

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday April 9, 2015 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

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

Regrets: K. Ash
M. Bosch

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 P. Ross and seconded by D. Kendrick,

“THAT the Minutes from the March 26, 2015 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

Secretary-Treasurer T. Russell reminded the Committee members that an Orientation Session for Committee members will be held as part of the April 23, 2015 Special Meeting. She asked that if any of the members have specific questions or topics that they would like addressed at the Session, to provide them to the Secretary-Treasurer no later than Wednesday, April 15.

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

Application: A-25/15
Owner: Christopher Smeltzer
Agent: N/A
Location: 70 Foster Avenue
In Attendance: Christopher Smeltzer
Rachael Grafe

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements. Mr. C. Smeltzer replied the sign was posted.

The Committee members had no questions for the applicant.

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 D. Kendrick 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 Table 5.1.2, Row 7 of Zoning By-law (1995)-14864, as amended, for 70 Foster Avenue, to permit a residential addition to be situated 0.5 metres from the right lot line, when the By-law requires that the minimum side yard shall be 1.5 metres, be approved, subject to the following conditions:

1. That no portion of the building, including but not limited to the eaves and eave troughs, encroach over the neighbouring property and that, if requested, sufficient documentation be provided to confirm compliance with this condition to the satisfaction of the Chief Building Official or designate.
2. That the reduced setback only applies to the house as shown generally in accordance with the Site Plan prepared by Groen Design and Drafting Services that was submitted as part of Building Permit 15 001253.

Carried

REASONS:

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

Application: **A-26/15**

Owner: **Deborah Turchet**

Agent: **Sarah Wilhelm and Linda Redmond**

Location: **27 Clarke Street West**

In Attendance: **Deborah Turchet**
 Sarah Wilhelm
 Linda Redmond

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. D. Turchet replied that the sign was posted and staff comments were received.

Ms. D. Turchet outlined the background of her application. She explained that she determined a complete tear down and rebuild of the existing dwelling was more appropriate than retaining the existing dwelling. She noted that the fence will be removed completely. She said that the detailed elevation and site plan drawings have been completed and she will give them to staff. She indicated that the Tree Inventory and Preservation Plan was completed and approved in early March and she indicated that she will provide this to Planning staff. She indicated that she is very protective of the existing trees on her property.

Committee member P. Ross commended the applicant on the excellent planning report provided with her application.

Committee member D. Kendrick referenced page 3 of the staff comments provided by Heritage Planning which made reference to cultural heritage resources. Committee member D. Kendrick asked staff to elaborate. Planner M. Witmer replied that he cannot speak specifically for the Senior Heritage Planner, he indicated that from time to time he likes to offer applicants advice on how to protect cultural heritage resources. He said that he cannot confirm, but that is his speculation.

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

Planner M. Witmer stated that when he visited the property he observed that there has been some major pruning to a mature deciduous tree in the rear yard. He showed photos of the pruned tree on the overhead projector. He pointed out that Planning Services recommended that a Tree Inventory and Preservation Plan be undertaken by a certified arborist, and that no further pruning to the trees be done based on the evidence saw on his site visit.

Committee member S. Dykstra referenced condition 4 and asked if the existing shed was removed and a new shed built, would a new shed be allowed to be placed with the reduced setbacks. Planner M. Witmer noted that condition 4 specifically referenced the existing shed and he explained that if the shed was demolished and proposed to be rebuilt, it would need to comply with the Zoning By-law regulations.

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 P. Ross 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, variances from the requirements of Sections 5.1.2.7 i), 4.6.1 i), and 4.5.1.2 of Zoning By-law (1995)-14864, as amended, for 27 Clarke Street West,

- a) to permit an exterior side yard setback (Princess Street) of 2.0 metres, when the By-law requires a minimum exterior side yard setback of 9.37 metres [average of the setbacks of the adjacent properties];
- b) to permit a 1.5 metre portion of the dwelling, porch, and associated decking to be located within the site triangle, when the By-law requires that on a corner lot, within the sight line triangle formed by joining the point of intersection to points on each street line, measured 9 metres from that point of intersection, no building, structure, play equipment, statue or parked motor vehicle shall be located; and
- c) to permit the existing accessory structure to be situated 0.1 metres from the rear lot line and right side yard lot line, when the By-law requires that accessory structures be situated a minimum of 0.6 metres from any lot line,

be approved, subject to the following conditions:

1. That prior to the issuance of a building permit, the owner removes and/or relocates the existing board fence on the Princess Street right-of-way to the property line; or if the owner wishes to keep the existing board fence 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 board fence on the Princess Street right-of-way.

