

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday September 11, 2014 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

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

Regrets: B. Birdsell

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

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Committee member J. Hillen stated that he did not attend the August 28, 2014 Committee of Adjustment meeting, but wanted it noted that he had a pecuniary interest in Files B-23/14 and A-82/14, both of which are arm's length clients of his.

Meeting Minutes

Moved by L. McNair and seconded by K. Ash,

"THAT the Minutes from the August 28, 2014 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated."

Carried

Other Business

None.

Chair R. Funnell reminded those present to speak into the microphone when addressing the Committee and reminded those wishing to receive a copy of the decision on any of the applications to submit a written request to the Secretary-Treasurer.

Application: **A-93/14**

Owner: **Sean Rea**

Agent: **Nader Hanna, Kal Tire**

Location: **460 Silvercreek Parkway North**

In Attendance: **Sean Rea**
 Eileen Grant
 Nader Hanna
 Blake Priston

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

Ms. E. Grant replied that the sign was posted and comments were received.

Ms. E. Grant explained the purpose of the application and stated that she was concerned with the recommended conditions. She stated that the current zoning (B.4-10) permits outdoor storage. She stated that the business will repair large trucks outside of the building on a pad under a canopy, as these types of trucks cannot be accommodated inside the building. She stated that the business would not be able to operate with the recommended conditions in place.

Chair R. Funnell asked staff to explain the rationale for these conditions. Planner L. Sulatycki explained that a speciality repair shop is usually permitted within an industrial mall, so in these situations there would be other tenants and less of an opportunity for outside storage. She stated that staff had concerns about the visual impact of outdoor storage as this is a stand-alone building, and also since it is in proximity to Hanlon Parkway, Silvercreek Parkway North, and commercial uses to the north. She clarified that outside storage is currently permitted in this zone if it located in the side yard or rear yard, and if it is screened.

Ms. E. Grant replied that she would be willing to conform to the Zoning By-law requirements through the site plan process, and she stated that the site plan submitted did show outside storage in a fenced compound.

Chair R. Funnell asked the applicant if the application would confirm to existing Zoning By-law. Ms. E. Grant replied yes that the outdoor storage is proposed to be screened in the exterior side yard and would consist mainly of truck tires.

Committee member L. McNair asked staff to respond to the question about repairing vehicles outside of the building. Planner L. Sulatycki replied that she was not aware at the time of preparing comments about this particular operation of the site and stated that if the

Committee were to approve the application to allow the repair use outside of building, that this location of the repair use is screened and kept orderly.

Committee member C. Downer asked staff to clarify if it is acceptable to have the outside repair use screened. Planner L. Sulatycki replied yes if the repair use is in a specific location, and identified on a site plan. Committee member C. Downer asked staff if she found it acceptable to have the outside storage screened in the exterior side yard. Planner L. Sulatycki replied that the outside storage should be limited to one side yard only, in addition to the rear yard.

Mr. S. Rea stated that he operated a repair business on the property since the early 1980s which included trucks being repaired outside the building. He stated that he is confused at why there is an issue now regarding the location of the repair use and outside storage.

Ms. E. Grant stated that it would be very difficult to screen the truck repair canopies. She indicated that the current Zoning By-law does not restrict enclosed work, as this only applies to commercial and institutional zones, and does not address industrial zones.

Mr. Blake Preston stated that the Committee should consider that this new business will benefit and enhance the community.

Committee member L. McNair asked if the Ministry of Transportation (MTO) will regulate similar issues as this property is close to the Hanlon Parkway. He questioned if staff's concerns are an overlay and if the MTO should be enforcing these issues. Chair R. Funnell indicated that the MTO does own the right-of-way for the Hanlon Parkway and asked staff to reply. Planner L. Sulatycki replied that the MTO did provide comments on this application and will be circulated as part of the site plan process. Ms. E. Grant clarified that the MTO stated they had no objections to the application.

Committee member L. McNair stated that he would approve the application without the recommended conditions, but questioned if wording should be added stating that the approval is subject to the use conforming to the local By-laws and the MTO requirements, even though he indicated that this is unnecessary in his opinion. Chair R. Funnell asked for clarification from Committee member L. McNair if he is recommending any conditions regarding screening. Committee member L. McNair replied no as it is already covered in the current zoning.

Committee member K. Ash stated that the site plan process can address the screening issue.

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

Moved by L. McNair seconded by C. Downer,

“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 7.3.4.10.1 of Zoning By-law (1995)-14864, as amended, for 460 Silvercreek Parkway North, to permit a vehicle specialty repair shop on the property, when By-law does not permit a vehicle specialty repair shop, be approved.”

