



**COMMITTEE OF ADJUSTMENT
MINUTES**

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

K. Ash, Vice Chair
S. Dykstra
D. Kendrick
L. Janis
P. Ross

Regrets: B. Birdsell, Chair
M. Bosch

Staff Present: D. McMahon, Acting Secretary-Treasurer
G. Van den Berg, Council Committee Coordinator
L. Sulatycki, Planner
M. Witmer, Planner

Disclosure of Pecuniary Interest and General Nature Thereof

There were no disclosures.

Approval of Minutes

Moved by D. Kendrick
Seconded by P. Ross

THAT the Minutes from the June 23, 2016 Special Meeting of the Committee of Adjustment, be approved as circulated.

CARRIED

Current Applications

Application: B-21/16
Owner: Linamar Corporation
Agent: Joseph Speranzini, Scarfone Hawkins LLP
Location: 507 Elmira Road North
In Attendance: Matt Brandt

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. M. Brandt, agent, replied that the sign was posted and comments were received.

Mr. M. Brandt briefly outlined 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 S. Dykstra
Seconded by D. Kendrick

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 Block D of Registered Plan 618 ("proposed Part 1" as shown on a sketch prepared by Black, Shoemaker, Donaldson and Robinson Limited, dated May 6, 2016, project no. 16-0300), municipally known as 507 Elmira Road North, a parcel with an area of 1,082.35 square metres, as a lot addition to the rear of Part Block D of Registered Plan 618, Parts 1 and 5 of Reference Plan 61R-20484 (shown as proposed Part 3), municipally known as 499 Elmira Road North, along with a 15.18 metre wide easement in favour of proposed Parts 1 and 3 (499 Elmira Road North) for vehicular access and circulation, be **APPROVED**, subject to the following conditions:

1. That the proposed severed parcel of land be conveyed to the abutting owner as a lot addition only (Form 3 Certificate).
2. That the following covenant is incorporated in the deed: "The conveyance of (Severed Lands - legal description - Lot and Plan), City of Guelph, County of Wellington, designated as (Part and 61R-Plan Number) as a lot addition only to (Legal Description of Lands to be joined with - Lot and Plan), and shall not be conveyed as a separate parcel from (Legal Description of Lands to be joined with - Lot and Plan)."
3. That 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.
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) 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.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Application: **A-43/16**
Owner: **Diane Pittman and Patty Montague**
Agent: **Kevin Crozier, Crozier Designs Inc.**
Location: **25 Crestwood Place**
In Attendance: **Kevin Crozier**

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. K. Crozier, agent, replied that the sign was posted and comments were received.

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 S. Dykstra

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Section 5.1.2.7 (i) and Table 5.1.2 Row 7 of Zoning By-law (1995)-14864, as amended, for 25 Crestwood Place,

- a) to permit a front yard setback of 5.07 metres, when 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 12.48 metres, and
- b) to permit a right side yard setback of 1.4 metres, when the By-law requires a minimum side yard setback of 1.5 metres;

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

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.

REASONS:

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

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Application: A-44/16
Owner: Daryl Holmes and Kate Holmes
Agent: Kevin Crozier, Crozier Designs Inc.
Location: 72-78 Arthur Street North
In Attendance: Kevin Crozier

D. McMahon, Acting Secretary Treasurer, noted that the Engineering comments and conditions circulated prior to the meeting incorrectly referenced 'prior to the endorsement of the deed' where they should read 'prior to the issuance of a building permit'.

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. K. Crozier, agent, replied that the sign was posted and comments were received.

Mr. K. Crozier briefly outlined 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 P. Ross
Seconded by D. Kendrick

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 5.2.1.7 (i) of Zoning By-law (1995)-14864, as amended, for 72-78 Arthur Street North, to permit a front yard setback of 2.8 metres, when 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, be **APPROVED**, subject to the following conditions:

1. That prior to the issuance of a building permit, 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 the issuance of a building permit, 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 the issuance of a building permit, 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.
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.

REASONS:

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

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Application: A-45/16
Owner: Paul Haley, Gerard Haley and John Haley
Agent: Donna Haley
Location: 62 Nottingham Street
In Attendance: Donna Haley

Acting Secretary-Treasurer D. McMahon noted that a revised public hearing notice was mailed to indicate that the accessory apartment is on the second floor of the dwelling.

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. D. Haley, agent, replied that the sign was posted and comments were received.

Ms. D. Haley briefly outlined 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 D. Kendrick
Seconded by S. Dykstra

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.15.1.5 of Zoning By-law (1995)-14864, as amended, for 62 Nottingham Street, to permit the accessory apartment on the second floor of the dwelling to have an area of 82.86 square metres, being 32.4% of the total floor area, when 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, be **APPROVED.**

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.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Application: B-22/16
Owner: 2298907 Ontario Inc.
Agent: Jacob Abbutt, BBE Construction Inc.
Location: 320-322 Eastview Road
In Attendance: N/A

Planner M. Witmer indicated that he had spoken with the applicants and did not believe they would be attending the hearing.

