

## COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** B-7/18  
**LOCATION:** 320-322 Eastview Road  
**DATE AND TIME OF HEARING:** April 12, 2018 at 4:00pm  
**OWNER:** 2298907 Ontario Inc.  
**AGENT:** Brian Collier, Built by Engineers Construction Inc.  
**OFFICIAL PLAN DESIGNATION:** Neighbourhood Commercial Centre  
**ZONING:** Service Commercial (SC.1)

<b>REQUEST:</b>	<p>The applicant proposes to sever an irregularly shaped parcel of land with frontage along Watson Parkway North of 25.99 metres and an area of 5,883.8 square metres. The retained parcel will have frontage along Eastview Road of 102.56 metres and an area of 8,188 square metres.</p> <p>The applicant is also proposing reciprocal blanket easements over the severed and retained lands for access, maintenance and servicing.</p>
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<b>STAFF RECOMMENDATION:</b>	Deferral
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<b>CONDITIONS RECOMMENDED:</b>	
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N/A

### COMMENTS

#### **PLANNING SERVICES:**

The subject property is designated "Neighbourhood Commercial Centre" in the Official Plan and is zoned "Service Commercial One" (SC.1) according to Zoning By-law (1995)-14864, as amended.

The "Neighbourhood Commercial Centre" land use designation intends to establish local convenience and neighbourhood commercial uses within a convenient walking distance of residential areas. Neighbourhood Commercial developments are also to be developed in a cohesive and coordinated manner that is compatible with the surrounding residential neighbourhood.

The subject property contains an existing neighbourhood commercial development with two (2) commercial mall buildings on the same property. The applicant is proposing to sever the subject property so that each commercial mall building will be on a separately conveyable parcel. The request is also requesting consent to create reciprocal easements on both the severed and

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retained parcels for the purposes of providing unrestricted vehicular and pedestrian access and to recognize existing underground servicing and infrastructure.

A previous consent application (File B-22/16) was considered and approved by the Committee of Adjustment on November 15, 2016. Ten (10) conditions were recommended to the Committee by staff and agencies and were subsequently incorporated into the approval. The applicant and property owner were unable to satisfy the approved conditions of B-22/16 within a one (1) year period following the Committee's decision in November 2016. Also during this time period, no formal requests for an extension of the Committee's decision were received from the applicant. As a result, the Committee's previous decision expired. It should be noted that in 2016, the applicant also applied for a minor variance application (File A-80/16) to reduce the required number of off-street parking spaces on the severed parcel and also to reduce the minimum lot frontage of the severed parcel. Minor variance A-80/16 was approved by the Committee at the same time on November 15, 2016. However, minor variance applications do not expire, and the Committee's decision on A-80/16 still holds.

Considering the above, the applicant has made the decision to reapply for the same consent to sever the subject property and create reciprocal access easements on both the severed and retained parcels. Details of both applications remain unchanged from B-22/16.

Following a site visit completed by Planning and Engineering staff, construction of a large footing for a future communications tower was observed in the northwest area of the subject site. This area was barricaded off for the construction and not fully accessible to staff. It appeared as if the footing for the communication tower is located within existing required off-street parking spaces in the Zoning By-law. It is unclear if the communications tower will have any accessory equipment structures. If the communication tower and its components will be occupying any required off-street parking spaces, a minor variance for a parking reduction will be required.

Planning staff therefore recommend deferral *sine die* of the consent application to allow the applicant time to confirm with staff the impact of the communication tower on required off-street parking, and if required, apply for a minor variance application. Both a minor variance application and this consent application should be reviewed and considered concurrently.

### **ENGINEERING SERVICES:**

Engineering staff have no concerns with the consent application for severance to create a new lot, subject to and together with easements and rights-of-way from an engineering perspective.

However, upon further review of Planning and Zoning comments, Engineering will support Planning's recommendation for deferral.

### **BUILDING SERVICES:**

This property is located in the Service Commercial (SC.1) Zone. The applicant is proposing to sever an irregularly shaped parcel of land with frontage along Watson Parkway North of 25.99 metres and an area of 5,883.8 square metres. The retained parcel will have frontage along Eastview Road of 102.56 metres and an area of 8,188 square metres. The applicant is also proposing reciprocal blanket easements over the severed and retained lands for access,

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maintenance and servicing. Committee of Adjustment Decision A-80/16 provided for the required variances relating to lot frontage. Building Services agrees with Planning Services comments.

**REPORT COMPILED BY:** L. Cline, Council Committee Assistant

**COMMENTS FROM THE PUBLIC RECEIVED:** None

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**APPLICATION NUMBER:** A-25/18  
**LOCATION:** 546 Woolwich Street  
**DATE AND TIME OF HEARING:** April 12, 2018 at 4:00pm  
**OWNER:** 23988040 Ontario Inc.  
**AGENT:** N/A  
**OFFICIAL PLAN DESIGNATION:** Low Density Residential  
**ZONING:** Specialized Commercial (C.1-18)

<b>REQUEST:</b>	The applicant is seeking relief from the By-law requirements to permit a convenience store as an additional permitted use on the subject property.
<b>BY-LAW REQUIREMENTS:</b>	The By-law permits a vehicle service station as the only permitted use in the C.1-18 Zone.
<b>STAFF RECOMMENDATION:</b>	Approval with condition
<b>CONDITIONS RECOMMENDED:</b>	
<b><u>PLANNING SERVICES</u></b>	
1. That the proposed Convenience Store use be limited in size (area) to 122 square metres.	

## COMMENTS

### **PLANNING SERVICES:**

The subject property is designated "Low Density Residential" in the Official Plan. Certain small scale non-residential uses are permitted within the residential land use designations, provided they are complimentary to and serve the day-to-day needs of surrounding residential neighbourhoods. Such commercial uses can include small scale convenience food stores and restaurants.

The subject property is zoned "Specialized Commercial" (C.1-18), according to Zoning By-law (1995)-14864, as amended. The C.1-18 zone only permits a Vehicle Service Station. The parent C.1 zone permits a Convenience Store, among other uses.

The applicant/property owner is proposing to establish a convenience store use in an existing building on the subject property. As the C.1-18 zoning does not permit any other uses than a Vehicle Service Station, the applicant/property owner has requested a minor variance to permit a Convenience Store.

Historically, the existing building was used for auto repair services and a convenience store as part of a former gas station. This gas station, along with the accessory uses have discontinued operations on the subject property and the building has been vacant for several years. The

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property owner and applicant is proposing to re-establish the gas station use, along with a convenience store in the existing building. In addition to this minor variance application, the applicant/property owner has also submitted a site plan application (File SP16C057), which is currently being reviewed by the City's Site Plan Review Committee (SPRC).

The subject property is less than 0.2 hectares in size and therefore is not regulated by the Private Tree Protection By-law. However, consistent with the policies of the Official Plan, the City is committed to the protection and enhancement of its Urban Forest resources. Trees provide services to the neighborhood including reduction of air pollution, moderation of the urban heat island effect, carbon sequestration, shade and habitat for resident wildlife, and thus should be preserved to satisfy the City's targets to achieve and maintain 40% canopy cover.

Staff encourages the applicant to consult with an arborist in order to retain and protect as many trees as possible on the subject property.

