

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** B-21/16  
**LOCATION:** 507 Elmira Road North  
**DATE AND TIME OF HEARING:** July 14, 2016 at 4:00 p.m.  
**OWNER:** Linamar Corporation  
**AGENT:** Joseph Speranzini, Scarfone Hawkins LLP  
**OFFICIAL PLAN DESIGNATION:** Industrial  
**ZONING:** Industrial (B.3)

**REQUEST:** The applicant proposes to sever a parcel of land off 507 Elmira Road North with an area of 1,082.35 square metres. The proposed parcel would be added as a lot addition to the rear of the abutting property known as 499 Elmira Road.

The property at 507 Elmira Road North also proposes to provide access over a shared driveway in favour of 499 Elmira Road North. The proposed easement for shared access between the two properties would have a total width of 15.18 metres and an area of 462.99 square metres (shown as part 2 on the attached plan).

**STAFF RECOMMENDATION:** Approval with conditions

**CONDITIONS RECOMMENDED:**

**ENGINEERING SERVICES**

1. That the proposed severed parcel of land be conveyed to the abutting owner as a lot addition only (Form 3 Certificate).
2. That the following covenant is incorporated in the deed:

"The conveyance of **(Severed Lands - legal description - Lot and Plan)**, City of Guelph, County of Wellington, designated as **(Part and 61R-Plan Number)** as a lot addition only to **(Legal Description of Lands to be joined with - Lot and Plan)**, and shall not be conveyed as a separate parcel from **(Legal Description of Lands to be joined with - Lot and Plan)**."

## COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

3. That prior to endorstation of the deeds, the servient tenement lands (507 Elmira Road North, Block 'D' Registered Plan 618, Proposed Parts 2, 4 and 5), grants an access easement/ right-of-way with a width of approximately 15.19-metres (49.8 feet) to approximately 15.18-metres (49.8 feet) by a length of approximately 30.48-metres (100.0 feet), in perpetuity, registered on title, in favour of the dominant tenement lands (499 Elmira Road North, Lot 1 Registered Plan 483, Proposed Parts 1 and 3) for vehicular access and circulation.
4. That prior to endorstation of the deeds, the owner's solicitor certifies that the access easement/ right-of-way, in favour of the dominant tenement lands (499 Elmira Road North, Lot 1 Registered Plan 483, Proposed Parts 1 and 3), has been granted and registered on title.

### **CONDITIONS RECOMMENDED IN ACCORDANCE WITH COMMITTEE OF ADJUSTMENT POLICY**

5. 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.
6. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the endorsement of the deed.
7. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorsement of the deed, that he/she will provide a copy of the registered deed/instrument as registered in the Land Registry Office within two years of issuance of the consent certificate, or prior to the issuance of a building permit (if applicable), whichever occurs first.
8. That a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the draft Reference Plan (version ACAD 2010) which can be forwarded by email ([cofa@guelph.ca](mailto:cofa@guelph.ca)) or supplied on a compact disk.

### **COMMENTS**

#### **ENGINEERING SERVICES:**

The purpose of the severance of a parcel of land, (507 Elmira Road North, Proposed Part 1), approximately 30.48-metres (99.99 feet) wide by a depth of approximately 35.50-metres (116.47 feet) to approximately 35.51-metres (116.50 feet), Part of Block D, Registered Plan 618, is for a lot addition to 499 Elmira Road North (Proposed Part 3).

The purpose of the proposed consent for an access easement/ right-of-way with a width of approximately 15.19-metres (49.8 feet) to approximately 15.18-metres (49.8 feet) by a length of approximately 30.48-metres (100.0 feet) is to provide for vehicular access and circulation

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

over the servient tenement lands (507 Elmira Road North, Block 'D' Registered Plan 618, Proposed Parts 2, 4 and 5), in favour of the dominant tenement lands (499 Elmira Road North, Lot 1 Registered Plan 483, Proposed Parts 1 and 3).

We have no objection to the requested consent for severance of a parcel of land from 507 Elmira Road North and be added to the abutting property known municipally as 499 Elmira Road North as a lot addition; or to the consent for an access easement/ right-of-way for vehicular access and circulation over 507 Elmira Road North, provided the above noted conditions are imposed.

### **PLANNING SERVICES:**

The subject lands are designated "Industrial" in the Official Plan and zoned "Industrial" (B.3) in Zoning By-law (1995)-14864, as amended. The requested variance does not conflict with Official Plan polices and therefore conforms to the general intent and purpose of the Official plan.

A previous Consent application (B-14/14) for a lot addition to transfer land from 507 Elmira Road North and add it to the existing lot municipally known as 499 Elmira Road North and to create an access easement on a part of the subject property in favour of 499 Elmira Road was approved by the Committee of Adjustment on June 4, 2014.

The purpose of the current consent application is to build on approved consent B-14/14 and sever an additional portion of 507 Elmira Road North and add it to 499 Elmira Road North. The proposed lot addition will provide additional land to the rear 499 Elmira Road North surrounding an existing metal garage, which is currently being used for industrial purposes (manufacturing and/or warehouse) and accessory office space. An easement is also being requested with this application to extend an existing vehicular access further east along the driveway of 507 Elmira Road North to match the new eastern limit of the lot line adjustment.

Planning staff have reviewed Engineering comments and are in agreement with their recommended conditions of approval. Staff are satisfied that the proposed lot addition meets the Consent criteria as outlined in Policy 9.9 of the Official Plan and subdivision criteria as outlined in section 51(24) of the Ontario Planning Act. Planning staff recommend approval of the application.

### **PERMIT AND ZONING ADMINISTRATOR:**

This property is located in the Industrial (B.3) Zone. The applicant proposes to sever a parcel of land off 507 Elmira Road North with an area of 1,082.35 square metres. The property at 507 Elmira Road North also proposes to provide access over a shared driveway in favour of 499 Elmira Road North.

Building Services has no concerns with the requested severance and easement. Building Services supports the conditions recommended by Engineering Services.

