

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday September 10, 2013 at 4:00 p.m. in Meeting Room 112, City Hall, with the following members present:

D. Kelly, Chair
R. Funnell, Vice-Chair
C. Downer
L. McNair

Regrets: B. Birdsell
A. Diamond
J. Hillen

Staff Present: M. Witmer, Planner
M. Bunnett, Acting Secretary-Treasurer

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Meeting Minutes

Moved by L. McNair and seconded by R. Funnell,

“THAT the Minutes from the August 13, 2013 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

Appointment of Acting Secretary-Treasurer

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

“THAT Assistant Secretary-Treasurer, Minna Bunnett, be hereby appointed as Acting Secretary-Treasurer pursuant to ss.44(8) of the Planning Act, (R.S.O) 1990, c. P-13; AND that any such previous appointments are revoked.”

Carried

The Acting Secretary-Treasurer advised that a decision was received from the Ontario Municipal Board for Application A-46/13 at 310 Cole Road. She noted the Board allowed the appeal and the minor variance for off-street parking was approved.

Application: A-52/13
Owner: Armel Corporation Inc.
Agent: B.A.R.A. Consulting, Brian Atkins
Location: 612 Speedvale Avenue West
In Attendance: Rob McTaggart
Brian Atkins

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

Mr. B. Atkins replied the sign was posted and the staff comments were received. He explained that they are asking for a deferral due to fact that engineering wants to sort out what is going on to the properties to the east of the subject property. He further explained that the owner has agreements with the City of Guelph regarding services which have not yet been completed. He noted that a meeting has been scheduled for this Friday to finalize the items outstanding.

Chair D. Kelly questioned the requirement of the length of time needed for the deferral.

Mr. B. Atkins replied that two months should be enough of time.

Committee member L. McNair commented that he proposes to defer the application sine die to ensure the applicant has enough time.

Moved by L. McNair and seconded by R. Funnell,

“THAT Application A-52/13 for Armel Corporation at 612 Speedvale Avenue West, be deferred sinedie, to provide the applicant an opportunity to finalize deficiencies with the existing site plan 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: **B-50/13**

Owner: **Jessica Holt-Schaffer**

Agent: **Shane and Bonnie Swantek**

Location: **189 Dufferin Street**

In Attendance: **Shane Swantek**
 Bonnie Swantek

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. Swantek replied that the sign was posted and the staff comments were received. He was available for any questions.

There were no questions from the members of the Committee.

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 R. Funnell 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, consent for severance of Part Lot 36, Registered Plan 215, municipally known as 189 Dufferin Street, an irregular parcel with a width of 39.9 metres, a depth of 36.0 metres and an area of 1,339 square metres, as a lot addition to the rear of 195 Dufferin Street, be approved,

subject to the following conditions:

1. That the proposed severed parcel of land be conveyed to the abutting owner 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 the owner shall remove the existing sheds from the proposed severed lands, prior to endorsement of the deeds.
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 September 13, 2014.
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: A-102/13

Owner: Herbertco Projects Ltd.

Agent: Dan Williams

Location: 688 Woolwich Street

In Attendance: Dan Williams

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

Mr. D. Williams replied the sign was posted and the staff comments were received. He briefly described his application and the necessity of relocating the garbage containers.

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 C. Downer 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 Section 4.13.4.2 of Zoning By-law (1995)-14864, as amended, for 688 Woolwich Street, for relocation of a garbage container to the rear yard, to permit a total of 17 off-street parking spaces when the By-law requires 1 parking space for every 14 square metres of gross floor area (total of 19 spaces required), be approved,

subject to the following condition:

1. An enclosure be constructed that is generally in keeping with the garbage enclosure approved through application SP09C018 in October 2009 to visually screen the garbage bins in the proposed location.”

Carried

Application: B-30/12
Owner: Nosam Properties Ltd.
Agent: Van Harten Surveying Inc.; Jeff Buisman
Location: 24, 26/28 Douglas Street
In Attendance: Paul Magahay

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

Mr. P. Magahay replied the sign was posted and the staff comments were received. He explained that they are asking for a deferral of the complicated application. He further explained that they received new staff comments that they have to address relating to the party wall situation. He requested the Committee to defer the application sine die.

There were no questions from the members of the Committee.

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

“THAT Application B-30/12 for Nosam Properties Ltd. at 24, 26/28 Douglas Street, be deferred sinedie, to provide the applicant additional time to finalize items of concern 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-103/13**
Owner: **Gemini Homebuilders**
Agent: **Van Harten Surveying Inc., Paul Magahay**
Location: **446 Starwood Drive**
In Attendance: **Paul Magahay**

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

Mr. P. Magahay replied the sign was posted and the staff comments were received. He explained that in any new development, City staff has previously allowed to establish model homes. He noted that they have no problems with the conditions proposed.

