COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday June 26, 2012 at 4:00 p.m. in Meeting Room 112, City Hall, with the following members present:

R. Funnell
J. Hillen
B. Birdsell
J. Andrews
A. Diamond
L. McNair – Chair
D. Kelly, Vice-Chair

Staff Present: R. Kostyan, Planner
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 R. Funnell and seconded by J. Andrews,

"THAT the Minutes from the June 12, 2012 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated."

Carried

Other Business

The assistant secretary-treasurer advised that the owner of 302 Metcalfe Street, application A-59/12, has submitted a letter requesting consideration for a refund of the deferral fees.

Application: **A-81/12**

Owner: **Reid's Heritage Homes**

Agent: **n/a**

Location: **3 Samuel Drive**

In Attendance: **Alfred Artinger**

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

Mr. A. Artinger replied that the sign was posted and the staff comments were received. He explained that the garage is being converted into office space and once sales are finished, the office space will be turned back into a garage. He commented that they have reviewed the recommended conditions and agree with them.

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. Hillen,

"THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 5.1.1 and 4.13.2.1 of Zoning By-law (1995)-14864, as amended, for 3 Samuel Drive, to permit a model home / sales office with the sales office occupying the required off-street parking space when the By-law requires that residential units only be permitted on the subject property and to permit the off-street parking space be located 0 metres from the street line and ahead of the main front wall of the building when the By-law requires that the off-street parking space be located a minimum of 6 metres (19.68 feet) from the street property line and to the rear of the main front wall of the building, be approved subject to the following condition:

1. That the owner enters into a Site Plan Agreement registered on the title of the properties prior to the issuance of a building permit, requiring that the real estate sales office be removed within the garage and the garage restored to accommodate a 3 metre by 6 metre parking space for the

dwelling, prior to the transfer of title to a subsequent owner or within 3 years of the issuance of the building permit."

Carried

Application: **A-68/12**

Owner: **Friederike ZuSieker**

Agent: **Mark H. Janzen Real Estate Brokerage, Mark H. Janzen**

Location: **49 Gordon Street (15 Surrey Street West)**

In Attendance: **Mark Janzen**

The Assistant Secretary-Treasurer advised that Engineering Services has requested that condition number two of the staff recommendations be removed.

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

Mr. M. Janzen replied that the signs were posted and he did receive the staff comments. He explained that currently the plaza has a vacant unit and a veterinary clinic is interested in opening a business there. He further explained that the zoning does permit a veterinary clinic but only with residential units above. He commented that he should have a site plan finalized shortly which was requested by Engineering Services.

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 B. Birdsell,

"THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 6.6.3.1.1 of Zoning By-law (1995)-14864, as amended, for 49 Gordon Street, Unit 4, to permit a 234.6 square metre (2,526 square foot) veterinary service when the By-law only allows a veterinary service if located at the ground level of a multiple-unit residential building, be approved subject to the following conditions:

1. The owner submits an as-built site plan and receives approval from the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan indicating the location of existing buildings, landscaping, parking, circulation, access, lighting, grading and drainage, servicing, to the satisfaction of the General Manager of Planning and Building, prior to the issuance of a building permit for a veterinary service establishment in Unit 4 or prior to occupying any space in the plaza.

2. That the owner shall develop the property in accordance with the approved as-built plan, within one hundred and twenty (120) days of site plan approval."

Carried

Application: **A-59/12**

Owner: **Hugo and Jacqueline Jimenez**

Agent: **n/a**

Location: **302 Metcalfe Street**

In Attendance: **Hugo Jimenez**

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

Mr. H. Jimenez replied that the sign was posted and the staff comments were received. He explained that he is planning to build an addition to the side of the house which consists of a garage and bedrooms upstairs. He noted that there was a miscommunication regarding the side yard variance and he is amending the request of 2.5 feet setback to 3 feet instead. He continued by noting that Planning Services does not seem to have a concern with the 3 foot request.

Planner R. Kostyan replied that Planning Services still has a minor concern with the 3 foot setback request but by amending the variance request, Planning Services is able support it.

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

Moved by R. Funnell and seconded by 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 5.1.2.7 i) and Table 5.1.2 Row 7 of Zoning By-law (1995)-14864, as amended, for 302 Metcalfe Street, to permit a 6.4 metre by 9.45 metre (21 foot by 31 foot) two storey addition:

a) be setback 7.84 metres (25.75 feet) from Metcalfe Street property line when the By-law requires any addition have a setback equal to the average of the setbacks within the same block face [8.3 metres (27.23 feet) from Metcalfe Street], and,
b) be located 0.91 metres (3 feet) from the left side lot line when the By-law requires any addition be setback a minimum of 1.5 metres (4.92 feet) from the side property line,

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 cut, with the estimated cost of the works as determined by the General Manager/City Engineer being paid, prior to the issuance of any building permits.

2. That the owner pays the actual cost associated with the removal of the existing driveway entrance, the restoration of the boulevard with topsoil and sod and the required curb fill, as determined necessary by the General Manager/City Engineer being paid, within sixty (60) days of the issuance of any building permits.

