

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday February 14, 2012 at 4:00 p.m. in Meeting Room 112, City Hall, with the following members present:

J. Hillen
B. Birdsell
J. Andrews
A. Diamond
D. Kelly, Chair

Regrets: L. McNair
R. Funnell

Staff Present: R. Kostyan, Planner
D. Jacques, City Solicitor
K. Fairfull, Secretary-Treasurer
M. Bunnett, Assistant Secretary-Treasurer

Declarations of Pecuniary Interest

Committee member J. Hillen declared a pecuniary interest for Applications A-25/12 at 160 Ironwood Road, A-25/12 at 50 Laurine Avenue and A-23/12 at 670 Willow Road. There were no further declarations of pecuniary interest.

Meeting Minutes

Moved by B. Birdsell and seconded by J. Andrews,

“THAT the Minutes from the January 10, 2012 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Moved by J. Hillen and seconded by B. Birdsell,

“THAT the Minutes from the February 7, 2012 Regular Meeting of the Committee of Adjustment, be approved as amended.”

Carried

Other Business

February 14, 2012 C of A Minutes

The Assistant Secretary-Treasurer advised Zehrs/Zellers application A-2/12 for 297-299 Eramosa Road was withdrawn at last minute. She commented the applicant was advised the Committee will be considering a fee to be paid for the works carried out.

The Assistant Secretary-Treasurer advised the Ontario Municipal Board has scheduled an appointment for hearing for Application A-80/11 for 415 Cole Road. The hearing has been scheduled for Thursday March 1, 2012 for one day.

The Assistant Secretary-Treasurer also advised the Ontario Municipal Board has scheduled an appointment for hearing for Application A-105/11 for 22 Mason Court. The hearing has been scheduled for Thursday March 8, 2012 for one day.

The Assistant Secretary-Treasurer also advised the Ontario Municipal Board has scheduled an appointment for hearing for Application A-103/11 for 29 Curzon Crescent. The hearing has been scheduled for Wednesday March 21, 2012 for one day.

The Assistant Secretary-Treasurer advised a memorandum was issued by Ontario Municipal Board Vice-Chair regarding Application A-74/11, 25 Ervin Crescent. The Vice-Chair noted it is premature to deal with the variance relief sought due to the fact that a decision related to Interim Control By-law appeals has not been issued yet, pending on the phrase "new Accessory Apartment".

Planner R. Kostyan noted the Ontario Municipal Board held a hearing for 29 and 27 Westra Drive which were appeals for side yard variances which were refused by the Committee. She advised a verbal opinion was given and the OMB accepted the variances.

Committee member J. Hillen, having declared a pecuniary for the following three applications, left the room at 4:10 p.m.

Application: A-25/12
Owner: Upper Grand District School Board
Agent: Snyder & Associates
Location: 160 Ironwood Road
In Attendance: Blair Capling

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

Mr. Capling replied the sign was posted and staff comments were received. He explained the application is similar to many other schools due to the parking regulations for a gym. He further

explained it is very rare that the gym and school are both full at the same time. He noted if more parking is needed for special events, the gates accessing overflow parking would be opened. There were no 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 A. Diamond and seconded by J. Andrews,

“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 4.13.4.4 of Zoning By-law (1995)-14864, as amended, for 160 Ironwood Road, to construct a 62 square metre (667.2 square foot) two storey addition and to permit 44 off-street parking spaces on site when the By-law requires 49 off-street parking spaces, be approved, subject to the following condition:

1. The Owner agrees to submit and receive approval from the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan indicating the location of buildings, landscaping, parking, circulation, access, lighting, grading and drainage and servicing to the satisfaction of the General Manager of Planning and Building and the General Manager/City Engineer, prior to the issuance of a building permit. Furthermore, the owner shall develop the said lands in accordance with the approved site plan.”

Carried

Application: A-26/12

Owner: Upper Grand District School Board

Agent: Hossack & Associates Architects

Location: 50 Laurine Avenue

In Attendance: Blair Capling
Vlado Kovac

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

Mr. Capling replied the sign was posted and the staff comments were received. He explained the parking situation is very similar to all the other schools which are applying for parking variances. He commented the site is very limited on space and by adding parking spaces they would lose the play area. He explained the variance for the maximum front yard setback is due to the design of the site. He further explained it is difficult to achieve a 20 metre setback due to the existing hill and the orientation of the street.

