

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday February 12, 2015 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

B. Birdsell
S. Dykstra
L. Janis
D. Kendrick
P. Ross

Regrets: M. Bosch
K. Ash
T. Russell, Secretary-Treasurer

Staff Present: M. Witmer, Planner
T. Agnello, Acting Secretary-Treasurer/Deputy Clerk
D. McMahon, Council Committee Coordinator
S. Samuel, Legislative Coordinator

Election of Chair and Vice-Chair for 2015

The Chair was handed over to the Acting Secretary-Treasurer T. Agnello during elections.

Acting Secretary-Treasurer T. Agnello asked if there were any nominations from the floor for Chair of the Committee of Adjustment for 2015.

Moved by P. Ross and seconded by L. Janis,

“THAT B. Birdsell be nominated as Chair for the Committee of Adjustment for the year 2015.”

B. Birdsell accepted the nomination. The vote resulted in B. Birdsell being appointed Chair of the City of Guelph Committee of Adjustment for 2015.

Chair B. Birdsell asked if there were any nominations from the floor for Vice-Chair of the Committee of Adjustment for 2015.

Moved by S. Dykstra and seconded by L. Janis,

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“THAT K. Ash be appointed Vice-Chair of the Committee of Adjustment for the year 2015.”

The vote resulted in K. Ash being appointed as the Vice-Chair of the Committee of Adjustment pending her acceptance at the next Regular Meeting of the Committee of Adjustment.

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Meeting Minutes

Moved by P. Ross and seconded by S. Dykstra,

“THAT the Minutes from the January 15, 2015 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

Acting Secretary-Treasurer T. Agnello advised the Committee that a written request for a full refund of a deferral fee (\$230.00) was received from Mr. J. Lakatos on behalf of the property owner of 4 Balfour Court. She explained that application A-105/14 was considered at the November 20, 2014 Committee of Adjustment meeting for a minor variance regarding reduced setbacks for an existing accessory structure. The correspondence from Mr. J. Lakatos was provided to the Committee members for their review. She advised the Committee that Engineering Services staff have no objection to the refund of the deferral fee.

Consideration of refund of the deferral fee for application A-105/14, 4 Balfour Court

Chair B. Birdsell asked if there was any expenses that could be outlined for this application and if this application was fully circulated or not. Acting Secretary-Treasurer T. Agnello replied that she did not have any details if this application was fully circulated or not. Chair B. Birdsell indicated that for fully circulated applications with staff time incurred than typically only half of the fee is refunded. Mr. J. Lakatos indicated that to his understanding there was a second circulation for this application. He explained that the owner and agent tried to resolve the issues prior to the November 20, 2014 Committee of Adjustment meeting, but that was not possible. Mr. J. Lakatos requested the refund as the meeting schedule was beyond his control.

D. Kendrick asked if staff concurred that it was beyond the applicant's control. Acting Secretary-Treasurer T. Agnello stated that she spoke with Secretary-Treasurer T. Russell prior to the meeting and she advised that it was beyond the applicant's control.

Moved by D. Kendrick and seconded by P. Ross,

"THAT the full amount of the deferral fee being \$230.00 for Application A-105/14, 4 Balfour Court, be refunded to the applicant."

Carried

Acting Secretary-Treasurer T. Agnello notified the Committee that the Ontario Municipal Board (OMB) hearing for 28 Rodgers Road (File A-115/14) has been scheduled for April 7, 2015 at 10:30 a.m. A copy of the OMB correspondence was provided to the Committee members.

Acting Secretary-Treasurer T. Agnello notified the Committee that the OMB has acknowledged the receipt of an appeal for 620 Scottsdale Drive (File A-120/14). A copy of the OMB correspondence was provided to the Committee members.

Acting Secretary-Treasurer T. Agnello notified the Committee that a decision from the Ontario Municipal Board (OMB) for 16 Maple Street (File A-72/14) has been received. The OMB ordered that the appeal be dismissed. A copy of the OMB correspondence was provided to the Committee members.

