

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday February 12, 2013 at 4:00 p.m. in Meeting Room 112, City Hall, with the following members present:

R. Funnell
J. Hillen
B. Birdsell
C. Downer
L. McNair
D. Kelly, Chair

Regrets: A. Diamond

Staff Present: M. Witmer, Planner
T. Spears, Planner
K. Fairfull, Secretary-Treasurer
M. Bunnett, Assistant Secretary-Treasurer

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Meeting Minutes

Moved by L. McNair and seconded by C. Downer,

“THAT the Minutes from the January 15, 2013 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Election of Vice-Chair for 2013

The Chair was handed over to the Secretary-Treasurer during elections.

The Secretary-Treasurer asked if there were any nominations from the floor for Vice-Chair of the Committee of Adjustment for 2013.

Committee member L. McNair nominated J. Hillen for the position of Vice-Chair for 2013.

J. Hillen thanked the Committee for the nomination, however he could not accept the nomination at this time.

Chair D. Kelly nominated R. Funnell for the position of Vice-Chair for 2013.

R. Funnell accepted the nomination.

There were no further nominations from the floor.

R. Funnell was acclaimed as Vice Chair of the Committee of Adjustment for 2013.

Other Business

The Secretary-Treasurer advised that an Ontario Municipal Board hearing has been scheduled for Application A-119/12 at 402 Starwood Drive. The appeal will be heard on Thursday, March 7, 2013 at 10:00 a.m. at meeting room 112 at City Hall. The application was for an off-street parking variance at 402 Starwood Drive and was refused by the Committee.

The Secretary-Treasurer advised that three appeals were received from the January 15, 2013 meeting. She advised an appeal was received against the refusal of the off-street parking and accessory apartment size variances, being application A-6/13 at 103 Lynch Circle; for Application A-4/13 being refusal of the separation distance variance for a lodging house located at 682 Scottsdale Drive and Application A-5/13 being refusal of the separation distance variance for a lodging house located at 41 Reid Court. She advised all the files have been forwarded to the Ontario Municipal Board.

Application: B-6/13, A-13/13 and A-14/13

Owner: Vincent Goobie

Agent: Black, Shoemaker, Robinson & Donaldson; Brian Beatty

Location: 34 Roland Street, 297 Bristol Street

In Attendance: Vincent Gobbi

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

Mr. Goodie replied the notice sign was posted and comments were received from staff. He was very satisfied with the staff recommendations and has no objections.

Application B-6/13

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 R. Funnell and seconded by L. McNair,

“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 36 and 37, Registered Plan 34, municipally known as 297 Bristol Street, a parcel with a frontage along Roland Street of 19.391 metres and a depth along Bristol Street of 27.306 metres, be approved, subject to the following conditions:

1. That prior to endorstation of the deeds, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying any conveyances.
2. 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 February 15, 2014.
3. 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.
4. 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.
5. 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

Application A-13/13

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 R. Funnell and seconded by L. McNair,

“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 297 Bristol Street, to permit the existing dwelling to have a rear yard of 0.87 metres when the By-law requires that a minimum rear yard equal to 20% of the lot depth or 7.5 metres (whichever is less) be provided which in this case is 5.46 metres, be approved, subject to the following condition:

1. That the conditions imposed for Application B-6/13 be and form part of this approval.”

Carried

Application A-14/13

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 R. Funnell and seconded by L. McNair,

“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 3 of Zoning By-law (1995)-14864, as amended, for 32 Roland Street, to permit a lot frontage of 14.326 metres and a lot area of 393.81 square metres when the By-law requires that a minimum lot frontage of 15 metres and a minimum lot area of 460 square metres is provided, be approved, subject to the following condition:

1. That the conditions imposed for Application B-5/13 be and form part of this approval.”

Carried

Application: A-15/13

Owner: Guelph Grangehill Developments Ltd.

Agent: Black, Shoemaker, Robinson & Donaldson; Bruce Donaldson

Location: 219 Summit Ridge Drive

In Attendance: Bruce Donaldson

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

Mr. Donaldson replied the notice sign was posted and comments were received from staff. He explained his client is a builder and wants to establish a sales office in the garage for a period of five years. He noted they plan to convert the area back to a garage parking space within 5 years.

Planner M. Witmer expressed concern with respect to the recommended condition from Engineering Services. He noted the condition is worded that the garage must be converted back to a parking space prior to transfer to a subsequent owner. He noted the developer currently owns the property and the lands will be sold to the builder, triggering the condition.