Mr. Kovac, owner of 84 Lane Street, questioned whether there was a purpose for the un-patrolled southern laneway and if that area could be used for parking by closing it.

Planner R. Kostyan replied this is a question for the school board but the students might be using the laneway for accessing the school.

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 A. Diamond,

“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 8.2 Row 4 and Section 4.13.4.4 of Zoning By-law (1995)-14864, as amended, for 50 Laurine Avenue, to construct a 3,450 square metre (37,135.49 square foot) two storey public school, and,
a) to permit the school to be constructed 45.85 metres (150.42 feet) from Laurine Avenue when the By-law requires a front yard setback of maximum 20 metres (65.61 feet), and,
b) to provide 31 off-street parking spaces when the By-law requires a total of 58 off-street parking spaces,

be approved subject to the following condition:

1. The Owner agrees to submit and receive approval from the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan indicating the location of buildings, landscaping, parking, circulation, access, lighting, grading and drainage and servicing to the satisfaction of the General Manager of Planning and Building and the General Manager/City Engineer, prior to the issuance of a building permit. Furthermore, the owner shall develop the said lands in accordance with the approved site plan.”

Carried

Application: A-23/12

Owner: Upper Grand District School Board

February 14, 2012 C of A Minutes

Agent: BJC Architects Inc.

Location: 670 Willow Road

In Attendance: Blair Capling

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

Mr. Capling replied yes and they also received the staff comments. He explained the application is for a parking variance, similar to the other school parking variance applications.

There were no 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 A. Diamond and seconded by J. Andrews,

“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 4.13.4.4 of Zoning By-law (1995)-14864, as amended, for 670 Willow Road, to construct a 264.85 square metre (2,850 square foot) one storey addition and to permit 37 off-street parking spaces when the By-law requires 80 off-street parking spaces, be approved subject to the following condition:

1. The Owner agrees to submit and receive approval from the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan indicating the location of buildings, landscaping, parking, circulation, access, lighting, grading and drainage and servicing to the satisfaction of the General Manager of Planning and Building and the General Manager/City Engineer, prior to the issuance of a building permit. Furthermore, the owner shall develop the said lands in accordance with the approved site plan.”

Carried

Committee member J. Hillen was summoned back to the room at 4:19 p.m.

Application: A-20/12

Owner: Peter and Mariana Kramer

February 14, 2012 C of A Minutes

Agent: **AMG Appliances**

Location: **111 Watson Road South**

In Attendance: **Allan and Sandra Faulds**

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

Mr. Faulds replied the sign was posted and the staff comments were received. He had no further information to add to the application.

There were no 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 J. Andrews and seconded by A. Diamond,

“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 7.1.1 of Zoning By-law (1995)-14864, as amended, for 111 Watson Road South, to permit a display and retail sales of appliances when the By-law does not permit this use in the B.2 Zone, be approved.”

Carried

Application: **B-9/12**

Owner: **1513185 Ontario Ltd.**

Agent: **Van Harten Surveying Inc.**

Location: **28 Industrial Street**

In Attendance: **Jeff Buisman**
Parthipan Loganathan
George Creighton
Louis Tonin
Jeff Creighton

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 yes and he did receive staff comments. He explained the application is for a severance and a creation of a shared driveway. He commented the area is zoned Industrial B.4 which has specifications for fairly large buildings. He continued by explaining that though the site is small they were able to follow the zoning regulations.

Mr. G. Creighton of 18 Industrial Street expressed a concern with the traffic congestion on Elizabeth Street and Industrial Street. He felt that the street is too narrow to accommodate more traffic especially large trucks. He further expressed concern that people would not be parking on the proposed two properties but rather on the street.

Planner R. Kostyan replied the existing building will not change in shape and there will be sufficient parking provided for both properties. She explained that site plan approval is required for the severed property once construction is proposed and a full review will be done at that time.

Chair D. Kelly explained parking on the street is not an area the Committee can deal with. However she asked the staff to follow-up on the concern.

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 B. Birdsell and seconded by A. Diamond,

“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 of Lots 12 and 13 Registered Plan 396, to be known as 24 Industrial Street, a parcel with a frontage along Industrial Street of 39.2 metres (128.6 feet) and a depth of 33.5 metres (109.9 feet) subject to a right-of-way with a width of 7.0 metres (22.96 feet) and a depth of 33.5 metres (109.9 feet) to provide mutual access to off-street parking for both 24 and 28 Industrial Street, be approved subject to the following conditions:

1. That prior to endorsement of the deeds, the owner shall pay to the City, the watermain frontage charge of \$8.00 per foot for 128.60 feet (39.20 metres) of frontage on Industrial Street.
2. 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, landscaping, parking, circulation, access, lighting, grading and drainage and servicing on the said lands to the satisfaction of the Director of Planning and Building Services and the 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.

