

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday August 13, 2015 at 4:09 p.m. in Council Chambers, City Hall, with the following members present:

B. Birdsell, Chair (arrived at 4:15 p.m.)
K. Ash, Vice Chair (assumed Chair position from 4:09 p.m. to 4:14 p.m.)
S. Dykstra
L. Janis
D. Kendrick

Regrets: M. Bosch
P. Ross

Staff Present: T. Donegani, Planner
T. Russell, Secretary-Treasurer
D. McMahon, Council Committee Coordinator
V. Sobering, Council/Committee Assistant

In the Chair's absence, Vice Chair K. Ash assumed the role of the Chair.

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Meeting Minutes

Vice Chair K. Ash noted that Secretary-Treasurer T. Russell had provided amended wording to the Committee members which included a more comprehensive summary of the basis for the motion to refuse File B-17/15, 45 Stuart Street. Vice Chair K. Ash noted that she wanted to ensure the Committee's decisions are clear, especially in the event of an appeal. She clarified that the minutes should reflect that there was one variance for 45 Stuart Street (File A-59/15) that met all four tests.

Moved by S. Dykstra and seconded by D. Kendrick,

"THAT the Minutes from the July 23, 2015 Regular Meeting of the Committee of Adjustment, be approved, as amended."

Carried

Application: A-52/15
Owner: Aboul Rahmaty
Agent: N/A
Location: 5 Conroy Crescent
In Attendance: Abdul Rahmaty

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. A. Rahmaty, owner, replied that the sign was posted and comments were received.

The Committee had no questions for staff or the applicant.

No members of the public spoke in support or opposition of the application.

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 Section 4.15.1.4.1 of Zoning By-law (1995)-14864, as amended, for 5 Conroy Crescent, to permit three (3) off-street parking spaces to be stacked in the driveway, when the By-law requires that where an accessory apartment is created, the required off-street parking space for an accessory apartment may be stacked behind the required off-street parking space of the host dwelling in the driveway, with a maximum of two (2) parking spaces are permitted in a stacked arrangement,

be approved, subject to the following condition:

1. That all three (3) legal off-street parking spaces are located entirely on the property of 5 Conroy Crescent to the satisfaction of the Chief Building Official or his designate.

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: B-18/15
Owner: 281142 Ontario Inc.
Agent: Tracy Lesperance
Location: 435 Woolwich Street
In Attendance: Tracy Lesperance

Secretary-Treasurer T. Russell noted that a request for deferral has been submitted by the owner, in response to the staff recommendation. She noted that the owner had also changed the original easement proposal in anticipation of coming forward to the next Committee meeting in September. Secretary-Treasurer T. Russell recommended that the Committee defer this application to the next Committee hearing on September 10, 2015.

The Committee had no questions for staff or the applicant.

Moved by D. Kendrick and seconded by L. Janis,

THAT Application B-18/15 for 435 Woolwich Street, be deferred until September 10, 2015, and that the deferral application fee be paid prior to reconsideration of the application.

Carried

REASONS:

This application is deferred so the applicant can submit additional information.

Chair B. Birdsell arrived.

Application: A-64/15
Owner: Michael Weber

Agent: N/A

Location: 29 Crimea Street

In Attendance: Michael Weber

Secretary-Treasurer T. Russell noted that Ms. J. Perry has requested that her comments be withdrawn.

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. Weber, owner, replied that the sign was posted and comments were received.

Mr. M. Weber provided background regarding the application. He indicated that the three units have been in existence for over 25 years.

In response to questions from Committee member S. Dykstra, Planner T. Donegani replied that the required parking is 3 parking spaces and that staff is satisfied that adequate parking space can be provided, with two parking spaces in the garage and one parking space to the west of the garage.

No members of the public spoke in support or opposition of the application.

