

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday July 23, 2015 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

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

Regrets: M. Bosch

Staff Present: M. Witmer, Planner
L. Sulatycki, Planner
T. Russell, Secretary-Treasurer
S. Samuel, Legislative Coordinator

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Meeting Minutes

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

“THAT the Minutes from the July 9, 2015 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

No other business to report.

Application: A-57/15

Owner: Victoria Wood (Dallan) GP Inc.

Agent: Hugh Handy, GSP Group Inc.

Location: 44 Kay Crescent

**In Attendance: Caroline Baker
Michelle LaMarche
Kelly DesTombe**

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

Ms. C. Baker showed a Powerpoint presentation outlining the application and provided rationale for the requested variances.

In response to a question from Committee member L. Janis, Ms. C. Baker indicated that the owner is proposing condominium ownership.

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 and 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, variances from the requirements of Sections 5.3.2.3.1, 5.3.2.5.1 b) and c), 5.3.2.3.4, 5.3.2.5.2 a), and 5.3.2.5.1 a) of Zoning By-law (1995)-14864, as amended, for 44 Kay Crescent,

- a) to permit a minimum distance of 8.0 metres between blocks 1 and 2 and 3.0 metres between blocks 4 and 5 between the face of one building and the face of another building, each of which contains windows of habitable rooms, 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 be no less than 15 metres;
- b) to permit the removal of the private amenity area width and depth requirements for blocks 4 and 5, provided that the amenity area has a minimum area of 20 square metres, when the By-law requires that a private amenity area shall be provided for each unit with a minimum depth (from the wall of the dwelling unit) of 4.5 metres and a minimum width equal to the width of the unit, when the

layout of the unit permits, and if the preceding cannot be accomplished, the minimum width shall be 4.5 metres;

- c) to permit a minimum setback of 6.0 metres from any private amenity area to a wall in another building containing windows of habitable rooms which face the private amenity area for blocks 4 and 5, when the By-law requires that no part of a private amenity area shall be located within 10.5 metres of a wall in another building containing windows of habitable rooms which face the private amenity area;
- d) to permit a minimum private amenity area for stacked townhouse units above grade for blocks 4 and 5 of 4.4 square metres, when the By-law requires that for stacked townhouse units above grade, each private amenity area shall have a minimum area of 10 square metres; and
- e) to permit the required ground level private amenity area for blocks 6 and 7 to be located above grade, with a minimum area of 16 square metres and subject to the requirements of section 5.3.2.5.2 b) and c), when the By-law requires that stacked townhouses with access to the ground level from a habitable room have a ground level private amenity area, with a minimum area of 20 square metres,

be approved, subject to the following conditions:

1. That the 8.0 metre setback between façades with habitable windows apply to Blocks 1 and 2 only, as shown on the minor variance sketch submitted by the applicant.
2. That the 3.0 metre setback between façades with habitable windows apply to Blocks 4 and 5 only, as shown on the minor variance sketch submitted by the applicant.
3. That the dimensionless private amenity area provision apply to the ground level private amenity areas only for Blocks 4 and 5, as shown on the minor variance sketch submitted by the applicant.
4. That the 6.0 metre setback between a private amenity area and façade with habitable windows apply to Blocks 4 and 5 only, as shown on the minor variance sketch submitted by the applicant.
5. That the reduced private amenity area of 4.4 square metres apply to the units above grade for Blocks 4 and 5 only, as shown on the minor variance sketch submitted by the applicant.

6. That the reduced private amenity area of 16 square metres apply to the units within Blocks 6 and 7 only, as shown on the minor variance sketch submitted by the applicant.
7. That the relocated private amenity area from grade to above grade apply to Blocks 6 and 7 only, as shown on the minor variance sketch submitted by the applicant.
8. That prior to approval of Site Plan SP14A040, the applicant shall demonstrate to the satisfaction of the General Manager of Planning, Urban Design and Building Services appropriate landscaping and fence treatments to adequately buffer and integrate the ground level private amenity areas in Blocks 4 and 5.

Carried

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.

