

Committee of Adjustment
Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Tuesday October 9, 2012 with the following members present:

R. Funnell, Chair (from 4:00 p.m. to 4:30 p.m.)
L. McNair, Chair (from 4:30 p.m.)
A. Diamond
J. Hillen
B. Birdsell
J. Andrews (from 4:10 p.m.)

Regrets: D. Kelly

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

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Approval of Minutes from Last Meeting

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

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

Carried.

Other Business

The Secretary-Treasurer explained the appeal from the owner of 106 Clough Crescent; being Application A-15/12 was withdrawn on October 2, 2012 therefore the decision of refusal is now final. She noted inspection staff has been notified of the decision.

The Secretary-Treasurer explained the decision was received from the Ontario Municipal Board granting the appeal for Application A-13/11 at 387 Ironwood Road. She advised all variances requested were approved by the Ontario Municipal Board.

Application: B-50/23

Applicant: Coldpoint Properties Ltd.

Agent: A. Bruce Donaldson

Location: 1 and 25 Wilbert Street

In Attendance: A. Bruce Donaldson

Chair R. Funnell questioned if the signs had been posted in accordance with Planning Act requirements. Mr. Donaldson replied the notice sign was posted and staff comments were received. He explained the owner has an offer to purchase on the property at the corner of Wilbert Street and Elmira Road. He explained the property comprises 3 acres and the purchaser would like an additional acre. Committee member A. Diamond questioned the use of the proposed lot.

Planner M. Witmer explained the property had SC zoning. He read the uses permitted in this zone.

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 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 Block 8, Registered Plan 61M-126, 25 Wilbert Street, a parcel with a frontage along Wilbert Street of 33.558 metres and a depth of 120.593 metres, as a lot addition to the abutting parcel municipally known as 1 Wilbert 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. 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.
4. That the conditions outlined in the Subdivision Agreement registered on title as Instrument Number WC113734 also be implemented.

5. 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 October 12, 2013.
6. 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.
7. 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.
8. 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.

Committee member J. Andrews arrived at the meeting at 4:10 p.m. He had no declarations of pecuniary interest.

Application: A-103/12
Applicant: Tom Pritchard
Agent: Tom Pritchard
Location: 26 Heritage Drive
In Attendance: Tom Pritchard

Chair R. Funnell questioned if the signs had been posted in accordance with Planning Act requirements.

Mr. Pritchard replied the notice sign was posted and comments were received from staff. He explained he constructed a fence which included the partial structure for the pergola and proposes to construct a hot tub which would be located under the pergola.

Committee member J. Hillen questioned if the location of the fence was measured from the sidewalk or from the survey plan for the dwelling.

Planner M. Witmer noted Engineering staff confirmed the measurements on site to confirm the encroachment.

Mr. Pritchard noted he had the fence installed by a company and they have agreed to move the fence.

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, cP13, as amended, variances from the requirements of Sections 4.5.5.3 and 4.5.1.2 of Zoning By-law (1995)-14864, as amended, for 26 Heritage Drive, to permit a hot tub to be located 0.6 metres (1.96 feet) from the rear and left side lot line when the By-law requires hot tubs be located a minimum of 1.5 metres (4.92 feet) from any lot line and to permit an existing pergola to be located 0 metres from the rear and left side yard property lines when the w requires accessory structures be located a minimum of 0.6 metres (1.96 feet) from any lot line, be approved, subject to the following condition:

1. That prior to the issuance of a building permit, the owner shall remove and relocate the portion of the wood fence that encroaches on the City road allowance and reinstalls the fence onto the property line to the satisfaction of the General Manager/City Engineer.”

Carried.

Application: A-106/12

Applicant: University of Guelph/Fionn MacCools

Agent: Astrid Clos

Location: 492-502 Edinburgh Road, South

In Attendance: Astrid Clos
Jerry Auger

Chair R. Funnell questioned if the signs had been posted in accordance with Planning Act requirements.

Ms. Clos replied the notice signs were posted and comments were received from staff. She noted the approved site plan was circulated with the public notice. She noted the property owner re-lined the parking area to comply with the approved site plan, which caused distress to the Metro staff who had received complaints accessible parking was removed. She explained accessible parking is still being provided on site however the customers prefer parking at the front of the store which resulted in the loss of two additional parking spaces.

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, for 492-502 Edinburgh Road, South, to expand the patio area for Fionn MacCools (additional 40 seats) which will be located 1.5 metres from a parking space when the By-law requires a minimum clearance of 3 metres between an outdoor patio and a parking space and to permit a total of 516 off-street parking spaces when the By-law requires a total of 519 off-street parking spaces be provided on site, be approved, subject to the following conditions:

1. That the Owner develops the property in accordance with the approved redlined site plan, prior to July 31, 2013.
2. That prior to the use of the patio, the applicant shall provide a certification from a Professional Engineer, which states that adequate safety features have been constructed to prevent vehicles from leaving the parking space, parking aisle or driveway and hitting any person or persons on the patio.”

