

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Special Meeting on Thursday April 23, 2015 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

B. Birdsell, Chair
M. Bosch
S. Dykstra
L. Janis
D. Kendrick
P. Ross

Regrets: K. Ash

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

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Meeting Minutes

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

“THAT the Minutes from the April 9, 2015 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Secretary-Treasurer T. Russell reminded Committee members and those attending that the meeting is audio recorded and recordings are posted on the City’s website.

Application: B-14/15

Owner: Fieldstone Investments Inc.

Agent: Nancy Shoemaker, Black, Shoemaker, Robinson & Donaldson Limited

Location: 60 Howitt Street

In Attendance: Nancy Shoemaker
John Groenewegen

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements. Ms. N. Shoemaker replied that the sign was posted.

Ms. N. Shoemaker explained the background of the application. She explained that the two properties were built in 1911, and that through the comments from Engineering Services', it was discovered that the sewer lateral for 58 Howitt Street is actually on a portion of 60 Howitt Street. As a result, she proposed that an easement be created rather than relocating the lateral. She expressed concerns about deferring the application so the existing application could be amended to include an easement.

Secretary-Treasurer T. Russell noted that the application and drawing submitted by the applicant incorrectly identified the lot frontage of the retained parcel, 58 Howitt Street. She indicated that the correct lot frontage for the retained parcel is 11.1 metres, not 8.08 metres. She noted that a revised drawing was circulated to the Committee members with the staff comments. Since the error involves the retained parcel which is not the subject of the application, Secretary-Treasurer T. Russell stated that it was her opinion that adequate notice has been given. However, she recommended that the Committee be satisfied that adequate notice has been given prior to considering this application.

Secretary-Treasurer T. Russell also noted that revised comments and conditions from Engineering staff were received after the comments were circulated, upon request of the agent. The revised Engineering comments and conditions were provided to the Committee members.

Secretary-Treasurer T. Russell also noted there is a written request from the agent requesting the waiving of a second special meeting fee if the application is deferred.

Committee member M. Bosch asked the Secretary-Treasurer if the Committee has the ability to approve the consent for technical severance and easement. Secretary-Treasurer T. Russell noted that the request for an easement was not included in the application nor the public meeting notice. She indicated that an easement can be included as a condition of approval; however, the applicant would need to submit a separate application to create the easement and satisfy the condition.

Committee member M. Bosch asked if this application will require a two-step process. Secretary-Treasurer T. Russell indicated that it is up to the Committee to decide how they want to proceed. She advised that if the Committee approves the technical severance with a

condition requiring an easement, the applicant will need to come back to the Committee for approval to create the easement.

Ms. N. Shoemaker indicated that if the Committee felt that they could not make a decision due to notification concerns, she asked that the application be deferred so the original application could be amended to include the easement.

Committee member M. Bosch asked if the application is deferred, who decides on the associated costs. Chair B. Birdsell replied that the Committee can deal with this separately.

Committee member S. Dykstra asked staff if the notification is waived for the easement and the applicant indicates the location of the easement on a survey, if that will be sufficient. Planner L. Sulatycki explained that if the application is approved as what was applied for, the applicant will need to come back to the Committee to get approval for the easement. She explained that the other option the applicant mentioned was to defer the application to amend the application to request an easement and both the consent for technical severance and easement would be considered at a future meeting.

Committee member S. Dykstra asked if the applicant prefers to defer the application. Chair B. Birdsell indicated that he believed it was within the Committee's power to decide if adequate notice has been given. Committee member S. Dykstra asked if a decision could be made tonight on the easement and address the rest of the application later. Chair B. Birdsell stated he believed the Committee could grant the technical severance and the easement in the same application.

Secretary-Treasurer T. Russell advised that it is up to the Committee to decide if adequate notice has been given; however, she strongly recommended that the Committee consider that the easement was not included on the application nor the public meeting notice. She stated that in her opinion, the Committee cannot approve a request that was not applied for. She cautioned the Committee that this could be grounds for a potential appeal. Chair B. Birdsell stated that he believes the Committee has the authority to waive additional notice.

Chair B. Birdsell asked if anyone present wished to speak to the application. No members of the public spoke.

Committee member L. Janis asked the applicant what the cost is to relocate the lateral. Ms. N. Shoemaker stated there are substantial costs for relocation due to the old foundation of the house and the need to move the plumbing from one side of the house. Committee member L. Janis stated she disagreed that the plumbing needed to be moved in such a fashion and asked if the applicant had received an actual estimate from Engineering staff. Ms. N. Shoemaker replied that Engineering indicated a rough estimate of a minimum of \$20,000.00.

