

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday July 10, 2012 at 4:00 p.m. in Meeting Room 112, City Hall, with the following members present:

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

Regrets: A. Diamond

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

Declarations of Pecuniary Interest

Committee member J. Hillen declared a pecuniary interest for Application A-86/12 for 1467 Gordon Street as the applicant is a client.

Committee member B. Birdsell declared a pecuniary interest for Application B-28/12 at 7 Edinburgh Road, South.

Meeting Minutes

Moved by R. Funnell seconded by D. Kelly,

“THAT the Minutes from the June 26, 2012 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

There were no items to report.

Application: B-29/12

Owner: 1320160 Ontario Inc.

Agent: Andrew Anderson

Location: 265 Hanlon Creek Boulevard

In Attendance: Andrew Anderson

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

Mr. Anderson replied the notice sign was posted and comments were received from staff. He explained application is for an easement across the frontage of the property to allow for sanitary sewer connection for the neighbouring property.

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 D. Kelly,

“THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for an easement over Part Block 10, Registered Plan 61M-169, municipally known as 265 Hanlon Creek Boulevard, an easement with a width of 70 metres (229.65 feet) and a depth of 6 metres (19.68 feet) as described on Consent Sketch dated June 15, 2012 and prepared by Van Harten Surveying Inc., to protect a sanitary sewer lateral serving 245 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 endorsation of the deeds, the servient tenement (265 Hanlon Creek Boulevard, Parts 2 and 3 of Reference Plan 61R-11661, Part of Block 10, Registered Plan 61M-169), grants an easement approximately 70.0-metres (229.66 feet) and a depth of approximately 6.0-metres (19.69 feet), registered on title, in favour of the

dominant tenement (245 Hanlon Creek Boulevard, Parts 4, 5 and 6 of Reference Plan 61R-11661, Part of Block 10 and Part of Block 11, Registered Plan 61M-169) for a sanitary sewer service.

3. That prior to endorsation of the deeds, the owner's solicitor certifies that the easement in favour of the dominant tenement (245 Hanlon Creek Boulevard, Parts 4, 5 and 6 of Reference Plan 61R-11661, Part of Block 10 and Part of Block 11, Registered Plan 61M-169) has been granted and registered on title.
4. That prior to endorsation of the deeds, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying the easement.
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 July 13, 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.

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

Application: B-28/12

Owner: Granite Holdings Ontario Limited / Canadian National Railway

Agent: Smith Valeriote Law Firm, John Valeriote

Location: 7 Edinburgh Road South

In Attendance: John Valeriote

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

Mr. Valeriote replied the notice signs were posted and comments were received from staff. He explained he represented the Canadian National Railway and his clients have purchased the property which historically contained the CNR sheds. He noted there is a 15 year agreement to allow the encroachment, however the new owner and CNR have agreed to register a perpetual agreement which requires consent.

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 J. Andrews and seconded by R. Funnell,

“THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for an easement over Part Lot 12, Division ‘A’, municipally known as 7 Edinburgh Road South, an easement with an area of 358 square metres (3,853.47 square feet), shown as Part 1 on a Sketch Prepared for Consent Application by Black, Shoemaker, Robinson and Donaldson, dated May 17, 2012, to provide a permanent easement for the encroachment of portions of a roofed concrete loading dock, paved ramp and brick building, be approved, subject to the following conditions:

1. That prior to endorsation of the deeds, the servient tenement (Railway Lands, Proposed Part 2, Part 1 on Reference Plan 61R-8687 and Part of Lots 2 and 3, Division “A”), grants a permanent easement (Proposed Part 1) with a width of approximately 2.840-metres (9.84 feet) to approximately 2.990-metres (9.81 feet) by approximately 18.525-metres (60.78 feet), and a width of approximately 2.990-metres (9.81 feet) to approximately 3.113-metres (10.21 feet) by a depth of approximately 60.144-metres (197.32 feet), for the encroachment of portions of a roofed concrete loading dock, concrete block and brick building and a paved ramp, registered on title, in favour of the dominant tenement (7 Edinburgh Road, South, Proposed Part 3, Parts 2 and 3 on Reference Plan 61R-8687 and Part 1 on Reference Plan 61R-11658 and Part of Lots 2 and 3, Division “A” and Lots A & B of Registered Plan 224).
2. That prior to endorsation of the deeds, the owner shall have an Ontario Land

Surveyor prepare a reference plan identifying the permanent easement.

