



## COMMITTEE OF ADJUSTMENT MINUTES

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday December 7, 2017 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

B. Birdsell, Chair  
K. Ash, Vice Chair  
S. Dykstra  
L. Janis  
D. Kendrick  
P. Ross

Staff Present: L. Cline, Council Committee Assistant  
T. Di Lullo, Secretary-Treasurer  
L. Sulatycki, Planner  
M. Witmer, Planner

### Disclosure of Pecuniary Interest and General Nature Thereof

There were no disclosures.

### Approval of Minutes

Moved by D. Kendrick  
Seconded by P. Ross

THAT the Minutes from the November 9, 2017 Meeting of the Committee of Adjustment, be approved as circulated.

CARRIED

### Requests for Withdrawal or Deferral

**Application:** B-15/17  
**Owner:** 1776410 Ontario Ltd.  
**Agent:** Jamie Laws, Van Harten Surveying Inc.  
**Location:** 561 York Road  
**In Attendance:** N/A

Secretary-Treasurer T. Di Lullo indicated that the agent had submitted correspondence indicating agreement with the deferral recommendation and therefore would not be attending the hearing this evening.

Moved by S. Dykstra  
Seconded by L. Janis

THAT Application B-15/17 for 561 York Road, be **DEFERRED** sinedie, 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accordance with the Committee's policy on applications deferred sinedie, that the applications will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral fee be paid prior to reconsideration of the application.

REASONS:

This application is deferred to allow the applicant time to undertake an Environmental Impact Study and to further consult with staff.

CARRIED

**Applications:** B-17/17 & B-18/17  
**Owner:** Gerald Grasley  
**Agent:** Nancy Shoemaker, Black, Shoemaker, Robinson & Donaldson Limited  
**Location:** 69 Lowes Road  
**In Attendance:** N/A

Secretary-Treasurer T. Di Lullo indicated that the agent had submitted correspondence indicating agreement with the deferral recommendation and therefore would not be attending the hearing this evening.

Moved by S. Dykstra  
Seconded by L. Janis

THAT Applications B-17/17 and B-18/17 for 69 Lowes Road, be **DEFERRED** sinedie, 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accordance with the Committee's policy on applications deferred sinedie, that the applications will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral fee be paid prior to reconsideration of the application.

REASONS:

This application is deferred to allow the applicant to address engineering concerns.

CARRIED

Current Applications

**Application:** B-16/17  
**Owner:** Debrob Investments Ltd.

**Agent:** Robin-Lee Norris, Miller Thomson

**Location:** 55 and 75 Cityview Drive North

**In Attendance:** Robin-Lee Norris  
Kelley des Tombe

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. R. Norris, agent, responded that the sign was posted and comments were received.

Ms. R. Norris noted the recommended conditions had been revised for clarification purposes and indicated agreement with the revisions. A copy of the revised conditions were provided to the Committee members.

Ms. R. Norris gave a brief background on the application.

In response to a question from member S. Dykstra, Ms. R. Norris acknowledged that the drawings provided outlined the consent and related variance requests.

No members of the public spoke.

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 D. Kendrick  
Seconded by K. Ash

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 Concession 3, Division C, Part of Lot 4, a portion of land municipally known as 55 and 75 Cityview Drive North, an irregularly shaped parcel with an area of 272.1 square metres, as shown as Part 7 on Plan 61R-21038, as a lot addition to Concession 3, Division C, Part of Lot 4, shown as Part 5 on Plan 61R-21038, municipally known as 128 Starwood Drive, to facilitate the creation of a new lot with frontage along Starwood Drive of 20.15 metres and a depth of 35 metres,

be **APPROVED**, subject to the following conditions:

1. That prior to the issuance of the Certificate of Official, the Cityview Phase 1 Subdivision Agreement be executed by the Owner to the satisfaction of the City.
2. That the Owner shall pay the actual cost of the construction of the new driveway entrances including the required curb cuts and/or curb fills, with the estimated cost of the works as determined necessary by the City Engineer being paid, prior to the issuance of any building permits.
3. Pay the actual cost of the removal of concrete curb, within the road allowance, the restoration of the boulevard with topsoil and sod including any

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

4. 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.
5. That the owner constructs the new dwellings at such an elevation that the lowest level of the buildings can be serviced with a gravity connection to the sanitary sewer.
6. That the owner grades the property in accordance with the overall approved grading plan for the subdivision.
7. Prior to the issuance of the Certificate of Official, the owner agrees to convey and dedicate Part 1 and 3 as shown on 61R-21038 to the City of Guelph for the purpose of a future municipal road extension.
8. Prior to the issuance of the Certificate of Official, the owner agrees to convey and dedicate Parts 2, 4, 8 and 9 as shown on 61R-21038 to the City of Guelph for the purpose of a 0.3 metre reserve.
9. Prior to the issuance of the Certificate of Official, the owner agrees to convey and dedicate Part 6 as shown on 61R-21038 to the City of Guelph for the purpose of open space/park.
10. Prior to the issuance of the Certificate of Official, the owner agrees to pay for all works within the future right of way as shown on Part 1 and 3 on 61R-21038.
11. The owner shall make arrangements satisfactory to the Technical Services Department of Guelph Hydro Electric Systems Inc. for the installation of an underground hydro service to the proposed new dwellings, prior to issuance of any building permits.
12. That the owner makes satisfactory arrangements with Union Gas for the servicing of the lands, as well as provisions for any easements and/or rights-of-way for their plants, prior to the issuance of any building permits.
13. That the owner shall ensure that all telephone service and cable TV service in the Lands shall be underground. The Owner shall make arrangements satisfactory to the appropriate service providers for the installation of underground utility services for the Lands, prior to the issuance of any building permits.
14. The Owner shall be responsible for the payment of cash-in-lieu of parkland dedication for the severed lands (Part 7 as shown on Plan 61R-21038) to the satisfaction of the Deputy CAO of Public Services pursuant to s. 51.1 and s. 53(13) of the Planning Act prior to the endorsement of the Transfer (deed).

15. Prior to the endorsement of the Transfer (deed) by the City, the Owner shall provide to the Deputy CAO of Public Services a satisfactory form appraisal report prepared for The Corporation of the City of Guelph for the purposes of calculating the payment of cash-in-lieu of parkland dedication pursuant to s.51.1 and s.53(13) of the Planning Act. The form appraisal report shall be prepared by a qualified appraiser who is a member in good standing of the Appraisal Institute of Canada, and shall be subject to the review and approval of the Deputy CAO of Public Services. Notwithstanding the foregoing, if the form appraisal provided by the applicant is not satisfactory to the Deputy CAO of Public Services, acting reasonably, the City reserves the right to obtain an independent form appraisal for the purposes of calculating the payment of cash-in-lieu of parkland dedication.
16. 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 issuance of the Certificate of Official.
17. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to the issuance of the Certificate of Official, that he/she will provide a copy of the registered instrument as registered in the Land Registry Office within two years of issuance of the Certificate of Official, or prior to the issuance of a building permit (if applicable), whichever occurs first.
18. That prior to the issuance of the Certificate of Official, 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 deposited Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca).
19. That upon fulfilling and complying with all of the above-noted conditions, 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 the issuance of the Certificate of Official. The Transfer documents for the severed parcel shall contain a statement to ensure that Section 50(3) or Section 50(5) of the Planning Act, R.S.O. 1990, as amended, shall apply to any subsequent conveyance or transaction with respect to the land described herein; and a statement that the severed parcel and the abutting lands to which this severed parcel is to be added shall be dealt with contemporaneously in any future conveyances or transactions unless further consent is granted under the Planning Act or other lawful order.
20. That the Owner shall consolidate the severed parcel with the abutting lands to which the severed parcel is to be added as a single parcel ("the consolidation") and that the Owner's solicitor shall provide a firm undertaking in writing to the Secretary-Treasurer of the Committee of Adjustment for the City of Guelph that the solicitor will attend to the consolidation and will provide within 30 days of the date of registration in the Land Registry Office for Wellington (No. 61), or prior to the issuance of a building permit [if applicable], whichever occurs first, a copy of the registered electronic

Transfer document including the Certificate of Official and the registered Application Consolidation Parcels document.