Application: **A-105/14**

Owner: **Peter Szpular**

Agent: **Joe Lakatos, AJ Lakatos Planning Consultant**

Location: **4 Balfour Court**

In Attendance: **Joe Lakatos**

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. J. Lakatos replied that the sign was posted and staff comments were received.

Chair B. Birdsell asked Mr. J. Lakatos if he wished to speak to the application. Mr. J. Lakatos indicated that the application was deferred from the November 20, 2014 Committee of Adjustment meeting and since then the engineering issues have been resolved.

Chair B. Birdsell asked if the Committee members had any questions for Mr. J. Lakatos. Committee member L. Janis asked if the shed was installed at the same time as the pool. Mr. J. Lakatos replied that the shed was installed sometime after the pool was installed. Committee member L. Janis indicated that her concern was that the pool was built without a permit and asked staff if that was accurate. Planner M. Witmer replied that he believed that the shed was under the minimum size to require a building permit.

Chair B. Birdsell asked if anyone in the gallery wished to speak in support or opposition of the application. No one came forward.

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 P. Ross seconded by D. Kendrick,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.5.1.2 of Zoning By-law (1995)-14864, as amended, for 4 Balfour Court, to permit the existing accessory structure to be situated 0.1 metres (0.3 feet) from the rear lot line and 0 metres from the right rear side yard lot line, when the By-law requires that accessory buildings or structures be situated a minimum of 0.6 metres (1.97 feet) from any lot line, be approved.”

Carried

Application: A-122/14

Owner: 150 Wellington Guelph Limited

Agent: Krista Walkey, Stantec Consulting Ltd.

Location: 150 Wellington Street East

In Attendance: Krista Walkey

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. K. Walkey replied that three signs were posted and staff comments were received.

Ms. K. Walkey explained that the application was deferred to allow time for the applicant to meet with staff to determine how the parking was to be distributed. She explained that there were discussions with staff at the end of 2014 and the owner concurs with the recommendations made by staff.

Chair B. Birdwell asked if the Committee members had any questions. Committee member P. Ross asked if staff thought this was an unusual situation or if this situation is common with high-density developments. Planner M. Witmer replied that the only other minor variance downtown that had a similar variance requested was 5 Gordon Street which involved a reduction in commercial parking spaces. Committee member P. Ross asked if the minor variance for 5 Gordon Street was approved. Planner M. Witmer indicated that there were several minor variances for that property and they were all approved.

Committee member S. Dykstra asked if the applicant was aware of the parking requirements at the time the site plan was prepared and was aware that a minor variance would be required. Ms. K. Walkey replied that she was aware of the parking requirements and it was not until pre-sales started to occur that there was more demand for residential parking than commercial parking. She explained that for commercial properties in the downtown core, there is no requirement for commercial parking spaces, such as the almost completed Tricar building on the opposite side of Macdonell Street. She explained that the other building is also mixed-use and there is no requirement for commercial parking for that building.

Committee member S. Dykstra asked if the applicant assumed that commercial parking would not be needed for the subject property. Ms. K. Walkey replied no that she was aware there would be some commercial parking requirements. Committee member S. Dykstra asked the applicant if she was aware that a minor variance would be required for the commercial parking when preparing the building design. Ms. K. Walkey explained that enough commercial and residential parking was provided to meet the requirements of the By-law, but she is asking the Committee to re-allocate and provide more for the residential uses and less to the commercial uses. Committee member S. Dykstra asked why the reallocation is needed. Ms. K. Walkey replied that there is more demand for the residential parking spaces. Committee member S. Dykstra asked if there was visitor parking available for the residential use. Ms. K. Walkey replied yes that the visitor parking is provided. Committee member S. Dykstra asked if the visitor parking is incorporated in the number of residential parking spaces available. Ms. K. Walkey replied that there is no surface parking and all parking is incorporated within the structure. Committee member S. Dykstra asked if the applicant is confident that the only parking variance needed will be for the commercial parking requirement. Ms. K. Walkey replied yes to the best of her knowledge at this time.

