

# COMMITTEE OF ADJUSTMENT AGENDA

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Council Chambers, Guelph City Hall, 1 Carden Street

**DATE     Thursday, July 11, 2019 – 4:00 p.m.**

Please turn off or place on non-audible all electronic devices during the hearing. Please note that this hearing will be audio recorded and streamed live on [guelph.ca/live](http://guelph.ca/live). An electronic version of this agenda is available on [guelph.ca](http://guelph.ca).

**PUBLIC HEARING FOR APPLICATIONS UNDER SECTIONS 45 AND 53 OF THE PLANNING ACT**

**DISCLOSURE OF PECUNIARY INTEREST AND GENERAL NATURE THEREOF  
APPROVAL OF MINUTES – June 27, 2019 hearing minutes  
REQUESTS FOR WITHDRAWAL OR DEFERRAL OF APPLICATIONS**

**CURRENT APPLICATIONS** (Application order subject to change)

- a)    **A-66/19**    Owner:        Derek Smydo and Amberlea Daigneau  
                         Agent:        N/A  
                         Request:      Variance for side yard setback for proposed addition to  
   existing dwelling  
                         Location:      58 Powell Street West
  
- b)    **A-67/19**    Owner:        1776410 Ontario Ltd.  
                         Agent:        Ray Ferraro  
                         Request:      Variance to permit additional use (medical office)  
                         Location:      561 York Road
  
- c)    **B-8/19**      Owner:        Markus and Franco Venturato  
                         Agent:        Jeff Buisman, Van Harten Surveying Inc.  
                         Request:      Consent to create a new lot  
                         Location:      79 Mary Street

**STAFF ANNOUNCEMENTS**

- LPAT decision: Files A-80/18, A-81/18 and A-82/18 (12 Knevitt Place)
- LPAT hearing: File A-21/19 (15 Dumbarton Street)

**ADJOURNMENT – next hearing August 8, 2019**

*To be notified of any of the decisions of the City of Guelph Committee of Adjustment,  
you must submit a "Request for Written Decision" form.*

# COMMITTEE OF ADJUSTMENT NOTICE OF PUBLIC HEARING



An Application for Minor Variance(s) has been filed with the Committee of Adjustment.

- LOCATION:** 58 Powell Street West
- PROPOSAL:** The applicant is proposing to construct a single storey addition onto the back of the existing detached dwelling.
- BY-LAW REQUIREMENTS:** The property is located in the Residential Single Detached (R.1B) Zone. A variance from Section 5.1.2, Row 7 of Zoning By-law (1995)-14864, as amended, is being requested.

The By-law requires a minimum side yard setback of 1.5 metres.

**REQUEST:**  
The applicant is seeking relief from the By-law requirements to permit a single storey addition to the rear of the existing detached dwelling with a right side yard setback of 0.68 metres.

The Committee of Adjustment for the City of Guelph will be holding a public hearing to consider an application under Section 45 of the Planning Act R.S.O. 1990 P.13, as amended.

**DATE:** Thursday, July 11, 2019

**TIME:** 4:00 p.m.

**LOCATION:** Council Chambers, City Hall, 1 Carden Street

**APPLICATION NUMBER:** A-66/19

**If you are the owner of a building that contains 7 or more residential units, please post this notice in a location that is visible to all the residents.**

**PROVIDING COMMENTS**  
Any person may attend the public hearing to provide comments regarding the application. You may also comment by mail, email, or fax using the contact information listed below. Please include your name, your address, application number or address of the property you are providing comments on, as well as any other relevant information in your submission. Written comments received by **July 4, 2019 at 12:00 p.m.** will be forwarded to the Committee members prior to the hearing. Comments submitted after this date will be provided at the hearing.

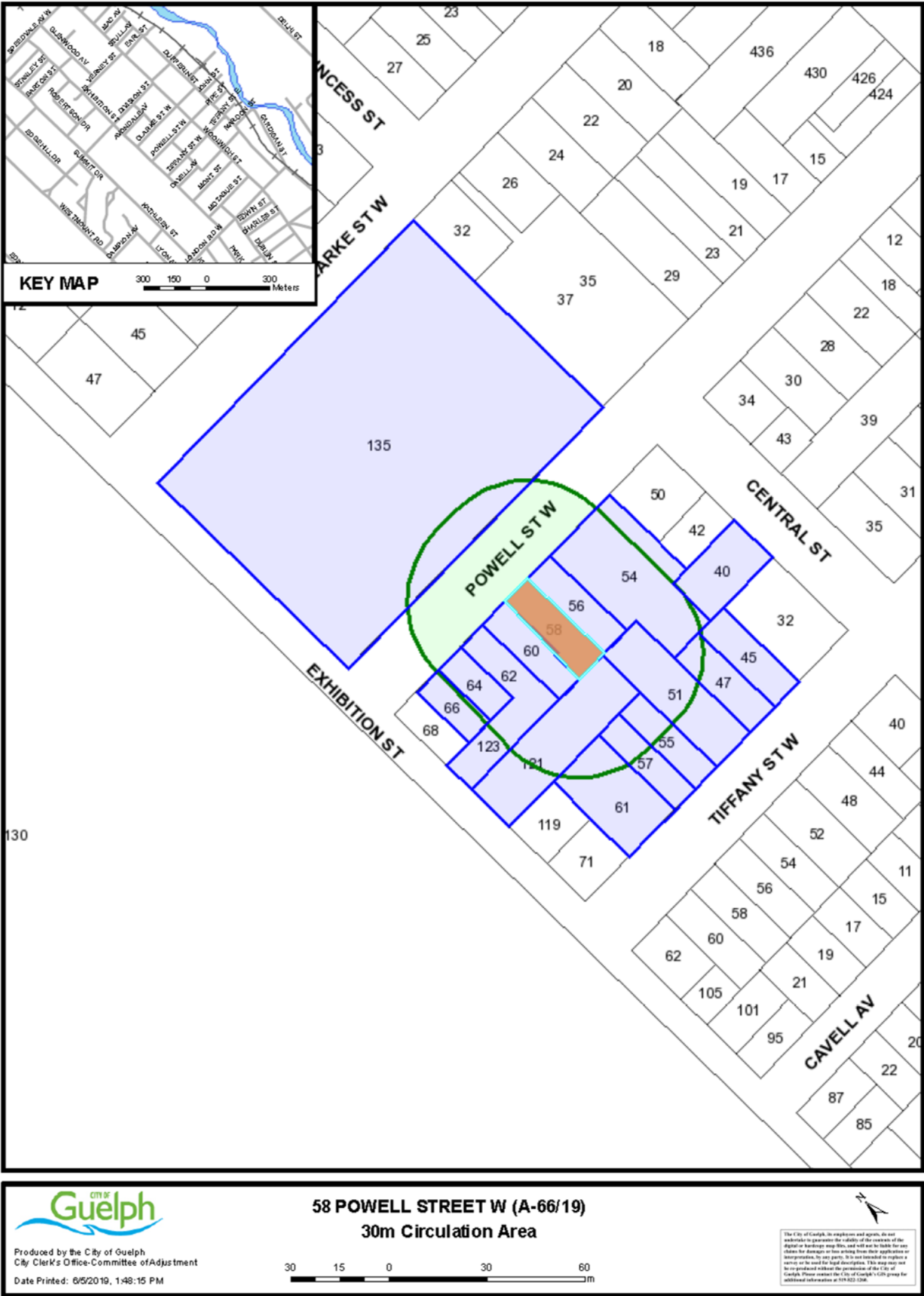
Your comments, including any personal information you provide, will become part of the decision making process of the application and will be posted on the internet. Pursuant to Section 27 of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.M56, as amended, public feedback to planning proposals is considered a public record and will be disclosed to any individual upon request. For questions regarding the collection, use, and disclosure of personal information please contact the Information and Access Coordinator at [privacy@guelph.ca](mailto:privacy@guelph.ca) or 519-822-1260 ext. 2349.

