

## COMMITTEE OF ADJUSTMENT

### Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday June 12, 2014 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

R. Funnell, Chair  
J. Hillen  
L. McNair  
K. Ash

Regrets: D. Kelly  
C. Downer  
B. Birdsell

Staff Present: M. Witmer, Planner  
M. Bunnett, Acting Secretary-Treasurer  
T. Russell, Secretary-Treasurer

### Declarations of Pecuniary Interest

Committee member K. Ash declared a conflict with applications B-19/14, A-57/14, and A-58/14 due to her current volunteer status with Homewood Health Centre.

### Meeting Minutes

Moved by J. Hillen and seconded by K. Ash,

“THAT the Minutes from the May 29, 2014 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

### Other Business

#### **Appointment of Secretary-Treasurer**

Moved by K. Ash and seconded by J. Hillen,

“THAT Ms. Tristalyn Russell be hereby appointed as Secretary-Treasurer of the Committee of Adjustment for the City of Guelph pursuant to ss. 44(8) of the Planning Act, (R.S.O) 1990, c. P-13), and that any such previous appointments are revoked.”

Carried

The Secretary-Treasurer advised the Committee that an appeal was received regarding application A-40/14, being a minor variance to allow an outdoor sales centre to occupy required parking spaces at 297 Eramosa Road. The appeal has been mailed to the Ontario Municipal Board.

The Secretary-Treasurer advised the Committee that copies of By-law (2014)-19765 being a By-law to repeal and replace By-law (1983)-11242, a By-law to establish a Committee of Adjustment for The Corporation of the City of Guelph has been provided to the Committee members. This By-law was passed on June 9, 2014.

Chair R. Funnell asked the Secretary-Treasurer to clarify who submitted the appeal for 297 Eramosa Road. Secretary-Treasurer replied that a solicitor on behalf of Loblaws Properties Limited submitted the appeal.

Chair R. Funnell thanked M. Bunnett for her past service to the Committee as Acting Secretary-Treasurer.

**Application:**                **A-56/14**

**Owner:**                    **Woolwich Management Group Ltd.**

**Agent:**                    **Tacoma Engineers Inc., Patrick Meagher**

**Location:**                **24 Norwich Street East**

**In Attendance:**        **Patrick Meagher**

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. P. Meagher replied that the sign was posted and that he received staff comments. He requested that this application be deferred, as an additional variance is needed and was not included on the application.

Mr. P. Meagher asked if the deferral fee could be waived. Chair R. Funnell replied that this request should be put in writing and the Committee can when the application is re-heard.

Planner M. Witmer indicated that he reviewed the public comments and that many of these concerns will be addressed by the site plan process.

Moved by L. McNair seconded by J. Hillen,

“THAT Application A-56/14 for Woolwich Management Group Ltd. at 24 Norwich Street East, be deferred sinedie, to allow the applicant to revise the application to describe all of the required variances, and in accordance with the Committee’s policy on applications deferred sinedie, that the applications 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.”

Carried

**Application:** A-52/14  
**Owner:** Nicodema and Maria Fuda  
**Agent:** N/A  
**Location:** 756 Scottsdale Drive  
**In Attendance:** Nicodema Fuda  
Maria Fuda

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Ms. M. Fuda replied that sign was posted and that she received staff comments. She indicated that one of the recommended conditions is that the wall in the bedroom be removed and she confirmed that this wall has already been removed.

Planner M. Witmer indicated that this condition is subject to the satisfaction of the Chief Building Official. Chair R. Funnell clarified that this condition will remain.

Committee member K. Ash commented that she would like the wall not to be reconstructed in the future.

Committee member L. McNair asked Ms. M. Fuda to clarify where the partition was previously located. She replied that the partition was located at the bottom of the staircase.