**REPORT COMPILED BY:** D. McMahon, Council Committee Assistant

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** A-43/16  
**LOCATION:** 25 Crestwood Place  
**DATE AND TIME OF HEARING:** July 14, 2016 at 4:00 p.m.  
**OWNER:** Dianne Pittman and Patty Montague  
**AGENT:** Kevin Crozier, Crozier Designs Inc.  
**OFFICIAL PLAN DESIGNATION:** General Residential  
**ZONING:** Residential Single Detached (R.1A)

<b>REQUEST:</b>	The applicant is seeking relief from the By-law requirements to permit: a) a front yard setback of 5.07 metres; and b) a right side yard setback of 1.4 metres.
<b>BY-LAW REQUIREMENTS:</b>	The By-law requires: a) for dwellings located within Defined Area Map Number 66, a minimum front yard setback of 6 metres or the average of the setbacks of the adjacent properties, being 12.48 metres; and b) a minimum side yard setback of 1.5 metres.
<b>STAFF RECOMMENDATION:</b>	Approval with conditions
<b>CONDITIONS RECOMMENDED:</b>	
<b><u>PLANNING SERVICES</u></b>	
1. That the variance to the front yard setback applies to only the area in general accordance as shown in the sketch attached to the Public Notice.	
2. That the variance to the side yard setback only applies to the right side yard in general accordance as shown in the sketch attached to the Public Notice.	

## **COMMENTS**

### **ENGINEERING SERVICES:**

Engineering staff have no concerns with the requested front yard variance, to permit a front yard setback of 5.07-metres (16.63feet) for the proposed new vestibule and porch addition since it will not have an adverse effect on the front yard drainage; or to the right side yard variance, to permit the proposed new garage addition to be situate 1.40-metres (4.60 feet) from the right side lot line since it does not affect the right yard drainage from an engineering perspective. Accordingly, upon examining Planning staffs comments and recommendations and Zoning staffs comments and recommendation, Engineering staff can support their comments and recommendations for approval.

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

### **PLANNING SERVICES:**

The subject property is designated "General Residential" in the Official Plan. The requested variances do not conflict with Official Plan polices as residential uses are permitted and therefore conforms to the general intent of the Official plan.

The subject property is zoned "Residential Single Detached" (R.1A) according to Zoning By-law (1995)-14864, as amended. The applicant is proposing to construct a vestibule addition to the front of the existing dwelling and an addition to the existing garage. Two variances are required to facilitate the proposal.

The first variance requested is for a front yard setback of 5.07 metres, whereas Section 5.1.2.7(i) of the Zoning By-law requires a minimum front yard setback of 6 metres or the average of the setbacks of the adjacent properties, being 12.48 metres. The existing house is considered to be legal non-complying with a front yard setback of 4.73 metres. A vestibule addition built at 5.07 will be further setback than the existing house and will not negatively affect the streetscape. The variance is considered to meet the general intent of the Zoning By-law.

The second variance requested is for a right side yard setback of 1.4 metres, whereas Table 5.1.2, Row 7 of the Zoning By-law requires a side yard setback of 1.5 metres. The applicant is proposing to construct an addition to the existing attached garage which is built with a deficient side yard setback. The general intent of requiring setbacks is to provide adequate separation from buildings on adjacent properties in proportion to the building's height, maintain access, ensure safety, and where necessary, to accommodate services, and to allow for proper lot grading and drainage. The proposed addition will match the existing non-complying setback and is not expected to negatively affect the streetscape. The requested variance is considered to meet the general intent of the Zoning By-law.

The existing dwelling was built prior to 1950 and has legal non-complying setbacks. The first variance is less than 1 metre deficient and the second variance is 0.1 metres deficient from the By-law requirements which are negligible. The requested variances are considered to meet the general intent of the Official Plan, meet the general intent of the Zoning By-law, are considered to be desirable for the appropriate development of the land and are considered to be minor in nature. Staff recommend approval of the application subject to the above noted conditions.

### **PERMIT AND ZONING ADMINISTRATOR:**

This property is located in the Residential Single Detached (R.1A) Zone. The applicant is proposing to build an 83.1 square metre addition to the existing garage and a 39.4 square metre addition to the existing dwelling. Building Services has no objection to this application to permit a front yard setback of 5.07 metres and a right side yard setback of 1.4 metres.

A building permit will be required for any new construction.

**REPORT COMPILED BY:** D. McMahon, Council Committee Assistant

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** A-44/16  
**LOCATION:** 72 – 78 Arthur Street North  
**DATE AND TIME OF HEARING:** July 14, 2016 at 4:00 p.m.  
**OWNER:** Daryl Holmes and Kate Holmes  
**AGENT:** Kevin Crozier, Crozier Designs Inc.  
**OFFICIAL PLAN DESIGNATION:** General Residential  
**ZONING:** Residential Single Detached (R.1B)

**REQUEST:** The applicant is seeking relief from the By-law requirements to permit a front yard setback of 2.8 metres.

**BY-LAW REQUIREMENTS:** The By-law requires, for dwellings located within Defined Area Map Number 66, a minimum front yard setback of 6 metres or the average of the setbacks of the adjacent properties, being 3.0 metres.

**STAFF RECOMMENDATION:** Approval with conditions

**CONDITIONS RECOMMENDED:**

**ENGINEERING SERVICES**

1. That prior to endorsation of the deeds, the owner grants a 3.00-metre (9.84 feet) wide easement over the said lands for the existing 610mm (2 feet) storm trunk sewer over a portion of the closed Grange Street right-of-way (Northeasterly Property Line) registered on title, in favour of the City of Guelph as shown in red on the owner’s site plan.
2. That prior to endorsation of the deeds, the owner shall determine the actual location of the 610mm (2 feet) storm trunk sewer over a portion of the closed Grange Street right-of-way (Northeasterly Property Line) and have an Ontario Land Surveyor prepare a reference plan showing the actual location of the 610mm (2 feet) storm trunk sewer, the easement and be responsible for the entire costs associated with the preparation and registration of the reference plan.
3. That prior to endorsation of the deeds, the owner’s solicitor certifies that the easement in favour of the City of Guelph, over a portion of the closed Grange Street right-of-way (Northeasterly Property Line), has been granted and registered on title.

**PLANNING SERVICES**

4. That the Arborist Report be approved to the satisfaction of the General Manager of Planning, Urban Design and Building Services prior to the issuance of building permit.

