

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday February 13, 2014 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

J. Hillen, Vice-Chair
R. Funnell
B. Birdsell
C. Downer (from 4:20 p.m.)
L. McNair
K. Ash

Regrets: D. Kelly, Chair

Staff Present: M. Witmer, Planner
R. Mallory, Planner
M. Bunnett, Acting Secretary-Treasurer

Declarations of Pecuniary Interest

Vice-Chair J. Hillen declared pecuniary interests in Application B-3/14, 405 Laird Road due to business relations and Application A-9/14, Amos Drive due to having prior knowledge of the application.

Meeting Minutes

Moved by L. McNair and seconded by C. Downer,

“THAT the Minutes from the January 16, 2014 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

The Acting Secretary-Treasurer reminded the Committee members of the upcoming OACA conference in Blue Mountains in May 2014. She advised the members to let her know who is interested in attending.

The Acting Secretary-Treasurer advised that the Ontario Municipal Board hearings for 92 Harvard Road, Application A-116/13 and 16 Whispering Ridge, Application A-115/13 have both

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been re-scheduled to May 22, 2014. The hearings will be held at 10:30 a.m. at Provincial Offences Court, Court Room 3.

The Acting Secretary-Treasurer advised the Committee members that an Acting Vice-Chair must be elected for two applications due to pecuniary interests.

Appointment of Acting Vice-Chair

Moved by L. McNair and seconded by R. Funnell,

“THAT Committee member, L. McNair, be hereby appointed as Acting Vice-Chair pursuant to ss. 44(7) of the Planning Act, (R.S.O) 1990, c. P-13; for applications B-3/14 and A-9/14”

Application: B-3/14

Owner: MacKinnon Holding Ltd.

Agent: GSP Group Inc., Hugh Handy

Location: 405 Laird Road

In Attendance: Hugh Handy
Steve Conway
Lynn Ingram
Evan MacKinnon
Phil MacKinnon

Vice-Chair J. Hillen left the room while the application was heard at 4:10 p.m.

Acting Vice-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. Handy replied the sign was posted and the comments were received. He explained the nature of the proposed business to the Committee members. He expressed concerns with the condition of preparing a scoped Environmental Impact Study (EIS). He explained that the yard currently being used as a terminal will be continued to be used the same and he questioned whether there is some latitude with the condition. He further explained that the issues regarding the maintenance of the ditches and culverts is the responsibility of the City. He noted that they recognize there will be a requirement for the storm water control and the need to go through site plan approval process. He commented that they are not aware of any spills in the area and they have already completed Phase 1 and Phase 2 of the EIS. He advised that they will

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have a common entrance and are located approximately 10 metres from the neighbouring property.

Committee member C. Downer arrived at 4:20 p.m.

Mr. S. Conway re-iterated a few points from his letter he submitted to the Committee. He noted that the City might have some additional maintenance work that must be completed due to the drainage concerns. He also noted that the adjacent property owner has contemplated a secondary entrance to the property for a while and that the proposed entrance for the property in question might then be in violation of the City's regulations regarding entrances in an industrial zone.

Planner M. Witmer quoted Section 13.3 of the Zoning By-law which requires an Environmental Impact Study (EIS) to be completed for the property in question.

Mr. H. Handy explained that they recognized the Zoning By-law requires this due to the consent application. He expressed concern with not being able to fulfil the condition.

Acting Vice-Chair L. McNair questioned whether the scoped EIS pertains to parts 1, 2 and 3 as described in the sketch on the notice.

Planner M. Witmer replied that the Section 13.3 does not specify if it pertains to the retained or severed lands, only that the property is subject to Environment Impact Study (EIS).

Acting Vice-Chair L. McNair questioned whether staff would have the ability to scope the EIS and to recognize which parts would be ideal for the study.

Planner M. Witmer replied that the condition states it is to be completed to the satisfaction of the General Manager of Planning Services. He advised that staff can meet with the applicant to further refine the subject area.