2. That (not including any permits to demolish the existing dwelling) prior to the issuance of any building permits, to ensure the physical character of the built up neighbourhood is respected, the applicant submit a site plan and detailed elevations, in metric units and scale, to the satisfaction of the General Manager of Planning, Urban Design and Building Services or their designate, clearly indicating (but not limited to):
 - a. Access for demolition is to be identified on the site plan(s); and
 - b. Stockpile location if anticipated is to be identified on the site plan(s). If not, a note to the effect indicating the items to be removed upon demolition is to be included on the plans.
3. That prior to the issuance of any building permits (inclusive of any demolition permits), a Tree Inventory and Preservation Plan is undertaken by a Certified Arborist which includes:
 - a. A tree inventory identifying the tree species, sizes and condition of all trees within 10 m of the area of impact, which may include off site trees;
 - b. A tree preservation plan which preserves neighbouring trees, unless otherwise approved by the landowner of neighbouring trees;
 - c. A compensation plan to mitigate the impacts of any tree loss utilizing a 3:1 replacement ratio (i.e where it has been demonstrated that protection of trees is not feasible); and
 - d. Overall Conclusions and Recommendations.
4. That the existing shed be setback a minimum of 0.1 metre from the side lot line and a minimum of 0.43 metres from the rear lot line.
5. That no further additions be made to the existing shed.

Carried

REASONS:

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

Application: **A-27/15**

Owner: **Barbara and Karen Whyllie**

Agent: N/A

Location: 113 Glasgow Street North

In Attendance: Karen Whylie

Chair B. Birdsell questioned if the signs had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. K. Whylie replied that the signs were posted and comments were received.

Ms. K. Whylie stated that the staff comments were clear to her and she indicated that she had photos of the property.

The Committee had no questions for the applicant.

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 D. Kendrick and seconded by P. Ross,

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.5.1.2 Zoning By-law (1995)-14864, as amended, for 113 Glasgow Street North, to permit the existing accessory structure to be situated 0.3 metres and 0.4 metres from the side lot lines, when the By-law requires that accessory structures be situated a minimum of 0.6 metres (1.97 feet) from any lot line,

be approved, subject to the following condition:

1. That the accessory structure not be enlarged.

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.

Application: A-28/15
Owner: George Carere
Agent: N/A
Location: 75-79 Suffolk Street West
In Attendance: George Carere

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

Mr. G. Carere pointed out that he has owned property since 1973 and his records indicate that the building was constructed in 1847. He indicated that when he purchased the property the curb on Suffolk Street was cut to allow three parking spaces in front of the building. He stated in the 1990s the curb cut was removed when Suffolk Street was reconstructed. Mr. G. Carere stated he would like to get the curb cut back as the three parking spaces are essential. Chair B. Birdsell replied this request is beyond the Committee's scope.

Mr. G. Carere said the building has some heritage value and that allowing boutique uses will make it easier for him to get tenants and avoid him coming back to the Committee multiple times. He said he has no intention of converting the building to entirely residential.

Committee member S. Dykstra said he was under the impression that there was no parking in front of the building on Suffolk Street West. Mr. G. Carere said that it is a bit confusing as the sign indicates no parking on Sunday. He stated that visitors to the store are advised by the tenant that parking is permitted in front of the building, except for Sunday.

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

Committee member D. Kendrick asked about the various past Committee of Adjustment approvals and if they would still remain in place under the boutique definition. Mr. G. Carere said he understood that those uses would remain. Planner L. Sulatycki provided the definition of a boutique use, which is retail establishment with a maximum gross floor area of 100 square metres. She indicated that the boutique definition is quite open and very broad so some past uses could be considered under this definition. She advised the applicant that this should be confirmed with Zoning staff prior to securing a tenant.

