

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday January 15, 2013 at 4:00 p.m. in Meeting Room 112, City Hall, with the following members present:

- A. Diamond (until 4:20 p.m.)
- R. Funnell
- B. Birdsell
- C. Downer
- L. McNair
- D. Kelly, Chair

Regrets: J. Hillen

Staff Present: M. Witmer, Planner
T. Spears, Planner
K. Fairfull, Secretary-Treasurer
M. Bunnnett, Assistant Secretary-Treasurer

Declarations of Pecuniary Interest

Committee member B. Birdsell declared a pecuniary interest for Application B-3/13 at 243-263 Woodlawn Road, West, as the owner is a client.

There were no further declarations of pecuniary interest.

Meeting Minutes

Moved by R. Funnell and seconded by B. Birdsell,

“THAT the Minutes from the December 11, 2012 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

The Committee welcomed the newest Committee of Adjustment member Cathy Downer who was attending her first Committee of Adjustment meeting.

The Secretary-Treasurer advised the Committee she received information from the Parking Office for parking for Committee members. She noted parking is allowed for 2 hours maximum/once per day on any City streets. This is enforced until 9:00 p.m. She noted parking is

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free in the Wilson Street parking lot after 6:00 p.m. She further advised parking passes are available for the Baker Street parking lot.

Election of Chair and Vice-Chair for 2013

The Chair was handed over to the Secretary-Treasurer during elections.

The Secretary-Treasurer asked if there were any nominations from the floor for Chair of the Committee of Adjustment for 2013.

R. Funnell noted D. Kelly has expressed interest in being the Chair of the Committee.

Moved by R. Funnell and seconded by A. Diamond,
"THAT D. Kelly be nominated as Chair for the Committee of Adjustment for the year 2013."

Moved by B. Birdsell and seconded by R. Funnell
"THAT L. McNair be nominated as Chair for the Committee of Adjustment for the year 2013."

Both D. Kelly and L. McNair accepted the nominations. Both members left the room while a vote took place.

The vote resulted in D. Kelly being appointed Chair of the City of Guelph Committee of Adjustment for 2013.

The Secretary-Treasurer asked if there were any nominations from the floor for Vice-Chair of the Committee of Adjustment for 2013.

Moved by L. McNair and seconded B. Birdsell,
"THAT A. Diamond be appointed Vice-Chair of the Committee of Adjustment for the year 2013."

Moved by A. Diamond and seconded by R. Funnell,
"THAT L. McNair be appointed Vice-Chair of the Committee of Adjustment for the year 2013."

Both A. Diamond and L. McNair accepted the nominations. Both members left the room while a vote took place.

The vote resulted in a tie.

The nominees were invited back to the meeting.

The Committee requested this item be placed on the February meeting Agenda.

Committee member B. Birdsell, having declared a pecuniary interest for the next application, left the room.

Application: B-3/13

Owner: Fortec Realty Holdings Inc.

Agent: Robert Blunt, Fraser Milner Casgrain LLP

Location: 243-263 Woodlawn Road West

In Attendance: Robert Blunt

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

Mr. Blunt replied the signs were posted several times and comments were received from staff. He noted the lease is a standard McDonald's lease for the free standing building in the parking lot of the subject property. He explained the parking and access is shared with the rest of the plaza and this is outlined in the lease.

Planner M. Witmer did have concerns about parking and access requirements in the lease and staff received verification parking and circulation would be provided so staff are now satisfied.

Having had regard to the matters under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of subdivision of the land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by L. McNair and seconded by C. Downer,

"THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for long term lease for Part Lot 17, Registered Plan 797, known municipally as 243 Woodlawn Road West, a building for a McDonalds restaurant, to permit a lease for a period of 20 years with an option to renew the term of the lease from the date of expiration for one additional term of ten (10) years and two (2) additional term of five (5) years each, be approved, subject to the following conditions:

1. That 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 endorsement, prior to January 18, 2014.
2. 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 endorsement of the deed."

Carried

Committee member B. Birdsell was summoned back to the meeting.

Application: A-128/12
Owner: GMA Holdings
Agent: Michael Klein
Location: 965 York Road
In Attendance: Russell Cox
Michael Klein
Regan Cox
Jonathan Hiller
Jim Mairs

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

Mr. Klein replied the notice sign was posted and comments were received from staff. He explained he was the agent for the sale of the property to Cox Construction. He noted the application was deferred at the December meeting as he was unable to attend because of car trouble. He noted they are seeking approval to permit a contractor's yard and staff determined after the December deferral that a zoning amendment and official plan amendment should be obtained to permit the use. He noted they wish to proceed with approval through the minor variance application as suggested early in 2012 and advised staff supports this use at this location. He noted Cox Construction has outgrown their building on Eramosa Road and Speedvale Avenue and would like to remain in Guelph. He explained the concern of staff is the outdoor storage of equipment on the property which is not permitted in the current Official Plan. He noted Hitachi on Woodlawn Road has the storage of equipment adjacent to an arterial road with no screening. He advised they have applied for site plan approval and intend to implement landscaping along the street frontages.

Regan Cox, President of Cox Construction explained their current building has been their home in excess of 60 years. He explained they approached staff in 2012 about moving to this location and they were given assurance the use would be supported. He advised if they were directed at that time to apply for an Official Plan and Zoning By-law amendment, the applications would have been submitted. He noted they wish to move into the building and be operational by the end of 2013 and the planning applications suggested would move this move back an additional

year. He noted they will be supplying 70 off-street parking spaces when the By-law requires 83 spaces; however, they only have need for 25 spaces.

He asked the Committee for support to make possible to stay in Guelph.

Committee member L. McNair questioned what the zoning was for their existing property.

Mr. Cox replied the property is legal non-conforming.

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 R. Funnell and seconded by B. Birdsell,

“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 Sections 7.1.1 and 4.13.4.2 of Zoning By-law (1995)-14864, as amended, for 965 York Road,

- a) to permit a contractor’s yard when the By-law permits a range of uses but does not permit a contractors’ yard, and
- b) to permit a total of 70 off-street parking spaces when the By-law requires a total of 83 off-street parking spaces,

be approved subject to the following conditions:

1. That the owner shall submit to the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan, indicating the location of buildings, fencing, landscaping, parking, circulation, access, lighting, grading and drainage and servicing on the lands to the satisfaction of the General Manager of Planning and Building Services and General Manager/City Engineer, prior to the issuance of a building permit. Furthermore, the owner shall develop the said lands in accordance with the approved site plan.
2. Prior to site plan approval, the owner shall submit a stormwater management certificate from a Professional Engineer who designed the site servicing and storm water management system certifying to the City that he/she supervised the construction of the site servicing and storm water management system, and that the site services and stormwater management system was built as it was approved by the City and that it is functioning properly.
3. Prior to site plan approval, the owner shall submit a grading certificate from a Professional Engineer or Ontario Land Surveyor to certify that the grading of the

property was graded in accordance with the overall Site Grading Plans approved by the General Manager/City Engineer.