3. That prior to endorsation of the deeds, the servient tenement (proposed severed lands), grants a right-of-way approximately 7.0-metres (22.96 feet) wide by approximately 33.50-metres (109.90 feet) long over the (proposed severed lands), registered on title, in favour of the dominant tenement (28 Industrial Street) for vehicular access to the off-street parking spaces on 28 Industrial Street.
4. That prior to endorsation of the deeds, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying the proposed severed parcel and the proposed vehicular access right-of-way.
5. That prior to endorsation of the deeds, the owner's solicitor certifies that the right-of-way in favour of the dominant tenement (28 Industrial Street) has been granted and registered on title.
6. That the owner removes the existing open storage area from the proposed severed lands, prior to endorsation of the deeds.
7. That the owner pays the actual cost of the construction of the new driveway entrances, 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.
8. That prior to the issuance of a building permit on the severed 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 said lands.
9. The owner shall pay the actual cost of constructing and installing any service laterals required to the proposed severed lands, furthermore, prior to site plan approval, the owner shall pay to the City the estimated cost of the service laterals, as determined by the General Manager/City Engineer.
10. Prior to site plan approval, the owner shall have a Professional Engineer design a grading plan and storm water management system for the proposed severed lands, satisfactory to the General Manager/City Engineer, Furthermore the owner shall have the Professional Engineer who designed the stormwater management system certify to the City that he/she supervised the construction of the storm water management system and that the storm water management system was built as it was approved by the City and that it is functioning properly.
11. That the owner grades, develops and maintains the site including the storm water management facilities designed by a Professional Engineer, in accordance with a Site Plan that has been submitted to and approved by the General Manager/City Engineer.
12. That the owner constructs the building at such an elevation that the building can be serviced with a gravity connection to the sanitary sewer.

13. That the owner shall make satisfactory arrangements with Guelph Hydro Electric Systems Inc. to determine what the servicing requirements might be for the said lands, prior to the issuance of a building permit.
14. That prior to site plan approval, the owner shall enter into a Site Plan Control Agreement with the City, registered on title, satisfactory to the General Manager/City Engineer and the City Solicitor, agreeing to satisfy the above-noted conditions and to develop the site in accordance with the approved plans.
15. 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 February 17, 2013.
16. 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.
17. 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.
18. 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-24/12

Owner: Walt Kelly Ltd.

Agent: n/a

Location: 415 Woodlawn Road West

In Attendance: Walt Kelly

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

February 14, 2012 C of A Minutes

Mr. W. Kelly replied yes, the sign was posted and he did receive the staff comments. He explained Planning Services staff saw the site plan in November of 2011. He commented the building on the submitted plan is a little larger than in the plans shown to Planning staff in November. He explained that regardless of the size of the future building, a 3 metre setback variance will be required. He commented he has no problem with deferring the application.

Planner R. Kostyan informed the applicant that it is up to the applicant to return with the application in front of the Committee after the next site plan meeting.

Chair D. Kelly questioned whether the applicant is aware of the deferral fee.

Mr. W. Kelly replied he was not aware of the fee and noted this is a costly and lengthy process. He explained his plans are to improve the corner property and a gas bar seems to be the only option for the site. He commented he would like the Committee to approve the variance in order for him to be able to wait for building permit issuance once the site plan has been approved. He questioned if the deferral fee could be eliminated.

Planner R. Kostyan commented the reason for the deferral is to give the site plan staff and the landscape planner a chance to review the revised plan especially due to the existing large ditch. She continued by explaining the landscaping will improve the site but staff needs to be able to review the proposed plan.

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

“THAT Application A-24/12 for Walt Kelly at 415 Woodlawn Road West, be deferred sinedie, 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

Moved by J. Andrews and seconded by A. Diamond;

“THAT for application A-24/12 at 415 Woodlawn Road West the deferral application fee be 50% of the regular deferral fee amount, the amount being \$108.50.”