Carried.

Application: A-102/12
Applicant: Rob and Tammy Conley
Agent: Rob Conley
Location: 1 Parkview Crescent
In Attendance: Rob and Tammy Conley

Chair R. Funnell questioned if the signs had been posted in accordance with Planning Act requirements.

Mr. Conley replied the notice signs were posted and comments were received from staff. He noted they met with municipal staff to register an accessory apartment and was advised the off-street parking area which has existed since the house was constructed did not comply with By-law requirements. He noted their home does not contain an attached garage and the three off-street parking spaces required are located in the exterior side yard. He explained a fence and mature tree would have to be removed to provide the parking area in the rear yard area. He noted staff has requested the driveway width be minimized to a width of 7.5 metres and they are in agreement with the recommendation as they plan to pave their driveway.

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.P23 as amended, variances from Section 4.13.2.1 of Zoning By-law (1995)-14864, as amended, for 1 Parkview Crescent, to maintain the existing driveway from Fairmeadow Drive to accommodate the three required off-street parking spaces when the By-law requires the legal off-street parking space be located 6 metres from the street line and to the rear of the front wall of the main building, with a maximum width of 7.5 metres, be approved,

and a variance from Section and 4.13.7.2ii) of Zoning By-law (1995)-14864, as amended, to permit a driveway width of 8.84 metres when the By-law requires the driveway have a maximum width of 7.5 metres, be refused.”

Carried.

Chair L. McNair arrived at the meeting at 4:30 p.m. He had no declarations of pecuniary interest.

Application: A-104/12
Applicant: Kathryn Constantopoulos/Edward Gal
Agent: Kathryn Constantopoulos
Location: 75 Martin Avenue
In Attendance: Kathryn Constantopoulos

Chair L. McNair questioned if the sign had been posted in accordance with Planning Act requirements.

Ms. Constantopoulos replied the notice sign was posted and comments received from staff. She explained they recently purchased the house and have two small children. She explained when they enter driveway they cannot open their car doors due to the width of the driveway and the location of the retaining walls. She explained they propose to widen their driveway and construct an entrance stair to an enclosed porch to improve the functionality. She noted they currently park on Fairview Boulevard due to the width of the driveway. She noted she reviewed the comments from staff and advised they were willing to apply for an encroachment agreement.

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,

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

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

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 4.7 – Row 2 of Zoning By-law (1995)-14864, as amended, for 75 Martin Avenue, to construct a porch, stairs and retaining wall in the Martin Avenue setback area which would be located 0 metres from the Martin Avenue lot line [and project 2.24 metres into the municipal right-of-way] when the By-law requires that an uncovered porch above 1.2 metres be situate a minimum of 0.8 metres from any lot line, be refused.”

Reasons for refusal being: -

1. The variance is not minor in nature when considering the amount of encroachment on the City’s road allowance to support the extension.”

Carried.

Application: A-105/12
Applicant: Joan Flaherty
Agent: Joan Flaherty
Location: 195 Paisley Street
In Attendance: Joan Flaherty

Chair L. McNair questioned if the sign had been posted in accordance with Planning Act requirements.

Ms. Flaherty replied the notice sign was posted and comments were received from staff. She explained they wish to construct a dormer addition to the rear of her house on the upper level.

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 for 195 Paisley Street, to construct a 3 metre by 4.3 metre (10 foot by 14 foot) dormer addition on the second floor which will be constructed in line with the existing building wall, 6.4 metres (21 feet) from the left side property line, be approved.”

Carried.

Applications: B-48/12 and B-49/12
Applicant: Guelph Watson 5-3 Inc./Guelph Grangehill Developments Limited

Agent: Keith MacKinnon; KLM Planning Partners Inc.

Location: Starwood Drive and Fleming Road

In Attendance: Keith MacKinnon

Chair L. McNair questioned if the signs had been posted in accordance with Planning Act requirements.

Mr. MacKinnon replied the notice signs were posted and comments were received from staff. He explained both owners have current development applications and the land exchange will provide the opportunity to equal ownership of a future road allowance.

Application B-48/12

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

Moved by R. Funnell and seconded by J. Hillen,

"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 Block 46, Registered Plan 61M-85, Frasson Drive, a parcel with an area of 411 square metres, as a lot addition to 115 Fleming Road, 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 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 October 13, 2013.
4. 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.
5. 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.