The Committee discussed this concern and suggested the portion of the condition dealing with the transfer be removed requiring the parking space be restored in five years.

Mr. Donaldson was satisfied with this change.

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 B. Birdsell and seconded by J. Hillen,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Sections 5.1.1 and 4.13.2.1 of Zoning By-law (1995)-14864, as amended, for 219 Summit Ridge Drive, to permit a model homes / sales office on the property with the sales office occupying the required off-street parking space when the By-law requires that residential units only be permitted on the subject property and that the off-street parking space be located a minimum of 6 metres from the street property line and to the rear of the main front wall of the building, be approved, subject to the following condition:

1. That the owner enters into a Site Plan Agreement registered on the title of the property prior to the issuance of a building permit, requiring that the sales office be removed within the garage and the garage restored to accommodate a 3 metre by 6 metre parking space for the dwelling, within 5 years of the issuance of the building permit.”.

Carried

Application: A-9/13
Owner: City of Guelph
Agent: Maureen Gaskin
Location: 14 Edinburgh Road South
In Attendance: Maureen Gaskin
Greg Bernardi, City of Guelph

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

Ms. Gaskin replied she wants to establish a craft shop in the building and has agreed to a five year lease with the City. She noted the building has been vacant for some time and upgrades will be completed before the shop opens.

Committee member L. McNair questioned if the applicant can demarcate 7 off-street parking spaces when the parking lot is gravel.

Ms. Gaskin noted she planned to place markers at the front of the parking spaces to identify them.

Planner M. Witmer noted they have no concern with removing the condition requiring demarcation because the parking area is gravel.

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 L. McNair and seconded by B. Birdsell,

“THAT in the matter of an application under Section 45(2)(a)(ii) of the Planning Act, R.S.O. 1990, c.P13, as amended, permission to change the legal non-conforming use at 14 Edinburgh Road South from a previous use of retail store, gallery and studio specialized in stained glass to a retail establishment for the sale of craft items, be approved, subject to the following condition:

1. That the applicant develop the site in accordance with the agreed and executed lease with the City on December 24, 2012, including Schedule “C” of the Lease: List of Work Required for FADM Compliance.”

Carried

Application: A-17/13
Owner: Fusion Homes
Agent: Fusion Homes, Patrick Clarke
Location: 32 Oakes Crescent
In Attendance: Patrick Clarke

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

Mr. Clarke replied the notice sign was posted and comments were received from staff.

Committee member L. McNair noted the driveway will require expansion to comply with the By-law. He noted a 0.6 metre landscaped strip is required along the lot line.

Mr. Clarke replied their curb cut application will be submitted with expansion towards the centre of the lot. He agreed they would maintain the required landscaped strip.

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 and seconded by J. Hillen,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.15.1.5 of

Zoning By-law (1995)-14864, as amended, for 32 Oakes Crescent, to permit an accessory apartment with an area of 90 square metres when the By-law requires that an accessory apartment shall not exceed a maximum of 80 square metres in floor area, be approved.”

Carried

Application: A-19/13 to A-27/13

Owner: Cityview Homes /Gemini Homes

Agent: Van Harten Surveying Inc.; Paul Magahay

Location: Summit Ridge Drive, Starwood Drive and Jeffrey Drive

In Attendance: Paul Magahay

The Secretary-Treasurer noted the agent has submitted a written request for consideration of a partial refund of the application fees.

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

Mr. Magahay replied the notice sign was posted and comments were received from staff. He briefly described the applications and noted 50% lot coverage is becoming the norm for building coverage for on-street townhouses. He noted it is very difficult for builders to build an on-street town within the 40% coverage required by the By-law.

Planner M. Witmer explained the applicant has applied for site plan approval which will be considered February 20th.

Committee member R. Funnell questioned staff if any consideration has been given to amending the By-law to reflect this.

Planner M. Witmer noted staff has identified this and will be considering it in the new Zoning By-law.

Mr. Magahay noted they submitted a request to Building Services to be considered by the Housekeeping By-law and this will be placed on the agenda to be discussed by that team.

Committee member L. McNair expressed concerns about the distance between the street and the rights-of-way along the rear property lines.

Mr. Magahay noted this is a concern of the individual homeowners who have the right to construct a fence to the rear right-of-way however they must keep the rear yard open for access to the right-of-way.