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. Janis and 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 5.2.1 of Zoning By-law (1995)-14864, as amended, for 29 Crimea Street, to permit the existing detached dwelling to contain three (3) residential dwelling units, when the By-law permits a duplex dwelling or semi-detached dwelling in the R.2 zone, but does not permit more than two (2) units,

be approved, subject to the following conditions:

1. That the owner pays the actual cost associated with the removal of the existing asphalt area and wood curbing within the road allowance, and the restoration of the boulevard with topsoil and sod, with the estimated cost of the works as

determined necessary by the General Manager/City Engineer being paid, prior to the issuance of a building permit.

2. That the three units only be permitted within a single detached dwelling.
3. That the required building permit be obtained within 3 months of this decision.
4. That the asphalt extending in front of the dwelling be removed and replaced with landscaping to the satisfaction of the Chief Building Official or his designate within 1 year of this decision.

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-65/15**

Owner: **Saleem Lakhani**

Agent: **Terry Baillie, General Home Services – Handyman Services**

Location: **27 Zaduk Place**

In Attendance: **Terry Baillie**
 Calum MacLeod
 John Slood
 Jim Donovan

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

The Committee had no questions for staff or the applicant.

Mr. J. Slood, builder of the dwellings in the subdivision, stated he was opposed to the application. He expressed concerns about the applicant asking for relief after the apartment was already constructed, and that when he approached the City previously about having basements in other dwellings he has built he was refused. He indicated that the owner was aware at the time of construction that an accessory apartment was not permitted. He also

expressed concern that one of the immediate neighbours who recently moved in did not receive notice.

Committee member K. Ash clarified that notice is given to property owners within 30 metres, and that the zoning by-law does permit accessory apartments to a certain maximum size. Mr. J. Sloot expressed concern that an approval would set a precedent for the neighbours.

Mr. J. Donavon, new resident of Zaduk Place, stated he objected to the enlarged apartment and expressed concerns about the intended occupancy of the accessory apartment and possible noise and parking problems.

Mr. C. MacLeod, resident of Zaduk Place, expressed concerns about the application as the zoning by-law requirements allow a large enough apartment, and had concerns about the future occupancy, possible congestion, and parking problems.

In response to a question from Committee member K. Ash, Mr. T. Baillie replied that the apartment has already been built, as the owner assumed the contractor had obtained a building permit. He indicated that the kitchen in the apartment is quite large which contributed to the large floor area.

In response to a question from Committee member K. Ash, Planner T. Donegani indicated that the Committee can add a condition requiring the building permit to be obtained within two months. Mr. T. Baillie indicated that the building permit is already in process.

Mr. J. Sloot and Mr. C. MacLeod both expressed concerns about the possible approval of the application.

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 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 4.15.1.5 of Zoning By-law (1995)-14864, as amended, for 27 Zaduk Place, to permit the accessory apartment to have an area of 131.5 square metres (28.5% of the total floor area), when the By-law requires that an accessory apartment not exceed 45% of the total floor area of the building and shall not exceed a maximum of 80 square metres in floor area, whichever is lesser,

be approved, with the following condition:

1. That the required building permit be obtained within two (2) months of this decision.

Carried

REASONS:

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

Application: **A-66/15**

Owner: **Michael Barber and Natalie Schlee**

Agent: **N/A**

Location: **38 Alice Street**

In Attendance: **Michael Barber**
 Natalie Schlee

Secretary-Treasurer T. Russell noted that comments in support of the application were received from Ms. M. Carter, resident of Alice Street, after the comment deadline. A copy of the correspondence was provided to the Committee members.

Secretary-Treasurer T. Russell noted that the public hearing notice incorrectly noted that the property is within the special policy area and adjacent to provincially significant wetlands, when it is actually only within the flood fringe.

Secretary-Treasurer T. Russell noted that the drawing provided by the applicant did not show the entire property boundaries and did not reflect the actual location of the accessory structure. Secretary-Treasurer T. Russell recommended that the Committee defer this application so that a complete drawing can be provided and proper notice given.

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. Barber, owner, replied that the sign was posted and comments were received.

Mr. M. Barber explained that the designer of the drawing did not realize that the entire depth of the property had to be shown on the drawing. He indicated that in response to the staff comments they are working with their designer to alter their design plans to address some of the concerns.