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

## COMMENTS

### **ENGINEERING SERVICES:**

According to our records and drawings, there is an existing 610mm (2.0 feet) storm trunk sewer by a depth of approximately 1.10-metres (3.60 feet) that traverses over a portion of the closed Grange Street right-of-way (Northeasterly Property Line). The existing 610mm (2.0 feet) storm trunk sewer is not on a registered sewer easement and the exact location of the 610mm (2.0 feet) storm trunk sewer is not known, therefore, the owner shall have an Ontario Land Surveyor determine the actual location of the existing 610mm (2.0 feet) storm trunk sewer, prior to the issuance of any building permits. The owner shall grant to the City an easement approximately 3.0-metres (9.84 feet) wide by a length of approximately 34.0-metres (111.55 feet) over the existing 610mm (2.0 feet) storm trunk sewer, prior to the issuance of any building permits. The owner shall also have an Ontario Lands Surveyor prepare a reference plan showing the actual location of the 610mm (2.0 feet) storm trunk sewer and easement. We have illustrated in red on the applicants site plan the approximate location of the existing 610mm (2.0 feet) storm trunk sewer that traverses over a portion of the closed Grange Street right-of-way (Northeasterly Property Line) and the required easement to assist the Committee.

Engineering staff have no concerns with the requested front yard variance, to permit a front yard setback of 2.82-metres (9.25 feet) for the proposed front building addition since it will not have an adverse effect on the front yard drainage, provided the above noted conditions are imposed.

### **HERITAGE PLANNING:**

Heritage Planning staff notifies the Committee of Adjustment that the subject property (72-78 Arthur Street North) is designated under Part IV of the Ontario Heritage Act through heritage designation By-law (2007)-18432. According to Sections 33 and 34 of the Act, any proposed alteration, demolition or removal that would affect the heritage attributes of the property is required to obtain approval through the heritage permit process.

The proponent has made a heritage permit application (HP16-0005) to permit partial demolition, alterations and new construction as described in Council report 16-56 being presented by Planning staff to City Council on July 18, 2016. Heritage Planning staff and Heritage Guelph have supported the application as the proposal is in keeping with proper heritage conservation practice and does not pose a negative impact to the heritage attributes protected by the heritage designation by-law. Therefore, Heritage Planning staff have no concerns or objection to the variance required for the front yard setback for the residential addition.

### **PLANNING SERVICES:**

The front portion of the subject property is designated "General Residential" and the back portion is designated "Significant Natural Areas and Natural Areas" in the Official Plan. Schedule 2: Development Constraints of the Official Plan further identifies this property as being within the Regulatory Floodplain and having a One Zone and Two-Zone Fringe overlay. The Two Zone concept is used in the older, established areas of the City where past development activities have occurred within the flood plain area. Some allowance is given to see existing development retained, and new development permitted if certain design criteria/standards are maintained to protect human life and minimize property damage during a flooding event.

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

The "Provincial Policy Statement" generally encourages the prohibition of development or redevelopment within the regulatory flood plain due to inherent dangers, such as loss of life, property damage and social disruption, should flooding occur. The "Policy Statement" does however, recognize special circumstances where the general prohibition of new development or redevelopment in flood plain areas of historic communities is not practical. Therefore, the "Policy Statement" makes provision for the delineation of certain lands within a flood plain area as "floodway" and "flood fringe" – these are the lands that distinguish it as a Two Zone Flood Plain area. The requested variance does not conflict with Official Policies as residential uses are permitted in the "General Residential" land use designation and additions to existing residential dwellings are permitted within the "flood fringe" subject to meeting certain criteria. The requested variance conforms to the general intent of the Official Plan.

The subject property is zoned "Residential Single Detached" (R.1B) according to Zoning By-law (1995)-14864, as amended. The applicant is proposing to construct an addition to the front of the existing legal non-complying dwelling and is seeking relief from the By-law requirements to permit a front yard setback of 2.8 metres, whereas Section 5.1.2.7(i) of the Zoning By-law requires a minimum front yard setback of 6 metres or the average of the setbacks of the adjacent properties, being 3.0 metres.

The existing house was built in the 1870's and is a designated house under the Ontario Heritage Act. The existing dwelling is considered to be legal non-complying and part of the existing dwelling is built at the front property line. The applicant is proposing to construct an addition at 2.82 metres from the front property line, whereas a 3.0 metre front yard setback is required. This variance represents on 0.18 metre deviation from the Zoning By-law, which is negligible. Since this is a designated property under the Ontario Heritage Act, a Heritage Permit will be required and from reviewing Heritage Planning comments, it is understood that the addition is supportable by Heritage Guelph. A reduced front yard setback will not negatively affect the streetscape and is considered to meet the general intent of the Zoning By-law, be desirable for the appropriate development of the land and is considered to be minor in nature.

There are a number of mature trees on the property and although the property does not fall under the Private Tree Protection By-law, the trees are afforded protection under the Urban Forest policies of the Official Plan. The applicant has submitted an Arborist Report and staff are recommending conditions of approval related to the Arborist Report.

The requested variance is considered to meet the general intent of the Official Plan, meet the general intent of the Zoning By-law, is considered to be desirable for the appropriate development of the land and is considered to be minor in nature. Staff therefore recommend approval of the application subject to the above noted conditions.

### **PERMIT AND ZONING ADMINISTRATOR:**

This property is located in the General Residential (R1.B) Zone. The applicant is proposing to build a 30 square metre addition to the existing dwelling. Building Services has no objection to this application to permit a front yard setback of 2.8 metres.



## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

A building permit will be required for any new construction. Building Services supports the conditions recommended by Engineering Services.

### **GRAND RIVER CONSERVATION AUTHORITY (GRCA):**

The Grand River Conservation Authority has no objection to the above noted minor variance.

A permit for the construction of a 95 square metre garage and 173 square metre addition to the dwelling at 72 – 78 Arthur Street has previously been approved by the Grand River Conservation Authority.

**REPORT COMPILED BY:** D. McMahon, Council Committee Assistant

**SEE ATTACHED RED LINE DRAWING AND GRCA REPORT.**

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** A-45/16  
**LOCATION:** 62 Nottingham Street  
**DATE AND TIME OF HEARING:** July 14, 2016 at 4:00 p.m.  
**OWNER:** Paul Haley, Gerard Haley and John Haley  
**AGENT:** Donna Haley  
**OFFICIAL PLAN DESIGNATION:** General Residential  
**ZONING:** Residential Single Detached (R.1B)

<b>REQUEST:</b>	The applicant is seeking relief from the By-law requirements to permit the accessory apartment to have an area of 82.86 square metres, being 32.4% of the total floor area.
<b>BY-LAW REQUIREMENTS:</b>	The By-law requires that an accessory apartment not exceed 45% of the total floor area of the building and shall not exceed a maximum of 80 square metres in floor area, whichever is lesser.
<b>STAFF RECOMMENDATION:</b>	Approval with conditions
<b>CONDITIONS RECOMMENDED:</b>	
<b><u>ENGINEERING SERVICES</u></b>	
1. That prior to the issuance of a building permit, the owner shall apply to the City Solicitor for an encroachment agreement and obtains approval for the encroachment of a portion of the existing building, new covered wooden porch, wood steps and concrete sidewalk that encroach on the Nottingham Street right-of-way.	

