

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday December 10, 2013 at 3:00 p.m. in Meeting Room 112, City Hall, with the following members present:

D. Kelly, Chair
R. Funnell, Vice-Chair
J. Hillen (from 5:06 p.m.)
C. Downer
L. McNair

Regrets: B. Birdsell

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 R. Funnell and seconded by C. Downer,

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

Carried

Other Business

The Acting Secretary-Treasurer advised that the decision was received from the Ontario Municipal Board for Application A-35/12 for 7 Crawford Street. She noted the appeal from the owner was allowed and the variance sought was authorized.

The Acting Secretary-Treasurer advised that an Ontario Municipal Board hearing has been scheduled for Application A-114/13 at 8 Terrace Lane. The appeal will be heard on Wednesday January 22, 2014 at Provincial Offences Court, Court Room 3 at 59 Carden Street. The application was for shed setback in the rear yard which was refused by the Committee.

The Acting Secretary-Treasurer advised that an Ontario Municipal Board hearing has been scheduled for Applications A-115/13 at 16 Whispering Ridge Drive and A-116/13 at 92 Harvard Road. The appeals will be heard on Tuesday March 18, 2014 at meeting room 112 at City Hall. The applications were both for separation distances for lodging houses which were refused by the Committee.

The Acting Secretary-Treasurer advised that an Ontario Municipal Board hearing has been scheduled for Application A-118/13 at 211 Arthur Street North. The appeal will be heard on Wednesday March 19, 2014 at meeting room 112 at City Hall. The application was for off-street parking which was approved by the Committee. The owner appealed the condition imposed which limited the approval of the minor variance to the current ownership only.

Committee member R. Funnell requested that the Acting Secretary-Treasurer report back to the Committee members on a trend regarding type of appeals received and sent to the Ontario Municipal Board.

Committee member C. Downer requested a follow-up regarding an application for 12 Wyndham Street North regarding the increase in the capacity of a licensed establishment. She questioned whether there will be an updated study being done regarding restaurants in the downtown area. She noted that this would assist the Committee if a similar application should return.

Application: **A-133/13**

Owner: **Karnig Mann Ltd.**

Agent: **CitySpace Real Estate Inc., Laurence Himel**

Location: **389 Woodlawn Road West**

In Attendance: **Jim Mairs**
 Laurel Himel
 Murray Taylor

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

Mr. L. Himel replied they posted the sign and the staff comments were received. He explained that the property owners would like to expand the potential use of the building for the purpose of leasing it and they are targeting the call centre market. He commented that this proposal would be good for the City of Guelph, the property owners and it would create more jobs.

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 L. McNair 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 6.4.3.2.2.1 of Zoning By-law (1995)-14864, as amended, for 389 Woodlawn Road West, to permit an Office in a stand-alone building when the By-law permits an Office only within a mall (two or more units), be approved,

subject to the following condition:

1. The property owner apply for and receive site plan approval to add additional off-street parking to support an office use in accordance with Section 4.13 of the Zoning By-law, prior to the issuance of any building permits.”

Carried

Application: A-136/13

Owner: Red Top Taxi Ltd.

Agent: SmithValeriotte Law Firm LLP, John Valeriotte

Location: 78-84 Lewis Road

In Attendance: Kevin Thompson
Charles Dadd
John Valeriotte
Ken Head

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

Mr. K. Thompson replied that the sign was posted and the staff comments were received. He explained that staff indicated no concerns with the application and they are here to receive approvals from the Committee.

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Committee member C. Downer questioned whether they still have a current location near downtown.

Mr. K. Thompson replied that the business has been operating from the Lewis Road location for a year.

There were no other 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 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 7.1.3 of Zoning By-law (1995)-14864, as amended, for 78-84 Lewis Road, to permit a Taxi Establishment when the By-law does not permit a Taxi Establishment, be approved.”

Carried

Application: A-139/13
Owner: HGE Investments Ltd.
Agent: Spence & Associates, George Spence
Location: 455 Silvercreek Parkway North
In Attendance: George Spence

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

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

Committee member L. McNair questioned if they are consolidating offices.

Mr. G. Spence replied that PNR Railworks still has another division located at 52 Royal Road.