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 D. Kendrick and seconded by S. Dykstra,

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 75-79 Suffolk Street West, to further extend the legal non-conforming use to allow boutique uses on the ground floor of the existing building,

be approved, subject to the following condition:

1. That the Boutique use be limited to the existing ground floor unit.

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 the criteria under Section 45(2) of the Planning Act.

Application: A-29/15
Owner: Jeff Wilson and Sara Felske
Agent: N/A
Location: 88 Dublin Street North
In Attendance: Jeff Wilson

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

Mr. J. Wilson stated that he wanted to move the driveway location in order to have a larger backyard and side yard and he indicated that most of the driveways in the neighbourhood fail to meet Zoning By-law requirements. He also indicated that having the driveway relocated would be more practical for his family. He said the existing road allowance on Dublin Street is quite large.

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

Committee member P. Ross asked staff if they were aware of situation with the neighbouring driveways and what the implications are. Planner L. Sulatycki said parking is not permitted on the City's road allowance. She indicated that the City responds on a complaint basis only. She indicated that if there was a complaint filed, the City would check and if it is found that the owner is not in compliance, the owner would need to get a minor variance or comply with the Zoning By-law.

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

Moved by S. Dykstra and seconded by P. Ross,

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Section 4.13.2.1, 4.13.3.2.2, and Table 5.1.2 Row 12 of Zoning By-law (1995)-14864, as amended, for 88 Dublin Street North,

- a) to permit a required parking space to be located 0 metres from the street line and permit a 4.0 metre portion of the required parking space to be located in front of the front wall of the dwelling, when the By-law requires that in a R.1 zone, every required parking space shall be located a minimum of 6 metres from the street line and to the rear of the front wall of the main building;
- b) to permit an exterior parking space dimension of 2.3 metres by 4.5 metres, when the By-law requires that the minimum exterior parking space dimensions shall be 2.5 metres by 5.5 metres; and
- c) to permit a landscaped open space of 0 metres, when the By-law requires that a minimum area of 0.5 metres between the driveway and the nearest lot line must be maintained as landscaped open space,

be refused.

Carried

REASONS:

This application is refused, as it is the opinion of the Committee that this application does not meet all four tests under Section 45(1) of the Planning Act.

Application: B-12/15

Owner: Simon and Michael Vanderzand

Agent: N/A

Location: 156 Niska Road

In Attendance: John Vanderzand
Michael Vanderzand
Simon Vanderzand

Secretary-Treasurer T. Russell notified the Committee that a revised Notice of Public Meeting was mailed March 30, 2015 as the original notice was missing the later part of the Committee of Adjustment email address.

Secretary-Treasurer T. Russell indicated that correspondence was received from Mr. D. Worthen in support of the application. A copy of the correspondence was provided to the Committee members. Secretary-Treasurer T. Russell notified the Committee that the applicant has provided a Tree Preservation Plan for the Committee's review. A copy of the Plan was provided to the Committee members.

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. J. Vanderzand replied that the sign was posted and staff comments were received.

Mr. J. Vanderzand outlined proposed changes to three of the conditions and the removal of one condition. He provided a written summary to the Committee members and staff outlining proposed amendments to the recommended conditions.

In regards to condition 4 requiring the decommissioning of the existing septic system and private well, he asked if the well could be retained as the house has two plumbing systems, one for drinking water and one that covers the rest of the house. He stated that they prefer natural, untreated water. He indicated that Engineering staff had stated during the pre-consultation meeting that this type of situation had occurred in past applications.

In regards to condition 5 regarding the removal of the existing asphalt within the road allowance from the area of the existing southerly driveway entrance, he requested that this condition be removed. Mr. J. Vanderzand showed photos of the existing driveway on the overhead projector. He said the existing circular driveway is not affected by the severance and it is much safer due to sight lines to drive out of the east driveway than to back out from the west driveway. He indicated that the retained parcel has a large frontage so the driveways are not congested. He indicated that this condition is very important in relation to the enjoyment of the home.