Committee member L. McNair questioned how many living units will be built in the subdivision.

Mr. P. Magahay replied that he does not have the files with him and cannot confirm the number.

Committee member L. McNair commented that 5 years seems a long time.

Mr. P. Magahay replied that historically 3 years has been enough of time to display a model home. He commented that the sales office will be removed as soon as the builder wishes to sell the unit.

Committee member L. McNair commented that he has a concern with the model home staying in the subdivision after all the dwellings have been sold and the model home being used to sell dwellings in other subdivisions.

Planner M. Witmer replied that the standard policy for model homes is to limit the length of time to 5 years. He agreed with the concern that model homes are sometimes used for selling units in different subdivisions. He continued by stating that staff has no problem with 5 years.

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 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 4.13.2.1 and 5.2.1 of Zoning By-law (1995)-14864, as amended, for 446 Starwood Drive, to permit a model home/sales office on the property with the sales office occupying the required off-street parking spaces for both units when the By-law permits residential units only on the property and the By-law requires the off-street parking spaces to be located a minimum of 6 metres from the street property line and to the rear of the main front wall of the building, be approved,

subject to the following conditions:

1. That the subject minor variance shall only be valid for a maximum of 5 years from the date the decision is final or until such time as there is a transfer of lease/title to any subsequent owner(s) for either unit of the semi-detached dwelling, whichever occurs first,
2. That prior to the issuance of a residential occupancy permit for either unit in the semi-detached dwelling, the temporary sales office be restored to two separate garages, each with a legal parking space, and
3. That the sales office within the garage be removed and the garage restored to accommodate a 3 metre by 6 metre parking space from the date the decision is final or until such time as there is a transfer of lease/title to any subsequent owner(s) for either unit of the semi-detached dwelling; or within 5 years of the issuance of the building permit or prior to the issuance of a residential occupancy permit for either unit in the semi-detached dwelling, whichever occurs first.”

Carried

Application: A-18/13
Owner: Nathan and Alisha Brousse
Agent: n/a
Location: 75 Creighton Avenue
In Attendance: Nathan Brousse

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

Mr. N. Brousse replied the sign was posted and the staff comments were received. He explained that engineering had a concern with the drainage and they fixed that by removing part of the deck.

Planner M. Witmer advised the committee that Planning Services is recommending deleting their condition and keeping the Zoning and Permit Administrators condition. He explained that the condition reflect the necessity to have an 8'2" high fence in the rear yard for privacy. He also explained that there is no concern with privacy to the rear of the property but on the side yard where there is a neighbour.

Mr. N. Brousse commented that the neighbour has indicated they have no problem with the privacy.

Chair D. Kelly explained the condition details to the applicant.

Committee member L. McNair commented that a 0.025 metre distance from the property line would be better than 0 metres in case things settle.

Mr. N. Brousse explained that he did not wish to have a gap in between the fence and deck to avoid accidents, specifically a child falling in between.

Planner M. Witmer commented that Engineering Services has confirmed that the section cut back is adequate for drainage. He explained that the rest of the deck is at 0 metre setback.

Chair D. Kelly commented that the other compromise is to move the deck.

Committee member L. McNair proposed to add a condition for the deck to be located 0.025 metres off the side yard lot line if it is re-built. He continued by questioning if there is a fence currently in the side yard.

Mr. N. Brousse replied that he shares a fence with his neighbour.

Chair D. Kelly commented that to avoid ownership issues, most people move the fence a few inches inside their property.

Committee member C. Downer commented that if the fence did not exist, she could consider adding a condition for the 0.025 metre separation but does not feel comfortable when the fence is there.

Committee member L. McNair proposed to add a condition to state: when the deck or fence is re-built in the future, they must conform to the current Zoning By-law regulations.

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 R. Funnell,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 4.7 Row 1 of Zoning By-law (1995)-14864, as amended, for 75 Creighton Avenue,

- a) to permit an uncovered porch to be located 0 metres from the rear lot line and right side lot line in the rear yard when the By-law requires a minimum setback of 0.6 metres from any lot lines, and
- b) to permit a section of the uncovered porch with a depth of 5.6 metres, closest to the dwelling, to be located 0.45 metres from the right side lot line when the By-law requires a minimum setback of 0.6 metres from any lot lines,

be approved,

subject to the following conditions:

1. That the property owner ensures a fence is constructed to the maximum height permitted in the Zoning By-law along both side lot lines in the rear yard.
2. When the deck or fence is re-built in the future, they must conform to the current Zoning By-law regulations.”