Planning staff are of the opinion that the requested minor variance to permit a Convenience Store meets the general intent and purpose of the Official Plan and Zoning By-law. The Official Plan permits small scale convenience commercial uses that serve the day to day needs of the surrounding neighbourhood. Further, the Official Plan promotes the redevelopment of underutilized properties. The parent C.1 Zone permits Convenience Stores as a use. According to the sketch submitted with the minor variance application, sufficient off-street parking is being provided to support both a Convenience Store and Vehicle Service Station. The proposed convenience store is proposed to be 122 square metres. No expansions to the existing building are being proposed.

Planning staff are also of the opinion that the minor variance is desirable for the appropriate development and use of the subject lands. The property at one point contained an accessory convenience store as part of a former gas station operation. The Convenience Store will provide further small scale commercial amenities to better serve the surrounding residential neighbourhoods. Finally, Planning staff are of the opinion that the application is minor in nature. The Convenience Store will be utilizing and be contained within an existing building. It will also be complimentary to a proposed new Vehicle Service Station with a gas bar component.

It is recommended that the Committee approve the minor variance, subject to the above noted condition.

### **ENGINEERING SERVICES:**

Engineering has no concerns with the applicant's request for seeking relief from the By-law requirements to permit a convenience store as an additional permitted use on the subject property from an engineering perspective.

We agree with recommendations made by Planning and Zoning staff.

### **SOURCE WATER PROTECTION:**

1. The property is located in a WHPA B with a vulnerability score of 10.
2. The property is not located in an Issue Contributing Area.

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3. Please contact the Source Water Program Coordinator to do a Policy Applicability Review at 519-822-1260 ext. 2543 or [Kristin.presse@guelph.ca](mailto:Kristin.presse@guelph.ca) ([http://guelph.ca/wp-content/uploads/SWP\\_Section59ReviewRequest.docx](http://guelph.ca/wp-content/uploads/SWP_Section59ReviewRequest.docx))

### **BUILDING SERVICES:**

This property is located in the Specialized Commercial (C.1-18) Zone. The applicant is proposing to establish a convenience store within the existing 122 square metre building on the subject property. Building Services does not have any objection to this application.

A building permit may be required, please contact Building Services.

**REPORT COMPILED BY:** L. Cline, Council Committee Assistant

**COMMENTS FROM THE PUBLIC RECEIVED:** None

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**APPLICATION NUMBER:** A-26/18  
**LOCATION:** 107 Westra Drive  
**DATE AND TIME OF HEARING:** April 12, 2018 at 4:00pm  
**OWNER:** 2522936 Ontario Inc.  
**AGENT:** Caroline Baker, GSP Group Inc.  
**OFFICIAL PLAN DESIGNATION:** Medium Density Residential  
**ZONING:** Residential Cluster Townhouse (R.3A)

<b>REQUEST:</b>	<p>The applicant is seeking relief from the By-law requirements to:</p> <ul style="list-style-type: none"> <li>a) permit a minimum ground level private amenity area of 7.2 square metres for Buildings A and B;</li> <li>b) remove the required ground level private amenity area depth and width requirements for Buildings A and B;</li> <li>c) permit a minimum private amenity area for stacked townhouse units above grade of 5.0 square metres;</li> <li>d) permit a minimum distance of 10.0 metres between the face of Buildings A and C and Buildings B and D; and</li> <li>e) permit a minimum setback of 8.5 metres from a private amenity area in Buildings A and B to a wall in Buildings C or D, which contains windows of habitable rooms which face the private amenity area.</li> </ul>
<b>BY-LAW REQUIREMENTS:</b>	<p>The By-law requires:</p> <ul style="list-style-type: none"> <li>a) a private amenity area for a ground level stacked townhouse unit to have a minimum area of 20.0 square metres;</li> <li>b) a private amenity area for a ground level stacked townhouse unit to have a minimum depth (from the wall of the dwelling unit) of 4.5 metres, and a minimum width equal to the width of the unit when the unit layout permits, and if the preceding cannot be accomplished, the minimum width shall be 4.5 metres;</li> <li>c) a private amenity area for a stacked townhouse unit above grade to have a minimum area of 10.0 square metres;</li> <li>d) that the distance between the front, exterior side and rear face of one building and the front, exterior side and rear face of another building, each of which contains windows to habitable rooms shall in no case be less than 15.0 metres; and</li> <li>e) that no part of a private amenity area shall be located within 10.5 metres of a wall in another building</li> </ul>

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containing windows of habitable rooms which face the private amenity area.

**STAFF RECOMMENDATION:** Approval

**CONDITIONS RECOMMENDED:**

N/A

## COMMENTS

### **PLANNING SERVICES:**

The applicant is proposing a two-phase townhouse development consisting of 72 stacked townhouses in total. Phase 1 of the proposed development consists of 52 stacked townhouses and has received site plan approval (City File: SP17-035). The site plan for Phase 2 of the proposed development is currently under review by the Site Plan Review Committee and consists of 20 stacked townhouses. Five (5) variances are required for Phase 2 of the proposed development.

The subject property is designated "Medium Density Residential" in the Official Plan. Permitted uses within this land use designation include apartments and townhouses with a maximum density of 100 units per hectare. The requested variances will facilitate a townhouse development which is a permissible use within the "Medium Density Residential" land use designation and as such the variances are considered to meet the general intent and purpose of the Official Plan.

Below is an evaluation of how the five (5) variances maintain the general intent and purpose of the Zoning By-law:

Requested Variance	Zoning By-law Requirement	Evaluation
To permit a minimum ground level private amenity area of 7.2 square metres for Buildings A and B.	A private amenity area for a ground level stacked townhouse unit shall have a minimum area of 20.0 square metres.	The development as a whole exceeds the amount of common amenity area required by the Zoning By-law. A private amenity area of 7.2 square metres is considered to be adequate for individual units.
To remove the required ground level private amenity area depth and with requirements for Buildings A and B.	A private amenity area for a ground level stacked townhouse unit shall have a minimum depth (from the wall of the dwelling unit) of 4.5 metres, and a minimum width	The intent of this regulation is to ensure that the private amenity area provided for each unit is usable for outdoor activities, including outdoor cooking and eating. As part of the site plan application, detailed

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	equal to the width of the unit when the unit layout permits, and if the preceding cannot be accomplished, the minimum width shall be 4.5 metres.	landscaping plans will be provided which identify a combination of hard and soft landscaping for the private amenity areas for the ground floor units. The patio area has a depth of 1.57 metres and a length of 6 metres, which can accommodate patio furniture and a barbeque.
To permit a minimum private amenity area for stacked townhouse units above grade of 5.0 square metres.	A private amenity area for a stacked townhouse unit above grade shall have a minimum area of 10.0 square metres.	The proposed private amenity area is approximately 3.3 metres by 1.5 metres which provides adequate space for outdoor patio furniture. The intent of this regulation in the Zoning By-law is not to provide active recreation for the residents, as this need is met through the common amenity area requirement which is exceeded in this development.
To permit a minimum distance of 10.0 metres between the face of Buildings A and C and Buildings B and D.	That the distance between the front, exterior side yard and rear face of one building and the front, exterior side and rear face of another building, each of which contains windows to habitable rooms shall in no case be less than 15 metres.	The intent of this regulation is to ensure privacy amongst residents in adjacent units. The Zoning By-law requires single detached dwellings, semi-detached dwellings and on-street townhouse units to have a minimum separation distance of between 2.4 metres to 3.0 metres between buildings with windows to habitable rooms, which implies this distance is acceptable to provide for sufficient privacy.
To permit a minimum setback of 8.5 metres from a private amenity area in Buildings A and B to a wall in Buildings C or D, which contains windows of habitable	That no part of a private amenity area shall be located within 10.5 metres of a wall in another building containing windows of habitable rooms which	The intent of this regulation is to ensure that overlook from adjacent dwelling units is minimized to ensure maximum privacy. The relief from 10.5 metres to 8.5 metres is minimal and

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rooms which face the private amenity area.	face the private amenity area.	negligible.
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The proposed variances will facilitate a form of residential development which is contemplated in both the Official Plan and Zoning By-law and will all allow the completion of Phase 2 of the development. The variances are also internal to the site and will not impact the site layout of the approved Phase 1. The requested variances are considered to be desirable for the appropriate development of the lands and minor in nature.