Carried

Application: **A-91/14**

Owner: **Wayne McMillan**

Agent: **Kevin Thompson, Smith Valeriote Law Firm LLP**

Location: **220 Edinburgh Road South**

In Attendance: **Kevin Thompson**
 Wayne McMillan

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

Mr. K. Thompson replied that the sign was posted and comments were received. Mr. K. Thompson stated that the condition limiting the medical office use to two practitioners was agreeable to the owner. He stated that the owner opposed the condition regarding the road widening as Mr. K. Thompson indicated that it was not an appropriate condition for an extension of a legal non-conforming use. He stated that Section 8.2.26.1 of the Official Plan deals with policies regarding road widenings and this policy does not refer to minor variances or extensions of legal non-conforming uses and therefore he feels it is quite onerous for the applicant to be required to dedicate land without compensation.

Chair R. Funnell clarified that these types of conditions are standard conditions for a minor variance. Mr. K. Thompson replied that he has case law from the Ontario Municipal Board that has dealt with these types of conditions. He stated that there was an Ontario Municipal Board case from 1979 involving the City of Guelph’s Committee of Adjustment regarding the appropriateness of a road widening condition and in this case the Ontario Municipal Board thought it was not reasonably connected to the application as the City had no immediate intent to widen the road.

Committee member K. Ash commented that to her understand the Planning Act allows the Committee to take road widenings when they feel it is appropriate. Mr. K. Thompson replied

that the Planning Act allows the Committee to impose conditions they feel are necessary, but it does not specifically refer to road widenings. He said from his interpretation of the Official Plan it would not be a typical nor an appropriate condition in this circumstance.

Planner L. Sulatycki stated that a previous application in 1984 for this property had a condition imposed regarding road widening and somehow it was never deeded to the City. Chair R. Funnell asked staff for clarification if it was a decision that was never complied with. Planner L. Sulatycki replied that this is correct.

Committee member J. Hillen asked staff if the City plans to widen the road in this particular area. Planner L. Sulatycki replied that she is unsure of the timing of the widening of Edinburgh Road South at this point.

Committee member C. Downer stated that she would support approving the application with the recommended conditions as these are standard conditions for the Committee to impose. She stated that Edinburgh Road does not have any bike lanes and the City has committed to providing these and she noted that the buildings in this area aside from the subject property are set back a notable distance so road widenings might have already occurred on adjacent properties.

Having considered a change or extension in a use of property which is lawfully non-conforming under the By-law as to whether or not this application has met the requirements of Section 45(2) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by C. Downer seconded by K. Ash,

“THAT in the matter of an application under Section 45(2)(a)(i) of the Planning Act, R.S.O. 1990, c.P13, as amended, permission to extend the legal non-conforming use at 220 Edinburgh Road South, to allow the office/agency use and/or medical office use limited to two practitioners to occupy the south and/or north half of the building, as well as maintaining the hairdressing establishment use in the south half of the building,

be approved, subject to the following conditions:

1. That the owner deeds to the City free of all encumbrances a 3.048-metre (10.00 feet) wide parcel of land for a road widening across the entire frontage of 220 Edinburgh Road as shown in red on the owners site plan, prior to the issuance of a building permit.
2. That prior to the issuance of a building permit, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying the required road widening.

3. That the owner pays the actual cost of the removal of the existing parking space and asphalt pavement within the road allowance, the restoration of the boulevard with topsoil and sod including the required curb fill, with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid, prior to the issuance of a building permit.
4. That the medical office use be limited to 2 practitioners on the existing ground floor.”

Carried

Mr. K. Thompson stated that he had further submissions regarding the other two conditions recommended by Engineering Services. Chair R. Funnell replied that it was too late as a decision was already made.

Chair R. Funnell reminded those present who wish to receive a copy of the decision on any of the applications to submit a written request to the Secretary-Treasurer.

Application: A-77/14

Owner: Jason Jones

Agent: Phill McFadden, McFadden Contracting

Location: 159 Dufferin Street

**In Attendance: Phill McFadden
Jason Jones**

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

Mr. P. McFadden replied that the sign was posted and comments were received. Mr. P. McFadden outlined the application. He stated that when the property owner purchased the dwelling, there was an accessory apartment in the basement of the residence. He said that there was some previous water damage in the basement and as a result, the accessory apartment was altered, so the City could not confirm the apartment status as a legal non-conforming use. He clarified that the owner’s intended use is for an in-law suite, not a rental apartment, so therefore he feels it is a reasonable request two off-street parking spaces in lieu of three.