## **COMMENTS**

### **ENGINEERING SERVICES:**

The applicant's survey plan accompanying the application shows a portion of the existing building and verandah that encroach on the Nottingham Street right-of-way. Upon a site inspection it was noted that the original verandah had been removed and replaced with a new covered wooden porch, wood steps and concrete sidewalk. We request that the owner applies to the City Solicitor for an encroachment agreement and obtains approval for the encroachment of a portion of the existing building, new covered wooden porch, wood steps and concrete sidewalk that encroach on the Nottingham Street right-of-way, prior to the issuance of a building permit. We have illustrated in red on the applicants survey plan the portion of the existing building, new covered wooden porch, wood steps and concrete sidewalk that will require an encroachment agreement to assist the Committee.

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

We have no objection to the requested accessory apartment size variance from an Engineering perspective, provided the above noted condition is imposed.

### **PLANNING SERVICES:**

The subject property is designated "General Residential" in the Official Plan. The requested variance does not conflict with Official Plan polices as residential uses are permitted and therefore conforms to the general intent and purpose of the Official plan.

The subject is property is zoned "Residential Single Detached - B" (R.1B) in Zoning By-law (1995)-14864, as amended, with the southwest corner of the property in a Special Policy Area in regarding the regulatory floodplain. However, the existing house is outside of the area of the property overlaid with the regulatory floodplain in the Zoning By-law.

The applicant is proposing to create an accessory apartment on the second floor of the existing single detached dwelling that exceeds the maximum gross floor area limit of the Zoning By-law by 2.86 square metres. Section 4.15.1.5 of the Zoning By-law limits the size of accessory apartments to 80 square metres or 45% of the gross floor area of the house, whichever is lesser. The proposed accessory apartment is proposed to be 82.68 square metres in size, and represents 32.4% of the gross floor area of the house.

A building permit was issued by the City on April 25, 2016 for an 80 square metre accessory apartment. To ensure that the plans submitted with the building permit application for the accessory apartment complied with the maximum size requirements of the Zoning By-law, the property owner included a bulkhead in their plans to reduce the ceiling height below 1.95 metres so as to not be included in the floor area calculation as per Section 4.15.1 of the Zoning By-law. The property owner is looking to amend the building permit application to exceed the maximum requirements by removing the bulkhead. This modification would add 2.82 square metres to the size of the accessory apartment.

Planning staff are of the opinion that the application is minor in nature, desirable for the appropriate development of the lands and meets the general intent and purpose of the Official Plan and Zoning By-law. It is recommended that the application be approved.

### **PERMIT AND ZONING ADMINISTRATOR:**

This property is located in the General Residential (R1.B) Zone. The applicant is proposing to add 3.72 square metres to the accessory apartment on the second floor of the existing dwelling.

Building Services has no concerns with this variance to permit an accessory apartment with an area of 82.86 square metres in lieu of the permitted 80 square metres. The intent of the regulation is to keep the accessory unit subordinate to the main unit. It has been indicated that proposed accessory apartment will make up 32.4% of the total floor are, so the accessory apartment does appear to remain subordinate to the host dwelling and incompliance with the secondary size check (which does not permit the accessory apartment to exceed 45% of the total floor area of the building). Building Services therefore has no objections to this requested variance.

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

## **GRAND RIVER CONSERVATION AUTHORITY (GRCA):**

The Grand River Conservation Authority has no objection to the above noted minor variance.

**REPORT COMPILED BY:** D. McMahon, Council Committee Assistant

**SEE ATTACHED RED LINE DRAWING AND GRCA REPORT.**

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** B-22/16  
**LOCATION:** 320 – 322 Eastview Road  
**DATE AND TIME OF HEARING:** July 14, 2016 at 4:00 p.m.  
**OWNER:** 2298907 Ontario Inc.  
**AGENT:** Jacob Abbutt, BBE Construction Inc.  
**OFFICIAL PLAN DESIGNATION:** Service Commercial  
**ZONING:** Service Commercial (SC.1)

<b>REQUEST:</b>	The applicant proposed to sever an irregularly shaped parcel with frontage along Watson Road North of 25.99 metres, a depth of 102.57 metres, and an area of 5,186.6 square metres.
<b>STAFF RECOMMENDATION:</b>	Deferral
<b>CONDITIONS RECOMMENDED:</b>	N/A

## COMMENTS

### **ENGINEERING SERVICES:**

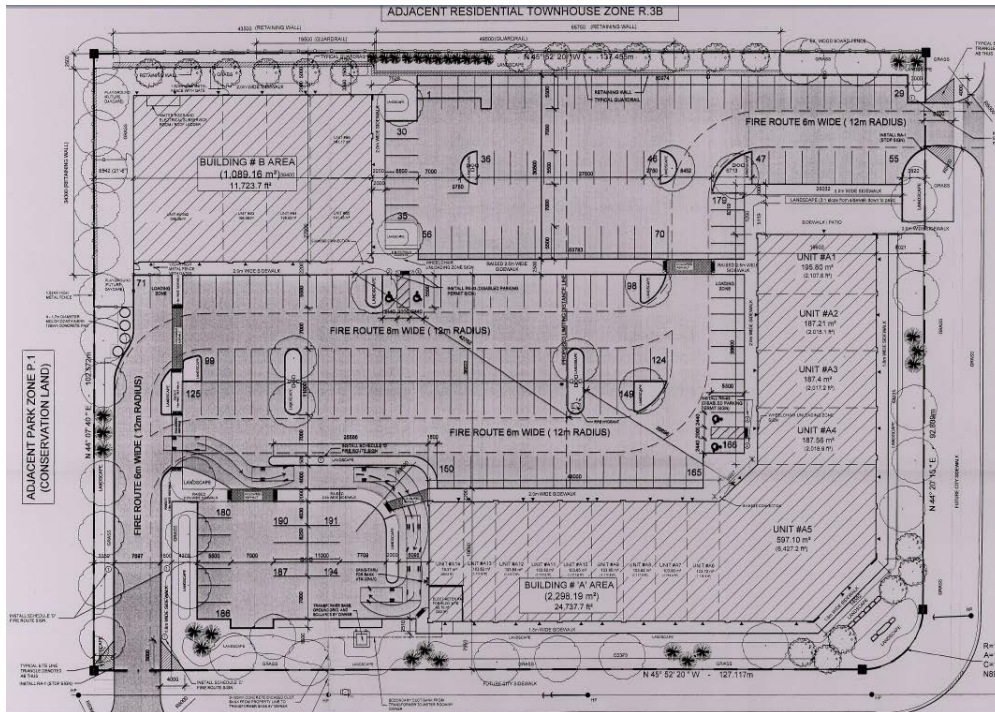
Engineering staff have no concerns with the consent application for severance to create a new lot from an engineering perspective. However, upon examining Planning staffs comments and recommendations and Zoning staffs comments and recommendation, Engineering staff can support their comments and recommendations for deferral.