Reason for approval being:

1. The minor variance meets the four tests of the Planning Act."

Carried.

The Assistant Secretary-Treasurer reminded the Committee that a written request for a reduction in the deferral fee was received from the applicant.

Committee member Donna questioned staff whether a refund of the deferral fees would cover the cost of processing the applications.

The Secretary-Treasurer replied that a full review was required for the application and the deferral fee submitted for the application will barely cover the works involved.

Moved by R. Funnell and seconded by D. Kelly,

"THAT no action be taken on the request for refund from Hugo Jimenez for application A-59/12 at 302 Metcalfe Street."

Carried

Application: **A-78/12**

Owner: **John and Michelle Kelly**

Agent: **n/a**

Location: **22 Curzon Crescent**

In Attendance: **John and Michelle Kelly**
Colleen Kelly

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

Mr. J. Kelly replied that the sign was posted and the staff comments were received. He explained that they purchased the house three years ago and at that time there were patio stones on one side of the driveway. He further explained that they decided to replace the patio stones with asphalt. He commented that it is difficult to find room to park on the street and they can barely fit one vehicle inside their garage. He further commented that with the new garbage bin system the City is introducing, they have to be able to fit the new large garbage bins inside their garage as well. He commented that if the widened portion of the driveway was a walkway consisting of patio stones, he would be able to keep it. He noted that it seems there are several properties on Curzon Crescent with the same problem and he questioned whether the City is enforcing the by-laws for all the properties.

Planner R. Kostyan replied that there has been complaints regarding driveway widths on Curzon Crescent and the By-law Officer has been enforcing these infractions. She further clarified that if a patio stone walkway has been constructed, it is not allowed to be used for parking.

Mr. J. Kelly questioned whether the same rules pertain also to single detached dwellings and duplex dwellings.

Planner R. Kostyan replied that there are different regulations depending on the zone and the site. She explained that, as an example, some single detached dwelling zones might allow for a driveway width of 56% of the front yard but a semi-detached dwelling would only allow for 40%.

Chair L. McNair questioned whether the owner is parking two vehicles side by side in the driveway.

Mr. J. Kelly replied that they do park two vehicles side by side during summer due to visitors but not during the winter.

Planner R. Kostyan commented that the Zoning Inspector can help the owner with Zoning By-law regulations and possibly give him some options.

Chair L. McNair questioned whether the owner can get to the rear yard without going through the house.

Mr. J. Kelly replied that he does have access to the back yard without going through the house.

Ms. C. Kelly, the mother of the owner, explained that the area has problems with parking on the street and often there are no parking spaces available. She commented that, in her opinion, there should be some leniency towards people who are trying to organize parking on their property instead of parking on the street. She noted that it is almost impossible to unload a vehicle without scratching the neighbour's vehicle. She expressed concern with more vehicles being parked on the street if the property owners are not allowed to widen their driveways to be able park on their driveways.

Committee member D. Kelly commented that the intent of the Zoning By-law is to make sure the front yards do not turn into parking lots which would leave no room for landscaping.

> 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,
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> Moved by R. Funnell and seconded by D. Kelly,
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> "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 5.3.2.8 of Zoning By-law (1995)-14864, as amended, for 22 Curzon Crescent, to permit a driveway width of 4.9 metres (16 feet) which is 1.2 metres (3.93 feet) beyond the permitted driveway width when the By-law requires that the front yard on any lot, excepting the driveway, shall be landscaped and no parking shall be permitted within this landscaped open space and that the driveway width shall not exceed the garage width of the unit, as measured from the outside walls of the garage, be refused.
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> Reasons for refusal being:

1. The variance request does not meet the four tests of the Planning Act for a minor variance.
2. The general intent and purpose of the By-law will not be maintained."

Chair L. McNair commented that, in his opinion, the neighbours could get together as a group to discuss rezoning which is considered by Council.

Carried

Application: **A-80/12**

Owner: **Weidong, Wo Jun and Ye Qing Zhao**

Agent: **n/a**

Location: **28 Curzon Crescent**

In Attendance: **Weidong Zhao**

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

Mr. Zhao replied the notice sign was posted and comments were received from staff. He noted the nature of the application is the same as the previous one considered by the Committee. He questioned if there was alternatives which could be implemented, such as potted plants that would delineate the driveway and the walkway to decrease the driveway width.

Planner R. Kostyan suggested the owner contact the Zoning Inspector to determine how to bring the property into compliance with the Zoning By-law.

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 D. Kelly 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 5.3.2.8 of Zoning By-law (1995)-14864, as amended, for 28 Curzon Crescent, to permit a driveway width of 4.9 metres which is 1.2 metres beyond the permitted driveway width when the By-law requires that the front yard on any lot, excepting the driveway, shall be landscaped

and no parking shall be permitted within this landscaped open space and that the driveway width shall not exceed the garage width of the unit, as measured from the outside walls of the garage, be refused.