Application A-19/13

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 and seconded by J. Hillen,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.3.2 Rows 5a and 8 of Zoning By-law (1995)-14864, as amended, for 172 Summit Ridge Drive,

- a) to permit an exterior side yard of 4.09 metres when the By-law requires a minimum exterior side yard of 4.5 metres, and
- b) to permit a building coverage equal to 50% of the lot area when the By-law permits a maximum building coverage of 40% of the lot area, be approved.”

Carried

Application A-20/13

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 and seconded by J. Hillen,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.3.2 Row 8 of Zoning By-law (1995)-14864, as amended, for 186 Summit Ridge Drive, to permit a building coverage equal to 50% of the lot area when the By-law permits a maximum building coverage of 40% of the lot area, be approved.”

Carried

Application A-21/13

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 and seconded by J. Hillen,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.3.2 Row 8 of Zoning By-law (1995)-14864, as amended, for 198 Summit Ridge Drive, to permit a building coverage equal to 50% of the lot area when the By-law permits a maximum building coverage of 40% of the lot area, be approved.”

Carried

Application A-22/13

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 and seconded by J. Hillen,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.3.2 Row 8 of Zoning By-law (1995)-14864, as amended, for 210 Summit Ridge Drive, to permit a building coverage equal to 50% of the lot area when the By-law permits a maximum building coverage of 40% of the lot area, be approved.”

Carried

Application A-23/13

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 and seconded by J. Hillen,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.3.2 Row 8 of Zoning By-law (1995)-14864, as amended, for 465 Starwood Drive, to permit a building coverage equal to 50% of the lot area when the By-law permits a maximum building coverage of 40% of the lot area, be approved.”

Carried

Application A-24/13

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 and seconded by J. Hillen,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.3.2 Row 8 of Zoning By-law (1995)-14864, as amended, for 14 Jeffrey Drive, to permit a building coverage equal to 50% of the lot area when the By-law permits a maximum building coverage of 40% of the lot area, be approved.”

Carried

Application A-25/13

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 and seconded by J. Hillen,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.3.2 Row 8 of Zoning By-law (1995)-14864, as amended, for 26 Jeffrey Drive, to permit a building coverage equal to 50% of the lot area when the By-law permits a maximum building coverage of 40% of the lot area, approved.”

Carried

Application A-26/13

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 and seconded by J. Hillen,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.3.2 Row 8 of Zoning By-law (1995)-14864, as amended, for 40 Jeffrey Drive, to permit a building coverage equal to 50% of the lot area when the By-law permits a maximum building coverage of 40% of the lot area, approved.”

Carried

Application A-27/13

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 and seconded by J. Hillen,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.3.2 Rows 5a and 8 of Zoning By-law (1995)-14864, as amended, for 56 Jeffrey Drive,

- a) to permit an exterior side yard of 4.09 metres when the By-law requires a minimum exterior side yard of 4.5 metres, and
- b) to permit a building coverage equal to 50% of the lot area when the By-law permits a maximum building coverage of 40% of the lot area,

be approved.”

Carried

Consideration of Partial Refund of the Application Fee

Moved by L. McNair and seconded by R. Funnell,

“THAT the Secretary refund ½ of the application fees for Applications A-19/13 to A-27/13 on Summit Ridge Drive, Starwood Drive and Jeffrey Drive, with a \$\$1,762.50 being refunded to Gemini Homes and \$1,410.00 being refunded to Cityview Homes.”

Carried.

Application: B-7/13 and A-16/13

Owner: 845081 Ontario Inc.

Agent: Van Harten Surveying Inc.; Jeff Buisman

Location: 590 York Road

In Attendance: John Mason
John Valeriotte
Jeff Buisman
Bob Goodliffe

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

Mr. Buisman replied the notice signs were posted and comments were received from staff. He explained Bob's Towing owns 29 Wells Street which has been operating there since 1984. The purpose of the application is to convey a parcel from the rear of 590 York Road, as a lot addition to 29 Wells Street. He noted they have used this parcel for storage since 1984 and want to take ownership of the lands. He explained an identical application was before the Committee in 2002 and was not finalized. He did a presentation to the Committee and argued a rezoning and official plan amendment was not necessary and the use could be considered by a minor variance application. He further argued the road widening dedication and site plan approval were not necessary.

