



COMMITTEE OF ADJUSTMENT MINUTES

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday January 14, 2016 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

B. Birdsell
K. Ash
M. Bosch
S. Dykstra (arrived at 4:03 p.m.)
D. Kendrick
P. Ross

Regrets: L. Janis

Staff Present: L. Sulatycki, Planner
T. Di Lullo, Secretary-Treasurer
V. Sobering, Council Committee Assistant

Election of Chair and Vice-Chair for 2016

Chair B. Birdsell asked if there were any nominations from the floor for Chair of the Committee of Adjustment for 2016.

Moved by P. Ross
Seconded by M. Bosch

THAT B. Birdsell be nominated as Chair for the Committee of Adjustment for the year 2016.

CARRIED

B. Birdsell accepted the nomination. The vote resulted in B. Birdsell being appointed Chair of the City of Guelph Committee of Adjustment for 2016.

Chair B. Birdsell asked if there were any nominations from the floor for Vice-Chair of the Committee of Adjustment for 2016.

Moved by P. Ross
Seconded by M. Bosch

THAT K. Ash be appointed Vice-Chair of the Committee of Adjustment for the year 2016.

CARRIED

K. Ash accepted the nomination. The vote resulted in K. Ash being appointed as the Vice-Chair of the Committee of Adjustment for 2016.

Disclosure of Pecuniary Interest and General Nature Thereof

There were no disclosures.

Approval of Minutes

Moved by M. Bosch
Seconded by D. Kendrick

THAT the Minutes from the December 17, 2015 Special Meeting of the Committee of Adjustment, be approved as circulated.

CARRIED

Requests for Withdrawal or Deferral

There were no requests.

Current Applications

Application: A-68/15
Owner: Suncor Energy Products Inc.
Agent: Hussein Ghaddar
Location: 282 Victoria Road North and 475-485 Speedvale Avenue East
In Attendance: Mohammed Ghaddar
Victor Tucciarone
Dylan Griese
Jay Rosenblatt
Robert Elliot
Gemma Pozzobon
Rick Pozzobon
Natalino Pozzobon
Hussein Ghaddar

Secretary-Treasurer T. Di Lullo noted that the signs were not posted at the time staff completed a site inspection on January 11, 2016 and on January 12, 2016 replacement signs were provided to the applicant.

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. M. Ghaddar, applicant, replied that the signs were posted and noted that the wind had likely blown the original signs down. Mr. J. Rosenblatt, solicitor acting on behalf of the applicant, replied that staff comments were received.

Mr. J. Rosenblatt provided the subject property's history and future plans and outlined how he believed the property met the four tests required under the Planning Act.

In response to a question from member K. Ash, Mr. M. Ghaddar indicated that the previous rezoning application was not pursued further as it was decided to go ahead with a minor variance application. Planner L. Sulatycki responded that the status of the rezoning application received in April 2015 was considered incomplete. She further explained that the rezoning application was incomplete as it also required an Official Plan Amendment, as the proposed use would be more appropriate in a Service Commercial designation. Mr. J. Rosenblatt indicated that the minor variance was pursued in order to deal with the situation on a temporary basis and therefore other planning applications would not be required at this time.

In response to a question from member S. Dykstra, Mr. J. Rosenblatt indicated that a minor variance for a temporary period would be acceptable.

In response to a question from member M. Bosch, Planner L. Sulatycki responded that she had reservations about recommending approval for a minor variance on a temporary basis as the four tests still need to be met and she indicated that she believes the proposal fails all four tests. She also expressed concerns about the difficulty of removing a use once it has been established.

Mr. J. Rosenblatt asked if approval for a period of 9 months would be acceptable to the Committee.

Mr. D. Griese, speaking on behalf of residents from 3 Chestnut Place as well as Acorn Place, provided concerns about noise, tree removal, pollution from vehicle idling, and lights shining at residential properties during the night. He indicated that he felt the applicant should be pursuing a rezoning rather than a minor variance.

Mr. J. Rosenblatt responded that the concern about lights shining at night are common for commercial zones. Mr. M. Ghaddar indicated that they have taken steps towards dust control and reduced lighting, and are requesting approval for a maximum of nine months.

In response to questions from member S. Dykstra, Planner L. Sulatycki clarified that the rezoning previously applied for was for a vehicle rental sales establishment. She indicated that site plan approval would be required for redevelopment of the lands and would address issues such as fencing and landscaping. Member S. Dykstra indicated that he felt a rezoning application and an official plan amendment application were the appropriate approvals for this proposal.