Application: B-17/15, A-58/15, A-59/15

Owner: Joan Donnelly

Agent: Jeff Buisman, Van Harten Surveying Inc.

Location: 45 Stuart Street

In Attendance: Janet Brewster
Jeff Buisman
Beth Redwood
James Laws
Colin Vanderwoerd
Chris Donnelly
Brad Maybee
Donna Kelly
Terri Belyea
Sue Lambelen
Peter Buza
Lynda McCreery
Bruce Plaskett

John McCreery
Catherine Plaskett
Susan Yodzis
Michael Yodzis
Andrea McCullagh
Diana McCullagh
William Scott
Ana Torres
Matthew Scott
Betty-Lou Clark
Ann Murray
Claudia Plaskett

Secretary-Treasurer T. Russell noted that a revised notice was mailed on July 9, 2015 which included a corrected circulation map. She also noted that there was an incorrect reference in the notice for B-17/15 which stated that the retained land will have frontage on Kathleen Street, when the retained land will actually front onto Stuart Street.

Secretary-Treasurer T. Russell advised that comments from Parks Planning were missed in the comments document provided. A copy of the comments and proposed conditions from Parks Planning were provided to the Committee members.

Secretary-Treasurer T. Russell notified the Committee that correspondence has been received after the comment deadline from Mr. J. McCreery and Ms. P. Rea in opposition of the application. Copies of the correspondence were provided to the 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. Buisman, agent, replied that the sign was posted and comments were received.

Mr. J. Buisman showed a Powerpoint outlining the application and showed photos of other dwellings on the street, as well as referencing public concerns. He also showed two options for the front yard setback of the severed parcel, one option at 8 metres and the other at 15.5 metres.

In response to a question from Committee member K. Ash, Mr. J. Buisman replied that previous severances in the area likely occurred prior to Planning Act approval, in the 1930s to 1940s.

Committee member S. Dykstra commented that a plan with a greater front yard setback fits in better with the neighbourhood. Mr. J. Buisman indicated that the applicant had only proposed the greater setback in the last couple of days and the applicant is willing to remove the variance. Planner L. Sulatycki indicated that this is acceptable.

In response to a question from Committee member D. Kendrick, Mr. J. Buisman indicated that the rear yard for the second option with a greater front yard setback would be 7.55 metres, and approximately 14 to 15 metres for the proposed rear option with the original proposed front yard setback.

Committee member P. Ross indicated that he would favour the second option with the greater setback. In response to a question from Committee member P. Ross, Mr. J. Buisman replied that the he would rely on the tree consultant to identify which trees should be considered.

In response to a question from Committee member K. Ash, Mr. J. Buisman indicated that the owners wanted to sever the property so the families could live in separate houses, and a rear addition is proposed.

In response to a question from Committee member L. Janis, Planner L. Sulatycki replied that the shed on the retained parcel was included in the staff review.

In response to questions from Committee members P. Ross and K. Ash, Planner L. Sulatycki indicated that the Committee could handle the withdrawal by refusing the variance for the front yard setback.

Committee member K. Ash indicated that she would not be supporting the severance application as she felt it did not meet the intent policies of the Official Plan due to the size of the proposed lot and did not believe the variances were desirable for the area.

Mr. B. Plaskett, resident of Stuart Street, handed out a package of information containing a tree inventory report and photos to the Committee members. He stated he had concerns about tree protection and had an arborist report completed about the trees on the property line. He also had concerns about the garage and driveway being out of proportion with the neighbourhood.

Ms. A. Torres, resident of Stuart Street, showed drawings she prepared of the existing and proposed streetscape and volumetric views. She indicated she had concerns about the application and the effect on the neighbourhood. In response to a question by Committee member K. Ash, Ms. A. Torres indicated that she believed a prior severance of the subject property occurred in the 1970s. Planner L. Sulatycki believed this was correct.

Mr. B. Maybee, resident of Stuart Street, objected to the application and expressed concerns about the effect application will have on the retained lands and neighbourhood, including the protection of heritage features.