No members of the public spoke in support or opposition of the application.

In response to questions from Mr. M. Barber, Secretary-Treasurer T. Russell confirmed the application deadline for the next available hearing and the appeal period length.

Committee member K. Ash suggested that the applicants ensure the future supplied drawing are clear.

Moved by K. Ash and seconded by D. Kendrick,

THAT Application A-66/15 for 38 Alice 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.

Carried

REASONS:

This application is deferred so the applicant can submit additional information.

Application: A-67/15
Owner: Carousel Estate Homes Inc.
Agent: Hugh Handy & Sarah Code, GSP Group Inc.
Location: 16 Marilyn Drive
In Attendance: Hugh Handy
Sarah Code
Frank Valeriotte

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

Mr. H. Handy provided an outline of the application and showed drawings of the proposal on the overhead projector.

In response to a question from Committee member L. Janis, Mr. H. Handy replied that he does not feel the current tenants have been misrepresented with the removal of the amenity room, and that the existing units are a decent size for social activities.

Mr. F. Valeriote, owner, stated that none of the tenants were present arguing against the application.

In response to questions from Committee member S. Dykstra, Mr. F. Valeriote stated that the amenity room is designed similar to a one bedroom apartment and he was unaware why the zoning by-law restricted the building to 17 units as he did not own the property at the time the zoning was established.

In response to a question from Committee member L. Janis, Mr. H. Handy indicated that a variance for a reduction in parking spaces has been applied for.

No members of the public spoke in support or opposition of the application.

In response to a question from Committee member D. Kendrick, Chair B. Birdsell replied that the tenants of the building were not circulated on the application.

Committee member D. Kendrick indicated that he was not supportive of the application as the amenity room was part of original marketing program and the requested variances would reduce the available amenity space. He indicated that the Committee should protect the vision under which the zoning was approved.

Due to a tie vote, Chair B. Birdsell voted with the motion to approve and therefore the application was approved.

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 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 5.4.3.1.18.1, 4.13.4.3, 5.4.3.1.18.3.1, 5.4.2.4.1, and 5.4.2.4.3 of Zoning By-law (1995)-14864, as amended, for 16 Marilyn Drive,

- a) to permit a maximum of 18 dwelling units, when the By-law requires a maximum of 17 multiple attached dwelling units;
- b) to permit a minimum of 26 off-street parking spaces (1.4 spaces per unit), when the By-law requires a minimum of 27 off-street parking spaces (1.5 spaces per unit);

- c) to permit a maximum density of 104.6 units per hectare, when the By-law requires a maximum density of 100 units per hectare;
- d) to permit a minimum of 26.4 square metres of common amenity area per unit, when the By-law requires a minimum of 30 square metres of common amenity area per unit; and
- e) to permit 142.3 square metres of common amenity area to be within the exterior side yard, when the By-law requires that the common amenity area be located in any yard other than the required front yard or required exterior side yard,

be approved.

Carried

REASONS:

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

Other Business

Between applications A-64/15 and A-65/15, Chair B. Birdsell raised discussion about time limits for public comments at the hearing and encouraged public comments to be submitted prior to the hearing. Secretary-Treasurer T. Russell indicated that staff will investigate options.

Secretary-Treasurer T. Russell introduced Ms. V. Sobering, Council Committee Assistant, and Mr. D. McMahon, Council Committee Coordinator, who will be assisting with Committee of Adjustment duties.

Secretary-Treasurer T. Russell advised that an Ontario Municipal Board (OMB) appeal regarding 6 Tolton Drive/5 Laughland Lane (File A-48/15) was received. The owner appealed the Committee's decision to refuse the variance for a secondary driveway. A copy of the appeal was provided to the Committee members.

Secretary-Treasurer T. Russell noted that due to the number of applications received, an additional Committee of Adjustment hearing will be held September 24, 2015.

The meeting adjourned by K. Ash at 5:04 p.m.

B. Birdsell
Chair

T. Russell
Secretary-Treasurer