In regards to condition 26 c) requiring a 3:1 compensation ratio for trees that are removed, Mr. J. Vanderzand requested that this be reduced to a 1:1 ratio. He referenced that a Tree Protection Plan had been provided to the Committee which outlines that there are 136 regulated trees existing on the property, and only 15 of these are not Spruce or Pine trees. He outlined that the trees were originally planted as part of plantation to be harvested and are not desirable for an urban forest. He outlined that there are trees that are deceased, decaying and need to be thinned out. He indicated that 20 trees need to be removed in order to create a building envelope, and therefore 60 trees would need to be planted if the 3:1 ratio was used. He indicated that it would be improbable to replace all of these trees on the property as the property is already heavily treed. He indicated that section 7 of the Tree By-law states that it allows for one or more trees to be planted to replace destroyed trees. He requested that condition 26 c) be replaced with the following wording: "A landscaping, replanting, and replacement plan be developed by an Arborist in conjunction with the City Environmental Planner, considering the existing tree canopy coverage, use and characteristics of the property."

In regards to condition 29, requiring the transaction to be registered within one year, Mr. J. Vanderzand requested that this be extended to two years. He asked for this extension in case the lot is not sold, as well as allowing ample time for the tree issues to be rectified.

Chair B. Birdsell asked staff to comment on the proposed amendments. Planner M. Witmer replied that he cannot support any of the requests. In regards to condition 4, he stated that it is Provincial policy that all new development must be on full municipal services. He indicated that he did not want to speak on behalf of Engineering Services, so if Engineering staff is supportive of retaining the well, he would rely on that. One possibility he suggested is amending condition 4 to add the wording "to the satisfaction of the City Engineer" in case Engineering Services is supportive of retaining the well.

In regards to condition 5, Planner M. Witmer stated that the Zoning By-law clearly states that residential properties within single detached zones are to only have only one driveway access to a public road. As the retained parcel is being redeveloped, he indicated that the property is losing its legal non-complying status of having two entrances. He indicated that a minor variance would be needed to permit the driveway to have two entrances. He suggested that if the owner wished to do so, he recommended that this application be deferred so this minor variance could be applied for concurrently. He explained that the reason for limiting the number of driveways is that it is preferred from an operations standpoint to have the least number of accesses possible. He further explained that Niska Road is considered a collector road in the Official Plan, and this road carries more than just local traffic. Chair B. Birdsell asked if the applicant would have the choice of which access to keep. Planner M. Witmer replied yes, as long as the driveway setbacks and width conform to the Zoning By-law.

In regards to condition 26 c), Planner M. Witmer stated that he cannot support this request as reducing the ratio would not be consistent with Official Plan policies and the reforestation target.

In regards to condition 29, Secretary-Treasurer T. Russell replied that the one year timeline is specified by the Planning Act and in the Committee of Adjustment's policies, and therefore she suggests that the condition remain as is to be consistent with past applications. She suggested that the applicant file a Change of Condition application to extend the timeline if the applicant finds that the one year timeline cannot be met.

Committee member D. Kendrick asked what the distance was between the two driveways. Planner M. Witmer said it appears to be 30.4 metres on the sketch. Committee member D. Kendrick asked if the 20 trees that need to be removed included the dead and deceased trees mentioned earlier. Mr. J. Vanderzand replied that it does not. Committee member D. Kendrick asked if the dead and deceased trees have to be replaced using the 3:1 ratio. Mr. J. Vanderzand replied no that he believes they fall under a different category. Committee member D. Kendrick asked if staff concurred. Planner M. Witmer replied yes that the dead and deceased trees do not count towards the compensation ratio.

Committee member D. Kendrick commented that he believes the applicant already meets condition 4 as the applicant as indicated that he will connect to municipal services.

Chair B. Birdsell commented that staff had already indicated that condition 4 could be amended to make it satisfactory to the City Engineer. He also clarified that the 30.4 metres is actually the frontage of the lot. He believed that the distance between the driveways was around 45 feet.

Mr. J. Vanderzand mentioned that during the pre-consultation meeting, Environmental Planner A. Labbe said she would consider some relief to the tree replacement ratio as the existing trees were plantation trees. He indicated that the property is heavily treed currently and they are trying to create a property that is ideal for natural habitat. He said he would rather improve the existing situation rather than spending the money on 60 new trees that might not survive due to the lack of space on the lot.