**ADDITIONAL INFORMATION**  
Agendas and comments related to this application will be available online at: [www.guelph.ca](http://www.guelph.ca) > City Government > Committee of Adjustment. Additional information related to this application may be obtained at City Hall by contacting the Secretary-Treasurer of the Committee of Adjustment, between the hours of 8:30 a.m. and 4:30 p.m. (Monday to Friday).

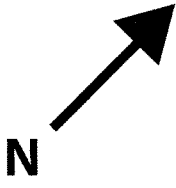
**NOTICE OF THE DECISION**  
If you wish to be notified of the decision of the City of Guelph Committee of Adjustment in respect of the proposed minor variance, you must make a written request to the Secretary-Treasurer of the Committee of Adjustment. The Notice of Decision will also explain the process for appealing a decision to the Local Planning Appeal Tribunal.

Trista Di Lullo, ACST  
Secretary-Treasurer, Committee of Adjustment

Dated this 21<sup>st</sup> of June, 2019.

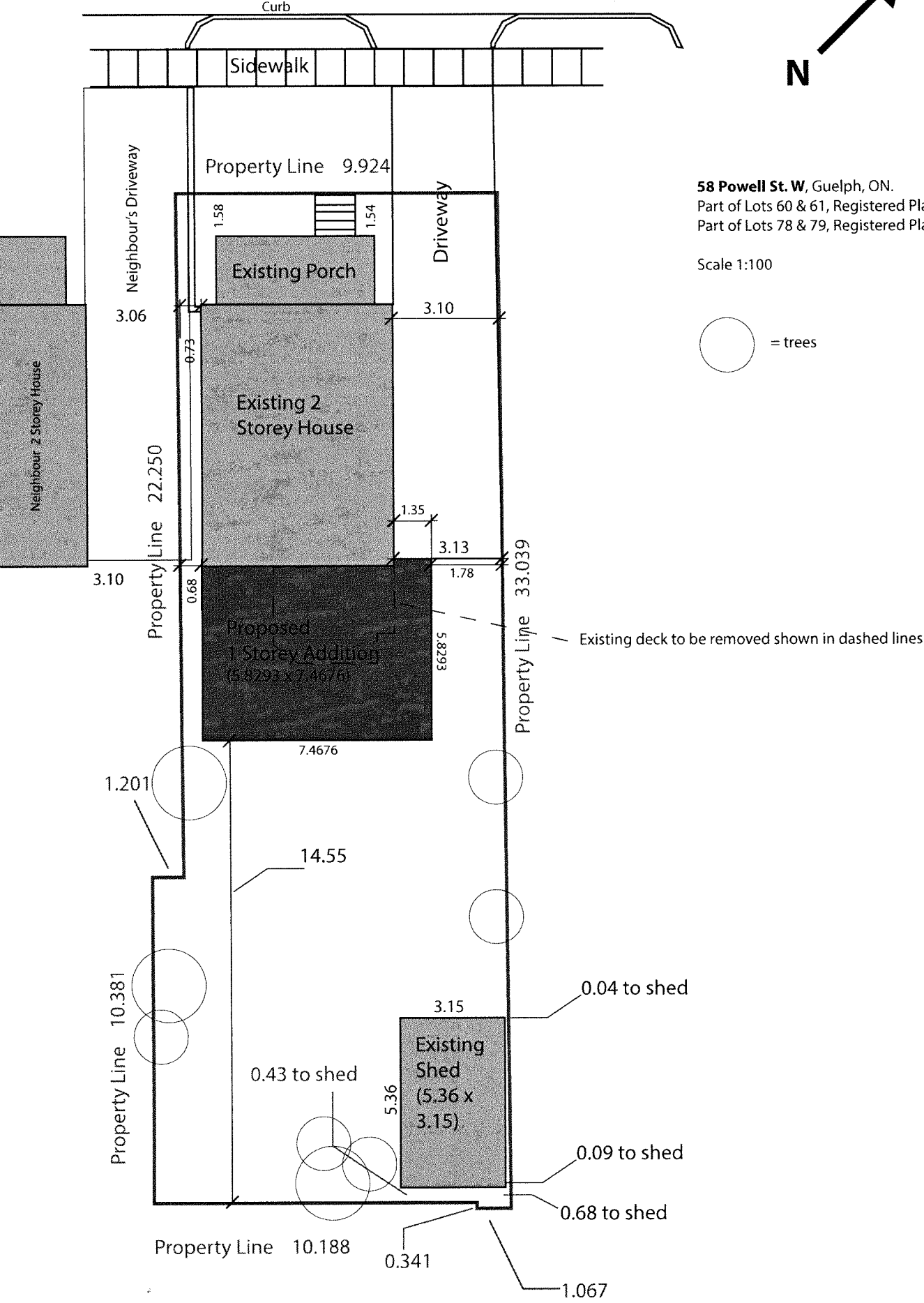
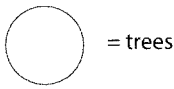


POWELL ST. WEST



58 Powell St. W, Guelph, ON.  
Part of Lots 60 & 61, Registered Plan 253 and  
Part of Lots 78 & 79, Registered Plan 205

Scale 1:100



# COMMITTEE OF ADJUSTMENT NOTICE OF PUBLIC HEARING



An Application for Minor Variance(s) has been filed with the Committee of Adjustment.