Committee member S. Dykstra commented that it appears that there are four commercial units proposed and six commercial parking spaces. Ms. K. Walkey replied that there are six dedicated commercial parking spaces proposed. Committee member S. Dykstra asked where staff working in the commercial units would park. He explained that his concern was the accessibility of parking for visitors to the commercial units. Ms. K. Walkey replied that the six parking spaces

would be made available to the visitors of the commercial units, and the owner of the commercial unit typically resides in the building or would parking in a City lot adjacent to the subject property. Committee member S. Dykstra asked if there would be some type of agreement to ensure the visitor parking spaces are for visitor parking only. Ms. K. Walkey replied that the condominium declaration would be set up to accommodate this, and if the owners of the commercial units required additional parking they could investigate parking at an abutting property. Committee member S. Dykstra commented that the surface parking spaces in behind the proposed building are restricted. Ms. K. Walkey stated that there have been discussions with the Downtown Coordinator about this parking location but these parking spaces are not needed for at least another eighteen months. Committee member S. Dykstra said he would like to see some type of acknowledgment from the commercial unit operators and staff that they are aware that they will be parking in the surface parking area in behind the subject property so the visitor parking is only for visitors. Ms. K. Walkey agreed.

Committee member D. Kendrick asked what the parking ratio was for the residential component. Ms. K. Walkey replied it is 1.5 parking spaces per residential unit for the first certain amount of units, and 1.25 for the units after. She indicated that 1.5 parking spaces per unit is what people prefer.

Committee member D. Kendrick stated he is somewhat surprised in the request for a reduction in commercial parking spaces as it will be two thirds below the requirement. Committee member D. Kendrick asked why this is considered good planning. Planner M. Witmer explained that to some extent Planning Services shared the same concern as staff want to ensure the commercial units are viable and attractive for the long-term as per the Official Plan and particularly Downtown Secondary Plan. Planner M. Witmer indicated that the applicant was encouraged to explore off-site parking agreements for the interim period until the proposed decked municipal parking structure is built to the rear. Planner M. Witmer explained that due to the location of the property near to transit services and the walkability of the site, it does warrant some reduction in commercial parking, and based on discussions with the applicant Planning Services are comfortable with the numbers proposed. He explained that there are nearby developments constructed downtown such as the building at 5 Gordon Street and 150 Macdonell Street which have similar parking ratios. He explained that he understands that a future Draft Plan of Condominium will be submitted by the applicant and through that process staff will be working with the Condominium Declaration to further secure those spaces for the long-term so that a future decision could not be made by the Condominium Board to use these commercial parking spaces for residential uses.

Planner M. Witmer explained that 1.5 parking spaces are required for the first 20 units, and thereafter 1.25 parking spaces are required for the additional residential units. Planner M. Witmer showed the parking calculation on the overhead projector. Committee member D. Kendrick asked if the applicant is in full compliance with the Zoning By-law requirements based on that calculation. Planner M. Witmer replied yes, as the site plan has been approved based on that calculation.

Committee member P. Ross asked what happens in the case that the residential unit owner does not require a parking space. Ms. K. Walkey stated that through sales, most potential owners purchase a parking space with the unit regardless if they are going to use it or not, due to the long-term re-sale potential. She explained that if the parking space is not used the owner can lease the space to other unit.

Committee member S. Dykstra asked what the timeline was for the proposed construction of the parking structure that is identified in the staff report. Planner M. Witmer replied that there is not a timeline as it is subject to future funding which is unknown at this time.

Chair B. Birdsell asked if anyone in the gallery wished to speak in support or opposition of the application. No one came forward.