Planner M. Witmer replied that the replacement trees can be planting the subject property or cash in-lieu-of payment can be collected and these trees would be planted on City public land. He also indicated that one of the neighbours had concerns about the tree removal and the 3:1 ratio was used on the three adjacent properties which were recently rezoned and are under construction. Due to the depth of the lots, he believes that there is enough area in the rear yard to compensate for the trees.

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

Mr. J. Vanderzand indicated that he sent letters to the neighbouring property owners which emphasized tree protection. He indicated that only one letter of concern came forward and that no one was present to express concerns about the trees. In regards to the three abutting properties, Mr. J. Vanderzand believes those lots are not similar as they have much more open space and much less trees.

Committee member P. Ross asked staff what the process is for the implementation of the condition regarding the trees. Planner M. Witmer replied that a Tree Preservation Plan will be completed which will detail how the trees will be compensated, either by plantings or cash in-lieu-of, and this would need to be completed prior to the endorsement of the deed. He indicated that the primary staff contact for this condition would be the Environmental Planner. Committee member P. Ross asked if there is any flexibility within that process to change the ratio. Planner M. Witmer replied that the Tree By-law does not have a specific replacement ratio, and the By-law leaves this up to the Environmental Planner to determine. He indicated that the Environmental Planner has determined that a 3:1 ratio is required.

Committee member S. Dykstra asked if part of the tree compensation can be accommodated on the property and part be collected by cash payment. Planner M. Witmer replied yes that it can be split between the two methods. Committee member S. Dykstra recommended that the applicant provide some plantings on site and the remaining amount be collected by a cash in-lieu-of contribution.

Mr. J. Vanderzand indicated that the Tree By-law specifies that a removed tree be replaced by one or more trees. He indicated that he has been consulting the Tree By-law when doing his planning, and most other lots in the City do not contain 136 trees. Planner M. Witmer indicated that the pre-consultation meeting took place before the approval of the City's Natural Heritage Systems policies in the Official Plan, which is known as Official Plan Amendment 42. He elaborated that this Official Plan Amendment brought in the 40 percent tree cover requirement and the Official Plan document takes precedent over the City's other planning documents. Mr. J. Vanderzand replied that the property has exceeded that amount.

Committee member S. Dykstra asked about condition 24 regarding a development and if this condition should be switched with condition 25 regarding tree protection. Planner M. Witmer stated that condition 24 is a standard condition for consent applications and this would put all the conditions in a development agreement that is registered on title to the property. He indicated that condition 24 and 25 are separate, and condition 25 originated from the Environmental Planner. Regarding the payment of cash in-lieu-of parkland, he indicated that there is a bit of overlap and recommends the removal of condition 20 as it is the same as condition 17 recommended by Parks Planning.

Committee member D. Kendrick asked if the applicant is willing to go back to staff and discuss these amendments or if the applicant feels that a decision should be made tonight. Mr. J. Vanderzand replied that he feels that a decision should be made as he did not feel there is a lot

to be resolved. Mr. S. Vanderzand indicated that perhaps they need some help from the Committee in regards to some of these concerns.

Committee member S. Dykstra asked if condition 24 is going to be removed. Planner M. Witmer replied that condition 24 is satisfactory in its current condition unless the Secretary-Treasurer directs otherwise.

Mr. J. Vanderzand asked staff if they feel they can work towards an agreement regarding the compensation ratio. He said he feels it is punitive to expect that they should be required to pay for trees being planted on another property, due to the high number of trees already existing. He showed the letter he sent to neighbours advising of the application on the overhead projector.

Committee member P. Ross asked staff to clarify condition 26 c), specifically where it references tree protection not being feasible. Planner M. Witmer replied that the first preference is to protect the existing trees, and otherwise if a tree is removed, that is when the 3:1 compensation ratio comes into effect. He emphasized that the pre-consultation meeting took place prior to the new Official Plan policies which are stricter on tree preservation. He also indicated that the 40 percent tree canopy is applied to the entire City, not on an individual property basis.

Mr. J. Vanderzand indicated that he is trying to support infill development which the Province supports and is trying to make good use of the land. He questioned if it is more important to make good use of the land or to compensate for the trees on a 3:1 ratio, as he feels they are trying to do both.