**LOCATION:** 561 York Road

**PROPOSAL:** The applicant is proposing a medical office as an additional permitted use on the property, as a dental office is proposed. The property is currently subject to an application for draft plan of condominium for a commercial development (File 23CDM-18509).

**BY-LAW REQUIREMENTS:** The property is located in the Specialized Highway Service Commercial (SC.2-12) Zone. A variance from Section 6.4.3.2.12.1 of Zoning By-law (1995)-14864, as amended, is being requested.

The By-law permits a variety of uses in the SC.2-12 zone, but does not permit a medical office. A medical office is defined in the Zoning By-law as a place in which two or fewer medical practitioners provide consultative, diagnostic and treatment services for humans.

**REQUEST:** The applicant is seeking relief from the By-law requirements to permit a medical office as an additional permitted use on the subject property.

The Committee of Adjustment for the City of Guelph will be holding a public hearing to consider an application under Section 45 of the Planning Act R.S.O. 1990 P.13, as amended.

**DATE:** Thursday, July 11, 2019

**TIME:** 4:00 p.m.

**LOCATION:** Council Chambers, City Hall, 1 Carden Street

**APPLICATION NUMBER:** A-67/19

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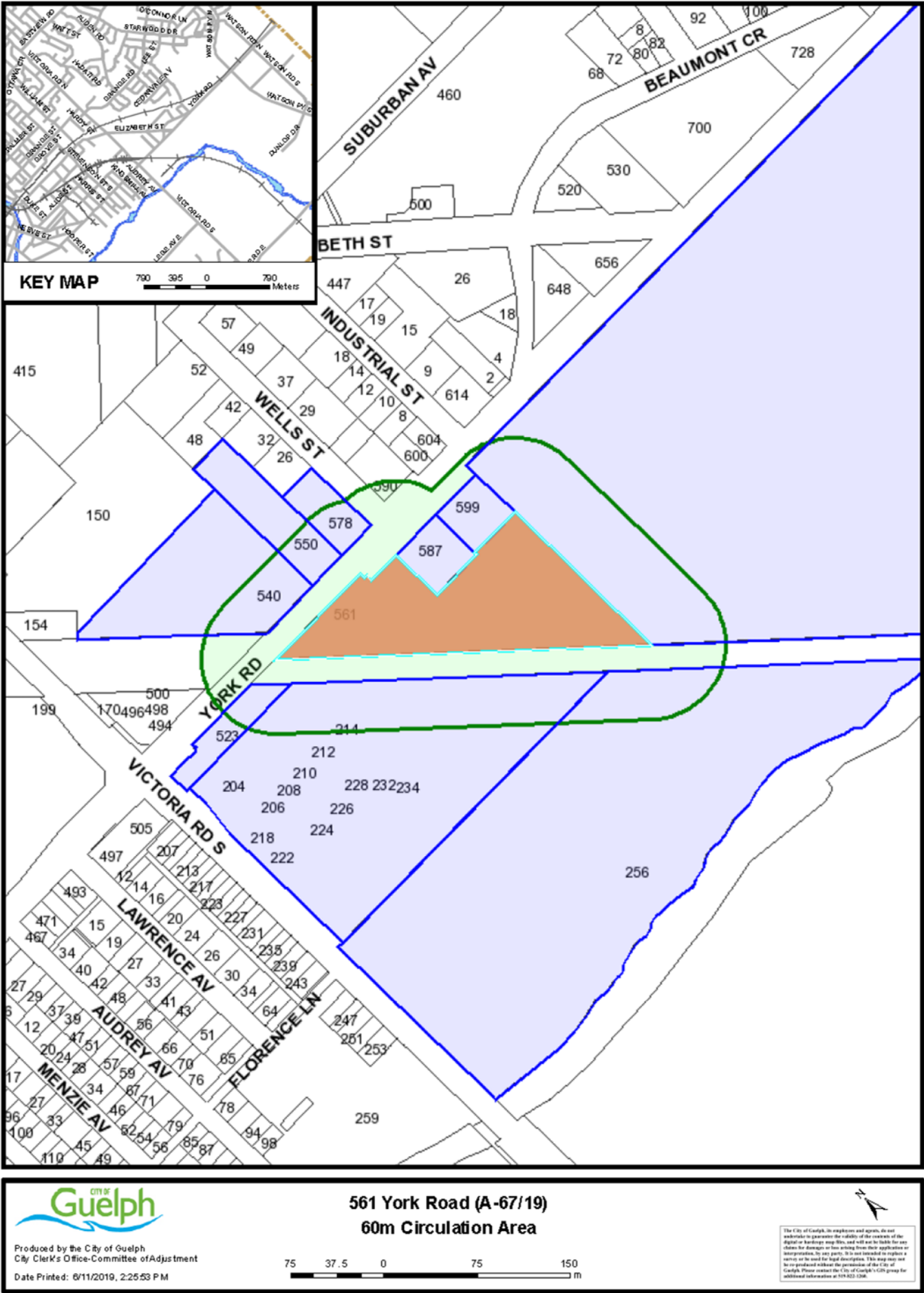
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Dated this 21<sup>st</sup> day of June, 2019.







