

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday March 12, 2015 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

K. Ash, Vice-Chair
M. Bosch
S. Dykstra
L. Janis
D. Kendrick

Regrets: B. Birdsell, Chair
P. Ross

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

Due to the absence of the Chair and the pending appointment of the Vice-Chair, Secretary-Treasurer T. Russell called the meeting to order.

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Meeting Minutes

Moved by D. Kendrick and seconded by S. Dykstra,

“THAT the Minutes from the February 12, 2015 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

Secretary-Treasurer T. Russell stated that at the February 12, 2015 Committee of Adjustment meeting, Committee member K. Ash was appointed as Vice-Chair of the Committee of Adjustment for 2015. Since Committee member K. Ash was not present at the February 12, 2015 meeting, the appointment is pending her acceptance. Secretary-Treasurer T. Russell asked

if Committee member K. Ash accepted the nomination. Committee member K. Ash accepted the nomination. The acceptance resulted in K. Ash being appointed Vice-Chair of the City of Guelph Committee of Adjustment for 2015. Due to the absence of Chair B. Birdsell, Vice-Chair K. Ash took the position of the Chair for the remainder of the meeting.

Secretary-Treasurer T. Russell told the Committee members that the 2015 Ontario Association of Committees of Adjustment and Consent Authorities (OACA) annual conference is being held May 31 to June 3, 2015 in Kingston. She indicated that there is an opportunity for two Committee members to attend. Conference information packages and registration forms were sent to all members via email. She asked that if any Committee members were interested in attending, to please let her know by March 18, 2015 so it can be determined which members can attend.

Secretary-Treasurer T. Russell clarified that any factual clarification questions regarding documents prepared by staff, such as the public meeting notices or comment documents, can be directed to the Secretary-Treasurer. Questions about the nature of an application should be directed to the applicant at the meeting.

Secretary-Treasurer T. Russell advised that the Statutory Powers Procedures Act applies to the Committee of Adjustment and as a result, written reasons need to be provided for all Committee decisions. She indicated that when making a decision regarding an application, Committee members should provide specific reasons related to either the four tests or the criteria for consents so this can be recorded in the minutes and on the decision sheet.

Secretary-Treasurer T. Russell notified the Committee that the Ontario Municipal Board (OMB) hearing for 12 Wyndham Street North (File A-75/13) that had been scheduled for March 24, 2015 has been cancelled as the applicant withdrew the appeal. A copy of the OMB correspondence was provided to the Committee members.

Application: **A-104/14**

Owner: **Brodie Limited**

Agent: **Lisa Gilbert**

Location: **919 York Road**

In Attendance: **Nancy Shoemaker**
 Lisa Gilbert
 Jim Gilbert

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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. N. Shoemaker replied that the sign was posted and staff comments were received.

Ms. N. Shoemaker indicated that she has reviewed the comments and proposed conditions and the applicant is agreeable. She stated that the intention of application is to provide on-site food preparation for primarily the gymnastics club that occupies the majority of the building on the property. She said she believes the application meets all four tests for a minor variance and will not interfere with the on-site traffic circulation.

Committee member M. Bosch asked if there is an existing food preparation area inside the building. Ms. N. Shoemaker replied no. She explained that there was at one time when the Legion used the building. She indicated that the applicants were present and could answer questions. Committee member M. Bosch asked if the food preparation area could be located within the building. Ms. N. Shoemaker replied apparently not and asked the applicants to answer the question. Ms. L. Gilbert replied that one part of building is used only for gymnastics and other side is used for trampolines.

Committee member M. Bosch asked the applicants how long the food preparation and vending vehicle is intended to be in place. Ms. L. Gilbert replied that the building is being leased to the gymnastics club and she has signed a three year lease conditional upon approval from the Committee of Adjustment. Committee member M. Bosch asked if the lease period is to coincide with the three year time period recommended by staff. Ms. L. Gilbert replied that was correct.

Committee member S. Dykstra asked if there were banquet halls or meeting rooms within the building. Mr. J. Gilbert replied that there are only party rooms. Committee member S. Dykstra asked if the applicants intended to supply the party rooms with food, like a catering business. Mr. J. Gilbert replied that they will provide takeout food, but no delivery.

No one present from the public spoke.

Vice-Chair K. Ash asked that the condition requiring site plan approval be amended so the wording mentions that a site plan is submitted as well as being approved.

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 M. Bosch and 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, variances from the requirements of Sections 4.22.1, 4.22.4,

and 6.4.3.1.48 of Zoning By-law (1995)-14864, as amended, for 919 York Road, to permit a food preparation and vending vehicle to be located at 919 York Road, when the By-law requires that the operation of every commercial use shall be conducted within an enclosed building or structure and no outdoor sales shall occupy any required parking space, driveway, parking aisle or loading space, and the SC.1-48 zone does not permit a food preparation and vending vehicle, be approved, subject to the following conditions:

1. That the applicant prepare and submit an approved site plan application under Section 41 of the Planning Act to the satisfaction of the General Manager of Planning Services, which includes details on but not limited to: off-street parking, internal traffic circulation, outdoor seating, waste collection, fuel and utility facility location(s), landscaping, and the exterior design of vehicle.
2. That the minor variance be valid for a period of no longer than three (3) years from the date of the Committee's decision.

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-12/15
Owner: 2123274 Ontario Ltd.
Agent: Pete Graham, Acorn Developments
Location: 2 Acker Street
In Attendance: Pete Graham

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. P. Graham replied that the sign was posted and staff comments were received. He indicated that he agreed with the recommendations.

Committee member S. Dykstra asked if the parking space is proposed to be in front of the stairs to the porch. Mr. P. Graham replied that the driveway would be extended to where the stairs lead to the porch. Committee member S. Dykstra asked if there would be any hard surfacing

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beyond this point so a passenger can get out of the vehicle. Mr. P. Graham replied that there is sufficient space to exit the vehicle and enter into the house.

No members of the public spoke.

Committee member S. Dykstra stated that he opposed the recommendation to approve, as he felt the request was not minor and does not meet the intent of the Zoning By-law as it is doubling the amount of parking and would take up a significant portion of the front yard, and he did not feel it was desirable for the property.

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 M. Bosch 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, a variance from the requirements of Section 4.13.7.2.3 of Zoning By-law (1995)-14864, as amended, for 2 Acker Street, to permit a driveway width of 5 metres, when the By-law requires that a residential driveway in a R.2 zone shall have a maximum width of 3.5 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.

Application: B-1/15
Owner: Dunmill Homes Inc.
Agent: James Laws, Van Harten Surveying Inc.
Location: 53 & 55 Law Drive
In Attendance: Jamie Laws

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

Mr. J. Laws requested that condition 12 regarding the chain link fencing be removed as it would be difficult to build fencing due to the existing trees. Planner M. Witmer stated that this condition was recommended as part of the rezoning of the property in December 2014. He stated that the property owner had contacted him regarding this condition and he followed up with Parks staff, as the condition was recommended by Parks staff. Planner M. Witmer indicated he received confirmation from Ms. H. White in Parks Planning that this condition was still recommended, despite the tree preservation plan, as they believed there would be no conflicts. He stated that Planning staff supports the condition. Mr. J. Laws replied that it will be difficult to build a fence due to the large trees, but will accommodate if needed.

No members of the public spoke.