Carried

Application: A-104/13
Owner: 2227969 Ontario Ltd.
Agent: McFadden Contracting, Phill McFadden
Location: 44 Hillcrest Drive
In Attendance: Phill McFadden
Bob Speers

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

Mr. P. McFadden replied the sign was posted and the staff comments were received. He explained that they are looking for a variance for the projection of one legal off-street parking space. He further explained that the existing garage is small compared to the dimensions now required in the Zoning By-law and has not been used as a garage for storing a vehicle.

Planner M. Witmer clarified the dimension given in the Zoning By-law. He explained that the interior parking space must be minimum 3 metres wide by 6 metres deep and an exterior parking space must be minimum 2.5 metres wide by 5.5 metres deep.

Committee member C. Downer pointed out that the drawing indicates the garage being 9'10".

Mr. P. McFadden confirmed that the garage is not that wide but 8'10".

Committee member L. McNair commented that he feels uncomfortable with having a garage space being removed entirely as a parking space on any property and having the legal off-street parking space projecting in front of the building wall.

Committee member R. Funnell questioned whether the garage is unusable or if the applicant requires more space.

Mr. P. McFadden replied that the space would be used for storage and would not be used for parking a vehicle.

Chair D. Kelly questioned staff of the intent of the Zoning By-law.

Planner M. Witmer replied that the garage acts as a legal off-street parking space located behind the front wall of the dwelling. He explained that converting the garage to living space does not meet the intent of the Zoning By-law.

Chair D. Kelly commented that several houses on the street have similar size garages and they have not turned the garages into living space.

Mr. P. McFadden commented that the majority of the houses do not use their garages for parking of a vehicle. He questioned if it makes a difference that the garage does not meet the current minimum dimensions as set in the Zoning By-law.

Planner M. Witmer replied that the intent is to provide for the parking regardless of the dimensions. He explained that the dwelling was built before the current dimensions came into effect and the garage used to accommodate vehicles at that time. He commented that it is the owner's decision how the garage is utilized but this is the primary parking space for the dwelling, the driveway parking is a surplus.

Committee member L. McNair question how far back on the wall is the door leading to the interior from the garage.

Mr. P. McFadden replied the door is located about mid-span of the wall. He commented that he is not sure if the garage was built with the house. He explained that they are proposing to have a second storey on top of the first storey of the dwelling and keep the streetscape unchanged. He continued by explaining that the Official Plan recommends rehabilitating older buildings and to ensure compatibility. He also explained that they are trying to provide more space for a larger family and do not have any other option to extend the square footage.

Planner M. Witmer commented that the Official Plan has a policy that defers all parking regulations to the Zoning By-law.

Committee member L. McNair questioned if the applicant would be able to push back the garage to provide for the parking space outside.

Chair D. Kelly reminded the Committee members that they should address the application as it is.

Committee member C. Downer questioned if it would be possible for the applicant to demolish the garage and build it towards the back.

Planner M. Witmer commented that staff would be willing to consider this option.

Mr. P. McFadden replied that this would not follow the footprint and would not work. He stated that they are trying to keep the interior heritage value of the home and this would necessitate changing the layout and removing an existing fireplace.

Planner M. Witmer commented that it was not indicated by City's Senior Heritage Planner that the dwelling is on the heritage list.

Committee member L. McNair commented that rather than refuse the application, he would like to defer the application to give the applicant a chance to discuss options with staff.

Committee member C. Downer commented she would prefer to refuse the application and have the applicant come back with a revised application.

Committee member L. McNair noted that a new application is more expensive than a deferral.

Mr. P. McFadden commented that they are trying to work with the regulations and would prefer a deferral.

Planner M. Witmer commented that staff can meet with the applicant and look at options.

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

"THAT Application A-104/13 for 2227969 Ontario Ltd. at 44 Hillcrest Drive, be deferred sinedie, to provide the applicant an opportunity to discuss options with staff 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-101/13
Owner: Isaac Scott and Stacey Smith
Agent: n/a
Location: 107 Palmer Street
In Attendance: Isaac Scott
Stacey Smith
Owen Scott

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

Mr. I. Scott replied the signs were posted and the staff comments were received. He explained that staff comments summarize the application details and the issue is the required average setback of the block face. He further explained that being on Stuart Street, the average setback required is rather large.

Chair D. Kelly commented that the garage proposed is large. She questioned if staff feels the garage is subordinate to the main structure and if it is in keeping with the neighbourhood.