21. That the Transferee take title of the severed lands in the same manner and capacity as he or she holds his or her abutting lands; and that Section 50(3) or Section 50(5) of the Planning Act, R.S.O. 1990, as amended, shall apply to any subsequent conveyance or any transaction involving the parcel of land that is subject of this consent.

**REASONS:**

This application is approved, as it is the opinion of the Committee that, with the above noted conditions of approval, this application meets the criteria of section 51(24) of the Planning Act to which all consent applications must adhere.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

**CARRIED**

**Application: A-77/17**

**Owner: Debrob Investments Ltd.**

**Agent: Robin-Lee Norris, Miller Thomson**

**Location: 128 Starwood Drive (with lot addition from a portion of 55 and 75 Cityview Drive North)**

**In Attendance: Robin-Lee Norris  
Kelley des Tombe**

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. R. Norris, agent, responded that the sign was posted and comments were received.

In response to a question from member K. Ash, Ms. R. Norris provided clarification regarding the location of the requested variance for the required parking space. Ms. K. des Tombe further clarified that since the garage will be used as a temporary sales centre, the required parking space will temporarily be located in the driveway.

In response to questions from member S. Dykstra, Ms. R. Norris responded that currently the driveway does not comply with the Zoning By-law provisions for a required parking space to be located a minimum of 6.0 metres from the street line.

Planner L. Sulatycki advised that the property is zoned R.1D and therefore only requires one legal parking space within the garage. Since the temporary sales office will be located within the garage, the legal parking space is moved outside the garage. She clarified that the variance for the 0.5 metres from the street line is essentially measured from the property

line. She acknowledged that one of the recommended conditions allows for the owner to enter into an agreement to ensure the legal parking space returns to the garage once the sales office is no longer in use. Ms. R. Norris commented that this agreement will be registered on title so any future purchasers of the property would be fully aware of this condition.

In response to a question from member S. Dykstra, Planner L. Sulatycki read the Zoning By-law requirements for the off-street parking space and clarified that the street line is essentially measured at the property line.

No members of the public spoke.

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

Moved by L. Janis  
Seconded by D. Kendrick

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 4.13.7.2.1 iv) and 4.13.2.1 of Zoning By-law (1995)-14864, as amended, for 128 Starwood Drive (including the lot addition from File B-16/17),

- a) to permit the driveway of the proposed model home to have a maximum driveway width of 6.5 metres, when the By-law requires that a residential driveway in the R.1D Zone shall have a maximum width of 5.0 metres; and
- b) to permit the required parking space to be located 0.5 metres from the street line and to the front of the front wall of the main building, when the By-law requires that in a R.1 Zone, every required parking space shall be located a minimum of 6.0 metres from the street line and to the rear of the front wall of the main building,

be **APPROVED**, subject to the following conditions:

1. That the Owner enters into an Agreement registered on title of the property prior to the issuance of a building permit, requiring the temporary sales office at 128 Starwood Drive be removed within the garage and the garage restored to accommodate a 3 metre by 6 metre parking space for the dwelling prior to the transfer of lease/title to a subsequent owner(s) or within 5 years of the issuance of a building permit, whichever occurs first.
2. That prior to the issuance of building permit, the applicant shall demonstrate that the driveway is not within the sight line triangle.

