

## COMMITTEE OF ADJUSTMENT

### Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday March 12, 2013 at 4:45 p.m. in Meeting Room 112, City Hall, with the following members present:

R. Funnell – Vice-Chair  
J. Hillen  
B. Birdsell until 4:56 p.m.  
C. Downer  
A. Diamond  
L. McNair  
D. Kelly, Chair

Staff Present: M. Witmer, Planner  
M. Bunnnett, Assistant Secretary-Treasurer

### Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

### Meeting Minutes

Moved by B. Birdsell and seconded by A. Diamond,

“THAT the Minutes from the February 26, 2013 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

### Other Business

The Assistant Secretary-Treasurer advised the Committee members that the annual Ontario Association of Committees of Adjustment and Consent Authorities conference is held in Richmond Hill from May 26, 2013 to May 29, 2013. Cathy Downer and Donna Kelly expressed interest to attend.

The Assistant Secretary-Treasurer advised that an Ontario Municipal Board hearing has been scheduled for Application A-6/13 at 103 Lynch Circle. The appeal will be heard on Monday, May 13, 2013 at 10:30 a.m. at meeting room 112 at City Hall. The application was for an off-street parking variance (two parking spaces in lieu of three required) and was refused by the Committee.

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**Application:**            **A-29/13**

**Owner:**                **Zachary and Cole Jancsar**

**Agent:**                 **Zachary Jancsar**

**Location:**            **39 Briarlea Road**

**In Attendance:**       **Zachary Jancsar**

Chair D. Kelly questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. Z. Jancsar replied that the sign was posted and the staff comments were received. He explained that he has constructed a deck and stairs to the side of the dwelling. He further explained that he is requesting an off-street parking variance to be able to keep the existing deck, which accommodates exiting his dwelling. He noted that he needs a building permit for the deck which cannot be issued without the variance.

There were no further questions from the Committee.

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 B. Birdsell and seconded by L. McNair,

“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 4.13.2.1 of Zoning By-law (1995)-14864, as amended, for 39 Briarlea Road, to permit the off-street parking space to be located 3.94 metres behind the front wall of the dwelling, resulting in 1.56 metres of the off-street parking space being projected ahead of the main front building wall, when the By-law requires that in a R.2 zone, every required parking space shall be located a minimum distance of 6 metres from the street line and to the rear of the front wall of the main building, be approved.”

Carried

Committee member B. Birdsell left the meeting at 4:56 p.m.

**Application: A-120/12**

**Owner: Brodie Limited**

**Agent: 1838075 Ontario Inc., Robert Dowd**

**Location: 919 York Road**

<b>In Attendance:</b>	<b>Robert Dowd</b>	<b>Glenna Banda</b>
	<b>Jessica Wyman</b>	<b>Al Koehler</b>
	<b>Lorraine Holding</b>	<b>Steve Sajkowski</b>
	<b>Joan Bowland</b>	<b>Doc Calder</b>
	<b>Jane Mcken</b>	<b>Janet Currie</b>
	<b>Winnie Morden</b>	<b>Roy Wigfield</b>
	<b>Gail Elder</b>	<b>Ken Johnson</b>
	<b>Bruce McGimsie</b>	<b>Christine Clatworthy</b>
	<b>Bill Smith</b>	<b>Steve Nessner</b>
	<b>Doug Colby</b>	<b>Pat Monteath</b>
	<b>Glenn Currie</b>	<b>Sue Koehler</b>
	<b>Penny Burton</b>	<b>Ronaldo Currie</b>
	<b>Rick Eller</b>	<b>Don McEwen</b>
	<b>Ellen James</b>	<b>Judy Duffield</b>
	<b>Bill Bainborough</b>	<b>Muriel Bainborough</b>

Chair D. Kelly questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. R. Dowd replied that the signs were posted and the staff comments were received. He explained that it was difficult to find a suitable location for the proposed bingo hall. He further explained that the property at 919 York Road is ideal since it has parking, a large hall and bathroom facilities available. He noted that the property is located next door to the Guelph Legion who runs a weekly bingo. He commented that approximately 40 to 50 charities would be able to attend the proposed bingo which benefits all of the charities involved. He explained that establishing the bingo hall in Guelph would create revenue for the municipality and bring employment opportunities.