Ms. L. Ingram, with MTE Consultants, explained that the proposed development will not be making the situation on the ditch any worse and that the water quality will not be impacted negatively.

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 B. Birdsell,

"THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for severance of Lot 4, Registered Plan 766, to be

known municipally as 67 Kirkby Court, a parcel with a frontage of 154.08 metres (505.51 feet) along Kirkby Court and an area of 3.447 hectares (8.517 acres), subject to a storm sewer lateral easement over Part 4 in favour of 405 Laird Road with a width of 16.07 metres (52.71 feet) and an area of 0.021 hectares (0.052 acres),

be approved,

subject to the following conditions:

1. That the servient tenement owner of the proposed severed parcel (Part 2), Part of Lot 4, Registered Plan 766 grants an easement in perpetuity, irregular in shape (Part 4), registered on title, in favour of the dominant tenement (405 Laird Road, Part 1) Part of Lot 4, Registered Plan 766 for the protection of a storm sewer lateral serving the dominant tenement (405 Laird Road, Part 1), prior to endorsonation of the deeds or within one (1) year of the consent, whichever occurs first.
2. That prior to endorsonation of the deeds, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying any conveyances and easement.
3. That prior to endorsonation of the deeds, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying the required easement (Part 4).
4. That prior to endorsonation of the deeds, the owner's solicitor certifies that the conveyances and the easement have been granted and registered on title.
5. The owner shall pay for all the costs associated with the removal of the existing 250mm storm sewer from the proposed lands to be severed (Part 2), prior to endorsonation of the deeds.
6. The owner shall pay all of the costs associated with the installation of the new 300mm storm sewer from the existing Oil Grit Separator located on the proposed lands to be severed (Part 2) to the existing manhole located on the proposed lands to be retained (Part 1), prior to endorsonation of the deeds.
7. That prior to endorsonation of the deeds, the owner of the proposed retained lands (Part 1) and the owner of the proposed severed lands (Part 2) shall enter into a maintenance agreement for all operating, maintenance and replacement costs associated with the shared storm sewer outlet (Part 4), satisfactory to the City Solicitor.
8. That prior to endorsement of the deeds, a scoped Environmental Impact Study (EIS), the extent of which shall be to the satisfaction of the General Manager of Planning Services, be prepared by a qualified environmental consultant.

9. That the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for endorsement, prior to February 19, 2015.
10. 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.
11. 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.
12. 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

Vice-Chair J. Hillen was summoned back at 4:26 p.m.

Application: **B-4/14**

Owner: **1794280 Ontario Limited**

Agent: **Cooper Construction Limited, Bill Luffman**

Location: **871 Southgate Drive**

In Attendance: **Bill Luffman**

Vice-Chair J. Hillen questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. B. Luffman replied the sign was posted and the staff comments were received. He explained that there are two hedgerows on the property. He referred to Planning Services condition and proposed to separate the hedgerows from the inventory plan so the potential severance is not held up.

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Planner M. Witmer commented that staff has been working with the applicant and staff is proposing an amendment to the condition to read that it pertains to the severed lands only.

Vice-Chair J. Hillen questioned whether the applicant also understands and agrees with the other conditions.

Mr. B. Luffman replied that they do. He noted that the property will become the new operation centre for Guelph Hydro.

Committee member L. McNair questioned whether in their comments, Heritage Planning proposes conditions which must be complied with.

Planner M. Witmer replied that these items will be looked after as part of the site plan approval and they are not requested as a condition.

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 L. McNair and seconded by B. Birdsell,

“THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for severance of Front or Southwest Half Lot 11, Concession 7, to be known municipally as 520 Clair Road West, a parcel with a frontage of 152.69 metres (500.95 feet) along Clair Road West and a depth of 253.10 metres (830.38 feet),

be approved,

subject to the following conditions:

1. 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, building design, landscaping, parking, circulation, access, lighting, grading and drainage and servicing on the said lands to the satisfaction of the General Manager of Planning Services and the General Manager/City Engineer, prior to the issuance of site plan approval.
2. Prior to the issuance of site plan approval, the owner shall convey to the City at the owner's cost, any required easements for overland flow across the said lands, or any portion thereof, to the satisfaction of the General Manager/City Engineer, to ensure that the adjacent lands abutting the said lands can also be properly serviced to the satisfaction of the City.