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 4.23.1 of Zoning By-law (1995)-14864, as amended, for 455 Silvercreek Parkway North, to permit the office area as an accessory use to accommodate maximum of 30% of the total gross floor area [1677.45 square metres (18,056 square feet)] when the By-law requires not more than 25% of the building floor area shall be used for any accessory use permitted in a B Zone, be approved.”

Carried

Application: A-141/13

Owner: The Hillside Community Festival of Guelph

Agent: Grinham Architects, Lloyd Grinham

Location: 341 Woolwich Street

In Attendance: Lloyd Grinham
Richard Charity

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

Mr. L. Grinham replied the sign was posted and the staff comments were received. He commented the staff comments were short and to the point. He was available for any questions.

Committee member L. McNair questioned if there is a possibility that the ramp will be built slightly back from the property line.

Mr. L. Grinham replied that they have left a 300 mm buffer in the design to allow for some leeway.

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 11 of Zoning By-law (1995)-14864, as amended, for 341 Woolwich Street, to permit a barrier free access ramp to be located 0 metres from the front yard lot line when the By-law requires that a barrier free access ramp be located a minimum of 0.8 metres (2.62 feet) from the front yard lot line, be approved.”

Carried

Application: A-135/13
Owner: Mozhgan Miri and Mustafah Ghomisha
Agent: n/a
Location: 764 Willow Road
In Attendance: Mozhgan Miri

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

Ms. M. Miri replied that she posted the sign and she received the staff comments. She explained that an approval was previously granted for a larger apartment but she miscalculated the floor area in the drawings she initially submitted.

Committee member L. McNair commented that the initial application for a variance was for a one bedroom apartment but the revised application is for two bedrooms.

Ms. M. Miri replied that the apartment consists of an open space with a kitchen in the corner, there are no bedrooms proposed.

Planner M. Witmer advised that according to the floor plan, there are no bedrooms proposed. He added that there was also no mention of bedrooms on the notice.

Committee member L. McNair proposed to add a condition to limit the number of bedrooms to two.

Planner M. Witmer noted that he did not prepare the staff comments and cannot comment on his colleague's behalf. He advised that a condition limiting the number of bedrooms to two is not necessary due to the fact that the Zoning By-law allows maximum two bedrooms.

Chair D. Kelly advised that the Committee can impose the condition if that makes the members more comfortable.

Committee member L. McNair questioned if the Committee can advise the owner that there cannot be more than two bedrooms in the apartment.

Chair D. Kelly questioned if the applicant understood there can only be maximum two bedrooms, even in the future.

Ms. M. Miri replied they do not want to put up walls and they have no plans to rent the apartment. She advised the Committee she understood the regulation.

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 4.15.1.5 of Zoning By-law (1995)-14864, as amended, for 764 Willow Road, to permit an accessory apartment with an area of 114.5 square metres (1,232 square feet) when the By-law requires that an accessory apartment not exceed a maximum of 80 square metres (861.1 square feet) in floor area, be approved."

Carried

Application: A-138/13
Owner: Parry Schnick and Catriona Forbes
Agent: n/a
Location: 51 Lowes Road
In Attendance: Parry Schnick

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. Schnick replied that the sign was posted and the staff comments were received. He explained that the process is fairly straightforward and he does not see any reason to refuse the variance.

Committee member L. McNair questioned if the apartment is located in the basement.

Mr. P. Schnick replied that the apartment is on the main level of the bungalow. He commented that due to the square footage of the units, the main unit is located partly in the basement.

Planner M. Witmer noted that it is a recommendation from Building Services staff that the den/office on the main floor does not have a door so that it does not become a third bedroom.

There were no further comments or 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 4.15.1.5 of Zoning By-law (1995)-14864, as amended, for 51 Lowes Road, to permit an accessory apartment to have an area of 86.1 square metres (926 square feet) when the By-law requires that an accessory apartment shall not exceed a maximum of 80 square metres (861.1 square feet) in floor area, be approved.”

Carried

Application: A-142/13

Owner: Peter Mee and Hillary Appleton

Agent: Izaak de Rijcke Law Office, Izaak de Rijcke

Location: 29 London Road East

In Attendance: Hillary Appleton

Izaak de Rijcke

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. de Rijcke replied that the sign was posted and the staff comments were received. He explained that the application is the result of a perpetuation of an encroachment that has existed since the house was built. He advised that there already was an encroachment agreement for the front porch but they realized this agreement was for a previous, different porch.