John Valeriotte explained he has done some research and has found the Committee decision that occurred in 2007 which allowed for storage as a permitted use. He advised they do not want to use the property as a wrecking yard and no vehicles will be stacked and no parts stored. He noted the parking of vehicles would be for short term until the vehicle owner reclaimed it. He noted the owner would have no objection to restricting the use of the storage area.

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Mike Witmer explained Planning staff's opinion of the applications and provided explanation why an Official Plan and Zoning By-law amendments were necessary.

Committee member B. Birdsell questioned if the vehicles being stored were licensed and plated.

John Valeriote replied all vehicles will plated with current licences.

Committee member J. Hillen questioned if staff want to see service commercial uses along York Road in a hypothetical straight line.

Planner M. Witmer replied the Official Plan has identified Service Commercial uses to one side of the road only at this time until the Guelph Innovation District uses have been approved.

Committee member C. Downer questioned if the property at 29 Wells Street would have split zoning if the lot addition was approved with the use variance only.

Planner M. Witmer noted staff is recommending a zoning amendment and an official plan amendment as conditions of approval of the consent.

Committee member B. Birdsell requested the applicant speak to the request for the use variance.

John Valeriote explained they want to avoid an Official Plan amendment and Zoning By-law amendment as they have an approved minor variance decision permitting storage on the property. He noted if the use is to be clearly defined to permit licensed vehicles only they would have no concern.

The Committee discussed the requirement for an Official Plan amendment and Zoning By-law amendment in addition to the requirement for full site plan approval.

It was noted the owner of 29 Wells Street received site plan approval recently for a garage addition to the property as staff wanted to review the grading and drainage in addition to landscaping and screening of the business.

Application B-7/13

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 C. Downer and seconded by B. Birdsell,

"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 1, Concession 3, Division 'C', 590 York Road, a parcel with a frontage along Wells Street of 18.3 metres and a depth of 33.53 metres, as a lot addition to 29 Wells Street, 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 the owner deeds to the City free of all encumbrances a 5.182-metre (17.0-foot) wide parcel of land for a road widening across the entire frontage of number 590 York Road as shown in red on the applicants site plan, prior to endorstation of the deeds.

4. That prior to endorstation of the deeds, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying the severed parcel and the proposed road widening.

5. The owner shall submit to the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan, indicating the location of buildings, screening and grading and drainage on the said lands to the satisfaction of the General Manager of Planning and Building and the General Manager/City Engineer, prior to the use of the site for the storage of cars associated with 29 Wells Street. Furthermore, the owner shall develop the property in accordance with the approved site plan.

6. That prior to endorstation of the deeds, the owner removes and/or relocates the existing chain link fence and gate on the Wells Street right-of-way to the property line; or if the owner wishes to keep the existing chain link fence and gate in its present location, we request that the owner applies to the City Solicitor for an encroachment agreement and obtains approval for the encroachment of the existing chain link fence and gate on the Wells Street right-of-way.

7. That prior to endorstation of the deeds, the owner removes and/or relocates the existing freestanding sign from the York Road right-of-way; or if the owner wishes to keep the existing freestanding sign in its present location, we request that the owner applies to the City Solicitor for an encroachment agreement and obtains approval

for the encroachment of the existing freestanding sign on the York Road right-of-way.

8. That storage be restricted to disabled or impounded vehicles or mobile equipment stored temporarily until reclaimed but cannot include a vehicle salvage yard or wrecking establishment.
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 February 15, 2014.
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) or supplied on a compact disk."

Carried

Application A-16/13

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 and seconded by B. Birdsell,

"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 6.4.3.2.10.1 of Zoning By-law (1995)-14864, as amended, for 29 Wells Street, to permit the parking of

cars associated with a tow truck business (impounded cars and accident vehicles awaiting review by the insurance companies), be approved

Subject to the following condition:

1. That the conditions imposed for Application B-7/13 be and form part of this approval.”

Carried.

Application: A-2/13

Owner: Nikan Inc.; Fazl Ashkar

Agent: Carly Donovan and Merrick Taylor-Scott

Location: 28 Essex Street

In Attendance: Fazl Ashkar
Carly Donovan
Merrick Taylor-Scott
John Farley
Ian Panabaker
Lyndon Stewart

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

Mr. M. Taylor-Scott replied that the sign was posted and the staff comments were received. He explained that there is a void in the downtown area of the type of service they are intending to bring in. He further explained that the building is within the downtown redevelopment project area and they would like to improve the existing building appearance.