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SURVEYOR'S CERTIFICATE

THE HOBBY CERTIFY THAT THE BOUNDARIES OF THE LANDS TO BE SURRENDERED AS SHOWN ON THIS PLAN AND THEIR RELATIONSHIP TO ADJACENT LANDS ARE ACCURATELY AND CORRECTLY

**SCHEDULE: RE: SECTION 51(17) – THE PLANNING ACT.**

(a) BOUNDARIES AS SHOWN  
(b) HIGHWAYS ETC. AS SHOWN  
(c) RAILROADS AS SHOWN  
(d) WATERWAYS AS SHOWN  
(e) AIRWAYS AS SHOWN  
(f) AIRPORTS AS SHOWN  
(g) AIRWAYS ETC. AS SHOWN  
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- ADDITIONAL INFORMATION**  
- ZONING: SC 2-12

-NUMBER OF COMMERCIAL UNITS:

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OF  
THE  
ROYAL  
ANTHROPOLOGICAL  
INSTITUTE

Ⓐ DENOTES THE UNIT SIDE FACE AND PLANE OF THE WALL STUDS ON EXTERIOR WALLS AND WALL BETWEEN UNITS ON

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TOTAL PARKING	XXXX
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**METRIC:** **EXPOSURE TO TUBES OR GAS APPEARS IN DIFFERENT AND DISTANCES**

UNITS ARE SHOWN ON THIS FORM ARE IN METERS AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.



**Van Harten**  
SURVEYING INC.

**LAND SURVEYORS and ENGINEERS**

423 WOODBINE STREET GUELPH - ONTARIO N1H 3K3	660 RIDDELL ROAD, UNIT 1 CRANFORTH - ONTARIO L9W
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DRAWN BY: GS	CHECKED BY: JL	PROJECT NO. 2306
PHONE: (519) 821-2263 FAX: 821-2270 <a href="http://www.northan.com">www.northan.com</a>		PHONE: (319) 940-4110 FAX: 319-940-4113 <a href="http://www.northan.com">www.northan.com</a>

# COMMITTEE OF ADJUSTMENT NOTICE OF PUBLIC HEARING



An Application for Consent [Severance] has been filed with the Committee of Adjustment.

- LOCATION:** 79 Mary Street
- PROPOSAL:** The applicant is proposing to sever the property to create a new residential lot. The property is currently occupied by a single detached dwelling, which will be demolished to allow for the construction of two new dwellings.
- BY-LAW REQUIREMENTS:** The property is located in the Residential Single Detached (R.1B) Zone.
- REQUEST:** The applicant proposes to sever a parcel of land with frontage along Mary Street of 16.5 metres and an area of 817 square metres. The retained parcel will have frontage along Mary Street of 15.3 metres and an area of 762 square metres.

The Committee of Adjustment for the City of Guelph will be holding a public hearing to consider an application under Section 53 of the Planning Act R.S.O. 1990 P.13, as amended.

**DATE:** Thursday, July 11, 2019

**TIME:** 4:00 p.m.

**LOCATION:** Council Chambers, City Hall, 1 Carden Street,

**APPLICATION NUMBER:** B-8/19

**If you are the owner of a building that contains 7 or more residential units, please post this notice in a location that is visible to all the residents.**

**PROVIDING COMMENTS**

Any person may attend the public hearing to provide comments regarding the application. You may also comment by mail, email, or fax using the contact information listed below. Please include your name, your address, application number or address of the property you are providing comments on, as well as any other relevant information in your submission. Written comments received by **July 4, 2019 at 12:00 p.m.** will be forwarded to the Committee members prior to the hearing. Comments submitted after this date will be provided at the hearing.

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**ADDITIONAL INFORMATION**

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**NOTICE OF THE DECISION**

If you wish to be notified of the decision of the City of Guelph Committee of Adjustment in respect of the proposed consent, you must make a written request to the Secretary-Treasurer of the Committee of Adjustment.

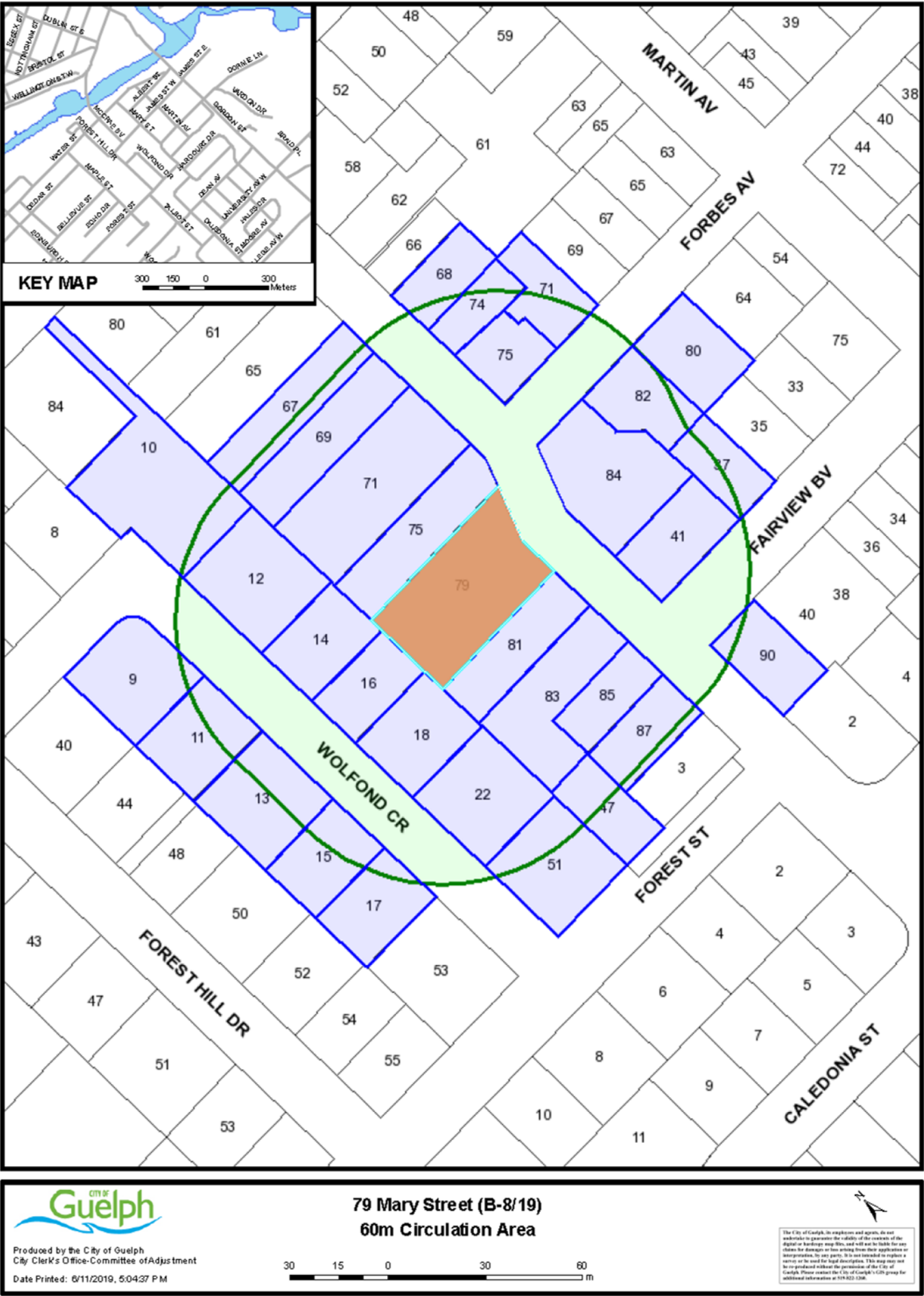
*If a person or public body that files an appeal of a decision of the Committee of Adjustment in respect to the proposed consent who has not made a written submission to the City of Guelph Committee of Adjustment or a verbal presentation to the*