### **PLANNING SERVICES:**

The subject property is designated "Service Commercial" in the Official Plan and is zoned "Service Commercial One" (SC.1) in Zoning By-law (1995)-14864, as amended.

Planning staff have concerns with the consent application as currently proposed and recommend that it be deferred by the Committee of Adjustment *sine die*. Should the application be deferred, the applicant is encouraged to consult further with Planning staff on the proposed consent application(s). The proposed lot line does not align with a proposed and site plan approved drive-through on the site. A new site plan application (file SP13C022) was approved by the City on March 17, 2014 to permit a drive-through for a financial institution to the north of "Building A" (see section of approved Site Plan SP13C022 below). The drive-through has not yet been constructed. Planning staff recommend that the new lot line align with the approved drive-through configuration along with updating the off-street parking provisions as per the most recent approved site plan.

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES



In addition, the proposed consent is also missing details on reciprocal access easements that will be required over both new properties. It is recommended that the applicant revise their consent application accordingly to include requests for the two required easements. A second consent application may be required for the proposed severed portion to create an easement.

Planning staff recommend that the application be deferred *sine die*.

## PERMIT AND ZONING ADMINISTRATOR:

This property is located in the Service Commercial (SC.1) Zone. The applicant is proposing to create a new commercial lot which contains an existing commercial building.

Building Services shares the concerns identified by Planning Staff and therefore also recommends deferral of this application.

**REPORT COMPILED BY:** D. McMahon, Council Committee Assistant

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** A-46/16  
**LOCATION:** 18 Harris Street  
**DATE AND TIME OF HEARING:** July 14, 2016 at 4:00 p.m.  
**OWNER:** Corinne Donnelly  
**AGENT:** N/A  
**OFFICIAL PLAN DESIGNATION:** General Residential  
**ZONING:** Residential Single Detached (R.1B)

<b>REQUEST:</b>	The applicant is seeking relief from the By-law requirements to permit: a) a 0 metre setback from the front lot line for the existing uncovered front porch, and; b) a 0 metre setback from the front lot line for the existing exterior front stairs.
<b>BY-LAW REQUIREMENTS:</b>	The By-law requires: a) a minimum setback of 0.8 metres from the lot line to an uncovered front porch, and; b) a minimum setback of 0.8 metres from the lot line for exterior stairs.
<b>STAFF RECOMMENDATION:</b>	Approval with conditions
<b>CONDITIONS RECOMMENDED:</b>	
<b><u>PLANNING SERVICES</u></b>	
1. That the porch shall not be enclosed.	
2. That the porch shall be in general accordance with the sketch as shown in the Public Notice.	

## COMMENTS

### **ENGINEERING SERVICES:**

Engineering staff have no concerns with the requested front yard variance to permit a 0-metre lot line setback for the uncovered porch extension and stairway from an engineering perspective. Accordingly, upon examining Planning staffs comments and recommendations and Zoning staffs comments and recommendation, Engineering staff can support their comments and recommendations for approval.

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

### **PLANNING SERVICES:**

The subject property is designated "General Residential" in the Official Plan. The requested variances do not conflict with Official Plan polices as residential uses are permitted and therefore conform to the general intent of the Official plan.

The subject property is zoned "Residential Single Detached" (R.1B) according to Zoning By-law (1995)-14864, as amended. The applicant has constructed an uncovered front porch extension to the existing roofed porch and staircase. A previous Committee of Adjustment decision (File: A-21/08) permitted the original roofed porch to be located 1.25 metres from the front lot line instead of 2 metres. Two variances are required for the porch extension.

The first variance requested is a 0 metre setback from the front lot line for the existing uncovered front porch, whereas Table 4.1, Row 1 of the Zoning By-law requires a minimum setback of 0.8 metres from the lot line to an uncovered front porch and the second variance requested is a 0 metre setback from the front lot line for the existing exterior front stairs, whereas Table 4.1, Row 12 of the Zoning By-law requires a minimum setback of 0.8 metres from the lot line for exterior stairs. The Zoning By-law allows for porches and stairs to project into the front yard as long as minimum distances are maintained to the property line. In this situation the exterior stairs were built at 0 metres from the front property line and the current owner extended the front porch to match the setback of the stairs. The porch extension and stairs do not have any negative impacts on the adjacent properties and are compatible with the neighbourhood.

The requested variances meet the general intent of the Official Plan, meet the general intent of the Zoning By-law, are considered to be desirable for the appropriate development of the land and are minor in nature. Staff therefore recommend approval of the application, subject to the above noted conditions.

### **PERMIT AND ZONING ADMINISTRATOR:**

This property is located in the General Residential (R1.B) Zone. The applicant is proposing to maintain an existing 3.83 square metre uncovered front porch extension to the existing roofed front porch as well as an exterior front staircase. Committee of Adjustment decision (File A-21/08) permitted the original roofed porch to be located 1.25 metres from the front lot line.

Building Services has had extensive consultation with the applicant and has no objections to the requested variances to permit a 0 metre setback from the front lot line for the existing uncovered front porch and existing front exterior stairs.

A building permit is required.

### **GRAND RIVER CONSERVATION AUTHORITY (GRCA):**

The Grand River Conservation Authority has no objection to the above noted minor variance.

