

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday May 8, 2012 at 4:00 p.m. in Meeting Room 112, City Hall, with the following members present:

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

Regrets: B. Birdsell

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

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Meeting Minutes

Moved by R. Funnell and seconded by A. Diamond,

“THAT the Minutes from the April 24, 2012 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

The Secretary Treasurer advised that a hearing date has been scheduled for application B-11/12 at 817 Hanlon Road. The application will be heard on Monday July 23, 2012 at 10:30 a.m. at meeting room 112 at City Hall. The application was consent for severance to create a new residential lot and was refused by the Committee.

The Secretary-Treasurer advised three appeals were received from the decisions from the April 24, 2012 meeting. She advised an appeal was received by Barry Martin against the refusal of the off-street parking variance, being Application A-45/12 at 32 Mason Court; for Application A-53/12, being refusal of an off-street parking variance to permit two driveways for 17 Tolton Drive and

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Application A-15/12 being an off-street parking variance for an accessory unit at 106 Clough Crescent. She advised all the files have been forwarded to the Ontario Municipal Board.

Application: B-20/12 and B-21/12

Owner: 1320160 Ontario Inc. (265 Hanlon Creek Boulevard)
Wentrob Holdings (285 Hanlon Creek Boulevard)

Agent: James Fryett Architect, Brian McCulloch

Location: 265 and 285 Hanlon Creek Boulevard

In Attendance: Andrew Anderson

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

Mr. Anderson replied there were two signs which were posted and comments were received from staff. He explained there are two applications being considered for a joint driveway between the two properties to keep the number of driveways to a minimum on both sites. He further noted an easement is being requested over the portion of the right-of-way at 265 Hanlon Creek Boulevard for the benefit of 285 Hanlon Creek Boulevard for maintenance of a sanitary sewer lateral.

There were no questions from the Committee.

Application Number B-20/12

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 a. D. Kelly and seconded by J. Andrews,

“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 right-of-way and easement over Part Block 10, Registered Plan 61M-169, described as Part 2 on draft Reference Plan prepared by Van Harten Surveying Inc., known as project No. 20341-11, dated April 9, 2012, municipally known as 265 Hanlon Creek Boulevard, an easement with a width of 4.5 metres and a depth of 10.4 metres, to be utilized as a mutual access for both 265 and 285 Hanlon Creek Boulevard and for an sanitary sewer easement in favour of 285 Hanlon Creek Boulevard, 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 Building Services and the General Manager/City Engineer, prior to the issuance of a building permit. Furthermore, the owner shall develop the said lands in accordance with the approved site plan.
2. That prior to endorsement of the deeds, the servient tenement (265 Hanlon Creek Boulevard, Part of Block 10, Registered Plan 61M-169), grants a right-of-way and easement approximately 4.50-metres (14.76 feet) wide by approximately 10.40-metres (34.12 feet) long over Part 2, registered on title, in favour of the dominant tenement (285 Hanlon Creek Boulevard, Part of Block 10, Registered Plan 61M-169) for mutual vehicular access and for a sanitary sewer service.
3. That prior to endorsement of the deeds, the owner's solicitor certifies that the right-of-way/easement in favour of the dominant tenement (285 Hanlon Creek Boulevard, Part of Block 10, Registered Plan 61M-169) has been granted and registered on title.
4. That prior to issuance of a building permit, the applicant make satisfactory arrangements with the Technical Services Department of Guelph Hydro Electric Systems Inc. for the possible relocation of the hydro poles that are in conflict with the new driveways. The relocation cost would be at the owner's expense.
5. 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 May 11, 2013.
6. 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.
7. 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.
8. 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.

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. D. Kelly and seconded by J. Andrews,

“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 right-of-way and over Part Block 10, Registered Plan 61M-169, described as Part 1 on draft Reference Plan prepared by Van Harten Surveying Inc., known as project No. 20341-11, dated April 9, 2012, municipally known as 285 Hanlon Creek Boulevard, an easement with a width of 4.5 metres and a depth of 10.4 metres, to be utilized as a mutual access for both 265 and 285 Hanlon Creek Boulevard, 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 Building Services and the General Manager/City Engineer, prior to the issuance of a building permit. Furthermore, the owner shall develop the said lands in accordance with the approved site plan.
2. That prior to endorsonation of the deeds, the servient tenement (285 Hanlon Creek Boulevard, Part of Block 10, Registered Plan 61M-169), grants a right-of-way approximately 4.50-metres (14.76 feet) wide by approximately 10.40-metres (34.12 feet) long over Part 1, registered on title, in favour of the dominant tenement (265 Hanlon Creek Boulevard, Part of Block 10, Registered Plan 61M-169) for mutual vehicular access.
3. That prior to endorsonation of the deeds, the owner’s solicitor certifies that the right-of-way/easement in favour of the dominant tenement (285 Hanlon Creek Boulevard, Part of Block 10, Registered Plan 61M-169) has been granted and registered on title.
4. That prior to issuance of a building permit, the applicant make satisfactory arrangements with the Technical Services Department of Guelph Hydro Electric Systems Inc. for the possible relocation of the hydro poles that are in conflict with the new driveways. The relocation cost would be at the owner’s expense.
5. 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 May 11, 2013.
6. 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.