4. That the applicant submits a fully detailed site plan (i.e. landscape plan, elevations, etc.) to the Site Plan Review Committee, prior to the issuance of any building or demolition permit(s).
5. That prior to receiving site plan approval, the submitted site plan shall address to the satisfaction of the General Manager of Planning Services, enhanced screening, access, landscaping, berms and buffers, fencing, and building elevations to ensure appropriate screening of the contractors' yard from Watson Parkway.
6. That a formal site plan agreement be entered into with the City and registered on title, prior to the issuance of any building or demolition permit(s).
7. That an agreement, satisfactory to the City Solicitor be registered on title that the use be permitted only during the duration of ownership of Cox Construction."

Carried

Application: B-4/13

Owner: John Calvin Christian School Society Guelph

Agent: Jeff Buisman, VanHarten Surveying Inc.

Location: 195 College Avenue West

In Attendance: Jeff Buisman

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

Mr. Buisman replied the notice sign was posted and comments were received from staff. He explained he was representing Guelph Community Christian School who has purchased 195 College Avenue West along with a vacant lot on Lynwood, which is now surplus property. He explained they recently rezoned the property to allow for a residential use; however there is a water line from Lynwood Avenue to the school building therefore a 4 metre wide easement is being requested for the benefit of the school.

Having had regard to the matters under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of subdivision of the

land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by L. McNair and seconded by C. Downer,

“THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for an easement over Part Lot 16, Registered Plan 432, to be known municipally as 61 Lynwood Avenue, an easement with a width of 4 metres and a depth of 57.5 metres as described on a Sketch for Proposed Easement dated December 10, 2012, prepared by Van Harten Surveying Inc., to protect a water service lateral serving 195 College Avenue West, be approved, subject to the following conditions:

1. The Owner acknowledges and agrees that the suitability of the land for the proposed use is the responsibility of the landowner. The Owner shall retain a Qualified Person (QP) as defined in Ontario Regulation 153/04 to prepare and submit a Phase 1 Environmental Site Assessment and any other subsequent phases required, to assess any real property to ensure that such property is free of contamination. If contamination is found, the consultant will determine its nature and the requirements for its removal and disposal at the Owner’s expense. Prior to the transfer of title to a subsequent owner or within six (6) months of the Committee of Adjustments decision, whichever comes first, a Qualified Person shall certify that all properties to be developed are free of contamination.
2. If contamination is found, the Owner shall:
 - a) submit all environmental assessment reports prepared in accordance with the Record of Site Condition (O. Reg. 153/04) describing the current conditions of the land to be developed and the proposed remedial action plan to the satisfaction of the City;
 - b) complete any necessary remediation work in accordance with the accepted remedial action plan and submit certification from a Qualified Person that the lands to be developed meet the Site Condition Standards of the intended land use; and
 - c) file a Record of Site Condition (RSC) on the Provincial Environmental Registry for lands to be developed.
3. Prior to the issuance of a building permit, the owner shall have a Professional Engineer design a grading and drainage plan for the site, satisfactory to the General Manager/City Engineer.
4. Prior to the issuance of a building permit, the owner shall pay the flat rate charge established by the City per metre of road frontage to be applied to tree planting for the said lands.

5. That the owner enters into a Storm Sewer Agreement, as established by the City, providing a grading and drainage plan, registered on title, prior to the issuance of a building permit.
6. The owner shall pay to the City the actual cost of the construction of the new driveway entrance and the required curb cut and/or curb fill and furthermore, prior to the issuance of a building permit, the owner shall pay to the City the estimated cost of the new driveway entrance and the required curb cut and/or curb fill, as determined by the General Manager/City Engineer.
7. That the owner constructs the new building at such an elevation that the lowest level of the new dwelling can be serviced with a gravity connection to the sanitary sewer.
8. The owner shall be responsible for the entire cost of the removal of the existing asphalt pavement, hydro poles and guy wires from the subject property, prior to the issuance of a building permit.
9. The owner shall be responsible for the entire cost of the removal of the existing chainlink fence within the road allowance, prior to the issuance of a building permit.
10. The owner shall pay the actual cost of the removal of the existing gravel within the road allowance, the restoration of the boulevard with topsoil and sod including the required curb fill, with the estimated cost of the works as determined by the General Manager/City Engineer being paid, prior to the issuance of a building permit.
11. The owner pays the actual cost of constructing and installing sanitary and water service laterals required including any curb cuts and/or curb fills and furthermore, prior to the issuance of a building permit, the owner shall pay to the City the estimate cost of the service laterals, as determined by the General Manager/City Engineer.
12. That prior to the transfer of title to a subsequent owner, the servient tenement (59 Lynwood Avenue, Lot 16, Registered Plan 432), grants an easement approximately 4.0-metres (13.12 feet) wide by approximately 57.51-metres (188.68 feet) long, registered on title, in favour of the dominant tenement (195 College Avenue West, Part of Lot 4, Concession 4, Division "G" and Part of Lot 5, Concession 4, Division "G", Township of Guelph) for access and water service purposes.
13. That prior to the transfer of title to a subsequent owner, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying the easement and access.

14. That prior to the transfer of title to a subsequent owner, the owner's solicitor certifies that the easement, in favour of the Guelph Community Christian School (195 College Avenue West), has been granted and registered on title.
15. The owner shall place the following notification in the offer of purchase and sale for the dwelling unit and to be registered on title:
 - i) that sump pumps will be required for the lot unless a gravity outlet for the foundation drain can be provided on the lot in accordance with a design by a Professional Engineer. Furthermore, sumps pumps must be discharged to the rear yard.
16. That the owner shall make arrangements satisfactory to the Engineering Department of Guelph Hydro Electric Systems Inc. for the servicing of the said lands, as well as provisions for any easements and/or rights-of-way for their plants, prior to the issuance of a building permit.
17. That prior to the issuance of a building permit, the owner shall enter into an agreement with the City, registered on title, satisfactory to the City Solicitor and the General Manager/City Engineer, covering the conditions noted above and to develop the site in accordance with the approved plans.
18. That 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 endorsement, prior to January 18, 2014.
19. 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 endorsement of the deed.
20. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorsement of the deed, that he/she will provide a copy of the registered deed/instrument as registered in the Land Registry Office within two years of issuance of the consent certificate, or prior to the issuance of a building permit (if applicable), whichever occurs first.
21. That 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 draft Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk."