3. That prior to endorsement of the deeds, the owner's solicitor certifies that the easement in favour of the dominant tenement (7 Edinburgh Road, South, Proposed Part 3, Parts 2 and 3 on Reference Plan 61R-8687 and Part 1 on Reference Plan 61R-11658 and Part of Lots 2 and 3, Division "A" and Lots A & B of Registered Plan 224) has been granted and registered on title, in perpetuity.
4. That the encroachment be no larger than 358 square metres, as set out in the encroachment agreement entered into between the applicant and the Canadian National Railway Company.
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 July 13, 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

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

Application: **A-84/12**

Owner: **Shargar Real Estate Inc.**

Agent: **Smith Valeriote Law Firm, John Valeriote**

Location: 581 Woolwich Street

In Attendance: John Valeriote
Ben Bryce
Kevin Thompson
Beth Finnis
Jim McGregor
Vickie Weiler

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

Mr. Valeriote replied the notice sign was posted and comments were received from staff. He distributed handout to the Committee members for review. He explained he represented Vickie Weiler who is a naturopathic doctor who would like to purchase the property and operate her practice with Stephen Opsinger who is an athletic therapist and reside in the residential unit. He noted the property has operated as an insurance office since 1975. He provided background on the requirements in the By-law respecting parking requirements for a medical office and argued the proposed uses are not as intensive as a medical doctor or dentist. He noted there will be herself, her partner and a receptionist as the only staff in the practice. He explained she will see a maximum of 10-15 patients/day as most appointments are ½ hour to 1 hour long. He addressed the matters to be had regard to in the Planning Act respecting adverse impact and desirability with the properties fronting on Woolwich Street comprised of residential and commercial businesses. He provided details of medical related business along Woolwich Street and identified the lack of parking provided for them. He advised they have reviewed the recommendations from Planning Services and agreed with the recommendations. With respect to the concerns from neighbours, he noted there has been an office located in the building for many years with no parking concerns and noted residents can petition the municipality to restrict on-street parking on the street.

Committee member B. Birdsell questioned if there was the sale of supplements in association with the practice.

Ms. Weiler replied she sells supplements to her patients.

Chair L. McNair questioned if the parking would comply if medical doctor wanted to locate in the building.

Planner M. Witmer replied 1 practitioner and a residential unit would require 8 parking spaces. He noted two off-street parking spaces are located in the Mac Avenue setback area.

Chair L. McNair questioned if a massage therapist is considered a medical office in the definition of a medical office.

Planner R. Kostyan replied a massage therapist would be a medical office as they are a licensed practitioner.

Jim McGregor explained he has operated a business in the building since 1975 with 1,000+ customer list and there has been no parking problems associated with the business.

Ms. B. Innis a resident of Mac Avenue expressed concerns about parking on Mac Avenue and the possibility of more cars requiring on-street parking with two practitioners in the building. She advised she did not support the request and felt it was not minor.

The Committee members discussed conditions which would be included in any recommendation which could address the concerns of Ms. Innes.

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 4.13.2.3 and 4.13.4.2 of Zoning By-law (1995)-14864, as amended, for 581 Woolwich Street, to establish a medical clinic (with two licensed practitioners) with one residential unit, and

- a) to permit a total of eight off-street parking spaces in the rear yard when the By-law requires that seven off-street parking spaces be provided for every practitioner and one off-street parking space be provided for the residential unit (total of 15 off-street parking spaces are required), and
- b) to permit two off-street parking spaces be located 2 metres (7.87 feet) from Mac Avenue property line when the By-law requires that no part of a parking space be located closer than 3 metres (9.84 feet) to any street line (Mac Avenue),

be approved, subject to the following conditions:

1. That the medical office use be limited to either/or two (2) licensed practitioners (naturopath/athletic therapist).
2. That parking be demarcated as per the site plan submitted with Application A-84/12, prior to occupancy.