Having had regard to the matters under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of subdivision of the land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by D. Kendrick and seconded by M. Bosch,

THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for severance of Part of Lot 16, Registered Plan 468, municipally known as 53 Law Drive, a parcel with a frontage along Law Drive of 16.3 metres and a depth of 31.5 metres, be approved, subject to the following conditions:

1. The owner shall have a Professional Engineer or Ontario Land Surveyor design a grading and drainage plan for the site, satisfactory to the General Manager/City Engineer, prior to the issuance of site plan approval.
2. That the owner grades, develops and maintains the site in accordance with a Site Plan that has been submitted to and approved by the General Manager/City Engineer.
3. That the owner constructs the new dwellings at such an elevation that the lowest level of the building can be serviced with a gravity connection to the sanitary sewer.
4. That a legal off-street parking space is created on the proposed retained lands and the proposed severed lands at a minimum setback of 6.0-metres from the Law Drive property line.

5. Prior to the issuance of any building permit, the owner shall construct, install and maintain erosion and sediment control facilities, satisfactory to the General Manager/City Engineer, in accordance with a plan that has been submitted to and approved by the General Manager/City Engineer.
6. The owner shall make satisfactory arrangements with Union Gas for the servicing of the lands, as well as provisions for any easements and/or rights-of-way for their plants, prior to issuance of any building permits.
7. The owner shall make arrangements satisfactory to the Technical Services Department of Guelph Hydro Electric Systems Inc. for the installation of an underground hydro service to the proposed new dwellings, prior to issuance of any building permits.
8. The owner shall ensure that all telephone service and cable TV service in the Lands shall be underground. The owner shall enter into a servicing agreement with the appropriate service providers for the installation of underground utility services for the Lands, prior to issuance of any building permits.
9. The owner acknowledges that the City does not allow retaining walls higher than 1.0metre abutting existing residential properties without the permission of the General Manager/City Engineer.
10. That prior to endorsation of the deeds, the owner shall enter into an agreement with the City, registered on title, satisfactory to the General Manager/City Engineer, agreeing to satisfy the above-noted conditions and to develop the site in accordance with the approved plans.
11. The Owner shall pay to the City, as determined applicable by the Chief Financial Officer/City Treasurer, development charges and education development charges, in accordance with the City of Guelph Development Charges By-law (2014)-19692, as amended from time to time, or any successor thereof, and in accordance with the Education Development Charges By-laws of the Upper Grand District School Board (Wellington County) and the Wellington Catholic District School Board, as amended from time to time, or any successor by-laws thereof, prior to this issuance of any building permits, at the rate in effect at the time of the issuance of a building permit.
12. The Owner shall to install a standard black vinyl chain link fence at their sole expense along the O'Connor Lane Park property line to the north of the subject property under the City's Property Demarcation Policy to the satisfaction of the Manager of Parks and Open Space and prior to the issuance of any building permits.

13. The Owner shall pay to the City, the City's total cost of reproduction and distribution of the Guelph Residents' Environmental Handbook, to all future homeowners or households within the project, with such payment based on a cost of one handbook per residential dwelling unit, as determined by the City, prior to the issuance of any building permit for the lands.
14. The Owner shall submit a site plan under Section 41 of the Planning Act to, and have it be approved by the General Manager of Planning Services and the City Engineer, prior to the issuance of a building permit for the new dwellings that indicates:
 - a. The location and design of the new dwellings drawn in a metric scale; with a front yard setback that is in character with the surrounding area;
 - b. All trees on the subject property and also on direct adjacent properties, including the extent of their canopies that may be impacted by the development. The plan should identify trees to be retained, removed and/or replaced and the location and type of appropriate methods to protect the trees to be retained during all phases of construction; and
 - c. Grading, drainage and servicing information.
15. The Owner shall not remove any vegetation during the breeding bird season (May-July), as per the Migratory Bird Act.
16. The Owner shall install any required tree protection fencing on-site and on adjacent City property to the satisfaction of the General Manager of Planning Services, prior to the issuance of any building permits.
17. The Owner shall pay cash in-lieu of parkland conveyance for the entire development at 5% of the entire property value, under the City of Guelph By-law (1989)-13410, as amended by By-law (1990)-13545, By- Law (2007- 18225), or any successor thereof, prior to the issuance of any building permits.
18. That prior to issuance of building permits, the applicant makes arrangement for provision of underground hydro servicing to the severed parcels, satisfactory to the Engineering Department of Guelph Hydro Electric Systems Inc. The servicing costs would be at the owner/applicant's expense.
19. That 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, prior to March 17, 2016.
20. 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.

21. 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.
22. 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.

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 the criteria of section 51(24) of the Planning Act to which all consent applications must adhere.

Application: B-2/15

Owner: Dunmill Homes Inc.

Agent: James Laws, Van Harten Surveying Inc.

Location: 50, 52, & 54 Law Drive

In Attendance: Jamie Laws

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

Committee member M. Bosch asked how the merged lot originated. Vice-Chair K. Ash replied that as part of the application, there is a lot proposed to be merged and if approved, the two parcels can merge and be developed as one lot. Committee member M. Bosch asked if there will be a total of three lots. Vice-Chair K. Ash replied yes. Planner M. Witmer stated that the parcel to be merged was a remnant parcel from the subdivision and was zoned with the intent that it would merge with the abutting lot.

No members of the public spoke.

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 and seconded by M. Bosch,

THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for severance of Part of Lot 16, Registered Plan 468, municipally known as 52 Law Drive, a parcel with a frontage along Law Drive of 12.6 metres and a depth of 34.4 metres, be approved, subject to the following conditions:

1. The owner shall have a Professional Engineer or Ontario Land Surveyor design a grading and drainage plan for the site, satisfactory to the General Manager/City Engineer, prior to the issuance of site plan approval.
2. That the owner grades, develops and maintains the site in accordance with a Site Plan that has been submitted to and approved by the General Manager/City Engineer.
3. That the owner constructs the new dwellings at such an elevation that the lowest level of the building can be serviced with a gravity connection to the sanitary sewer.
4. That a legal off-street parking space is created on the proposed retained lands and the proposed severed lands at a minimum setback of 6.0-metres from the Law Drive property line.
5. The owner shall submit proof to the City that the title to the said lands (50 Law Drive) have or will merge into the same ownership, prior to the issuance of site plan approval on the said lands, satisfactory to the City.
6. Prior to the issuance of any building permit, the owner shall construct, install and maintain erosion and sediment control facilities, satisfactory to the General Manager/City Engineer, in accordance with a plan that has been submitted to and approved by the General Manager/City Engineer.
7. The owner shall make satisfactory arrangements with Union Gas for the servicing of the lands, as well as provisions for any easements and/or rights-of-way for their plants, prior to issuance of any building permits.

