



**COMMITTEE OF ADJUSTMENT
MINUTES**

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday August 11, 2016 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

B. Birdsell, Chair
K. Ash, Vice Chair (arrived at 4:03 pm)
S. Dykstra
L. Janis
D. Kendrick
P. Ross

Regrets: M. Bosch

Staff Present: D. McMahon, Acting Secretary-Treasurer
G. Van den Berg, Council Committee Coordinator
R. DalBello, Planner
M. Witmer, Planner

Disclosure of Pecuniary Interest and General Nature Thereof

There were no disclosures.

Approval of Minutes

Moved by S. Dykstra
Seconded by P. Ross

THAT the Minutes from the July 14, 2016 Regular Meeting of the Committee of Adjustment, be approved as circulated.

CARRIED

Requests for Withdrawal or Deferral

Application: A-56/16
Owner: Gary Watts & Kathryn Smith
Agent: N/A
Location: 25 William Street
In Attendance: Kathryn Smith

Acting Secretary-Treasurer D. McMahon indicated that he had received a written letter requesting the withdrawal of the application A-56/16 and full refund of the application fee.

Ms. K. Smith described the application process and how it led to the withdrawal and request for refund.

Acting Secretary-Treasurer D. McMahon indicated that staff would support a refund of 50% of the application fee.

Moved by D. Kendrick
Seconded by S. Dykstra

THAT 50% of the application fee being \$382.50 for application A-56/16, 25 William Street, be refunded to the applicant.

CARRIED

Application: A-51/16
Owner: Southwood Apartments Limited
Agent: Dave Aston, MHBC Planning
Location: 381 Edinburgh Road South
In Attendance: N/A

Acting Secretary-Treasurer D. McMahon noted that he had received a written request from the applicant for the deferral of application A-51/16 as well as notice that the applicant would not be attending the August 11, 2016 Committee of Adjustment meeting.

Moved by D. Kendrick
Seconded by P. Ross

THAT Application A-51/16 for 381 Edinburgh Road South, 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accordance with the Committee's policy on applications deferred sinedie, that the application will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application.

REASONS:

This application is deferred to allow the applicant to consult further with staff on the proposed variance application.

CARRIED

Current Applications

Application: A-52/16
Owner: Bradley Butts & Joseph Gummerson

Agent: N/A

Location: 340 Woolwich Street

In Attendance: Jodie McNaughton

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. J. McNaughton, agent for the owner, indicated the sign was posted and comments received.

Ms. J. McNaughton indicated that the personal service establishment was a spa.

In response to a question from member D. Kendrick, Planner R. DalBello indicated that staff supported the application with four parking spaces and regardless of whether or not agreements were in place for additional parking spaces.

Ms. K. Ash indicated that she would like to add a condition which would limit the variance to apply only to a personal service establishment use.

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

Moved by K. Ash
Seconded by 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 4.13.4.2 and 4.13.3.1 of Zoning By-law (1995)-14864, as amended, for 340 Woolwich Street,

a) to permit a total of 4 parking spaces; and

b) to permit a parking area which is not provided with a means of ingress and egress in forward motion only,

be **APPROVED**, subject to the following conditions:

1. That the owner strips the parking spaces as per the site plan that was submitted with the variance application.
2. That the variances only apply to a personal service establishment.

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.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act,

have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Application: A-53/16
Owner: Mike Ingram
Agent: N/A
Location: 74 Kirkland Street
In Attendance: Mike Ingram

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. Ingram, owner, indicated the sign was posted and comments received.

In response to a question from member K. Ash, Mr. M. Ingram indicated that the only intention was to build as per the drawing circulated with the public hearing notice.

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

Moved by K. Ash
Seconded by D. Kendrick

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 5.1.2.7 of Zoning By-law (1995)-14864, as amended, for 74 Kirkland Street, to permit an exterior side yard setback of 1.06 metres,

be **APPROVED**, subject to the following conditions:

1. That the owner agrees to prepare a site plan be submitted and approved by the General Manager of Planning, Urban Design, and Building Services prior to the issuance of a building permit.
2. That the owner agrees to submit elevations of the proposed addition and be approved by the General Manager of Planning, Urban Design and Building services prior to the issuance of a building permit.
3. That the variance shall apply only as shown on the public hearing notice.

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.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Application: **A-42/16**
Owner: **Jeff Bousfield**
Agent: **N/A**
Location: **10 Ontario Street**
In Attendance: **Jeff Bousfield**

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. Bousfield, owner, indicated that the sign was posted and comments received.

