4.7 Row 1 of Zoning By-law (1995)-14864, as amended, for 21 Maude Lane, to permit:

1. a hot tub to be located 0.3 metres (1 foot) from the left side yard lot line when the By-law requires a minimum setback of 0.6 metres (1.97 feet) from any lot line, and,
2. a 8.4 metre by 6 metre (27.6 foot by 20 foot) deck to be located 0.15 metres (0.5 feet) from the right side yard lot line when the By-law requires a minimum setback of 0.6 metres (1.97 feet) from a side yard lot line,

be approved with the following condition:

1. That a board on board privacy fence be erected, within 60 days of the final grading being completed, at the expense of the owner of 21 Maude Lane, along the left rear side lot line, joining 21 Maude Lane and 23 Maude Lane, to provide privacy screening and to help to reduce the impact of the noise and activity associated with the outdoor hot tub.”

Carried

Application: A-58/12
Owner: 1749351 Ontario Inc.
Agent: Zelinka Priamo Ltd.
Location: 135 Oxford Street
In Attendance: Michelle Doornbosch
Shawn Stevens

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

Ms. M. Doornbosch replied the signs were posted and the staff comments were received. She explained they do have some concerns with the recommendations staff has proposed. She commented that the lands are designated general residential in the Official Plan and the use is permitted. She explained the Ontario Municipal Board determined that the use is an appropriate use of the land. She further explained that the current owner has noticed it has been difficult to manage the apartments and would therefore like to add a unit for an on-site landlord. She explained there is a school around the corner and often the school students are parking their vehicles on the spaces assigned to their tenants. She commented they would

prefer someone to be on site 24 hours per day to manage the building. She explained that as per comments from tenants, there has been no issue with parking and some tenants do not have vehicles. She commented there is no need for visitor parking spaces. She noted that the Planning staff comment regarding 40 spaces required in an apartment zone is not necessary for this property as per the Ontario Municipal Board. She commented that they feel the request is minor in nature and ask that the Committee approve the application.

Committee member R. Funnell advised he had a concern with a past history of the property going to the Ontario Municipal Board.

Ms. M. Doornbosch replied that an adjacent property owner appealed the previous minor variance decision to the Ontario Municipal Board and those issues have been dealt with.

Committee member B. Birdsell asked for clarification on site plan condition from the 2009 decision and if the site plan is still in compliance.

Planner R. Kostyan replied the site is in compliance and will remain in compliance if this variance is approved.

Chair L. McNair questioned if the on-site landlord will be able to encourage the nearby school's students not to park on the property.

Ms. M. Doornbosch replied that there will be opportunity to do this which will be a better procedure to manage the site than what is currently in place.

Planner R. Kostyan explained that in addition to the Zoning By-law, the Official Plan limits the density to 100 units per hectare. She commented that the landlord could possibly occupy one of the existing units or a landlord could be hired to attend the site periodically.

Ms. M. Doornbosch replied that they do not feel the additional unit will cause a negative impact on the neighbourhood or traffic. She commented that the Provincial Policy Statement promotes growth and density.

Chair L. McNair noted, in his opinion, that a 200 square foot unit is very small in size.

Mr. S. Stevens replied it will be a bachelor unit with an open concept kitchen, essentially a small studio.

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

Moved by B. Birdsell and seconded by J. 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 5.4.3.1.13.1 and Table 5.4.2 Row 5 of Zoning By-law (1995)-14864, as amended, for 135 Oxford Street, to add a one bedroom unit in the building to accommodate an on-site landlord creating a total of 28 residential units which results in a density of 114 units/hectare when the By-law permits a senior citizen’s rest home for occupancy by up to 100 senior citizens and staff, and a maximum density of 100 units/hectare, be approved”.

Carried

The meeting adjourned at 5:09 p.m.

L. McNair
Chair

Minna Bunnett, ACST(A)
Assistant Secretary-Treasurer

Kim E. Fairfull, ACST
Secretary Treasurer