The requested variances are considered to meet the general intent and purpose of the Official Plan and Zoning By-law, are considered to be desirable for the appropriate development of the lands and are considered to be minor in nature. Staff recommend approval of the application.

### ENGINEERING SERVICES:

From an engineering perspective we have no concerns with the applicant’s request for seeking relief from the By-law requirements to:

- a) permit a minimum ground level private amenity area of 7.2 square metres for Buildings A and B;
- b) remove the required ground level private amenity area depth and width requirements for Buildings A and B;
- c) permit a minimum private amenity area for stacked townhouse units above grade of 5.0 square metres;
- d) permit a minimum distance of 10.0 metres between the face of Buildings A and C and Buildings B and D; and
- e) permit a minimum setback of 8.5 metres from a private amenity area in Buildings A and B to a wall in Buildings C or D, which contains windows of habitable rooms which face the private amenity area.

We agree with recommendations made by Planning and Zoning staff.

### BUILDING SERVICES:

This property is located in the Residential Cluster Townhouse (R.3A) Zone. The applicant is proposing a two-phase townhouse development consisting of 52 stacked townhouses (Phase 1, subject to site plan approval SP17-035) and 20 stacked townhouses (Phase 2, subject to site plan approval SP18-008). Variances from Sections 5.3.2.5.1 a), b), c), 5.3.2.5.2 a), 5.3.2.3.1 and 5.3.2.3.4 of Zoning By-law (1995)-14864, as amended, are being requested. Building Services supports Planning Services comments.

Building permits will be required prior to any construction, at which time requirements under the Ontario Building Code will be reviewed.

**REPORT COMPILED BY:** L. Cline, Council Committee Assistant

**COMMENTS FROM THE PUBLIC RECEIVED:** Yes (see attached)

## Lindsay Cline

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**From:** Elizabeth Zborowski-Van Buskirk  
**Sent:** April 5, 2018 9:22 PM  
**To:** Committee of Adjustment  
**Subject:** Committee of Adjustment Notice of Public Hearing for 107 Westra Drive -Thursday, April 12, 2018 - Application#A-26/18

Good Evening:

We just came back from vacation to this letter so that is the reason it was not sent in by 12:00 noon today. However, we definitely have something to say about this situation and hope it is presented at the meeting or prior to the Committee of Adjustment would be great.

First of all, we would like to explain a few things. When we first started looking for a home my husband wanted a good, solid and reputable builder, which we thought we found. We then proceeded to sell our home in Mississauga and move here to Guelph to our "dream house". We also paid a premium of \$17,500 for our lot on 6 Rooke Court to have it face west and have the sun (and hopefully a pool) in the backyard. If we had known that Fusion was planning on building a congested living area behind our home, we would have never purchased this home. It will now look like we have a crammed housing complex behind us.

We are frustrated and appalled at what they are building especially trying to cram that many buildings and people into an area the size our of our court which holds 24 homes and they want to cram 8 buildings (72 stacked town homes) into such a tight area which will bring more noise and traffic into the area, again making the look of this small upscale community congested, not including the fact all home values surrounding the proposed development will be drastically affected. Also, where are all these people parking, even our own court is small and can't hold extra cars. We did not see visitor parking on the site plan and will not tolerate congestion on our street if the people parking on our street are not visitors to Rooke Court.

We would appreciate if a Council member would just come out and take a look and envision 72 homes placed on that small plot of land. From our home our living room, kitchen and back yard more importantly, will face this. Our beautiful vision will be an eye sore everyday.

As we said if we had known (and we believe Fusion home always knew their intention), we would never have bought this home, ever. Also, funny, how they built every home first and are now finished, they are are now building all these stacked town houses (or apartments to be honest), I think it is sad and they should have been forthcoming but then again no one would have bought these houses.

Please rethink this request and what they are doing They are just trying to cram more units into the area to make more money and have absolutely no concern for the home owners who have already purchased and live here. We are also sad this development would have ever been approved in the first place and that they could build such a congested type of complex. It is a true shame to a once beautiful Chillco Run Community.

We don't think we will ever get the value we would have received for our house once we sell, but we realize we will have to take our loss in order to get out of here. We know one thing, we will never buy from Fusion Homes.

Kindly make sure this is read as this has affected our lives in a very sad and profound way, we no longer look forward to coming home to our "dream house".

Elizabeth and Paul Van Buskirk  
6 Rooke Court  
Guelph, ON N1K 0B8

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**APPLICATION NUMBER:** B-17/17 and B-18/17  
**LOCATION:** 69 Lowes Road  
**DATE AND TIME OF HEARING:** April 12, 2018 at 4:00pm  
**OWNER:** Gerald Grasley  
**AGENT:** Nancy Shoemaker, Black, Shoemaker, Robinson & Donaldson  
**OFFICIAL PLAN DESIGNATION:** Low Density Residential  
**ZONING:** Residential Single Detached (R.1B)

**REQUEST:** The applicant is requesting the following severances:

- a) Part 1 (File B-17/17) with frontage along Dawn Avenue of 15.0 metres and an area of 597.8 square metres; and
- b) Part 2 (File B-18/17) with frontage along Dawn Avenue of 15.0 metres and an area of 593.9 square metres.

The retained parcel (Part 3) is proposed to have frontage along Dawn Avenue of 18.22 metres and an area of 714.4 square metres.

**STAFF RECOMMENDATION:** Approval with conditions

**CONDITIONS RECOMMENDED:**

**PLANNING SERVICES**

1. That a site plan shall be submitted to, and approved by the General Manager of Planning, Urban Design, and Building Services, prior to the issuance of a building permit for the new dwellings on the "severed" and "retained" parcels indicating:
  - a) The location and design of the new dwelling;
  - b) Grading, drainage and servicing information.
2. That prior to the issuance of a building permit, elevation and design drawings for the new dwellings on the "severed" and "retained" parcels shall be submitted to, and approved by the General Manager of Planning, Urban Design, and Building Services.
3. That prior to the issuance of the Certificate of Official, the existing house shall be demolished.
4. That prior to the issuance of the Certificate of Official, the Owner shall enter into an agreement with the City, registered on title, agreeing to satisfy the above noted

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conditions and to develop the site in accordance with the approved plans.