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

Moved by K. Ash seconded by J. Hillen,

“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 756 Scottsdale Drive, to permit the existing accessory unit in the basement to have an area of 115.6 square metres (1,244.3 square feet, 34.7% of the gross 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 (861.1) square feet in floor area,

be approved, subject to the following condition:

1. The wall in the bedroom located in the area identified as “Unfinished Utility Room” on the submitted sketch is to be removed and confirmed by the Chief Building Official or his designate within 90 days of this decision and that such wall not be reconstructed.”

Carried

**Application:** A-51/14  
**Owner:** Ian Burns  
**Agent:** VanHarten Surveying Inc., James Laws  
**Location:** 39 Plymouth Court  
**In Attendance:** James Laws

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. J. Laws replied that the sign was posted and that he received staff comments. Chair R. Funnell commented that the sign was laying on the ground when he visited the property on June 11, 2014. Mr. J. Laws replied that the sign was posted when it was picked up from City Hall.

Mr. J. Laws explained the application to the Committee.

Chair R. Funnell indicated that the driveway is next to a park entrance and there could be traffic issues.

Committee member K. Ash asked why the conditions mention prior to a building permit. Planner M. Witmer clarified that the owner has applied for a new accessory apartment and it is being reviewed by building staff.

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. McNair seconded by K. Ash,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.15.1.4.1 of Zoning By-law (1995)-14864, as amended, for 39 Plymouth Court, to permit three off-street parking spaces to be stacked in the driveway when the By-law requires that where an accessory apartment is created, the required off-street parking space for an accessory apartment may be stacked behind the required off-street parking space of the host dwelling in the driveway, with a maximum of 2 parking spaces permitted in a stacked arrangement,

be approved, subject to the following conditions:

1. That prior to the issuance of any building permits, the applicant make arrangements to remove any encroaching asphalt within Drew Park, to the satisfaction of the General Manager of Parks and Recreation.
2. That prior to the issuance of any building permits, the applicant removes a 0.6 m portion of the driveway from the side lot line and reinstate soft landscaping, as per the submitted sketch prepared by Van Harten Surveying Inc. on May 9, 2014.”

Carried

**Application:**            **B-18/14**

**Owner:**                 **Alexandrea Neumann**

**Agent:** VanHarten Surveying Inc., James Laws

**Location:** 67 Dean Avenue

**In Attendance:** Doris Singleton  
Jane Coventry  
Blakeney Smith  
J.D. Smith  
James Laws  
Judy Martin  
Daphne Wainman-Wood  
Sylvia Watson  
Bob McCracken  
Beth McCracken  
Jeff Neumann  
Peter Williams

The Secretary-Treasurer explained that a Tree Assessment by Aboud and Associates was received from the residents of 69 Dean Avenue and copies have been provided to the Committee members. In addition, an Arborist Report by Williams & Associates Forestry Consultants Ltd., and a drawing showing a proposed building envelope was provided by the agent and copies have been provided to the Committee members.

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. J. Laws replied that the sign posted and that he received comments. He explained the application to the committee and indicated that his client wants to preserve the large tree on the property. The Arborist, Mr. P. Williams, that prepared the Report on his behalf was in attendance.

Mr. P. Williams indicated that he visited the property and surveyed the existing trees. One tree of issue is the large Burr Oak tree. He stated that it is a healthy tree, but that it has structural problems. He indicated that it appears that there have not been any remedial measures taken to care for the tree. He believes that it would be possible to construct a dwelling on the property without affecting the tree's stability.

Committee member K. Ash asked for clarification regarding the tree protection zone. Mr. P. Williams explained that he is recommending a tree protection zone width of 4.5 metres.

Committee member L. McNair asked for clarification about the required tree protection zone width as the Tree Assessment from Aboud and Associates recommends 8 metres. Mr. P. Williams recommends 4.5 metres be the minimum width.

Committee member K. Ash asked if staff had an opportunity to review the reports regarding the tree. Planner M. Witmer replied that these reports were received after staff comments were prepared and is still recommending deferral to allow staff time to review the reports.