Chair B. Birdsell pointed that one of the conditions is recommended by staff to be removed and he indicated that Official Plan issues are beyond the Committee's scope.

Committee member D. Kendrick recommended the application be deferred as the applicant's requests are significant.

Chair B. Birdwell noted to the applicant that a deferral fee applies, and that there is a process where the applicant can request this fee be waived.

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

THAT Application B-12/15 for 156 Niska Road, be deferred sinedie, and in accordance with the Committee's policy on applications deferred sinedie, that the application 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

REASONS:

This application is deferred so the applicant can review the proposed amendments to the conditions with staff.

Application: A-30/15
Owner: 2413448 Ontario Ltd.
Agent: N/A
Location: 117 Surrey Street East
In Attendance: N/A

The applicant was not present. Secretary-Treasurer T. Russell noted to the Committee members that the applicant had contacted her in advance of the meeting and requested the application be deferred.

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

THAT Application A-30/15 for 117 Surrey Street East, be deferred sinedie, and in accordance with the Committee's policy on applications deferred sinedie, that the application 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

REASONS:

This application is deferred at the request of the applicant.

Application: A-31/15
Owner: Reid's Heritage Homes Ltd.
Agent: N/A
Location: 1405 Gordon Street
In Attendance: Matt Robson

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

Mr. M. Robson explained the location of the development and outlined the variance requests. He indicated the property is already zoned for townhouses and the site plan approval process is underway. He explained that the original zoning contemplated condominium cluster townhouses and now freehold townhouses are now being proposed. He showed a copy of the site plan on the overhead projector. He indicated that since the townhouses are proposed to be freehold, they intend to come back to the Committee to sever each lot, as part lot control does not apply since the subject property is not a lot or block in a Plan of Subdivision.

Mr. M. Robson stated the site is quite low and contains a number of trees, of which 45 are proposed to be removed due to the grading. He said 135 trees and shrubs will be compensated using the 3:1 replacement ratio on the site and on a nearby stormwater retention pond. He noted that revised wording for conditions 7 and 8 had recently been provided by the Environmental Planner. Secretary-Treasurer T. Russell did confirm that revised conditions were received today and asked staff to outline the proposed revisions. Due to the grading, he requested that conditions 7 and 8 regarding tree protection be reworded to be more flexible so this issue can be worked out via the site plan approval process.

Planner M. Witmer indicated that he did receive a copy of the redline revisions by the Environmental Planner to conditions 7 and 8. He indicated that in his discussions with the Environmental Planner this morning she insisted that trees 25 and 26 remain. Mr. M. Robson placed a copy of the revisions on the overhead projector. Planner M. Witmer acknowledged that perhaps these conditions can be reworded somewhat to allow the final determination to be made at the site plan approval stage, but he did not want to completely delete them. Mr. M. Robson replied that this is acceptable.

Planner M. Witmer said comments were received from a neighbouring property owner expressing concerns about the development. He explained that he did a site visit and believed the development is a good fit for the neighbourhood. He showed photos of the abutting property on overhead projector and indicated that the proposal will continue the existing townhouse streetscape in a continual pattern. He noted there is a significant grade change in comparison to the abutting properties and he believed the application met the four tests under the Planning Act.

Committee member S. Dykstra asked what wording would be proposed if conditions 7 and 8 can be softened. Planner M. Witmer replied that condition 7 could be amended by adding the following wording: "to the satisfaction of the General Manager of Planning, Urban Design, and Building Services" as at that time the General Manager can make the final determination as part of the site plan approval process.

Committee member S. Dykstra asked if a similar revision could be made to condition 8. Mr. M. Robson indicated that ideally these two conditions would be combined into one. Planner M. Witmer replied that he believes that a similar revision as what was added to condition 7 could be added to condition 8.

In regards to condition 9, Mr. M. Robson indicated that compensation plantings will be placed on site as well as on the stormwater management pond. He indicated that the way condition 9 is worded, it refers to all the plantings being placed on the stormwater management pond. Committee member S. Dykstra asked if the applicant is confident that compensation plantings using the 3:1 ratio can be accommodated on the site and the stormwater management pond, or if a cash contribution is needed. Mr. M. Robson replied that through the site plan process and the Tree Preservation Plan that he is quite confident that the plantings can be accommodated.

