

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday May 14, 2013 at 4:00 p.m. in Room 112, City Hall, with the following members present:

R. Funnell –Chair
B. Birdsell
C. Downer
A. Diamond
L. McNair (from 4:30 p.m.)

Regrets: D. Kelly
J. Hillen

Staff Present: M. Witmer, Planner
K. Fairfull, Secretary-Treasurer
M. Bunnett, Assistant Secretary-Treasurer

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Meeting Minutes

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

“THAT the Minutes from the April 23, 2013 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

The Secretary-Treasurer advised that a settlement was reached on May 9, 2013 for Application A-4/13 being a separation distance variance for a lodging house located at 692 Scottsdale Drive and Application A-5/13 being a separation distance variance for a lodging house located at 41 Reid Court. The Ontario Municipal Board authorized both of the variances subject to conditions. Copies of the Settlement were distributed to Committee members.

The Secretary-Treasurer advised that a letter was received from the Ontario Municipal Board indicating that the May 15, 2013 hearing for Application A-4/12 for 553 Edinburgh Road South has been adjourned. The adjournment was requested by the property owner’s lawyer.

The Secretary-Treasurer advised there were two appeals received during the past month: Application B-13/13 being a long term lease at 130 Silvercreek Parkway, North (Winners) was appealed on May 1, 2013 and Application A-46/13 being refusal of a variance for off-street parking to permit an accessory apartment was appealed on May 8, 2013.

Application: **B-54/12**

Owner: **Teresa Marthaler**

Agent: **Stantec Consulting, Dan Young**

Location: **1858 Gordon Street**

In Attendance: **Dan Young**

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

Mr. Young replied the notice sign was posted and comments were received from staff. He explained they were before the Committee in November and after the deferral they met with staff and revised the application to address their concerns.

There were no questions from the members of the Committee.

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 C. Downer 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 Lot 11, Concession 8, 1858 Gordon Street, a parcel with a total area of 2.059 hectares (5.09 acres) as a lot addition to 1888 Gordon Street, subject to an easement over 1858 Gordon Street, with a width of 12.8 metres (42 feet) and a depth of 125.21 metres (410.75 feet) for future servicing for the consolidated 1888 Gordon Street, be approved, subject to the following conditions:

1. That the proposed severed parcel of land be conveyed to the abutting owner as a lot addition only (Form 3 Certificate).

2. That the following covenant is incorporated in the deed:-

"The conveyance of (Severed Lands - legal description - Lot and Plan), City of Guelph, County of Wellington, designated as (Part and 61R-Plan Number) as a lot addition only to (Legal Description of Lands to be joined with - Lot and Plan), and shall not be conveyed as a separate parcel from (Legal Description of Lands to be joined with - Lot and Plan)."

3. That prior to endorsation of the deeds, the servient tenement (1858 Gordon Street, Part of Lot 11, Concession 8, more particularly described as Part 1 of Reference Plan 61R-3081), grants an easement with a width of approximately 12.80-metres (42.00 feet) wide and a depth of approximately 125.2-metres (410.76 feet), registered on title, in favour of the dominant tenement (1888 Gordon Street, Part of Lot 11, Concession 8, more particularly described as Part 1 of Reference Plan 61R-3494), for potential future servicing requirements.
4. That prior to endorsation of the deeds, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying the required easement.
5. That prior to endorsation of the deeds, the owner's solicitor certifies that the easement, in favour of the dominant tenement (1888 Gordon Street, Part of Lot 11, Concession 8, more particularly described as Part 1 of Reference Plan 61R-3494), has been granted and registered on title.
6. That prior to the endorsation of the deeds, the applicant shall have an Ontario Land Surveyor show the location of the existing well, septic tank and tile beds, relevant to the existing and proposed property lines.
7. That prior to the endorsation of the deeds, the applicant shall satisfy the City's Chief Plumbing/Sewage System Inspector, that the well, septic tank and tile beds are located in accordance with all appropriate regulations.
8. That prior to any development of the lands, the owner deeds to the City free of all encumbrances a 5.00-metre (16.40 feet) by 3.00-metre (9.84 feet) day lighting triangle from 1858 Gordon Street at the corner of Poppy Drive and Gordon Street.
9. That prior to any development of the lands, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying the required day lighting triangle.
10. That prior to any development of the lands, the owner shall pay the proportionate share of the actual costs of the existing roadworks, existing watermain, sanitary sewer and storm sewers, catchbasins, service laterals, hydrants, sidewalks, curb and gutter and any street lighting upgrades on Gordon Street across the frontage of the said lands as determined by the General Manager/City Engineer.