3. That the owner pays the actual cost of constructing and installing any service laterals required to accommodate the proposed industrial development on the said lands, to the satisfaction of the General Manager/City Engineer, and furthermore, prior to the issuance of site plan approval, the Owner shall pay to the City the estimated cost of the service laterals, as determined by the General Manager/City Engineer.
4. That the owner agrees to have a Professional Engineer design a stormwater management system for the said lands, to the satisfaction of the General Manager/City Engineer, prior to the issuance of site plan approval on the said lands.
5. That the owner agrees to develop and maintain the said lands including the stormwater management facilities designed by a Professional Engineer, in accordance with a Site Plan that has been submitted to and approved by the General Manager/City Engineer. Furthermore the owner shall have the Professional Engineer who designed the storm water management system certify to the City that he/she supervised the construction of the storm water management system and that the storm water management system was built as it was approved by the City and that it is functioning properly.
6. Prior to the issuance of site plan approval, the owner shall have a Professional Engineer design a grading and drainage plan for the said lands, satisfactory to the General Manager/City Engineer. Furthermore, the owner shall have the Professional Engineer who designed the grading and drainage plan certify to the City that he/she has inspected the final grading of the site and that it is functioning properly.
7. That the owner constructs the building at such an elevation that the building can be serviced with a gravity connection to the sanitary sewer.
8. The owner shall be responsible for the total cost associated with the repair of any damage to the existing municipal services which is caused during the course of construction or building on the said lands.
9. That the owner shall make arrangements satisfactory to the Engineering Department of Guelph Hydro Electric Systems Inc. for the servicing of the said lands, as well as provisions for any easements and/or rights-of-way for their plants, prior to the issuance of site plan approval on the said lands.
10. That the owner shall ensure that all telephone service and cable TV service on the said lands shall be underground. The owner shall enter into a servicing agreement with the appropriate service providers for the installation of underground utility

services for the said lands, as well as provisions for any easements and/or rights-of-way for their plants, prior to the issuance of site plan approval on the said lands.

11. That the owner shall make arrangements satisfactory to Union Gas for the servicing of the said lands, as well as provisions for any easements and/or rights-of-way for their plants, prior to the issuance of site plan approval on the said lands.
12. During the construction of any building or structure on any part of the said lands, and the installation of any service or utility, the owner shall observe, or cause to be observed, all By-laws of the City and the following provisions and shall deliver a copy of this to every contractor who may construct any of the Municipal Services:
 - a) All streets abutting on the said lands which are to be used for access to the said lands during the development of them and during construction of buildings on them shall be kept in good and usable condition and, if damaged, shall be repaired immediately to the satisfaction of the General Manager/City Engineer at the expense of the owner;
 - b) All trucks and vehicles making deliveries to or taking materials from the said lands or working on the said lands shall be both covered and loaded in such a manner as to not scatter refuse, rubbish, or debris on any road or highway whether within the said lands or not. Should any such refuse, rubbish, or debris be so scattered, the owner shall be responsible to immediately remove it and correct any damage caused thereby. Failing immediate removal of the refuse, rubbish, or debris, the City may remove it and the City may correct any damage caused thereby, such removal and/or correction to be at the expense of the owner.
 - c) All construction garbage shall be collected and disposed of in an orderly manner at the Municipal Waste Disposal Site, or at such other place as may be approved by the General Manager/City Engineer. Under no circumstances shall garbage or rubbish of any kind be disposed of by burning on the site without authorization of the Fire Chief.
13. Prior to the issuance of site plan approval, the owner will be required to ensure that any domestic wells or monitoring wells and boreholes drilled for hydrogeological or geotechnical investigations are properly decommissioned in accordance with current Ministry of the Environment Regulations and Guidelines to the satisfaction of 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. The developer shall complete a Tree Inventory, Preservation and Compensation Plan, for the severed parcel, satisfactory to the General Manager of Planning Services and in accordance with the City of Guelph Bylaw (2010)-19058, prior to endorsement of the deeds.
16. That prior to the issuance of site plan approval, the owner shall enter into a Site Plan Control Agreement with the City, registered on title, satisfactory to the General Manager/City Engineer and the City Solicitor, agreeing to satisfy the above-noted conditions and to develop the site in accordance with the approved plans.
17. That the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for endorsement, prior to February 19, 2015.
18. 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.
19. 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.
20. 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-90/13