Member K. Ash indicated that it was difficult to understand the application based on the drawing circulated with the public notice.

In response to a question from member S. Dykstra, Mr. J. Bousfield described each variance included in the application in relation to the drawing submitted and circulated as part of the public meeting notice.

Member K. Ash indicated that she would like to add a condition which would limit the variances to only the existing structure as built.

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
Seconded by K. Ash

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 4.7, Rows 2, 8 and 12 of Zoning By-law (1995)-14864, as amended, for 10 Ontario Street,

- a) to permit an uncovered porch above the main floor;
- b) to permit a left side yard setback of 0 metres for the uncovered porch;
- c) to permit a second story balcony in the side yard with a 0 metre side yard setback; and

d) to permit a left side yard setback of 0 metres for the exterior staircase.

be **APPROVED**, subject to the following condition:

1. That the owner provide evidence to the satisfaction of the Chief Building Official and prior to the issuance of a building permit, that there is an existing or new agreement with the abutting owner of 2-8 Ontario Street granting permission for the encroachment of the overhanging structure of the second level deck, along with maintenance provisions, registered on title at the owners expense.
2. That the 0 metre setback apply only to the existing structure as shown on the attached plan/sketch.

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.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Application: **A-54/16**
Owner: **Frank Valeriote**
Agent: **N/A**
Location: **19 Woodycrest Drive**
In Attendance: **Frank Valeriote**

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. F. Valeriote, owner, indicated the sign was posted and comments received.

Mr. F. Valeriote briefly outlined the application.

In response to a question from Mr. F. Valeriote, Planner R. DalBello indicated that once completed a comprehensive tree inventory would identify which, if any, trees on the property were protected.

In response to a question from Member D. Kendrick, Planner R. DalBello indicated that any building not physically attached to the primary dwelling was considered an accessory structure.

In response to a question from Member L. Janis, Mr. F. Valeriote indicated that the double garage was required because the property has multiple tenants who require parking spaces.

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
Seconded by D. Kendrick

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 and 4.5.1.4 of Zoning By-law (1995)-14864, as amended, for 19 Woodycrest Drive,

- a) to permit a 70.4 square metre garage in the front yard; and
- b) to permit accessory buildings with a total area of 114.7 square meters,

be **APPROVED**, subject to the following conditions:

1. That the owner agrees to prepare a site plan showing the location, size and setbacks of the garage from the property line, relative to the main building to be submitted and approved by the General Manager of Planning, Urban Design, and Building Services prior to the issuance of a building permit.
2. The owner agrees to submit elevations of the proposed garage and be approved by the General Manager of Planning, Urban Design and Building services prior to the issuance of a building permit.
3. That prior to the issuance of building permits and prior to undertaking activities which may injure or destroy regulated trees, the applicant submit a Tree Preservation Plan (TIPP) prepared by an arborist and in accordance with the Private Tree Protection By-law (2010-19058) for approval and to the satisfaction of the General Manager of Planning, Urban Design and Building Services.
4. That prior to undertaking activities which may injure or destroy regulated trees the applicant erect tree protection fencing at one (1) metre from the dripline of any existing trees to be retained on the property, or on adjacent properties, which may be impacted in accordance with the approved TIPP and to satisfaction of the General Manager of Planning, Urban Design and Building Services.
5. That prior to the issuance of building permits and prior to undertaking activities which may injure or destroy regulated trees, the applicant submit a Landscaping, Compensation and Replacement Plan (LCRP) in accordance with the Private Tree Protection By-law (2010-19058) for approval to the satisfaction of the General Manager of Planning, Urban Design and Building Services, and the LCRP must be implemented.

6. That prior to the issuance of building permits and prior to undertaking activities which may injure or destroy regulated trees, and where replacement plantings are not achievable on the subject lands, the owner will provide cash in lieu payment in accordance with the Private Tree Protection By-law (2010-19058), to the satisfaction of the General Manager of Planning, Urban Design and Building Services.
7. That prior to issuance of a building permit, the applicant make arrangements with the Technical Services Department of Guelph Hydro Electric Systems Inc. for the possible relocation of the existing underground hydro service. This would be at the applicant's expense.

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.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Application: **A-55/16**
Owner: **D Four Developments Limited**
Agent: **Astrid Clos – Astrid J. Clos Development Planning**
Location: **1839 Gordon Street**
In Attendance: **Astrid Clos**

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. A. Clos, agent for the owner, indicated the sign was posted and comments received.