11. That prior to any development of the lands, the owners will be required to connect the existing dwellings to the city's sanitary sewer and water main to the satisfaction of the City's Plumbing/Sewage System Inspector.
12. That prior to the connection of the existing dwellings to the city's sanitary sewer and water main, the owners shall decommission the existing septic tanks and tile bed systems and existing private wells to the satisfaction of the City's Plumbing/Sewage System Inspector.
13. That prior to any development of the lands, 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. Furthermore, the owner shall develop the said lands in accordance with the approved site plan.
14. That prior to any development of the 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.
15. That prior to any development of the lands, any domestic wells and boreholes drilled for hydrogeological or geotechnical investigations be properly abandoned in accordance with current Ministry of the Environment regulations and guidelines to the satisfaction of the General Manager/City Engineer.
16. That prior to any development of the lands, the owner shall enter into a Site Plan Control 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.
17. That all structures on the property line be completely removed prior to the endorsement of the deeds.
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 May 17, 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: B-22/13

Owner: Motton Custom Homes Ltd.

Agent: Van Harten Surveying Inc.; Jeff Buisman

Location: 86 Lane Street

In Attendance: Jeff Buisman
Henry Hanlon

Chair R. Funnell 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. He explained the property is located in older part of Guelph and they recently received approval from City Council for a rezoning to permit a semi-detached building. He explained the owner would like to separate the property to allow the sale of each unit.

Mr. Buisman advised he questioned staff about the recommendation the board fence along the right side lot line be removed. He noted staff researched the request for the removal and supported the fence remaining in the side yard of the proposed dwellings with the request to remove the fence in the front yard and within the driveway sightline triangle.

Staff agreed with this recommendation and suggested Condition 3 from Engineering Services be amended to request the board fence be removed in front yard area of 90 Lane Street and within the driveway sightline triangle.

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 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 of Lot 8, Range 2, Division ‘F’, to be known municipally as 88 Lane Street, a parcel with a frontage along Lane Street of 9.1 metres (29.85 feet) and a depth of 30.5 metres (100.06 feet), be approved, subject to the following conditions:

1. That the owner pays the watermain frontage charge of \$8.00 per foot of frontage for 60.0-feet (18.288 metres), prior to endorstation of the deeds.
2. That the owner pays for all the costs associated with the removal of the chainlink fence that is encroaching on the Public Laneway and on the Lane Street road allowance, prior to endorstation of the deeds.
3. That the owner pays for all the costs associated with the removal of the existing gravel, board fence located in the front yard area associated with 90 Lane Street and within the driveway sightline triangle and the 0.10-metre retaining wall from the proposed severed lands, prior to endorstation of the deeds.
4. That the owner pays the actual cost associated with the removal of the existing gravel within the road allowance from the area of the existing driveway entrance, the restoration of the boulevard with topsoil and sod where required including any required curb fill, with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid, prior to the issuance of any building permits.
5. That the owner pays the actual cost of the removal of the existing sanitary and water service laterals to the existing house within the road allowance and the public laneway, prior to endorstation of the deeds.
6. That the owner pays all the costs associated with the removal of the existing sanitary and water service laterals to the existing house from the proposed retained lands, satisfactory to the Plumbing Inspector, prior to endorstation of the deeds.
7. That the owner pays the actual cost of constructing new sanitary and water service laterals to the proposed retained lands and the proposed severed lands including the cost of any curb cuts and/or curb fills required, with the estimated cost of the