Planner M. Witmer replied that staff feels the garage is subordinate to the main dwelling, provided the conditions are incorporated. He noted that due to the large lot sizes, there are differences in the neighbourhood and therefore feel it is in keeping with the neighbourhood.

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 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 Section 5.1.2.7 of Zoning By-law (1995)-14864, as amended, for 107 Palmer Street,

- a) to permit a one storey addition to the rear of the existing dwelling to be located 9.8 metres from the exterior side yard property line when the By-law requires that any additions have an exterior side yard setback equal to the existing setbacks within the existing block face, being 14.28 metres, and
- b) to permit a detached garage to be located 6 metres from the exterior side yard property line when the By-law requires that any garages have an exterior side yard setback equal to the existing setbacks within the existing block face, being 14.28 metres,

be approved,

subject to the following conditions:

1. That the owner pays the actual cost of the construction of the new driveway entrance and the required curb cuts and curb fills including the reconstruction of the pedestrian sidewalk across the new driveway entrance if required, with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid, prior to the issuance of a building permit.

2. That the owner pays the actual cost associated with the removal of the existing brick pavers within the road allowance from the area of the existing driveway entrance, the restoration of the boulevard with topsoil and sod including any required curb fill, with the estimated cost of the works as determined by the General Manager/City Engineer being paid, prior to the issuance of a building permit.”

Carried

Application: A-106/13

Owner: Miranda Holmes and Jeremy Nicholls

Agent: n/a

Location: 162 Silurian Drive

In Attendance: Jeremy Nicholls
Miranda Holmes

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

Mr. J. Nicholls replied the signs were posted and the staff comments were received. He explained the variance is to allow a driveway width of 4.7 metres. He commented that the by-law is in place to protect green space and to limit the use of residents parking on the area. He noted that modifications to the driveway were done prior to them purchasing the house in 2007. He commented that Planning staff did not see a need to widen then driveway to accommodate the parking and another concern was the sightline triangle. He explained that they need the extra parking space for a 15 year old son who will soon have his own vehicle and to provide for parking during the winter when parking on the City street is not permitted.

Mr. J. Nicholls continued by stating that where their vehicle is parked does not have an impact on the sight line triangle. He emphasized that the traffic on the corner is located further away from the sight line triangle and is not a public safety issue. He noted that the frontage of their property is 13 metres and the distance to the edge of the road is 17.8 metres. He explained that they have 64% of green space when the driveway takes up 36% of the front yard. He compared the regulations to a R.1C zone which has a minimum frontage requirement of 12 metres and the permitted driveway width is 56% of the front yard. He explained that the streetscape is not dominated by vehicles and they have lots of room for green space.

Planner M. Witmer commented that the driveway regulation in this zone does not permit the driveway to be wider than the garage.

Committee member L. McNair commented that the property complies with R.1B zone regulations. He noted that the parked vehicle will not obstruct the sight line and the lot width justifies the approval of this variance.

Committee member R. Funnell stated that he does not believe the request meets the intent of the Zoning By-law.

Planner M. Witmer advised the Committee members that when determining the need for the extra parking space, other accessory uses in this zone would necessitate the need. He continued by explaining that, for example, a home occupation would trigger the need for an extra space. He commented that in this case he does not see the need for an extra parking space.

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,

“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 162 Silurian Drive, to permit a driveway width of 4.7 metres when the By-law requires that the driveway width shall not exceed the garage width of the unit, as measured from the outside walls of the garage (3.6 metres), be approved.”

Motion did not carry.

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 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 Section 5.3.2.8 of Zoning By-law (1995)-14864, as amended, for 162 Silurian Drive, to permit a driveway width of 4.7 metres when the By-law requires that the driveway width shall not exceed the

garage width of the unit, as measured from the outside walls of the garage (3.6 metres), be refused.

Reason for refusal being:

1. The request does not meet the intent of the Zoning By-law.”

Carried

Application: A-105/13
Owner: Nunziato and Lucy Pace
Agent: n/a
Location: 42 Lowes Road
In Attendance: Chris Pace

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

Mr. C. Pace replied the sign was posted and the staff comments were received. He was available for any questions.

