



**COMMITTEE OF ADJUSTMENT
MINUTES**

The Committee of Adjustment for the City of Guelph held a special meeting on Thursday May 26, 2016 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

B. Birdsell, Chair
M. Bosch
L. Janis
P. Ross

Regrets: K. Ash, Vice Chair
S. Dykstra
D. Kendrick

Staff Present: D. McMahon, Acting Secretary-Treasurer
D. Black, Council Committee Coordinator
L. Sulatycki, Planner

Disclosure of Pecuniary Interest and General Nature Thereof

There were no disclosures.

Requests for Withdrawal or Deferral

There were no requests.

Current Applications

Application: A-37/16
Owner: Amanda Bouck & Marty Gordon
Agent: Aimee Chisholm
Location: 48 Marlborough Drive
In Attendance: Aimee Chisholm
Marty Gordon

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. A. Chisholm, agent for the owner, responded that the sign was posted and staff comments were received.

Ms. A Chisholm outlined the application.

Mr. M. Gordon suggested it was important to consider that features typically associated with the front of a dwelling (front door, curb appeal, drive way, etc.) were all located on Marlborough Drive and not on Speedvale Avenue in the case of the subject property.

Planner L. Sulatycki clarified that the Zoning By-law was clear in its definitions of front, rear, side and exterior side yards and that the By-law defined the frontage of the subject property as along Speedvale Avenue.

Mr. M. Gordon indicated that there were several examples of properties nearby which had high fences in what the By-law would consider a front yard. In addition, he noted that while safety was a concern for drivers along Speedvale Avenue and Marlborough Drive it was also a concern for families with kids or dogs using the yard without a tall fence.

Ms. A. Chisholm asked why the 9 metre by 9 metre sight line included in the By-law was not sufficient enough for staff to support this application as proposed. Furthermore, she inquired as to why Engineering staff would propose a sight line triangle that is larger and more stringent than the one included in the By-law.

Planner L. Sulatycki indicated that staff would only support the location of the fence as described in the conditions offered by Engineering and not in the location proposed by staff. Furthermore, she indicated that Engineering staff use safe sight line triangles recommended by the Transportation Association of Canada when reviewing variance applications in addition to those found in the By-law.

In response to a question from Chair B. Birdsell, Planner L. Sulatycki explained that front yard fences in residential zones must be no taller than 0.8 metres in height while exterior side yard fences shall not exceed 2.5 metres in height from the mid-point of the main building to the rear property line and must be no taller than 0.8 metres in the remaining exterior side yard.

Planner L. Sulatycki explained that the Transportation Association of Canada recommended sight line triangle isn't included in the current Zoning By-law but is used by Engineering staff on a case by case basis to ensure the safety of drivers and pedestrians and to minimize municipal liability if a variance is permitted.

Ms. A. Chisholm indicated that the Zoning By-law specifically uses arterial roads crossing local roads in its discussion of 9 metre by 9 metre sight line triangles.

Chair B. Birdsell indicated that the portion of the By-law Ms. A Chisholm was referencing only describes what can be done within the 9 metre by 9 metre sight line triangle and not what can be done outside of it.

In response to a question from Member M. Bosch, Mr. M. Gordon indicated that time constraints and discussions with Planning staff led him to believe it would be acceptable to begin building the fence prior to the Committee of Adjustment rendering its decision.

Member M. Bosch indicated that the fence, as proposed by the applicant, would significantly reduce visibility at the corner of Speedvale Avenue and Marlborough Drive. Furthermore, he suggested that the application needed to be judged on its own merits.

Planner L. Sulatycki advised the Committee that Planning staff never indicate to applicants that construction can or should begin prior to a Committee of Adjustment decision.

Mr. M. Gordon explained that the fence posts that have been put in place on the subject property will be cut to size based on the Committee's decision.

Member L. Janis suggested that she was familiar with the property and the nearby cases but indicated to the applicant that the Committee was required to look at each individual application based on its own merits.

In response to a question from Member L. Janis, Ms. A Chisholm suggested that the height of the fence could be reduced to 0.8 metres along the angled portion.

Mr. M Gordon suggested that wrought iron fence sections could be added along Speedvale Avenue and Marlborough Drive to provide visibility for drivers and safety for individuals using the back yard.

Member M. Bosch suggested that wrought iron fences do not provide clear sight lines and that the purpose of a sight line triangle is to provide sight lines that are entirely unobstructed.

In response to a question from Member P. Ross, Ms. A Chisholm clarified some aspects of the provided drawing.

In response to a question from Member M. Bosch, Planner L. Sulatycki outlined Planning's proposed conditions.

In response to a question from M. Bosch, Planner L. Sulatycki indicated that if the applicant was to build in non-compliance with the By-law then the City's regular enforcement policies and procedures would take place.

Chair B. Birdsell and Member L. Janis suggested that the applicant consider deferring the application so they could meet with staff and clarify possible alternative proposals.

Mr. M. Gordon suggested another option would be to maintain the 1.8 metre fence height outside of the sight line triangle put forward by engineering.

In response to a question from member P. Ross, Planner L. Sulatycki indicated that because some sections of the fence would still be 1.8 metres in the front yard the applicant's newest proposal would still require Committee of Adjustment approval.

Chair B. Birdsell clarified that the applicant was proposing to build a 0.8 metre high fence within Engineering's proposed sight line triangle and a 1.8 metre high fence outside of it.

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

Moved by L. Janis
Seconded by P. Ross

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.20.9 of Zoning By-law (1995)-14864, as amended, for 48 Marlborough Drive, to permit a

front yard fence with a height of 1.8 metres, when the By-law requires for a single detached house in the R.1B zone, a maximum fence height of 0.8 metres, be **APPROVED**, subject to the following conditions:

1. That the owner shall install the proposed 1.80-metre (5.90 feet) high fence along the applicant's proposed fence line, except for inside the calculated safe traffic sight line triangle as shown on the attached red line drawing provided by Engineering staff and amended at the hearing.
2. That the fence is constructed within 30 days of the Committee's final decision and in the location shown on the attached site plan.
3. That the fence is constructed in general accordance with the fence detail submitted.

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.

CARRIED

Adjournment

Moved by M. Bosch
Seconded by L. Janis

THAT the hearing of the Committee of Adjustment be adjourned at 4:52 p.m.

CARRIED

B. Birdsell
Chair

D. McMahon
Acting Secretary-Treasurer

Attachments
48 Marlborough Drive – Red Line Drawing