### **ENGINEERING SERVICES**

5. Prior to issuance of the Certificate of Official, the owner(s) agrees to enter into a development agreement, which would include but not be limited to such things as servicing condition, groundwater condition, construction conditions.
6. Prior to issuance of the Certificate of Official, the owner(s) agrees to satisfy all the engineering requirements and ensures that the proposed design is in accordance with recognized best management practices, Provincial Guidelines, and the City's engineering guidelines.
7. Prior to issuance of the Certificate of Official, the owner(s) agrees to provide and obtains approval from the City's Engineering Department on the following documents:
  - a) Stormwater management report
  - b) Ground water measurements and capture the seasonal high.
  - c) Grading / Servicing Plan
  - d) Erosion & Sediment Control Plan
  - e) Pre-Development Plan
  - f) Post-Development plan
  - g) Plan and Profiles and design sheets for the proposed sanitary sewer.
  - h) A cost estimate for the work within the City right-of-way is to be prepared by the consulting engineer using the City's cost estimate Excel spreadsheet.
8. Prior to the issuance of the Certificate of Official, the owner(s) agrees to provide any additional documents, reports, plans, required by the Engineering Department to support the proposed development.
9. Prior to issuance of the Certificate of Official, the owner(s) shall satisfy the City with respect to managing the expected high groundwater conditions. The owner(s) is advised that basements may not be permitted in this development.
10. Prior to the issuance of the Certificate of Official, the owner(s) shall pay the initial estimated cost for all construction works within the City's right of way as approved in the cost estimate.
11. Prior to the issuance of the Certificate of Official, the owner(s) shall pay actual cost of construction for all works within the City's right of way, including restoration costs.
12. Prior to the issuance of the Certificate of Official, the owner(s) shall design Lowes Road improvements i.e. sidewalk and shall pay for the cost of construction.
13. Prior to the issuance of the Certificate of Official, the owner(s) agrees to obtain a consent letter from the adjacent land owner for draining stormwater into the adjacent property.

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14. Prior to the issuance of the Certificate of Official, the owner(s) shall be responsible for the cost of design, development and implementation (including planting) of the Street Tree Planting Plan in accordance with City specifications.
15. Prior to the issuance of the Certificate of Official, the owner(s) shall obtain an Environmental Compliance Approval (ECA) from the Ministry of Environment and Climate Change (MOECC).
16. Prior to the issuance of the Certificate of Official, the Owner(s) shall ensure that any domestic wells located within the lands be properly decommissioned in accordance with current Ministry of the Environment Regulations and Guidelines to the satisfaction of the City Engineer. Any boreholes drilled for hydrogeological or geotechnical investigations must also be properly abandoned.
17. That the owner(s) constructs the new dwellings at such an elevation that the lowest level of the building can be serviced with a gravity connection to the sanitary sewer.
18. Prior to the issuance of any building permit, the owner shall construct, install and maintain erosion and sediment control facilities, as per the approved plan.
19. That the owner(s) shall have an Ontario Land Surveyor prepare a survey of both the retained lands and the severed lands to identify the new property line(s), prior to the issuance of the Certificate of Official.
20. That the owner(s) makes satisfactory arrangements with Union Gas for the servicing of the lands, as well as provisions for any easements and/or rights-of-way for their plants, prior to the issuance of a building permits.
21. That the owner(s) shall make arrangements satisfactory to the Technical Services Department of Guelph Hydro Electric Systems Inc. for the installation of hydro service to the said lands, prior to the issuance of a building permit.
22. The owner(s) shall ensure that all telephone service and cable TV service is available to the lands. The owner shall enter into a servicing agreement with the appropriate service providers for the installation of utility services, prior to the issuance of a building permit.

### **PARKS PLANNING**

23. The Owner shall be responsible for the payment of cash-in-lieu of parkland dedication to the satisfaction of the Deputy CAO of Public Services pursuant to s. 51.1 and s. 53(13) of the *Planning Act* prior to the issuance of the Certificate of Official.
24. Prior to the issuance of the Certificate of Official by the City, the Owner shall provide to the Deputy CAO of Public Services a satisfactory short narrative appraisal report prepared for The Corporation of the City of Guelph for the purposes of calculating the payment of cash-in-lieu of parkland dedication pursuant to s.51.1 and s.53(13) of the

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Planning Act. The short narrative appraisal report shall be prepared by a qualified appraiser who is a member in good standing of the Appraisal Institute of Canada, and shall be subject to the review and approval of the Deputy CAO of Public Services. Notwithstanding the foregoing, if the short narrative appraisal provided by the applicant is not satisfactory to the Deputy CAO of Public Services, acting reasonably, the City reserves the right to obtain an independent short narrative appraisal for the purposes of calculating the payment of cash-in-lieu of parkland dedication.

### **GUELPH HYDRO**

25. That prior to issuance of a building permit, the applicant makes arrangements for provision of underground hydro servicing to the severed parcels, satisfactory to the Engineering Department of Guelph Hydro Electric Systems Inc. This would be at the applicant's expense.

### **COMMITTEE OF ADJUSTMENT ADMINISTRATION:**

26. 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 issuance of the Certificate of Official.

27. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to the issuance of the Certificate of Official, that he/she will provide a copy of the registered instrument as registered in the Land Registry Office within two years of issuance of the Certificate of Official, or prior to the issuance of a building permit (if applicable), whichever occurs first.

28. That prior to the issuance of the Certificate of Official, 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 deposited Reference Plan (version ACAD 2010) which can be forwarded by email ([cofa@guelph.ca](mailto:cofa@guelph.ca)).

29. That upon fulfilling and complying with all of the above-noted conditions, 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 the issuance of the Certificate of Official.

## **COMMENTS**

### **PLANNING SERVICES:**

The subject property is designated "Low Density Residential" in the Official Plan. The creation of new low density residential lots within the older established areas of the City is encouraged, provided that the proposed development is compatible with the surrounding residential environment. The net density of residential development within the "Low Density Residential" land use designation is to be between 15 units per hectare and 35 units per hectare.

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

The applicant has submitted two (2) consent to sever applications for the subject lands (File Numbers B-17/17 and B-18/17). These applications were previously considered by the Committee of Adjustment on December 7, 2017 and deferred to allow the applicant additional time to complete detailed engineering stormwater management design. The applicant is proposing to create two (2) new lots for single detached dwellings and one (1) retained lot for a total of three (3) lots. The subject lands currently contain a single detached dwelling fronting onto Lowes Road West. Following the consent, each of the three (3) lots will have their frontage onto Dawn Avenue. The existing single detached dwelling is proposed to be demolished, and replaced by three (3) single detached dwellings. The subject lands have an area of 0.19 hectares and net density of 15.74 units per hectare.

The proposed "severed" and "retained" parcels of both consent applications (B-17/17 and B-18/17) have 15 metre frontages as well as lot areas which are similar to other residential frontages on this block of Dawn Avenue. In the opinion of Planning staff, the creation of two (2) new residential lot does not create an unacceptable adverse impact on the surrounding area.

Policy 10.10.1 of the Official Plan provides criteria to consider when evaluating Consent applications. Below is an evaluation of these policies as it relates to the subject application:

**a) That all of the criteria for plans of subdivision are given due consideration.**

Staff have reviewed subdivision criteria of the Official Plan and are satisfied that the application conforms to the policies.

**b) That the application is properly before the Committee and that a plan of subdivision has been deemed not to be necessary for the proper and orderly development of the City.**

A plan of subdivision is not necessary for the creation of two (2) new residential lots. The proposed severed lots and the retained lots will front onto an existing public road (Dawn Avenue). The severance represents proper and orderly development of the lands.

**c) That the land parcels to be created by the Consent will not restrict or hinder the ultimate development of the lands.**

The proposed severance will facilitate the development of the lands in a manner that is consistent with the surrounding neighbourhood.

**d) That the application can be supported if it is reasonable and in the best interest of the community.**

The proposed severance is considered to be appropriate and supportable.