Committee member L. McNair questioned whether a new encroachment agreement is required if the porch is re-built.

Mr. I. de Rijcke replied that with a removal of a deteriorated porch, it should allow for the same footprint to be used. He advised that the existing encroachment agreement is not as encompassing as should be; after reviewing the revised encroachment agreement, they agree with it.

There were no other 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 L. McNair 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 Table 4.7 Row 1 of Zoning By-law (1995)-14864, as amended, for 29 London Road East, to permit an uncovered porch [which encroaches 0.75 metres (2.46 feet) into the London Road East road allowance]] to be located 0 metres from the front yard property line when the By-law requires that an uncovered porch shall be setback a minimum of 0.8 metres (2.62 feet) from the front yard property line, be approved,

subject to the following condition:

1. That prior to the issuance of a building permit for the uncovered porch and stairs, a revised encroachment agreement be registered on title, if necessary.”

Carried

Application: A-130/13
Owner: Ajay Saini
Agent: n/a
Location: 177 Curzon Crescent
In Attendance: Ajay Saini
Jaspinder Saini
Harpal Mangat
Sangeet Arora

The Acting Secretary-Treasurer advised that in addition to the comments submitted earlier by the public, a letter was received after the submission deadline from the owner of 182 Curzon Crescent in support of the application.

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

Mr. A. Saini replied that the sign was posted and the staff comments were received. He explained that due to the space being limited in the side yard, they are unable to comply with the regulations.

Committee member R. Funnell questioned if the applicant knows why the side door was installed when it cannot comply with the by-law regulations.

Mr. A. Saini replied that he asked the builder if the side door could be added when the house was being built. He explained that the builder indicated a four foot side yard would leave enough room but the door was built 3 feet high off the ground. He also explained that he asked the builder to construct the landing but the builder advised the owner to build the landing on his own. He commented that the Ontario Building Code requires a 36 inch landing which will leave a setback of approximately one foot.

Committee member L. McNair questioned if the sidewalk leading to the landing is going to cause a problem with the drainage. He noted that the comments from Engineering did not mention the walkway which is already in place.

Planner M. Witmer replied that there is a difference between using gravel and concrete. He noted that this is something the owner should clarify with Engineering.

Chair D. Kelly questioned whether staff worked with the applicant when the interlocking pavers were installed.

Planner M. Witmer replied that Engineering Services conducted a site visit and had no concerns with the interlocking pavers. He noted that the open design of the landing did not cause any concern to staff. He advised that on his site visit he advised some of the neighbours he met to discuss with Engineering Services staff prior to installing anything similar.

Chair D. Kelly requested confirmation that for the application in question, Engineering Services did not have any concerns with the interlocking walkway interfering with the drainage swale.

Planner M. Witmer confirmed that this is correct.

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 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 177 Curzon Crescent, to permit an uncovered porch and associated stairs to be located 0.3 metres (1.13 feet) from the left side yard lot line when the By-law requires that an uncovered porch shall be setback a minimum of 0.6 metres (1.97 feet) from any side yard lot line, be approved.”

Carried

Application: A-132/13
Owner: Tracey Trimble Moon
Agent: n/a
Location: 143 Glasgow Street North
In Attendance: Tracey Trimble Moon
Jim Moon

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

Ms. T. Trimble Moon replied the signs were posted and the staff comments were received. She explained that they would like to push the front yard fence out to be able to enjoy the yard. She noted that the next door neighbour had no concerns with the proposal.

Committee member L. McNair noted that there was a comment submitted regarding the other fences on the property.

Ms. T. Trimble Moon replied that the fences were part of their swimming pool permit and were inspected and passed by the City inspector.

There were no further comments 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 4.20.9 of Zoning By-law (1995)-14864, as amended, for 143 Glasgow Street North, to permit a fence, commencing from the midpoint of the dwelling 6.4 metres (21 feet) towards Liverpool Street property line[3 metres (9.75 feet) from Liverpool Street property line] ending at the edge of the driveway, to have a height of 1.8 metres (6 feet) when the By-law requires that any fence located in the front yard shall not exceed 0.8 metres (2.62 feet) in height, be approved.”