- works as determined necessary by the General Manager/City Engineer being paid, prior to the issuance of any building permits.
8. That the owner pays the actual cost of the construction of the new driveway entrances including the required curb cuts and/or curb fills, with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid, prior to the issuance of any building permits.
 9. That prior to the issuance of any building permits on the proposed retained lands and the proposed 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 proposed retained lands and the for the proposed severed lands.
 10. 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 endorsation of the deeds.
 11. That the owner constructs the new dwellings at such an elevation that the lowest level of the building can be serviced with a gravity connection to the sanitary sewer.
 12. That a legal off-street parking space is created on the proposed retained lands and the proposed severed lands at a minimum setback of 6.0-metres from the Lane Street property line.
 13. That the owner grades, develops and maintains the site in accordance with a Site Plan that has been submitted to and approved by 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 install sump pumps 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 shall make arrangements satisfactory to the Technical Services Department of Guelph Hydro Electric Systems Inc. for the installation of an underground hydro service to the proposed new dwelling, prior to the issuance of a building permit.

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. 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.
19. Prior to any severance of the lands and prior to any construction or grading on the lands, the Developer shall have a Professional Engineer design a grading and drainage plan for the site, satisfactory to the General Manager/City Engineer.
20. Prior to any severance and prior to any construction and grading of the lands, the Developer shall be responsible for all of the costs associated with the demolition and removal of the existing dwelling from the property.
21. That the developer/owner shall pay development charges to the City in accordance with By-law Number (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 thereto.
22. Prior to building permit, the owner shall pay to the City cash-in-lieu of park land dedication in accordance with By-law (1989)-13410, By-law (1990)-13545 and By-law (2007)-18225, as amended from time to time, or any successor thereof.
23. The Developer shall pay to the City the actual cost of the construction of the new driveways including the required curb cut and/ or fill and furthermore, prior to any severance of the lands and prior to any construction or grading on the lands, the Developer shall pay to the City the estimated cost for constructing the the new driveways including the required curb cut and/or fill, as determined by the General Manager/City Engineer.
24. The Developer shall pay to the City the actual cost of constructing, installing or removal of any service laterals required and furthermore, prior to any severance of the lands and prior to any construction or grading on the lands, the Developer shall pay to the City the estimated cost of constructing, installing or removal of any service laterals, as determined by the General Manager/City Engineer.
25. That the Developer constructs the new buildings at such an elevation that the lowest level of the new buildings can be serviced with a gravity connection to the sanitary.

26. That prior to building permit, the Developer complete a Tree Inventory & Protection Plan illustrating all existing trees (species, size, dbh, and condition) as well as protection during construction for trees that will remain, to the satisfaction of the General Manager of Planning Services.
27. That prior to building permit, the Developer complete a Landscaping, Replanting and Replacement Plan illustrating compensation trees, provided at a 3:1 ratio, to the satisfaction of the General Manager of Planning Services. ‘
28. 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 new dwelling units as determined by the City, prior to the issuance of any building permits.
29. That prior to building permit, the Develop agree to frost the centre window on the second storey facing north in the northerly semi-detached unit to improve privacy for the adjacent neighbours.
30. Prior to any severance and prior to any construction and grading of the lands, the Developer shall enter into an agreement with the City, registered on title, satisfactory to the General Manager/City Engineer and the Manager of Planning Services, covering the conditions noted above and to develop the site in accordance with the approved plans.
22. That prior to issuance of a building permit, the applicant makes arrangement for provision of hydro servicing to the two lots, satisfactory to the Technical Services Department of Guelph Hydro Electric Systems Inc. The servicing costs would be at the applicant’s expense.
23. 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 May 17, 2014.
24. 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.
25. 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.

26. 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-23/13

Owner: Norma and Henry Hanlon

Agent: Van Harten Surveying Inc.; Jeff Buisman

Location: 114 Nottingham Street

In Attendance: Jeff Buisman
Henry Hanlon

Chair R. Funnell 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 signs were posted and comments were received. He explained the Hanlon family owns the property (Henry Hanlon) and the properties have merged in title. He explained they have not completed a thorough boundary survey and have shifted some property lines to allow for a parking space for 114 Nottingham in addition to constructing one parking space to the left of 108 Nottingham Street.

There were no questions from the Committee.