Committee member L. McNair asked how long the owner intends to own the property. Mr. J. Jones replied that he intends to stay in Guelph and the addition would accommodate family members as he has no intention to move.

Committee member K. Ash said she visited the property today and stated that many of the homes in this area do not have much room for off-street parking, so she feels the request does not meet the intent of the Official Plan nor Zoning By-law as it is not desirable for the area.

Committee member L. McNair indicated that he understands that the applicant does not intend to rent out the accessory apartment, but instead use for family members who may or may not have a vehicle. He stated he would be prepared to support the application if there was a time constraint imposed for a 5 year period. Committee member L. McNair stated that he would not support a recommendation for refusal as this situation deserves some second consideration.

Chair R. Funnell asked Committee member K. Ash if she could clarify her reasons for refusal. Committee member K. Ash clarified that there is not enough parking on this property, and therefore she believes it does not meet the intent of the four tests for a minor variance. She indicated that once an accessory apartment is provided it is very difficult to remove it in the future.

Committee member C. Downer indicated she supported Committee member K. Ash's reasons and stated that many other municipalities have a standard of four off-street parking spaces for accessory apartments. She also stated that in response to Committee member L. McNair's suggestion for a condition for a time constraint, she acknowledged that there was a previous appeal to the Ontario Municipal Board in the last two years involving the Committee's decision to impose a condition regarding timing. She stated that the Ontario Municipal Board recommended that this restriction be for as long as the owner owned the dwelling as the Committee did not have the authority to impose a specific time period.

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

Moved by K. Ash seconded by C. Downer,

"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 4.13.3.2.2 and 4.13.4.3 of Zoning By-law (1995)-14864, as amended, for 159 Dufferin Street,

- a) to permit the minimum exterior parking space dimensions to be 2.44 metres wide, when the By-law requires that the minimum exterior parking space dimensions for single detached dwellings or accessory apartments be 2.5 metres by 5.5 metres;

- b) to permit two off-street parking spaces to be located in the driveway, when the By-law requires that a single detached dwelling with an accessory apartment to provide three off-street parking spaces on site,

be refused, for the following reasons:

- a) the application is not minor in nature because sufficient off-street parking is not available;
- b) the application is not desirable for the appropriate development of the lands because sufficient off-street parking is not available;
- c) the application does not conform to the general intent of the Zoning By-law because sufficient off-street parking is not available; and
- d) the application does not conform to the general intent of the Official Plan, because sufficient off-street parking is not available.”

Carried

Chair R. Funnell reminded those present who wish to receive a copy of the decision on any of the applications to submit a written request to the Secretary-Treasurer.

Application: **A-95/14**

Owner: **Andrew and Cheryl Van Hellemond**

Agent: **N/A**

Location: **4 St. Catherine Street**

In Attendance: **Andrew Van Hellemond**

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

Mr. A. Van Hellemond replied that the sign was posted and comments were received. Mr. A. Van Hellemond stated he agrees with all of the recommended conditions.

Committee member C. Downer noted that there were some concerns noted by the neighbours regarding sight lines but she believes it has been thoroughly addressed in the report.

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 C. Downer seconded by J. Hillen,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Sections 4.13.2.1, 5.1.2.7, 4.6.1 i), Table 5.1.2 Row 7 and 14 of Zoning By-law (1995)-14864, as amended, for 4 St. Catherine Street,

- a) to permit a required off-street parking space to be located 3.0 metres (9.8 feet) from the street line (Lemon Street), when the By-law requires that in the R.1 Zone, every required parking space be located a minimum of 6 metres (19.7 feet) from a street line;
- b) to permit a front yard setback of 3.0 metres (9.8 feet), when the By-law requires that the minimum front yard be 6 metres or the average of the setback of the adjacent properties [5.63 metres (18.5 feet)];
- c) to permit a parked motor vehicle to be located in the sightline triangle (corner of Lemon Street and St. Catherine Street), when the By-law requires that on a corner lot in any Zone, within the sightline triangle formed by joining the point of intersection to points on each street line, measured 9 metres (29.5 feet) from that point of intersection, no parked motor vehicle be located;
- d) to permit a left side yard of 1.09 metres (3.6 feet), when the By-law requires that the minimum side yard be 1.5 metres (4.9 feet); and
- e) to permit an attached garage to project beyond the main wall of the building, when the By-law requires that an attached garage not project beyond the main wall of the building,

be approved, subject to the following conditions:

1. That the applicant must make satisfactory arrangements with the Technical Services Department for the relocation of the overhead service due to the new addition. This will be at the applicant's expense.
2. That the elevation drawings for the addition be submitted to, and approved by the General Manager of Planning Services, prior to the issuance of a building permit for the addition in order for staff to ensure that the design of the addition respects the character of the surrounding neighbourhood.