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 R. Funnell 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 Section 4.5.1.4 of Zoning By-law (1995)-14864, as amended, for 42 Lowes Road, to permit a detached garage in the rear yard to have a total area of 162 square metres when the By-law permits a total area of 70 square metres for all accessory structures or buildings combined, be approved,

subject to the following condition:

1. That all or any portion of the detached garage not be used for human habitation or for a home occupation.”

Carried

Application: A-97/13 and A-98/13

Owner: Estate of Margaret Emslie

Agent: JL Cox Planning Consultants Inc., John Cox

Location: 28 Jackson Street

In Attendance: John Cox
Howard Kennedy
Dwight Syms
Nancy McKenna
Joe McKenna
Debbie Newcombe
Nancy McLarty
Gordon McLarty
Roger McInnis
Erin Wagar
Barb Howes
John Emslie
Bill Woodward
Kathy Bolton
Danny Bolton

The Acting Secretary-Treasurer advised that two emails were received after the comment deadline. She advised that the comments were opposing the applications and were from the owners of 23 Jackson Street and 37 Metcalfe Street.

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

Mr. J. Cox replied the sign was posted and the staff comments were received. He explained that he revised his previous application and is now proposing to construct a dwelling on Lot 42. He further explained that the existing dwelling at 28 Jackson Street has a deck which will be removed and replaced with a landing and stairs leading to the rear yard. He noted that the landing is a requirement under the Ontario Building Code. He also noted that the impact of the variance for the landing is on him since he owns the lot next to it. He explained that he is requesting side yard variances of 1.2 metres which represents a requirement for a typical 12

metre wide lot. He commented that a rear yard of 40 feet would only leave enough room to build an extremely small 850 square foot house. He noted that he is not requesting a variance from the rear yard requirement. He commented that he has no concern with building a privacy fence as per comments received from neighbours.

Chair D. Kelly required clarification of where the proposed fence would be located.

Mr. J. Cox replied that the fence would be located on the side and rear lot lines of the property if so desired. He continued by explaining that the front yard setback will be complied with; the required setback is 5.4 metres and the garage will be setback a minimum of 6 metres and will be located to the rear of the front wall of the house. He noted that he agrees with the conditions recommended by staff.

Chair D. Kelly informed the public in the audience of the purpose of the application which is for the side yard setbacks. She explained that the Committee cannot decide on the look of the home which will be addressed at the site plan stage. She also explained that the Committee reviews conditions stipulated by City staff. She continued by reading out loud Planning conditions number three and four to assist the members of the public.

Ms. N. McLarty, owner of 11 Jackson Street, quoted the four tests in the Planning Act. She explained that while some of the existing dwellings might have similar setbacks, there is a driveway or a green space between the homes. She commented that the variances requested are out of character in the neighbourhood. She noted that the properties are zoned R.1B and not R.1C which has a requirement for a smaller lot. She questioned when the neighbours would have an opportunity to comment and be involved with the design of the dwelling if the variances are approved.

Planner M. Witmer replied that the condition imposed regarding the design of the dwelling is not part of a formal site plan approval process and single dwellings are not included in the Site Plan By-law. He explained that the General Manager of Planning Services will review the submitted site plan. He further explained that there is no a public process incorporated into this. He noted that he would be in favour of incorporating this process with this application once staff has reviewed the site plan prior to approving the building permit.

Chair D. Kelly questioned whether staff is suggesting this to be a condition on the approval of the applications.

Planner M. Witmer replied that once staff and the applicant have had a chance to review the site plan, they would be willing to incorporate the public process with a brief meeting for comments and feedback.

Ms. N. McLarty commented that it was very positive to hear this. She continued by comparing a few buildings on different infill lots which did not go according to initial plans.

Planner M. Witmer commented that staff is limited to what the zoning stipulates in the design of the dwelling. He explained that for example, maximum three story dwellings are permitted in this zone and they cannot limit the applicant to something that is permitted in the by-law. He also explained that staff is also following the guidelines in the Official Plan.

Committee member R. Funnell commented that they can apply for building permits as long as they meet the zoning by-law regulations.

Ms. N. McLarty questioned whether staff can take the neighbours comments as feedback.

Planner M. Witmer replied that, within reason, staff would be willing to consider the comments. He reiterated that staff is limited to what they can incorporate in terms of design, roof pitch and so on.

Committee member D. Kelly questioned the applicant's thoughts on the proposal.

Mr. J. Cox commented that he is willing to show the site plan to the neighbourhood but cannot continue with the project if something blocks it from going forward. He stated that he feels comfortable that the building will be in keeping with the neighbourhood. He commented that this public process might tie his hands.

Committee member L. McNair questioned if the applicant would be willing to state that the building height will remain 1.5 storeys only.

Mr. J. Cox has no concern with the height but also does not currently know what the bungalow design will end up being.

Chair D. Kelly questioned if he would be willing to delete the word "approximately" in Planning Services condition number four which pertains to the maximum height of the building.

Mr. J. Cox replied that he would agree to remove the word approximately.

Planner M. Witmer reiterated that staff is limited to what they can limit if it complies with the by-law regulations.