Committee before it gives or refuses a provisional consent, the Local Planning Appeal Tribunal may dismiss the appeal.

Trista Di Lullo, ACST  
Secretary-Treasurer, Committee of Adjustment

Dated this 21<sup>st</sup> day of June, 2019.





**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** May 31, 2019

**CASE NO(S):** PL180895

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	John Krikorian
Applicant:	Catriona Forbes and Parry Schnick
Subject:	Minor Variance
Variance from By-law No.:	Zoning By-law (1995)-14864
Property Address/Description:	12 Knevitt Place
Municipality:	City of Guelph
Municipal File No.:	A-80/18
LPAT Case No.:	PL180895
LPAT File No.:	PL180895
LPAT Case Name:	Krikorian v. Guelph (City)

**PROCEEDING COMMENCED UNDER** subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	John Krikorian
Applicant:	Catriona Forbes and Parry Schnick
Subject:	Minor Variance
Variance from By-law No.:	Zoning By-law (1995)-14864
Property Address/Description:	12 Knevitt Place
Municipality:	City of Guelph
Municipal File No.:	A-82/18
LPAT Case No.:	PL180895
LPAT File No.:	PL180897

**PROCEEDING COMMENCED UNDER** subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	John Krikorian
Applicant:	Catriona Forbes and Parry Schnick

Subject:	Minor Variance
Variance from By-law No.:	Zoning By-law (1995)-14864
Property Address/Description:	12 Knevitt Place
Municipality:	City of Guelph
Municipal File No.:	A-81/18
LPAT Case No.:	PL180895
LPAT File No.:	PL180896

**Heard:** March 27, 2019 in Guelph, Ontario

## **APPEARANCES:**

### **Parties**

### **Counsel\*/Representative**

John Krikorian

Nolan Kiddie (Articling Student)

Parry Schnick and Catriona Forbes

J. Scott Galajda\*

## **DECISION DELIVERED BY THOMAS HODGINS AND ORDER OF THE TRIBUNAL**

## **INTRODUCTION**

### **Disposition**

[1] After considering the evidence and submissions, the Tribunal dismisses the Appeal and authorizes the variances subject to conditions.

### **Background**

[2] Parry Schnick and Catriona Forbes ("Applicants") own 12 Knevitt Place ("Site"), which is in the south-west quadrant of the College Avenue West and Hanlon Parkway intersection, in the City of Guelph ("City"). Knevitt Place is a short street with about eight lots that front or flank it. The Site is pie-shaped and has a lot frontage of about 41.7 metres ("m") and a lot area of about 2,580 square metres ("sq m"). Given its configuration, frontage on the Site is measured at the minimum required front yard setback. The Site is occupied by a single detached dwelling, a shed, a driveway and

trees/landscaping. The Site is designated Built –up Area and Low Density Residential in the City Official Plan (“OP”) and zoned Residential Single Detached (R.1B) in Zoning By-law (1995)-14864 (“ZBL”). The Site has low rise residential uses to its north, south, east and west.

[3] The Applicants want to sever the Site into two new lots plus a retained lot and in order to do so submitted to the City two applications for consent to sever and three applications for minor variances. The minor variance applications request relief from the requirements of Table 5.1.2 Row 4 of the ZBL to permit a minimum lot frontage of 13.9 m for each of the three proposed lots whereas 15 m is required. The existing house on the Site is intended to be demolished to make way for a new single detached dwelling on each of the proposed new lots.

[4] On October 11, 2018, the Committee of Adjustment (“COA”) conditionally approved the consents. The consent decisions were not appealed and are in effect. The consent conditions are considered by the Tribunal to be quite comprehensive and relevant to this decision on the companion minor variances and include requirements for the owners to: have the sitings, elevations and designs of the new dwellings approved by the City; undertake tree assessment, tree protection and, as necessary, tree compensation/replacement activities; and prepare to the satisfaction of the City a storm water management report, pre and post development plans and a grading and servicing plan.

[5] A Staff Report submitted to the COA for its meeting on the minor variances recommends that the applications be approved without conditions. The Staff Report advises that the conditions applied through the companion consent approvals are sufficient.

[6] On October 25, 2018, the COA approved, in one combined decision, each of the three minor variance applications subject to the following two conditions: 1) That Consent Applications B-18/18 and B-19/18 receive final certification of the Secretary-Treasurer and be registered on title; and 2) That the proposed dwellings have a

minimum front yard setback of 11.2 m and a minimum interior side yard setback of 1.8 m. The latter condition increases the front yard setback of each proposed house from 6 m to 11.2 m and the side yard setback from 1.5 m to 1.8 m. The evidence indicates that the COA increased the setbacks in order to respect adjacent house sitings and to promote compatibility and fit within the neighbourhood.