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
Seconded by K. Ash

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 6.2.3.2.25.2.2 of Zoning By-law (1995)-14864, as amended, for 1839 Gordon Street, to permit a 1,002 square metre one story retail building, labelled as 'RETAIL B3' on the applicant's minor variance sketch, within 32.6 metres of the intersection of Gordon Street and Clair Road, be **APPROVED**, subject to the following condition:

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 buildings, landscaping, parking, circulation, access, lighting, grading and drainage and servicing to the satisfaction of the General Manager of Planning and Building and the General Manager/City Engineer. Furthermore, the owner shall develop the said lands in accordance with the approved site plan.

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.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Application: **A-57/16**
Owner: **Julian Henry D G**
Agent: **N/A**
Location: **17 Sultan Street**
In Attendance: **Julian Henry D G**

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. Henry, owner, indicated the sign was posted and comments received.

Mr. J. Henry briefly outlined the application and the history of the subject property. Specifically, Mr. J. Henry discussed the structural integrity of the existing attached garage as well as structural issues associated with inseting one side of the proposed second story by 0.6 metres. Mr. J. Henry presented an engineering report which indicated the best structural decision would be to build the proposed second story on top of the existing block foundation.

In response to a question from member K. Ash, Planner R. DalBello indicated that staff were requesting a deferral to further discuss the application with the applicant to try and address issues of potential and existing encroachment.

Mr. J. Henry indicated he was hoping to receive Committee approval as quickly as possible in order to begin construction so the renovated garage could be used for storage in the winter.

Acting Secretary-Treasurer D. McMahon indicated that, if deferred, the soonest the application could be brought back to Committee would be the October 13, 2016 meeting.

Moved by D. Kendrick
Seconded by L. Janis

THAT Application A-57/16 for 17 Sultan Street, 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.

REASONS:

This application is deferred to allow the applicant to consult further with staff on the proposed consent application(s).

CARRIED

Application: A-58/16
Owner: Taylor Beech, Jim Estill & Kahn Tran
Agent: James Fryett – James Fryett Architect Inc.
Location: 904 Paisley Avenue
In Attendance: Sabrina Vastag
Catherine Durant

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. S. Vastag, agent for the owner, indicated that the sign was posted and comments were received.

Ms. S. Vastag briefly outlined the application.

Ms. C. Durant, resident of 65 Raglan Road, indicated when she bought a lot to the rear of the subject property she was told that only a one story building was permitted on the site. Furthermore, Ms. C. Durant indicated she had concerns about increased volumes of traffic associated with residential versus commercial units, light pollution from the parking lot, garbage bins along the property line and a poorly constructed fence.

Planner M. Witmer indicated that there was an active complaint associated with light trespass at the rear of the subject property and that staff were following up on that complaint through normal processes.

Mr. T. Beech, owner, indicated that he was aware of the concerns regarding light trespass and that light shields were going to be used to mitigate the light trespass noted by staff.

In response to a question from member P. Ross, Planner M. Witmer indicated he had no concerns with the existing fence.

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

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 4.15.2.1 of Zoning By-law (1995)-14864, as amended, for 904 paisley Avenue, to permit 4 units with private exterior entrances in the front yard,

be **APPROVED**, subject to the following condition:

1. That a minimum of 209 square metres of floor area on the ground level of the building remain exclusively devoted to commercial uses as permitted in the OR-41 Zone.

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.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Other Business

Acting Secretary-Treasurer D. McMahon noted that in order to more efficiently conduct the work of the Secretary-Treasurer it was necessary to appoint Deputy Secretary-Treasurers with all of the authority and powers of the Secretary-Treasurer.

Moved by S. Dykstra
Seconded by P. Ross

That Dylan McMahon, Stephen O'Brien and Gina Van den Berg, be appointed as Deputy Secretary-Treasurers pursuant to S. 44(8) of the Planning Act, R.S.O. 1990, c. P.13.

Acting Secretary-Treasurer D. McMahon noted that the Ontario Municipal Board appeals for 51 Vanier Crescent and 202 Glasgow Street North were withdrawn and that the parties to the OMB hearing for 67 Arkell Road reached an agreement on an amended design proposal.

Adjournment

Moved by D. Kendrick
Seconded by K. Ash

THAT the hearing of the Committee of Adjustment be adjourned at 5:28 p.m.

CARRIED

B. Birdsell
Chair

D. McMahon
Acting Secretary-Treasurer