Mr. D. Griese, expressed concerns about the applicant funding property expenses through a use that was not permitted.

Member M. Bosch expressed concerns about the applicant's credibility considering that the use commenced without the proper approvals being in place.

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

Moved by D. Kendrick
Seconded by M. Bosch

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 6.2.3.1.1.1 of Zoning By-law (1995)-14864, as amended, for 282 Victoria Road North and 475-485 Speedvale Avenue East, to permit operation of a vehicle sales establishment (U-Haul trailer and vehicle rentals), when the By-law does not permit a vehicle sales establishment, be **REFUSED**.

REASONS:

This application is refused, as it is the opinion of the Committee that this application does not meet all four tests under Section 45(1) of the Planning Act, as the proposal is beyond the Committee's scope as it requires the approvals of a Zoning By-law Amendment and an Official Plan Amendment.

CARRIED

Application: **A-1/16**
Owner: **John Sun and Ping Huang**
Agent: **N/A**
Location: **2 Sagewood Place**
In Attendance: **John Sun**
 Cindy McAlister
 Dan McAlister
 Sharon Sowden
 Adam Drewry
 Brent Drewry

Secretary-Treasurer T. Di Lullo noted that correspondence was received after the comment deadline from M. Varnai, L. Depieri, and H. Martin in opposition to the application. A copy of the correspondence was provided to the Committee members.

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. Sun, owner, replied at the sign was posted and comments were received.

Mr. J. Sun provided background information regarding his situation and the status of his renovations. He showed photos of the interior of the dwelling and storage container.

In response to a question from member K. Ash, Mr. J. Sun responded that other storage options were investigated but were too expensive and there would be issues with transporting the container. Mr. J. Sun indicated that he only requires the storage container for a temporary period of time.

In response to a question from member M. Bosch, Mr. J. Sun indicated that the storage container had been placed in its current location since the end of September 2015. Member M. Bosch suggested that the applicant could investigate relocating the container on an industrially zoned property.

Member P. Ross noted that other residents have commercial containers in parked in driveways. Planner L. Sulatycki responded that the City investigates complaints regarding dumpsters or storage containers located in front yards and it would up to the discretion of By-law Enforcement. She noted that often these types of containers are in place for a period of 30 days or less. She indicated that containers left for an indefinite period of time would be considered an accessory structure and these types of structures are not permitted in front yards.

Mr. B. Drewry, resident of Hilldale Crescent, expressed concerns about the safety of the structure, property devaluation, unsightliness, the possibility of precedence setting, and safety concerns about the location adjacent to a bus stop.

Mr. D. McAlister, resident of 4 Sagewood Place, expressed concerns about safety, possibility of the owner using the container as a permanent structure, that the owner did not check the by-laws first, and the possibility of precedence setting.

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 K. Ash
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 4.3.6 of Zoning By-law (1995)-14864, as amended, for 2 Sagewood Place, to permit the continued use of the storage container for a period of one year, when the By-law requires prohibits the use or storage of a container, truck or transport trailer or any part thereof on a residentially zoned property, be **REFUSED**.

REASONS:

This application is refused, as it is the opinion of the Committee that this application does not meet all four tests under Section 45(1) of the Planning Act.

CARRIED

Application: B-1/16
Owner: Fusion Homes
Agent: N/A
Location: 5 Arthur Street South
In Attendance: Ben Jones
Pam Kraft
Glen Tarlin

Secretary-Treasurer T. Di Lullo noted that revised wording for conditions 3, 4, and 5 from Engineering Services were provided. The revised wording was provided to the Committee members.

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. B. Jones, representative from Fusion Homes, replied that the sign was posted and comments were received.

Mr. B. Jones outlined the Metalworks development that is currently under construction and showed the severance sketch on the overhead projector. He indicated that the heritage building will be redeveloped by another entity.

Mr. G. Tarlin, resident at 83 Neeve Street, provided concerns about parking availability when the project is completed. Mr. B. Jones responded that the reason for the severance application is one of the steps required to permit the redevelopment of the entire site and the redevelopment of the heritage building would be in accordance with the Zoning By-law requirements and would be subject to the site plan process.

In response to questions from member M. Bosch, Mr. B. Jones showed the location of the easements. He explained that the approved zoning for the property was written for the entire site as a complete whole and any required setbacks are from the adjacent streets or the railway, rather than interior property lines. Ms. P. Kraft explained the location of the proposed River Walk area to the Committee.

