

**COMMITTEE OF ADJUSTMENT**

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday October 8, 2015 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

K. Ash  
M. Bosch  
S. Dykstra  
L. Janis  
D. Kendrick  
P. Ross

Regrets: B. Birdsell, Chair

Staff Present: T. Donegani, Planner  
T. Di Lullo, Secretary-Treasurer  
V. Sobering, Council Committee Assistant

Vice Chair K. Ash called the meeting to order.

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Meeting Minutes

Moved by M. Bosch and seconded by P. Ross,

“THAT the Minutes from the September 24, 2015 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

**Application:** B-19/15

**Owner:** HVM Holdings

**Agent:** Hank Vercouteren, ARHAN Project Management & Design

**Location:** 44 Fair Road

**In Attendance:** Hank Vercouteren

The applicant was not present at 4:00 p.m.

Moved by D. Kendrick and seconded by P. Ross,

THAT application B-19/15 be considered after the last posted application on the agenda (File A-87/15).

Carried

The application was then heard at 4:53 p.m. and the applicant was present.

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. Vercouteren, agent for the owner, replied that the sign was posted and comments were received.

In response to a question from Committee member D. Kendrick, Mr. H. Vercouteren indicated that the staff comments were acceptable.

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

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

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

THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for severance of Lot 14, Registered Plan 797, municipally known as 44 Fair Road, a parcel with an area of 4,072.4 square metres (43,834.9 square feet), as a lot addition to 545 Silvercreek Parkway North,

be approved, subject to the following conditions:

1. That the proposed severed parcel of land be conveyed to the abutting owner as a lot addition only (Form 3 Certificate).
2. That the following covenant is incorporated in the deed: "The conveyance of (Severed Lands - legal description - Lot and Plan), City of Guelph, County of

Wellington, designated as (Part and 61R-Plan Number) as a lot addition only to (Legal Description of Lands to be joined with - Lot and Plan), and shall not be conveyed as a separate parcel from (Legal Description of Lands to be joined with - Lot and Plan)."

3. That prior to endorsation of the deeds, the servient tenement (proposed retained lands, 44 Fair Road, Lot 14, Registered Plan 797, Parts 1 and 2) grants an easement approximately 3.0-metres (9.84 feet) wide by approximately 54.44-metres (178.60 feet) long, registered on title, in favour of the dominant tenement, (proposed severed lands, 545 Silvercreek Parkway North, Lot 14, Registered Plan 797, Parts 3, 4 and 5) as shown in red on the applicant's site plan for the use of the existing 200 millimetre (mm) and 250 millimetre (mm) storm sewer.
4. That prior to endorsation of the deeds, the servient tenement (proposed severed lands, 545 Silvercreek Parkway North, Lot 14, Registered Plan 797, Parts 3, 4 and 5) grants an easement approximately 3.033-metres (9.84 feet) wide by approximately 66.37-metres (217.75 feet) long, registered on title, in favour of the dominant tenement, (proposed retained lands, 44 Fair Road, Lot 14, Registered Plan 797, Parts 1 and 2) as shown in red on the applicant's site plan for the use of the existing 200 millimetre (mm) storm sewer.
5. That prior to endorsation of the deeds, the owner of the proposed retained lands (44 Fair Road, Lot 14, Registered Plan 797, Parts 1 and 2), shall have an Ontario Land Surveyor prepare a reference plan identifying the easement.
6. That prior to endorsation of the deeds, the owner of the proposed severed lands (545 Silvercreek Parkway North, Lot 14, Registered Plan 797, Parts 3, 4 and 5), shall have an Ontario Land Surveyor prepare a reference plan identifying the easement.
7. That prior to endorsation of the deeds, the solicitor for the owner of the proposed retained lands (44 Fair Road, Lot 14, Registered Plan 797, Parts 1 and 2), certifies that the easement, in favour of the dominant tenement (proposed severed lands, 545 Silvercreek Parkway North, Lot 14, Registered Plan 797, Parts 3, 4 and 5), has been granted and registered on title.
8. That prior to endorsation of the deeds, the solicitor for the owner of the proposed severed lands (545 Silvercreek Parkway North, Lot 14, Registered Plan 797, Parts 3, 4 and 5), certifies that the easement, in favour of the dominant tenement (proposed retained lands, 44 Fair Road, Lot 14, Registered Plan 797, Parts 1 and 2), has been granted and registered on title.

9. 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 October 13, 2016.
10. 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.
11. 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.
12. 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](mailto: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-22/15

**Owner:** Starwood Watson Holdings Inc.

**Agent:** Pamela Kraft, Fusion Homes

**Location:** 78 Starwood Drive

**In Attendance:** Caroline Baker  
Kelley Destombe  
Kyle Bittman

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. C. Baker, agent for the owner, replied that the sign was posted and comments were received.

Ms. C. Baker explained the purpose of the application and showed a drawing on the overhead projector. She explained that additional consent applications will be filed.

The Committee had no questions for the applicant.