6. 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-49/12

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

Moved by R. Funnell and seconded by J. Hillen,

"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 5, Concession 3, Division 'C', being Part 18, Reference Plan 61R-7989, 11 Starwood Drive, a parcel with an area of 1,202 square metres, as a lot addition to 115 Fleming Road, 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 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 October 13, 2013.
4. 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.
5. 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.
6. 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-107/12

Applicant: Guelph Campus Co-operative

Agent: Lloyd Grinham

Location: 1 Hales Crescent

**In Attendance: Lloyd Grinham
Tom Klein Beernink
John Gruzleski
Anton Meiering
John Campbell
Winn Halina
Gerry Hyde
Roy Allingham
Joanne and Stewart Schinbein
John Romeo**

Chair L. McNair questioned if the sign had been posted in accordance with Planning Act requirements.

Mr. Grinham replied the notice signs were posted and comments were received from staff and neighbours. He explained they applied for a rezoning application in 1999 which was appealed to the Ontario Municipal Board. He noted the Ontario Municipal Board approved a 40 unit, 150 bed development and they only plan on constructing 18 residential units with 72 beds comprising Phase 1 of redevelopment of the site. He explained the particulars involve in Phase 2 of the project which will encompass underground parking and amenity area for the entire development. He noted the majority of the parking required for the site (29) is related to the commercial component, which eventually will be removed. He explained the aspects proposed for the development comprising Phase 2 when the underground parking will be more financially feasible.

Committee member R. Funnell expressed concerns about the private amenity area being provided.

Mr. Grinham explained the requirements for private amenity area for a stacked townhouse is 10 square metres and they are able to provide 8 square metres. He noted more amenity area can be provided when Phase 2 is complete.

Committee member A. Diamond questioned if the units will be rented by families or individual students.

Mr. Grinham replied each unit contains 4 bedrooms which will be rented to individual students.

Mr. Gruzleski requested the Committee defer the application to address the concerns expressed by the Ontario University Residents Association. He expressed further concern the liaison committee had not been established which was a recommendation from the Ontario Municipal Board.

Mr. Romeo expressed concerns about the density of the project and the impact on parking.

Anton Meiring expressed many concerns in the neighbourhood resulting from student housing.

Mr. Grinham explained staff has been reviewing this proposal for 1 year and the concerns expressed by neighbours related to storm water management and parking have been addressed. He noted the density of the development is less than what was approved by the Ontario Municipal Board. He noted when the site plan is near finalization staff has committed to inviting the liaison committee to review the plans.

Committee member R. Funnell questioned if the amenity area and landscaped open space could be accommodated to comply with the By-law.

Mr. Grinham replied it would result in the projecting being scaled down and not be feasible financially.

Chair L. McNair questioned if the variances requested could be applied to Phase I only.

Mr. Grinham replied they would have no objection to this recommendation.

Mr. Hyde questioned when the anticipated construction will commence.

Mr. Grinham replied they anticipate completion August 2013 with occupancy September 2013 school year.

Mr. Hyde questioned the purchase of the breezeway between the units as students currently use the residential properties as a short cut.

Mr. Grinham replied the breezeway will be utilized for rain water harvesting under and will be a controlled access for the residents only as it will contain their mail boxes.

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. Hillen 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, variances from the requirements of Sections 4.13, 5.3.2.5 and Table 5.3.2-Row 13 of Zoning By-law (1995)-14864, as amended, for 1 Hales Crescent, to construct 18 new residential units fronting on Hales Crescent and Moore Avenue requiring variances,

- a) to permit the private amenity area to be internalized in the building on a rear balcony with a total area of 8 square metres when the By-law requires a minimum private amenity area for each unit with a minimum area of 20 square metres;
- b) to permit a minimum landscaped open space equal to 32.46% of the lot area when the By-law requires a minimum landscaped open space equal to 40% of the lot area, and
- c) to permit 60 off-street parking spaces on the site when the By-law requires a total of 61 off-street parking spaces,

be approved, subject to the following condition:

1. That the owner shall submit to the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan, indicating the location of buildings, fencing, landscaping, parking, circulation, access, lighting, grading and drainage and servicing on the lands to the satisfaction of the General Manager of Planning and Building Services and General Manager/City Engineer, prior to the issuance of a building permit. Furthermore, the owner shall develop the said lands in accordance with the approved site plan.
2. That the variances apply to the Phase 1 of the project only, comprising 18 residential units comprising a total of 72 beds.

Reasons for approval being: -

1. The reduction in the private amenity area for stacked townhouses is considered to be minor in nature.
2. The variance for the landscaped open space results in a 7% reduction because of the existing commercial building on the site which will eventually be demolished.
3. The reduction of 1 required off-street parking space is appropriate for development of the property.”

Carried.

The Secretary-Treasurer took down email addresses for those parties interested in attending viewing of the site plan. She assured the neighbours she would pass this information to the Site Plan Co-ordinator.

The meeting adjourned at 7:00 p.m.

L. McNair,
Chair

K. E. Fairfull, ASCT
Secretary-Treasurer