3. That the sidewalk on both Lemon Street and St. Catherine Street remain unencumbered and clear of construction equipment for the duration of construction in order to allow students to continue to walk safely to and from school."

Carried

Chair R. Funnell reminded those present who wish to receive a copy of the decision on any of the applications to submit a written request to the Secretary-Treasurer.

Application: **A-94/14**

Owner: **Ashok Gautum**

Agent: **N/A**

Location: **15 Valley Road, Unit #12**

In Attendance: **Ashok Gautum**
 Walt Kelly
 Rob Green

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

Mr. A. Gautum replied that the sign was posted and that he received comments.

Mr. W. Kelly stated that he spoke today with the President of Association for 15 Valley Road and he informed him that it could be up to a year before an as-built site plan would be available as the landscaping and road paving would need to be completed and issues regarding the future development would need to be sorted out first. He indicated that the dwelling had been built and inspected by the City, and a Building Inspector looked at the deck and had some minor issues with the railings and braces and that this has been rectified. Mr. W. Kelly indicated that a Building Inspector did a measurement of the deck to the rear property line and said it was acceptable. He stated that in the last two days the neighbour has completed landscaping. He noted that the roof extends all the way over the deck, and that the house is same distance to the exterior side yard lot line as the house is. He stated that the Association for 15 Valley Road had sent a letter to City indicating that the deck was well built to their quality and standard. Mr. W. Kelly believed that this property should not be held up with site plan issues, as it has been landscaped and graded.

Mr. W. Kelly said he took photos of the property. He indicated that drainage should not be an issue because the driveway slopes toward the street and there is a catch basin behind the deck. He said that it looks like everything is built properly according to the site plan.

Chair R. Funnell asked Mr. W. Kelly if he could show the photos. Mr. W. Kelly showed photos of the property to the Committee via the overhead projector.

Mr. A. Gautum stated that he is trying to sell this house and has already lost one sale and has another offer conditional upon the deck being cleared. He said if the variance is not approved, it might be another year before the issues are rectified and a substantial amount of money would be lost.

Mr. W. Kelly stated that the plans show that the house is built 1.35 metres from the property line.

Mr. W. Kelly stated that the previous sales of the property have been lost because the deck had not been approved by the City and will be waiting for an as-built site plan for another year. He stated that he does not understand how this deck cannot be accepted by the City.

Committee member L. McNair asked why the condominium corporation was not present as he indicated that staff seem to be asking the condominium corporation to get the as-built plans completed. Mr. W. Kelly replied that the President could not attend the meeting and that the Association had sent a letter to the City that the deck was acceptable to all the neighbours and the Association. He further indicated that it is not an appropriate time to complete as-built drawing as outstanding site issues need to be completed first. Mr. W. Kelly indicated that Mr. A. Gautum is prepared to put up \$5,000 in trust to show good faith that the issues will be rectified.

Committee member K. Ash asked if staff had any comments on this application. Planner L. Sulatycki stated there are a large number of deficiencies with this development based on the approved site plan and staff are not in position to approve items piece by piece as staff are not sure of the effect this will have on the development as a whole.

Committee member K. Ash staff to clarify the setback issue. Planner L. Sulatycki stated that the setback for this zone is 1.2 metres to exterior lot line for the main building and open roofed porch must be a minimum of 2 metres from the exterior lot line. Committee member K. Ash indicated that the comments from Engineering Services indicate that there is an issue with the depth of the deck and the location of the infiltration gallery. Planner L. Sulatycki replied that Engineering staff had expressed concern with the location of the deck in proximity to the infiltration gallery even though the deck might meet the required rear yard setback.

Committee member L. McNair indicated that the roof of the dwelling extends over the deck, so there should be a building permit for the dwelling and deck and perhaps the permit should not have been issued in the first place and staff should be responsible for correcting that error. Planner L. Sulatycki replied that she was unsure of what was issued when the house was initially built, but she did have a refusal letter from 2014 regarding the permit for the porch. Committee

member L. McNair asked if it was possible if the building permit could have been issued for the dwelling, but not the porch, and the builder constructed in anyways. Planner L. Sulatycki replied that this could be possible.