REASONS:

This application is approved, as it is the opinion of the Committee that, with the above noted conditions of approval, this application meets all four tests under Section 45(1) of the Planning Act.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

**Application: A-78/17**  
**Owner: Debrob Investments Ltd.**  
**Agent: Robin-Lee Norris, Miller Thomson**  
**Location: 55 and 75 Cityview Drive North**  
**In Attendance: Robin-Lee Norris**  
**Kelley des Tombe**

Secretary-Treasurer T. Di Lullo noted that a revised public hearing notice was circulated to correct an error regarding the driveway width. She clarified that the proposed driveway width is 6 metres. She also noted that there was an error on the public hearing notice regarding the lot numbers. The variance is proposed to apply to eight lots being lots 34 through 39, and lots 49 and 50, as indicated on the drawing.

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. R. Norris, agent, responded that the sign was posted and comments were received.

Ms. R. Norris stated she agreed with the staff comments and recommended conditions. She provided a brief background about the application.

In response to a question from member S. Dykstra, Ms. K. des Tombe indicated that the hatched lots on the drawings are the lots requiring the variance. Ms. R. Norris clarified that the subject lots are not lots 34 to 50 inclusive. Member S. Dykstra recommended that one of the conditions mention the specific lot numbers.

No members of the public spoke.

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 S. Dykstra  
Seconded by K. Ash

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.13.7.2.1 iv) of Zoning By-law (1995)-14864, as amended, for the proposed Cityview Subdivision



located at 55 and 75 Cityview Drive North, to permit the driveways of the proposed single detached dwellings located on Lots 34, 35, 36, 37, 38, 39, 49 and 50 of Phase 1 of the Cityview Subdivision to have a maximum driveway width of 6.0 metres, when the By-law requires that a residential driveway in the R.1D Zone shall have a maximum width of 5.0 metres, be **APPROVED**, subject to the following conditions:

1. That the variance only applies to lots 34 through 39, and 49 and 50 in Phase 1 of draft approved plan of subdivision 23T-12501, as shown on the Public Notice.
2. That a maximum driveway width of 6.0 metres only be permitted if these identified lots have a minimum frontage of 12 metres.

**REASONS:**

This application is approved, as it is the opinion of the Committee that, with the above noted conditions of approval, this application meets all four tests under Section 45(1) of the Planning Act.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

**Application:** A-79/17  
**Owner:** Erica Scime and Craig Sherwood  
**Agent:** N/A  
**Location:** 11 Prospect Avenue  
**In Attendance:** Erica Scime  
Doug Minett  
Lloyd Grinham

Secretary-Treasurer T. Di Lullo noted that comments were received after the comment deadline from D. Haines and C. Harvey-Smith, residents of 15 Prospect Avenue, with concerns regarding this application. A copy of the correspondence was provided to the members.

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. E. Scime, owner, responded that the sign was posted and comments were received.

Ms. E. Scime provided a brief background on the application.

In response to questions from member S. Dykstra, Ms. E. Scime responded that access to the rear yard would be through the garage or through the side yard. She indicated that the

right side yard has a fence with a gate. Member S. Dykstra indicated that he recommended that a condition be added that the side yard remains free and clear for access to the rear yard.

In response to a question from member L. Janis, Planner M. Witmer responded that he could not comment on the typical height of a garage as the Zoning By-law does not regulate height in terms of absolute measurement and only regulates the number of storeys.

In response to questions from member P. Ross, Ms. E. Scime responded that concerns provided by the neighbour are mostly regarding drainage and possible negative impacts to their property. She indicated that the drawings show the location of drainage and that grading will be addressed. She said that the designer did not indicate any potential issues with the roof design.

In response to a question from Chair B. Birdsell, Ms. E. Scime indicated she believed the eaves of the garage are proposed to be close to the property line, but not on the property line. Chair B. Birdsell commented that the drawings show an excessive amount of eaves.

In response to a question from member P. Ross, Ms. E. Scime responded that a non-flat roof would work best for their design and existing roof line.