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 C. Downer 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 Lot 259, Canada Company Survey, municipally known as 114 Nottingham Street, a parcel, triangular in shape, with a frontage along Nottingham Street of 21.5 metres and a depth along Bristol Street of 29.5 metres, be approved, subject to the following conditions:

1. That prior to endorsonation of deeds, the owner applies to the City Solicitor for an encroachment agreement and obtains approval for the encroachment of a portion of a covered porch with associated wood stairs, wood railings, wood posts, roof eaves and associated roof water leaders at 108 and 110 Nottingham Street and 114 Nottingham Street that encroaches onto the Nottingham Street road allowance.
2. That prior to endorsonation of deeds, the owner applies to the City Solicitor for an encroachment agreement and obtains approval for the encroachment of a portion of a wood deck with associated wood stairs and wood railings and a portion of the existing garage at 114 Nottingham Street that encroaches onto the Bristol Street road allowance.
3. That the owner pays the actual cost of the construction of the new driveway entrance at 108 Nottingham Street (the retained lands), with the estimated cost of the above-noted works as determined by the General Manager/City Engineer being paid, prior to endorsonation of the deeds.
4. That a legal off-street parking space be created on 108 and 110 Nottingham Street (the retained lands) behind the front wall of the building, prior to endorsonation of the deeds.
5. That a legal off-street parking space be created on 114 Nottingham Street (the severed lands) behind the front wall of the building, prior to endorsonation of the deeds.
6. 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 May 17, 2014.
7. 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.
8. 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.
9. 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-51/13
Owner: Heather, Janice and Adrian van Eck
Agent: Adrian van Eck
Location: 52 Paulstown Crescent
In Attendance: Adrian van Eck

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

Mr. Van Eck replied the notice sign was posted and comments were received from staff. He explained the house was originally constructed too high and they were advised by the builder after the foundation was poured. They are requesting the variance to provide access to an existing side door.

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 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 4.7 Row 1 of Zoning By-law (1995)-14864, as amended, for 52 Paulstown Crescent, to permit an uncovered porch and stairs to be setback 0.1 metres (0.32 feet) from the left side yard lot line when the By-law requires a minimum side yard setback of 0.6 metres (1.97 feet), be approved.”

Carried

Application: A-56/13
Owner: 1210967 Ontario Ltd.
Agent: Bill Lin
Location: 808 York Road

In Attendance: **Bill Lin**
 Andrew Jackson
 Paul Jackson

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

Mr. Lin replied the notice sign was posted and comments were received. He distributed a submission to Committee members and staff and explained the improvements that have occurred on the property since they purchased it. He requested permission to locate an office in one of the units.

The Committee reviewed the submissions and had no further questions.

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 B. Birdsell and seconded by A. Diamond,

“THAT in the matter of an application under Section 45(2)(a)(ii) of the Planning Act, R.S.O. 1990, c.P13, as amended, permission to change the legal non-conforming use at 808 York Road, to occupy a 78 square metre (840 square foot) unit which was previously occupied by an antique store to an office, be approved.”

Carried

Committee member L. McNair arrived at the meeting at 4:30 p.m.
He advised he had no declarations of pecuniary interest.

Application: **A-55/13**

Owner: **Christopher Jack Dearing Estate**

Agent: **FOF Capital Corp.; Andrew Amlinger**
 J. David McAuley Architects; Joel Bartlett

Location: **109 Norfolk Street**

In Attendance: **Andrew Amlinger**
 Joel Bartlett

**Gabe Frank
Ian Panabaker**

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

Mr. Amlinger explained they currently have an offer to purchase on the property and plan to renovate the building to provide offices in the entire building. He explained the proposal complies with the secondary plan principals and will result in economic viability in the downtown.

Planner M. Witmer advised he discussed need for a tree preservation plan on the subject property and noted the City's environmental planner identified a large tree adjacent to the parking and she wants to ensure it is protected.

Committee member L. McNair noted the Central Business District surrounds this property which does not require any parking.

Planner M. Witmer agreed with the Committee and noted this is why Planning Services recommend approval of this application.