Committee member A. Diamond questioned whether the applicant was able to have a discussion with the Legion members.

Mr. R. Dowd replied that he met the legion members before the November variance meeting and he re-engaged them a second time for a discussion. He explained that they were not able to come to a solution that would be satisfactory to the Legion.

Committee member A. Diamond questioned what the benefits would be for the legion to co-operate with the applicant.

Mr. R. Dowd replied that he advised the Legion members that they could run a bingo with them but the Legion had a concern about the revenue. He explained that he offered to guarantee their income if they join them and they did not agree to that. He further explained that the Legion prefers people to go through their facility once they are there for bingo. He commented that he explained the benefits they could have by joining them but they were not interested.

Mr. G. Currie explained that he is the Lottery and Seniors Chairman for the Guelph Legion and the spokesperson for this application. He commented that the Legion opposes the application. He explained that the building at 919 York Road is the old legion building which is situated right next to the new Legion building. He further explained that the Legion has been running a bingo for the last 30 years with approximately 150 to 160 people attending on a bingo night. He continued by stating that the money they get in from bingo is approximately \$35,000 to \$40,000 per year. He commented that if they have to shut down bingo, they would find it difficult to keep their doors open. He continued by summarizing programs that they would not be able to provide and quoted donation amounts that the community would lose. He explained that they are a non-profit organization which is run by volunteers. He further explained that they are objecting to the location of the proposed bingo hall being right next to them and would not have an objection if the bingo hall was being proposed elsewhere in the City.

Committee member L. McNair questioned where the \$35,000 to \$40,000 spin off revenue comes from.

Mr. G. Currie replied that they provide a dinner before bingo for 5 dollars and they also run a canteen during their bingos where people have the opportunity to purchase drinks and snacks. He explained that they are able to charge rent from the lottery portion. He noted that they need the spin off revenue to survive.

Committee member L. McNair questioned how much they profit from bingo itself or if the money is over and above the bingo revenue.

Mr. G. Currie replied that the money goes straight back into the community to different charities. He explained that once they have enough money collected, they give it back to different charities.

Committee member L. McNair questioned if the total they give to the charities is about \$65,000 to \$75,000 per year.

Mr. G. Currie replied that the amount depends on the year but sounds about right. He explained that most of the money goes towards the lottery which the Legion cannot touch. He further explained that the revenue pays for their taxes, heat, hydro and building maintenance.

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Mr. R. Dowd commented that the Legion does good things for the community and their intent is not to wreck them. He explained that there are several groups which would benefit from a bingo hall.

Committee member A. Diamond questioned whether these groups are in town or would be coming from out of town and how much would go back to the community.

Mr. R. Dowd replied that most of the groups are in town. He explained that, for example, rotary clubs, gymnastic clubs, minor baseball clubs etc. can participate. He further explained that he is guessing that a quarter of a million dollars would be going back to the community. He commented that once they have the location secured, they would do a proposal to the community to indicate what kind of revenue would be possibly collected.

Committee member L. McNair questioned if there was an expectation on the capacity.

Mr. R. Dowd replied that the square footage of the hall could accommodate 400 people but a more realistic number would be 100 to 150 people.

Committee member A. Diamond questioned if he could elaborate on the matching funds which were mentioned during a discussion with the Legion.

Mr. R. Dowd replied that they indicated to the Legion that they might be able to guarantee matching the bingo funds they make currently. He explained that with the Legion making revenue with their canteen sales, they did not have much interest in the proposal. He noted that after price payout, 55% of the funds will go to the operator and the rest to the charity groups. He also noted that the operator pays for the rent, employment and that the canteen sale revenues during the bingo will be shared with the different groups.

Mr. G. Currie repeated that any lottery revenue cannot be used by the Legion. He questioned whether Mr. Dowd has already signed up groups to participate in the bingo events.