Committee member R. Funnell questioned whether the applicant has made any attempts to secure parking spaces on some of the adjacent properties.

Mr. M. Taylor-Scott replied that they have had initial conversations with some property owners but have not had any response yet. He commented that other businesses are lacking in parking in the area as well and at this point they will not know the outcome of their inquiries.

Planner M. Witmer summarized Planning Services staff comments. He explained that staff is supportive of the application and they have worked with the applicant to solve the parking issue. He further explained that the parking is calculated from the classroom floor space only.

Committee member J. Hillen questioned if this deferred application was presented at the last meeting and if he is able to vote.

Chair D. Kelly replied that the application was presented and committee member J. Hillen was not present at the meeting. Therefore committee member J. Hillen is not able to vote on this application.

Mr. L. Stewart, a property owner in the vicinity, commented that if the parking calculation is based on the classroom area only, is there a chance that the business will turn into a large scale fitness centre later. He continued by commenting that the building is quite large.

Mr. M. Taylor-Scott replied the business they are proposing to establish is an alternative to big box fitness studios and they would not be in competition with them. He explained that they would only have two to three trainers or clients at the premises at the same time. He commented that they would never have more than six to eight people at the premises at the same time.

Mr. F. Ashkar, the owner of the property, explained that regardless of what type of a business is operating from the premises, the parking issue will always be there. He further explained that he is trying to accommodate a business which requires minimum off-street parking.

Ms. C. Donovan commented that the area which is not designated as part of the classroom area will consist of the reception area, bathroom area and personal training area. She explained that they will make everything barrier free which will also take up some of the free area.

Committee member L. McNair questioned whether the three employees mentioned in the conditions would include a receptionist or other trainers.

Ms. C. Donovan replied that they would be included in the three.

Committee member L. McNair questioned if the three employees would include the owners of the business.

Planner M. Witmer replied that there is no definition in the Zoning By-law for an employee.

Mr. M. Taylor-Scott commented that once the business is first opened in the morning, there might only be one person along with another person teaching a class. He continued by commenting that the two business owners might be there doing office work at the same time. He explained that he cannot anticipate more than four people working there at the same time but if they have to limit this number to three, they will follow that rule.

Ms. C. Donovan commented that at some point, they might have to hire an additional trainer but they will not all be there at the same time.

Chair D. Kelly questioned if the applicant understands the conditions clearly.

Ms. C. Donovan replied that they do understand the conditions.

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 Sections 45(2) 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 R. Funnell and seconded by C. Downer,

“THAT in the matter of an application under Sections 45(2)(a)(ii) and 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, permission to change the legal non-conforming use at 28 Essex Street from a vehicle service shop, print shop, art studio and office to a commercial school (specialized fitness classes and personal training) and to permit eight (8) off-street parking spaces when the Zoning By-law (1995)-14864, as amended, requires a total of 10 off-street parking spaces (which includes two off-street parking spaces for two residential units), be approved,

subject to the following conditions:

1. That the applicant erect and maintain adequate signage over two (2) of the off-street parking spaces indicating that the spaces are reserved at all times for the exclusive use of the residential apartments, and provide evidence that the signs have been installed to the satisfaction of the General Manager of Planning Services, prior to the issuance of any building permit.
2. That the applicant demarcate the eight (8) off-street parking spaces as indicated on the parking/site plan submitted with Application A-3/13, prior to the issuance of any building permit.
3. That the Commercial School not have more than three (3) employees at any given time on the premises.”

Carried

Application: A-11/13

Owner: George and Samuel Galineas

Agent: Joe and Jordan Addeo

Location: 1027 Gordon Street

In Attendance: John Mason
George Galineas
Jordan Addeo
Joe Addeo
Colleen O'Sullivan

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

Mr. Joe Addeo replied that the sign was posted and the staff comments were received. He had no further comments regarding his application.