Ms. D. Kelly, resident of Stuart Street, stated she had concerns about compatibility and impact on streetscape, and did not believe the variances met all four tests.

Committee member K. Ash suggested that the applicant amend the application to remove the requested variance regarding the front yard setback. Ms. D. Kelly suggested that the Committee might want to defer the applications to confirm the requested variances. Mr. J. Buisman agreed with removing the front yard setback variance. Chair B. Birdsell indicated that this request could be provided in writing to staff.

In response to a question from Committee member D. Kendrick, Mr. J. Buisman indicated that the applicant is proposing a single car garage.

In response to a question from Chair B. Birdsell, Planner L. Sulatycki replied that site plan approval is not required for this property. She indicated that the Committee could impose conditions limiting the garage design and driveway.

In response to a question from Committee member S. Dykstra, Planner L. Sulatycki replied that the minimum driveway width is 3 metres.

Ms. T. Belyea, resident to the rear of the subject property, showed photos of the shed in the rear yard of the subject property. She had concerns about the shed not being shown on the drawings and the inconsistencies of the notice.

Mr. J. Buisman responded to the concerns. He indicated that the applicant would like to have a 3 metre wide driveway, and the tree plan will need to be revised to incorporate the plan with a greater front yard setback. He indicated that the house does not have a heritage designation. He indicated the owner would like the Committee to make a decision rather than have the application deferred.

In response to a question from Committee member S. Dykstra, Mr. J. Buisman stated the proposal is that the retained parcel will have a 3 metre wide driveway.

Committee member K. Ash commented that both the severed and retained parcel do not meet the minimum lot width and lot area requirements under the Zoning By-law. She indicated she wished to refuse the applications as she felt the applications did not meet any of the four tests as per Section 45(1) of the Planning Act, except for the existing side yard, as the intent of the Official Plan is to maintain the character of the neighbourhood and the intent of the Zoning By-law is to maintain the lot fabric of the area. She indicated that the severance application was not in the public interest as per Section 51(24)(b) of the Planning Act, was deficient in size as per Section 51(24)(f), and did not conserve the existing trees as per Section 51(24)(h).

Application B-17/15

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 K. Ash and seconded by P. Ross,

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 Lot 38, and Lot 39, Registered Plan 232, Part 2 of Plan 61R-1438, municipally known as 45 Stuart Street, a parcel with frontage along Stuart Street of 10 metres, depth of 40.6 metres, and an area of 405 square metres,

be refused.

Carried

REASONS:

This application is refused, as it is the opinion of the Committee that this application does not meet the criteria of section 51(24) of the Planning Act to which all consent applications must adhere. Specifically, the Committee felt that the application was not in the public interest, the dimensions of the proposed severed and retained lots were deficient in size, and there would be impacts to the conservation of natural resources.

Application A-58/15

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 and seconded by P. Ross,

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Table 5.1.2 Rows 3, 4, and 6 of Zoning By-law (1995)-14864, as amended, for 45 Stuart Street,

- a) to permit a lot area to be 405 square metres, when the By-law requires that the minimum lot area be 555 square metres; and
- b) to permit a lot frontage to be 10 metres, when the By-law requires that the minimum lot frontage be the average lot frontage established by the existing lots within the same city block face, being 16.3 metres, but in no case less than 9 metres,

be refused.

Carried

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, due to the deficient size of the proposed severed lot.

Application A-59/15

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 and seconded by P. Ross,

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Table 5.1.2 Rows 3, 4, and 7 of Zoning By-law (1995)-14864, as amended, for 45 Stuart Street,

- a) to permit a lot area to be 515 square metres, when the By-law requires that the minimum lot area be 555 square metres;
- b) to permit a lot frontage of 12.8 metres, when the By-law requires that the minimum lot frontage be the average lot frontage established by the existing lots within the same city block face, being 16.3 metres, but in no case less than 9 metres; and

be refused, and;

- c) to permit a left side yard of 1.2 metres, when the By-law requires that the minimum side yard be 1.5 metres,

be approved.