In response to a question from member S. Dykstra, Mr. B. Jones indicated that the owner was satisfied with the recommended conditions.

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 D. Kendrick
Seconded by M. Bosch

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 of Grist Mill Lands, East Side of River Speed, Registered Plan 113, Part Lot 76 and Lots 77, 78, 79, 80, 81, and 82, Registered Plan 113 (as amended), being Parts 11, 12, and 13 on 61R-11955, City of Guelph, County of Wellington, municipally known as 5 Arthur Street South, an irregularly shaped parcel to the right side with frontage along Arthur Street South of 28.07 metres and an area of 4,034 square metres; and consent for the following easements:

- a) a 24 square metre easement for the benefit of the retained lands for maintenance access to the hydro transformer labelled as part 2 as shown on a sketch prepared for the consent application by Black, Shoemaker, Robinson & Donaldson Limited, project number 14-9781-7, dated December 4, 2015;
- b) a 9 square metre easement for the benefit of the retained lands for an accessible parking space labelled as part 3 as shown on a sketch prepared for the consent application by Black, Shoemaker, Robinson & Donaldson Limited, project number 14-9781-7, dated December 4, 2015; and

- c) five easements totalling 994 square metres to allow for use of a single shared driveway for both the severed lands and the retained lands, and to allow for maintenance access to the heritage building from the retained lands, labelled as parts 4, 6, 7, 8, and 9 as shown on a sketch prepared for the consent application by Black, Shoemaker, Robinson & Donaldson Limited, project number 14-9781-7, dated December 4, 2015,

be **APPROVED**, subject to the following conditions:

1. That prior to endorsation of the deeds, the servient tenement (43 Arthur Street, Part 1), grants a maintenance access easement approximately 2.54-metres (8.33 feet) wide by approximately 9.35-metres (30.68 feet) long over Part 2, for maintenance access to the hydro transformer, registered on title, in favour of the dominant tenement (lands to be retained Parts 5 and 10).
2. That prior to endorsation of the deeds, the servient tenement (43 Arthur Street, Part 1), grants a maintenance access easement approximately 1.63-metres (5.35 feet) wide by approximately 5.40-metres (17.72 feet) long over Part 3, for an accessible parking space, registered on title, in favour of the dominant tenement (lands to be retained Parts 5 and 10).
3. That prior to the endorsation of the deeds, the servient tenement (lands to be retained (Parts 5 and 10), grants an access/right-of-way easement approximately 6.32-metres (20.73 feet) to approximately 10.56-metres (34.56 feet) wide by approximately 64.81-metres (212.63 feet) long over Part 6, for use of the single shared driveway, registered on title, in favour of the dominant tenement (43 Arthur Street, Part 1).
4. That prior to endorsation of the deeds, the servient tenement (43 Arthur Street, Part 1), grants an access/right-of-way easement approximately 7.42-metres (24.34 feet) wide by approximately 7.04-metres (23.10 feet) long over Part 4, for the use of a turnaround for the shared driveway, registered on title, in favour of the dominant tenement (lands to be retained Parts 5 and 10).
5. That prior to endorsation of the deeds, the servient tenement (lands to be retained Parts 5 and 10), grants a maintenance access easement approximately 15.94-metres (52.30 feet) wide by approximately 20.42-metres (66.99 feet) long over Part 7, for maintenance access to the heritage building, registered on title, in favour of the dominant tenement (43 Arthur Street, Part 1).
6. That prior to endorsation of the deeds, the servient tenement (lands to be retained Parts 5 and 10), grants a maintenance access easement approximately 13.39-metres (43.91 feet) wide by approximately 11.00-metres (36.09 feet) long over Part 8, for maintenance access to the heritage building, registered on title, in favour of the dominant tenement (43 Arthur Street, Part 1).
7. That prior to endorsation of the deeds, the servient tenement (lands to be retained Parts 5 and 10), grants a maintenance access easement approximately 13.35-metres (43.80 feet) wide by approximately 3.01-metres

(9.86 feet) long over Part 9, for maintenance access to the heritage building, registered on title, in favour of the dominant tenement (43 Arthur Street, Part 1).