Mr. R. Dowd replied that they have not started the process yet. He explained that currently they have 30 organizations participating with more groups on the waiting list elsewhere. He further explained that he does not foresee a shortage of charities willing to participate.

Mr. G. Currie commented that during the discussion with Mr. Dowd, there were no concrete amounts offered. He also commented that there have previously been two bingo halls in the City and none of them survived. He explained that the Legion is doubtful that the proposed bingo hall will get the participation of 150 people three times a day, seven days a week. He further explained that the Legion is not in the business of making money but to survive and help the community. He commented that they are asking that the location of the bingo hall would not be right next to their building.

Mr. B. Smith, a Guelph Legion member, commented that when the Legion was trying to sell the building at 919 York Road, the City was very specific with what is permitted and what is not permitted on the property. He stated that someone wished to establish a grocery store there and that was not permitted. He questioned how a bingo hall would now be permitted.

Planner M. Witmer replied that he is familiar with the preliminary grocery store proposal but was not aware of any previous use variances on the property.

Mr. B. McGimsie, a Guelph Legion member, explained that he got the impression that the revenue amounts mentioned during the discussion with Mr. Dowd were only a stab in the dark. He further explained that Mr. Dowd seemed to think that the population of Guelph is 300,000 which might be where he was taking his revenue numbers from. He commented that, in his opinion, he is not impressed with his business plan.

Ms. P. Burton, the regional director of MS society, commented that their organization rely on donations from the Legion every year for purchasing of wheelchairs and scooters. She also commented that they are required to fill out a form and send a letter to request these funds.

Committee member L. McNair questioned if her organization would have enough people to participate in a bingo event.

Ms. P. Burton replied that they would as long as they have enough volunteers. She explained that as a non-profit organization, they might have to wait as long as 6 years to get their money back. She further explained that the Legion perhaps gives out less money to each group so that more groups can benefit.

Ms. G. Banda, with the Children's Foundation, explained that they are constantly challenged to raise funds with a small staff and they have had to turn down events because they do not have enough volunteers. She commented that the Guelph Legion as a supporter is a big benefit to them.

Ms. L. Holding, with the Guelph-Wellington Stroke Recovery Canada, commented that as a smaller organization, they would not have enough volunteers to participate in the large bingo hall events. She explained that they rely on the support they get from the Guelph Legion.

Mr. R. Dowd replied that some new rules have been introduced with bingo events where only 3 representatives are required. He noted that the calling on the floor etc. is done by paid staff.

Committee member R. Funnell commented that the Committee is making a decision based on land use planning and not competition. He continued by commenting that if the bingo hall was proposed at a different location, it would not be an issue with the Legion.

Committee member L. McNair commented that there are numerous places in town where competition is located next to one another; restaurants, car dealerships etc. He continued by

commenting that the Legion can make an agreement with Mr. Dowd and make as much money as they do today. He noted that more charities would benefit from Mr. Dowd's bingo hall since his operation would be on a larger scale.

Committee member A. Diamond commented that they are only speculating at this point and the Legion has a proven history of serving the public interest.

Committee member J. Hillen commented that the Committee is deciding on the land use and the proposed use on this land is compatible.

Committee member A. Diamond commented that the Committee also deals with minor variance issues, with local and social impacts; not only on land use issues.

Committee member C. Downer advised that she was absent when the application was heard the first time and therefore cannot vote on the decision. She commented that from a land use perspective, she does not think it is desirable to locate two operations next to each other and the use requested is major and is currently not a permitted use. She continued by commenting that she understands the issue with competition but there are other locations in the City the bingo hall could go in.

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. McNair and seconded by J. Hillen,

"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 6.4.3.1.48.1 of Zoning By-law (1995)-14864, as amended, for 919 York Road, to permit a commercial entertainment establishment (bingo hall) when the By-law permits a variety of uses but does not permit a commercial entertainment establishment in the specialized service commercial zone (SC.1-48), be approved,

subject to the following condition:

1. That the commercial entertainment establishment be limited to a licensed bingo hall only."

Motion did not carry.