Chair R. Funnell asked if anyone in attendance wished to speak regarding this application.

Mr. J.D. Smith, resident of 69 Dean Avenue, said he has not completed any remedial maintenance to the tree as a previous arborist indicated that the tree was fine to leave as is. He is strongly opposed to this application and believes that the surest way to protect the tree is not to approve the severance.

Committee member K. Ash asked if she could hear staff's opinion on the proposed severance based other planning issues aside from the tree protection issue.

Planner M. Witmer said that no variances are required for this application and that staff's main focus was on the impacts to the tree.

Moved by L. McNair seconded by K. Ash,

"THAT Application B-18/14 for Alexandra Neumann at 67 Dean Avenue, be deferred sinedie, to allow further details on the application to be submitted, and in accordance with the Committee's policy on applications deferred sinedie, that the applications 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."

Carried

**Application:** B-19/14, A-57/14, A-58/14  
**Owner:** Schlegel Health Care Inc.  
**Agent:** GSP Group Inc., Hugh Handy; Robson Carpenter LLP, Craig Robson  
**Location:** 148-160 Delhi Street  
**In Attendance:** Hugh Handy

Committee member K. Ash left the room at 4:50pm due to a pecuniary interest.

The Secretary-Treasurer stated that correspondence had been received and provided to the Committee members from a resident at 186 Arthur Street North expressing concerns in regards

to the clarity of the application and the extensive tree and brush clearing that has occurred on the parcel to be severed and its impact on habitat.

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. H. Handy replied that notice was posted on all frontages and that he received staff comments. He accepts staff's recommendation for deferral in order to allow him additional time to continue to work with staff and will bring back the application in the future.

Applications B-19/14, A-57/14, A-58/14

Moved by L. McNair seconded by J. Hillen,

"THAT Applications B-19/14, A-57/14, and A-58/14 for Schlegel Health Care Inc. at 148-160 Delhi Street, be deferred sine die, to allow further details on the application to be submitted, and in accordance with the Committee's policy on applications deferred sine die, that the applications 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."

Carried

Committee member K. Ash was summoned back into the room at 4:53pm.

**Application:** A-10/14, A-11/14, A-12/14

**Owner:** Antonio and Maria Mecca (1211 & 1231 Gordon Street),  
Peter and Carmela Calenda (1221 Gordon Street)

**Agent:** Hip Developments, Scott Higgins

**Location:** 1211, 1221, and 1231 Gordon Street

**In Attendance:** Hugh Handy  
Ed Finney  
Antonio Mecca  
Maria Mecca  
Scott Higgins  
Josh Dhiessen

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.



Mr. H. Handy replied that the sign was posted and that he received staff comments. He indicated that Mr. S. Higgins was also present to answer questions.

Mr. H. Handy said that he has been working with staff after previous deferrals and that there has been some changes to the façade of the building in response to previous staff comments.

Planner M. Witmer recommended that Condition 1 be replaced with the following wording: "That prior to the issuance of site plan approval, the applicant demonstrate to the satisfaction of the General Manager of Planning Services that the top storey is reduced by a minimum of 125 square metres of floor area to decrease the building massing by creating a parallel and/or perpendicular stepback in the façade from both Gordon Street and Edinburgh Road frontages."

Committee member K. Ash asked staff to explain how the gross floor area variance and that there was no mention in staff comments about parking restrictions.

Planner M. Witmer replied that the primary concern was stepping back the façade to create interest and variety. He indicated a site plan application will be submitted shortly and that Gordon Street is classified as an intensification corridor and that this proposal is similar to other developments in area. He clarified that the gross floor area requirement is for the entire building, and is not applicable to just commercial space. Parking requirements will be addressed through site plan process.

Committee member K. Ash expressed concern about the possibility of a parking variance being required and is not convinced that there is enough parking. Mr. H. Handy replied that it is the intent of his client to comply with the Zoning By-law in regards to commercial and residential parking requirements. Mr. S. Higgins indicated that his intention is not to come back to the Committee to request parking variances in the future.