Committee member S. Dykstra asked if an another condition could be added to require an agreement with the parking lot to the rear to ensure that the owners and the staff of the commercial units would park in the parking lot to the rear in order to ensure the commercial parking spaces on site are only used for visitors. Chair B. Birdsell commented that the applicant spoke to the issue previously.

Committee member S. Dykstra asked if there is an agreement. Chair B. Birdsell asked the applicant what has been done to pursue extra parking. Ms. K. Walkey indicated that the owners will pursue this if there is a requirement for it, but based on Tricar's other projects they do not feel there will be a need for it. Chair B. Birdsell stated it is an option for the Committee to add a second condition that would come into effect at the time of occupancy of the building and the applicant could come back to staff to confirm that they have met the requirements whether through actual use of the parking or with an outside agreement. Committee member S. Dykstra asked if the applicant would be satisfied with this. Ms. K. Walkey replied yes this could be accommodated if this is a requirement prior to occupancy of the commercial units that parking is adequately demonstrated to the satisfaction of the City.

Committee member L. Janis stated that that there seems to be a discrepancy in the staff report regarding the number of units. Ms. K. Walkey replied that 165 units is for the property on Macdonell Street and the subject property is proposing approximately 139 units and this number may decrease depending on market demand for larger units. She explained that through site plan approval 143 units is the maximum allowed.

Committee member D. Kendrick asked how many parking units are actually being created as the total number of residential units has not been confirmed yet. Chair B. Birdsell clarified that the Committee is considering a request that is proposing to reduce the number of commercial parking spaces to free up parking spaces that could be sold to residential units.

Committee member D. Kendrick expressed concern about the reduction of parking spaces based on the Zoning By-law's requirements as the operator of each commercial unit will require at least one parking space and it is unknown if the parking garage will be built or not at this

time. He indicated he is not comfortable with supporting the request for only six commercial parking spaces.

Moved by D. Kendrick and seconded by P. Ross,

“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 150 Wellington Street East, to permit a total of six (6) off-street parking spaces for the 585.3 square metre (6,300.1 square foot) ground level commercial floor area, when the By-law requires that office uses shall have a minimum of one (1) off-street parking space per 33 square metres (355.2 square feet) of gross floor area [total of 18 off-street parking spaces required], be refused.”

Due to a tie vote, Chair B. Birdsell voted against the motion.

Not carried

Chair B. Birdsell asked staff if the proposed condition regarding the parking agreement would be acceptable. Planner M. Witmer advised against using the prior to occupancy requirement, as it would not be considered applicable law for Building Services staff to refuse occupancy and would advise using a different timeline. Committee member S. Dykstra indicated that the applicant advised that completion of the project would be within 18 months and suggested that this timeline could be used. Chair B. Birdsell asked staff if this was acceptable. Planner M. Witmer indicated it was acceptable and recommended that wording be added requiring the condition to be completed prior to registration of the Plan of Condominium. Committee member S. Dykstra recommended removing the 18 month requirement and using the Plan of Condominium requirement instead.

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 S. Dykstra and seconded by P. Ross,

“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 150 Wellington Street East, to permit a total of six (6) off-street parking spaces for the 585.3 square metre (6,300.1 square foot) ground level commercial floor area, when the By-law requires that office uses shall have a minimum of one (1) off-street parking space per 33 square metres (355.2 square feet) of gross floor area [total of 18 off-street parking spaces required],

be approved, subject to the following conditions:

1. That the maximum number of commercial units on the subject property not exceed a total of four (4) or exceed a maximum floor area of 595 square metres (6404 square feet), as shown on drawing No. A201 – Ground Floor Plan of Building Permit No. 14 001193 PN.
2. That prior to registration of the Plan of Condominium, the applicant satisfy Planning Services staff that adequate parking for commercial unit owners and staff has been provided on-site or that a parking agreement has been entered into with an abutting landowner.”