Committee member C. Downer asked if staff received the letter from the Association. Planner L. Sulatycki said she had not received a letter. Secretary-Treasurer T. Russell replied that she had not received a letter. Mr. W. Kelly said Plans Examiner Mr. W. Higman has the letter.

Mr. R. Green, representative of the buyer, indicated he has a buyer interested in the property pending the review of the issues with the deck.

Mr. J. Hillen stated that aside from the side yard setback, there is still an issue with the deck's depth and that the comments indicate that there are stairs leading into the infiltration gallery. He clarified that these issues would not be addressed if the application is approved, and the potential buyer could come back to the City in the future with issues regarding the stairs. Mr. R. Green asked Committee member J. Hillen to expand on his comments. Committee member J. Hillen stated that the deck is 1.3 metres from the side property line, but it needs to be 2 metres away. He stated that if the application is approved today, the setback issue would be addressed, but the staff concerns regarding the stairs and depth of the deck that is possibility into a drainage system, would not be addressed. He indicated that the issue regarding the drainage system is not part of this application, but would be part of the site plan approval. Committee member J. Hillen clarified that these drainage issues could potentially affect the entire condominium development.

Mr. W. Kelly stated that the stairs are not at the edge of the deck and was unsure where these stairs should be located. Committee member J. Hillen clarified that the Committee cannot comment on this as the as-built drawings have not been provided.

Chair R. Funnell asked if a building permit for the deck was issued. Mr. W. Kelly replied that he has applied for the permit for the deck, but there was no previous permit for the deck. Chair R. Funnell asked if the permit has been obtained. Mr. W. Kelly replied that he has applied for the building permit and it was refused as a Committee of Adjustment approval was needed for the setback issue.

Chair R. Funnell advised that what staff seem to be acknowledging is that there are number of loose ends that need to be addressed and that the application is recommended to be deferred so these issues can be addressed first. Mr. W. Kelly asked why it is not possible for money to be put aside in trust by the owner as security that these issues are addressed so the house can be sold. Committee member J. Hillen clarified that the buyer can still purchase property and can change the condition of the purchase with a retainer amount. Mr. W. Kelly said that a letter has been sent to the City by the condominium association. Chair R. Funnell acknowledged that staff have no record of the letter.

Committee member L. McNair said he understands the concerns of the property owner and the potential buyer and he indicated he supports deferral as it is the condominium corporation's responsibility to address these issues.

Moved by L. McNair seconded by K. Ash,

"THAT Application A-94/14 for 15 Valley Road, Unit #12, be deferred sinedie, to allow to allow "as-built drawings" to be submitted and to correct site plan deficiencies, and in accordance with the Committee's policy on applications deferred sinedie, that the applications will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application."

Carried

Mr. W. Kelly stated he wanted to make another comment that he spoke to Planning staff regarding the deficiencies and he was not told about them. Chair R. Funnell stated that a decision to defer has already been made.

Application: **A-90/14**

Owner: **Alnic 22 Holdings Inc.**

Agent: **N/A**

Location: **209-211 Paisley Street**

In Attendance: **Dan Pestill**
 John Black

Secretary-Treasurer T. Russell advised the Committee that correspondence was received from Mr. D. Pestill (owner), Ms. K. Stuttford, Mr. G. Phillips, Ms. J. Flaherty, and Ms. E. Black outlining support for this application. As these emails were submitted after the comment deadline, copies of the correspondence were provided to the Committee members.

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. D. Pestill replied that the sign was posted and that comments were received.

Mr. D. Pestill presented another letter of support from the neighbour and read it to the Committee. Mr. D. Pestill presented his presentation to the Committee with various photos. He stated that he had positive interactions with City staff and they were very helpful.

Committee member L. McNair asked if the owner wants to have a semi-detached dwelling with accessory apartment in each unit. Mr. D. Pestill replied yes. Committee member L. McNair indicated that there might not be enough parking for this type of use. He questioned if this is a semi-detached dwelling as usually there are two owners and asked the applicant if there are two owners. Mr. D. Pestill replied that the property was built in 1908 and that there are two addresses associated with the property. Committee member L. McNair asked if the ownership of the two units have been constant as a single owner. Mr. D. Pestill replied yes. Committee member L. McNair stated that he believes that this is not a semi-detached home as there would be shared wall with potentially two ownerships. Mr. D. Pestill replied that it was built as two dwellings, but they were never subdivided.