Mr. J. Mason apologized to the committee members that his letter was received late. He explained that Mason Real Estate manages the plaza next door and he is commenting on the owners' behalf. He explained that the owners have nothing against a food wagon but they feel that the plaza is not a proper place for it. He commented that the food truck should be serving the industry, recreation and residential areas where food is not readily available, for example Watson Road and York Road area. He further commented that Planning Services is making a mistake by allowing food wagons in a plaza where food is already being served. He explained that the food businesses pay a large amount of taxes and pay fees for the upkeep of their businesses. He commented that a food wagon will not contribute towards City taxes. He explained that the intent of the zoning by law is that food will be served from premises which have proper services. He questioned where clients would go to use washrooms. He summarized his comments by noting that they object to the application and is concerned that other food wagons will be established in other plazas.

Mr. Joe Addeo replied that they pay fees, insurance and taxes just like everyone else. He explained that they also have the fire department and health department doing inspections to make sure they comply with their regulations. He commented that they have backed up on the operating hours they first proposed so as not to step on anyone's toes. He also commented that the only difference with their food business is that they do not have bathrooms.

Ms. C. O'Sullivan, the manager of Rowe Farms store located at 1027 Gordon Street, explained that she is excited to see a food truck in the area. She explained that there is not a large selection of quality food in the area and would welcome a business where the plaza employees can purchase their lunch from. She further explained that competition helps everybody and anything that will bring more people to the plaza is good for the businesses. She commented that she also sells lots of produce but during the summer she welcomes the produce stand selling their products because they bring in more people to the plaza. She also commented that she does not see the food truck being negative competition towards any of the plaza businesses and everyone at Rowe Farms is supportive of the application.

Mr. G. Galineas, owner of 1027 Gordon Street, commented that he opened a restaurant in 1962 in the plaza, which at the time was the only restaurant in the area. He further commented that more people will come through the plaza with different businesses operating from there. He noted that he is in support of the proposal.

Mr. J. Mason questioned whether the food wagon will be operating at the same time as the vegetable stand.

Committee member J. Hillen advised that Planning Services condition specifically mentions that the produce tent may not operate on the property at the same time.

Planner T. Spears explained that the property is serving a large area of population. She further explained that Planning Services cannot dictate the types of competition that operate in the zone. She also advised of a modification to condition number one: "...business known as Food Man and Culture Boy apply for and receive a Business Licence from the City of Guelph prior to opening." She also advised the committee members that Planning Services has concluded the first paragraph of condition number two and the whole of condition number three are no longer necessary.

Committee member L. McNair questioned whether the first condition should have a time trigger for completion.

Planner M. Witmer replied that staff met with the City's business licensing coordinator and was advised that the by-law staff will proactively ask the business to leave the property until they have acquired a business license.

Committee member J. Hillen questioned if the enforcement of the hours of operation and parking spaces occupied will fall on the zoning inspector.

Planner T. Spears confirmed that this is correct.

Committee member B. Birdsell questioned if the truck needs five parking spaces or less.

Planner T. Spears replied that the truck itself will not take up five spaces. She explained that the applicant originally blocked off a small part of the parking lot but the plan was revised to accommodate the people possibly lining up and to allow for the manoeuvrability of the truck.

The Committee members questioned whether garbage containers will be provided.

Mr. Joe Addeo replied that they will provide three garbage cans outside of the truck. He explained that at the end of the day they will clean everything up and the garbage bags will be dropped off at the landfill.

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Chair D. Kelly commented that the garbage issue has been referenced in Planning Services conditions.

Committee member L. McNair questioned if the parking calculation was completed prior to the food vending vehicle occupying some spaces.

Planner T. Spears replied that the Zoning By-law does not have parking regulations for a food truck. She commented that there is no requirement to provide several parking spaces for people stopping and picking up food and then leaving.

Planner M. Witmer commented that staff was very inspired by the regulations and specific by-laws which Hamilton and Waterloo have for food vehicles. He further commented that staff will keep monitoring food truck applications in the future and use best practises to assist them.

Committee member C. Downer questioned if the conditions proposed are specifically for this food truck; they mention "Food Man and Culture Boy".

Planner T. Spears replied that the approval would pertain only to this business specifically. She explained that if another food truck intends to replace Food Man and Culture Boy, an application for a minor variance would have to be submitted.

Committee member B. Birdsell questioned whether the truck has also a canopy.

Mr. Joe Addeo replied that the truck has a roof that pops up but they will not provide any seating. He commented that they are licensed to operate in the Hamilton area but they live in Guelph and would like operate their business in Guelph.