Carried

Application: **A-10/15**

Owner: **Ryan and Beth Waller**

Agent: **N/A**

Location: **45 Tiffany Street West**

In Attendance: **Ryan Waller**
 Olga Petrucci

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. R. Waller replied that the sign was posted and staff comments were received.

Chair B. Birdsell asked if the owner wished to speak to the application. Mr. R. Waller replied no.

Chair B. Birdsell asked if the Committee members had any questions of the owner. Committee member L. Janis if any comments were received from the neighbours. Chair B. Birdsell replied that it does not appear that any comments were received from the neighbours and asked the owner if he had any discussions with the neighbouring property owners. Mr. R. Waller replied that has had extensive conversations with the property owner most affected by this application and that neighbour is supportive of this application.

Chair B. Birdsell asked if anyone in the gallery wished to speak in support or opposition of the application. No one came forward.

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 S. Dykstra seconded by L. Janis,

“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 45 Tiffany Street West, to permit the one-storey residential addition to be situated 0.8 metres (2.6 feet) from the left lot line, when the By-law requires that the minimum side yard shall be 1.5 metres (4.9 feet), be approved.”

Carried

Application: A-11/15

Owner: Angelo Colanardi

Agent: Nancy Shoemaker, Black, Shoemaker, Robinson & Donaldson Limited

Location: 99 Speedvale Avenue East

In Attendance: Nancy Shoemaker
Peter Cumin

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. N. Shoemaker replied that the sign was posted and comments were received.

Chair B. Birdsell asked if the applicant wished to speak to the application. Ms. N. Shoemaker told the Committee that this property has been used as a barber shop for 14 years. She explained that when the owner purchased the property a two-storey addition as constructed and the bottom floor was used as the barber shop. She indicated that the owner is ready to retire and the new barber that is interested in taking over the business needs a larger residence than what can be accommodated.

Chair B. Birdsell asked if the Committee members had any questions of the applicant. Committee member S. Dykstra asked if the entrance to the home shown on the drawing will remain as shown, as he is concerned about the movement of customers for the business versus the tenants of the dwelling. Ms. N. Shoemaker asked the proposed new owner, Mr. P. Cumin, if

he was going to close the entrance into the house. Mr. P. Cumin replied that he could. Committee member S. Dykstra stated he is assuming there are no Building Code or Fire Code issues resulting from entrance removal as there are other exits available. He asked if there is a living component above the barber shop area. Mr. P. Cumin replied that it is a bedroom and it is accessed by the stairwell. Committee member S. Dykstra asked if there were any Building Code or Fire Code issues with a dwelling unit above a commercial business. Ms. N. Shoemaker stated that the current owner received a building permit 14 years ago acknowledging the business and the bedroom above. Committee member S. Dykstra said his only concern is that the entrance to the dwelling is permanently locked so the dwelling unit is separated from the commercial business. Mr. P. Cumin replied that this is acceptable.

Chair B. Birdsell asked if anyone in the gallery wished to speak in support or opposition of the application. No one came forward.

Committee member S. Dykstra asked if his previous comment regarding the locking of the entrance between the commercial unit and dwelling unit needs to be added as a condition.

Chair B. Birdsell replied that he believes the conditions can be left as is.

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 P. Ross and seconded by S. Dykstra,

“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 5.1.1 of Zoning By-law (1995)-14864, as amended, for 99 Speedvale Avenue East, to permit a personal services establishment (barber shop) restricted to a maximum of 30 square metres (322.9 square feet) within the existing dwelling, when the R.1B zone permits a variety of residential uses, but does not permit a personal service establishment,

be approved, subject to the following conditions:

1. That the personal services establishment is limited to a barber shop;
2. That the home owner is the sole proprietor of the barber shop and no additional employees are permitted; and
3. That the barber shop be limited to a maximum of 30 square metres.”

Carried

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The meeting adjourned by S. Dykstra at 4:55 p.m.

B. Birdsell
Chair

T. Russell
Secretary-Treasurer