The subject lands are zoned 'Residential Single Detached' (R.1B) according to Zoning By-law (1995)-14864, as amended. The proposed severance applications will create two (2) new residential building lots. Based on the sketch provided by the applicant, the proposed lots meet the minimum regulations of the R.1B Zone.

Planning staff are satisfied that the proposed severances meet the Consent policies of the Official Plan and subdivision criteria as outlined in section 51(24) of the *Planning Act*. Planning staff

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

have also discussed and reviewed the proposed severances with Engineering staff, and support their comments and recommended conditions.

Planning staff recommend approval of the applications subject to the above noted conditions.

### **ENGINEERING SERVICES:**

The applicant is proposing to sever the property to create two new residential lots fronting onto Dawn Avenue. The property is currently occupied by a single detached residential dwelling, which will be demolished to accommodate the new lots. The applicant is requesting the following severances:

- a) Part 1 (File B-17/17) with frontage along Dawn Avenue of 15.0 metres and an area of 597.8 square metres; and
- b) Part 2 (File B-18/17) with frontage along Dawn Avenue of 15.0 metres and an area of 593.9 square metres.

The retained parcel (Part 3) is proposed to have frontage along Dawn Avenue of 18.22 metres and an area of 714.4 square metres.

Staff recommended deferral at the December 7, 2017 hearing because of unresolved engineering issues. Engineering services still has several concerns with the proposed application and staff are working with the applicant and K.J. Behm & Associates Inc. (consulting engineers) to resolve the concerns. One major concern is the high ground water table which may not permit the new homes to have a basement. A stormwater management report has been submitted and is currently under review by staff. The report stated that the groundwater table was encountered at an elevation of 329.30m (September 2017) and the same elevation is used for design purposes. The elevation is not a seasonal high groundwater; typically the seasonal high is measured in late April, to mid-May. The report also states that further on-site groundwater measurements will be obtained during the months of March, April and May 2018. Therefore, the stormwater management design shall be revised once the seasonal high elevation is obtained. In addition, a revision will be required on the provided grading/servicing plan. Technical engineering comments on the stormwater management report and engineering drawings will be sent to the applicant and the consultant engineer under a separate memo, once the review is complete.

In our opinion this application is still premature as the engineering issues are not fully resolved.

If the Committee chooses to approve this application, we request that all of the above noted conditions be imposed.

### **PARKS PLANNING:**

Park Planning and Development has no objection to the proposed severances, subject to the above noted conditions.

### **BUILDING SERVICES:**

This property is located in a Residential Single Detached (R.1B) Zone. The property is currently occupied by a single detached residential dwelling, which is to be demolished. The applicant is

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

proposing to sever the property to create two new residential lots fronting onto Dawn Avenue. Building Services does not have any objection to this application.

A building permit will be required prior to any construction, at which time requirements under the Ontario Building Code will be reviewed.

**GUELPH HYDRO:**

See above noted condition.

**REPORT COMPILED BY:** L. Cline, Council Committee Assistant

**COMMENTS FROM THE PUBLIC RECEIVED:** None

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** A-27/18  
**LOCATION:** 14 London Road West  
**DATE AND TIME OF HEARING:** April 12, 2018 at 4:00pm  
**OWNER:** Tyler Schad Pettipiere  
**AGENT:** Paul Meier, Pioneer Craftsmen Ltd.  
**OFFICIAL PLAN DESIGNATION:** Low Density Residential  
**ZONING:** Residential Single Detached (R.1B)

<b>REQUEST:</b>	The applicant is seeking relief from the By-law requirements to permit a right side yard setback of 0.8 metres for the proposed second storey addition to the existing dwelling.
<b>BY-LAW REQUIREMENTS:</b>	The By-law requires a minimum side yard setback of 1.5 metres.
<b>STAFF RECOMMENDATION:</b>	Approval with condition
<b>CONDITIONS RECOMMENDED:</b>	
<b><u>PLANNING SERVICES</u></b>	
1. That the 0.8 metre setback shall only apply to the location as shown and generally in accordance with the Public Notice sketch.	

## COMMENTS

### **PLANNING SERVICES:**

The subject property is designated "Low Density Residential" in the Official Plan. The "Low Density Residential" land use designation applies to residential areas within the built-up area of the City that are predominantly residential in character. The "Low Density Residential" land use designation permits a range of housing types including: single, semi-detached, duplex and townhouse residential dwellings and multiple unit residential buildings. The requested variance is for a side yard setback for a single detached dwelling which is a permissible use. The requested variance is considered to meet the general intent and purpose of the Official Plan.

The subject property is zoned "Residential Single Detached" (R.1B) according to Zoning By-law (1995)-14864, as amended. The applicant is proposing to construct an 86.42 square metre second storey addition to the existing residential dwelling. A variance to Table 5.1.2, Row 7, of the Zoning By-law is required to facilitate this addition. The applicant is proposing to construct the addition with a right side yard setback of 0.8 metres (at the closest point of the addition), whereas the Zoning By-law requires a side yard setback of 1.5 metres. The general intent of requiring setbacks is to provide adequate separation from buildings on adjacent properties in

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

proportion to the building's height, maintain access, ensure safety, and where necessary, to accommodate services, and to allow for proper lot grading and drainage.

The existing house was built in the 1900's and currently has legal non-complying side yard setbacks. The proposed second storey addition will match the side yard setback of the existing house and is proposed to be setback at 1.2 metres from the property line at the back portion of the addition. The proposed addition is not expected to negatively affect the streetscape. If the applicant were to construct the addition at the required setback, it could create a disconnected floor plan. The requested variance is considered to meet the general intent and purpose of the Zoning By-law, be desirable for the appropriate development of the land and is considered to be minor in nature.

Staff recommend approval of the application subject to the above noted condition.

### **ENGINEERING SERVICES:**

Engineering has no concerns with the request of seeking relief from the By-law requirements to permit a right side yard setback of 0.8 metres for the proposed second storey addition to the existing dwelling, from an engineering perspective.

We agree with recommendations made by Planning and Zoning staff.

### **BUILDING SERVICES:**

This property is located in a Residential Single Detached (R.1B) Zone. The applicant is proposing to construct an 86.42 square metre second storey addition to the existing residential dwelling. The applicant is seeking relief from the By-law requirements to permit a right side yard setback of 0.8 metres for the proposed second storey addition to the existing dwelling.

Building Services has no objections to this application. A building permit will be required prior to any construction, at which time requirements under the Ontario Building Code will be reviewed.

**REPORT COMPILED BY:** L. Cline, Council Committee Assistant

**COMMENTS FROM THE PUBLIC RECEIVED:** None

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** A-29/18  
**LOCATION:** 728-732 York Road  
**DATE AND TIME OF HEARING:** April 12, 2018 at 4:00pm  
**OWNER:** 2599211 Ontario Inc.  
**AGENT:** Dan Baker, Taste Fine Foods  
**OFFICIAL PLAN DESIGNATION:** Service Commercial  
**ZONING:** Specialized Highway Commercial (SC.2-10)

<b>REQUEST:</b>	The applicant is seeking relief from the By-law requirements to permit a catering service as an additional permitted use on the subject property.
<b>BY-LAW REQUIREMENTS:</b>	The By-law permits a variety of uses in the SC.2-10 Zone, including a restaurant and restaurant (take-out) but does not currently permit a catering service.
<b>STAFF RECOMMENDATION:</b>	Approval with condition
<b>CONDITIONS RECOMMENDED:</b>	
<b><u>PLANNING SERVICES</u></b>	
1. That the catering service establishment be limited in floor area to the existing unit as shown on the attached Public Notice sketch.	