Carried

Application: A-3/13
Owner: Chris and Irene Marson
Agent: Phil McFadden, McFadden Contracting
Location: 34 McTague Street
In Attendance: Phil McFadden

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

Mr. McFadden replied the notice sign was posted and comments were received from staff. He noted there are comments related to the permit application which will be reviewed by Building Services staff with the permit application.

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

Moved by 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 Table 5.1.2 Row 7 of Zoning By-law (1995)-14864, as amended, for 34 McTague Street, to permit a 4.21 metre by 6.4 metre two storey rear addition to be located 0.96 metres from the right side lot line when the By-law requires a minimum side yard of 1.5 metres, be approved.”

Carried

Application: B-1/13 and B-2/13
Owner: Kamal and Baljit Hira
Agent: Nancy Shoemaker; Black, Shoemaker, Robinson, Donaldson
Location: 172 Niska Road
In Attendance: Brian Beattie
Kamal and Baljit Hira

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

Mr. Beattie explained the owner of the property has previously paid for sidewalk improvements along this frontage in 1992 and 1996 and they have concerns about paying for this again.

Planner M. Witmer noted the zoning amendment to allow residential development came into effect on December 17th, 2012.

Application Number B-1/13

Having had regard to the matters under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of subdivision of the land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by R. Funnell and seconded by C. Downer,

“THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for severance of Part Lot 14, Concession 5, (proposed Part 1 on a sketch prepared by Black, Shoemaker, Robinson & Donaldson dated November 30, 2012, project no. 11-8827-9,) to be known as 172 Niska Road, a parcel with a lot frontage along Niska Road of 15.850 metres and a depth of 83.332 metres, be approved subject to the following conditions:

1. That prior to endorstation of the deeds, the owner shall pay the proportionate share of the actual costs of the existing roadworks, existing watermain, sanitary sewer and storm sewers, curb and gutter and any street lighting upgrades across the frontage of the property as determined by the General Manager/City Engineer.
2. Prior to endorstation of the deeds, the owner shall provide a complete “sightline/vertical curve assessment” report prepared by a professional engineer to determine whether sightline distances are sufficient for the proposed driveways.
3. Prior to endorstation of the deeds, the owner shall be responsible for all of the costs associated with the demolition and removal of the existing dwelling from the property.
4. Prior to endorstation of the deeds, the owner will be responsible to decommission the existing septic system and private well to the satisfaction of the City’s Plumbing/Sewage System Inspector.
5. Prior to endorstation of the deeds, the owner shall pay the costs associated with any removal of the existing cedar trees on the road allowance that are located along the

entire frontage of 172 Niska Road, to the satisfaction of the General Manager/City Engineer.

6. That the owner agrees to pay the actual cost of constructing new service laterals to the proposed severed lands including the cost of any curb cuts or fills required, with the estimated cost of the works as determined by the General Manager/City Engineer being paid, prior to the issuance of any building permits.
7. Prior to endorsation of the deeds, that, if not already paid, the owner shall pay to the City the estimated costs associated with the construction of the sidewalk across the entire frontage of the property as determined by the General Manager/City Engineer. Furthermore, the owner agrees to pay the actual cost of the sidewalk across the entire frontage of the property, and pay the full amount by which the actual cost exceeds the estimated cost within thirty (30) days of receipt of an invoice from the City. Similarly, upon completion of accounting, should the estimated cost exceed the actual cost, the City shall refund the difference to the owner without interest.
8. That the owner pay to the City, as determined applicable by the City's Director of Finance, development charges and education development charges, in accordance with City of Guelph Development Charges By-law (2009)-18729, as amended from time to time, or any successor thereof, and in accordance with the Education Development Charges By-laws of the Upper Grand District School Board (Wellington County) and the Wellington Catholic District School Board, as amended from time to time, or any successor by-laws thereof, prior to issuance of a building permit, at the rate in effect at the time of issuance of the building permit.
9. That the owner pays to the City the actual cost of construction of the new driveway entrances and the required curb cuts and/or curb fills and furthermore, prior to the issuance of any building permits, the owner shall pay to the City the estimated cost of the new driveway entrances and the required curb cuts and/or curb fills, as determined by the General Manager/City Engineer.
10. That prior to the issuance of any building permits on the said lands, the owner shall pay the flat rate charge established by the City per metre of road frontage to be applied to tree planting for the proposed severed lands.
11. That the owner constructs the new dwellings at such an elevation that the lowest level of the buildings can be serviced with a gravity connection to the sanitary sewer.
12. That the owner enters into a Storm Sewer Agreement as established by the City, providing a grading and drainage plan, registered on title, satisfactory to the General Manager/City Engineer, prior to endorsation of the deeds.

13. That a legal off-street parking space be created on the severed parcels and on the proposed retained lands at a minimum setback of 6-metres from the property line at the street.
14. Prior to endorsation of the deeds, the owner will be required to ensure that any domestic wells or monitoring wells and boreholes drilled for hydrogeological or geotechnical investigations are properly decommissioned in accordance with current Ministry of the Environment Regulations and Guidelines to the satisfaction of the General Manager/City Engineer.
15. Prior to the issuance of any building permit, the owner shall construct, install and maintain erosion and sediment control facilities, satisfactory to the General Manager/City Engineer, in accordance with a plan that has been submitted to and approved by the General Manager/City Engineer.
16. Prior to the issuance of a building permit, the owner agrees to place a notification in the offer of purchase and sale for the lot that sump pumps will be required unless a gravity outlet for the foundation drain can be provided on the lot. Furthermore, all sump pumps must be discharged to the rear yard.
17. That the owner pays the actual cost associated with the removal of the existing asphalt within the road allowance from the area of the existing driveway entrances, the restoration of the boulevard with topsoil and sod including any required curb fill, with the estimated cost of the works as determined by the General Manager/City Engineer being paid, prior to endorsation of the deeds.
18. That the owner 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 any building permits.
19. That all electrical services to the lands are underground and the owner shall make satisfactory arrangements with the Engineering Department of Guelph Hydro Electric Systems Inc. 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 any building permits.
20. The owner shall ensure that all telephone service and cable TV service on the lands shall be underground. The owner shall enter into a servicing agreement with the appropriate service providers for the installation of underground utility services, prior to the issuance of any building permits.
21. Prior to the issuance of building permits, the Owner shall provide the City with written confirmation that the dwellings on the subject site will be constructed to a standard that implements energy efficiency in order to support the Community