Carried

REASONS:

The two variance requests a) and b) are refused, as it is the opinion of the Committee that these requests do not meet all four tests under Section 45(1) of the Planning Act, due to the deficient size of the proposed retained lot.

Variance request c) is approved, as it is the opinion of the Committee that this request meets all four tests under the Section 45(1) of the Planning Act as it represents an existing condition.

The Committee recessed at 5:40 p.m. and returned at 5:50 p.m.

Application: A-60/15

Owner: Thomasfield Homes Limited

Agent: Astrid Clos, Astrid J. Clos Planning Consultants

Location: 333 Gosling Gardens

In Attendance: Astrid Clos
Levon Saghdjian
Tom McLaughlan
Jiah Zhang

Secretary-Treasurer T. Russell noted that the applicant wished to withdraw the variance regarding the length of the common amenity area, which was labelled as request d) on the notice. As well, upon consultation with Planning staff, the applicant wishes to revise the variance request for the common amenity area to be 510 square metres instead of 619 square metres, labelled as request b) on the notice. This request was not known at the time when the notice was prepared; therefore, Secretary-Treasurer T. Russell suggested that the Committee be satisfied that adequate notice was given prior to making a decision on the application.

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, replied that the sign was posted and comments were received.

Ms. A. Clos showed the proposed changes to the application on the overhead projector. She indicated the applicant is satisfied with the original request if adequate notice is an issue, as the revisions are just a simplification of what was originally requested. Chair B. Birdsell and Committee members D. Kendrick, P. Ross, and S. Dykstra indicated that they felt adequate notice was given.

In response to questions from Committee member S. Dykstra, Ms. A. Clos indicated the common amenity area shown on the plan has not changed from what was originally proposed. She indicated that the amenity area will be accessed by stairs and a sidewalk at the back of the units. She indicated that a fence along the common amenity facing Gordon Street was not proposed, but can be added if needed.

Committee member S. Dykstra expressed concern about the amount of amenity area being provided with the number of units. Ms. A. Clos replied that the number of units is not being increased from what was approved as part of the previous rezoning application.

Mr. L. Saghdjian, resident of Gordon Street, stated he supported the application.

Planner M. Witmer provided a sketch of the proposed variance changes to show the Committee. He clarified that the requested changes would not make a physical difference to the property.

In response to a question from Committee member D. Kendrick, Planner M. Witmer replied that he did not have an exact inventory of vacant apartment zoning. Committee member D.

Kendrick expressed concern that rental accommodation is greatly needed. Ms. A. Clos clarified that a multiple attached dwelling is proposed, which is a variation of an apartment unit, where access is provided through an exterior door rather than a common corridor. She indicated that the proposed ownership form is condominium units, and noted that the Committee has no jurisdiction over the ownership form.

In response to questions from Committee member S. Dykstra, Ms. A. Clos replied that Larry Pearson Park is within walking distance as well as a future community centre in South Guelph. She estimated these would be within a 7 minute walk.

Committee member S. Dykstra expressed concerns about unusable amenity space and the increase in units. Ms. A. Clos clarified that the number of units is not increasing from what is permitted under the Zoning By-law. She indicated that variances for reductions in common amenity area are frequent as the current regulations in Guelph are quite high in comparison to other municipalities.

In response to a question from Committee member K. Ash, Ms. A. Clos indicated that the property was recently rezoned. Committee member K. Ash commented that any inconsistencies in the Zoning By-law should be corrected when possible.

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 and seconded by S. Dykstra,

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Section 5.4.3.1.41, 5.4.2.4.1, Table 5.4.2 Row 6, 4.13.3.4.2, and Table 5.4.2 Row 18 of Zoning By-law (1995)-14864, as amended, for 333 Gosling Gardens,

- a) to permit multiple attached dwellings in the R.4A-43 zone, when the By-law does not permit multiple attached dwellings in the R.4A-43 zone;
- b) to permit a common amenity area of 510 square metres, when the By-law requires a minimum common amenity area of not less than 30 square metres per dwelling unit for each unit up to 20, and for each additional dwelling units, not less than 20 square metres of common amenity area be provided and aggregated into areas of not less than 50 square metres [total of 920 square metres required];

- c) to permit an exterior side yard of 4.2 metres, when By-law requires a minimum exterior side yard of 6 metres;
- d) to permit underground parking to be situated 0.3 metres from a lot line, when the By-law requires that an underground parking area not be within 3 metres of a lot line; and
- e) to permit a maximum floor space index of 1.4, when the By-law requires a maximum floor space index of 1;

be approved.