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 R. Funnell and seconded by J. Hillen,

"THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.22.1 of Zoning By-law (1995)-14864, as amended, for 1027 Gordon Street, to permit an unenclosed operation (a food preparation and vending vehicle) when the By-law requires that the operations of every commercial zone use shall be conducted within an enclosed building or structure, be approved,

subject to the following conditions:

1. That the Food Preparation and Vending Vehicle owner (for the business known as Food Man and Culture Boy) apply for and receive a Business Licence from the City of Guelph prior to opening.
2. That the Food Preparation and Vending Vehicle is only permitted on the subject property at the location specified on the Site Plan approved by Planning staff.
3. That the food preparation and vending vehicle operates only during specified times (10am-3pm Monday to Saturday).
4. That the Food Preparation and Vending Vehicle does not stay on the subject property overnight.
5. That no seating and/or other amenities are to be provided for patrons of the Food Preparation and Vending Vehicle; in order to provide such amenities, the applicant would need to go through a formal Site Plan Approval process.
6. That the operator of the Food Preparation and Vending Vehicle provide waste receptacles to be placed upon arrival when the vehicle stops to sell or offer for sale refreshments, and that it be removed together with all of the waste collected in the waste receptacles and accumulated in the surrounding area upon leaving.
7. That parking signs are erected to ensure that the specified location (as per the Site Plan) is not taken up by other vehicles for the use of parking during the hours of operation for the Food Preparation and Vending Vehicle.
8. That other occasional/temporary uses or structures, such as a produce tent, may not operate on the subject property at the same time as the Food Preparation and Vending Vehicle as there is not sufficient parking on site to accommodate further uses.”

Carried

Application: **A-18/13**

Owner: **Alisha and Nathan Brousse**

Agent: **n/a**

Location: **75 Creighton Avenue**

In Attendance: **Alisha and Nathan Brousse**

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

Mr. N. Brousse replied that the sign was posted and the staff comments were received. He explained that Engineering Services has a concern regarding the swale and have recommended that the application be deferred to discuss the situation further. He commented that he agrees with the recommendation and asked the committee to defer the application.

The Committee had no further questions for the applicant.

Moved by L. McNair and seconded by C. Downer,

“THAT Application A-18/13 for Alisha and Nathan Brousse at 75 Creighton Avenue, be deferred sinedie, to give the applicant an opportunity to discuss the drainage situation with City staff and in accordance with the Committee’s policy on applications deferred sinedie, that the applications will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application.”

Carried

Application: A-12/13
Owner: Imad Hamzi
Agent: n/a
Location: 44 Truesdale Crescent
In Attendance: none present

Chair D. Kelly advised the Committee Members that the applicant had not arrived yet. She questioned whether the committee members would prefer to vote on the application or to defer it.

The Committee members were in agreement to give the applicant some additional time to appear in front of the Committee and proceeded with hearing the next application.

Application: A-10/13
Owner: Vanco and Svetlana Stojanovski

Agent: Ogi Panich

Location: 5 Mason Court

In Attendance: Ogi Panich
Svetlana Stojanovski
Aneta Stojanovski

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

Mr. O. Panich replied that the sign was posted and the staff comments were received. He explained that the dwelling has been rented to students and it adheres to the regulations of the City. He further explained that they are asking to be able to park three vehicles stacked in the driveway. He commented that the request is a minor change and does not require any infrastructural changes. He further commented that this way the residents can park on the driveway instead of on the City street. He noted that at least two other properties on the street have a similar arrangement. He explained that the variance is necessary to be able to rent to five students in total. He commented that they have been discussing their situation with the City Zoning Inspector who advised them that they are not able to certify the dwelling as a lodging house. He noted that they have applied for a building permit for creating a second unit but the permit is pending the approval of this minor variance. He explained that they rent as a cohesive group of people and would assure that the rental agreement would reflect the egress and ingress situation of vehicles in the driveway.

Planner M. Witmer advised the Committee members that staff had some technical difficulties with the preparation of staff comments and a condition has been omitted in error. He explained that Planning Services would like to add a condition to mention that the existing fence and awning be removed to accommodate for the parking.

Committee member L. McNair questioned what the reason is for the awning to come down.

Planner M. Witmer replied that a high vehicle might not be able to park under the awning and it is also for safety reasons.

Chair D. Kelly questioned the intent of the By-law for not permitting the stacking of vehicles.

Planner M. Witmer replied that the intent is to allow for a safe egress and ingress from and to the parking area.

Chair D. Kelly questioned if the property in question is particularly any safer than any other property when it comes to ingress and egress.