8. The owner shall make arrangements satisfactory to the Technical Services Department of Guelph Hydro Electric Systems Inc. for the installation of an underground hydro service to the proposed new dwellings, prior to issuance of any building permits.
9. The owner shall ensure that all telephone service and cable TV service in the Lands shall be underground. The owner shall enter into a servicing agreement with the appropriate service providers for the installation of underground utility services for the Lands, prior to issuance of any building permits.
10. The owner acknowledges that the City does not allow retaining walls higher than 1.0metre abutting existing residential properties without the permission of the General Manager/City Engineer.
11. That prior to endorsation of the deeds, the owner shall enter into an agreement with the City, registered on title, satisfactory to the General Manager/City Engineer, agreeing to satisfy the above-noted conditions and to develop the site in accordance with the approved plans.
12. The Owner shall pay to the City, as determined applicable by the Chief Financial Officer/City Treasurer, development charges and education development charges, in accordance with the City of Guelph Development Charges By-law (2014)-19692, as amended from time to time, or any successor thereof, and in accordance with the Education Development Charges By-laws of the Upper Grand District School Board (Wellington County) and the Wellington Catholic District School Board, as amended from time to time, or any successor by-laws thereof, prior to this issuance of any building permits, at the rate in effect at the time of the issuance of a building permit.
13. The Owner shall to install a standard black vinyl chain link fence at their sole expense along the O'Connor Lane Park property line to the north of the subject property under the City's Property Demarcation Policy to the satisfaction of the Manager of Parks and Open Space and prior to the issuance of any building permits.
14. The Owner shall pay to the City, the City's total cost of reproduction and distribution of the Guelph Residents' Environmental Handbook, to all future homeowners or households within the project, with such payment based on a cost of one handbook per residential dwelling unit, as determined by the City, prior to the issuance of any building permit for the lands.
15. The Owner shall submit a site plan under Section 41 of the Planning Act to, and have it be approved by the General Manager of Planning Services and the City

Engineer, prior to the issuance of a building permit for the new dwellings that indicates:

- a) The location and design of the new dwellings drawn in a metric scale; with a front yard setback that is in character with the surrounding area;
 - b) all trees on the subject property and also on direct adjacent properties, including the extent of their canopies that may be impacted by the development. The plan should identify trees to be retained, removed and/or replaced and the location and type of appropriate methods to protect the trees to be retained during all phases of construction; and
 - c) Grading, drainage and servicing information.
16. The Owner shall not remove any vegetation during the breeding bird season (May-July), as per the Migratory Bird Act.
 17. The Owner shall install any required tree protection fencing on-site and on adjacent City property to the satisfaction of the General Manager of Planning Services, prior to the issuance of any building permits.
 18. The Owner shall pay cash in-lieu of parkland conveyance for the entire development at 5% of the entire property value, under the City of Guelph By-law (1989)-13410, as amended by By-law (1990)-13545, By- Law (2007- 18225), or any successor thereof, prior to the issuance of any building permits.
 19. That prior to issuance of building permits, the applicant makes arrangement for provision of underground hydro servicing to the severed parcels, satisfactory to the Engineering Department of Guelph Hydro Electric Systems Inc. The servicing costs would be at the owner/applicant's expense.
 20. That 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, prior to March 17, 2016.
 21. 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.
 22. 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.

23. 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.

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 the criteria of section 51(24) of the Planning Act to which all consent applications must adhere.

Vice-Chair K. Ash commented she had raised an issue with the Secretary-Treasurer regarding the number of applications submitted for File B-2/15. She had expected that two applications would be required to create the three lots.

Committee member D. Kendrick commented that he would be opposed if there was direction given to staff to require multiple applications. He stated that he believes that only one application is all that is required in this situation. Vice-Chair K. Ash stated that the City is losing money on applications if only one application is required. She stated that her motion would be for staff to consider looking into the fee process for severance applications.

Secretary-Treasurer T. Russell commented that she had discussed this with Legal Services staff regarding the need to submit multiple applications. She indicated that some municipalities do require a separate application per lot created. She stated that when creating three lots, by severing the middle parcel, by default two retained pieces are created. She stated that more research would be needed to determine if the City can ask for multiple applications in this particular instance. Committee member D. Kendrick stated that he believes this would be considered as more red tape and would not help the City move ahead in a timely fashion, and he asked this be put to a vote.

Vice-Chair K. Ash stated that there might be difficulty in the future if for one application, one new lot is approved and another is not. She stated she withdraw her direction to staff.

Application: A-13/15

Owner: Palmerino Sacchetti & John Martinello

Agent: James Laws, Van Harten Surveying Inc.

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Location: 58 Dean Avenue

In Attendance: Jamie Laws
John Martinello
June Crewson

Secretary-Treasurer T. Russell notified the Committee members that correspondence was received after the comment deadline from Mr. R. Lohr with opposition to the application. A copy of the correspondence from Mr. R. Lohr was provided to the Committee members.

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. Laws replied that the sign was posted and comments were received. He explained that the existing house that straddles two lots will be demolished and there will be new dwellings on both lots. He indicated that the new house will follow the existing footprint for the exterior side yard on Talbot Street. He stated that the configuration of the curbing and sidewalk sits far back and the requested variance does not impede.

Committee member S. Dykstra asked if the property is one lot. Mr. J. Laws replied there are two existing lots. Committee member S. Dykstra asked when the lots were created. Mr. J. Laws replied that the original subdivision is quite old. Committee member S. Dykstra asked how the existing house was permitted to straddle two lots. Planner M. Witmer clarified that two abutting whole lots in common ownership do not merge and only part lots merge.

Committee member S. Dykstra commented that the rear setback is only 7.13 metres and the requirement is 7.5 metres in the Zoning By-law or 20% of the lot depth, would be 7.0 metres. He stated that it appears a variance was missed. He also indicated that the Zoning By-law requires that attached garages not project beyond the front wall of the main building and the elevation drawings show the garage as projecting beyond the front wall. He also indicated that the driveway was not shown on the drawing, and noted that the maximum width for a driveway in the R.1B zone is 6.5 metres, and based on the width of the garage, and it appears that the new driveway would be larger than the maximum permitted.

Vice-Chair K. Ash asked what the required rear yard setback is. Mr. J. Laws replied it is 7.07 metres, which is 20% of the lot depth. Vice-Chair K. Ash stated that the drawing shows the rear yard setback as 7.13 metres which is greater than the minimum 7.07 metres.

Planner M. Witmer stated that the only request made was for the exterior side yard. He stated that if variances were missed, Building Services staff will identify and a building permit will not be issued and owner will need to come back to the Committee of Adjustment to request relief. He stated that based on the zoning table that was provided, it appears there are no other deficiencies. He indicated there are some unknowns with regards to the driveway as it was not included on the drawing, and Planning staff were concerned there could be some compliance issues.

No members of the public spoke.

Vice-Chair K. Ash asked if the existing dwelling is a one-storey dwelling. Mr. J. Laws replied that as far as he knows it is a one-storey dwelling. Vice-Chair K. Ash noted that there is a small portion of the dwelling that is within the required exterior side yard setback. She asked if the requested exterior side yard setback is for the entire length of the dwelling facing Talbot Street. Mr. J. Laws replied yes. Vice-Chair K. Ash asked if the new dwelling is proposed to be two-storeys. Mr. J. Laws replied yes. She commented that the existing dwelling only has a small portion of the façade that faces Talbot Street that is set back 2.3 metres. She stated that the new building will be constructed in a fairly well-established area that consists mostly of bungalows. Mr. J. Laws indicated that there are two-storey dwellings in the area as well.

Vice-Chair K. Ash asked if the proposed floor area for the dwelling is 3,300 square feet. Mr. J. Laws replied that it is 2,200 square feet. She stated that she does not feel the request is minor as the entire façade along Talbot Street cannot meet the minimum setback and most of the other older homes are well set back from the street. She stated she also has concerns that the proposed building is too big for the lot. Mr. J. Laws stated that the curb is situated quite far back on both Dean Avenue and Talbot Street and they are two existing lots in a plan of subdivision. Vice-Chair K. Ash stated that she agrees with that, but she still feels that the dwelling is too big for the lot based on the existing community, and the exterior side yard setback could be met if there was a different house design. Mr. J. Laws replied that the width of the original lot in the subdivision is very narrow.