Carried

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.

Application: A-61/15
Owner: Brandon Wilcox
Agent: N/A
Location: 72 Water Street
In Attendance: Brandon Wilcox

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. Wilcox, owner, replied that the sign was posted and comments were received.

Mr. B. Wilcox explained the purpose of his application.

The Committee had no questions for staff or the applicant.

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

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 P. Ross and seconded by D. Kendrick,

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, for permission to extend the legal non-conforming use at 72 Water Street, to construct a dormer at the rear of the second storey of the 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, a variance from the requirements of Table 5.1.2 Row 7 of Zoning By-law (1995)-14864, as amended, for 72 Water Street, to permit a dormer to be located 0.5 metres from the lot line, when the By-law requires a minimum side yard of 1.5 metres,

be approved.

Carried

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 and conforms with Section 45(2) of the Planning Act.

Application: A-62/15

Owner: Amana Property Management Inc.

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

Location: 543-547 Speedvale Avenue East and 682 Eramosa Road

In Attendance: Nancy Shoemaker
Hamid Jamali
Mahboba Jamali
Jean Hale
Ken Oakes

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

Ms. N. Shoemaker explained that the previous owner had a site plan approved but did not implement the site plan and the current owner is trying to remedy what the previous owner did not complete. Ms. N. Shoemaker explained the application and she indicated that the proposed conditions would address the concerns of the neighbour. She stated that if the fence needs replacing, the current owner would be responsible, but was unsure who owned the fence in the triangular piece to the rear of the building.

In response to a question from Committee member L. Janis, Ms. N. Shoemaker said the patio is not licensed for alcohol.

In response to a question from Committee member K. Ash, Planner M. Witmer replied that zoning inspectors would enforce any conditions about noise. Committee member K. Ash expressed concern about the appropriateness of conditions 6 and 7 and if they can actually be enforced. Planner M. Witmer indicated that zoning staff reviewed the conditions and that they are enforceable.

In response to questions from Committee member S. Dykstra, Ms. N. Shoemaker clarified that the original request was to permit 50 persons, but staff had requested this be reduced to a maximum of 30 persons. She clarified that the walk-in fridge is a movable freezer, so it can be moved to accommodate the 0.6 metre setback. Ms. N. Shoemaker said from reviewing the topographic map it is highly unlikely that there is increased water runoff from patio to the neighbouring property. Planner M. Witmer indicated that the property requires site plan approval, and stormwater management will be addressed.

In response to a question from Committee member S. Dykstra, Planner M. Witmer indicated that condition 4 addresses concerns about the safety of the parking lot.

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

Committee member K. Ash stated that conditions 6 and 7 should be removed as she felt they were inappropriate. In response to a question from Committee member K. Ash, Planner M. Witmer said enforcement could happen through a noise complaint or will be monitored as necessary.

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 and 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 Sections 4.17.1, 4.17.2.1, 4.17.2.5, 4.17.2.6, and 4.13.4.1 and 4.15.2.4 of Zoning By-law (1995)-14864, as amended, for 543-547 Speedvale Avenue East and 682 Eramosa Road,