Committee member D. Kendrick stated that he believes there was adequate notice given. Committee member M. Bosch stated that the servicing issue could have been greater if these lots had not merged and brand new lots were being created.

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

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

THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent to severance of Part Lot 95 and Part Lot 97, Registered Plan 113, municipally known as 60 Howitt Street, a parcel with a frontage along Howitt Street of 8.7 metres and a depth of 24 metres, and

- a) subject to an easement 2.5 metres wide by 4.0 metres long for sanitary service purposes, over the severed parcel (60 Howitt Street) in favour of the retained parcel (58 Howitt Street), as shown in red on the applicant's survey sketch amended by Engineering Services on April 21, 2015, with the original survey sketch prepared by Black, Shoemaker, Robinson & Donaldson Limited, Project No. 15-0008, dated March 19, 2015,

be approved, subject to the following conditions:

1. That prior to endorsonation of the deeds, the servient tenement (60 Howitt Street, Part of Lots 95 and 97, Registered Plan 113), grants an easement approximately 2.50-metres (8.20 feet) wide by approximately 4.0-metres (13.12 feet) long, registered on title, in favour of the dominant tenement (58 Howitt Street, Part of Lots 95, 96, 97 and 98, Registered Plan 113) as shown in red on the applicant's site plan for sanitary service purposes.
2. That prior to endorsonation of the deeds, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying the easement.
3. That prior to endorsonation of the deeds, the owner's solicitor certifies that the easement, in favour of the dominant tenement (58 Howitt Street, Part of Lots 95, 96, 97 and 98, Registered Plan 113), has been granted and registered on title.
4. 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 April 28, 2016.

5. 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.
6. 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.
7. That a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the draft Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk.

Carried

REASONS:

This application is approved, as it is the opinion of the Committee that, with the above noted conditions of approval, this application meets the criteria of section 51(24) of the Planning Act to which all consent applications must adhere.

Application: **A-34/15**

Owner: **8394202 Canada Inc.**

Agent: **N/A**

Location: **159 Fife Road**

In Attendance: **Prem Lamba**
 Carlos Honsiquez

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. P. Lamba replied that the signs were posted and he received staff comments.

Mr. P. Lamba explained the background of his application.

Committee member M. Bosch asked if the Zumba class use disappears, what other uses would be permitted. Planner L. Sulatycki replied that any commercial school use would be permitted provided it is limited to 2,400 square feet.

Committee member S. Dykstra if there is adequate parking for the proposed use. Planner L. Sulatycki replied yes that it exceeds the parking requirements.

Chair B. Birdsell asked if anyone present wished to speak to the application. No members of the public spoke.

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

Moved by M. Bosch and seconded by S. Dykstra,

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 6.2.1.1 of Zoning By-law (1995)-14864, as amended, for 159 Fife Road, to permit a commercial school use (Zumba classes) in a 222.9 square metre area of the existing commercial building, when the By-law does not permit a commercial school use in the Neighbourhood Shopping Centre (NC) zone,

be approved, subject to the following condition:

1. That the commercial school use be limited to 223m² (2,400 ft²).

Carried

REASONS:

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

Chair B. Birdsell left at 4:30 p.m.

Other Business

Committee Member Orientation Session

Staff Present: Michael Witmer, Planner
Lindsay Sulatycki, Planner
Darrell Mast, Associate Solicitor
Katherine Hughes, Associate Solicitor
Stephen Robinson, Senior Heritage Planner
Patrick Sheehy, Program Manager - Zoning
Helen White, Park Planner
Jyoti Pathak, Park Planner
Terry Gayman, Manager of Development and Environmental Engineering

Secretary-Treasurer T. Russell welcomed staff and staff introduced themselves to the Committee. Secretary-Treasurer T. Russell explained that the purpose of the session is to be an information session only and that the Committee is not to discuss specific past or present applications.

Discussion took place on the following topics:

- Legal non-conforming and legal non-complying
- Easements
- Merging of lots
- Tree preservation
- Road widenings
- Servicing requirements
- Heritage inventory
- Cultural heritage
- Parkland dedication process
- Accessory apartments
- OMB process
- Quasi-judicial process
- Motions and amendments
- Deferral process
- Appropriate conditions

The meeting was adjourned at 7:04 p.m.

B. Birdsell
Chair

T. Russell
Secretary-Treasurer