Moved by S. Dykstra
Seconded by D. Kendrick

THAT Application B-22/16 for 320-322 Eastview Road, be **DEFERRED** sinedie, and in accordance with the Committee's policy on applications deferred sinedie, that the application will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application.

REASONS:

This application is deferred to allow the applicant to consult further with staff on the proposed consent application(s).

CARRIED

Application: A-46/16
Owner: Corinne Donnelly
Agent: N/A
Location: 18 Harris Street

**In Attendance: Corinne Donnelly
Jeff Born**

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. J. Born, agent, and Ms. C. Donnelly, owner, replied that the sign was posted and comments were received.

Mr. J. Born briefly outlined 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 L. Janis

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Table 4.7 Row 1 and 12 of Zoning By-law (1995)-14864, as amended, for 18 Harris Street,

- a) to permit a 0 metre setback from the front lot line for the existing uncovered front porch, when the By-law requires a minimum setback of 0.8 metres from the lot line to an uncovered front porch, and
- b) to permit a 0 metre setback from the front lot line for the existing exterior front stairs, when the By-law requires a minimum setback of 0.8 metres from the lot line for exterior stairs;

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

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.

REASONS:

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

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Application: A-47/16
Owner: David Durbin and Marie Peirson-Durbin
Agent: N/A
Location: 36 Yorkshire Street South
In Attendance: David Durbin

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. D. Durbin, owner, replied that the sign was posted and comments were received.

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. Kendirck
Seconded by S. Dysktra

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 4.13.2.1 of Zoning By-law (1995)-14864, as amended, for 36 Yorkshire Street, to permit a parking space to be located 2.84 metres from the street line, when 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, 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.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Application: A-48/16
Owner: Bonnie Swantek, Shane Swantek and Jarrett Swantek
Agent: N/A
Location: 11 Kent Street

**In Attendance: Shane Swantek
Jarrett Swantek**

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. J. Swantek, agent, and Shane Swantek, owner, replied that the sign was posted and comments were received.

Having considered a change or extension in a use of property which is lawfully non-conforming under the By-law as to whether or not this application has met the requirements of Section 45(2) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended; and,

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 P. Ross

THAT in the matter of an application under Section 45(2)(a)(i) of the Planning Act, R.S.O. 1990, c.P13, as amended, permission to enlarge/extend the legal non-conforming use at 11 Kent Street, to permit the proposed 25.27 square metre attached garage to the existing semi-detached dwelling; and

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Sections 4.13.2.1, 5.1.2.7 (i), Table 5.1.2 Row 7 and Table 4.7 Row 12 of Zoning By-law (1995)-14864, as amended, for 11 Kent Street,

- a) to permit a parking space located 0.6 metres from the street line, when 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) to permit a garage setback of 0.6 metres, when the By-law requires 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) to permit a side yard setback of 0.89 metres, when the By-law requires a minimum side yard of 1.5 metres, and;
- d) to permit an exterior stairs setback of 0 metres, when the By-law requires a minimum 0.8 metre setback for exterior stairs,

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

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.

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.

REASONS:

This application is approved, as it is the opinion of the Committee that, with the above noted conditions of approval, this application conforms with Section 45(2) of the Planning Act and meets all four tests under Section 45(1) of the Planning Act.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Application: A-49/16
Owner: Breanne Anderson and Adam Maximenico
Agent: David Brix, Terra View Custom Homes Ltd.
Location: 27 Mary Street
In Attendance: David Brix

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. D. Brix, agent, replied that the sign was posted and comments were received.

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 S. Dykstra

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.1.2 Row 7 of Zoning By-law (1995)-14864, as amended, for 27 Mary Street, to permit a right side

yard setback of 1.2 metres for the second story addition, when the By-law requires a minimum side yard of 1.5 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.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Application: A-50/16
Owner: 1708814 Ontario Ltd.
Agent: Hannah Minett
Location: 41 Quebec Street
In Attendance: Hannah Minett
Doug Minett

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. H. Minett, agent, replied that the sign was posted and comments were received.

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

Moved by L. Janis
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, variances from the requirements of Section 6.3.2.5.2 and 6.3.2.5.3 of Zoning By-law (1995)-14864, as amended, for 41 Quebec Street,

- a) to permit a licensed floor area of 375.8 square metres, when the By-law requires that the floor area of a licensed establishment shall not exceed 230 square metres, and
- b) to permit a licensed capacity of 286 persons, when the By-law requires that the total capacity of a licensed establishment shall not exceed 190 persons,

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

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.

REASONS:

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

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Other Business

None.

Adjournment

Moved by D. Kendrick
Seconded by L. Janis

THAT the hearing of the Committee of Adjustment be adjourned at 4:23 p.m.

CARRIED

C. Ash
Vice Chair

D. McMahon
Acting Secretary-Treasurer