Committee member L. Janis asked what is being planned for the other lot. Mr. J. Laws replied that there will be another single family dwelling. Committee member L. Janis asked if it will be similar to the dwelling being planned now. Mr. J. Laws replied that he has not seen the house plans for the other dwelling yet. Committee member L. Janis if the same owner owns both lots and if the owner is planning to sell one of the lots. Mr. J. Laws replied that it is the same owners. Committee member L. Janis stated she agrees with the Vice-Chair's comments.

Committee member M. Bosch asked what the length of the proposed dwelling is on the side facing Talbot Street. Mr. J. Laws replied roughly 60 feet. Committee member M. Bosch asked what length the existing dwelling has along Talbot Street. Mr. J. Laws replied that the existing building has a different configuration because it straddles two lots. He stated that the existing dwelling has about half of the length of what the proposed dwelling has on Talbot Street. Committee member M. Bosch stated that he believes it is more than 60 feet. Mr. J. Laws replied that based on his calculations it would be about 59 feet. Committee member M. Bosch stated that the proposed dwelling will have a longer façade along Talbot Street than what is existing.

Committee member S. Dykstra stated he will recommend the application be refused as he feels the request is not minor in nature and he has additional concerns that other variances were missed. Vice-Chair K. Ash clarified that the members can only deal with the request put before them.

Committee member D. Kendrick stated that he is concerned the Committee members are getting into too much detail considering the request put before them. He indicated that he opposed the motion by Committee member S. Dykstra that the application is not minor.

Committee member M. Bosch clarified that he was basing his decision on the request being asked by the applicant.

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 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, a variance from the requirements of Table 5.1.2 Row 6a of Zoning By-law (1995)-14864, as amended, for 58 Dean Avenue, to permit an exterior side yard of 2.3 metres for the proposed replacement dwelling at 58 Dean Avenue, when the By-law requires that the minimum exterior side yard be 4.5 metres, be refused.

Carried

REASONS:

This application is refused, as it is the opinion of the Committee that the application is not minor in nature.

Application: B-3/15
Owner: Endan Holdings Ltd.
Agent: Ray Ferraro
Location: 259 Grange Road
In Attendance: Ray Ferraro

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. R. Ferraro replied that the signs were posted and comments were received.

Mr. R. Ferraro said this was phased development over a period of 18 years with buildings constructed at different times. He said the reason he was in front of the Committee was because an addition is being constructed to a freestanding building and the only place for it was in the middle of the two lot lines. He stated that it is the same owner that owns both properties.

Committee member M. Bosch asked if the site plan issues mentioned in the Engineering Services comments have been resolved. Mr. R. Ferraro stated that this is subject to the owner receiving consent to sever and all the Engineering comments will be met.

Planner L. Sulatycki brought to the Committee's attention condition 10 from Parks Planning requiring cash in-lieu-of parkland. She stated that she is not sure that this condition is appropriate in this instance as it is a lot addition and no new lot is being created. She suggested that the wording "if required" be added to the end of condition 10 so that Parks Planning staff can speak with Legal staff to see if this required. Vice-Chair K. Ash asked if the applicant was agreeable to this. Mr. R. Ferraro replied yes and said that it was interesting that conditions 3 through 10 are actually part of the site plan approval process. Planner L. Sulatycki confirmed that cash in-lieu-of parkland would usually be taken at the site plan stage.

Committee member L. Janis asked what is planned for the building. Mr. R. Ferraro stated that the uses will be within the existing permitted uses in the Community Shopping Centre zone. He stated that the proposed freestanding building will be 10,000 square feet with either one to three tenants.

No members of the public spoke.

Mr. R. Ferraro asked if arrangements are made for conditions 3 through 10 to form part of the site plan agreement, if it will be required to come back to the Committee to remove these conditions. Planner M. Witmer responded that if the condition is no longer needed or cannot be satisfied, the consent would become null and void. He stated that it might require the applicant to come back to the Committee for approval. He stated these types of conditions are usually incorporated into a future site plan agreement, and if in the opinion of the General Manager of Planning Services the condition is satisfied, this could be communicated to the Secretary-Treasurer so the condition could be cleared.

Having had regard to the matters under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of subdivision of the land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by D. Kendrick and seconded by M. Bosch,

THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for severance of Part of Lot 19 and Part of Lot 20, Registered Plan 53, Part 2 of Reference Plan 61R-2245, Part 2 of Reference Plan 61R-4109, municipally known as 259 Grange Road, a parcel with a frontage of 29.7 metres, as a lot addition to part of 259 Grange Road, 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. 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 and the General Manager/City Engineer, prior to the issuance of site plan approval. Furthermore, the owner shall develop the said lands in accordance with the approved site plan.
4. That the owner constructs the new commercial building at such an elevation that the lowest level of the building can be serviced with a gravity connection to the sanitary sewer.
5. Prior to the issuance of any building permit, the owner shall construct, install and maintain erosion and sediment control facilities, satisfactory to the General Manager/City Engineer, in accordance with a plan that has been submitted to and approved by the General Manager/City Engineer.
6. The owner shall make satisfactory arrangements with Union Gas for the servicing of the lands, as well as provisions for any easements and/or rights-of-way for their plants, prior to issuance of any building permits.
7. The owner shall make arrangements satisfactory to the Technical Services Department of Guelph Hydro Electric Systems Inc. for the installation of an underground hydro service to the proposed new dwelling, prior to issuance of any building permits.

8. The owner shall ensure that all telephone service and cable TV service in the Lands shall be underground. The owner shall enter into a servicing agreement with the appropriate service providers for the installation of underground utility services for the Lands, prior to issuance of any building permits.
9. That prior to site plan approval, the owner shall enter into a Site Plan Control Agreement with the City, registered on title, satisfactory to the General Manager/City Engineer, agreeing to satisfy the above-noted conditions and to develop the site in accordance with the approved plans.
10. The Owner shall be responsible for payment of cash-in-lieu of parkland conveyance pursuant to s. 51.1 and s. 53(13) of the Planning Act, and in accordance with the policies of the City of Guelph Official Plan, prior to deed endorsement, to the satisfaction of the General Manager of Parks and Recreation, if required.
11. That 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, prior to March 17, 2016.
12. 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.
13. 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.
14. 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.

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 the criteria of section 51(24) of the Planning Act to which all consent applications must adhere.

Application: A-14/15

Owner: Blair Nonnecke & Heather McDonald

Agent: N/A

Location: 19 Lyon Avenue

In Attendance: Blair Nonnecke
Thomas Gibson

Secretary-Treasurer T. Russell provided the Committee members with a past decision of File A-101/14 which considered at the October 16, 2014 meeting and refused by the Committee. She explained that the request was similar to the current application before the Committee, with an additional variance request to exceed the maximum height requirement for an accessory structure.

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. B. Nonnecke replied that the sign was posted and comments were received.

Mr. B. Nonnecke explained that he is attempting to create a workshop from an existing building that is the same size. He said that the existing accessory building is located slightly over the property line, and he wants to relocate the new building so it has the proper setbacks.