- Energy Initiative to the satisfaction of the General Manager of Planning Services in accordance with the letter attached as Attachment 7 to Report 12-100 from Planning and Building, Engineering and Environment dated November 4, 2012.
22. The Owner shall be responsible for the payment of cash-in-lieu of parkland dedication in accordance with the City of Guelph By-law (1989)-13410, as amended by By-law (1990)-13545 and By-Law (2007)-18225, or any successor thereof prior to the issuance of building permits.
 23. The Developer shall prepare an updated Tree Preservation Plan and Compensation Plan prior to endorsement of the deeds so as to adequately address tree protection for those trees being retained and compensation for those trees proposed to be removed, including ensuring that hedgerows are not impacted by any construction activities or building locations. The proposed sidewalk location is also to be shown on the updated Tree Preservation Plan, along with necessary protection measures.
 24. That prior to the issuance of a building permit for the severed parcel, any required tree protection fencing be erected on-site and inspected by staff to the satisfaction of the General Manager of Planning Services.
 25. That no vegetation removal shall occur during the breeding bird season (May-July), as per the Migratory Bird Act.
 26. That a site plan be submitted to, and approved by the General Manager of Planning Services and the City Engineer, prior to the issuance of a building permit for the new dwelling on the severed parcel indicating:
 - a) The location and design of the new dwelling;
 - b) The location of the new dwelling with a setback that is in character with the surrounding area;
 - c) Grading, drainage and servicing information;
 27. The Developer shall pay to the City, the total cost of reproduction and distribution of the Guelph Residents Environmental Handbook, with such payment based on a cost of one handbook for each of the three new dwelling units as determined by the City, prior to the issuance of any building permits.
 28. 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 endorsement of the deeds.
 29. That prior to issuance of a building permit, the applicant contact the Technical Services Department of Guelph Hydro Electric Systems Inc. for options on servicing the three lots via underground. The servicing costs would be at the applicant's

expense.

30. That prior to endorsation of the deeds, the owner shall enter into an agreement with the City, registered on title, satisfactory to the General Manager/City Engineer, agreeing to satisfy the above-noted conditions and to develop the site in accordance with the approved plans.
31. That 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 endorsement, prior to January 18, 2014.
32. 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 endorsement of the deed.
33. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorsement of the deed, that he/she will provide a copy of the registered deed/instrument as registered in the Land Registry Office within two years of issuance of the consent certificate, or prior to the issuance of a building permit (if applicable), whichever occurs first.
34. That 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 draft Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk."

Carried

Application Number B-2/13

Having had regard to the matters under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of subdivision of the land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by R. Funnell and seconded by C. Downer,

"THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for severance of Part Lot 14, Concession 5, (proposed part 2 on a sketch prepared by Black, Shoemaker, Robinson & Donaldson dated November 30, 2012, project no. 11-8827-9, to be known as 178 Niska Road, a parcel

with a lot frontage along Niska Road of 18.718 metres and a depth of 83.332 metres, be approved subject to the following conditions:

1. That prior to endorsation of the deeds, the owner shall pay the proportionate share of the actual costs of the existing roadworks, existing watermain, sanitary sewer and storm sewers, curb and gutter and any street lighting upgrades across the frontage of the property as determined by the General Manager/City Engineer.
2. Prior to endorsation of the deeds, the owner shall provide a complete "sightline/vertical curve assessment" report prepared by a professional engineer to determine whether sightline distances are sufficient for the proposed driveways.
3. Prior to endorsation of the deeds, the owner shall be responsible for all of the costs associated with the demolition and removal of the existing dwelling from the property.
4. Prior to endorsation of the deeds, the owner will be responsible to decommission the existing septic system and private well to the satisfaction of the City's Plumbing/Sewage System Inspector.
5. Prior to endorsation of the deeds, the owner shall pay the costs associated with any removal of the existing cedar trees on the road allowance that are located along the entire frontage of 172 Niska Road, to the satisfaction of the General Manager/City Engineer.
6. That the owner agrees to pay the actual cost of constructing new service laterals to the proposed severed lands including the cost of any curb cuts or fills required, with the estimated cost of the works as determined by the General Manager/City Engineer being paid, prior to the issuance of any building permits.
35. Prior to endorsation of the deeds, that, if not already paid, the owner shall pay to the City the estimated costs associated with the construction of the sidewalk across the entire frontage of the property as determined by the General Manager/City Engineer. Furthermore, the owner agrees to pay the actual cost of the sidewalk across the entire frontage of the property, and pay the full amount by which the actual cost exceeds the estimated cost within thirty (30) days of receipt of an invoice from the City. Similarly, upon completion of accounting, should the estimated cost exceed the actual cost, the City shall refund the difference to the owner without interest.
7. That the owner pay to the City, as determined applicable by the City's Director of Finance, development charges and education development charges, in accordance with City of Guelph Development Charges By-law (2009)-18729, as amended from time to time, or any successor thereof, and in accordance with the Education

- Development Charges By-laws of the Upper Grand District School Board (Wellington County) and the Wellington Catholic District School Board, as amended from time to time, or any successor by-laws thereof, prior to issuance of a building permit, at the rate in effect at the time of issuance of the building permit.
8. That the owner pays to the City the actual cost of construction of the new driveway entrances and the required curb cuts and/or curb fills and furthermore, prior to the issuance of any building permits, the owner shall pay to the City the estimated cost of the new driveway entrances and the required curb cuts and/or curb fills, as determined by the General Manager/City Engineer.
 9. That prior to the issuance of any building permits on the said lands, the owner shall pay the flat rate charge established by the City per metre of road frontage to be applied to tree planting for the proposed severed lands.
 10. That the owner constructs the new dwellings at such an elevation that the lowest level of the buildings can be serviced with a gravity connection to the sanitary sewer.
 11. That the owner enters into a Storm Sewer Agreement as established by the City, providing a grading and drainage plan, registered on title, satisfactory to the General Manager/City Engineer, prior to endorsement of the deeds.
 12. That a legal off-street parking space be created on the severed parcels and on the proposed retained lands at a minimum setback of 6-metres from the property line at the street.
 13. Prior to endorsement of the deeds, the owner will be required to ensure that any domestic wells or monitoring wells and boreholes drilled for hydrogeological or geotechnical investigations are properly decommissioned in accordance with current Ministry of the Environment Regulations and Guidelines to the satisfaction of the General Manager/City Engineer.
 14. Prior to the issuance of any building permit, the owner shall construct, install and maintain erosion and sediment control facilities, satisfactory to the General Manager/City Engineer, in accordance with a plan that has been submitted to and approved by the General Manager/City Engineer.
 15. Prior to the issuance of a building permit, the owner agrees to place a notification in the offer of purchase and sale for the lot that sump pumps will be required unless a gravity outlet for the foundation drain can be provided on the lot. Furthermore, all sump pumps must be discharged to the rear yard.
 16. That the owner pays the actual cost associated with the removal of the existing asphalt within the road allowance from the area of the existing driveway entrances,