**REPORT COMPILED BY:** D. McMahon, Council Committee Assistant

**SEE ATTACHED GRCA REPORT.**



# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** A-47/16  
**LOCATION:** 36 Yorkshire Street  
**DATE AND TIME OF HEARING:** July 14, 2016 at 4:00 p.m.  
**OWNER:** David Durbin and Marie Peirson-Durbin  
**AGENT:** N/A  
**OFFICIAL PLAN DESIGNATION:** General Residential  
**ZONING:** Residential Single Detached (R.1B)

<b>REQUEST:</b>	The applicant is seeking relief from the By-law requirements to permit a parking space to be located 2.84 metres from the street line.
<b>BY-LAW REQUIREMENTS:</b>	The By-law requires that a parking space shall be located a minimum of 6 metres from the street line and to the rear of the front wall of the main building.
<b>STAFF RECOMMENDATION:</b>	Approval
<b>CONDITIONS RECOMMENDED:</b>	N/A

## COMMENTS

### **ENGINEERING SERVICES:**

Engineering staff have no concerns with the requested off-street parking variance, from an Engineering perspective. Accordingly, upon examining Planning staffs comments and recommendations and Zoning staffs comments and recommendation, Engineering staff can support their comments and recommendations for approval.

### **PLANNING SERVICES:**

The subject property is designated "General Residential" in the Official Plan. The requested variance does not conflict with Official Plan polices and therefore conforms to the general intent of the Official plan.

The subject property is zoned "Residential Single Detached" (R.1B) according to Zoning By-law (1995)-14864, as amended. The applicant is proposing to construct a 13.3 square metre addition to the existing dwelling and is requesting relief from the By-law requirements to permit a parking space to be located 2.84 metres from the street line, whereas Section 4.13.2.1 of the Zoning By-law requires that a parking space be located a minimum of 6 metres from the street line and to the rear of the front wall of the main building.

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

The existing dwelling was built in the early 1900's and has an existing front yard setback of 2.7 metres. The proposed addition will be built in the side yard and essentially bring the parking space closer to the street. The intent of requiring the legal parking space to be located a minimum of 6 metres from the street line and to the rear of the front wall of the main building is to ensure the streetscape is not dominated by cars and garages are not the prominent feature of houses. In this situation, the legal parking space will be outside and will be to the rear of the front wall of the main building due to the existing setback of the house. Additionally, there is an existing covered deck and exterior stairs which are considered to be legal non-complying. The requested variance is not expected to negatively affect the streetscape and if it were not allowed, the applicant would have to reconsider the placement of the addition which could lead to a disconnected floorplan.

The requested variance is considered to meet the general intent of the Official Plan, meet the general intent of the Zoning By-law, is considered to be desirable for the appropriate development of the land and is considered to be minor in nature. Staff therefore recommend approval of the application.

### **PERMIT AND ZONING ADMINISTRATOR:**

This property is located in the General Residential (R1.B) Zone. The applicant is proposing to construct a 13.3 square metre addition to the existing dwelling.

Building Services has no objections with this application to permit the parking space to be located 2.84 metres from the street line.

A building permit is required for any new construction.

**REPORT COMPILED BY:** D. McMahon, Council Committee Assistant

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** A-48/16  
**LOCATION:** 11 Kent Street  
**DATE AND TIME OF HEARING:** July 14, 2016 at 4:00 p.m.  
**OWNER:** Bonnie Swantek, Shane Swantek and Jarrett Swantek  
**AGENT:** N/A  
**OFFICIAL PLAN DESIGNATION:** Residential 1 (Downtown Secondary Plan)  
**ZONING:** Residential Single Detached (R.1B)

**REQUEST:** The applicant is requesting permission to enlarge/extend the legal non-conforming use to permit the proposed attached garage.

The applicant is also seeking relief from the By-law requirements to permit:

- a) a parking space located 0.6 metres from the street line;
- b) a garage setback of 0.6 metres;
- c) a side yard setback of 0.89 metres; and
- d) an exterior stairs setback of 0 metres.

**BY-LAW REQUIREMENTS:** The property is occupied by a semi-detached dwelling which is considered to be a legal non-conforming use in the R.1B zone. Any additions or changes to a property which is legal non-conforming requires the prior approval of the Committee of Adjustment.

Additionally, the By-law requires:

- a) that a parking space shall be located a minimum of 6 metres from the street line and to the rear of the front wall of the main building;
- b) for dwellings located within Defined Area Map Number 66, where the off-street parking space is located within a garage, the setback for the garage shall be a minimum of 6 metres;
- c) a minimum side yard of 1.5 metres; and
- d) a minimum 0.8 metre setback for exterior stairs.

**STAFF RECOMMENDATION:** Approval with conditions

**CONDITIONS RECOMMENDED:**

**ENGINEERING SERVICES**

1. That prior to the issuance of a building permit, the owner shall apply to the City Solicitor for an encroachment agreement and obtains approval for the encroachment of a portion of the existing building, concrete porch, concrete steps, concrete sidewalk, steps and stone retaining wall that encroach on the Kent Street right-of-way.

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

## PLANNING SERVICES

2. That detailed elevations shall be submitted to, and approved by the General Manager of Planning, Urban Design, and Building Services prior to the issuance of any building permits for the side yard addition, in order for Planning staff to ensure that the design of the new addition respects the character of the surrounding neighbourhood in all aspects including the proposed massing, choice of building materials and height.

## COMMENTS

### **ENGINEERING SERVICES:**

The applicant's site plan accompanying the application shows a portion of the existing building, concrete porch and concrete steps that encroach on the Kent Street right-of-way. We request that the owner applies to the City Solicitor for an encroachment agreement and obtains approval for the encroachment of a portion of the existing building, concrete porch, concrete steps, concrete sidewalk, steps and stone retaining wall that encroach on the Kent Street right-of-way, prior to the issuance of a building permit. We have illustrated in red on the applicants site plan the portion of the existing building, concrete porch, concrete steps, concrete sidewalk, steps and stone retaining wall that will require an encroachment agreement to assist the Committee.

We have no objection to the requested front yard, left side yard, off street parking and exterior stair set back variances, provided the above noted conditions are imposed.

### **HERITAGE PLANNING:**

Heritage Planning staff notifies the Committee of Adjustment that although the subject property (11 Kent Street) is not designated under the Ontario Heritage Act, it has been listed (as non-designated) in the City of Guelph's *Municipal Register of Cultural Heritage Properties* according to Section 27 of the Ontario Heritage Act. The listing of non-designated properties in the heritage register provides interim protection for sites undergoing change by requiring owners to provide the City with at least 60 days notice of their intention to demolish or remove a building or structure on the property. A photo taken in 1974 for the Couling Building Inventory shows the previous attached garage.