Committee member L. McNair commented that if the lots were subdivided, accessory apartments would not be permitted as the lots would not be big enough to support the necessary off-street parking. Mr. D. Pestill replied that the parking does fit. Committee member L. McNair replied that it does and it does not. He asked the applicant what the City said he could do with the property. Mr. D. Pestill said the City could not support the parking in front of the dwellings and did not like the idea of two more vehicles coming onto Paisley Street. Committee member L. McNair remarked that he was aware of the property and many of the properties in the area were zoned inappropriately as they were zoned for single detached dwellings. He believes that the legal non-conforming use is not the issue, but he does not see how there can be accessory apartments in semi-detached dwelling under common ownership.

Mr. J. Black stated that he is a neighbour and viewed the plans and believes the owner respects the character of the neighbourhood. He stated he is curious about the difference between a fourplex versus a semi-detached building and he believes the property is large enough to support a main floor and upper floor apartment in each unit. He said he supports the application.

Committee member L. McNair asked staff if the subject building was a fourplex, how many parking spaces would be required. Planner L. Sulatycki replied that a fourplex is considered an apartment under the Zoning By-law and an apartment would require 1.5 parking spaces per unit.

Committee member C. Downer asked if aside from the parking concerns, there are any other zoning issues. Mr. D. Pestill said that the parking is the only issue. Planner L. Sulatycki stated that one of the requests was for an extension of a legal non-conforming use on a property that is zoned for a single detached dwelling. She stated that a single detached dwelling is permitted to have an accessory apartment, and if this property was zoned R.2 which permits a semi-detached dwelling, both units would be able to contain an accessory apartment provided the appropriate amount of parking was available.

Committee member K. Ash stated she believes a rezoning needs to be completed due to the intensity of the development proposed.

Committee member C. Downer stated she was concerned with the applicant stating that the tenants will be students if the approval is not given as requested. She indicated that she hopes that the property will be used for two units or go through the rezoning process in order to provide four units.

Committee member L. McNair clarified that there might be pressure in the future from the owner to sever the property into two individual properties, and in that case the Committee could be endorsing the property to have an accessory apartment on a property that is not permitted under the current zoning to have an apartment.

Committee K. Ash clarified that she does not believe the application meets the four tests, including the intent of the Official Plan and the intent of the Zoning By-law. She stated that she does not feel it is desirable nor is the application minor, as she stated it is more of a matter for rezoning.

Having considered a change or extension in a use of property which is lawfully non-conforming under the By-law as to whether or not this application has met the requirements of Section 45(2) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether or not the variance(s) requested are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this application has met the requirements of Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by K. Ash seconded by C. Downer,

“THAT in the matter of an application under Section 45(2)(a)(i) of the Planning Act, R.S.O. 1990, c.P13, as amended, permission to extend the legal non-conforming use at 209-211 Paisley Street, to allow each unit of the semi-detached dwelling to contain an 114 square metre (1,227 square foot) accessory apartment, for a total of four (4) dwelling units on the property, and

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 4.13.7.2, 4.13.2.1, Table 5.1.2 Row 12 of Zoning By-law (1995)-14864, as amended, for 209-211 Paisley Street,

- a) to permit two (2) residential driveways accesses on the property, when the By-law requires that in an R.1 Zone, only one (1) residential driveway access be created per residential property;
- b) to permit the six (6) required off-street parking spaces to be located in the front yard, when the By-law requires that in an R.1 Zone, every required parking space be located a minimum distance of 6 metres (19.7 feet) from the street line and to the rear of the front wall of the main building; and

- c) to permit 0 metres of landscaped open space between the driveways and nearest lot lines, when the By-law requires that a minimum of 0.5 metres (1.6 feet) between the residential driveway and the nearest lot line must be maintained as landscaped open space in the form of grass, flowers, trees, shrubbery, natural vegetation and indigenous species,

be refused, for the following reasons:

- a) the application is not minor in nature, due to the intensity of the development proposed;
- b) the application is not desirable for the appropriate development of the lands, due to the intensity of the development proposed;
- c) the application does not conform to the general intent of the Zoning By-law, due to the intensity of development proposed; and
- d) the application does not conform to the general intent of the Official Plan, due to the intensity of development proposed.”

Carried

Application: **A-81/14**

Owner: **Rene Luypaert, Doug Ross, and Regine Ross**

Agent: **N/A**

Location: **82 Galt Street**

In Attendance: **Rene Luypaert**
 Regine Ross
 Mike Mason

Secretary-Treasurer T. Russell advised the Committee that correspondence was received from Mr. P. Washington outlining concerns with this application. As this email was submitted after the comment deadline, a copy of the correspondence from Mr. P. Washington was provided to the Committee members.