3. That the applicant take steps to encourage clients to park in the parking lot associated with the practice.”

Carried

Application: A-87/12

Owner: Maple Key Management Ltd.

Agent: Black, Shoemaker, Robinson and Donaldson, Nancy Shoemaker

Location: 30 Edinburgh Road North

In Attendance: Bob Mason
MaryPat Garton
Sarah and Ryan Tackaberry
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.

Nancy Shoemaker replied the notice sign was posted and comments were received from staff. She explained the plaza was originally built as an industrial mall plaza which has evolved to include other commercial type uses. She noted the owner has interest from 4 message therapists who are classified as medical practitioners. She noted there will be four rooms for message which will be utilized by full/part-time practitioners. She noted the plaza has an abundance of parking and meets the requirements for the uses requested. She explained when they met with staff to discuss the application it was recommended a variance be obtained for the new Champions Choice relocation to the plaza. She noted they manufacture and assemble trophies and provide engraving services, however there is also a retail component to the business.

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 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 Sections 7.1.3.1 and 7.3.4.14.1 of Zoning By-law (1995)-14864, as amended, for 30 Edinburgh Road North,

- a) to permit a 90 square metre (969 square foot) retail establishment in Unit C when the By-law permits a variety of uses but does not permit a retail establishment, and
- b) to permit 133 square metre (1431 square foot) medical clinic in Unit B2 when the By-law permits a variety of uses but does not permit a medical clinic,

be approved, subject to the following conditions:

1. That the retail establishment (trophy store) be limited to 90 square metres (969 square feet).
2. That the medical clinic be limited to four (4) practitioners at any one time.
3. That the floor area for the medical clinic be limited to 133 square metres (1431 square feet)."

Carried

Committee member J. Hillen, having declared a pecuniary interest for the next application, left the room.

Application: A-86/12
Owner: Mar-Cot Developments
Agent: BJC Architects Inc., Jeff Hillen
Location: 1467 Gordon Street
In Attendance: Mario Cotroneo

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

Mr. Cotroneo replied the notice sign was posted and comments were received from staff. He explained they have not been able to lease the second floor of the building. He noted they currently have interest to establish a medical office on the vacant second floor.

Having considered whether or not the variance(s) requested are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this

application has met the requirements of Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by D. Kelly seconded by 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 Sections 6.1.3.25.1 and Section 6.1.1 of Zoning By-law (1995)-14864, as amended, for 1467 Gordon Street, to permit a 144 square metre (1,550 square foot) physiotherapist’s office (medical office) on the second floor when the By-law permits a variety of uses but does not permit a medical office, be approved, subject to the following conditions:

1. That the medical office be limited to one (1) practitioner.
2. That the floor area for the medical office be limited to 144 square metres (1550 square feet).
3. That the medical office be located on the second storey.”

Carried.

Committee member J. Hillen was summoned back to the room.

Application: B-27/12 and A-90/12
Owner: Dean and LeaAnne Goods
Agent: n/a
Location: Albert Street
In Attendance: Dean Goods
LeaAnne Goods
Roy Allingham

The Secretary-Treasurer advised the applicant has submitted a written request for refund of application fees.

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

Mr. Goods replied the notice sign was posted and comments were received from staff. He noted he was before the Committee for a severance a few months back however the lot

frontage requested was incorrect. He noted staff has expressed concerns related to the revised sketch. He addressed the recommended conditions and questioned why the driveway could not be moved to the other side of the lot.

Planner M. Witmer explained to the Committee that if the driveway was located on the western portion of the severed parcel it will impact the large tree located on the City's road allowance. He noted they have involved the City's arborist to provide advice on how to retain the tree. He noted if a driveway is installed in that area of the lot, the top will become impervious and will influence the tree. He noted the minimum 4 metre setback recommended also may affect the tree however they will rely on the advice of the arborist.

Planner R. Kostyan noted that the recommendation for a 4 metre setback is a recommendation only. She expressed concern there was information missing from the drawings. She noted the chimney stack on the existing structure is not shown which could affect the driveway width for the retained parcel. She further noted a 0.5 metre landscaped strip has not been identified which will require a variance if there are no plans to implement it.

Mr. Good agreed to meet with the surveyor to provide another drawing for review.