Carried

Application: A-131/13
Owner: Erik Petersen
Agent: n/a
Location: 2 Koch Drive
In Attendance: Choua Chen
Judy Metherel

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The Acting Secretary-Treasurer advised that the owner was not able to appear in front of the Committee but is requesting a decision in his absence.

Chair D. Kelly addressed the public by asking them to come forward if they had any comments or questions regarding the application.

Ms. J. Metherel explained that she is in opposition of the application because there is another lodging house located less than 20 metres away which is not considered to be minor. She explained with the approval of this application, she has a concern that there will be other similar rental properties created which will cause even more parking issues. She also expressed a concern with the parking variance requested.

Planner M. Witmer commented that the letter submitted by Ms. Metherel responded to the four test of the Planning Act Section 45.

Committee member L. McNair commented that he agrees with the speaker: the distance is not minor in nature, the parking variance is also unsatisfactory.

Chair D. Kelly reminded the Committee members to state clear reasons that were considered which are particular to this application.

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

Moved by 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 Section 4.13.3.2.2 and Table 4.25 Row 3 of Zoning By-law (1995)-14864, as amended, for 2 Koch Drive,

- a) to permit a five bedroom lodging house to be located within 16.8 metres from an existing lodging house located at 28 Koch Drive when the By-law requires that a minimum separation between buildings being used as a Lodging House Type 1 shall be 100 metres, and
- b) to permit two exterior off-street parking spaces in the driveway to have a depth of 4.76 metres (15.61 feet) when the By-law requires that exterior off-street parking spaces must have a minimum depth of 5.5 metres (18 feet),

be refused.

Reasons for refusal:

1. The request does not meet the general intent and purpose of the Zoning By-law,
2. The request is not minor in nature due to the distance being 16% of what is required,
3. The parking provided is significantly less than what is required, and
4. The request compromises the intent of diverse neighbourhoods.”

Carried

Application: **A-134/13**

Owner: **JTD Enterprise Inc.**

Agent: **GSP Group Inc. Hugh Handy**

Location: **230 Silvercreek Parkway North**

In Attendance: **Caroline Baker**

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

Ms. C. Baker replied the sign was posted and the staff comments were received. She explained that Dr. Cooperband is looking to expand his business and wants to have more practitioners. She noted that the parking complies with the regulations.

Committee member L. McNair questioned whether the condition of not having more than 8 practitioners is sufficient.

Ms. C. Baker replied that with two dental offices they are intending to have 6 practitioners but parking can be accommodated for up to 8 practitioners.

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 Section 6.4.3.1.26 of Zoning By-law (1995)-14864, as amended, for 230 Silvercreek Parkway North, to permit a

Medical Clinic when the SC.1-26 Zone permits a club, public hall and restaurant but does not permit a Medical Clinic, be approved,

subject to the following condition:

1. The maximum number of medical practitioners on-site at any time shall be eight (8)."

Carried

Committee member J. Hillen arrived at 5:06 p.m.

Application: A-140/13
Owner: 2274237 Ontario Inc.
Agent: GSP Group Inc. Hugh Handy
Location: 1291 Gordon Street
In Attendance: Caroline Baker

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

Ms. C. Baker replied that the sign was posted and the staff comments were received. She explained that they have been working through the site plan process with City staff. She also explained that they needed to prepare an Environmental Implementation Report where monitoring the water table required them to raise the building. She commented that the term appearance is vague in the Zoning By-law and being able to have 7 stories will give them the flexibility to comply with the water table requirements. She advised that previously they received approvals for the angular plane but since then, the intent for the building has changed and the site plan was revised. She explained that the building was rotated which caused the angular plane to increase. She advised that the park zone adjacent to the building consists of a storm management pond and is not an actual park with a playground.

Committee member C. Downer questioned why Council asked for appearance of 6 stories facing Gordon Street.

Ms. C. Baker replied that there was some public input related to the environmental project because there are significant wetlands to the back of the building. She advised that they are working with the City's urban designer to minimize the massing on Gordon Street. She noted that they are looking at minimizing the massing by providing landscaping at the base of the building and trying to provide the appearance of six storeys.