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

Moved by L. 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 Sections 4.13.2.3, 4.13.3.2.3 and 4.13.4.3 of Zoning By-law (1995)-14864, as amended, for 109 Norfolk Street, to occupy the entire building with office uses, and,

- a) to permit three off-street parking spaces to be located within 3 metres of the Yarmouth Street street line when the By-law requires that no off-street parking be permitted within 3 metres of any street line;
- b) to permit the off-street parking spaces with a width of 2.5 metres when the By-law requires that off-street parking spaces have a minimum width of 2.75 metres, and,
- c) to permit a total of 3 off-street parking spaces when the By-law requires a total of 9 off-street parking spaces for office use.

be approved, subject to the following conditions,

1. That the owner pays the actual cost of the construction of the new driveway entrance and the required curb cuts and curb fills including the reconstruction of the pedestrian sidewalk across the new driveway entrance if required, with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid, prior to the issuance of a building permit.
2. That prior to the issuance of a building permit a tree preservation plan shall be submitted to the satisfaction of the General Manager of Planning Services.”

Carried

Application: A-50/13

Owner: Dira Construction Ltd.

Agent: Bob Foster

Location: 70 Yorkshire Street South

In Attendance: Ben DiRenzo
Bob Foster
Paul DiRenzo

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

Mr. Foster replied the notice sign was posted and comments were received from staff. He explained the property is located on the corner of Yorkshire Street and Bristol Street and was constructed in 1982 by the current owners. He noted the building is 30 years old and a new roof is necessary. He advised the owner wants to construct a pitched roof which is more sustainable and can provide better insulation, however it will change the building height, requiring a greater side yard. He noted there will be no physical change to the side yards.

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 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 Table 5.4.2 Row 8 of Zoning By-law (1995)-14864, as amended, for 70 Yorkshire Street South, to replace a flat roof with a gable roof creating an increase in building height of 1.37 metres (4.5 feet), and to permit a side yard of 3.14 metres (10.25 feet) when the By-law requires that where windows of a habitable room face on a side yard, such side yard shall have a minimum width of not less than 7.5 metres (24.60 feet), be approved, subject to the following condition:

1. That the minor variance be granted in accordance with the sketch submitted to the Secretary Treasurer of the Committee of Adjustment illustrating the existing building location with a side yard setback ranging from 3.14 metres to 4.64 metres.”

Carried

Application: A-52/13

Owner: Armel Corporation Inc.

Agent: B.A.R.A. Consulting, Brian Atkins

Location: 612 Speedvale Avenue West

In Attendance: Connie Levy
Tony Levy
Brian Atkins

Mr. B. Atkins replied that the sign was posted and the staff comments were received. He explained that he received the staff comments on Friday and was surprised to see engineering staff to state several issues. He further explained that they did not have enough time to respond back to the issues mentioned. He advised that engineering staff has asked for deferral so that a discussion can occur regarding the issues. He noted that they are agreeing to the deferral request from the City. He advised that these issues are not related to the property in question but to the property next door which is also owned by the same owner.

Chair R. Funnell informed the members of public attending that the agent is agreeing with the City's recommendation to defer the application until the issues are dealt with.

Mr. B. Atkins commented that he has already made a couple of phone calls to the members of the public who commented on the application advising them that it was expected that the application will be deferred and not to bother to come to the meeting.

Planner M. Witmer advised that several of the issues relate to the site plan and staff, including engineering, will discuss this with the applicant.

Committee member L. McNair questioned if a deferral for 120 days is sufficient.

Mr. B. Atkins replied that he agrees with the 120 days.

Moved by L. McNair and seconded by A. Diamond,

“THAT Application A-52/13 for Armel Corporation Inc. at 612 Speedvale Avenue West, be deferred until September 15, 2013, to provide the applicant an opportunity to address concerns and deficiencies with the existing site plan and that the deferral application fee be paid prior to reconsideration of the application.”

Carried

Application: A-57/13
Owner: Karen and Barbara Whyllie
Agent: Lillepold Architect; Marty Lillepold
Location: 113 Glasgow Street North
In Attendance: Marty Lillepold

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

Mr. M. Lillepold replied that the sign was posted and the staff comments were received. He explained that the staff comments mentioned only one condition and he had no other comments to add.

Planner M. Witmer commented that Heritage Guelph has provided a comment regarding this application after their meeting of May 13, 2013. He explained that Heritage Guelph has no concerns however they would like to review the final drawings prior to issuance of a building permit.

Committee member L. McNair commented that the wording of the Planning Services condition seems incorrect. He explained that the applicant has now applied for a minor variance and therefore the comment should be changed to say “That Heritage Guelph review and comment on the final design drawings prior to the issuance of a building permit.”