The Senior Heritage Planner has no objection in principle to the proposed enlargement/extension of the off-street parking space for an attached garage. The applicant is encouraged to give the Senior Heritage Planner an opportunity to review and comment on the proposed design plans and elevations.

The applicant may contact Stephen Robinson, Senior Heritage Planner, (519) 837-5616 ext. 2496 for discussion and advice.



# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

## PLANNING SERVICES:

The subject property is designated "Residential 1" in the Official Plan - Downtown Secondary Plan. Lands within this designation of the Downtown Secondary Plan are mostly occupied by low-rise forms of housing, including single detached and semi-detached houses, townhouses and apartment buildings. The Downtown Secondary Plan updated Official Plan policies for the Downtown. The "Residential 1" land use designation intends to maintain the character of these areas.

The subject property is zoned "Residential Single Detached - B" (R.1B) in Zoning By-law (1995)-14864, as amended.

The subject property currently contains a legal non-conforming semi-detached dwelling. The semi-detached dwelling is listed on the City's *Municipal Register of Cultural Heritage Properties*. The applicant is proposing to construct an attached garage on the side of the semi-detached dwelling. To permit the construction of the garage, the applicant requires relief from four (4) sections of the Zoning By-law as well as permission to enlarge a legal non-conforming use.

According to the City's *Municipal Register of Cultural Heritage Properties*, the semi-detached dwelling contained an attached garage in approximately the exact same location as the proposed garage most recently as 1974. The City's Senior Heritage Planner has indicated that the garage was not original to the semi-detached dwelling, which was constructed in 1856. The attached garage was demolished sometime afterwards, with the concrete pad/floor remaining. Although the parking space does not comply with current off-street parking requirements for dwellings within the R.1B Zone, it is assumed that the concrete pad continued to be used for off-street parking.

Planning staff have no concerns with any of the four variances requested. The applicant is looking to re-establish a garage that once existed in approximately the same location. Planning staff are of the opinion that the variances requested are minor in nature, desirable for the appropriate development of the lands, and in keeping with the general intent and purpose of the Official Plan and Zoning By-law. In particular, the fourth variance is to recognize a deficient setback for a set of exterior stairs along the side lot line that already exists.

Planning staff also have no concerns with the request to expand the semi-detached dwelling as a legal non-conforming dwelling to include a new attached garage with the above noted varied zoning provisions. If the dwelling on the property were to be legal complying (i.e. a single detached dwelling), a similar addition in the side yard for a new garage would have the same effect on the surrounding neighbourhood. Therefore, the addition is minor and is in keeping with the low-rise residential character of the neighbourhood as intended with the "Residential 1" land use designation in the Downtown Secondary Plan.

To ensure the low-rise residential neighbourhood characteristics are maintained and also to ensure the cultural heritage attributes of the single detached dwelling as well as surrounding listed properties are respected, Planning staff recommend that the General Manager of Planning, Urban Design and Building Services review and approve the elevations of the garage addition prior to the issuance of a building permit.

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

Therefore, it is recommended that the Committee of Adjustment approve the application, subject to the above noted conditions.

### **PERMIT AND ZONING ADMINISTRATOR:**

This property is located in the General Residential (R1.B) Zone. The applicant is proposing to construct a 25.27 square metre garage attached to the existing dwelling.

Providing that the conditions recommended by Planning and Engineering Staff are imposed, Building Services does not object to this application.

A building permit will be required for any new construction.

**REPORT COMPILED BY:** D. McMahon, Council Committee Assistant

**SEE ATTACHED RED LINE DRAWING.**

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** A-49/16  
**LOCATION:** 27 Mary Street  
**DATE AND TIME OF HEARING:** July 14, 2016 at 4:00 p.m.  
**OWNER:** Breanne Anderson and Adam Maximenico  
**AGENT:** David Brix, Terra View Custom Homes Ltd.  
**OFFICIAL PLAN DESIGNATION:** General Residential  
**ZONING:** Residential Single Detached (R.1B)

<b>REQUEST:</b>	The applicant is seeking relief from the By-law requirements to permit a right side yard setback of 1.2 metres for the second story addition.
<b>BY-LAW REQUIREMENTS:</b>	The By-law requires a minimum side yard of 1.5 metres.
<b>STAFF RECOMMENDATION:</b>	Approval
<b>CONDITIONS RECOMMENDED:</b>	N/A

## COMMENTS

### **ENGINEERING SERVICES:**

Engineering staff have no concerns with the requested side yard variance to permit a second story addition on the existing dwelling from an engineering perspective. Accordingly, upon examining Planning staffs comments and recommendations and Zoning staffs comments and recommendation, Engineering staff can support their comments and recommendations for approval.

### **HERITAGE PLANNING:**

The subject property (27 Mary Street) is located within the Brooklyn and College Hill Heritage Conservation District, and is designated under Part V of the Ontario Heritage Act through By-law (2014)-19812. According to Section 42 of the Act, any proposed alteration, demolition or removal that would affect the heritage character of the property or the district is required to obtain approval through the heritage permit process.

Heritage Planning staff and Heritage Guelph have no concerns or objection to the variance required for the second storey addition, however, the proponent is in the process of a heritage permit application (HP16-0008) to permit the proposed second storey addition. To date, Heritage Planning staff and Heritage Guelph have supported the application in principle but have requested that the proponent consider a more appropriate exterior finish for the addition – one that is keeping with the HCD Plan and Guidelines. The heritage permit would not be presented to the General Manager of Planning for approval until the Senior Heritage Planner is satisfied that the recommendations of Heritage Guelph have been met.

## COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

At their meeting of June 13, 2016 Heritage Guelph passed the following motion.

THAT Heritage Guelph supports heritage permit HP16-0008 in principle, a proposal to add a second floor to the existing dwelling at 27 Mary Street, as presented in plan and elevation drawings provided by Terra View Homes at the June 13, 2016 meeting of Heritage Guelph with the following conditions;

THAT Heritage Guelph requires the proponent to consider a traditional stucco-based exterior cladding for the new front gable wall in keeping with that of the original south elevation; and

THAT all new windows should have vertically oriented six-over-one pane arrangements in keeping with the original windows of the house;

THAT the any further revisions required for heritage permit HP16-0008 that are minor in nature may be dealt with by the Senior Heritage Planner.

The applicant may contact Stephen Robinson, Senior Heritage Planner, (519) 837-5616 ext. 2496 for discussion and advice.

### **PLANNING SERVICES:**

The subject property is designated "General Residential" in the Official Plan. The requested variance does not conflict with Official Plan polices as residential uses are permitted and therefore conforms to the general intent and purpose of the Official plan.