Carried

Application: B-10/12

Owner: Lisa White

Agent: Black, Shoemaker, Robinson and Donaldson

Location: 27 Forest Hill Drive

**In Attendance: Jeff White
Bruce Donaldson**

The Secretary-Treasurer K. Fairfull noted that the Committee at the April 12, 2011 meeting of the Committee of Adjustment requested a detailed history of the storm sewer location at 27 and 29 Forest Hill Drive in response to concerns expressed by Mr. White, and report back to the Committee on the City's position on the costs associated with the scoping for the location of this storm sewer. She read a memo to the Committee members from Grant Ferguson. The memo outlined the history of the storm sewer and the works that have been completed to date on the site to determine the location of the old storm sewer. She further noted it is the City's position that development should pay for itself and not be borne by the taxpayers.

Chair D. Kelly questioned if the applicant received the staff comments.

Mr. B. Donaldson replied he did receive the staff comments. He continued by explaining that it appears there are two separate pipes on the property. He explained the City scoped the sewer pipe and used ground penetration radar to locate the second pipe. He commented the results of the radar were inconclusive and the only sure way to locate the pipe is to excavate extremely deeply. He noted once the house is being constructed, they could look at excavating again to locate the second pipe. He explained that the reason for changing the condition is to allow for the owner of the property additional space to reverse as he is leaving the driveway at 29 Forest Hill Drive.

Planner R. Kostyan expressed a concern with the driveway width on the severed parcel.

Mr. B. Donaldson replied there should not be an issue with the driveway width on either the severed or retained parcels.

Having had regard to the matters that are to be had regard to 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 J. Andrews 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, permission for change of condition for Part of Lots 24 to 27, Registered Plan 39, to be known as 29 Forest Hill Drive, for an application requesting,

- a) a parcel with a frontage along Forest Hill Drive of 11.67 metres (38.38 feet) and an area of 3,162 square metres (34,035.48 square feet);
- b) subject to a right-of-way and easement [Part 3 on a Sketch for Severance Application dated June 11, 2009 – Project 08-7865-2] plus Parts 1 and 2 on a draft

Reference Plan dated February 6, 2012 – Project No. 08-7865-5] to provide vehicular access to the attached garage and for protection of the water service at 27 Forest Hill Drive;

- c) subject to a right-of-way and easement over Part 2, Reference Plan 61R-11552, to provide sanitary service connection to 29 Forest Hill Drive,

be approved subject to the following conditions:

1. That prior to endorsation of the deeds, the owner shall determine the actual location of the 600mm storm trunk sewer across part of lots 25, 26 and 27, Registered Plan 39 and prepare a new reference plan showing the actual location of the 600mm storm trunk sewer and be responsible for the entire costs associated with the preparation and registration of the new reference plan.
2. That prior to endorsation of the deeds, the owner shall have the existing storm sewer easement registered as Instrument Number WC102397 released and be responsible for the entire costs associated with the release.
3. That prior to endorsation of the deeds, the owner shall grant a new 6.0-metre (19.69 feet) wide easement over the lands to be severed (Proposed Parcels 2 and 3) where the existing 600mm (24”) storm trunk sewer is located across part of lots 25, 26 and 27, Registered Plan 39, registered on title, in favour of the City of Guelph.
4. That prior to endorsation of the deeds, the servient tenement (Proposed Severed Lands, Proposed Parcels 2 and 3), grants an irregular shaped right-of-way (Proposed Parcel 3) with a width of approximately 11.67-metres (38.28 feet) and 14.53-metres (47.67 feet) by approximately 40.88-metres (134.12 feet) and 24.06-metres (78.94 feet) to provide for a turnaround, in favour of the dominant tenement 27 Forest Hill Drive (Proposed retained lands, Parcel 1).
5. That prior to endorsation of the deeds, the dominant tenement (Proposed Severed Lands, Proposed Parcels 2 and 3), grants an irregular shaped easement (Proposed Parcel 3) with a width of approximately 11.79-metres (38.68 feet) and 9.0-metres (29.53 feet) by approximately 27.54-metres (90.35 feet) and 11.75-metres (38.55 feet) for the existing water service lateral, in favour of the servient tenement, 27 Forest Hill Drive (Proposed retained lands, Parcel 1).
6. That prior to endorsation of the deeds, the dominant tenement, 27 Forest Hill Drive (Proposed retained lands, Parcel 1) grants an easement (Proposed Parcel 4) with a width of approximately 3.0-metres (9.84 feet) and approximately 5.0-metres (16.40 feet) by approximately 8.0-metres (26.25 feet) and 10.0-metres (32.81 feet) for the future sanitary sewer lateral, in favour of the servient tenement (Proposed severed lands, Proposed Parcel 2 and 3).