8. Prior to site plan approval of each phase, the owner shall have a Professional Engineer design a grading plan and stormwater management system, satisfactory to the General Manager/City Engineer.
9. That the owner grades, develops and maintains the site including the storm water management facilities designed by a Professional Engineer, in accordance with a Site Plan that has been submitted to and approved by the General Manager/City Engineer. Furthermore, the owner shall have the Professional Engineer who designed the storm water management system certify to the City that he/she supervised the construction of the storm water management system, and that the storm water management system was approved by the City and that it is functioning properly.
10. Prior to site plan approval for each phase and prior to any construction or grading on the lands, 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.
11. Prior to site plan approval for each phase, the owner shall provide to the City, to the satisfaction of the General Manager/City Engineer, any of the following studies, plans and reports requested by the General Manager/City Engineer:
 - a) a revised traffic impact and operations report covering all aspects of access and egress to the site and the effect of the development on the surrounding roads;
 - b) a servicing and stormwater management report certified by a Professional Engineer in accordance with the City's Guidelines and the latest edition of the Ministry of the Environment's "Stormwater Management Practices Planning and Design Manual" which addresses the quantity and quality of stormwater discharge from the site together with a monitoring and maintenance program for the stormwater management facility required.
12. The owner shall at their cost, address and be responsible for adhering to all the recommended measures that are contained in the plans, studies, and reports outlined in the previous condition, subsections 11 a) and 11 b) inclusive, to the satisfaction of the General Manager/City Engineer. The City may have such report be peer reviewed and all associated costs with the peer review will be the responsibility of the owner.
13. The owner shall pay to the City the actual cost of constructing and installing any new service laterals required and furthermore, prior to site plan approval for each phase, the owner shall pay to the City the estimated cost of the service laterals, as determined by the City Engineer.
14. The owner shall pay to the City the actual cost of removing any existing service laterals to the site that are not being used for the condominium development, consistent with the Sewer Relocation Agreement dated January 13, 2012, and furthermore, prior to site plan approval for each phase, the

owner shall pay to the City the estimated cost of removing the existing service laterals, as determined by the General Manager/City Engineer.

15. The owner shall pay to the City the actual cost of the removal and restoration of the boulevard where the existing accesses are located, prior to site plan approval for each phase and prior to any construction or grading on the lands, the owner shall pay to the City the estimated cost as determined by the City Engineer.
16. The owner shall pay to the City the actual cost of the construction of the new driveway accesses, curb cut including boulevard restoration, i.e. topsoil/sod within right-of-way allowance prior to site plan approval for each phase. Furthermore, prior to site plan approval for each phase, the owner shall pay to the City the estimated cost of constructing the new driveway accesses, curb cut, including boulevard restoration, i.e. topsoil/sod within the right-of-way allowance as determined by the General Manager/City Engineer.
17. Prior to the issuance of a building permit, any monitoring wells and boreholes drilled for hydrogeological or geotechnical investigations shall be properly abandoned in accordance with current Ministry of the Environment Regulations and Guidelines. The owner shall submit a Well Record to the satisfaction of the General Manager/City Engineer.
18. That the Owner shall submit to the City, in accordance with Section 41 of the Planning Act, a fully detailed site plan, indicating the location of buildings, landscaping, parking, circulation, access, lighting, tree preservation, grading and drainage and servicing on the said lands to the satisfaction of the General Manager of Planning, Urban Design and Building Services and the General Manager/City Engineer, prior to the issuance of a building permit, and furthermore the Owner agrees to develop the said lands in accordance with the approved plan.
 - a) That further, the Owner commits and agrees that the details of the layout and design for the development of the subject lands shall be generally in conformance with the development concept plan, attached as Attachment 5, to the August 25, 2014 Planning, Building, Engineering and Environment Report Number 14-38.
 - b) That Heritage Guelph be circulated the Site Plan Application for review and comment.
 - c) That the Owner agrees to consider options for including space to be made available for community uses, in the redevelopment of the heritage building (Phase #6), prior to Site Plan Approval for Phase #6.
19. That prior to the issuance of site plan approval, the Owner shall provide the City with written confirmation that the building will be redeveloped to a standard that implements energy efficiency in order to support the Community Energy Initiative to the satisfaction of the General Manager of Planning, Urban Design and Building Services and in accordance with the letter attached as Attachment 11 to Report 14-38 from Planning, Building, Engineering and Environment dated August 25, 2014.