## COMMENTS

### **PLANNING SERVICES:**

The subject property is designated "Service Commercial" in the Official Plan. The "Service Commercial" land use designation permits service commercial uses which include convenience uses (which would include a convenience food store or a small-scale restaurant) and a fast-food restaurant. Complementary uses are also permitted provided they do not interfere with the overall form, function and development of the specific area for service commercial purposes. The requested variance to permit a catering service establishment is similar in function to a fast-food restaurant and complementary to and does not interfere with the overall form, function and development of the property for service commercial purposes. The requested variance is considered to meet the general purpose and intent of the Official Plan.

The subject property is zoned "Specialized Highway Service Commercial" (SC.2-10) according to Zoning By-law (1995)-14864, as amended. The SC.2-10 zone permits a number of similar uses including a restaurant and take-out restaurant but does not permit a catering service establishment. The parent "Highway Service Commercial" (SC.2) zone permits a catering service establishment. The proposed catering service establishment will be located in the front unit of an existing building along an arterial road. The catering service establishment will

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

generate less parking demand than that of permitted uses such as a take-out restaurant or restaurant. The parking requirement for a catering service is 1 parking space per 50 square metres of gross floor area compared to the parking requirement for a take-out restaurant of 1 parking space per 9 square metres of gross floor area. Adequate off-street parking will continue to be provided and the proposed use is not expected to negatively impact the adjacent service commercial lands. The requested variance is considered to meet the general purpose and intent of the Zoning By-law, is considered to be desirable for the appropriate development of the lands and is considered to be minor in nature.

Staff recommend approval of the variance subject to the above noted condition.

### **ENGINEERING SERVICES:**

Engineering has no concerns with the request of seeking relief from the By-law requirements to permit a catering service as an additional permitted use on the subject property, from an engineering perspective.

We agree with recommendations made by Planning and Zoning staff.

### **BUILDING SERVICES:**

This property is located in the Specialized Highway Commercial. The applicant is proposing to establish a catering service within the existing building on the subject property. The applicant is seeking relief from the By-law requirements to permit a catering service as an additional permitted use on the subject property. Building Services has no objections to this application.

**REPORT COMPILED BY:** L. Cline, Council Committee Assistant

**COMMENTS FROM THE PUBLIC RECEIVED:** None

## COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** A-30/18  
**LOCATION:** 7 Oak Street  
**DATE AND TIME OF HEARING:** April 12, 2018 at 4:00pm  
**OWNER:** Daniel and Anja Gangur  
**AGENT:** Stuart Bowen, Stuart Bowen Construction Ltd.  
**OFFICIAL PLAN DESIGNATION:** Low Density Residential  
**ZONING:** Residential Single Detached (R.1B)

**REQUEST:** The applicant is seeking relief from the By-law requirements to permit a rear yard setback of 3.75 metres for the proposed addition to the rear of the existing dwelling.

**BY-LAW REQUIREMENTS:** The By-law requires a minimum rear yard setback of 7.5 metres or 20% of the lot depth [being 5.48 metres], whichever is less.

**STAFF RECOMMENDATION:** Approval with conditions

### **CONDITIONS RECOMMENDED:**

#### **PLANNING SERVICES**

1. That the rear yard setback variance shall only apply to a proposed sunroom addition, as shown in the sketch attached to the Public Notice.
2. That the sunroom addition be limited to one-storey in height.

#### **ENGINEERING SERVICES**

3. Prior to issuance of building permit the owner agrees to provide a plot plan showing that the existing drainage patterns are maintained and that there is no adverse impact on the adjacent lands.

## **COMMENTS**

### **PLANNING SERVICES:**

The subject property is designated "Low Density Residential" in the Official Plan. The "Low Density Residential" land use designation applies to residential areas within the built-up area of the City that are predominantly low-density in character. The "Low Density Residential" land use designation permits a range of housing types including: single, semi-detached, duplex and townhouse residential dwellings and multiple unit residential buildings.

The subject property is zoned "Residential Single Detached " (R.1B), according to Zoning By-law (1995)-14864, as amended, which permits single detached dwellings. The R.1B requires a

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

minimum rear yard setback of 7.5 metres or 20% of the lot depth, whichever is less. The subject property has a total lot depth of 27.42 metres. For the subject property, 20% of the lot depth is measured at 5.48 metres, making this the minimum required rear yard.

The applicant is proposing to construct a 26.44 square metre sunroom addition to the rear of the existing single detached dwelling. The proposed sunroom addition will have a rear yard setback of 3.75 metres. As such, the applicant has requested a minor variance to permit the reduced rear yard setback.

For Low Density Residential neighbourhoods, the Official Plan requires the physical character of existing, established low density residential neighbourhoods to be respected, where possible. The variance requested is related to a rear yard addition to a single detached residential dwelling and therefore is considered to meet the general intent and purpose of the Official Plan.

The Zoning By-law requires a minimum rear yard to ensure residential dwellings are sufficiently setback from neighbouring dwellings and properties, to afford privacy to the subject and surrounding properties and also to ensure that open space is provided in the rear yard. Considering the setback of the existing house as well as the minimum setback being 20% of the lot depth at 5.48 metres, Planning staff are of the opinion that the general intent and purpose of the Zoning By-law is satisfied.

Planning staff are also satisfied that the proposed variance is minor in nature and desirable for the appropriate development of the lands. Following a site visit by Planning staff, it was noted that there is a tall cedar hedge along a portion of the rear lot line of the subject property as well as a row of coniferous trees on the other portion. Further, the house on the residential property to the immediate north is not located directly behind the proposed sunroom addition on the subject property. A sufficient rear yard will still be provided on the subject property.

It is recommended the Committee approve the minor variance, subject to the above noted conditions.

### **ENGINEERING SERVICES:**

Engineering has no concerns with the request of seeking relief from the By-law requirements to permit a rear yard setback of 3.75 metres for the proposed addition to the rear of the existing dwelling, subject to the above noted condition.

We agree with recommendations made by Planning and Zoning staff.

### **BUILDING SERVICES:**

This property is located in a Residential Single Detached (R.1B) Zone. The applicant is proposing to construct a 26.44 square metre sunroom addition to the rear of the existing residential dwelling. Building Services does not have any objection to this application to permit a rear yard setback of 3.75 metres for the proposed addition to the rear of the existing dwelling.

A building permit will be required prior to any construction, at which time requirements under the Ontario Building Code will be reviewed.