7. 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.
8. 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-24/12**

Owner: **Walt Kelly Ltd.**

Agent: **Walt Kelly**

Location: **415 Woodlawn Road West**

In Attendance: **Chris Sims**
 Grant Campbell

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

Mr. Sims from Gamsby and Mannerow explained the owner has submitted plans to add gasoline pumps to the site along with an accessory convenience store.

Chair L. McNair noted it appears the owner worked out the concerns with city staff after the deferral of the application.

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

Moved by D. Kelly and seconded by 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 6.4.3.2.2.1 and Table 6.4.2 Row 4 of Zoning By-law (1995)-14864, as amended, for 415 Woodlawn Road West, to construct a 320 square metre (3,500 square foot) convenience store in association with a vehicle gas bar when the By-law allows for a variety of permitted uses but does not permit a convenience store, and to permit the building to be located 3 metres (9.8 feet) from the exterior side yard when the By-law requires a minimum exterior side yard of 6 metres (19.7 feet), be approved, subject to the following condition:

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

Carried

Application: A-62/12
Owner: Penny Graziotto
Agent: n/a
Location: 167 Dufferin Street
In Attendance: John Fabianik
Peter Brimblecombe

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

Mr. Fabianik replied the notice sign was posted and comments were received from staff. He explained they are attempting to repair the existing concrete stoop that is pulling away from the building with a slightly wider porch but it will not extend into the street any further.

There were no questions from the members of the Committee.

Mr. Brimblecombe explained his family owns the property abutting this property. He had no concern about the porch location within the sightline triangle and supported the application for the new porch.

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 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 4.6.1i) and Table 4.7 - Row 1 of Zoning By-law (1995)-14864, as amended, for 167 Dufferin Street, to construct a 3.04 metre by 1.27 metre (4.16 foot by 9.97 foot) uncovered porch, and,

- a) to permit the uncovered porch to be located 0.4 metres (1.31 feet) from the Dufferin Street property line and the proposed stairs to be located 0 metres from the Dufferin Street property line when the By-law requires a minimum setback of 0.8 metres (2.62 feet) from the front property line, and,
- b) to permit the uncovered porch and stairs to be constructed within the corner sightline triangle when the By-law requires no structure be located within the corner sightline triangle,

be approved, subject to the following conditions:

- 1. That prior to the issuance of a building permit, the owner applies to the City Solicitor for an encroachment agreement and obtains approval for the encroachment of a portion of the proposed stairs on the Dufferin Street road allowance and the encroachment of an existing chainlink and post fence on the Clarence Street road allowance; or,
- 2. That prior to the issuance of a building permit, the owner applies to the City Solicitor to have the existing encroachment agreement amended to include the additional encroachment width of the proposed stairs on the Dufferin Street road allowance and the encroachment of an existing chainlink and post fence on the Clarence Street road allowance and obtains approval for the encroachments.”

Carried

Application: A-59/12
Owner: Hugo and Jacqueline Jimenez
Agent: n/a
Location: 302 Metcalfe Street

In Attendance: Hugo Jimenez

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

Mr. Jimenez replied that the sign was posted and comments were received from staff. He explained that when he read the staff comments, he noticed that Planning staff is opposing his application. He further explained that he has noticed that there are other attached garages located beyond the front wall of the house in his neighbourhood. He wished to point out that different variance situations already exist in the vicinity, for example his garage shop is only 14 inches away from the property line. He explained that his main reason for building the addition is due to his family growing and financially this is their only option to create more space. He further explained that the addition will allow for one of the existing bedrooms to become a much needed dining room.

Committee member R. Funnell questioned if there is any merit to defer the application to allow for more dialogue with the staff.

Planner R. Kostyan replied that she would like to see more details on the proposed addition. She explained she has not seen elevation drawings or a floor plan of the first floor. She further explained that if the second storey of the proposed addition is flushed with the first floor below, a variance would not be required for the garage projection. She noted that a setback requirement for an accessory structure, such as the work shop, is only 0.6 metres but an addition must be located a minimum of 1.5 metres from the property line.

Mr. H. Jimenez replied he was not able to do the drawings yet due to financial reasons. He explained that there will be a second storey on top of the garage.

Committee member J. Andrew expressed concern regarding lack of details and how Planning staff was not able to make a complete recommendation due to this.

Committee member D. Kelly commented that, in her opinion, the Committee is not able to make a decision on the application until all the details have been received.

Chair L. McNair commented that the Committee has expressed that they prefer to defer the application in order for the applicant to provide more information on the proposal. He further reminded the applicant that a payment of a deferral fee will be required. He recommended the applicant to provide a written request for the refund of this deferral fee when he returns to the Committee.