- the restoration of the boulevard with topsoil and sod including any required curb fill, with the estimated cost of the works as determined by the General Manager/City Engineer being paid, prior to endorsement of the deeds.
17. That the owner 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 any building permits.
 18. That all electrical services to the lands are underground and the owner shall make satisfactory arrangements with the Engineering Department of Guelph Hydro Electric Systems Inc. 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 any building permits.
 19. The owner shall ensure that all telephone service and cable TV service on the lands shall be underground. The owner shall enter into a servicing agreement with the appropriate service providers for the installation of underground utility services, prior to the issuance of any building permits.
 20. Prior to the issuance of building permits, the Owner shall provide the City with written confirmation that the dwellings on the subject site will be constructed to a standard that implements energy efficiency in order to support the Community Energy Initiative to the satisfaction of the General Manager of Planning Services in accordance with the letter attached as Attachment 7 to Report 12-100 from Planning and Building, Engineering and Environment dated November 4, 2012.
 21. The Owner shall be responsible for the payment of cash-in-lieu of parkland dedication in accordance with the City of Guelph By-law (1989)-13410, as amended by By-law (1990)-13545 and By-Law (2007)-18225, or any successor thereof prior to the issuance of building permits.
 22. The Developer shall prepare an updated Tree Preservation Plan and Compensation Plan prior to endorsement of the deeds so as to adequately address tree protection for those trees being retained and compensation for those trees proposed to be removed, including ensuring that hedgerows are not impacted by any construction activities or building locations. The proposed sidewalk location is also to be shown on the updated Tree Preservation Plan, along with necessary protection measures.
 23. That prior to the issuance of a building permit for the severed parcel, any required tree protection fencing be erected on-site and inspected by staff to the satisfaction of the General Manager of Planning Services.
 24. That no vegetation removal shall occur during the breeding bird season (May-July), as per the Migratory Bird Act.

25. That a site plan be submitted to, and approved by the General Manager of Planning Services and the City Engineer, prior to the issuance of a building permit for the new dwelling on the severed parcel indicating:
 - d) The location and design of the new dwelling;
 - e) The location of the new dwelling with a setback that is in character with the surrounding area;
 - f) Grading, drainage and servicing information;
26. The Developer shall pay to the City, the total cost of reproduction and distribution of the Guelph Residents Environmental Handbook, with such payment based on a cost of one handbook for each of the three new dwelling units as determined by the City, prior to the issuance of any building permits.
27. 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 endorsement of the deeds.
28. That prior to issuance of a building permit, the applicant contact the Technical Services Department of Guelph Hydro Electric Systems Inc. for options on servicing the three lots via underground. The servicing costs would be at the applicant's expense.
29. That prior to endorsement of the deeds, the owner shall enter into an agreement with the City, registered on title, satisfactory to the General Manager/City Engineer, agreeing to satisfy the above-noted conditions and to develop the site in accordance with the approved plans.
30. That 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 endorsement, prior to January 18, 2014.
31. 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 endorsement of the deed.
32. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorsement of the deed, that he/she will provide a copy of the registered deed/instrument as registered in the Land Registry Office within two years of issuance of the consent certificate, or prior to the issuance of a building permit (if applicable), whichever occurs first.

33. That 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 draft Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk.”

Carried

Application: B-5/13
Owner: Vincent Goobie
Agent: Jeffrey A. Mann, Flesher & Mann
Location: 32 Roland Street
In Attendance: Brian Beattie

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

Mr. Beattie replied the notice signs were posted and comments received. He noted the application has been filed as a result of accidental merging of the properties on title with change in ownership. He noted the severance will result in certain minor variances which will be coming back to the Committee. He noted the proposed easement was originally thought to run through both 32 and 34 Roland Street, however it has been confirmed it runs through 32 Roland Street only, therefore Engineering recommended Condition 5 is not required.

Staff agreed Condition 5 is no longer recommended.

Committee member C. Downer expressed concern about payment of sidewalk along Roland Street when it will result in the elimination of three major trees. She agreed with the need for sidewalk along Bristol Street but noted the sidewalk along Roland Street could be constructed on the other side of the street without the removal of mature trees. She further questioned the need for a road widening identified in the Official Plan.

Chair D. Kelly advised the Committee they have the authority to eliminate or change the recommendations.

The Committee agreed to amend the recommendation to paying for sidewalk along Bristol Street only.

Having had regard to the matters under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of subdivision of the land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by L. McNair and seconded by B. Birdsell,

“THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for severance of Part Lots 36 and 37, Registered Plan 34, as described in a Sketch Prepared for Severance Application, prepared by Black, Shoemaker, Robinson & Donaldson dated December 14, 2012, project no. 12-9393-1, , known municipally as 32 Roland Street, a parcel with a frontage along Roland Street of 14.326 metres and a depth of 27.432 metres, be approved subject to the following conditions:

1. That the owner deeds to the City free of all encumbrances a 4.20-metre (13.78 feet) wide parcel of land for a road widening across the entire frontage of 34 Roland Street, prior to endorstation of the deeds.
2. That the owner deeds to the City free of all encumbrances a 4.971-metre (16.31 feet) wide parcel of land for a road widening across the entire frontage of 32 Roland Street and across 297 Bristol Street, prior to endorstation of the deeds.
3. That prior to endorstation of the deeds, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying the required road widenings.
4. That prior to endorstation of the deeds, the servient tenement (32 Roland Street Part of Lots 36 and 37, Registered Plan 34), grants an easement with a width of approximately 5.0-metres (16.40 feet) wide and a depth of approximately 11.0-metres (36.09 feet), registered on title, in favour of the dominant tenement (City of Guelph) over the existing 750mm (2.50 feet) and 500mm (1.64 feet) sanitary trunk sewer.
5. That prior to endorstation of the deeds, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying the required easement.
6. That prior to endorstation of the deeds, the owner’s solicitor certifies that the easement, in favour of the dominant tenement (City of Guelph), has been granted and registered on title.
7. That prior to endorstation of deeds, the owner applies to the City Solicitor for an encroachment agreement and obtains approval for the encroachment of the covered porch of 32 Roland Street that encroaches onto the Roland Street road allowance.