Committee member L. McNair questioned if the angular plane variance only applies to the one side of the building.

Ms. C. Baker replied that this is correct.

Committee member C. Downer questioned whether Council was concerned about the appearance of the building and will review and approve the site plan.

Planner M. Witmer replied that there is a holding symbol on the property which requires for the Council to approve the site plan, among other items.

Committee member C. Downer commented that she had a concern the Committee is approving something behind the Council's back. She also had a concern with the Council not seeing a draft of the proposal prior to the Committee approving the minor variance, especially if there was a concern with massing and comments from the neighbourhood.

Planner M. Witmer commented that when the concept of the building changed, the applicant circulated the Councillors and the Mayor. He advised that staff did not hear any feedback from the Councillors.

Committee member C. Downer questioned whether the Councillors circulated the revised proposal to the neighbourhood and were they advised that a variance is required.

Planner M. Witmer replied that this did not happen. He explained that under the urban design policies in the Official Plan, in particular for long buildings, staff has some concerns with the flat wall not showing any articulation. He advised that the site plan review committee is recommending more animation and articulation along Gordon Street. He noted that once staff and the applicant are satisfied with the proposal, it will be brought to the Council for final site plan approval or it will be delegated back to staff for changes.

Committee member L. McNair questioned what a "little bit" of raising the building due to the water table entails.

Ms. C. Baker replied that the building must be raised by 0.5 metres or less. She explained that the site slopes downwards and if a storey is more than 50% above grade, it is considered to be a full storey. She advised that a full storey will not be visible from Gordon Street. She also advised that they are proposing a landscaped screening for the first floor. She explained that the intent was to have a 7 storey building and to watch the massing on Gordon. She noted that they are not intending to turn over Council's decision.

Ms. B. Kaszuba asked what the term "massing" means.

Planner M. Witmer replied that massing is how the building addresses the street, how bulky or how narrow it is.

There were no further 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 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 Sections 5.4.3.1.37.2.5 and 4.16.2 of Zoning By-law (1995)-14864, as amended, for 1291 Gordon Street,

- a) to permit a maximum height of 7 storeys visible from Gordon Street when the By-law requires that the maximum building height shall be 7 storeys with 6 storeys visible from Gordon Street, and
- b) to permit an angular plane of 70° from the western building wall adjacent to a park zone when the By-law permits a maximum angular plane of 40° from a park zone,

be approved, subject to the following condition:

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

Carried

Committee member L. McNair commented that the Committee members have tried previously to determine if it is appropriate for them to approve variances which are in the middle of an approval process and felt that the condition imposed covers it. He also commented that he understands the condition imposed to mean that an approval from the Council will be required.

Committee member C. Downer expressed concerns with the Council not interpreting the revised plans but the Committee doing this instead and approving a variance before the Council has a chance to review the changes.

Application: A-137/13

Owner: LCM Inc. and 841235 Ontario Ltd.

Agent: Miller's Farm Fresh Produce, Shawn Miller

Location: 763-787 Woolwich Street

In Attendance: Shawn Miller
Barb Kaszuba
John Kaszuba
Bill Winship
Nettie Winship

The Acting Secretary-Treasurer advised the Committee and the public of a typo in the notice for the application. She noted that the section quoted should state: 6.4.3.1.53.1.

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. Miller replied the signs were posted and the staff comments were received. He explained that the truck that he uses to pick up and drop off products has been moved off the property. He was available for any questions.

Committee member C. Downer questioned if there will be any trucks running with the refrigeration system on.

Mr. S. Miller replied that there will not be.

Chair D. Kelly noted that she visited the site today and there was a long white trailer in the back of the building.

Mr. S. Miller replied that he used to have the trailer all summer at the corner of this property and he was selling fruit from the trailer. He advised that the trailer has to run so that the products do not rot. He explained that he rented the stand-alone building and at the time there was no refrigeration available. He also explained that he moved the trailer to the back of the building and used it for storage. He advised that he received complaints regarding the trailer and has since built a small cooler inside the building. He mentioned that he has turned off the trailer and has not used it since October 18th, and that it is empty. He commented that he was not aware he was not allowed to use a trailer for storage and does not know what to do with storing his products when summer comes.