Committee member L. McNair noted that the Committee can add a condition to limit the height to 2 storeys.

Planner M. Witmer commented that staff would have a concern with limiting the height since they are permitted to build 3 storeys in the Zoning by-law.

Ms. N. McLarty commented that the height regulation is important and she has a concern with it being two storeys. She mentioned current problems with the drainage and sewer system on

the street due to the slope of the land. She emphasized that she strongly opposes the variances without seeing the site plan or the design of the dwelling.

Mr. H. Kennedy, owner of 11 Parkholm Avenue, explained that the problem is with building a big house on a small lot. He noted that there are several smaller houses in little lots in the neighbourhood.

Ms. E. Wager of 10 Hepburn Avenue expressed a concern with the height of the building and requested clarification.

Chair D. Kelly referred to Planning Services condition number four where it states "approximately 1.5 to 2 storeys maximum" in height. She explained that the applicant has previously stated that he is willing to remove the word "approximately" and the Committee members can revise that condition.

Ms. N. McKenna of 23 Jackson Street expressed concern with the proposed landing at 28 Jackson Street to be 3 inches from the property line. She noted that this is not minor.

Mr. B. Woodward of 8 Hepburn Avenue commented that he is not clear on what the Committee can and cannot do. He questioned whether the Committee can limit the extent to which the new dwelling can project back into the lot. He explained that the farther the house extends towards the back, the more it encroaches in to 37 Parkholm Avenue and 10 Hepburn Avenue. He referred to the quality of the life of the neighbours being affected and that there will be an impact on the green space.

Chair D. Kelly asked the Planner to clarify the by-law regulations for a rear yard.

Planner M. Witmer replied that the minimum rear yard requirement is 7.5 metres or 20 % of the lot depth, whichever is less.

Mr. J. Cox commented that he is not requesting for a variance for the rear yard but clarified that the minimum rear yard requirement for this lot is 5.73 metres.

Mr. G. McLarty of 11 Jackson Street commented that the request is not minor. He expressed concern that the dwelling being built will be completely out of character if the variances are approved.

Committee member C. Downer commented that the Committee can amend Planning Services condition by limiting the number of stories to maximum two. She explained that if no variances were required, a house out of character could be built on the lot with regular building permits, including a three storey house. She commented that it is generous for the staff and the applicant to welcome comments from the public.

Committee member L. McNair commented that the minimum rear yard setback of 5.73 metres will have an impact for the rear yard neighbours. He also commented that houses in the neighbourhood are smaller.

Chair D. Kelly advised that the Committee members have to make a judgment call on what the impact is on the neighbourhood. She commented that by having a 5.73 metre rear yard could have a negative impact on the neighbourhood which would not meet one of the tests in the Planning Act.

Committee member L. McNair questioned if the existing tree in the rear yard will be removed.

Mr. J. Cox replied that an arborist has stated the tree is in bad shape but he has the intent to replace it with others.

Committee member R. Funnell proposed to impose conditions to limit the minimum rear yard to 6.5 metres, to allow for public input and to limit the height to maximum two stories.

Application A-97/13

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 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 4.7 Row 1 and Table 5.1.2 Row 7 of Zoning By-law (1995)-14864, as amended, for 28 Jackson Street,

- a) to permit a uncovered porch (landing and stairs) to be situated 0.07 metres from the left side lot line when the By-law requires a minimum setback of 0.6 metres, and
- b) to permit a left side yard of 0.99 metres for the existing dwelling when the By-law requires a minimum setback of 1.5 metres,

be approved.”

Carried

Application A-98/13

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 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 5.1.2 Row 7 of Zoning By-law (1995)-14864, as amended, for Lot 42, Registered Plan 357, Hepburn Avenue, to permit right and left side yards of 1.2 metres when the By-law requires minimum side yards of 1.5 metres,

be approved,

subject to the following conditions:

1. That the owner pays the watermain frontage charge of \$8.00 per foot of frontage for 37.99-feet (11.58-metres), prior to the issuance of a building permit.
2. That the owner pays the actual cost of constructing new sanitary and water service laterals to the said lands (Lot 42, Registered Plan 357), including the cost of any curb cuts and/or curb fills required, with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid, prior to the issuance of any building permits.
3. That the owner pays the actual cost of the construction of the new driveway entrance for the said lands (Lot 42, Registered Plan 357), including the required curb cuts and/or curb fills, with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid, prior to the issuance of any building permits.
4. That prior to the issuance of any building permits, 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 said lands (Lot 42, Registered Plan 357).
5. 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 the issuance of any building permits.