# **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

**REPORT COMPILED BY:** L. Cline, Council Committee Assistant

**COMMENTS FROM THE PUBLIC RECEIVED:** None

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** A-31/18  
**LOCATION:** 51 Troy Crescent  
**DATE AND TIME OF HEARING:** April 12, 2018 at 4:00pm  
**OWNER:** Cara and Al Mursalin  
**AGENT:** Stuart Bowen, Stuart Bowen Construction Ltd.  
**OFFICIAL PLAN DESIGNATION:** Low Density Residential  
**ZONING:** Residential Single Detached (R.1D)

<b>REQUEST:</b>	The applicant is seeking relief from the By-law requirements to permit a rear yard setback of 4.31 metres for the proposed addition to the rear of the existing dwelling.
<b>BY-LAW REQUIREMENTS:</b>	The By-law requires a minimum rear yard setback of 7.5 metres or 20% of the lot depth [being 5.82 metres], whichever is less.
<b>STAFF RECOMMENDATION:</b>	Approval with conditions
<b>CONDITIONS RECOMMENDED:</b>	
<b><u>PLANNING SERVICES</u></b>	
<ol style="list-style-type: none"> <li>1. That the rear yard setback variance shall only apply to a proposed sunroom addition, as shown in the sketch attached to the Public Notice.</li> <li>2. That the sunroom addition be limited to one-storey in height.</li> </ol>	
<b><u>ENGINEERING SERVICES</u></b>	
<ol style="list-style-type: none"> <li>3. Prior to issuance of building permit the owner agrees to provide a plot plan showing that the existing drainage patterns are maintained and there is no adverse impact on the adjacent lands.</li> </ol>	

## COMMENTS

### **PLANNING SERVICES:**

The subject property is designated "Low Density Residential" in the Official Plan. The "Low Density Residential" land use designation applies to residential areas within the built-up area of the City that are predominantly low-density in character. The "Low Density Residential" land use designation permits a range of housing types including: single, semi-detached, duplex and townhouse residential dwellings and multiple unit residential buildings.

The subject property is zoned "Residential Single Detached " (R.1D), according to Zoning By-law (1995)-14864, as amended, which permits single detached dwellings. The R.1D requires a minimum rear yard setback of 7.5 metres or 20% of the lot depth, whichever is less. The subject

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

property has a total lot depth of 29.1 metres. For the subject property, 20% of the lot depth is measured at 5.82 metres, making this the minimum required rear yard.

The applicant is proposing to construct an 18.16 square metre sunroom addition to the rear of the existing single detached dwelling. The proposed sunroom addition will have a rear yard setback of 4.3 metres. As such, the applicant has requested a minor variance to permit the reduced rear yard setback.

For Low Density Residential neighbourhoods, the Official Plan requires the physical character of existing, established low density residential neighbourhoods to be respected, where possible. The variance requested is related to a rear yard addition to a single detached residential dwelling and therefore is considered to meet the general intent and purpose of the Official Plan.

The Zoning By-law requires a minimum rear yard to ensure residential dwellings are sufficiently setback from neighbouring dwellings and properties, to afford privacy to the subject and surrounding properties and also to ensure that open space is provided in the rear yard. Considering the setback of the existing house as well as the minimum setback being 20% of the lot depth at 5.82 metres, Planning staff are of the opinion that the general intent and purpose of the Zoning By-law is satisfied.

Planning staff are also satisfied that the proposed variance is minor in nature and desirable for the appropriate development of the lands. Following a site visit by Planning staff, it was noted that surrounding properties have consistently sized rear yards, with single detached dwellings at consistent setbacks. In Planning staff's opinion, all surrounding dwellings are sufficiently setback from the proposed addition and situated in a manner where they will not be negatively impacted. A sufficient rear yard will still be provided on the subject property.

It is recommended the Committee approve the minor variance, subject to the above noted conditions.

### **ENGINEERING SERVICES:**

Engineering has no concerns with the request of seeking relief from the By-law requirements to permit a rear yard setback of 4.31 metres for the proposed addition to the rear of the existing dwelling, subject to the above noted condition.

We agree with recommendations made by Planning and Zoning staff.

### **BUILDING SERVICES:**

This property is located in a Residential Single Detached (R.1D) Zone. The applicant is proposing to construct an 18.16 square metre sunroom addition to the rear of the existing residential dwelling. Building Services does not have any objection to this application to permit a rear yard setback of 4.31 metres for the proposed addition to the rear of the existing dwelling.

A building permit will be required prior to any construction, at which time requirements under the Ontario Building Code will be reviewed.

# **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

**REPORT COMPILED BY:** L. Cline, Council Committee Assistant

**COMMENTS FROM THE PUBLIC RECEIVED:** None

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** A-32/18  
**LOCATION:** 14 Mayfair Court  
**DATE AND TIME OF HEARING:** April 12, 2018 at 4:00pm  
**OWNER:** Sharon Margaret Cunningham and James David Cunningham (Estate)  
**AGENT:** Kevin Thompson, SmithValeriotte Law Firm LLP  
**OFFICIAL PLAN DESIGNATION:** Low Density Residential  
**ZONING:** Residential Single Detached (R.1B)

<b>REQUEST:</b>	The applicant is seeking relief from the By-law requirements to permit an accessory apartment size of 92 square metres, or 38.6% of the total floor area of the building.
<b>BY-LAW REQUIREMENTS:</b>	The By-law requires that an accessory apartment shall 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.
<b>STAFF RECOMMENDATION:</b>	Approval with conditions
<b>CONDITIONS RECOMMENDED:</b>	
<b><u>BUILDING SERVICES</u></b>	
<ol style="list-style-type: none"> <li>1. That prior to the issuance of a Building Permit, the applicant demonstrate to the satisfaction of the Chief Building Official or designate, that the area of the basement identified in this application as "UNFINISHED STORAGE AREA" will not have a finished floor, drywall and any other finishes to the ceiling or exterior walls. Further, if foam plastic insulation exists in the exterior wall, an alternative method of protection is provided for this insulation.</li> <li>2. That the area of the basement identified in this application as "UNFINISHED STORAGE AREA" shall remain under the control of the host dwelling at all times.</li> </ol>	

## COMMENTS

### **PLANNING SERVICES:**

The subject property is designated "Low Density Residential" in the City's Official Plan. The "Low Density Residential" land use designation permits a range of housing types including: single detached dwellings and accessory apartments. The requested variance is for an accessory apartment which is a permissible use within the "Low Density Residential" land use designation and as such the variance is considered to meet the general intent and purpose of the Official Plan.

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

The subject property is zoned "Residential Single Detached " (R.1B), according to Zoning By-law (1995)-14864, as amended, which permits single detached dwellings. An accessory apartment is also a permitted use in the R.1B zone, subject to meeting the requirements of Section 4.15.1 of the Zoning By-law. Section 4.15.1.5 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. The applicant is proposing to construct an accessory apartment in the basement with a floor area of 92 square metres. An accessory apartment of this size would occupy 38.6% of the gross floor area of the single detached dwelling.

The general intent and purpose of the Zoning By-law in requiring a maximum floor area for an accessory unit is to ensure that the unit is clearly subordinate and accessory to the primary use (host unit in the single detached dwelling). The accessory apartment represents approximately 39% of the total floor area of the dwelling (including the basement). Based on floor plans submitted by the applicant, the apartment contains one (1) bedroom, is interconnected to and is smaller than the host dwelling. Therefore, the accessory apartment is subordinate to the host dwelling unit and maintains the general intent and purpose of the Zoning By-law.

The requested variance is considered to be desirable and minor in nature because the accessory dwelling unit is wholly contained within the dwelling and does not exceed 45% of the total floor area of the building.

The requested variance maintains the general intent and purpose of the Official Plan and Zoning By-law, is considered to be desirable for the appropriate development of the lands and is considered to be minor in nature. Staff therefore recommend approval of the application.

### **ENGINEERING SERVICES:**

Engineering has no concerns with the applicant's request of seeking relief from the By-law requirements to permit an accessory apartment size of 92 square metres, or 38.6% of the total floor area of the building, from an engineering perspective.

We agree with recommendations made by Planning and Zoning staff.