20. That prior to site plan approval for this phase of development, the Owner must provide evidence of agreement to have the development serviced by the Galt District Energy System or, if the Owner is unable to incorporate district energy services in the development, they must provide evidence on how the development will contribute to the Guelph District Energy Strategic Plan or Community Energy Initiative, to the satisfaction of the Corporate Manager of Community Energy.
21. That prior to the issuance of site plan approval, written confirmation shall be received from the General Manager of Solid Waste Resources or his or her designate that the proposed development is in conformance with By-law (2011)-19199, known as the Waste Management By-law. Further, the Owner agrees and commits to employ a three-stream waste collection system with considerations and opportunities developed in their Waste Management Plan that would facilitate the transition to City collection at some point in the future.
22. That the Owner shall pay to the City, as determined applicable by the Chief Financial Officer/City Treasurer, development charges and education development charges, in accordance with the City of Guelph Development Charges By-law (2014)-19692, 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 this issuance of any building permits, at the rate in effect at the time of the issuance of a building permit.
23. That the Owner makes satisfactory arrangements with Union Gas for the servicing of the property, as well as provisions for any easements and/or rights-of-way for their plants, prior to the development of the property.
24. That all electrical services on the property are underground and the Owner shall make satisfactory arrangements with Guelph Hydro Electric Systems Inc. for the servicing of the property, as well as provisions for any easements and/or rights-of-way for their plants, prior to the development of the property.
25. That the Owner shall ensure that all telephone service and cable TV service in the property shall be underground. The Owner shall enter into a servicing agreement with the appropriate service providers for the installation of underground utility services for the property.
26. That the following warning clause shall be incorporated into a future site plan control agreement, offers to purchase and agreements of purchase and sale or lease of each dwelling unit within 300 metres of the railway right-of-way: "Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating

measures in the design of the development and individual dwellings(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."

27. That the Owner acknowledges and agrees that any proposed alterations to the existing drainage pattern affecting railway property must receive prior concurrence from the CN Railway and be substantiated by a drainage report to the satisfaction of the Railway.
28. That the Owner shall through restrictive covenants to be registered on title and all agreements of purchase and sale or lease provide notice to the public that any fencing and vibration isolation measures implemented are not to be tampered with or altered and further that the Owner shall have the sole responsibility for and shall maintain these measures to the satisfaction of CN.
29. The Owner shall enter into an Agreement with CN stipulating how CN's concerns will be resolved and will pay CN's reasonable costs in preparing and negotiating the agreement.
30. That the Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.
31. That prior to the issuance of site plan approval a noise study shall be submitted and the recommendations of the study be integrated into the redevelopment of the building, particularly with respect to noise mitigation specifications for upgraded windows/cladding, outdoor amenity areas and air-conditioning requirements to the satisfaction of the General Manager of Planning, Urban Design and Building Services.
32. That the Owner shall implement / incorporate the vibration attenuation measures as recommended in the Railway Vibration Analysis prepared by NOVAS ENVIRONMENTAL dated April 12, 2013 as applicable to this phase. The Owner shall further submit prior to the issuance of a building permit a refined vibration attenuation study completed by a qualified Professional Engineer for approval of the GJR, if required. The Owner shall be required to implement any additional vibration attenuation measures for this phase as recommended in the refined study prior to site plan approval.
33. That the Owner shall prior to the issuance of site plan approval undertake to establish a clear railway sight line for this phase as referenced in the MRC Safety Crossing Assessment dated April 12th 2013. The Owner further agrees to maintain the aforementioned railway safety sight line and shall incorporate such restrictions into building and landscape plans. All proposed driveway locations in this phase shall be located to conform with Transport Canada CRRGCS Standards, to the satisfaction of the GJR.
34. That the Owner acknowledges that the GJR will not accept any overland drainage from the subject property and existing property line elevations are to be maintained.
35. That the Owner shall prior to the issuance of a building permit for demolition, construction or excavation on lands immediately adjacent to the railway right

of way, as applicable to this phase, submit a detailed plan of slope stabilization / shoring completed by a qualified Professional Engineer for approval of the GJR.