7. The owner applies for a sanitary lateral and pays the rate in effect at the time of application if the owner decides not to use the future sanitary sewer connection from the existing manhole located on the lands to be retained (Proposed Parcel 1), prior to the issuance of a building permit.
8. That the owner constructs the new dwelling at such an elevation that the lowest level of the building can be serviced with a gravity connection to the sanitary sewer.
9. That the owner enters into a Storm Sewer Agreement, as established by the City, providing for a grading and drainage plan, registered on title, prior to endorsement of the deeds.
10. Prior to the issuance of a building permit on the lands, the owner shall have a Professional Engineer design a grading plan and storm water management system for the said lands, satisfactory to the City Engineer.
11. That the owner grades, develops and maintains the site including the storm water management facilities designed by a Professional Engineer, in accordance with a Site Plan that has been submitted to and approved by the City Engineer. Furthermore, the owner shall have the Professional Engineer who designed the storm water management system certify to the City that he/she supervised the construction of the storm water management system, and that the stormwater management system was built as it was approved by the City and that it is functioning properly.
12. That the owner shall make arrangements satisfactory to the Engineering Department of Guelph Hydro Electric Systems Inc. for the servicing of the lands, prior to endorsement of the deeds.
13. The applicant shall prepare a scoped Environmental Impact Study (EIS) based on terms of reference approved by the City and the Environmental Advisory Committee (EAC). The EIS must specifically address Section 6.5 Habitat of Endangered Species and Threatened Habitat. A three season inventory will be required to confirm the presence/absence of threatened or endangered flora and/or fauna prior to any grading, tree removal and prior to endorsement of the deeds.
14. That the elevation and design drawings for the new dwelling on the severed parcel be submitted to, and approved by the Director of Planning Services and the General Manager/City Engineer, prior to the issuance of a building permit for the new dwellings in order for staff to ensure that the design of the new dwellings respects the character of the surrounding neighbourhood.
15. That a site plan be submitted to, and approved by the Director of Planning Services and the General Manager/City Engineer and the City Engineer, prior to the issuance of a building permit for the new dwellings on the severed and retained parcels indicating:

- a) The location and design of the new dwellings;
- b) All trees impacted by the development, identifying trees to be retained, removed or replaced and methods to protect the trees to be retained during all phases of construction;
- c) That the location of the new dwellings maintains a setback that is in character with the surrounding area;
- d) Grading, drainage and servicing information.

16. That a tree inventory and conservation plan be prepared to identify trees to be retained and removed. Specific efforts shall be made to retain the mature trees located on the subject property. Butternut trees must be retained with appropriate setbacks as established by the Ministry of Natural Resources. The tree conservation plan shall be submitted to and approved by the Director of Community Design and Development Services prior to any grading, tree removal and the issuance of a building permit for the new dwelling on the severed parcel;

17. That the applicant shall pay to the City cash-in-lieu of park land dedication in accordance with By-law (1989)-13410, as amended from time to time, or any successor thereof, prior to the endorsement of the deeds, at the rate in effect at the time of the endorsement.

18. Prior to the issuance of any building permit for the lands, the owner shall pay to the City, the City's total cost of reproduction and distribution of the Guelph Residents' Environmental Handbook, to all future homeowners or households within the project, with such payment based on a cost of one handbook per residential dwelling unit, as determined by the City;

19. That prior to the endorsement of the deeds, the owner shall enter into an agreement with the City, registered on title, agreeing to satisfy the above-noted conditions and to develop the site in accordance with the approved plans.

20. 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 February 17, 2013.

21. 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.

22. 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.

23. 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

City Solicitor D. Jaques arrived at the meeting to explain to the Committee about the status of the regulations related to shared rental housing and the Interim Control By-law. She explained that on January 30, 2012, City Council withdrew the zoning regulations related to shared rental housing which is currently before the Ontario Municipal Board and directed staff to bring forward a request to repeal the Interim Control By-law at a subsequent Council meeting. She advised that she believed the report is going to Council for their consideration on February 27, 2012. She noted that in her opinion, there is no reason to believe it will not be repealed. She explained the Committee has the option of deferring any Interim Control By-law variances until after the Council meeting.