Committee member L. Janis asked about the variance for the exterior side yard setback, and referred to the applicant's presentation which mentioned that the exterior side yard setback of 3.8 metres is actually getting closer to 2.2 metres, and asked the applicant to confirm. Mr. M. Robson replied that this is correct. Committee member L. Janis asked if this 2.2 metres applies only to the space along Gordon Street. Mr. M. Robson replied that this is correct, and this area will allow for services to be placed on City property. Committee member L. Janis asked if the applicant is proposing detached dwellings instead of townhouses. Mr. M. Robson replied that they are proposing townhouses. Chair B. Birdsell noted that the only difference between the existing townhouses in the area is that the proposal is for freehold ownership.

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 P. Ross 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, variances from the requirements of Table 5.3.2 Rows 2, 4, and Sections 5.3.3.1.36.2.1, 4.13.7.2.5, 4.13.3.2.2, and 4.28 of Zoning By-law (1995)-14864, as amended, for 1405 Gordon Street,

- a) to permit a minimum lot area of 149 square metres, when the By-law requires that the minimum required lot area shall be 180 square metres;
- b) to permit a minimum lot frontage of 5.5 metres, when the By-law requires that the minimum lot frontage shall be 6.0 metres;

- c) to permit a maximum building coverage of 51%, when the By-law requires that the maximum building coverage shall be 33%;
- d) to permit a driveway width to be 55% of the lot frontage, when the By-law requires that the residential driveway width shall not exceed the garage width of the unit, as measured from the outside walls of the garage or no more than 50% of the front yard, whichever is less, to a minimum of 3 metres wide;
- e) to permit an interior (garage) parking space depth of 5.5 metres, when the By-law requires that the minimum parking space dimensions shall be 3 metres by 6 metres within a garage or carport; and
- f) to permit an exterior side yard of 3.8 metres along Gordon Street, when the By-law requires that the minimum exterior side yard shall be 6 metres on existing arterial and collector roads,

be approved, subject to the following conditions:

1. The owner agrees to submit and receive approval from the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan indicating the location of the buildings, landscaping, parking, circulation, access, grading and drainage and servicing to the satisfaction of the General Manager of Planning Services and the General Manager/City Engineer, prior to the issuance of site plan approval. Furthermore, the owner shall develop the said lands in accordance with the approved site plan.
2. That the minimum lot frontage for all future lots on the subject lands be 5.48 metres.
3. That all new driveways be a minimum width of 3 metres, and shall not exceed the width of the garages.
4. That the exterior side yard setback be 2.21 metres from the Gordon Street right-of-way.
5. That prior to approval of Site Plan SP15A002, the applicant make satisfactory arrangements with the General Manager of Solid Waste Resources or their delegate on the appropriate accommodation for the City's three stream waste collection bins.
6. That prior to the approval of Site Plan SP15A002, the tree inventory is updated to reflect the current standards in the industry and as per policies under Section 6A.7.4 Official Plan Amendment Number 42: Natural Heritage System (June, 2014).
7. That prior to the approval of Site Plan SP15A002, the site plan drawings GP-1 and GP-2 are modified, as necessary and to the satisfaction of the General Manager

of Planning, Urban Design, and Building Services, as required to ensure that tree specimen 26 is not impacted during grading and construction work.

8. That prior to the approval of Site Plan SP15A002, site plan drawings TP-1 and associated construction drawings are modified to the satisfaction of the General Manager of Planning, Urban Design, and Building Services, to preserve tree specimen 25 located at or adjacent to the property limits, through appropriate design changes to the Grading Plan and the proposed swale location.
9. That prior to the approval of Site Plan SP15A002, site plan Drawing TRC1 is updated to reflect the tree compensation numbers at 3:1 ratio for each regulated tree proposed to be impacted and the compensation plantings be accommodated within the adjacent stormwater management pond SWMP 83.
10. Education Development Charges shall be collected prior to issuance of a building permit.

Carried

REASONS:

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

The meeting was adjourned by Committee member D. Kendrick at 6:07 p.m.

B. Birdsell
Chair

T. Russell
Secretary-Treasurer