Mr. Roy Allingham who resides at the corner of Albert and Mary Street expressed concern about the recommended driveway location. He requested the Committee more flexibility so the tree roots are not affected.

Planner R. Kostyan noted that in light of the tree location which was not on the original severance sketch, staff have removed the condition regarding minimum setback. She noted the determined setback will be contingent on the arborist's expertise.

Planner M. Witmer noted staff must consider to elements respecting the setback of the new dwelling – whether it will be consistent with the setbacks along the street and taking into account the protection of the existing City tree.

After discussion, the Committee determined all information should be submitted to staff for review and for the Committee to review prior to any decisions being made.

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

“THAT Applications B-14/12 and A-90/12 for Dean and LeaAnne Goods at 58 Albert Street, be deferred sinedie, and in accordance with the Committee's policy on applications deferred sinedie, that the applications will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application.”

Carried.

July 10, 2012 C of A Minutes

Committee members J. Andrews and D. Kelly left the meeting at 5:35 p.m.

Application: **A-88/12**

Owner: **Karen Izenberg and Shael Weinberg**

Agent: **n/a**

Location: **52 Lyon Avenue**

In Attendance: **Karen Izenberg**

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

Ms. K. Izenberg replied that she did post the sign and she also received the staff comments. She explained that they have an existing garage they would like to demolish and they are asking for a one foot setback variance from the side yard and the rear yard to be able to build a new garage.

Committee member R. Funnel questioned whether the new garage could be moved forward in order to comply with the 2 foot requirement at the rear.

Ms. K. Izenberg replied that the new garage will be moved slightly forward but to be able to fit a vehicle, the garage needs to be deeper. She explained that the location of their house will interfere with their options.

Committee member B. Birdsell questioned whether, during excavation, they must encroach onto the neighbour's property.

Ms. K. Izenberg replied that she is not aware of the construction details. She explained that the existing garage is already very close to the property line and the new garage will be placed on the same location.

Chair L. McNair questioned whether the board fence is on their property or the neighbour's.

Ms. K. Izenberg replied that she believes the fence is on the property line but the intent is to take the fence down.

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. 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 4.5.1.2 of Zoning By-law (1995)-14864, as amended, for 52 Lyon Avenue, to permit an 4.1 metre by 6.7 metre (13.5 foot by 22 foot) detached garage to be located 0.3 metres (1 foot) from the rear yard property line and from the right rear side property line when the By-law requires that accessory buildings or structures shall be located a minimum of 0.6 metres (1.96 feet) from any lot line, be approved.”

Carried

Committee member D. Kelly returned to the meeting at 5:52 p.m.

Application: **A-83/12**

Owner: **Leo Bareis and Glynis Logue**

Agent: **n/a**

Location: **64 Durham Street**

In Attendance: **Leo Bareis**
 Glynis Logue
 Stephanie Craig
 Jim Gerrard

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

Ms. G. Logue replied that she did post the sign and the staff comments were received. She explained that they bought the property a few years ago and are now hoping to increase the size of the existing garage. She also explained that the entry to the existing garage does not meet the requirements for their needs. She commented that they received feedback from City staff and they modified the proposal to try to minimize any concerns. She noted that the proposal is in keeping with the four tests of the Planning Act; the total area of the garage is secondary when compared to the floor area of their main building and they are leaving ample room for amenity space. She commented that the garage will not exceed the Zoning By-law requirement of 70 square metres. She explained that the attic was added to increase storage space. She continued by noting that they have signed a letter indicating that the building will

not be used for human habitation. She also explained that the height would be lower than any of the houses surrounding them and that they are not demolishing the old garage but are expending it forward and upward. She further commented that their neighbours have been supportive of them improving the existing garage. She noted that they have already talked to an arborist regarding pruning an existing tree to accommodate the enlarged garage.

Committee member B. Birdsell questioned whether the eaves would overhang the property line.

Mr. J. Gerrard replied that the existing roof is already overhanging but that they are trying to keep the encroachment as minimal as possible.

Ms. G. Logue explained that they are not changing the exterior walls of the existing garage.

Committee member J. Hillen commented that it is not recommended to encroach onto the neighbouring properties.