The subject is property is zoned "Residential Single Detached - B" (R.1B) in Zoning By-law (1995)-14864. The applicant is proposing to construct a second storey addition to the existing bungalow. The bungalow currently has a side yard setback on the south side of 1 metre. The proposed second storey addition is to be stepped back from the main floor, at a side yard setback of 1.2 metres. The Zoning By-law Requires a minimum side yard setback of 1.5 metres.

In addition, the subject property is located within the Brooklyn and College Hill Heritage Conservation District, and as per the Senior Heritage Planner's comments, a Heritage Permit is also required to permit the second storey addition.

Planning staff are of the opinion that the requested variance is minor, desirable and in keeping with the general intent and purpose of the Official Plan and Zoning By-law. It is recommended that the application be approved.

### **PERMIT AND ZONING ADMINISTRATOR:**

This property is located in the General Residential (R1.B) Zone. The applicant is proposing to construct a 216.4 square metre second story addition to the existing dwelling.

Building Services does not object to this application to permit a right side yard setback of 1.2 metres for the second story addition.

A building permit will be required for any new construction.

**REPORT COMPILED BY:** D. McMahon, Council Committee Assistant



# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** A-50/16  
**LOCATION:** 41 Quebec Street  
**DATE AND TIME OF HEARING:** July 14, 2016 at 4:00 p.m.  
**OWNER:** 1708814 Ontario Ltd.  
**AGENT:** Hannah Minett  
**OFFICIAL PLAN DESIGNATION:** Mixed Use 1 (Downtown Secondary Plan)  
**ZONING:** Central Business District (CBD.1)

<b>REQUEST:</b>	The applicant is seeking relief from the By-law requirements to permit: a) a licensed floor area of 375.8 square metres; and b) a licensed capacity of 286 persons.
<b>BY-LAW REQUIREMENTS:</b>	The By-law requires that: a) the floor area of a licensed establishment shall not exceed 230 square metres; and b) the total capacity of a licensed establishment shall not exceed 190 persons.
<b>STAFF RECOMMENDATION:</b>	Approval with conditions
<b>CONDITIONS RECOMMENDED:</b>	
<b><u>PLANNING SERVICES</u></b>	
1. That of the 375.8 square metres of licensed floor area, 113 square metres shall only be used for a theatre (cinema) use (including 13 square metres for the theatre lobby).	
2. That of the licensed capacity of 286 persons, 96 of the persons shall be for the theatre (cinema) use only.	

## COMMENTS

### **ENGINEERING SERVICES:**

Engineering staff have no concerns with the requested variance for capacity of a licensed establishment from an engineering perspective. Accordingly, upon examining Planning staffs comments and recommendations and Zoning staffs comments and recommendation, Engineering staff can support their comments and recommendations for approval.

## COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

### PLANNING SERVICES:

The applicant is proposing to license a 375.8 square metre establishment which contains a bar, restaurant and theatre (cinema). The existing liquor license covers 262.9 square metres (the bar and restaurant) and the applicant is proposing to expand the license to include the theatre (cinema) use. Two variances are required to facilitate this proposal.

The subject property is designated "Mixed Use 1" in the City of Guelph Downtown Secondary Plan. The Downtown Secondary Plan updated Official Plan policies for the Downtown. Policies aim to enhance the Downtown as a hub of dining, entertainment and culture; and for the conservation and enhancement of cultural heritage resources. The Downtown Secondary Plan does not provide specific direction with regards to bars or licenced establishments. The requested variances do not conflict with any provisions of the Secondary Plan, and have the effect of supporting several of its objectives and therefore the variances meet the general intent of the Official Plan.

The subject property is zoned "Central Business District" (CBD.1) according to Zoning By-law (1995)-14864, as amended. The first variance requested is to permit a licensed floor area of 375.8 square metres, whereas Section 6.3.2.5.2 of the Zoning By-law permits a maximum floor area of a licensed establishment of 230 square metres. The second variance requested is to permit a licensed capacity of 286 persons, whereas Section 6.3.2.5.3 of the Zoning By-law permits a total capacity of 190 persons.

From 2003-2005 the City reviewed the Downtown licenced establishment provisions in the Zoning By-law. The intent of this review was to address problems associated with the late night bar patrons that were negatively impacting Downtown's role as the City's primary community and commercial centre. The review found that most problems were associated with large bars and new zoning provisions were recommended to limit them accordingly. The current establishment is comprised of a bar, restaurant and theatre (cinema). The existing liquor license covers 262.9 square metres and allows for a licensed capacity of 185 persons for the bar and restaurant only. The applicant is requesting the variances for the theatre (cinema) use to provide more beverage options for the theatre (cinema) patrons. The requested variances do not conflict with the intent of the provisions in the Zoning By-law as the theatre (cinema) use is not a bar and its closing hours are earlier than those of a typical bar. The requested variances are considered to meet the general intent of the Zoning By-law.

The requested variances are considered to be both desirable and minor in nature as the intent of the variances is to offer more selection to patrons using the theatre and not to create a new large bar on the second floor in the Downtown. To ensure that this remains the case, Planning staff recommend that a portion of the gross floor area of the licenced capacity be tied to the theatre (cinema) use. Based on the information provided by the applicant, the existing theatre occupies 100 square metres of the second floor and the theatre lobby occupies 13 square metres of the second floor, for a total area devoted to the theatre use of 113 square metres. If the increased licenced capacity floor area is tied to the use, a large bar could not be established should the theatre use cease to operate. The regulations in the Zoning By-law are not intended to restrict desirable options for patrons in the Downtown.

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

For the above noted reasons, the requested variances are considered to meet the general intent of the Official Plan, meet the general intent of the Zoning By-law, are considered to be desirable for the appropriate development of the land and are minor in nature. Staff recommend approval of the application subject to the above noted conditions.

### **PERMIT AND ZONING ADMINISTRATOR:**

This property is located in the Central Business District (CBD.1) Zone. The applicant is proposing to license a 374.8 square metre establishment which contains a bar, restaurant and movie theatre. The existing liquor license covers 262.9 square metres (the bar and restaurant).

Providing that the condition by Planning Services to restrict the use is imposed, Building Services does not object to this application.

**Please note: Actual capacity of the licensed establishment will be subject to the regulations of the Ontario Building Code.**

**REPORT COMPILED BY:** D. McMahon, Council Committee Assistant