Owner: 2298907 Ontario Inc.

Agent: Spec Construction Inc. Brian Collier

Location: 320 Eastview Road

In Attendance: **Sarbjit Beth**
 Alan Kocher
 Brian Collier

Vice-Chair J. Hillen questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. B. Collier replied the sign was posted and the staff comments were received. He explained that after the initial site plan approval process, the property owner requested a drive-through to be accommodated on site. He noted that they need a zoning variance for the proposed ATM and number of parking spaces.

Vice-Chair J. Hillen questioned whether the applicant understands and agrees with the proposed conditions.

Planner M. Witmer commented that the reason for a previous deferral was that staff was unsure of the number of parking that was eliminated by accommodating the drive-through. He noted that they now have an approvable plan.

Committee member K. Ash questioned if staff is concerned about the number of ATM's and if it should be limited to a number.

Planner M. Witmer replied that if a second drive-through was proposed, it would require a site plan approval.

Committee member K. Ash commented that the proposed condition could limit the number of drive-throughs to one.

Planner M. Witmer noted that Planning Services staff could support this.

Committee member L. McNair proposed to revise a condition to state that it is for the sole ATM device on the property.

Mr. B. Collier commented that he is fine with the condition.

Planner M. Witmer noted that Planning Services staff is also fine with 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 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 6.4.1.1 and 4.13.4.1 of Zoning By-law (1995)-14864, as amended, for 320 Eastview Road,

- a) to permit a drive-through for a Financial Establishment (bank) when the By-law does not permit a drive-through, and
- b) to permit a total of 194 off-street parking spaces when the By-law requires a service commercial mall to provide a total of 206 off-street parking spaces (1 per 16.5 square metres of gross floor area),

be approved,

subject to the following conditions:

1. The owner agrees to submit and receive approval from the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan indicating the location of the building, landscaping, parking, circulation, access, lighting, grading and drainage and servicing to the satisfaction of the General Manager of Planning Services and the General Manager/City Engineer, prior to the issuance of site plan approval. Furthermore, the owner shall develop the said lands in accordance with the approved site plan.
2. That the drive-through facility be limited to the sole use of a single ATM machine of a financial institution.
3. 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 and drive-through, building design, landscaping, parking, traffic circulation, access, lighting, grading and drainage and servicing on the said lands to the satisfaction of the General Manager of Planning Services and the General Manager/City Engineer, prior to the issuance of building permits.”

Carried

Application: A-8/14
Owner: Christian Farmers Federation of Ontario
Agent: GSP Group Inc. Hugh Handy
Location: 642 Woolwich Street

In Attendance: **Hugh Handy**
 Frances Pitkin

Vice-Chair J. Hillen questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. H. Handy replied the sign was posted and the staff comments were received. He explained that Christian Farmers Federation of Ontario is proposing to use the building as their new head office for five employees. He also explained that an existing residential unit in the basement will be vacated shortly. He noted that the four tests in the Planning Act are satisfied and that the office use is less stringent than the previous salon use.

Vice-Chair J. Hillen questioned whether the applicant understands and agrees with the condition.