Committee member M. Bosch commented that the new building will look much better than existing building, especially with the proper setbacks. He also commented that if the Committee decides to approve the application, he would like two conditions put in place: 1) The approval is subject to retention of the existing outbuilding as is, or repaired to its original structure for its heritage value; 2) Should the existing outbuilding be destroyed by nature beyond restoration or a demolition permit is applied for, then the Zoning By-law requirement applies (a total area of 70 square metres for all accessory structures). He explained that through Heritage Guelph, he has understood that the structure should be fixed to its original form. Committee member M. Bosch asked if the existing outbuilding is a workshop. Mr. B. Nonnecke replied yes it is the original workshop of the Cowan family.

Committee member L. Janis asked why the second accessory building is needed. Mr. B. Nonnecke replied that it is going to be a workshop. Committee member L. Janis asked if there is the possibility to rehabilitate the other accessory building to be used as a workshop. Mr. B.

Nonnecke replied that the house does not have a basement, and as a result there is not much storage in the house. He explained that he is adding an addition onto the house, but the existing outbuilding is proposed to be used for storage and will be rehabilitated in the next five to six years. Committee member L. Janis asked if the applicant is a carpenter as the intent of the new building is to be a workshop. Mr. B. Nonnecke replied no. Committee member L. Janis asked what type of work would be happening in the new workshop. Mr. B. Nonnecke replied that it will primarily be used for woodworking, along with an area for table tennis, and storage on the second floor.

Mr. T. Gibson indicated that he lives on Kathleen Street and indicated his support of the application as the existing structure is dilapidated and the owner is trying to get the best use out of a large property.

Committee member M. Bosch indicated he would recommend approval of the application with the two conditions he stipulated earlier. Vice-Chair K. Ash asked Planning staff to comment on the conditions recommended by Committee member M. Bosch. Planner L. Sulatycki stated that it is her understanding that if the existing larger outbuilding is destroyed by force of nature, the owner could obtain a building permit as the structure is today, since the building is legal non-complying. She indicated that the way the variance is worded, the conditions suggested by Committee member M. Bosch may be in contrary to the variance the owner is requesting.

Vice-Chair K. Ash clarified that Committee member M. Bosch's concerns are regarding the potential to rebuild the other existing outbuilding on the property in the future based on the variance that is being requested today. Committee member M. Bosch agreed and responded that why the existing outbuilding is allowed to remain is based on its heritage component and once the building is removed there is no heritage component.

Committee member D. Kendrick asked if the requested variance can only apply to the accessory building he is proposing to rebuild. Vice-Chair K. Ash clarified that the requested variance includes both accessory buildings. Committee member D. Kendrick suggested that the outbuilding be removed from the discussion or an exemption be put in place so the variance does not apply if the outbuilding disappears. Vice-Chair K. Ash stated she was not sure if this could be done. Committee member D. Kendrick suggested that application be deferred until the next meeting so adequate wording could be prepared.

Planner L. Sulatycki stated that she understood the Committee's concerns. She clarified that if this application was not before the Committee and the existing outbuilding fell down, the owner could still apply for a building permit as the existing building is considered legal non-complying and the heritage value would be lost. She indicated that the reason the application is coming before the Committee is because the existing accessory building is located over the property line, and even though the building is considered legal non-complying, a building permit cannot be issued for a structure located over the property line. She stated in this case, the owner will be moving the location of the accessory structure so it no longer goes over the property line and meets the setbacks for the Zoning By-law. She indicated she is not sure how

the request can only be associated with the building to be reconstructed as it is considered legal non-complying.

Vice-Chair K. Ash asked if the Committee had any concerns with the larger accessory building being rebuilt. Mr. B. Nonnecke indicated that he had spoken with Mr. S. Robinson of Heritage Guelph about this issue and his interest in the building was the shape of the building envelope and specific architectural details and he was interested in those features being retained if the building was renovated, which Mr. B. Nonnecke agrees with. Mr. B. Nonnecke indicated that in order to rehabilitate the outbuilding, it will likely need to be demolished. Committee member M. Bosch replied that he understood this would probably be the case and in that situation it is no longer a heritage building when it is demolished. He stated he was concerned about the loss of the heritage value and that is why he recommended the two conditions stated earlier so the large building envelope does not apply in perpetuity.

Vice-Chair K. Ash suggested that the concerns being raised sound like a legal situation that is beyond the Committee's scope. She stated that the owner has the right to rebuild the existing outbuilding even without the Committee's approval. Planner L. Sulatycki agreed.

Committee member M. Bosch asked if the situation is different if the accessory building proposed to be rebuilt is located over the property line. Planner L. Sulatycki stated that the larger outbuilding appears to be right on the property line, but asked the owner to confirm. Mr. B. Nonnecke stated that it is literally right on the property line. Planner L. Sulatycki clarified that the owner can rebuild the accessory structure if it is determined to be legal non-complying and the structure can be rebuilt using the same footprint as the existing structure, provided the building is not located over the property line. She noted that if the application is approved and the building is demolished, the way the request is worded, the applicant could move the structure to meet the required setbacks as long as it still meet the total area requirement that was granted by the Committee.

Committee member S. Dykstra asked if the outbuilding had to receive approval from Heritage Guelph if the building was demolished. Committee member M. Bosch replied yes. Committee member S. Dykstra commented that if the outbuilding was proposed to be rebuilt at the same footprint, he felt that a minor variance would be required. Vice-Chair K. Ash clarified that based on staff's comments, it appears that there is nothing to prevent the second outbuilding from being reconstructed at the same size.

Committee member M. Bosch stated he has concerns with the second outbuilding being rebuilt at the same size in the future.

Committee member D. Kendrick asked if the new building was 45.1 square metres, if the owner would need a minor variance. Planner L. Sulatycki replied that if the owner just wanted to build the smaller accessory building with the exact same size as the existing structure, it will still require Committee approval, because the existing structure is built over the property line.

Vice-Chair K. Ash asked the owner is agreeable to the recommendations proposed by staff, if the application is approved. Mr. B. Nonnecke replied yes.

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, a variance from the requirements of Section 4.5.1.4 of Zoning By-law (1995)-14864, as amended, for 19 Lyon Avenue, to permit the total area of all accessory buildings and structures on the property to be 186.8 square metres, when the By-law requires that in a residential zone, the total area of all accessory buildings or structures shall not exceed 70 square metres, be approved, subject to the following conditions:

1. That the accessory structure not be used for human habitation;
2. That the accessory structure not be used for a home occupation; and
3. That a Tree Inventory and Preservation Plan is undertaken by an Arborist which includes:
 - a. A detailed Tree Inventory of all trees on site larger than 10 cm DBH and off site trees where their dripline is within 1 m of the property line;
 - b. A preservation plan which preserves neighbouring trees, unless otherwise approved by the landowner of neighbouring trees;
 - c. A Tree Compensation Plan to mitigate the impacts of any tree loss utilizing a 3:1 replacement ratio; and
 - d. Overall Conclusions and Recommendations.

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.

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Committee member D. Kendrick asked if he could ask staff to explain the definition of legal non-conforming. Vice-Chair K. Ash suggested that this could be asked at the end of the meeting so the agenda can keep moving forward.

Application: A-15/15
Owner: Han Zong Cui
Agent: N/A
Location: 7 Thornberry Court
In Attendance: Han Zong Cui

Secretary-Treasurer T. Russell handed out elevation drawings to the Committee members that were provided by Mr. H. Cui.

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. H. Cui replied that the sign was posted and comments were received.