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Planner M. Witmer replied that the By-law has a section regarding a requirement for the parking of vehicles behind the main front wall of the building. He explained that two off-street parking spaces in this case will be provided to the rear of the main front wall of the building. He continued by explaining that they have no municipal issue with the stacking of the vehicles in this case, that it is a matter of personal inconvenience for the manoeuvrability of the vehicles.

Chair D. Kelly stated that the intent of the By-law was one of safety. She questioned if there is a safety issue with the driveway being right next to the door leading to the dwelling.

Planner M. Witmer replied that several other driveways in the City have a similar layout or for example, carports are attached to the side of the dwellings.

Committee member B. Birdsell commented that the zoning regulations do not speak to the matter where the door is in relation to the parking space.

Committee member R. Funnell commented that planning staff seems to be saying that they are prepared to be more lenient since this is a local street and not an arterial road.

Planner M. Witmer replied that a previous variance refusal at Mason Court for three stacked parking spaces was appealed to the Ontario Municipal Board. He explained that the staff report, which was presented to the Council, indicated there was no municipal interest to appear at the hearing and Council agreed with the report. He noted that the Ontario Municipal Board ruled in favour of the appellant.

Committee member J. Hillen commented that he attended the hearing and the most important factor in the decision making for the chair was that Mason Court is a dead end street.

Committee member B. Birdsell questioned how tall the existing fence is, which must be removed.

Mr. O. Panich replied that the fence is 6 feet tall.

Committee member B. Birdsell commented that he does not have a problem with the canopy staying.

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 B. Birdsell and seconded by L. McNair,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.15.1.4.1 of

Zoning By-law (1995)-14864, as amended, for 5 Mason Court, to permit three off-street parking spaces in a stacked arrangement when the By-law requires that only two parking spaces are permitted in a stacked arrangement, be approved,

subject to the following condition:

1. That the fence be moved back no less than 3.5 metres and the driveway extended 3.4 metres in depth to allow for the required off-street parking spaces.”

Carried

The Secretary-Treasurer advised of a request for a refund for application B-9/11 at 27 Forest Hill Drive. She noted that the application was for a change of condition. She advised that the fee paid was \$645.

A general discussion took place to determine the costs for processing the application.

Consideration of Refund of the Application Fee for Application B-9/11

Moved by C. Downer and seconded by L. McNair,

“THAT no action be taken in response to the request from the applicant for application B-9/11, being an application for change of condition at 27 Forest Hill Drive.”

Carried.

Application: A-12/13
Owner: Imad Hamzi
Agent: n/a
Location: 44 Truesdale Crescent
In Attendance: Imad Hamzi

Chair D. Kelly advised the Committee Members that the applicant still has not arrived. She questioned whether the Committee members were ready to vote on the application.

After a brief discussion, the Committee members agreed to defer the application to give the applicant a chance to appear before the Committee and to present the application.

Moved by L. McNair and seconded by C. Downer,

“THAT Application A-12/13 for Imad Hamzi at 44 Truesdale Crescent, be deferred sinedie, 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

After the motion was made, the owner of the property arrived at the meeting. The Committee members discussed and agreed to withdraw the earlier deferral motion in order for the applicant to be able to present his application and receive a decision.

Moved by L. McNair and seconded by C. Downer,

“THAT the motion to defer the Application A-12/13 for Imad Hamzi at 44 Truesdale Crescent be withdrawn”.

Carried

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

Mr. I. Hamzi replied that the sign was posted and the staff comments were received. He apologized to the Committee members for being late. He explained that the house was built in 2006 and at the time, they had six family members living in the dwelling. He further explained that now his children have moved out and they are left with a very large house. He commented that he has been diagnosed with cancer and he does not have any income. He explained that he is intending to rent out the basement to his friends who can keep an eye on him and his wife.

There were no further questions from the Committee members.

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 B. Birdsell and seconded by R. Funnell,

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“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 44 Truesdale Crescent, to permit an accessory apartment in the basement with an area of 95 square metres when the By-law requires that an accessory apartment shall not exceed a maximum of 80 square metres in floor area, be approved.”

Carried

The meeting adjourned at 7:25 p.m.

D. Kelly
Chair

Kim Fairfull, ACST
Secretary Treasurer

Minna Bunnett, ACST(A)
Assistant Secretary-Treasurer