Planner M. Witmer explained that City's Senior Heritage Planner wanted to add the condition as per the wording on his email. He further explained that this property is not listed on the heritage registry but the adjacent property has been designated and according to their policy they need to review adjacent properties for any issues.

Mr. M. Lillepold commented that he has not run into a situation before where a neighbouring property has an effect.

Planner M. Witmer replied that the direction comes from the Provincial Policy Statement.

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 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 5.1.2 Row 7 and 8 of Zoning By-law (1995)-14864, as amended, for 113 Glasgow Street North, to permit a 5.21 metre by 6.08 metre addition to the residential unit for an attached garage to be located 3 metres (9.84 feet) from the rear lot line and 0.61 metres (2 feet) from the side lot line when the By-law requires a minimum rear yard of 6.5 metres (21.52 feet) and a minimum side yard of 1.5 metres (4.92 feet), be approved.

Subject to the following condition:

1. That Heritage Guelph Review and comment on the final design drawings prior to the issuance of a building permit."

Carried

Application: A-49/13
Owner: Christina Gray
Agent: n/a
Location: 25 Raglan Street
In Attendance: Christina Gray

Amy Gray

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

Ms. A. Gray replied that the sign was posted and the staff comments were received. She explained that they are asking for a parking variance in conjunction with an existing accessory apartment. She further explained that they are asking for the Committee to allow the street parking to count as part of the parking requirements they require. She commented that zoning staff stated that the parking has to be located on the subject property. She continued by commenting that the old lots are too narrow and therefore requires on-street parking. She noted that year round parking is permitted on the street. She also noted that the house has not changed since the 1930's and one vehicle fits perfectly on the property. She explained that the accessory apartment was created in 1992 by the previous property owner. She commented that after a discussion with the City's Zoning Inspector, she understands that due to the age of the apartment, they would only need to pass the safety requirements. She noted that by using the on-street parking they are able to provide three parking spaces. She passed along a petition in support of the application and mentioned that the neighbours would not be impacted by them using parking on the street. She explained that there is a railway opposite their property which provides ample parking on the street since there are no houses on that side of the street. She also explained that the soft landscaping will not be affected because the street parking already exists. She commented that this is a desirable use of the property and the high quality apartment attracts young professionals. She also commented that they are maintaining the general intent and purpose of the Zoning By-law because the use is permitted. She noted that the Official Plan mentions flexibility to maintain affordable housing and the City shall provide for the creation of accessory apartments, low impact housing forms for the lower density residential areas.

Committee member L. McNair questioned whether the applicant has proof that the apartment was created in 1992 and if there were any permits acquired.

Ms. A. Gray replied that they have an affidavit from the previous owner to indicate the year but there were no permits issued.

The Committee viewed the affidavit submitted by the applicant.

Planner M. Witmer explained that the accessory apartment is not considered to exist until it has been legally created.

Chair R. Funnell questioned if the applicant investigated if the apartment was legally created.

Ms. C. Gray replied that they did not and only assumed it was legal.

Committee member L. McNair commented that it seems that the sight line triangle indicates that there is no place to park a vehicle in front of the house.

Planner M. Witmer replied that you are not allowed to park a vehicle in the sight line triangle but there is a section in the Zoning By-law which allows for one off-street parking space in the front yard provided that the parking space is located 3.5 metres from the side lot line.

Committee member L. McNair commented that there is adequate parking on the street and they could park two vehicles across the street where there are no restrictions on street parking and no residences.

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 Sections 4.13.2.1 and 4.13.4.3 of Zoning By-law (1995)-14864, as amended, for 25 Raglan Street,

- a) to permit one legal off-street parking space when the By-law requires that a total of three off-street parking spaces be provided for a dwelling with an accessory unit, and
- b) to permit the one off-street parking space to be located ahead of the front wall of the main building, 0.14 metres (0.45 feet) from the front property line, when the By-law requires that in a R.1 zone, every required parking space shall be located a minimum distance of 6 metres (19.68 feet) from the front property line and to the rear of the front wall of the main building,

be approved.