36. That the Owner shall include the following Warning Clause in all Agreements of Purchase, sale or lease: "Purchasers are advised that the Guelph Junction Railway or its assigns or successors in interest has or have a right of way within 300 metres from the land subject thereof. There may be alterations to or expansion of the rail facilities on such right of way in the future, including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling[s]. The Guelph Junction Railway will not be responsible for any complaints or claims arising from use of said facilities and / or operations on, over or under the aforesaid right of way."
37. That prior to the issuance of site plan approval, the Owner shall erect and maintain a five foot high chain link fence along the property line shared with the GJR with the objective of restricting pedestrian access to GJR trackage. The fence shall extend and be tied into a physical feature that prohibits access along the river edge. Should this be on property not owned by the Owner, the Owner shall be responsible for acquiring the necessary approvals to do so. This fence will remain until such time as the GJR is satisfied with the physical construction of the proposed pedestrian bridge / trail connection and at such time the GJR may at its sole discretion allow modifications to the fencing.
38. That the Owner agrees to conform to the Environmental Implementation Report conditionally approved by City Staff on February 24, 2015.
39. That the Owner agrees to address the outstanding City Staff comments dated January 8, 2015 (City Environmental Planner) and January 22, 2015 (City Parks and Recreation) associated with the Environmental Implementation Report (EIR) applicable to the subject property prior to site alteration or the issuance of a building permit.
40. That prior to site plan approval, the Owner shall enter into a site plan agreement with the City, registered on title, satisfactory to the City Solicitor, the General Manager of Planning, Urban Design and Building Services and the General Manager/City Engineer, covering the conditions noted above and to develop the site in accordance with the approved plans and reports.
41. That prior to the endorsation of the deeds, the Owner shall enter into a development agreement with the City, registered on title, agreeing to satisfy the above noted conditions.
42. The Applicant's obligations under s.42 and 51.1 of the Planning Act, R.S.O, 1990, c. P-13 for parkland dedication or payment in lieu of conveyance as contemplated by section 42 (6) and section 51.1 of the Planning Act for the severed lands shall be to the satisfaction of the City's Deputy CAO of Public Services.

43. That the Cultural Heritage Conservation Plan (CHSP) Stage 2 be completed prior to Site Plan Approval of Phase 4 of the Metalworks development or prior to the approval for redevelopment of the heritage buildings and its associated property, whichever comes first.
44. That upon fulfilling and complying with all of the above-noted conditions, 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.
45. 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.
46. 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.
47. 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.

REASONS:

This application is approved, as it is the opinion of the Committee that, with the above noted conditions of approval, this application meets the criteria of section 51(24) of the Planning Act to which all consent applications must adhere.

CARRIED

Application: A-2/16
Owner: 2267498 Ontario Ltd. and 2363707 Ontario Inc.
Agent: N/A
Location: 66 Eastview Road
In Attendance: Kelley des Tombe
Pamela Kraft

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. des Tombe, agent for the owner, replied that the sign was posted and comments were received.

Ms. K. des Tombe provided background information regarding the application.

In response to a question from Committee member M. Bosch, Planner L. Sulatycki responded that the separation distance for on-street townhouses would only be 3 metres. She was unsure why the Zoning By-law had not been updated regarding reduced separation distance and suggested it could be incorporated as part of the review of the Zoning By-law.

No members of the public spoke in support or opposition of the application.

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

Moved by K. Ash
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 5.3.2.3.1 of Zoning By-law (1995)-14864, as amended, for 66 Eastview Road,

- a) to permit unit 6 (Block 1) to have a reduced separation distance of 3 metres from the adjacent unit 7 (Block 3), when the By-law requires that the distance between the face of one building and the face of another building, each of which contains windows of habitable rooms, shall in no case be less than 15 metres, and
- b) to permit unit 26 (Block 4) to have a reduced separation distance of 3 metres from the adjacent unit 27 (Block 6), when the By-law requires that the distance between the face of one building and the face of another building, each of which contains windows of habitable rooms, shall in no case be less than 15 metres,

be **APPROVED**.

REASONS:

This application is approved, as it is the opinion of the Committee that this application meets all four tests under Section 45(1) of the Planning Act.

CARRIED

Application: A-3/16
Owner: Nathan Reid Holdings Ltd.
Agent: N/A
Location: 45 DeShane Street
In Attendance: Grant Worton

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. G. Worton, representative from Reid Homes, replied that the signs were posted and comments were received.

Mr. G. Worton provided background information on the property.

The Committee members had no questions.

No members of the public spoke in support or opposition of the application.

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

Moved by S. Dykstra

Seconded by K. Ash

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 4.13.7.2.1 of Zoning By-law (1995)-14864, as amended, for 45 DeShane Street, to permit a driveway to be 5.92 metres wide, when the By-law requires that a residential driveway in the R.1D zone shall have a maximum width of 5.0 metres, be **APPROVED**, subject to the following condition:

1. That the driveway be developed in accordance with the plan submitted with application A-3/16 (dated December 7, 2015).