Mr. H. Handy replied that he does.

The members of the Committee had no further questions of the applicant.

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 R. Funnell,

“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 6.1.3.24.1 of Zoning By-law (1995)-14864, as amended, for 642 Woolwich Street, to permit an Office when the By-law permits and Artisan Studio, Day Care Centre, Group Home, Personal Service Establishment and Dwelling units with permitted commercial uses in the same building, but does not permit and Office,

be approved,

subject to the following condition:

1. That any signage erected or displayed is restricted to the regulations set out for Office Residential Zones in the City of Guelph Sign By-Law, as amended.”

Carried

Vice-Chair J. Hillen, having declared a pecuniary interest with the next application, left the room at 4:47 p.m.

Application: A-9/14
Owner: Victoria Wood (Arkell) Ltd.
Agent: Black, Shoemaker, Robinson & Donaldson, Brian Beatty
Location: Amos Drive
In Attendance: Brian Beatty

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

Mr. B. Beatty replied the sign was posted and the staff comments were received. He explained that they concur with the staff comments. He also explained that they are working through site plan approval with staff. He was available for questions.

Acting Vice-Chair L. McNair questioned if the 100% of the property includes the easements at the back and if 50% coverage means the whole lot, not minus the easements at the back.

Mr. B. Beatty explained that the easement would be included.

Acting Vice-Chair L. McNair commented that the functional coverage is more than 50%.

Planner R. Mallory noted that typically the access easement is considered as part of the total area and 50% would be minus the unit/building.

The members of the Committee had no further questions of the applicant.

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 K. Ash 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 5.3.2 Row 8 of

Zoning By-law (1995)-14864, as amended, for four interior on-street townhouse units on Amos Drive (Parts 2, 3, 4 and 5 on site plan prepared by Black, Shoemaker, Robinson, Donaldson, known as project number 13-9487-2, dated January 7, 2014), to permit a maximum building coverage of 50% of the lot area when the By-law requires a maximum building coverage of 40% of the lot area, be approved.”

Carried

Vice-Chair J. Hillen was summoned back at 4:52 p.m.

Applications: **A-10/14, A-11/14, A-12/14**

Owners: **Antonio and Maria Mecca**
 Peter and Carmela Calenda

Agents: **HIP Developments, Scott Higgins**
 GSP Group Inc., Hugh Handy

Locations: **1211, 1221 and 1231 Gordon Street**

In Attendance: **Hugh Handy**
 Ed Finney

Vice-Chair J. Hillen questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received.

Mr. H. Handy replied that the signs were posted and the staff comments were received. He explained that to be able to work with staff further, they are requesting for a deferral of the application. He also explained that they have had an initial site plan meeting regarding the application. He noted that the potential owners wanted to proceed further with their plan but they are requesting a deferral so they can speak to staff regarding the details.

Vice-Chair J. Hillen questioned if the applicant understands that there is a fee for a deferred application.

Mr. H. Handy replied that they understand this.

Moved by L. McNair and seconded by R. Funnell,

“THAT Applications A-10/14, A-11/14 and A-12/14 for Antonio and Maria Mecca and Peter and Carmela Calenda at 1211, 1221 and 1231 Gordon Street, be deferred sinedie, to provide the applicant an opportunity to submit a detailed site plan to be reviewed by staff and in accordance with the Committee’s policy on applications deferred sinedie,

that the applications will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application.”

Carried

The Committee members had a discussion regarding a refund request for 5 Gordon Street, which was refused by the Committee at their January 16, 2014 Committee of Adjustment meeting. The applicant has requested the Committee to re-consider the refund request by expressing the need to appear in front of the Committee with the details.

It was determined that the Acting Secretary-Treasurer will advise the applicant of the requirement of withdrawing the application officially and to invite him to appear in person in front of the Committee with his request.

The meeting adjourned at 5:24 p.m.

J. Hillen
Vice-Chair

Minna Bunnett, ACST(A)
Acting Secretary Treasurer