Mr. H. Cui explained that he is proposing to have an accessory apartment in the basement and he has applied to have a reduced length for his driveway for the parking spaces.

Vice-Chair K. Ash clarified that three parking spaces are needed for the dwelling and the accessory apartment.

Committee member M. Bosch noted that it appears on the drawing that the driveway has been extended further to the right. Planner L. Sulatycki explained that the maximum driveway width is 5 metres in the R.1D zone which is what is shown on the drawing. Committee member M. Bosch asked for some clarification about the length of the driveway. Planner L. Sulatycki replied that the driveway at its shortest point is 4.67 metres and required the exterior parking space length is 5.5 metres. Committee member M. Bosch asked if the garage will still be used for parking. Mr. H. Cui replied that the garage will be used for parking. Committee member M. Bosch stated he was unsure why a variance is needed. Mr. H. Cui replied that the variance is needed in order for him to have a registered accessory apartment.

No members of the public spoke.

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 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 4.13.3.2.2 of Zoning By-law (1995)-14864, as amended, for 7 Thornberry Court, to permit an exterior parking space length of 4.67 metres, when the By-law requires that the minimum exterior parking space dimensions are 2.5 metres by 5.5 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.

Application: B-4/15, A-16/15, & A-17/15

Owner: 1784634 Ontario Inc.

Agent: Subhash Chugh, Everest Homes

Location: 47 Richardson Street

In Attendance: Subhash Chugh
Kris Inwood
Chris Bird
Brad Moore
Nina Poletti
Elizabeth Ewan

Secretary-Treasurer T. Russell provided the Committee members with a document from Zoning Services listing the frontages of neighbouring properties on Richardson Street. This document was provided to a member of the public upon request.

A petition in opposition to the application submitted by Mr. K. Inwood was circulated to the Committee members.

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. S. Chugh replied that the sign was posted and comments were received.

Mr. S. Chugh provided background of the subject property. He said the property was severed about three years ago and at that time there were issues and they were addressed. He addressed that part of the property is regulated by the Grand River Conservation Authority. He explained that to only build one dwelling on the property would not make maximum use of the property and would not be in line with the streetscape. He showed a map showing the property line of the neighbouring properties. In regards to concerns about public safety, he said that Building Services staff will ensure that the new homes built will be safe through the building permit process. In regards to the parking issues, he said two off-street parking spaces will be provided per dwelling.

Committee member S. Dykstra asked for clarifications about the drawings provided, as he noticed the elevation drawing does not match the site sketch in regards to the porch and garage. Mr. S. Chugh said the elevation drawings are only conceptual and are not the final building plans.

Committee member M. Bosch stated that when he looked at the request and what the Zoning By-law requires it is a significant reduction for the frontage and the side yard. He said that combined with the traffic on the road he cannot support the application. Mr. S. Chugh replied that he goes by the streetscape and there are similar frontages in the neighbourhood. Committee member M. Bosch says he is aware and that today's Zoning By-law requires a minimum frontage of 15 metres so that neighbourhoods are not overcrowded.

Mr. K. Inwood, who lives to the west of the subject property, said he was speaking in reference to the petition that was circulated to the Committee members. He stated that as per the petition, he is asking the Committee to refuse the application. He stated that the lots are too small for the character of the street and there are issues with parking. He said many long-term owners in the area are concerned about dwellings with multiple bedrooms being close to the corner. Mr. K. Inwood put the neighbouring frontages on a graph and showed it on the overhead projector. The graph showed that only one house Richardson Street has a smaller frontage than what was proposed and this house was built 100 years ago. He indicated that the topography of the area makes off-street parking difficult. He said he lives at the abutting property which is a heritage home, and the proposed houses will be especially close to his heritage house. He also referred to Engineering Services' comments regarding drainage swales and said this will be hard to install if the lot is too narrow and is concerned about the potential drainage impacts to his property.

Committee member L. Janis commented that if only one house is built, there will still be potential on-street parking spaces lost. She stated that it is already difficult to park on the street and appreciated Mr. K. Inwood's concerns, but asked for clarification about the concerns of the loss of on-street parking. Mr. K. Inwood replied that he is concerned that when this house is built, the off-street parking from residents living at 161 Neeve Street will be lost and parking will be forced onto the street.

Committee member L. Janis asked if planning staff had looked into the parking issues. Planner L. Sulatycki replied that each individual property was to contain parking on site. She stated that when the property was originally severed in 2012, there were no variances required as part of the severance. She said she is not aware of how many vehicles are located at 161 Neeve Street so she could not comment further.

Ms. N. Poletti, resident at 167 Neeve Street, said this application would completely change the landscape and does not fit with the design of the neighbourhood.

Mr. B. Moore, resident at 163 Neeve Street, said there are existing issues with on-street parking in the area and with two houses he would have no privacy. He also had concerns about drainage.

Mr. S. Chugh stated that when the past severance occurred the parking issues were addressed at that time to the satisfaction of the Planning Department. He said that drainage issues are engineering issues which he cannot speak to as he is not qualified. He stated that parking issues are policing issues.

Mr. C. Bird, property owner of 47 Richardson Street stated he has only owned the property for a short period of time, but he has tried to address appearance and maintenance issues.

Committee member L. Janis asked what the proposed square footage of the lots are. Mr. S. Chugh replied that the two storey dwellings with a single garage are proposed to be 1400 to 1600 square feet.

Committee member S. Dykstra asked if the properties mentioned before as having a similar size to what is proposed had single detached dwellings or semi-detached dwellings. Mr. S. Chugh replied that he thinks they were all single detached dwellings except for the abutting property which he believed was a duplex. Mr. S. Chugh had photos of the neighbouring properties which he showed on the overhead projector.

Application B-4/15

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 M. Bosch and seconded by S. Dykstra,

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 146, Registered Plan 113, Part 1 of Reference Plan 61R-11874, municipally known as 47 Richardson Street, a parcel

with a frontage along Richardson Street of 9.25 metres and an area of 485 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 in regards to the dimensions of the proposed lots.

Application A-16/15

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 M. Bosch 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 Table 5.1.2 Rows 4 and 7 of Zoning By-law (1995)-14864, as amended, for 47 Richardson Street,

- a) to permit a lot frontage of 9.25 metres, when the By-law requires that the minimum lot frontage be 15 metres, and
- b) to permit a right side yard of 0.6 metres, when the By-law requires that the minimum side yard be 1.5 metres,

be refused.

Carried

REASONS:

This application is refused, as it is the opinion of the Committee that the application is not minor in nature.

Application A-17/15

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 M. Bosch 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 Table 5.1.2 Rows 4 and 7 of Zoning By-law (1995)-14864, as amended, for 47 Richardson Street,

- a) to permit a lot frontage of 9.25 metres, when the By-law requires that the minimum lot frontage be 15 metres; and
- b) to permit a left side yard of 0.6 metres, when the By-law requires that the minimum side yard be 1.5 metres,

be refused.

Carried

REASONS:

This application is refused, as it is the opinion of the Committee that the application is not minor in nature.

Application: **A-18/15**

Owner: **Stone Road Mall Holdings Inc.**

Agent: **Jeremiah Bennett, Pellow & Associates Architects**

Location: **435 Stone Road West**

In Attendance: **Jeremiah Bennett**
 Joshua Butcher
 Alan Dillabough
 Tony Stapley

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. Bennett replied that the signs were posted and comments were received.