REASONS:

This application is approved, as it is the opinion of the Committee that, with the above noted condition of approval, this application meets all four tests under Section 45(1) of the Planning Act.

CARRIED

Application: B-2/16
Owner: Alexandra Neumann
Agent: Jeff Buisman, Van Harten Surveying Inc.
Location: 67 Dean Avenue
In Attendance: Astrid Clos
Judy Byrne
Brett Woodman
Bob McCracken
Beth McCracken
Aaron Zuccala
Jeff Buisman

Alexandria Neumann
Jeff Neumann

Secretary-Treasurer T. Di Lullo noted that correspondence from M. Campbell and additional correspondence from J. Smith in opposition to the application have been received. Copies of the correspondence were provided to the Committee members.

Secretary-Treasurer T. Di Lullo noted that condition 24 as recommended by Parks Planning was revised upon the applicant's request. A copy of the revised wording for this condition was provided to the Committee members.

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. A. Clos, agent for the owner, replied that the sign was posted and comments were received.

Ms. A. Clos provided background information regarding the application and noted that no minor variances were required as a result of the severance proposal. Ms. A. Clos indicated that the application package included information on the proposed tree protection zone and fencing. She acknowledged the comments provided by neighbouring property owners and the Old University Neighbourhood Residents' Association.

In response to a question from member S. Dykstra, Ms. A. Clos explained that condition 19 requests the applicant to erect tree protective fencing in accordance with the Tree Preservation Plan submitted by NRSI prior to commencing construction. She further elaborated that the fencing is proposed to be erected at a 10 metre setback and the additional 2 metres is recommended for a building setback. Planner L. Sulatycki indicated that the Environmental Planner will review the fencing and building setbacks prior to building permit issuance. She mentioned that staff is pursuing housekeeping amendment to the Zoning By-law regarding the front yard setback requirement, which if in effect, will require the applicant to have a front yard setback equal to the average setbacks of the adjacent properties rather than 6 metres. She indicated that the average setback would be around 9 metres. Ms. A. Clos expressed concern about the housekeeping amendment as it will need to go through the public process and is not in effect yet.

In response to a question from member D. Kendrick, Planner L. Sulatycki clarified that the front yard setback requirement is reviewed at the time of building permit issuance.

In response to questions from member P. Ross, Planner L. Sulatycki indicated that the rear yard setback is as indicated in the Zoning By-law. She clarified that the setback from the trees would be reviewed by the Environmental Planner prior to the building permit being issued. She indicated that the Environmental Planner completes inspections prior to and during construction to ensure tree fencing is in place and residents can call in complaints for staff to investigate.

In response to a question from member S. Dykstra, Planner L. Sulatycki clarified that she is not recommending a specific setback to the tree as this will be determined by the Environmental Planner at a later stage. Member S. Dykstra expressed concern about the possible impact of the housekeeping amendment to the tree setback and if a suitable building envelope can be provided. Ms. A. Clos expressed concern that the housekeeping amendment may be subject to a possible appeal.

No members of the public spoke in support or opposition of the application.

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 D. Kendrick

Seconded by M. Bosch

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 Plan 50, Part Lot 47, municipally known as 67 Dean Avenue, a parcel with frontage along Dean Avenue of 15.0 metres, a depth of 34.4 metres, and an area of 506 square metres,

be **APPROVED**, subject to the following conditions:

1. That the owner pays the actual cost of constructing new service laterals to the severed lands including the cost of any curb cuts 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 a building permit.
2. That the owner pays the actual cost of the construction of the new driveway entrance including the required curb cut and/or curb fill, 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.
3. That prior to the issuance of any building permits on the proposed severed lands, 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 proposed severed lands.
4. 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.
5. That the owner enters into a Storm Sewer Agreement with the City, satisfactory to the General Manager/City Engineer, prior to endorsement of the deeds.
6. That a legal off-street parking space be created on the severed parcel at a minimum setback of 6-metres from the property line at the street.
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. The owner agrees to install sump pumps for the foundation drain; furthermore, all sump pumps must be discharged to the rear yard.