Planner R. Kostyan commented that if the encroachment is a concern, an agreement could be registered on title describing it.

Committee member B. Birdsell questioned if the neighbours at the rear of the property are supportive of the proposal.

Mr. L. Bareis replied that they are supportive of the proposal.

Committee member D. Kelly commented that, in her opinion, it is difficult to support the application when any maintaining of the garage must be done by stepping on the neighbouring property. She continued by commenting that the current neighbours might be supportive at the moment but by approving the variances, it would create a permanent situation.

Secretary-Treasurer K. Fairfull informed the Committee that in the past applications have been approved accompanied by an access easement which makes it possible to maintain the building.

Chair L. McNair commented that perhaps an access easement for maintenance is required and also an encroachment agreement.

Committee member D. Kelly commented that she feels reluctant to approve an application where different agreements are required for a creation of a new structure.

Committee member J. Hillen questioned whether there high roof is necessary.

Mr. L. Bareis replied that the roof height is critical due to the storage space required.

Committee member R. Funnell questioned whether the addition towards the front of the garage is necessary.

Ms. G. Logue replied that the addition has been designed to be as small as possible but it is required.

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 D. Kelly,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Sections 4.5.1.1, 4.5.1.2 and 4.5.2.1 of Zoning By-law (1995)-14864, as amended, for 64 Durham Street, to permit a 15.6 square foot (168.1 square foot) addition to the existing garage in the rear yard and:

- a) to permit the detached garage to occupy 37.7% of the rear yard when the By-law requires that no more than 30% of the yard is occupied by an accessory structure;
- b) to permit the detached garage to be located 0.09 metres (0.3 feet) from the right side lot line when the By-law requires that any accessory structure be located a minimum of 0.6 metres (1.97 feet) from any lot line, and,
- c) to permit the detached garage to have a height of 5.08 metres (16.66 feet) when the By-law requires that any accessory structure shall not exceed a height of 3.6 metres (11.81 feet) as measured from the mid-point between the eave and the ridge, be refused.”

Carried

When questioned by the applicant the reasons for refusal, the Committee provided a response.

Application: A-89/12
Owner: Roger and Kimberley King
Agent: n/a
Location: 12 Wilton Road

In Attendance: **Kim King**
 Roger Kim
 Beatrice Head

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

Ms. K. King replied that the sign was posted and she also received the staff comments. She explained that she is proposing to build a deck platform to be able to access a side door which leads to the basement.

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. 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 4.7 Row 1 of Zoning By-law (1995)-14864, as amended, for 12 Wilton Road, to permit a 0.9 metre by 5.4 metre (3 foot by 17.75 foot) deck to be located 0.29 metres (0.96 feet) from the left side yard property line when the By-law requires that the minimum setback for an uncovered deck from a side yard lot line be 0.6 metres (1.96 feet), be approved.”

Carried

Application: **A-91/12**

Owner: **Dennis Kim and Mary Cameron**

Agent: **Betz Pools, Carol-Ann Betz**

Location: **65 Maple Street**

In Attendance: **Mary Cameron**

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. Cameron replied that she did post the sign and the staff comments were received. She explained that they live in an 1860 century stone house in the down town area on a lot which

has several mature trees. She further explained that they are hoping to install a swimming pool in the front yard. She commented that they are asking for a deferral so that an assessment can be done on the existing trees and she can also have a discussion with Heritage Guelph regarding their proposal.

Planner M. Witmer commented that the City's Environmental Planner will be conducting an inspection of the property.

Ms. M. Cameron noted that she understands there will be a payment of the deferral fee required and she would like to ask for a relief of the payment of those fees.

Committee member R. Funnell advised the applicant to contact staff for details on the request.

Moved by J. Hillen and seconded by D. Kelly,

"THAT Application A-91/12 for Dennis Kim and Mary Cameron at 65 Maple Street, be deferred sinedie, to allow the owner to meet with staff to address their concerns and in accordance with the Committee's policy on applications deferred sinedie, that the applications will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application."

Carried

Application: **A-85/12**

Owner: **Kim Benham**

Agent: **n/a**

Location: **34 Nottingham Street**

In Attendance: **Kim Benham**
 John Cox
 John Romeo
 Randy Lovegrove

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

Ms. K. Benham replied that the sign was posted and the staff comments received.