### **BUILDING SERVICES:**

This property is located in a Residential Single Detached (R.1B) Zone. The applicant is proposing to construct a 92 square metre accessory apartment in the basement of the existing residential dwelling. The applicant is seeking relief from the By-law requirements to permit an accessory apartment size of 92 square metres (38.6% of the total floor area of the building). Building Services does not object to this application however does have concerns with the layout. The room identified as an "UNFINISHED STORAGE AREA" was previously identified and finished as a bedroom for a basement finishes permit that was issued November 2, 2016. It later came to the attention of Building Services that a kitchen was installed in the basement without the required Building Permit to create an accessory apartment. Building Services is recommending the above noted conditions.

**REPORT COMPILED BY:** L. Cline, Council Committee Assistant

**COMMENTS FROM THE PUBLIC RECEIVED:** Yes (see attached)

Public Hearing April 12 4:00pm

RECEIVED

Committee of Adjustment

APR -5 2018

CITY CLERK'S OFFICE

I am writing to you my concern for Sharon Cunningham who lives on 14 Mayfair Court renovation, you have asked her to remove a room in her basement because of the city's by-law. This situation has put a lot of stress on her, Sharon is diabetic and she had by-pass surgery for her heart. This is the reason she renovated her basement, so her daughter can move in have her own space and take care of her. Sharon has lived on our court for 41 years. She is a caring loving mother, grandmother, friend and neighbor, her door is always open for a coffee or a meal, She loves animals if there is a stray cat she will feed it or bring it in if it is too cold out side. I have seen Sharon feed baby birds that have falling out of their nest and feed them with a eye dropper the birds didn't make it but she tried. Please reconsider your decision to let her keep the room.

Thank You for Reading My Letter

Guerrino & Bruna Gemin  
11 Mayfair Court

# COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

**APPLICATION NUMBER:** B-11/18 and B-12/18  
**LOCATION:** 69 Bayberry Drive (Village by the Arboretum)  
**DATE AND TIME OF HEARING:** April 12, 2018 at 4:00pm  
**OWNER:** University of Guelph  
**AGENT:** Alfred Artinger, Reid's Heritage Homes Ltd.  
**OFFICIAL PLAN DESIGNATION:** Medium Density Residential  
**ZONING:** Retirement Residential Zone 2 (RR.2)

**REQUEST:** The applicant is requesting the following:

File B-11/18:

- a) Approval to break out the said lands from the Head Lease to create a new leasehold parcel for the 93 residential unit condominium building which would result from a new lease between University of Guelph and VBA Apartments Inc. to July 1, 2059 (the "Breakout Lease 5"); and
- b) Approval to grant various specific easements within the Breakout Lease 5 for ingress and egress over other lands owned by the University of Guelph.

File B-12/18:

- a) Approval for a Partial Determination and Surrender of the said lands from the original Head Lease dated September 12, 1996 and the amended and restated Head Lease dated November 7, 2003; and
- b) Approval for a Partial Discharge of the existing mortgage from the lands as it related to the Head Lease.

**STAFF RECOMMENDATION:** Approval with conditions

**CONDITIONS RECOMMENDED:**

**COMMITTEE OF ADJUSTMENT ADMINISTRATION:**

1. 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 issuance of the Certificate of Official.

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

2. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to the issuance of the Certificate of Official, that he/she will provide a copy of the registered instrument as registered in the Land Registry Office within two years of issuance of the Certificate of Official, or prior to the issuance of a building permit (if applicable), whichever occurs first.
3. That upon fulfilling and complying with all of the above-noted conditions, 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 the issuance of the Certificate of Official.

### **COMMENTS**

#### **PLANNING SERVICES:**

The subject property is designated "Medium Density Residential" in the Official Plan and zoned "Retirement Residential Zone 2" (RR.2) according to Zoning By-law (1995)-14864, as amended.

The Village by the Arboretum is a residential lifestyle community located on lands that are owned by the University of Guelph. All of lands were originally leased by the University of Guelph to Reid's Heritage Homes. The community has been developed in five phases. The first four phases contain single detached dwellings and townhouses which are subleased to residents through leases that are less than 21 years in length.

Phase 5 consists of multi-residential buildings which are subject to "breakout leases" between the University of Guelph and the owner of the building (breakout leases were required as the owners of the buildings was not Reid's Heritage Homes). The purpose of the "breakout lease" is to remove the existing head lease between Reid's Heritage Homes and the University of Guelph for the lands in question (ie. the location of the building) and replace it with a breakout lease. Since the breakout leases exceed terms of 21 years, approval by the Committee of Adjustment is required.

The final building is being built on the remaining undeveloped portion in Phase 5 and will consist of a 93 unit leasehold condominium. The applicant has applied for two Consents: (1) for approval of the break out lease and required easements and (2) for approval for a partial determination and surrender of the said lands from the head lease and approval for a partial discharge of the existing mortgage from the lands as it relates to the head lease.

The proposed applications will not hinder or restrict the ultimate development of the lands and are considered to be appropriate and in accordance with the policies of the Official Plan and the criteria set out in Section 51(24) of the Planning Act. The proposed Consents are technical in nature. Staff therefore recommend approval of the applications.

#### **ENGINEERING SERVICES:**

Reid's Heritage Homes Ltd. currently has a long term lease with the University of Guelph (the "Head Lease") for the lands known as Village by the Arboretum. As the final building of Phase 5, construction is being completed on a four storey 93 residential unit leasehold condominium

## **COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES**

building on part of the Head Lease lands being Parts 1 to 14, and 21 on Plan 61R-20949 (see attached plan) and Parts 2, 4 and 15 on Plan 61R-10127 (part of the underground parking garage). The applicant is requesting consent in order to break out the said lands from the Head Lease in order to create a new leasehold parcel.

The applicant is requesting the following:

### **File B-11/18:**

- a) Approval to break out the said lands from the Head Lease to create a new leasehold parcel for the 93 residential unit condominium building which would result from a new lease between University of Guelph and VBA Apartments Inc. to July 1, 2059 (the "Breakout Lease 5"); and
- b) Approval to grant various specific easements within the Breakout Lease 5 for ingress and egress over other lands owned by the University of Guelph.

### **File B-12/18:**

- a) Approval for a Partial Determination and Surrender of the said lands from the original Head Lease dated September 12, 1996 and the amended and restated Head Lease dated November 7, 2003; and
- b) Approval for a Partial Discharge of the existing mortgage from the lands as it relates to the Head Lease.

The proposed Consents are technical in nature; engineering has no objections to the requested consents to release the existing long term lease, formalize a new long term lease and recognize the easements for ingress and egress, utility, surface water, construction and services.

We agree with recommendations made by Planning and Zoning staff.

### **BUILDING SERVICES:**

This property is located in the Retirement Residential Zone 2 (RR.2) Zone. Reid's Heritage Homes Ltd. currently has a long term lease with the University of Guelph (the "Head Lease") for the lands known as Village by the Arboretum. As the final building of Phase 5, construction is being completed on a four storey 93 residential unit leasehold condominium building on part of the Head Lease lands being Parts 1 to 14, and 21 on Plan 61R-20949) and Parts 2, 4 and 15 on Plan 61R-10127 (part of the underground parking garage). The applicant is requesting consent in order to break out the said lands from the Head Lease in order to create a new leasehold parcel. Building Services does not have any objection to this application.

**REPORT COMPILED BY:** L. Cline, Council Committee Assistant

**COMMENTS FROM THE PUBLIC RECEIVED:** None