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

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

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

THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for severance of Division C, Concession 3, Part Lots 4 and 5, Registered Plan 61R-7989 Part 14, municipally known as 78 Starwood Drive, a parcel with frontage along Starwood Drive of 44.8 metres, depth of 33.5 metres, and an area of 860 square metres,

be approved subject to the following conditions:

1. 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 October 13, 2016.
2. 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.
3. 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.
4. 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](mailto: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-84/15

**Owner:** The Granary Building Ltd.

**Agent:** N/A

**Location:** 15 and 19 Wyndham Street North

**In Attendance:** Kirk Roberts  
Courtney Miller  
Peregrine Wood  
Jay Reid  
Alexandra Krucker  
Hailey Kellett  
Christine Wilson  
Tony Di Battista  
Drew Gillingham  
Angelo Cupelli  
Rick Mattingley  
Marty Williams  
Sherry Moraca

Secretary-Treasurer T. Di Lullo noted that comments were received from Mr. M. Dufour on behalf of the Western Hotel & Executive Suites, Mr. M. Lesic on behalf of Wyndham Street Investments Inc., Mr. C. McDaniel on behalf of Williams & McDaniel Property Management, Mr. T. Di Battista on behalf of 536357 Ontario Ltd., and Mr. A. Cupelli on behalf of Cupelli Apartments outlining opposition of this application. Comments were also received from Mr. D. Knight, Mr. C. McCron, Ms. T. Martin, Mr. K. Mwanzia on behalf of the Guelph Chamber of Commerce, Mr. S. Weisen and Mr. P. Demarco on behalf of Intrigue Media, and Mr. S. Williams

on behalf of the Guelph-Wellington Business Enterprise Centre, outlining support of the application. As these were submitted after the comment deadline, copies of the correspondence were provided to the Committee members. Copies of the 2004 staff report referenced in Planning Services' comments were also 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. K. Roberts, owner, replied that the sign was posted and comments were received.

Mr. K. Roberts outlined the application along with a Powerpoint presentation. He indicated that he is supportive of the conditions recommended.

In response to a question from Committee member L. Janis, Mr. K. Roberts said the main part of the building was constructed in 1822, just after the adjoining building was constructed. He indicated that the floor structures are independent from the adjoining building.

In response to questions from Committee member M. Bosch, Planner T. Donegani replied that the 2004 staff report referenced in Planning Services' comments eventually amended the Zoning By-law and came into effect in April 2005. Planner T. Donegani indicated that to his knowledge since the Zoning By-law was amended no applications have been brought forward requesting licensed establishments on the second floor.

In response to questions from Committee member M. Bosch, Mr. K. Roberts indicated that possible commercial uses such a restaurant and nano-brewery are contemplated for the first floor of 15 Wyndham Street North, and an art gallery is contemplated for the first floor of 19 Wyndham Street North. Planner T. Donegani clarified that both taverns and restaurants are permitted uses for this property and the main difference between the two uses is that a tavern is permitted to sell alcohol past midnight.

In response to a question from Committee member M. Bosch, Planner T. Donegani confirmed that Guelph Police Services were circulated and contacted about this application. Secretary-Treasurer T. Di Lullo confirmed that no comments were provided by Guelph Police Services.

Mr. T. Di Battista, owner of the Western Hotel, indicated he was opposed to the application as he believed the application was not minor and approval would encourage other second floor applications.

In response to questions from Committee members S. Dykstra and P. Ross, Mr. T. Di Battista, indicated his business is 8 feet from the rear of the building on the subject property.

Ms. S. Moraca, property owner on Macdonell Street, indicated she supported the application.

Mr. K. Roberts showed a draft floor plan of the two businesses on the overhead projector. He indicated he is willing to address noise issues.

In response to a question from Committee member P. Ross, Mr. K. Roberts indicated he is willing to install some level of sound proofing in the ceiling as the ceiling structure is in poor shape and needs to be replaced. He indicated that he is hoping to have a daytime use such as an office locate on the third floor.

In response to a question from Vice Chair K. Ash, Planner T. Donegani indicated that the proposed conditions are appropriate.

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, variances from the requirements of Sections 6.3.2.5.4, and 6.3.2.5.5 of Zoning By-law (1995)-14864, as amended, for 15 & 19 Wyndham Street North,

- a) to permit two separately licensed establishments on the second floor, when the By-law requires the floor area of a licensed establishment shall be located on the first floor only; and
- b) to permit openings allowing persons access between adjacent licensed establishments, when the By-law requires that no openings and no access for any person including exits and corridors are permitted between licensed establishments, except corridors, with a minimum width of 5 metres which may serve more than one licensed establishment provided the licensed establishments are separated from each other by at least 5 metres,

be approved subject to the following conditions:

1. That the licensed capacity of upper floor licensed establishment at 15 Wyndham Street North be limited to 65 persons and that alcohol not be sold later than 12:30 am.
2. That the licensed capacity of upper floor licensed establishment at 19 Wyndham Street North be limited to 100 persons and that alcohol not be sold later than

12:30 am.

3. That a sound transmission class rating of 55 or greater be established between the upper floor units and the properties to the north and south.