Chair D. Kelly questioned if he understands that he must remove the trailer if the variance is approved.

Mr. S. Miller replied that he understands this.

Planner M. Witmer commented that the minor variance is not dealing with the trailer but will be addressed through Zoning Services staff. He noted that a condition has been imposed by Zoning Services staff to remove the trailer.

Chair D. Kelly questioned whether the applicant understands the conditions imposed and that he will comply with them.

Mr. S. Miller replied that he understands the conditions. He noted that he will move the fence in early January which will allow him to push the trailer out. He commented that the truck has already been removed but that he can perform deliveries with the truck.

Committee member L. McNair commented that the condition states he can keep the truck there if it is being used for delivery purposes.

Chair D. Kelly requested staff to clarify the condition. She questioned whether the applicant is allowed to use the truck for deliveries but cannot keep it there.

Committee member L. McNair commented that if the customer requires a delivery, he has to go pick up the truck, load the truck and park it off-site again. He stated that it is impractical for the applicant to store the truck somewhere off-site in between deliveries.

Chair D. Kelly commented that she understood the deliveries were meant for incoming products to the applicant and not deliveries made by the applicant to his customers.

Planner M. Witmer replied that to the best of his understanding, it is regarding deliveries of products to the applicant and also for deliveries to the applicant's customers.

Chair D. Kelly commented that the truck is not there now because the trailer is parked at the back in its place.

Mr. S. Miller commented that he was told to remove the truck.

Committee member R. Funnell questioned whether the major concern is the refrigerated unit and not the delivery vehicle.

Planner M. Witmer replied that this is correct and the concern is due to the noise caused by the refrigerated unit. He explained that staff was considering requesting the applicant to submit a noise study if the trailer was to stay.

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Chair D. Kelly questioned if the location is suitable where the trailer is parked at the moment, at the rear of the building.

Planner M. Witmer replied that staff had no concern with the location of the truck because there are plenty of parking spaces on site.

Committee member L. McNair proposed to change the wording on the condition to mention “no refrigerated truck and storage trailers...”

Committee member C. Downer commented that the vehicles cannot be used for storing anything, they have to be empty.

Chair D. Kelly noted that if staff considered requiring a noise study, what would be the noise ramifications of deliveries being done.

Committee member J. Hillen commented that the site plan shows two loading spaces at the back of the second building. He questioned if they are penalizing the other building for not having it.

Committee member L. McNair proposed to change the first condition to state: “the fencing for the garden centre be no less than 3 metres from the front property line.” He also proposed to change the second condition to state: “no truck or storage trailers be permitted for storage purposes, refrigerated or not, in conjunction with the garden centre.”

Mr. B. Winship, resident of 19 Woodlawn Road East, commented that they have nothing against the operation of a market garden but the concern is with the noise caused by the refrigerated truck. He noted that the truck was running 24 hours per day and they were no longer able to open their windows or sit on their balconies. He was seeking some assurance that the trailer will not be operating next spring and so forth.

Chair D. Kelly advised that the Committee members received recommendations and conditions from staff regarding the application. She explained that the second condition proposed is in place to address the noise concerns that have been expressed.

Chair D. Kelly requested a confirmation that the truck would not be used at night for storage and that it is not refrigerated.

Mr. S. Miller replied that the truck sits there empty until he needs to use it and that it is not a refrigerated vehicle.

Ms. B. Kaszuba requested assurance that the condition mentions refrigerated vehicles are not permitted.

Committee member C. Downer commented that the condition will mention this.

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

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

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 6.4.3.1.53.1 of Zoning By-law (1995)-14864, as amended, for 763-787 Woolwich Street, to permit a garden centre when the SC.1-53 zone permit a variety of uses but does not permit a garden centre, be approved,

subject to the following conditions:

1. The fencing for the garden centre be no less than 3 metres from the front property line.
2. No truck or storage trailers be permitted for storage purposes, refrigerated or not, in conjunction with the garden centre.”

Carried

The meeting adjourned at 6:00 p.m.

D. Kelly
Chair

Minna Bunnett, ACST(A)
Acting Secretary Treasurer