Application: **A-16/12**

Owner: **Chris Bradley Landscape Group Ltd.**

Agent: **Chris Bradley**

Location: **22-24 Sultan Street**

In Attendance: **Chris Bradley**

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

Mr. Bradley replied yes, the sign was posted and he did receive the staff comments. He explained the application is for extending the use by improving the dwelling by adding a laundry room and a bathroom for both units. He further explained the back part of the dwelling is in decay and needs to be demolished.

There were no questions from the Committee.

Having considered a change or extension in a use of property which is lawfully non-conforming under the By-law as to whether or not this application has met the requirements of Section 45(2) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by J. Andrews and seconded by A. Diamond,

“THAT in the matter of an application under Section 45(2)(a)(i) of the Planning Act, R.S.O. 1990, c.P13, as amended, permission to extend the legal non-conforming use at 22-24 Sultan Street, to construct a 3 metre by 7.4 metre (10 foot by 24.4 foot) addition to the rear of the building which will be situate 5.4 metres (17.7 feet) from the right and left side lot lines and 17.95 metres (58.9 feet) from the rear lot line, be approved.”

Carried.

A brief discussion took place regarding administration fees for application A-2/12 for 297-299 Eramosa Road due to the sudden withdrawal of the application.

Moved by B. Birdsell and seconded by J. Andrews,

“THAT an administration fee in the amount of \$217.00 be paid prior to reconsideration of the application for A-2/12 for S & W Developments Inc. at 297-299 Eramosa Road to cover the costs associated with carrying the file forward until the notification from the agent, received on February 10, 2012.”

Carried.

Application: A-18/12
Owner: Maxine Reinhart
Agent: Trudy Dickinson
Location: 61 Kirkland Street
In Attendance: Trudy Dickinson
Joanne and Neil Ryan

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

Ms. Dickinson replied yes, she did post the sign and she also received the staff comments. She explained she is changing the plans for the house and is asking for a deferral. She further explained she will be asking for a side yard variance for both side yards.

February 14, 2012 C of A Minutes

There were no further questions from the Committee.

Moved by A. Diamond and seconded by J. Hillen,

“THAT Application A-18/12 at 61 Kirkland Street, be deferred sinedie, and in accordance with the Committee’s policy on applications deferred sinedie, that the application will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application.”

Carried

Application: **A-19/12**
Owner: **Wilfred Dopheide**
Agent: **Moon Heath LLP**
Location: **122 McArthur Crescent**
In Attendance: **Wilfred Dopheide**

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

Mr. Dopheide replied yes, the sign was posted and he also received the staff comments. He explained he understands there are changes coming forward regarding the Interim Control By-law and is therefore asking for a deferral. He commented he has been scheduled to return to the February 28th meeting.

There were no questions from the Committee.

Moved by J. Andrews and seconded by A. Diamond,

“THAT Application A-19/12 for Wilfred Dopheide at 122 McArthur Crescent, be deferred until the February 28, 2012 Committee of Adjustment regular meeting and that the deferral application fee be paid prior to reconsideration of the application.”

Carried

Application: **A-15/12**
Owner: **Bruce Everitt and Lora Gatto**
Agent: **n/a**

Location: 106 Clough Crescent

In Attendance: Bruce Everitt
Lora Gatto
Lianne Cooley

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

Mr. Everitt replied yes, the sign was posted and they did receive staff comments. He commented that the Interim Control By-law is potentially not an issue. He explained they wish to keep the accessory apartment and will need to widen the driveway to 5 metres which constitutes 62.5% of the front yard. He further explained when the dwelling was built in 2009 the building floor plans included a rough-in for the kitchen and bathroom in the basement, which were inspected by City staff. He continued by explaining they installed the necessary fire door and there are separate hydro and water meters going in to the basement. He commented the apartment is there with the approval of City as per plans.

Committee member B. Birdsell commented the installation of dual water meters needs to be investigated further.

Planner R. Kostyan commented if the Committee wishes her to investigate the issue with dual water meters she would need time to investigate the matter.

Ms. L. Cooley, co-owner of 119 Clough Crescent, explained they were of the understanding that the neighbourhood would be consisting of more detached houses than semis. She expressed a concern that a number of the properties in the area are being rented and the garages are too small to park a vehicle in them. She further explained there is very limited green space potential for these homes and by widening the driveways is not going to improve the situation. She expressed concern on excessive parking on front yards if more accessory apartments are being approved. She commented they do not wish to have high density residential in their neighbourhood and is concerned that by approving one variance, others will be approved as well.