Committee member L. McNair asked for clarification regarding the reason for the amended condition. Planner M. Witmer replied that the intent was to provide some flexibility to address the façade during site plan process.

Committee member L. McNair Lyle asked if a condition could be added that specifies the maximum gross floor area for the commercial component of the development. Planner M. Witmer replied that this is already specified in the Zoning By-law. Committee member L. McNair indicated that he would still like it included.

Mr. H. Handy presented a support letter from Gordon Gate Condominiums dated June 12, 2014 to the Committee. Mr. S. Higgins indicated that he has met with neighbouring condominium associations and neighbours to address any concerns.

Application A-10/14

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. McNair seconded by K. Ash,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Sections 6.2.3.1.8.2.1, 6.2.3.1.8.2.4 and 4.16.2 of Zoning By-law (1995)-14864, as amended, for 1211 Gordon Street,

- a) To permit a maximum building height of six (6) storeys when the By-law permits a maximum building height of five (5) storeys and 17 metres (55.77 feet), and
- b) To permit a gross floor area (maximum density) of 12,500 square meters for the entire development when the By-law requires a maximum gross floor area of 6,600 square metres for the entire development and 1,500 square metres for the commercial component of the development,

be approved, subject to the following conditions:

- 1. That prior to the issuance of site plan approval, the applicant demonstrate to the satisfaction of the General Manager of Planning Services that the top storey is reduced by a minimum of 125 square metres of floor area to decrease the building massing by creating a parallel and/or perpendicular stepback in the façade from both Gordon Street and Edinburgh Road frontages.
- 2. That prior to issuance of Site Plan Approval, the applicant will provide a Natural Heritage Brief to the satisfaction of the General Manager of Planning Services which:
  - a) reviews the natural heritage data and determines whether there are any gaps which require further field investigations or analysis;
  - b) describes any changes to the proposal relative to the proposal that was considered at the time of the 2005 EIS;
  - c) discusses the stormwater management approach and how it effects the natural heritage system through a water balance exercise;
  - d) summarizes how the proposal implements the recommendations of the approved EIS, and;
  - e) provides recommendations as to any additional mitigation that can be incorporated into the design based on current best management practices and technologies.

3. That prior to issuance of a building permit, the applicant makes arrangement with the Technical Services Department of Guelph Hydro Electric Systems Inc. for the servicing of the site. The building must also be set back from the existing pole line along Edinburgh Road by a minimum of 10m. This will avoid contact with the overhead lines during construction. If the clearance cannot be met then the pole line may have to be rerouted and this would be at the owner's expense.
4. That the maximum gross floor area for the commercial component of the development is retained at 1,500 square metres."

Carried

Application A-11/14

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 seconded by,

"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 Sections 6.2.3.1.8.2.1, 6.2.3.1.8.2.4 and 4.16.2 of Zoning By-law (1995)-14864, as amended, for 1221 Gordon Street,

- a) To permit a maximum building height of six (6) storeys when the By-law permits a maximum building height of five (5) storeys and 17 metres (55.77 feet), and
- b) To permit a gross floor area (maximum density) of 12,500 square meters for the entire development when the By-law requires a maximum gross floor area of 6,600 square metres for the entire development and 1,500 square metres for the commercial component of the development,

be approved, subject to the following conditions:

1. That prior to the issuance of site plan approval, the applicant demonstrate to the satisfaction of the General Manager of Planning Services that the top storey is reduced by a minimum of 125 square metres of floor area to decrease the building massing by creating a parallel and/or perpendicular step back in the façade from both Gordon Street and Edinburgh Road frontages.