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-85/15  
**Owner:** City of Guelph  
**Agent:** Peter Ortved, CS&P Architects  
**Location:** 15 Wyndham Street South  
**In Attendance:** None

Secretary-Treasurer T. Di Lullo noted that a request for deferral has been submitted by the applicant to submit additional information. Secretary-Treasurer T. Di Lullo recommended that the Committee defer this application to the next Committee hearing on November 12, 2015.

Moved by P. Ross and seconded by D. Kendrick,

THAT Application A-85/15 for 15 Wyndham Street North, be deferred until November 12, 2015, and that the deferral application fee be paid prior to reconsideration of the application.

Carried

REASONS:

This application is deferred so the applicant can submit additional information.

**Application:** A-86/15

**Owner:** Mike von Dehn  
**Agent:** Phill McFadden, P. McFadden Contracting Inc.  
**Location:** 44 Hillcrest Drive  
**In Attendance:** Phill McFadden

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. McFadden, agent for the owner, replied that the sign was posted and comments were received.

In response to a question from Committee member M. Bosch, Mr. P. McFadden indicated that the proposal is to essentially enclose the existing carport.

In response to a question from Committee member L. Janis, Mr. P. McFadden indicated the proposed use for the garage is for storage and that he believed that there is enough space inside to accommodate a car and the side stairs. Planner T. Donegani did not express any concerns in regards to the stairs.

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

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

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

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 4.13.3.2.2 and from Table 5.1.2 Row 7 of Zoning By-law (1995)-14864, as amended, for 44 Hillcrest Drive,

- a) to permit an interior (garage) parking space depth of 5.7 metres, when the By-law requires that the minimum parking space dimensions shall be 3 metres by 6 metres within a garage or carport; and
- b) to permit a right side yard of 0.7 metres for the proposed garage, when the By-law requires that for a single detached dwelling in a R.1B zone, not exceeding two storeys in height, a minimum side yard of 1.5 metres,

be approved.

Carried

**REASONS:**

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

**Application:**            **A-87/15**  
**Owner:**                 **Rick and Diane Tyler**  
**Agent:**                 **Ryan Westcott, Chicopee Craftsmen**  
**Location:**             **34 Tanager Drive**  
**In Attendance:**       **John Westcott**  
                              **Ryan Westcott**

Secretary-Treasurer T. Di Lullo noted that comments were received from Mr. S. Hewitt & Ms. K. Hewitt outlining opposition of this application. Comments were also received from Ms. L. Bozic, outlining support of the application. As these were submitted after the comment deadline, copies of the correspondence were 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. Westcott, agent for the owner, replied that the sign was posted and comments were received.

Mr. J. Westcott outlined the application and showed photos of property on the overhead projector.

The Committee had no questions for the applicant.

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

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

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

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.15.1.5 of Zoning By-law (1995)-14864, as amended, for 34 Tanager Drive, to permit the accessory apartment to have an area of 92.9 square metres, (28.8% of the total floor area), when the By-law requires that an accessory apartment not exceed a maximum of 80 square metres in floor area, and shall not exceed 45% of the total floor area of the building whichever is lesser,

be approved subject to the following conditions:

1. That the applicant erect protective fencing at one (1) metre from the dripline of all existing trees on or adjacent to the property, to the satisfaction of the City's Environmental Planner, prior to construction and/or site alteration commencing and prior to building permit issuance.
2. That if tree removal is anticipated the applicant prepare and submit a Tree Preservation Plan undertaken by an arborist, and provide tree compensation to the satisfaction of General Manager of Planning, Urban Design and Building Services prior to building permit issuance.

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.

Other Business

Secretary-Treasurer T. Di Lullo advised the Committee that comment packages for each meeting are made available in digital format on the City of Guelph website to applicants on the Friday prior to the hearing. She indicated that efforts will be made to have paper copies of the packages delivered to the Committee members by courier on the Friday before the hearing. In order to accommodate this, staff will introduce a comment deadline of 12:00 p.m. on the day comments are due. Public hearing notices will be amended to reflect this comment deadline.

Secretary-Treasurer T. Di Lullo advised the Committee that a motion to restrict presentations at hearings to ten minutes was listed on the agenda. She indicated that if the time limitation is the desire of the Committee, the timer can be used to remind speakers. If passed, she advised that this will be incorporated into the policies and communicated to applicants and the public.

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The Committee discussed appropriate methods of notifying applicants and the public and discussed possible time extensions under the Chair's discretion.

Committee member D. Kendrick expressed concern that those speaking will use the maximum time permitted.

Motion to restrict presentations at Committee of Adjustment hearings to ten minutes

Moved by L. Janis and seconded by M. Bosch,

THAT any person or persons wishing to speak to an application shall be permitted to do for a maximum of ten (10) minutes, while the item is under consideration and after being recognized by the Chair.

Carried

The meeting adjourned by Committee member P. Ross at 5:12 p.m.

K. Ash  
Vice Chair

T. Di Lullo  
Secretary-Treasurer