8. That prior to endorstation of deeds, the owner applies to the City Solicitor for an encroachment agreement and obtains approval for the encroachment of the enclosed porch and steps of 34 Roland Street that encroaches onto the Roland Street road allowance.
9. That the owner shall pay to the City, the City's estimated costs associated with the construction of a concrete sidewalk across Bristol Street frontage only, as determined by the General Manager/City Engineer, prior to endorstation of deeds.
10. That the applicant applies to the Committee of Adjustment for the necessary variance(s) required to bring the new lot (the lot 'To Be Severed' as labeled on the sketch) into compliance with the Zoning By-law. Approval of this consent application will be conditional upon approval of the minor variance application submitted to bring this new lot into compliance with the Zoning By-law.
11. That 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 endorsement, prior to January 18, 2014.
12. 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 endorsement of the deed.
13. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorsement of the deed, that he/she will provide a copy of the registered deed/instrument as registered in the Land Registry Office within two years of issuance of the consent certificate, or prior to the issuance of a building permit (if applicable), whichever occurs first.
14. That 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 draft Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk."

Carried

Application: **A-8/13**

Owner: **880350 Ontario Inc.**

Agent: Mario Venditti

Location: 728 Victoria Road South

**In Attendance: Mario Venditti
Carm Piccoli**

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

Mr. Venditti replied the notice signs were posted and comments were received from staff. He provided background related to the request for a variance to permit an office use and a school on the site. He advised he had no concerns with the recommended conditions from staff.

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 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 11.1.1 of the City of Guelph Zoning By-law (1995)-14864, as amended; and Sections 5(2) and 15(2) of the Township of Puslinch Zoning By-law No. 19/85, for 728 Victoria Road South,

- a) to permit an office use in the existing building when the Township of Puslinch By-law permits a “construction office” but does not permit an “office”, and
- b) to permit a school use as defined in the City of Guelph Zoning By-law (1995)-14864, as amended, in the existing building when the Township of Puslinch By-law does not differentiate between a “commercial school” or a “school”,

be approved, subject to the following conditions:

1. That prior to the issuance of a building permit, the owner shall demonstrate to the satisfaction of the General Manager/City Engineer that the existing septic system has adequate capacity to support the proposed additional uses.
2. That prior to the issuance of a building permit, the owner shall have an Ontario Land Surveyor show the location of the existing well, septic tank and tile bed, relevant to the existing property line.

3. That prior to the issuance of a building permit, the owner shall satisfy the City's Chief Plumbing/Sewage System Inspector, that the well, septic tank and tile bed are located in accordance with all appropriate regulations.
4. That an office as a permitted use is made under the definition of 'office' in Section 3 of the City of Guelph Zoning By-law (1995)-14864, as amended.
5. That the office and school uses be confined to the existing '2 storey concrete office building' only as shown on the submitted sketch with Application A-8/13.
6. That no physical expansions or additions be made to the '2 storey concrete office building' to accommodate the office and/or school uses.
7. That any exterior physical modifications made be subject to site plan approval under Section 41 of *The Planning Act* as well as Sections 9.10.1 to 9.10.4 of the Official Plan.
8. That the applicant confirm in writing to the Secretary-Treasurer of the Committee of Adjustment that all required off-street parking provisions have been met, prior to the issuance of any building permits."

Carried

Application: A-1/13

Owner: Jennifer Rego and Jennifer Rooney

Agent: Robyn Fraser and Christine Allard

Location: 72 Arnold Street

In Attendance: Robyn Fraser
Jennifer Rego
Jennifer Rooney

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

Ms. Fraser replied that the sign was posted and the staff comments were received. She explained that she and her partner are interested in purchasing the property. She further explained that by purchasing this property, which currently has a home occupation in it, allows them to use it for residential purposes and also allows her to work from home. She noted that she was agreeing with the staff comments.

Committee member R. Funnell questioned whether the naturopathic office will be the sole home occupation in the dwelling.

Ms. R. Fraser replied that she will be the sole doctor and she does not have any employees.

Ms. J. Rego commented that the dwelling is currently being used as a residential dwelling with a home occupation. She noted that once the property is sold, their spa business will no longer operate from the dwelling.

Planner T. Spears commented that she noticed during a site visit that there was a sign on the property advertising the spa. She informed that a sign advertising a home occupation is not permitted in the sign by-law and zoning staff are following up on the matter.

Chair D. Kelly asked if the applicant is aware that signage for a home occupation is not permitted.

Ms. R. Fraser replied that she is aware of the regulation.

Committee member L. McNair commented that the condition proposed by staff should read: "That the sole home occupation..."

The Committee agreed to amend the recommendation to mention sole home occupation.

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 C. Downer,

"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 4.19.4 (iii) of Zoning By-law (1995)-14864, as amended, for 72 Arnold Street, to permit a medical office (naturopathic doctor) as a home occupation on the second floor of the dwelling when the By-law does not permit a medical office as a home occupation, be approved subject to the following condition:

1. That the sole home occupation be limited to one (1) naturopathic doctor with no employees."

Carried

Application: A-2/13

Owner: Nikan Inc., Fazl Ashkar

Agent: Carly Donovan and Merrick Taylor-Scott

Location: 28 Essex Street

In Attendance: Merrick Taylor-Scott
Carly Donovan
Mandana Amiri
Fazl Ashkar
John Farley
Dominic Carere

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

Mr. M. Taylor-Scott replied that the sign was posted and the staff comments were received. He explained that there is an assumption that they are creating a gym but what they are proposing is an extension to their existing one on one training studio. He explained that the unit is a good fit for their business and includes easy access for their customers. He commented that several Guelph businesses have adjusted to lack of parking in the downtown area and that the City has tried their best to create more parking.

Committee member B. Birdsell questioned whether staff has reviewed the parking brief which was submitted to the Committee members at the beginning of the meeting.

Planner M. Witmer replied that a parking variance was not included in the application and therefore staff is recommending deferral. He explained that he is questioning the credibility of the parking study. He further explained that staff would normally see a professional parking study not conducted by the applicants themselves. He noted that a parking variance is required, hence the application is incomplete.

Chair D. Kelly questioned whether the applicant is interested in discussing the parking issue with staff and to defer the application.

Planner M. Witmer commented that the staff feels the proposal would be a great use for the site but more information is required. He noted for the Committee's information that there are also two residential units and a second commercial unit on the property and these factors have to be weighed in especially when reviewing the parking.

Mr. M. Taylor-Scott replied that he is agreeing with a deferral but questioned whether the property owner has to re-apply and pay application fees again.