Reasons for refusal being: -

1. The variance does not meet the four tests for minor variance.
2. The general intent and purpose of the By-law will not be maintained."

Carried

Application: **A-79/12**

Owner: **Carol McCluskey**

Agent: **n/a**

Location: **103 Lynch Circle**

In Attendance: **Carol McCluskey**

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

Ms. McCluskey replied the notice sign was posted and comments were received from staff. She noted the accessory apartment has existed for five years and a complaint was lodged against the property requiring an inspection by Zoning Services staff. She explained when she moved in the basement had a rough –in bathroom and the area was framed for a kitchen and she completed the work and has been renting the unit. She noted she originally purchased the dwelling with her son and his girlfriend to share expenses, however their relationship ended and he moved out. She submitted letters in support of the application from her neighbours. She noted they only require a single driveway as two cars maximum are located at any one time and noted there is sufficient driveway depth to accommodate three stacked parking spaces. She noted the extra width was added to assist in the jockeying of cars. She explained the terms of rental of the unit and advised there has never been any complaints about the tenants.

Committee member J. Hillen questioned if the alternative to the additional driveway width could be to provide two off-street parking spaces in lieu of three.

Committee member D. Kelly noted the property is not large enough to accommodate an accessory apartment as driveway not large enough to accommodate three parking spaces

without relying on the road allowance. She noted the property was originally designed to accommodate two parking spaces only.

Planner R. Kostyan explained if the property is not suited for a wider driveway. She noted the original builder received a variance for building coverage of 47% for the dwelling but this does not give the owner the option of expanding their driveway 47%.

Committee member D. Kelly explained that granting a variance goes with the property.

Ms. McCloskey explained she is allowed an accessory apartment in the R.2 zone and because she cannot meet the zoning standards for driveway width and area she cannot have the unit. She questioned why the three spaces cannot be stacked in the driveway.

Planner M. Witmer explained there is clearly one legal space in the garage and one spot in the driveway without relying on the City's road allowance.

Chair L. McNair questioned how wide the driveway was.

Ms. McCluskey replied the driveway is 16.5 feet wide.

Chair L. McNair expressed his concerns how an R.1D lot can have a driveway covering 55% of the front yard and the R.2 zone only allows 40% of the front yard.

Ms. McCluskey explained the neighbourhood has cars all over the street and supplying the off-street parking in her driveway is not aggravating the situation.

Planner R. Kostyan noted the builder has chosen to ask for a variance to have the coverage of the house 47% in lieu of 40% and driveway is occupying more green space on this property than the by-law requirements which is a further reduction in green space.

> 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,
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> Moved by D. Kelly and seconded by R. Funnell,
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> "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 4.15.1.5 and Table 5.2.2 Row 15 of Zoning By-law (1995)-14864, as amended, for 103 Lynch Circle, to:
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> a) permit a 87.1 square metre (937 square foot) two bedroom accessory apartment in the basement when the By-law requires that the accessory apartment shall

not exceed 45% of the total floor area of the building and shall not exceed 80 square metres (861.1 square feet) in floor area, and,

b) permit a driveway width of 5 metres (16.4 feet) when the By-law requires that a driveway shall not constitute more than 40% of the front yard [3.72 metres (12.20 feet)] which constitutes 53.76% of the front yard,

be refused.

Reasons for refusal being: -

1. The variances do not meet the intent of the Zoning By-law.
2. The variances do not meet the four tests for minor variance."

Carried

Application: **A-82/12**

Owner: **Monj Islam and Vicky Canham**

Agent: **n/a**

Location: **20 Durham Street**

In Attendance: **Monj Islam**

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

Mr. Islam replied the notice sign was posted and comments were received from staff. He explained they propose to construct an addition to the rear of the dwelling and upon further research it was discovered they required a variance for an existing shed. He noted they recently purchased the property and propose a two storey addition for open living/dining space and two bedrooms upstairs.

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 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 Table 5.1.2 Row 7 and Section 4.5.1.2 of Zoning By-law (1994)-14864, as amended, for 20 Durham Street, to:

a) permit a 75.8 square metre (815.9 square foot) two storey addition at the rear of the dwelling to be located 0.63 metres (2 feet) from the right side property line when the By-law requires a minimum setback of 1.5 metres (4.92 feet) from the side lot line, and,
b) to permit a 2.4 metre by 3.04 metre (8 foot by 10 foot) shed in the rear yard to be located 0.3 metres (1 foot) from the right side yard property line when the By-law requires a minimum setback of 0.6 metres (1.97 feet) from any lot line,

be approved, subject to the following condition:

1. That prior to the issuance of a building permit, the owner applies to the City Solicitor for an encroachment agreement and obtains approval for the encroachment of a portion of the existing roof enclosed porch, concrete floor, concrete columns complete with wood pillars that encroach on the Durham Street road allowance."

Carried

The meeting adjourned at 5:15 p.m.

L. McNair
Chair

Kim Fairfull, ACST
Secretary-Treasurer

Minna Bunnett, ACST(A)
Assistant Secretary-Treasurer