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

“THAT Application A-59/12 for Hugo and Jacqueline Jimenez at 302 Metcalfe Street, be deferred sinedie, to provide detailed drawings on the proposal and in

accordance with the Committee's policy on applications deferred sine die, 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-61/12
Owner: William and Karen Kozak
Agent: n/a
Location: 10 Clough
In attendance: William Kozak
Karen Kozak

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

Mr. W. Kozak replied they did post the sign and they also received the staff comments. He explained they applied for a variance to keep an extension of their driveway which he considers to be a sidewalk. He further explained that they own a large truck and their neighbour owns a van. He commented that due to them sharing the driveway, it is often difficult to get to the front door. He noted that his sister-in-law has MS and she needs assistance to get to the front door. He explained he expanded the driveway width by placing four 10 inch cement blocks in a row along the asphalt driveway to make it easier for snow removal. He further explained that the neighbour often leaves either the back or front end of their vehicle on his side of the driveway and the extension would solve that problem.

Committee member D. Kelly questioned whether the City staff can address the problem with the neighbour encroaching onto the applicant's side of the driveway.

Planner R. Kostyan replied that this is a discussion the owner needs to have with the neighbour.

Committee member A. Diamond questioned staff whether the extension would have enough room for two cars being parked side by side.

Planner R. Kostyan replied that there is not quite enough room for two, as per the minimum dimensions given in the Zoning By-law, but when a City inspector drove by the property, there were two cars parked side by side. She commented that if two vehicles can fit side by side, there should not be a problem with parking of one vehicle.

Mr. W. Kozak replied that their purpose was not to park two vehicles side by side.

Planner R. Kostyan explained that the walkway is permitted as long as it is not being used for parking.

Committee member D. Kelly commented that staff has indicated that if the applicant is only using the walkway for walking, he is entitled to do so. She continued by clarifying that the variance applied for is for using the walkway for parking. She commented that if the walkway is not being used for parking, the variance is not required.

Planner R. Kostyan explained that the driveway is permitted to be as wide as the garage. She further explained that if the owner would like to keep parking on the cement walkway, staff could not support the variance.

Committee member J. Hillen questioned that since the walkway can remain if not used for parking, does the owner need more asphalted driveway to fit his vehicles.

Mr. W. Kozak explained that when you open the door of a vehicle to get out, there is no room to step out except on the grass or the snow.

Planner R. Kostyan clarified that there has been evidence of parked vehicles on the walkway and on the grass. She further clarified that the vehicles can be parked on the asphalted area only.

Mr. W. Kozak replied that 99% of the time there is no vehicle parked on the walkway but it does happen occasionally.

Chair L. McNair questioned whether there is a need to have a variance for the asphalted area of the driveway being wider than 2.89 metres.

Planner R. Kostyan clarified that the driveway is allowed up to the edge of the outside walls of the garage and noted the existing asphalt driveway does not extend beyond the outside walls of the garage.

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

Moved by D. Kelly and seconded by 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 5.3.2.8 of Zoning By-law

(1995)-14864, as amended, for 10 Clough Crescent, to permit a driveway width of 4.76 metres (15.61 feet) when the By-law requires that the front yard on any lot, excepting the driveway, shall be landscaped and no parking shall be permitted within this landscaped open space and that the driveway width shall not exceed the garage width of the unit, as measured from the outside walls of the garage, be refused.

Reasons for refusal being:

1. The variance does not meet the intent of the Zoning By-law,
2. The variance would create a negative impact on the community, and,
3. The variance is not minor in nature.”

Carried.

Application: **A-60/12**

Owner: **Daria and Grant Broeckel**

Agent: **D and A Home Renovations, Eric Bosse**

Location: **314 Paisley Road**

In Attendance: **Eric Bosse**

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

Mr.E. Bosse replied that the sign was posted and he did receive the staff comments. He explained that currently there is an existing staircase leading to the second floor. He further explained that the stairs have not been built according to the Ontario Building Code regulations and must be rebuilt. He commented that an engineer who designed the new stairs moved the posts back as far as possible trying not to encroach on the parking spaces. He further commented that they considered building the stairs at the back of the dwelling but this was not feasible.

Chair L. McNair questioned if the driveway depth is a requirement due to regulations for an accessory apartment.

Mr. E. Bosse replied that this is correct.

Committee member D. Kelly questioned staff how many units currently exist in the dwelling.

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Planner R. Kostyan replied that the property has a legal non-conforming status for two units. She explained that the accessory apartment on the second floor was approved with two required parking spaces in 2003. She further explained that after an inspection the staff noticed a third unit in the basement which is not permitted.

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. Andrew 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 4.13.3.2.2 of Zoning By-law (1995)-14864, as amended, for 314 Paisley Road, to construct exterior stairs leading to the accessory apartment on the second level resulting in the second exterior parking space (behind the main wall of the dwelling) to have a depth of 4.5 metres (14.77 feet) when the By-law requires a minimum exterior parking space depth of 5.5 metres (18.04 feet),

be approved subject to the following condition:

1. That the existing basement kitchen along with cabinets be removed within 30 days of the decision.”

Carried

The meeting adjourned at 5:03 p.m.

L. McNair
Chair

Minna Bunnnett, ACST(A)
Assistant Secretary-Treasurer

Kim E. Fairfull, ACST
Secretary-Treasurer