The Secretary-Treasurer advised that a payment of the deferral fee is required and the application needs to be amended to include a parking variance.

Mr. F. Ashkar, owner of the property commented that the City seems to be happy that the property will once again be occupied by a business.

Chair D. Kelly explained that the staff needs more information regarding parking and advised the owner that it would be beneficial for him to defer the application so that any concerns can be properly addressed.

Mr. F. Ashkar replied that the parking situation on the property has not changed for the 11000 square foot building.

Moved by L. McNair and seconded by B. Birdsell,

“THAT Application A-2/13 for Nikan Inc. at 28 Essex Street, be deferred sinedie, to allow the applicant to re-submit the application to include a parking variance and to allow staff time to evaluate the parking deficiency and in accordance with the Committee’s policy on applications deferred sinedie, that the applications will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application.”

Carried

Application: A-6/13
Owner: Carol McCluskey
Agent: n/a
Location: 103 Lynch Circle
In Attendance: Carol McCluskey

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

Ms. C. McCluskey replied that the sign was posted and the staff comments were received. She explained that she previously applied for a larger driveway to allow for three parking spaces and explained that the current application is to allow two parking spaces instead. She also explained that she does not need more than two parking spaces. She further explained that her basement was fully finished in 2006 with a kitchen and washroom and at the time, the By-law

required only two parking spaces for a dwelling with an accessory apartment. She commented that the property's landscaping is consistent with the neighbourhood where everyone has widened their driveways similar to hers. She also commented that she feels the City has a parking problem and people in her neighbourhood have not widened their driveways to accommodate accessory apartments but to simply provide more parking for themselves. She explained that if she does not park on the walkway, which is attached to her driveway, it is considered to be part of the green space. She referred to the City's Official Plan and emphasized that the Official Plan is in place as a guideline only. She also referred to the City's Shared Rental Housing Review conducted in 2005, which contained information regarding the necessity for increasing the parking requirement. She referred to Planning staff comments regarding the general intent of the By-law and she feels the statement regarding snow removal is incorrect due to the fact that people are not allowed to park on the City streets between November and May. She noted that the character of the neighbourhood is not disrupted but is being consistent with all the other properties, which contain wide driveways, referring to pictures she distributed to the Committee members for review. She explained that she is trying to legalize the apartment, which was recommended by the City Zoning Inspector.

Committee member L. McNair questioned if the application is to allow for the registration of the accessory apartment and if the owner is going to reside in the residence.

Ms. C. McCluskey replied that her intention is to live in the dwelling always.

Planner M. Witmer advised, referring to pictures showed by the applicant of the neighbourhoods widened driveways, that the applicant has previously been informed to contact the City with any concerns regarding driveway widths in order for the By-law officers to follow-up. He also advised that the house builder had a building permit for finishing the basement but the rooms labelled as hobby rooms were not to be used for human habitation. He explained that the renovations were completed without a building permit and approvals for an accessory apartment had not been applied for.

Committee member C. Downer questioned staff of the rules regarding walkways beside driveways and if the City staff proactively monitors these types of driveways.

Planner M. Witmer replied that if the walkway is being used for parking, it becomes part of the driveway, otherwise it is considered to be part of landscaping. He explained that the City is currently pro-actively monitoring the driveway issues and the number of minor variance applications for driveway widening has increased.

Committee member L. McNair questioned the applicant whether the hobby rooms had any closets at the time when the builder constructed them.

Ms. C. McCluskey replied that there were no closets. She commented that she did not detect any handwritten notes regarding the hobby rooms.

Planner M. Witmer explained that the City Plans Examiners would review the entire application for a building permit and make notations on issues, which needed to be addressed. He further explained that the builder would have received a copy of the permit with the notations.

Ms. McCluskey finalized her presentation by repeating that the house was built in 2006, which is when the parking regulation changed and that she does not need two parking spaces. She noted that the only reason the hobby rooms could not be used as bedrooms is due to the size of the windows. She commented that her intent with the pictures which showed neighbours driveways was to indicate that her property fits in the neighbourhood and does not stand out in any way.

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 B. Birdsell,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.13.4.3 and Section 4.15.1.5 of Zoning By-law (1995)-14864, as amended, for 103 Lynch Circle,

- a) to permit an 87.1 square metre two bedroom accessory apartment in the basement when the By-law requires that the accessory apartment shall not exceed 45% of the total floor area of the building and shall not exceed 80 square metres in floor area, whichever is less, and
- b) to permit two off-street parking spaces when the By-law requires minimum three off-street parking spaces in total,

be approved, subject to the following conditions:

1. That the accessory apartment be brought up to compliance with code requirements within six months of the date of the decision.
2. That the Owner enters into an Agreement, satisfactory to the City Solicitor, registered on title for the property, which requires that the accessory apartment be removed and restored to finishes for the main dwelling unit, prior to the transfer of title to a subsequent owner.”

Motion did not carry.

Committee member C. Downer commented that zoning regulations are for the use of land, not for the convenience of current property owners.

Chair D. Kelly commented that the variances do not meet the intent of the Zoning By-law and are not minor in nature.

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 R. Funnell and seconded by C. Downer,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.13.4.3 and Section 4.15.1.5 of Zoning By-law (1995)-14864, as amended, for 103 Lynch Circle,

- a) to permit an 87.1 square metre two bedroom accessory apartment in the basement when the By-law requires that the accessory apartment shall not exceed 45% of the total floor area of the building and shall not exceed 80 square metres in floor area, whichever is less, and
- b) to permit two off-street parking spaces when the By-law requires minimum three off-street parking spaces in total,

be refused.

Reason for refusal being:

1. The variances are not considered to be minor in nature.”

Carried.

Application: A-7/13
Owner: Thao Hua and Chickien Nguyen
Agent: n/a
Location: 30 Sidney Crescent
In Attendance: Jane Martin
Mark Hendry
Thao Hua

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

Mr. Hua replied that the sign was posted and the staff comments were received. He explained that they purchased the five bedroom dwelling four years ago. He further explained that they need a variance from the separation distance to be able to rent five units. He commented that quite often they receive rental inquiries from student groups versus individual tenants. He noted that the property can accommodate three parking spaces and is located close to the university and a grocery store which is convenient for the students.

Ms. J. Martin, a property owner at Rodgers Road, explained that when she purchased her home, she had the expectation of living in a residential neighbourhood. She commented that she used the City of Guelph public search online to find several complaints and applications for lodging houses around her neighbourhood. She further commented on problems with parties around the rental dwellings and how a separation distance should be maintained to maintain a minimum quality of life for the non-rental dwellings.