6. 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.
7. That the owner grades, develops and maintains the site in accordance with a Site Plan that has been submitted to and approved by the General Manager/City Engineer.
8. Prior to the issuance of any building permit, the owner shall construct, install and maintain erosion and sediment control facilities, satisfactory to the General Manager/City Engineer, in accordance with a plan that has been submitted to and approved by the General Manager/City Engineer.
9. Prior to the issuance of a building permit, the owner agrees to install a sump pump unless a gravity outlet for the foundation drain can be provided on the lot. Furthermore, all sump pumps must be discharged to the rear yard.
10. That the owner shall make arrangements satisfactory to the Technical Services Department of Guelph Hydro Electric Systems Inc. for the installation of an underground hydro service to the proposed new dwelling on the said lands, prior to the issuance of a building permit.
11. That the owner makes satisfactory arrangements with Union Gas for the servicing of the lands, as well as provisions for any easements and/or rights-of-way for their plants, prior to the issuance of any building permits.
12. The owner shall ensure that all telephone service and cable TV service on the lands shall be underground. The owner shall enter into a servicing agreement with the appropriate service providers for the installation of underground utility services, prior to the issuance of any building permits.
13. That prior to the transfer of the said lands or within ninety (90) days of the final decision, whichever occurs first, the owner shall enter into an agreement with the City, registered on title, satisfactory to the General Manager/City Engineer, agreeing to satisfy the above-noted conditions and to develop the site in accordance with the approved plans.
14. Prior to the issuance of any building permit for Lot 42, the owner shall pay to the City, the City's total cost of reproduction and distribution of the **Guelph Residents' Environmental Handbook**, to all 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.
15. Prior to the issuance of any building permit for the lands, the owner shall pay to the City **cash-in-lieu of park land dedication** in accordance with By-law (1989)-13410,

By-law (1990)-13545 and By-law (2007)-18225, as amended from time to time, or any successor thereof.

16. That a **site** plan be submitted to, and approved by the General Manager of Planning Services and the City Engineer, prior to the issuance of a building permit for the new dwelling on Lot 42 indicating:
 - a. The location and design of the new dwelling;
 - b. The location of the new dwelling with a setback that is in character with the surrounding area (similar to existing setbacks to the street on this block of Hepburn Avenue) and a rear yard setback of not less than 6.5 metres. The legal off-street parking space shall be setback in accordance with the requirements of the Zoning By-law;
 - c. Grading, drainage and servicing information;
17. That Planning Services staff facilitates a brief meeting, preferably arranged through a delegated neighbourhood spokesperson, to provide an opportunity for staff to review and consider public feedback from the immediate neighbours, prior to the General Manager of Planning Services approving the site plan and elevations.
18. That the elevation **and design drawings** for the new dwelling on Lot 42 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 in all aspects including the proposed massing, building height (2 storeys maximum), building setbacks and the size and location of any proposed garage (single car garage located behind the front wall of the dwelling).
19. That prior to the issuance of a building permit, the Developer complete a **Tree Inventory & Protection Plan** illustrating all existing trees on Lot 42 and adjacent properties that may be impacted by the development (species, size, dbh, and condition) as well as protection during construction for trees that will remain, to the satisfaction of the General Manager of Planning Services.
20. That prior to the issuance of a building permit for Lot 42, the Developer complete a **Landscaping, Replanting and Replacement Plan** illustrating compensation trees, to the satisfaction of the General Manager of Planning Services.
21. That prior to the issuance of a building permit for Lot 42, any required **tree protection fencing be erected** on-site and inspected by staff to the satisfaction of the General Manager of Planning Services;
22. That the applicant 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;

23. That prior to the transfer of the lands or within 90 days of the final decision for this application, whichever occurs first, the owner shall enter into an **agreement** with the City, registered on title, agreeing to satisfy the above-noted conditions and to develop the site in accordance with the approved plans.”

Carried

Application: B-48/13 and B-49/13

Owner: B-48/13: Wesley and Joan Henry Timothy
B-49/13: Yvonne and Diane Gaw

Agent: Aquicorp Inc., Shawn Keeper
Astrid J. Clos Planning Consultants; Astrid Clos

Location: 24 and 26 Landsdown Drive

In Attendance: Astrid J. Clos
Anne Harauz
George Harauz
Bruce Everitt
Werner Pueschel
Renita Pueschel
Lora Gatto
Diane Gaw
Tim Gaw
Wes Henry
Brian Henry
Shawn Keeper

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

Ms. A. Clos replied the sign was posted and the staff comments were received. She commented that the Committee members should have received amended Engineering Services conditions which they agree with. She explained that the application is for severing the back of two lots.