[7] The Document Book submitted by the Applicants at the hearing includes a copy of a letter to the COA, on behalf of Applicants, which advises that: the Site is served by municipal water services; Knevitt Place does not have sanitary sewer services; and that arrangements have been made with City staff to extend sanitary sewer services to the three proposed new lots on the Site and 11 Knevitt Place which is across the street from the Site.

[8] John Krikorian appealed the COA's decision on the minor variances to this Tribunal pursuant to s. 45(12) of the *Planning Act* ("Act").

[9] Nolan Kiddie represented Mr. Krikorian at the hearing. He called Mr. Krikorian as his sole witness and did not ask that Mr. Krikorian be qualified as an expert in any field or discipline.

[10] J. Scott Galajda appeared as Counsel for the Applicants. He called Victor Labreche, a consultant engaged by the Applicants, and L. Sulatycki, a Senior Development Planner with the City, as witnesses. They were both qualified by the Tribunal, without challenge, to give independent expert opinion evidence in land use planning.

[11] No one requested Party or Participant status at the hearing.

## **LEGISLATIVE FRAMEWORK**

[12] In order for the variances to be authorized, the Tribunal must be satisfied, pursuant to s. 45(1) of the Act, that the variances: maintain the general intent and



purpose of the OP; maintain the general intent and purpose of the ZBL; are desirable for the appropriate development or use of the land, building or structure; and are minor.

[13] In making its decision, the Tribunal must also, in accordance with the Act: have regard to matters of Provincial interest; ensure that its decision is consistent with the Provincial Policy Statement, 2014 (“PPS”); and ensure that its decision conforms with, or does not conflict with, any applicable Provincial Plan.

## **EVIDENCE AND SUBMISSIONS OF THE APPELLANT**

[14] The Appellant Form submitted by Mr. Krikorian to initiate his Appeal includes an attachment in which he, amongst other matters: references the four tests for the approval of a minor variance and how they are not satisfied in this case in his opinion; identifies a variety of negative impacts associated with the variances; advises that the proposal does not conform to the scale and character of the neighbourhood; and indicates that one new lot, as opposed to two, would be a better fit for the neighbourhood.

[15] Notwithstanding the scope and content of his Appellant Form, the evidence and testimony of Mr. Krikorian at the hearing was quite limited and did not focus to any material extent on the policies and tests associated with determining the appropriateness of a minor variance.

[16] Mr. Krikorian lives at 8 Knevitt Place and has done so since 2016. His lot flanks the Site, has a frontage of about 38 m and a lot area of about 1,795 sq m. Mr. Krikorian described the area as a “rural neighbourhood in the City” with primarily large lots. He said the smallest lot frontage on Knevitt Place is about 30 m and that the neighbourhood has a country setting with no sidewalks, farm style fences and old mature trees.

[17] Mr. Krikorian advised that there are significant storm water management and drainage issues on his lot and in the neighbourhood. A French Drain close to his

property regularly overflows. He indicated that he relies on open green spaces on lots in the area to help manage the water and that some of these areas, if the subject proposal is approved, will be hard surfaced with houses, driveways, etc. creating more problems. Mr. Krikorian believes the grades and elevations on the Site will have to be raised to accommodate the new houses and that this will negatively impact his lot and exacerbate the existing drainage problems.

[18] Mr. Krikorian also indicated that mature trees, which contribute to the character of the area, will be negatively impacted by the proposal and that the neighbourhood will lose its country setting if the variances for the three lots are approved. He said that any approval of the variances will set a bad precedent for the area and open the door for more applications of this nature in this neighbourhood.

[19] Mr. Galajda did not cross-examine Mr. Krikorian.

[20] After Mr. Galajda had declined his opportunity to cross-examine and Mr. Krikorian had left the stand, Mr. Kiddie presented the Tribunal with a document entitled “Appellant’s Document Brief” that includes, amongst other matters: an “Appeal Narrative” that was authored by Mr. Krikorian and which includes the statement “The consistency/conformity standard in regard to the Provincial Policy Statement and The Official Plan of Guelph do not in our opinion endorse this excessive intensification”; the COA decision, COA minutes, correspondence to the COA in opposition to the variances; and maps and photographs of the neighbourhood and of flooding (or water pooling) in the area. Mr. Kiddie was given an opportunity to overview each item in the Document Brief. The Document Brief was not put in as evidence through a witness and was not subject to cross-examination.

## **EVIDENCE AND SUBMISSIONS OF THE APPLICANT**

### **Victor Labreche**

[21] Mr. Labreche recommended that the Tribunal approve the variances subject to

the two conditions applied by the COA. In support of his recommendation, and referencing a comprehensive Witness Statement, Document Book and several plans, he addressed the framework that largely governs the Tribunal's decision making in a case like this.

[22] Mr. Labreche identified matters of Provincial interest as set out in s. 2 of the Act and advised that a decision to approve the variances, with conditions, would have regard for, and would not conflict with, these interests. He said the proposal involves new low-rise built forms within a low-rise neighbourhood and represents orderly development.

[23] Mr. Labreche testified that a decision to approve the variances, with conditions, would be consistent with the PPS and would support the implementation of the PPS. He said the Site is within the City's designated settlement area and that the proposal promotes the efficient use of land and infrastructure in an area intended for growth and regeneration and contributes to the provision of an appropriate range and mix of housing.

[24] In respect to the applicable Provincial Plan, Mr. Labreche advised that the Site is within a delineated built –up area pursuant to the Growth Plan for the Greater Golden Horseshoe, 2017 ("Growth Plan") and that a decision to approve the variances, with conditions, would conform to the Growth Plan. He believes the proposal helps the City achieve its intensification targets with a project that is efficient and appropriate in terms of type, scale and transition to adjacent areas.

[25] Mr. Labreche said the Site is designated Built –up Area in Schedule 1: Growth Plan Elements of the OP and Low Density Residential in Schedule 2: Land Use Plan of the OP. Single detached dwellings are permitted in the designations. Mr. Labreche advised that the variances, with conditions, maintain the intent of the OP which is to ensure that intensification and development within existing neighbourhoods is compatible in design, character and orientation with buildings in the immediate vicinity and that infill development is compatible with the general frontage in the immediate

vicinity. He noted that condition 2 of the COA's approval of the minor variances promotes compatibility by requiring increased front yard and side yard setbacks and that certain of the consent conditions require that the siting and design of the new houses and the proposed lot grading and storm water management strategy be approved by the City.