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

Mr. R. Luypaert replied that the sign was posted and comments were received. Mr. R. Luypaert provided a letter to the Committee regarding the property’s history. He read the letter aloud to the Committee. He indicated that he has owned the property since September 1991, and two hydro meters were installed in 1989 for the main dwelling and the accessory apartment. He

indicated that when he viewed the property before purchasing in 1991, there was an accessory apartment. He clarified that there is on-street parking available on the street all year round, and stated that many other properties in the area have accessory apartments with limited parking. He stated that only one of his current tenants has a vehicle.

Committee member K. Ash asked staff how this application came about. Planner L. Sulatycki stated she was unsure and believes it may have been either a complaint or an attempt to register the apartment. Mr. R. Luypaert said there was no complaint to his knowledge and the City asked him to apply for a minor variance.

Committee member K. Ash clarified that some properties simply cannot support an accessory apartment due to insufficient parking available. Mr. R. Luypaert stated that the current tenant's vehicle is 14 feet long, and unfortunately the vehicle hangs over 2 feet onto City property. He stated he was confused why this was not an issue before. Committee member K. Ash stated that there are a number of existing accessory apartments that are not registered, and that does mean that since an apartment exists that it should be allowed to continue. She clarified that the Committee must make a decision based on the four tests and whether the parking is appropriate for the site. She stated she has not heard anything to indicate that parking will not be a concern as it is a very narrow street. She stated she would not support the application.

Committee member J. Hillen asked staff to address the original building permit and why two hydro meters were installed. Planner L. Sulatycki replied that she cannot comment regarding the hydro meters. She stated that the planning policies, including provincial policies, have changed over the years in regards to intensification. Committee member J. Hillen asked if there are any inspection reports or files that noted accessory apartment inspections. Planner L. Sulatycki replied that she was not aware of any, but she indicated she had not done a thorough review of the file. She said she would rely on Zoning staff to review the file and comment on this.

Mr. Luypaert expressed concern why this is an issue now as it has been outstanding for a long time.

Committee member K. Ash noted that there is a comment from the Permit and Zoning Administrator indicating that there is an unregistered accessory apartment that came to the attention of the department as a result of a complaint. Mr. R. Luypaert stated that there was not a complaint, otherwise he would have been notified in writing. Chair R. Funnell indicated that likely the City would complete an inspection as follow-up to the complaint, and would not necessary advise the owner of the complaint.

Committee member L. McNair indicated that the owner stated that the City inspected the property in 1991 and asked if he had any documentation regarding this inspection and what the purpose of this inspection was. Mr. R. Luypaert stated he has documentation that a compliance letter was requested before he purchased the property. Committee member L. McNair clarified that the City might not have inspected upon request of the letter but may have just confirmed

based on the records available. Mr. R. Luypaert indicated that the previous property owner had been provided a list of deficiencies to rectify before he purchased the property and he assumed this list came from the City. Chair R. Funnell stated it is unknown whether this list of deficiencies related to the accessory apartment.

Committee member L. McNair stated staff have acknowledged that it is a pre-existing accessory apartment with only two off-street parking spaces required. He stated that any new accessory apartments need to have three off-street parking spaces, while this property only has 1.5 parking spaces. Mr. R. Luypaert stated that many of the neighbouring properties do not meet the required parking for the main dwelling itself, and some of dwellings contain accessory apartments. He said it been happening for a long time and there was an opportunity to rectify this a long time ago. Chair R. Funnell stated that once an accessory apartment is added, it aggravates the parking situation in this area. Mr. R. Luypaert stated that if he was not asked to register the apartment, he would not be in this situation. Chair R. Funnell clarified that in that situation he would have an illegal apartment.

Committee member J. Hillen stated in order to prove that the use is legal non-conforming, the applicant needs proof it was intended to be an accessory apartment when it was constructed, as it is difficult to deem it as existing without the building permit or inspection reports. Mr. R. Luypaert asked if he should defer the application so he can provide the Committee with the documentation. Chair R. Funnell stated that if the applicant wishes to ask for deferral, the Committee can consider this.

Committee member J. Hillen asked staff if it is proven that the accessory apartment was existing prior to 1994, if the variance is still required. Planner L. Sulatycki replied two off-street spaces are still required in this situation. Committee member L. McNair asked staff when policies regarding accessory apartments were first put into the Zoning By-law. He asked staff if there were any policies regarding accessory apartments prior to 1994. Planner L. Sulatycki said she is unsure of what policies existed prior to 1994. Committee member L. McNair said if there were no policies for accessory apartments prior to the current Zoning By-law there would be no parking requirements in effect at that time. Mr. R. Luypaert asked if in this situation, it would be deemed legal non-conforming. Committee member L. McNair said he cannot answer that question, but that it is critical to determine if there were two living units existing prior to 1994. He stated that there is not enough information provided to make a decision at this time.