Reasons for approval being:

1. There is the availability to park on the street,
2. There would be no adverse impact,
3. Edinburgh Road and Paisley Road are well serviced with bus routes, and
4. The apartment has existed for 20 years.”

Carried

Application: A-53/13
Owner: Theresa Shelton
Agent: n/a
Location: 172 Arthur Street North
In Attendance: Theresa Shelton
Marcel Schlaf

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

Ms. T. Shelton replied that the sign was posted and the staff comments were received. She explained that she is constructing an addition which requires the approval of Grand River Conservation Authority (GRCA) because the dwelling is located in the flood zone.

Planner M. Witmer commented that the construction began without a building permit and GRCA indicated that the main floor cannot have windows or doors but have to remain open. He explained that Planning Services staff is recommending approval of the application subject to the condition.

Mr. M. Schlaf, owner of 166 Arthur Street North, explained that he is speaking in favour of the application. He commented that the new property owner has gutted and renovated the dwelling. He further commented that a garage used to be located where the addition is going and this was used as an oil change pit. He explained that the new owner has removed multiple invasive tree species and a derelict shed. He noted that this is a positive development in the neighbourhood.

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 A. Diamond and seconded by C. Downer,

“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 for 172 Arthur Street North, with a 45 square metre (480 square foot) two storey addition which is located 2.82 metres (9.25 feet) from the left side yard property line and 8.6 metres (28.21 feet) from the rear yard property line, be approved,

subject to the following condition:

1. That the ground floor area of the addition be an open air structure with no windows or doors in accordance with the conditions of the Grand River Conservation Authority permit.“

Carried

Application: **A-54/13**

Owner: **Janet Morton and Colin Couch**

Agent: **n/a**

Location: **116 Johnston Street**

In Attendance: **Janet Morton**
 Colin Couch

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

Ms. Morton replied that the sign was posted and the staff comments were received. She explained that they moved to the neighbourhood 18 years ago and have now outgrown the house. She further explained that they either need to move out or expand. She commented that they like the neighbourhood and would rather stay.

There were no questions from the members of 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 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 4.6.1 i), Table 5.1.2 Rows 6 and 7, Section 5.1.2.4, Section 4.5.1 and Section 4.20.9 of Zoning By-law (1995)-14864, as amended, for 116 Johnston Street,

- a) to construct a 3.65 metre by 6.12 metre second storey addition to the rear of the dwelling in line with the existing building wall to be located 0.64 metres (2.12

- feet) from the left side lot line and 0.7 metres (2.31 feet) from the right side lot line when the By-law requires a minimum side yard of 1.5 metres (4.92 feet);
- b) to construct a 2.43 metre by 2.43 metre mudroom addition to the rear of the dwelling to be located 0.7 metres (2.31 feet) from the right side lot line when the By-law requires a minimum side yard of 1.5 metres (4.92 feet);
 - c) to construct a 5.86 metre by 4.87 metre detached accessory structure behind the main dwelling to be located 1.06 metres (3.5 feet) from the right rear lot line (adjacent to a public lane) and 0.6 metres (2 feet) from the rear lot line (adjacent to a public lane), and within a corner sight line triangle and in a front yard of a through lot, when the By-law requires that no accessory structure be located within the corner sight line triangle and that no accessory building be located in a front yard (through lot) or in a required exterior side yard [4.5 metres (14.76 feet)] and any building constructed on a through lot be setback the same as the nearest adjacent main building [18.8 metres (62 feet) from the rear lot line], and
 - d) to permit a 1.82 metre (6 foot) high solid board fence extending along the exterior side lot line (adjacent to a public lane) up to the front corner of the proposed accessory structure when the By-law permits a maximum fence height of 0.8 metres (2.62 feet),

be approved, subject to the following conditions:

1. That the owner shall remove the existing board fence from the laneway right-of-way, prior to the issuance of any building permits.
2. That the detached accessory structure not be used for human habitation, parking, or a home occupation.”

Carried

Application: A-48/13

Owner: Zbigniew Pawelec

Agent: Tomasz Kedzior

Location: 28 Rodgers Road

In Attendance: Lorne Pennington
Jen Martin
Tomasz Kedzior
Geza Simon
Mischa Skoropad
Grant Perry

May 14, 2013 C of A Minutes

Mr. T. Kedzior explained that he had a discussion with the City's planner and would like to ask for a deferral of the application for one month.