[26] Mr. Labreche admitted that the frontages of the existing lots in the vicinity of the Site appear to exceed 15 m but that the applicable test of compatibility is not replication or similarity in frontage but whether the proposed new lots can co-exist in the neighbourhood without unacceptable adverse impacts. In his opinion, the proposed lots, with 13.9 m frontages, will not adversely impact the surrounding area in an unacceptable way because they can adequately accommodate single detached dwellings, driveways and front yard landscaping that are consistent with existing development in the area.

[27] Mr. Labreche also indicated that the OP calls for the City's intensification targets to be met through significant new residential growth within the built-up area and that the proposal satisfies the applicable criteria in the OP for Residential Intensification.

[28] Mr. Labreche advised that the intent of the minimum lot frontage regulation in the R.1B Zone is to ensure that sufficient lot frontage is available to accommodate the permitted uses and to establish a guideline for development based on context. He said a reduction in the lot frontage by 1.1m (from 15 m to 13.9 m) will not restrict the use of the proposed lots for single detached dwellings and that the lots can adequately accommodate a house, driveway and landscaping. Mr. Labreche said the proposed lot areas significantly exceed the minimum lot area requirement in the ZBL (838 sq m, 838 sq m and 919 sq m versus 460 sq m) and that the proposed new dwellings will comply with all of the other provisions of the ZBL such as height and minimum landscaped open space plus the increased front and side yards required by the COA as a condition of approval. The proposed lots will exceed the ZBL's required frontage or "width" at the 11.2 m front yard setback required by the COA.

[29] Mr. Labreche testified that the variances with conditions are desirable for the appropriate development of the Site as they facilitate the creation of three compatible parcels which efficiently use land in an area intended for a degree of intensification. He said the new lots have lot areas that are similar to, or in numerous cases larger than, many of the existing developed lots in the surrounding area.

[30] The variances with conditions are minor in Mr. Labreche's opinion. He said a 1.1 m reduction in frontage is minor numerically and that the difference contextually between a 13.9 m lot frontage and a 15 m lot frontage is essentially negligible or imperceptible in the field or in the streetscape. Mr. Labreche further advised that the reduction in frontage will not result in any significant impact to the surrounding area and is minor in that regard as well.

[31] Mr. Labreche's opinions were not shaken in cross examination.

**Linda D. Sulatycki**

[32] Ms. Sulatycki presented and explained the OP's sections on Consents and Minor Variances. While both sections reference the ability of the COA to apply conditions to any approval, the section on Consents is more expressive and specifically mentions the ability to apply conditions related to the fulfillment of servicing and grading requirements of the City and for a development agreement that deals with such matters as the design of any dwelling and grading and drainage.

[33] Ms. Sulatycki explained the conditions of approval for the consents and how they would work in conjunction with any approval of the variances to ensure compatibility of the new lots and houses with the neighbourhood, appropriate tree protection and preservation and proper lot grading and storm water management.

[34] Ms. Sulatycki authored the Staff Report which recommends that the COA approve the variances. She stands by her Staff Report which includes the following statements (and in which the term "variance" refers to all three of the subject variances):

A. The requested variance facilitates the creation of infill lots in compliance with Official Plan policies. The requested variance conforms to the general intent and purpose of the Official Plan.

B. Staff are satisfied that the reduced frontages will result in adequate frontage to accommodate a dwelling and driveway access in keeping with the low density character of the area. The requested variance is considered to meet the general intent and purpose of the Zoning By-law.

C. The frontages being created are compatible with the neighbourhood. The reduction of 1.1 metres in lot frontage per lot does not negatively impact the lots created or the existing neighbourhood. Conditions imposed through the Consent applications will ensure that the design of the proposed new houses are compatible with the neighbourhood. A reduction of 1.1 metres for each lot is negligible. The requested variance is considered to be both desirable for the appropriate development of the land and minor in nature.

[35] Ms. Sulatycki advised that if the variances align with the OP they are also consistent with applicable Provincial policy.

[36] Ms. Sulatycki considers the two conditions applied by the COA to be appropriate.

[37] Ms. Sulatycki's opinions were not shaken in cross examination.

## **ANALYSIS AND FINDINGS**

[38] In this case, the Act states that the Tribunal may dismiss the Appeal and may make any decision the COA could have made. The Tribunal may also apply conditions to any approval. Further, s. 11(2) and s. 12(1) of the *Local Planning Appeal Tribunal Act* ("LPATA") give the Tribunal the authority to hear and determine all questions of law or of fact with respect to all matters within its jurisdiction, unless limited by the LPATA or any other general or special Act, and to make orders or give directions as may be necessary or incidental to the exercise of its powers under LPATA or any other general or special Act.

[39] Based on the preferred evidence and submissions, the Tribunal finds that: it is appropriate to dismiss the Appeal and to authorize the variances subject to the two conditions applied by the COA in its decision; and that each variance, with conditions,



maintains the general intent and purpose of the OP and the ZBL, is desirable for the appropriate development or use of the land, building or structure and is minor.

[40] In arriving at its Decision, the Tribunal had regard to matters of Provincial interest and finds that its Decision is consistent with the PPS and conforms to the Growth Plan.

[41] In making its findings, the Tribunal accepts and relies upon the uncontested expert planning evidence and opinions of Mr. Labreche and Ms. Sulatycki.

[42] The Tribunal notes that its Decision aligns with that of the City's COA.

[43] Mr. Kiddie's submissions, during his overview of the Appellant's Document Brief and in his opening and closing statements, that the variances are not consistent, conforming or aligned with the tests in s. 45(1) of the Act were done in a professional manner but are not founded on evidence put in through a witness in support of the Appeal and run contrary to the evidence and opinions of the two qualified land use planning witnesses.