Chair D. Kelly commented that, in her opinion, the proposed land use is appropriate but felt that the variance requested did not meet all of the four tests for a minor variance. She explained that as an application for a variance, what is sought is relief from a by-law under exceptional circumstances and she felt this application was not exceptional. She also commented that the Committee should also consider the social aspects.

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 A. Diamond and seconded by R. Funnell,

“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 6.4.3.1.48.1 of Zoning By-law (1995)-14864, as amended, for 919 York Road, to permit a commercial entertainment establishment (bingo hall) when the By-law permits a variety of uses but does not permit a commercial entertainment establishment in the specialized service commercial zone (SC.1-48), be refused.

Reasons for refusal being:

1. The variance sought is not desirable for the adjacent neighbour,
2. The variance would have a negative impact on the adjacent neighbour, and
3. The variance is not minor in nature.”

Carried.

**Application:** A-35/12

**Owner:** Giuseppe, Maria and Stefano Fava

**Agent:** GSP Group Inc., Hugh Handy

**Location:** 7 Crawford Street

**In Attendance:** Hugh Handy  
Steve Fava  
Cary Gates  
Christine Ley



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Chair D. Kelly questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. H. Handy replied that the sign was posted and the staff comments were received. He explained that they have reviewed the comments and would like to ask for a deferral in order to be able to meet with the neighbourhood. He commented that the City Planning staff has offered to facilitate the meeting with the neighbours. He noted that since the request for a deferral has been requested by the City, they are asking for the deferral fee to be waived.

Chair D. Kelly questioned if the City staff is requesting the deferral.

Planner M. Witmer replied that the Planning staff feels that they can get a better resolution by meeting with the concerned neighbours. He explained that after discussing the facilitation of the meeting with the applicant, staff informed the neighbourhood about the deferral. He noted that since then, the neighbours have asked for an evening meeting for a better attendance.

Committee member C. Downer questioned why the applicant did not have the discussion with the neighbours after the last deferral one year ago.

Mr. H. Handy replied that at the time, they didn't feel there were any changes to the application they could propose. He explained that they are hoping to get beyond the anger of the neighbourhood and understand whether the issue is with the condition of the property or architectural issues with the design of the garage. He further explained that the applicant was hesitant to meet with the neighbours due to the anger expressed and is now interested to do this due to Planning staff facilitating the meeting.

Chair D. Kelly commented that the particular upset seems to be the fact that the applicant did not speak to the neighbours within the one year frame allotted.

Mr. H. Handy replied that they brought the application back within the one year time limit but Planning staff asked if they could arrive at a solution. He explained that as a planner, he would like to be able to get down to the issues of the application, whether it is related to student neighbourhood concerns or other issues.

Committee member J. Hillen questioned whether the Committee should shorten the time frame for the deferral. He noted that the time frame was not recommended as a condition.

Planner M. Witmer explained that staff has already started to plan a meeting to happen as quickly as possible. He commented that a three month time limit will not create a problem with staff.

Committee member L. McNair commented that hopefully the members of the community see this as a positive step.

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Moved by R. Funnell and seconded by L. McNair,

“THAT Application A-35/12 for Giuseppe, Maria and Stefano Fava at 7 Crawford Street, be deferred for three (3) months, to allow City staff to facilitate a discussion between the applicant and the neighbourhood and that the deferral application fee be paid prior to reconsideration of the application.”

Carried

A general discussion took place between the Committee members regarding the request for a refund of the deferral fees which is payable prior to the application being heard again.

Consideration of Refund of the Deferral Fee for Application A-35/12

Moved by L. McNair and seconded by R. Funnell,

“THAT the applicant is required to pay 50% of the deferral fee prior to reconsideration of the Application A-35/12 at 7 Crawford Street.”

Carried.

The meeting adjourned at 6:17 p.m.

D. Kelly  
Chair

Minna Bunnett, ACST(A)  
Assistant Secretary-Treasurer