Mr. J. Bennett showed the Committee a Powerpoint presentation he had prepared outlining the application. He explained that proposal will involve expanding the west side of the mall, and

two minor variances are needed to allow the expansion to occur. He explained that a detailed parking analysis was prepared by BA Consulting Group Ltd. to determine how many parking spaces are being utilized. Mr. J. Bennett explained that some of the parking spaces will be re-graded and the parking stall size will be adjusted to bring them closer to the current Zoning By-law requirements.

Committee member D. Kendrick asked about the variance regarding the parking stall size and if all the parking stalls will be adjusted. Mr. J. Bennett stated that due to the mall being built at different stages over the last 40 years, the parking stall spaces range in size. He indicated that in the area of the mall proposed to be expanded, about half of the spaces will be improved from their existing non-conforming condition to meet the Zoning By-law and some spaces will be widened to 2.75 metres. He explained that it is difficult to expand the length of the parking spaces as this would reduce access aisle widths and require lamp posts to be moved and would reduce the width of landscape buffers.

Committee member D. Kendrick referenced that the Zoning By-law requires a length of 18 feet for regular and special vehicles. Mr. J. Bennett stated that when consulting with Planning staff, they recommended the owner apply to the Committee of Adjustment to essentially grandfather in an existing condition in the areas of proposed construction. He stated that the 5.3 metre length would apply for both regular and accessible spaces. Committee member D. Kendrick asked if the parking areas currently comply with the Zoning By-law. Mr. J. Bennett replied no as the mall is 40 years old.

Committee member D. Kendrick noted that the parking analysis took into consideration the length of the most popular vehicles and he said some vehicles such as trucks exceed the length of the proposed parking stall quite considerably. Mr. J. Butcher, from BA Consulting Group Ltd., explained that the study only considered passenger vehicles, which excludes trucks. Committee member D. Kendrick asked if sports utility vehicles (SUVs) were considered. Mr. J. Butcher replied that there were SUVs included in the list of the most popular vehicles. Committee member D. Kendrick stated that he was aware of two types of SUVs that exceeded the proposed parking space length. Mr. J. Butcher stated that he recognizes that not all vehicles will fit so the 95th percentile of the most popular vehicles sold in Canada was used.

Mr. J. Bennett clarified that the proposed access aisle width between the parking rows is quite generous which helps reduce the impact of the length of each parking stall. Committee member D. Kendrick asked what the required width is of the access aisle. Mr. J. Bennett replied that it is required to be 7 metres where there is a double row of parking and 6.5 metres where there is a single row of parking. Mr. J. Bennett explained that they are proposing a 7 metre width for both double and single rows of parking so that vehicles have more room to manoeuvre.

Committee member D. Kendrick asked staff to confirm if there have been any changes to the parking requirements for parking stalls since the mall was built. Planner M. Witmer replied that he is not aware of the specifics, but he stated that when the 1995 Zoning By-law was passed

there was a reduction in the parking stall width, but he was unaware if there was a reduction in the length. Committee member D. Kendrick stated that he has concerns that most of the existing parking stalls do not comply with the Zoning By-law. Mr. J. Bennett stated that where they are doing work they are meeting the Zoning By-law requirements, or noting that there are slight deficiencies. He indicated that Planning staff advised the owner to apply for a minor variance in this situation.

Committee member M. Bosch asked about the parking space reduction and how this impacts possible congestion. Mr. J. Bennett replied that a reduction in the number of spaces is a common trend as with more people taking public transit, businesses can successfully operate with smaller parking ratios. He indicated that the parking study revealed that 3.59 spaces per 1,000 square feet can accommodate customers 99% of the time, while the applicant is proposing 4.1 spaces. Committee member M. Bosch asked Planning staff if the Zoning By-law is moving towards having a smaller parking ratio. Planner M. Witmer replied that the Official Plan has a policy that will eventually structure maximum parking ratios whereas the current Zoning By-law only references minimum parking ratios. He stated in this case, the Zoning By-law has not caught up to the Official Plan, as the Official Plan is working towards lower parking ratios. He admitted that Planning staff are aware that the current parking ratios in the Zoning By-law are outdated, and that Planning staff are supportive of the lower parking ratio. He indicated that staff are working on a longer term vision for the mall to show a future build-out of the mall and it is acknowledged that there will be more buildings constructed along Edinburgh Road and the owner has accommodated for flexibility for this in the parking design.

Committee member M. Bosch asked when the Zoning By-law will be updated. Planner M. Witmer replied that once the new Official Plan comes into place, the Zoning By-law will be updated in the next 1 to 2 years.

Committee member L. Janis asked if there are specific retailers in mind for the expansion as some retailers result in a larger demand for parking. Mr. A. Dillabough said they are currently in negotiations and no leases have been signed. He explained that there will be 5 to 6 tenants, with mostly fashion tenants. Committee member L. Janis explained that she was looking for some reassurance that a super retailer was not being brought into the area proposed for expansion. Mr. A. Dillabough replied no.

Vice-Chair K. Ash stated she was looking for a way to restrict the two variances regarding the stall dimensions to certain areas instead of the entire site. She wondered if those variances could only apply to the area shown within the dashed lines in drawing SP-2. Mr. J. Bennett indicated that they are bringing the parking areas on the south end up to the Zoning By-law requirements. He explained that within the area shown by the dashed lines, only half of the spaces will be upgraded to meet the increased parking space length. Vice-Chair K. Ash was concerned that the way the variance was worded was that it applied to the entire site.

No members of the public spoke.

Committee member D. Kendrick made a motion to approve the application dealing with the parking ratio only. No one seconded the motion.

Committee member S. Dykstra moved to approve all the requested variances with a condition regarding variances b) and c) only applying to the area shown on drawing SP-2 as shown in public meeting notice.

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 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, a variance from the requirements of Sections 6.2.3.3.1.1.2, 4.13.3.2.3, and 4.13.5.2 and of Zoning By-law (1995)-14864, as amended, for 435 Stone Road West,

- a) to permit a minimum parking ratio of 4.1 per 90 square metres of gross leasable floor area, when the By-law requires that the minimum off-street parking ratio shall be 4.9 per 90 square metres of gross leasable floor area;
- b) to permit a minimum exterior parking space length of 5.3 metres, when the By-law requires that the minimum exterior parking space dimension be 2.75 metres by 5.5 metres; and
- c) to permit special vehicle parking spaces to be a minimum of 5.3 metres long, when the By-law requires that every required special vehicle parking space shall be a minimum of 4.0 metres wide by 5.5 metres long,

be approved, subject to the following conditions:

1. That prior to the approval of Site Plan SP14C064, the applicant design the accessible parking facilities in accordance with the City of Guelph's current Facility Accessibility Design Manual, to the satisfaction of the City's Accessibility Coordinator and the General Manager of Planning Services.
2. That the variances b) and c) only apply to the area indicated on drawing SP-2 as shown in the public meeting notice.

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-5/15
Owner: The Chandler Holding Company Ltd.
Agent: Catherine Lough
Location: 209-211 Liverpool Street
In Attendance: Mark Lough

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. Lough replied that the sign was posted and staff comments were received.