Mr. M. Hendry, a resident at Rodgers Rd, commented that in the last 20 years the neighbourhood has gone from residential to an ill kept party zone. He further commented that the de-stabilization of the neighbourhood needs to end. He pleaded the Committee to not award greed and to deny the application.

Committee member L. McNair commented that if the dwelling had an accessory apartment instead, there would be no issue with the separation distance. He further commented that the parking regulation is the same for accessory apartment as it is for a five bedroom lodging house.

Planner T. Spears commented that she has not focused on the regulations for an accessory apartment but specifically on the regulations for a lodging house. She concurred that three parking spaces are also required for an accessory apartment.

Chair D. Kelly commented that the application is dealing with density and not with a parking issue.

Planner M. Witmer commented that there are rules and processes in place for converting a dwelling to include an accessory apartment which would have to be adhered to.

Committee member R. Funnell questioned whether the other lodging house which is within the 100 metre distance has been approved as a lodging house.

Planner M. Witmer replied that this is correct.

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 C. Downer 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 Table 4.25 Row 3 of Zoning By-law (1995)-14864, as amended, for 30 Sidney Crescent, to permit a five bedroom lodging house in a single detached dwelling within 39 metres of an existing lodging house located at 40 Sidney Crescent, be refused.

Reasons for refusal:

1. The variance requested is not minor in nature,
2. The purpose for the separation distance is to have regard to the de-stabilization of the neighbourhood which has become a concern for the City, and
3. The variance requested does not meet the intent of the By-law.”

Carried

Application: A-4/13
Owner: Wei Ji and Chong Lu Liang
Agent: n/a
Location: 692 Scottsdale Drive
In Attendance: Wei Ji
Chong Lu Liang
Jennifer Liang

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

Ms. J. Liang, daughter of the owners, replied that the sign was posted and the staff comments were received. She explained that the five bedroom dwelling was purchased in 2006. She further explained that it was discovered that her father must certify the lodging house use when he applied for a building permit to install bigger windows. She commented that the driveway has now been widened to accommodate the required parking and the property is maintained really well. She noted that there is no effect on the neighbourhood by widening the driveway. She also noted that their intent is to rent to university students.

Mr. P. Harris, property owner at 28 Sidney Crescent, questioned what the difference is with renting to five students versus renting five bedrooms.

Planner M. Witmer explained that based on the Human Rights codes, it cannot be regulated who lives in a residence and housing is a basic right. He further explained that a lodging house is considered to consist of five bedrooms being rented where the kitchen and bathrooms are shared.

Mr. P. Harris commented that there seems to be no difference if one wall is removed to create a separation with a curtain; this will now be considered as one unit instead of two.

Committee member C. Downer encouraged Mr. Harris to follow the shared rental housing information on the City's website. She continued by commenting that there will be more information coming up in February which explains how there are constraints coming from the Human Rights codes.

Committee member L. McNair questioned where the separation distance of 91 metres was measured from.

Planner T. Spears replied that it was measured from the closest points of the property lines.

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 R. Funnell and seconded by C. Downer,

"THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 4.25 Row 3 of Zoning By-law (1995)-14864, as amended, to permit a five bedroom lodging house in a single detached dwelling within 91 metres of an existing lodging house located at 116 Cole Road, be refused.

Reasons for refusal:

1. The variance is not minor in nature, and
2. the variance does not maintain the general intent of the Zoning By-law."

Carried

Application: A-5/13

Owner: Vanco and Svetlana Stojanovski

Agent: n/a

Location: 41 Reid Court

In Attendance: Svetlana Stojanovski
Aneta Stojanovski

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

Ms. A. Stojanovski, daughter of the owners, replied that the sign was posted and the staff comments were received. She explained that the driveway occupies 66% of the front yard which was measured by a surveying company. She further explained that the dwelling was built in the 1980's and the driveway has not been modified since then. She commented that the driveway is located next to a pathway leading to a school and the landscaped area in the front yard is well maintained. She commented that the by-laws changed for lodging houses in 2008 or 2009 which is when her parents installed fire doors and smoke alarms. She continued by commenting that after this the regulation of renting to maximum four people came into effect. She explained that their properties have never been rented out as per unit but as per the house. She further explained that they prefer to rent the house to a family instead of individual persons and do not wish to change the house. She commented that the separation rule is an issue but she feels the issue is not with the students but with behaviour and absentee landlords. She noted that her parents visit the property every month and leases are always signed in order to keep any damage to the property under control. She further noted that there has only been one official police report made against the house due to a complaint.

Committee member C. Downer questioned whether the applicant understands they still have to go through the lodging house certification process with the City.

Ms. A. Stojanovski replied that they do understand that.

Committee member L. McNair commented that the other existing lodging house is located at 744 Scottsdale Drive which is across publicly owned lands. He continued by commenting, that in his opinion, there is a difference with this separation distance.

Planner T. Spears commented that the staff comments remain the same.

Committee member B. Birdsell questioned if the City pathway has reduced the frontage of this property in relation to the other dwellings, whether this is a non-conforming issue with a reduced frontage.

Planner T. Spears replied that staff has to review the application under the regulations for the zone. She continued by explaining that the pathway is not part of the property in question.

Committee member L. McNair questioned whether they could eliminate a portion of the driveway and comply with the 56% regulation.

Ms. A. Stojanovski replied that a planner they consulted indicated that the driveway could not be cut out and still lead properly into the garage.

Mr. M. Lafontaine, a property owner on Reid Court, commented that he has no issue with the variance for the rooming house. He further commented that most of the properties on the street have 30 foot frontages. He explained that most students drive cars and the more students you accommodate; parking becomes the bigger issue.

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 C. Downer 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 Table 5.1.2 Row 12 and Table 4.25 Row 3 of Zoning By-law (1995)-14864, as amended, for 41 Reid Court,

- a) to permit a five bedroom lodging house within 89 metres of an existing lodging house located at 744 Scottsdale Drive, and
- b) to permit the existing driveway to occupy 66% of the front yard when the By-law requires that the driveway shall not exceed more than 56% of the front yard, be refused.

Reasons for refusal:

1. The variances are not minor in nature.
2. The variances do not meet the intent of the Zoning By-law.
3. The situation is not exceptional but deals with density; four rental units could be accommodated.”

Carried

Chair D. Kelly advised the applicant to speak to staff regarding next steps and any concerns.

January 15, 2013 C of A Minutes

The meeting adjourned at 7:40 p.m.

D. Kelly
Chair

Kim Fairfull, ACST
Secretary-Treasurer

Minna Bunnett, ACST(A)
Assistant Secretary-Treasurer