Mr. R. Luypaert asked if he could defer the application so he can provide further information to the Committee.

Moved by L. McNair seconded by K. Ash,

“THAT Application A-81/14 for 82 Galt Street, be deferred sinedie, to allow to allow the applicant time to submit additional information, and in accordance with the Committee’s policy on applications deferred sinedie, that the applications will be

considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application.”

Carried

Application: **A-92/14**

Owner: **Corey Rivers and Kirsten Viel**

Agent: **N/A**

Location: **30 Laverne Avenue**

In Attendance: **Corey Rivers**

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

Mr. C. Rivers replied that the sign was posted and comments were received.

The Committee member had no questions.

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

Moved by K. Ash seconded by C. Downer,

“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 8 of Zoning By-law (1995)-14864, as amended for 30 Laverne Avenue, to permit a rear yard of 6.0 metres (19.7 feet) for the residential addition, when the By-law requires that the minimum rear yard be 7.5 metres (24.6 feet) or 20% of the lot depth [7.5 metres], whichever is less,

be approved, subject to the following condition:

1. That prior to the issuance of a building permit, the owner applies to the City Solicitor for an encroachment agreement and obtains approval for the

encroachment of a portion of an existing brick retaining wall that encroaches on the Laverne Avenue road allowance.”

Carried

Application: **A-52/13**

Owner: **Royal Storage Inc.**

Agent: **Brian Atkins, B.A.R.A. Consulting**

Location: **612 Speedvale Avenue West**

In Attendance: **Brian Atkins**
 Ray Felice

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

Mr. B. Atkins replied that the sign was posted and comments were received. Mr. B. Atkins provided a brief history of the property and the original minor variance application. He stated that he had discussions with the Planning and Zoning Department and they had stated the request is improper.

Planner L. Sulatycki stated that the Committee does not have the authority to waive a condition of a previous variance application, and the Zoning By-law does not refer to roof colours. She stated that the applicant indicated that the original condition from 2006 may be able to be met, therefore Planning staff recommended deferral to see if applicant can in fact meet the condition and could withdraw the application or amend the application.

Chair R. Funnell asked if the applicant might be able to meet the requirement. Mr. B. Atkins stated that he hopes to address the roof issue and get the Building Department’s approval. He indicated that deferral might help.

Committee member C. Downer expressed concern about what authority the Committee has in this situation if the Committee cannot approve or refuse the application and therefore she stated that she does not believe deferral is possibility as it is not a valid application. Chair R. Funnell clarified that there may not be any action of the Committee required. Committee member C. Downer suggested that rather than deferral, the application be referred back to staff and the applicant work together with staff to resolve any issues.

Committee member K. Ash expressed concern if this application is really a minor variance application at all and if proper notice has been given as it is a variance to a previous condition. Chair R. Funnell suggested that perhaps the best suggestion is to refer the application back to staff and not take any action.

Mr. B. Atkins stated that he wished he would have been advised back when the original application was filed that it was not an appropriate request. He stated that if the Committee wishes to make a motion to refer the application, that he would accept this.

Committee member L. McNair noted that the condition does not clarify the material of the shingle required and perhaps a material other than asphalt could be used. Committee member J. Hillen stated that many metal roofs use minimal strapping, therefore making it less combustible. Mr. B. Atkins said the neighbours had expressed concerns about the loud noise of rain on a metal roof. Committee member L. McNair stated that every property owner has the right to install a metal roof and there many roofs in the City with this type of material.

Mr. R. Felice stated his property backs on to the subject property and that he has been involved with this project since 2004. He stated that part of what sold him was that this would fit in with neighbourhood and would not be unsightly. He stated he was quite surprised that this project was being brought forward again. Mr. R. Felice said the biggest issue is the loud sound in a rain storm with such a large roof surface.

Moved by K. Ash seconded by J. Hillen,

“THAT application A-52/13 for 612 Speedvale Avenue West be referred to staff for a resolution.”

Carried

The Committee member did not sign the decision sheet for this application.

The meeting was adjourned by Committee member L. McNair at 6:30 p.m.

R. Funnell
Chair

T. Russell
Secretary-Treasurer