Committee member S. Dykstra asked the applicant to explain the location of the new property line and proposed easement. He was concerned that the proposed easement was actually in favour of the severed parcel, not the retained parcel. Mr. M. Lough replied that the easement was recommended by Van Harten Surveying and if there were any errors, this was based on the information provided by Van Harten Surveying. Mr. M. Lough explained the intent of the proposed easement. He indicated that at 209 Liverpool Street there is a kitchen door that exits to a proposed deck area and there is no window or door on the 211 Liverpool Street side. He explained that the easement is to allow maintenance of the wall and allow enjoyment of the space.

Committee member S. Dykstra asked Planning staff to confirm if the easement was proposed appropriately. Planner L. Sulatycki responded that she did not feel comfortable confirming this, and asked the applicant to explain the purpose of the easement. She asked the applicant to explain which property is benefiting from the easement.

Mr. M. Lough read aloud an email written by his wife explaining the easement. The email explained that there would be a 0.9 metre portion of this area that would belong to 211 Liverpool Street. The current owner was concerned that the future owners of 211 Liverpool Street could choose to store their garbage containers in that 0.9 metre area, and possibly ruin that area for the owners of 209 Liverpool Street. As a result, the property line was proposed to follow the back wall of 209 Liverpool Street and go straight back to the rear property line. Through the advice of Van Harten Surveying, the easement was suggested so that the owners of 211 Liverpool Street can access that side of the wall for maintenance purposes.

Vice-Chair K. Ash asked if the easement was in favour of the severed lands. Mr. M. Lough replied that the use is in favour of the retained lands, and the easement is for maintenance on the lands to be severed. Vice-Chair K. Ash was concerned that the easement is dealing with two different issues, an amenity space easement that the retained lands can benefit, and a maintenance easement for the severed lands. Mr. M. Lough said this was correct. Vice-Chair K. Ash questioned if the wording of the public meeting notice was correct. Mr. M. Lough replied that the wording may be worded backwards. Vice-Chair K. Ash indicated that the public meeting notice does not mention any reference to maintenance access, just amenity space.

Secretary-Treasurer T. Russell clarified that the only reference to the easement on the application and drawings provided was for an amenity space, not for maintenance purposes.

Vice-Chair K. Ash stated that it seems like a maintenance easement is needed for the severed lands. Vice-Chair K. Ash asked if Planning staff had any comments. Planner L. Sulatycki replied that the way the applicant is explaining it is the area would be used for the enjoyment of 209 Liverpool Street; therefore, the way it is worded on the drawing is correct. She said that however there is no reference to the maintenance easement in the public meeting notice. Committee member S. Dykstra commented that the owner of 209 Liverpool Street could potentially build a fence along the proposed property line which is 0.9 metres way from the edge of the building on 211 Liverpool Street. He was concerned that this is not what the owner was intending. Mr. M. Lough replied that the intent is to make the space the most usable for the one side. Committee member S. Dykstra commented that in his opinion, the lot line should hug the wall and extend back from the severed parcel, and the proposed easement is in favour of the severed parcel.

Vice-Chair K. Ash stated that she feels there is a problem with the wording on the public meeting notice and that proper notice was not given. She recommended that the application be deferred, if the applicant requests it. Mr. M. Lough asked how long the deferral would be for. Vice-Chair K. Ash asked the Secretary-Treasurer if this application can go to the next meeting. Secretary-Treasurer T. Russell indicated that the deadline has passed for the next meeting, but depending on when the issues are sorted out, there may be possibility for the April or May meeting. She indicated that there is a deferral fee of \$233.00. Vice-Chair K. Ash clarified that the deferral fee needs to be paid and the applicant can request later for this amount to be refunded.

Vice-Chair K. Ash asked the applicant how he would like to proceed. Mr. M. Lough replied that the bigger issue is the severance of the semi-detached building. He said that while the wording on the public meeting notice may be incorrect, he believes that the Committee members understand the intent of the easement. He indicated that if the matter needs to be deferred, he is agreeable. Vice-Chair K. Ash responded that the issue is that public meeting notice needs to correctly address both the amenity space and maintenance easement; otherwise another application would be needed. She suggested that by deferring the application, the application could be amended to reflect both types of easements and save the owner from making an additional application in the future. Mr. M. Lough stated he wonders if the deferral is really

necessary, and was unsure why a decision could not be made even if the notice is not entirely correct. Vice-Chair K. Ash replied that since it has been discovered that the easement might have been incorrectly described on the application, the public meeting notice did not accurately describe the easements requested. Mr. M. Lough apologized for the wording mistake and that there was no ill intent.

Committee member D. Kendrick replied that he believed the applicant is correct and asked if the Committee could proceed to make a decision based on revised wording. Secretary-Treasurer T. Russell clarified that the Committee cannot revise the request at the meeting. She stated that the notice needs to accurately reflect what was requested by the applicant on the application, and the Committee cannot make a decision on a request that was not included on the notice. She stated if an easement was missed or incorrectly described, that notice should be re-circulated and a decision deferred to a future meeting. Vice-Chair K. Ash asked the Secretary-Treasurer if a decision to defer would be most appropriate in this situation. Secretary-Treasurer T. Russell agreed. Mr. M. Lough asked if this deferral would apply to the easement request or for the entire application. Vice-Chair K. Ash replied that it would only apply to the easement request, but then another application would be needed for the severance request. Mr. M. Lough replied that he was unclear what his decision options were, as he felt it is just a wording mistake. Vice-Chair K. Ash responded that as per the Secretary-Treasurer's explanation, the Committee cannot approve a request that was not applied for and not on the public meeting notice.

Secretary-Treasurer T. Russell made a suggestion to the Committee that the owner consult the surveying company that prepared the drawing on the owner's behalf to get clarification about the nature of the easement. Vice-Chair K. Ash asked if this recommendation would result in a deferral. Secretary-Treasurer T. Russell responded yes.

Mr. M. Lough still stated that he was confused why a decision could not be made. Vice-Chair K. Ash explained that in order to meet the Planning Act requirements, notice has to be given correctly. Mr. M. Lough asked if a decision could still be made on the consent to sever the semi-detached dwelling. Committee member S. Dykstra commented to the applicant that if the Committee went ahead and approved the application, it would not achieve what the applicant is hoping to achieve. He suggested that the applicant come back to the Committee with changed wording so a decision can be made. He also commented that the applicant can request the deferral fee be waived. Vice-Chair K. Ash clarified that the applicant will need to pay the deferral fee and then the Committee can consider a refund request; however, she noted that the deferral is due to the applicant providing incorrect information.

Mr. M. Lough requested the Committee defer the application and requested the application be dealt with as soon as possible. He asked for clarification on what needs to be changed on the application. Vice-Chair K. Ash suggested he speak with the Secretary-Treasurer.

Moved by D. Kendrick and seconded by L. Janis,

THAT Application B-5/15 for 209-211 Liverpool Street, 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.

Carried

REASONS:

This application is deferred in order for the submission of a revised application.

Other Business:

Committee member D. Kendrick asked Planning staff if a legal non-conforming building is demolished, if the legal non-conforming status disappears. Planner L. Sulatycki replied that it depends on the period of time that has elapsed, and if staff can verify what the original footprint was. Committee member D. Kendrick asked if there a legal non-conforming use in an existing building and the use stops, if another owner can continue with the same use. Planner L. Sulatycki responded that once a legal non-conforming use stops, it ceases to exist. She clarified that there is a difference between legal non-conforming and legal non-complying.

The meeting was adjourned by M. Bosch at 7:21 p.m.

K. Ash
Vice-Chair

T. Russell
Secretary-Treasurer