Committee member J. Andrews commented accessory apartments are permitted in this zone with a size limitation of 45% of the gross floor area.

Chair D. Kelly commented the apartment would be allowed if you can support the required parking on the property.

Planner R. Kostyan commented for the Committee's information that there was an application made for a driveway width variance at 104 Clough Crescent however that application was withdrawn.

February 14, 2012 C of A Minutes

Mr. Everitt, also the owner of 104 Clough Crescent, explained there was an apartment created at 104 Clough Crescent but it has since been removed. He commented the houses on Clough Crescent all have an issue with driveways being too narrow. He noted they would rather have the tenants park in the driveway than on the street.

Mr. A. Savich, a resident on Howden Crescent, commented the houses with a different zone in the neighbourhood are allowed to have as wide a driveway as what 106 Clough Crescent is asking for. He continued by commenting the driveway in question is consistent with the neighbourhood design overall.

Planner R. Kostyan explained City Zoning staff has been inspecting Clough Crescent due to driveway widening issues.

Chair D. Kelly clarified the Committee of Adjustment decisions do not set precedence.

Committee member A. Diamond requested the Committee split the requests for the Committee's consideration.

Moved by A. Diamond and seconded by J. Andrews,

"That the Committee consider the variance requests for 106 Clough Crescent into separate resolutions."

Carried.

Decision 1 of 3

Moved by A. Diamond and seconded by J. Andrews,

"THAT Application A-15/12 for Bruce Everitt and Lora Gatto at 106 Clough Crescent, a variance from Interim Control By-law (2010)-19019 for 106 Clough Crescent, to permit an accessory apartment in the basement when the Interim Control By-law passed by City Council on June 7, 2010 prohibits the creation of new accessory units in R.1 and R.2 zoned portions of Ward 5 and all of Ward 6, be deferred sinedie, and in accordance with the Committee's policy on applications deferred sinedie, that the application will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application."

Carried.

Decision 2 of 3

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 J. Andrews and seconded by A. Diamond,

“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 Table 5.2.2 Row 15 of Zoning By-law (1995)-14864, as amended, for 106 Clough Crescent, to permit a driveway width of 5 metres (16.4 feet) when the By-law permits a driveway width of 3.2 metres (10.5 feet), be refused.”

Carried.

Decision 3 of 3

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,

“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 of Zoning By-law (1995)-14864, as amended, for 106 Clough Crescent, to permit two off-street parking spaces (one in the garage and one in the driveway) when the By-law requires three off-street parking spaces are provided for a dwelling with an accessory apartment, be refused.”

The Motion would not carry.

Moved by B. Birdsell and seconded by J. Andrews,

“THAT Application A-15/12 for Bruce Everitt and Lora Gatto at 106 Clough Crescent, be deferred to the March 13, 2012 meeting of the Committee of Adjustment, to enable staff to provide a report to the Committee on the investigation of dual water meters being approved and installed by City staff, 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-12/12

Owner: Shao Ming Ren, Xiao Ling Ma, Shao Qing Ma

Agent: Richard Yam

Location: 88 Amsterdam Crescent

In Attendance: Richard Yam
Shao Qing Ma

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. Yam replied yes, the sign was posted and the staff comments were received. He expressed concern that the reason the application could be refused would be the fact that neighbours are concerned about future problems with noise etc. which relate to rental housing.

Planner R. Kostyan explained there are six bedrooms in the upper unit which could become an illegal lodging house. She further explained that the Zoning Inspector has asked the owners for a letter confirming if the main unit is being rented out. She noted until a letter confirming the use of the house is received, a violation might exist. She continued by explaining that a dwelling cannot have both an accessory apartment and a lodging house.

Ms. S. Qing Ma explained her sister will reside in the basement and the upper unit is for her family.

Chair D. Kelly explained a letter stating this fact has been requested by Zoning Services to confirm in writing that the applicants are not using the dwelling as a lodging house.

Mr. R. Yam replied they do not have a written letter to confirm this.

Committee members encouraged the applicant to submit the documentation required to staff and reconsideration of the application would be delayed until this information was received.