Planner M. Witmer commented that staff agrees with the request for a deferral. He expressed concern that one month might not be enough time to resolve the issue.

Committee member L. McNair advised the applicant that if the Committee gives him three months for a deferral, he does not have to wait that long to return.

Chair R. Funnell explained that they do not want to get into a lot of dialogue regarding the application due to some members not being present.

Committee member C. Downer questioned staff how the issue of 56 metre separation distance is resolved with a deferral of the application.

Planner M. Witmer replied that the owner submitted a letter explaining a legal case from St. Catharine's regarding common lease and human rights. He explained that this is a fairly recent case and that he would need to investigate this further.

Ms. J. Martin, a neighbouring property owner, commented that according to the rental advertisement, six rooms are being advertised which means that it is not under a common lease.

Committee member A. Diamond commented that she would like to hear the application.

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

Mr. T. Kedzior replied that he posted the sign several times because it kept falling down. He also replied that he did receive the staff comments. He explained that after talking with the City's Planner he would prefer to defer the application. He commented that if the Committee would prefer to hear the application instead, he can agree to that.

After a brief discussion, the Committee members agreed that they would like to hear the application.

Committee member L. McNair commented that after reading the law case from St. Catharine's, perhaps the Committee is not dealing with a lodging house and it is hard to make a decision on the application.

Planner M. Witmer commented that staff would like to have the opportunity to investigate this matter further.

The Secretary-Treasurer commented that she believes the St. Catharine's case has also been discussed in the building department in relation to the regulations under the Ontario Building Code.

Mr. M. Skoropad of 35 Rodgers Road commented that there are numerous rental properties already on Rodgers Road. He explained that the situation has gotten worse over the years. He commented that it is difficult for landlords to evict renters due to the regulations under the Landlord and Tenant Act. He also commented that adding a six person lodging house will be detrimental to the neighbourhood.

Mr. L. Pennington of 26 Rodgers Road mentioned that he has noticed increase of garbage on the property and the dwelling is already used by six tenants. He commented that he has received 47 signatures on a petition which he handed over to the Committee members.

Mr. G. Perry of 36 Rodgers commented that they already have problems with the increase in noise, shopping carts and beer bottles on his property.

Ms. J. Martin of 15 Rodgers Road commented that the expectation is that everyone complies with the zoning regulations. She explained that there currently exist four lodging houses within 30 metres of her property. She noted that she did not see a sign on the property informing of the application. She commented that she objects to any variance to the current by-law.

Mr. T. Kedzior explained that the neighbours do have the option of complaining to the City if the by-laws are not being followed. He commented that there is no connection to Sidney Crescent from Rodgers Road and should not have an effect. He noted that he placed the variance sign on a tree on the first day and was not able to control the sign being up 24 hours. He explained that currently the dwelling is rented to a family of five.

Committee member C. Downer commented that if the application is refused, he cannot to rent to six individuals in the future.

Planner M. Witmer commented that if a family is currently living in the dwelling, a variance might not be required. He further commented that a deferral of the application is required.

Mr. T. Kedzior explained that he would like to defer the application because he would want to be clear in the future what is going on. He commented that he cannot guarantee how long the family will reside in the house. He noted that he would like the opportunity to meet with the City's Planner to discuss the issue and defer the application.

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

Moved by C. Downer 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 4.25 Row 3 of Zoning By-law (1995)-14864, as amended, for 28 Rodgers Road, to permit a six bedroom lodging house in a single detached dwelling within 56 metres of an existing lodging house located at 40 Sidney Crescent when the By-law requires that a minimum separation between buildings being used as a Lodging House Type 1 shall be 100 metres, measured from the closest points of the two properties at the property line, be refused.

Reasons for refusal being:

1. The circumstances are not exceptional,
2. The 56 metre separation distance is not minor in nature as the neighbourhood is already dense due to student housing.”

Carried

The meeting adjourned at 7:35 p.m.

R. Funnell
Chair

Kim Fairfull, ACST
Secretary Treasurer

Minna Bunnett, ACST(A)
Assistant Secretary-Treasurer