- a) to permit a 30 person maximum for the outdoor patio for the existing restaurant, when the By-law requires that the total number of persons permitted on outdoor patios associated with a restaurant or licensed establishment shall not exceed 50% of the indoor licensed capacity, or 70 persons, whichever is less [licensed capacity of existing restaurant is 30 persons];
- b) to permit an outdoor patio on a property which abuts two residential properties, when the By-law requires that no outdoor patio shall be permitted where more than 1 lot line adjoins lands which are in a residential zone;
- c) to permit an outdoor patio to be situated 0 metres from a parking aisle, when the By-law requires that every outdoor patio shall be located a minimum of 3 metres away from any loading space, parking space, parking aisle or driveway;
- d) to permit an outdoor patio to be situated 1.9 metres from the side lot line, when the By-law requires that where permitted, outdoor patios shall be within the building envelope of the development on the site (building envelope requires a minimum side yard of 3 metres); and
- e) to permit eighteen (18) off-street parking spaces for the existing commercial building and two residential units, when the By-law requires that a minimum of 1 off-street parking space per 18 square metres of gross floor area be provided for the commercial use and a minimum of 1 off-street parking space per dwelling unit [total of twenty (20) off-street parking spaces required],

be approved, subject to the following conditions:

1. The owner agrees to submit and receive approval from the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan indicating the location of the building, landscaping, parking, circulation, access, lighting, grading and drainage and servicing to the satisfaction of the General Manager of Planning Services, prior to the issuance of a building permit for the outdoor patio.
2. That the owner develops the property in accordance with the approved site plan, within one hundred and twenty (120) days of site plan approval.
3. That prior to site plan approval, the owner applies to the City Solicitor for an encroachment agreement and obtains approval for the encroachment of an existing concrete block wall and concrete curbing that encroaches on the Speedvale Avenue road allowance.

4. That prior to the use of the patio, the owner shall provide certification from a Professional Engineer, which states that adequate safety features have been constructed to prevent vehicles from leaving the parking space, parking aisle or driveway and hitting any person or persons on the patio.
5. That the maximum capacity of the patio associated with the restaurant shall not exceed 30 persons, or at no time exceed the licensed indoor capacity of the restaurant, whichever is lesser.
6. That the patio shall not be open or be occupied between the hours of 11:00 pm and 7:00 am daily.
7. That no music, either live or recorded, shall be played at anytime on the patio.
8. That the applicant shall demarcate and sign all of the parking spaces to the satisfaction of the General Manager of Planning, Urban Design and Building Services, prior to occupancy of the patio or issuance of any building permits, whichever occurs first.
9. That three (3) off-street parking spaces be signed that they are for the sole and exclusive use of the residential apartments at all times, and that the signs be installed prior to the occupancy of the patio or issuance of any building permits, whichever occurs first.
10. That the applicant shall submit a site plan, in accordance with Section 41 of the Planning Act, that outlines the proposed configuration of the property, including but not limited to a photometrics plan for the patio showing 0.0 footcandles along private property lines, prior to occupancy of the patio or issuance of any building permits, whichever occurs first.

Carried

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.

Application: **A-63/15**

Owner: **603796 Ontario Ltd.**

Agent: N/A

Location: 64 Duke Street/69 Huron Street

In Attendance: Doug Langille
Susan Frasson
Anne Groulx
Matilda Kress
Enver Salie

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. S. Frasson, representative of the owner, replied that the signs were posted and staff comments were received.

The Committee had no questions for staff or the applicant.

Mr. E. Salie, resident of Huron Street, expressed concern about existing traffic flow, parking spaces, and noise. He also indicated the sign was down three times. Chair B. Birdsell suggested that the resident speak with staff regarding these issues. Ms. S. Frasson offered to work with the neighbour to address concerns. She indicated increased traffic will be minimal with the new proposed use.

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 and seconded by S. Dykstra,

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 2.9.1 (iii) of Zoning By-law (1995)-14864, as amended, for 64 Duke Street and 69 Huron Street, to permit a social service establishment to be located in a 954.6 square metre portion of the existing building, when the By-law permits interim uses for the property including manufacturing, tradesperson's shop, repair service and warehousing, but it does not permit a social service establishment use,

be approved, subject to the following condition:

1. That the use be limited to a maximum of 955 square metres of the existing building.

Carried

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.

The meeting adjourned by Committee member K. Ash at 6:40 p.m.

B. Birdsell
Chair

T. Russell
Secretary-Treasurer