Moved by J. Andrews and seconded by A. Diamond,

“THAT Application A-12/12 for Shao Ming Ren, Xiao Ling Ma and Shao Qing Ma at 88 Amsterdam Crescent, be deferred sine die, until the Zoning Inspector receives a letter from the owners confirming the main and upper floors of the dwelling are not being used as a lodging house, and that the applications will be considered to be withdrawn if not dealt with within 12 months of deferral.”

Carried

Application: A-13/12

Owner: Shao Ming Ren and Shao Qing Ma

Agent: Richard Yam

Location: 389 Ironwood Road

In Attendance: Richard Yam
Shao Qing Ma

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. Yam replied yes, the sign was posted and staff comments were received. He had no further information to add to the application.

The Committee discussed the application briefly and felt it would be best to defer the application pending the repeal of the Interim Control By-law.

Moved by J. Andrews and seconded by J. Hillen,

“THAT Application A-13/12 for Shao Ming Ren and Shao Qing Ma at 389 Ironwood Road, be deferred until a Council resolution has been rendered regarding the repeal of the Interim Control By-law (2010)-19019.”

Carried

Application: A-11/12

Owner: Matthew Drummond

Agent: n/a

Location: 16 Briarlea Road

In Attendance: Matthew Drummond
Jane Fridrich

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. Drummond replied yes, the sign was posted and the staff comments were received. He explained he has five tenants in the house and is applying for a variance to permit a lodging house. He commented the property is well maintained and if the Interim Control By-law would not be in place, it would meet all the regulations.

Ms. J. Fridrich, a resident of 26 Briarlea Road, commented the street is oversaturated with rental housing and she has called By-law Enforcement several times due to problems with rental housing in her neighbourhood. She explained they are looking to seek some relief from the City and is hoping the application will be refused.

Chair D. Kelly advised an accessory apartment or a lodging house in this zone are permitted uses. She explained the variance is from the Interim Control by-law which is going to be repealed by Council. She commented this dwelling would meet all the requirements of the by-law if the Interim Control By-law was not in place.

Secretary Treasurer K. Fairfull commented the Council is looking at a licensing program for rental housing. She advised those in attendance speak to councillors about the issues people are having in their neighbourhoods and to promote the licensing program.

Moved by J. Hillen and seconded by J. Andrews,

“THAT Application A-11/12 for Matthew Drummond at 16 Briarlea Road, be deferred until a Council resolution has been rendered regarding the repeal of the Interim Control By-law (2010)-19019.”

Carried

Application: **A-14/12**

Owner: **Hoa Vang**

Agent: **Huy Ton**

Location: **425 Cole Road**

In Attendance: **Huy Ton**
 Rosemarie Mazzocca
 Lane and Doug Aspinall
 Tom and Marilyn Nolan
 Mary and Gary Dunk
 Krys and Mike Mooney
 Mike Floto

Chair D. Kelly explained currently the Ontario Municipal Board is dealing with an appeal for a lodging house at 415 Cole Road. She explained if the Board refuses that appeal the variance can be brought forward for 425 Cole Road. She continued by explaining that if the Board allows the lodging house at 415 Cole Road, 425 Cole Road will have to return to the Committee to apply for a 100 metre separation distance variance. She commented a deferral for this application might be preferable.

February 14, 2012 C of A Minutes

Mr. H. Ton explained the dwelling has five bedrooms. He commented he was not aware of the fact that renting out five bedrooms creates a lodging house. He explained he is following the advice of the Zoning Inspector by applying for the variance but after April he will only rent four units. He noted he is able to convert one of the bedrooms back to a living room.

Planner R. Kostyan commented that the Ontario Municipal Board hearing for 415 Cole Road is on March 1, 2012. She recommended a deferral of this application until staff has received the results of the hearing.

Moved by J. Andrews and seconded by B. Birdsell,

“THAT Application A-14/12 for Hoa Vang at 425 Cole Road, be deferred until either a decision has been received from the Ontario Municipal Board dealing with the variance from the Interim Control By-law (2010)-19019 to permit a lodging house at 415 Cole Road or alternatively until City Council repeals the Interim Control By-law (2010)-19019, to identify if a separation distance variance is required for 425 Cole Road, and in accordance with the Committee’s policy on applications deferred, that the deferral application fee be paid prior to reconsideration of the application.”

Carried

Committee members explained the matters before City Council respecting shared rental housing and encouraged concerned neighbours to be involved in the licensing process being considered by City Council.

The meeting adjourned at 7:46 p.m.

D. Kelly
Chair

Minna Bunnett
Assistant Secretary-Treasurer