Mr. J. Cox explained the history of the property. He further explained that when the current owner purchased the property in 2007, the front deck existed as well as the accessory

apartment in the basement. He noted that there was an existing retaining wall at the front yard which was removed because it was leaning towards the neighbouring property. He commented that they are asking for parking variances mainly in order for the owner to be able to provide the required parking for the accessory apartment. He explained that they are proposing to re-build a small deck in front of the front door which will accommodate a slightly larger parking space. He further explained that if the Committee considers the size of the lot, the driveway width variance is in keeping with the intent of the Zoning By-law regulations and is in keeping with the surrounding neighbourhood. He commented that an encroachment agreement with the City would allow two of the parking spaces to encroach onto the City road allowance. He noted that the boulevard extends over 7 metres from the sidewalk to the lot line which leaves ample room for parking. He explained that the application is minor in nature, is a desirable use of the property, meets the intent of the Zoning By-law and through the intensification policies also meets the intent of the Official Plan.

Committee member D. Kelly commented that the zoning staff comments indicate that this application is a result of a complaint regarding drainage issues and driveway and also that the accessory apartment was created without building permit.

Mr. R. Lovegrove explained that they are working with City staff to correct the retaining wall and drainage issues. He further explained that while discussing the situation with City staff, they disclosed the fact that there was an apartment in the basement.

Mr. J. Cox noted that they would be in agreement to add a condition that the City must approve the drainage and retaining wall.

Committee member D. Kelly commented that she does not believe the request to widen the driveway to 51.28% of the front yard is reasonable when only 40% is allowed. She noted that it is not desirable or appropriate and would create a negative impact especially on the neighbour.

Planner R. Kostyan reminded the Committee that the applicant is also asking for an approval to park on the City right-of-way.

Secretary-Treasurer K. Fairfull commented that the previous owner, who was disabled, received approvals for a minor variance for the location of a wheelchair ramp leading to the front door. She continued by noting that an agreement, registered on title, stated that once the property changes ownership, the access ramp must be removed.

Committee member J. Hillen commented that he feels that the application needs to be divided in two.

Decision 1 of 2

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 D. Kelly,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Sections 4.13.2.1 and 4.13.3.2.2 of Zoning By-law (1995)-14864, as amended, for 34 Nottingham Street:

- a) to permit 4.43 metres (14.53 feet) of the legal off-street parking space to be located to the rear of the front wall of the building [1.07 metres (3.51 feet) of the parking space would project ahead of the main front building wall] when the By-law requires that the legal off-street parking space with a minimum depth of 5.5 metres (19 feet) be located to the rear of the front wall of the main building;
- b) to permit the legal off-street parking space to be located 2.07 metres (6.79 feet) from the street property line when the By-law requires that the legal off-street parking space be located a minimum of 6 metres (19.68 feet) from the street property line;

be approved.”

Carried

Decision 2 of 2

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 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 and Table 5.12 Row 12 of Zoning By-law (1995)-14864, as amended, for 34 Nottingham Street:

- a) to permit three off-street parking spaces, with two of the off-street parking spaces having a depth of 2.07 metres (6.79 feet) when the By-law requires a minimum three off-street parking spaces be provided on the property for the host dwelling and an accessory unit with the required parking spaces having a minimum width of

2.5 metres (8.2 feet) and a minimum depth of 5.5 metres (18 feet), [the remaining depth of 3.43 metres (11.25 foot) would project in the Nottingham Street road allowance] and,

- b) to permit the driveway to occupy 51.28% of the front yard [5 metre (16.4 foot) driveway] when the By-law requires that the driveway shall not constitute more than 40% of the front yard [3.9 metres (12.79 feet)],

be refused.

Reasons for refusal being:

1. The variance requests are not reasonable or desirable for the neighbourhood,
2. The variance requests do not meet the intent of the Zoning By-law, and,
3. The variance requests are not minor in nature. “

Carried

The meeting adjourned at 7:04 p.m.

L. McNair
Chair

Minna Bunnett, ACST(A)
Assistant Secretary-Treasurer

Kim Fairfull, ACST
Secretary-Treasurer