10. 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.
11. 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.
12. That prior to endorsement of the deeds, 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.
13. That the owner shall 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, 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.
14. That a site plan shall be submitted to, and approved by the General Manager of Planning, Urban Design, and Building Services and the City Engineer, prior to the issuance of a building permit for the new dwelling on the severed lot indicating:
 - i. The location and design of the new dwelling;
 - ii. All trees on the subject property, including the extent of their canopies that may be impacted by the development. Any trees within the City boulevard must be shown, including appropriate protective measures to maintain them throughout the development process;
 - iii. The location of the new dwelling with a setback that is in character with the surrounding area; and,
 - iv. Grading, drainage and servicing information.
15. That prior to the issuance of a building permit, elevation and design drawings for the new dwelling on the severed lot be submitted to, and approved by the General Manager of Planning, Urban Design, and Building Services, 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 setbacks and the size and location of any proposed garage.
16. That, if tree removal is to occur during breeding bird season (approximately May 1 to July 31), a nest search be undertaken by a wildlife biologist prior to demolition so as to protect the breeding birds in accordance with the Migratory Birds Convention Act (MBCA) prior to any works occurring.
17. That the applicant consider retention of bur oak #2 and consult with the City's Environmental Planner prior to the issuance of a building permit.

18. That the applicant provide a detailed compensation plan prior to the issuance of a building permit if retention of bur oak#2 is not a feasible option.
19. That the applicant be requested to erect tree protective fencing in accordance with the Tree Preservation Plan submitted by NRSI (December 2015) prior to commencing construction or site alteration.
20. That the applicant contact the City's Environmental Planner to inspect the tree protection fencing prior to commencing construction or site alteration.
21. That the applicant be requested to maintain the tree protective fencing throughout the duration of construction and until site stabilization.
22. That prior to the endorsement of the deeds, 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.
23. The Owner shall be responsible for the payment of cash-in-lieu of parkland dedication to the satisfaction of the Deputy CAO of Public Services pursuant to s. 51.1 and s. 53(13) of the Planning Act prior to the endorsement of the Transfer (deed).
24. Prior to endorsement of the Transfer (deed) by the City, the Owner shall provide to the Deputy CAO of Public Services a satisfactory short narrative appraisal report prepared for The Corporation of the City of Guelph for the purpose of calculating the payment of cash-in-lieu of parkland dedication pursuant to s. 51.1 and s. 53(13) of the Planning Act. The short narrative appraisal report shall be prepared by a qualified appraiser who is a member in good standing of the Appraisal Institute of Canada, and shall be subject to the review and approval of the Deputy CAO of Public Services. Notwithstanding the foregoing, if the short narrative appraisal provided by the applicant is not satisfactory to the Deputy CAO of Public Services, acting reasonably, the City reserves the right to obtain an independent short narrative appraisal for the purposes of calculating the payment of cash-in-lieu of parkland dedication.
25. That prior to the issuance of a building permit, the owner/applicant makes arrangements with the Technical Services Department of Guelph Hydro Electric Systems Inc. for the newly created lot. 100% of the cost to be at the expense of the owner/applicant.
26. That upon fulfilling and complying with all of the above-noted conditions, 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.
27. 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.
28. 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.

29. 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.

REASONS:

This application is approved, as it is the opinion of the Committee that, with the above noted conditions of approval, this application meets the criteria of section 51(24) of the Planning Act to which all consent applications must adhere.

CARRIED

Other Business

Secretary-Treasurer T. Di Lullo noted that correspondence was received from the Ontario Municipal Board confirming the withdrawal of the appeal for File A-48/15. This file was a minor variance for 6 Tolton Drive/5 Laughland Lane that was refused by the Committee at the July 9, 2015 hearing.

Secretary-Treasurer T. Di Lullo noted that a written request for a 50% refund of the special meeting fee (\$502.50) was submitted by Ms. A. Clos, agent for File A-106/15 regarding 731 Woolwich Street. A copy of this correspondence regarding the refund request was provided to the Committee members. She noted that this minor variance application was heard at the December 17, 2015 special hearing. She explained that the reason for requesting the refund was that a second application was submitted for the same hearing.

Moved by D. Kendrick
Seconded by M. Bosch

THAT 50% of the special meeting fee being \$502.50 for Application A-106/15, 731 Woolwich Street, not be refunded to the applicant.

CARRIED

Adjournment

Moved by M. Bosch
Seconded by D. Kendrick

THAT the hearing of the Committee of Adjustment be adjourned at 5:35 p.m.

CARRIED

B. Birdsell
Chair

T. Di Lullo
Secretary-Treasurer