2. That prior to issuance of Site Plan Approval, the applicant will provide a Natural Heritage Brief to the satisfaction of the General Manager of Planning Services which:
  - a) reviews the natural heritage data and determines whether there are any gaps which require further field investigations or analysis;
  - b) describes any changes to the proposal relative to the proposal that was considered at the time of the 2005 EIS;
  - c) discusses the stormwater management approach and how it effects the natural heritage system through a water balance exercise;
  - d) summarizes how the proposal implements the recommendations of the approved EIS, and;
  - e) provides recommendations as to any additional mitigation that can be incorporated into the design based on current best management practices and technologies.
3. That prior to issuance of a building permit, the applicant makes arrangement with the Technical Services Department of Guelph Hydro Electric Systems Inc. for the servicing of the site. The building must also be set back from the existing pole line along Edinburgh Road by a minimum of 10m. This will avoid contact with the overhead lines during construction. If the clearance cannot be met then the pole line may have to be rerouted and this would be at the owner's expense.
4. That the maximum gross floor area for the commercial component of the development is retained at 1,500 square metres."

Carried

Application A-12/14

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 seconded by,

"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 Sections 6.2.3.1.8.2.1, 6.2.3.1.8.2.4 and 4.16.2 of Zoning By-law (1995)-14864, as amended, for 1231 Gordon Street,

- a) To permit a maximum building height of six (6) storeys when the By-law permits a maximum building height of five (5) storeys and 17 metres (55.77 feet), and
- b) To permit a gross floor area (maximum density) of 12,500 square meters for the entire development when the By-law requires a maximum gross floor area of 6,600 square metres for the entire development and 1,500 square metres for the commercial component of the development,

be approved, subject to the following conditions:

1. That prior to the issuance of site plan approval, the applicant demonstrate to the satisfaction of the General Manager of Planning Services that the top storey is reduced by a minimum of 125 square metres of floor area to decrease the building massing by creating a parallel and/or perpendicular stepback in the façade from both Gordon Street and Edinburgh Road frontages.
2. That prior to issuance of Site Plan Approval, the applicant will provide a Natural Heritage Brief to the satisfaction of the General Manager of Planning Services which:
  - a) reviews the natural heritage data and determines whether there are any gaps which require further field investigations or analysis;
  - b) describes any changes to the proposal relative to the proposal that was considered at the time of the 2005 EIS;
  - c) discusses the stormwater management approach and how it effects the natural heritage system through a water balance exercise;
  - d) summarizes how the proposal implements the recommendations of the approved EIS, and;
  - e) provides recommendations as to any additional mitigation that can be incorporated into the design based on current best management practices and technologies.
3. That prior to issuance of a building permit, the applicant makes arrangement with the Technical Services Department of Guelph Hydro Electric Systems Inc. for the servicing of the site. The building must also be set back from the existing pole line along Edinburgh Road by a minimum of 10m. This will avoid contact with the overhead lines during construction. If the clearance cannot be met then the pole line may have to be rerouted and this would be at the owner's expense.
4. That the maximum gross floor area for the commercial component of the development is retained at 1,500 square metres."

Carried

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**Application:** A-53/14, A-54/14, A-55/14  
**Owner:** 1280 Gordon Holdings Inc.  
**Agent:** Coletara Development, Scott Jackson  
**Location:** 1274, 1280, and 1288 Gordon Street  
**In Attendance:** Scott Jackson

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. S. Jackson replied that the sign was posted and that comments were received. He asked the Committee if the application can be deferred to allow for further discussions with staff.

Applications A-53/14, A-54/14, A-55/14

Moved by L. McNair seconded by J. Hillen,

“THAT Applications A-53/14, A-54/14, and A-55/14 for 1280 Gordon Holdings Inc. at 1274, 1280 and 1288 Gordon Street, be deferred sinedie, to allow the applicant to consult with staff, and in accordance with the Committee’s policy on applications deferred sinedie, that the applications 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.”

Carried

Moved by L. McNair to adjourn the meeting at 5:24 p.m.

R. Funnell  
Chair

T. Russell  
Secretary-Treasurer