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She also explained that there will be applications for zone change and vacant land condominium for single detached homes. She noted that this will be a public process where people will be circulated with more information.

Mr. G. Harauz of 30 Landsdown Drive commented that he would like more information of what is being proposed. He expressed a concern with a large condominium impacting them and they had no means of getting information from the plans submitted.

Planner M. Witmer commented that at the moment they are dealing with the severances only and it is premature to have detailed plans submitted.

Ms. A. Clos commented that they are merging the lots at the back of the existing homes. She explained that there will be further applications and the details will be shared with the neighbours when available.

Mr. G. Harauz questioned how the properties will be accessed.

Ms. A. Clos replied that other properties will be joined with this and there will be a private condominium road access.

Mr. B. Everitt of 8 Landsdown Drive commented that there was no sign posted at 28 Landsdown Drive.

Planner M. Witmer confirmed that a lot which a parcel is being added to does not need a sign posted.

Committee member L. McNair questioned if a re-zoning is required from the current R.1B zone.

Planner M. Witmer replied that a zone change is not required.

Ms. A. Clos commented that because the lots located in the R.1B zone will have a frontage on a public street and the condominium will have frontage on public lane, there are items that need to be applied to in a re-zoning application.

Application B-48/13

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 C. Downer and seconded by L. McNair,

“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 9, Registered Plan 488, municipally known as 26 Landsdown Drive, a parcel with a width of 62.48 metres, a depth of 101.80 metres and an area of 6,361 square metres, as a lot addition to 28 Landsdown Drive, be approved,

subject to the following conditions:

1. That the proposed severed parcel of land be conveyed to the abutting owner 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 the owner of 26 Landsdown Drive shall pay their share of the frontage assessment costs for the existing sanitary sewer main and existing watermain and the actual costs associated with the installation of the sanitary sewer lateral and the water service lateral to the property line, prior to endorstation of the deeds.

4. That the owner of 26 Landsdown Drive shall connect the existing dwelling to the new sanitary sewer lateral and water service lateral to the satisfaction of the General Manager/City Engineer and the City's Plumbing/Sewage System Inspector, at the time that the adjacent Draft Plan of Vacant Land Condominium is being serviced.

5. That prior to the connection of the existing dwelling to the sanitary sewer lateral and water service lateral, the owner of 26 Landsdown Drive will be responsible to decommission the existing septic system and the existing well to the satisfaction of the City's Plumbing/Sewage System Inspector.

6. That prior to endorstation of the deeds, the owner of 26 Landsdown Drive shall enter into an agreement with the City, registered on title, satisfactory to the General Manager/City Engineer, agreeing to satisfy the above-noted conditions.

7. That the consents be finalized in conjunction with the Secretary-Treasurer of the Committee of Adjustment to ensure parcel consolidation of the two severed parcels with 28 Landsdown Drive.

8. 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 September 13, 2014.

9. 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.
10. 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.
11. 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-49/13

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 C. Downer and seconded by L. McNair,

“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 488, a parcel with a width of 62.48 metres, a depth of 101.80 metres and an area of 6,361 square metres, as a lot addition to Part Lot 9, Registered Plan 488 (severed parcel of Application B-48/13 referred to as Severance 1 on sketch prepared by Van Harten Surveying Inc., dated July 31, 2013, reference number 13-30-500-01-A), be approved,

subject to the following conditions:

1. That the proposed severed parcel of land be conveyed to the abutting owner 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 the owner of 24 Landsdown Drive shall connect the existing dwelling to the new sanitary sewer lateral and water service lateral to the satisfaction of the General Manager/City Engineer and the City's Plumbing/Sewage System Inspector, at the time that the adjacent Draft Plan of Vacant Land Condominium is being serviced.
4. That prior to the connection of the existing dwelling to the sanitary sewer lateral and water service lateral, the owner of 24 Landsdown Drive will be responsible to decommission the existing septic system and the existing well to the satisfaction of the City's Plumbing/Sewage System Inspector.
5. That prior to endorsement of the deeds, the owner of 24 Landsdown Drive shall enter into an agreement with the City, registered on title, satisfactory to the General Manager/City Engineer agreeing to satisfy the above-noted conditions.
6. That the consents be finalized in conjunction with the Secretary-Treasurer of the Committee of Adjustment to ensure parcel consolidation of the two severed parcels with 28 Landsdown Drive.
7. 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 September 13, 2014.
8. 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.
9. 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.
10. 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

The meeting adjourned at 8:00 p.m.

D. Kelly
Chair

Minna Bunnett, ACST(A)
Acting Secretary-Treasurer