[44] To be clear, the reasons why the Tribunal is authorizing the variances with conditions are: two qualified land use planning witnesses advised that the proposal satisfies all of the applicable criteria and recommended approval; the planning witnesses' evidence and opinions were uncontroverted and their advice was not shaken or called into question in cross examination; the Appellant's evidence did not sufficiently focus on the criteria associated with determining the acceptability of a minor variance and was not convincing; and when the evidence, submissions and recommendations in support of the variances are filtered through this Member's experience and background they are found to be sound and persuasive. This Member does not blindly accept the advice of expert witnesses but, rather, examines and considers it from a number of perspectives including, as noted, his own experience and background, common sense and the opinions of opposing parties. In this case, the two planning witnesses were forthright, credible and knowledgeable on the relevant matters and the Tribunal accepts and relies upon their good advice. The subject proposal is a reasonable and modest

intensification project and the conditions of approval for both the minor variances and the companion consents promote compatibility and fit. Although many of the properties in the subject area are very large in terms of frontage and lot area, this is not reflected in the ZBL which requires minimum lot frontages and lot areas which provide opportunities for the consideration of appropriate intensification and infill.

## **ORDER**

[45] The Tribunal orders as follows:

- A. the Appeal is dismissed;
- B. the variances set out in Paragraph 3 of this Decision are authorized subject to the conditions applied by the COA in its decision dated October 25, 2018.

[46] This Member may be spoken to should any issues arise in respect to the implementation of this Order.

*“Thomas Hodgins”*

THOMAS HODGINS  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

### **Local Planning Appeal Tribunal**

A constituent tribunal of Tribunals Ontario - Environment and Land Division  
Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

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Ontario**

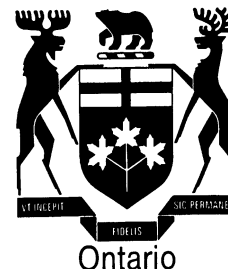
Local Planning Appeal Tribunal

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**Tribunaux de l'environnement et de  
l'aménagement du territoire Ontario**

Tribunal d'appel de l'aménagement  
local

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Site Web: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)



**PROCEEDING COMMENCED UNDER** subsection 45(12) of the *Planning Act*,  
R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Andrew Westbrook
Subject:	Minor Variance
Variance from By-law No.:	(1995)-14864
Property	15 Dumbarton Street
Address/Description:	
Municipality:	City of Guelph
Municipal File No.:	A-21/19
LPAT Case No.:	PL190148
LPAT File No.:	PL190148
LPAT Case Name:	Westbrook v. Guelph (city)

**APPOINTMENT FOR HEARING**

The Local Planning Appeal Tribunal hereby appoints:

**at: 10:00 AM**

**on: Wednesday July 10, 2019**

**at: Provincial Offences Court  
Court Room 3  
59 Carden Street  
Guelph, ON N1H 3A1**

for the commencement of the hearing of this appeal.

The Tribunal has set aside **1 day** for this hearing.

The timeline for processing of this appeal has commenced.

All parties and participants should attend at the start of the hearing at the time and date indicated, irrespective of the number of days scheduled. Hearing dates are firm - adjournments will not be granted except in the most serious circumstances, and only in accordance with the Tribunal's Rules on Adjournments.

If you do not attend and are not represented at this hearing, the Tribunal may proceed in your absence and you will not be entitled to any further notice of the proceedings.

In the event the decision is reserved, persons taking part in the hearing and wishing a copy of the decision may request a copy from the presiding Tribunal member or, in writing, from the Tribunal. Such decision will be issued to you when available.

*Pour recevoir des services en français, veuillez communiquer avec la Division des audiences au (416) 212-6349, au moins 20 jours civils avant la date fixée pour l'audience.*

We are committed to providing accessible services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible by emailing [ELTO@ontario.ca](mailto:ELTO@ontario.ca). If you require documents in formats other than conventional print, or if you have specific accommodation needs, please let us know so we can make arrangements in advance. Please also identify any assistance you may require in the event of an emergency evacuation.

DATED at Toronto, this 6th day of June, 2019.

Mary Ann Hunwicks  
Registrar

## LOCAL PLANNING APPEAL TRIBUNAL RULES ON ADJOURNMENTS

**17.01 Hearing Dates Fixed** Hearing events will take place on the date set unless the Tribunal agrees to an adjournment. Adjournments will not be allowed that may prevent the Tribunal from completing and disposing of its proceedings within any applicable prescribed time period.

**17.02 Requests for Adjournment if All Parties Consent** If all of the parties agree, they may make a written request to adjourn a hearing event. The request must include the reasons, a suggested new date, and the written consents of all parties. However, the Tribunal may require that the parties attend in person or convene an electronic hearing to request an adjournment, even if all of the parties consent. The consenting parties are expected to present submissions to the Tribunal on the application of any prescribed time period to dispose of the proceeding.

**17.03 Requests for Adjournment without Consent** If a party objects to an adjournment request, the party requesting the adjournment must bring a motion at least 15 days before the date set for the hearing event. If the reason for an adjournment arises less than 15 days before the date set for the hearing event, the party must give notice of the request to the Tribunal and to the other parties and serve their motion materials as soon as possible. If the Tribunal refuses to consider a late request, any motion for adjournment must be made in person, at the beginning of the hearing event.

**17.04 Emergencies Only** The Tribunal will grant last minute adjournments only for unavoidable emergencies, such as illnesses so close to the hearing date that another representative or witness cannot be obtained. The Tribunal must be informed of these emergencies as soon as possible.

**17.05 Powers of the Tribunal upon Adjournment Request** The Tribunal may,

- (a) grant the request;
- (b) grant the request and fix a new date or, where appropriate, the Tribunal will schedule a prehearing or case management conference on the status of the matter;
- (c) grant a shorter adjournment than requested;
- (d) deny the request, even if all parties have consented;
- (e) direct that the hearing proceed as scheduled but with a different witness, or evidence on another issue;
- (f) grant an indefinite adjournment, if the request is made by a party and is accepted by the Tribunal as reasonable and the Tribunal finds no substantial prejudice to the other parties or to the Tribunal's schedule. In this case a party must make a request, or the Tribunal on its own initiative may direct, that the hearing be rescheduled or resumed as the case may be;
- (g) convert the scheduled date to a mediation or prehearing or case management conference;
- (h) issue a Notice of Postponement or a Notice of Resumption; or
- (i) make any other appropriate order.

April 3, 2018