Member L. Janis commented that as a realtor she often sees homes with inadequate eaves and indicated that she supported the design and proposal.

Planner M. Witmer indicated that the minimum side yard setback in the R.1D zone is 0.6 metres, which is quite close to the proposal.

In response to a question from member P. Ross, Planner M. Witmer responded that the 0.6 metre setback is measured to the wall of the garage. He indicated that the Zoning By-law does not have provisions regarding eavestroughs or overhangs. He indicated that recommended conditions have requirements for a grading plan to be submitted and to ensure that drainage does not impact adjacent properties.

Member P. Ross indicated that the eaves are on the property line or very close and this would require the owner to place a ladder on the neighbouring property for maintenance purposes. Planner M. Witmer indicated that the submitted drawings do not show where the eaves and roof leaders would be located so he did not want to speculate their location. He indicated in his opinion the recommended conditions regarding drainage and grading satisfy concerns and make the minor variance desirable.

Member P. Ross indicated that the elevation drawings submitted with the application show the eaves going up to or very close to the property line. Planner M. Witmer acknowledged that he has viewed these drawings, but there are no provisions in the Zoning By-law to regulate eaves or roof water leaders. He indicated that there are many lots in the R.1D zone with a 0.6 metre setback that would have eaves in a similar situation. He indicated that as long as the grading and drainage conditions are met and there are no adverse impacts, he has no major concerns with the application.

Mr. D. Minett, on behalf of the neighbouring property owner Mr. D. Haines, provided concerns about the substantial change in the look and feel of how the bungalows on the street relate to each other as most homes on the street have quite sufficient side yards. He indicated the eavestrough is on the property line. He acknowledged that Mr. D. Haines

offered for his architect to work with the designer for the subject property and that there has been no willingness by the owners of the subject property to do so.

Ms. E. Scime responded that she never received an offer to work with their designer, only a list of objections to the proposal. She acknowledged that she provided all plans to the neighbours, not just the plans regarding the variance. She indicated that the proposal has been underway for 2 years and stated that she felt this was the best proposal.

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 S. Dykstra  
Seconded by K. Ash

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.1.2 Row 7 of Zoning By-law (1995)-14864, as amended, for 11 Prospect Avenue, to permit a left side yard setback of 0.58 metres for the proposed attached garage, when the By-law requires a minimum side yard setback of 1.5 metres, be **APPROVED**, subject to the following conditions:

1. That the proposed addition be limited to one (1) storey in height.
2. That the 0.58 metre side yard setback only apply to the garage addition generally in accordance with the Public Notice sketch.
3. That prior to the issuance of a building permit, the applicant shall provide a grading plan to Engineering Services.
4. That prior to the issuance of a building permit, the applicant shall demonstrate that all site storm drainage is self-contained and there is no adverse impact on the adjacent lands.
5. That prior to the issuance of a building permit, that the owner demonstrates to the satisfaction of the Chief Building Official or designate, that no overhang, including eaves troughs, downspouts and rain water leaders encroach or drains onto another property.
6. That prior to issuance of a building permit, the applicant makes arrangements with the Technical Services Department of Guelph Hydro Electric Systems Inc. for the possible relocation of the existing overhead hydro service. This would be at the applicant's expense.
7. That the side yard remain free and clear of all encumbrances.

REASONS:

This application is approved, as it is the opinion of the Committee that, with the above noted conditions of approval, this application meets all four tests under Section 45(1) of the Planning Act.

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

CARRIED

Other Business

Secretary-Treasurer T. Di Lullo advised the members that an Ontario Municipal Board (OMB) hearing has been scheduled for Wednesday, January 31, 2018 at 10:00am for file A-37/17 regarding 144 Watson Road North.

Secretary-Treasurer T. Di Lullo advised the members that Guelph City Council at the November 27, 2017 Council meeting appointed Mr. David Gundrum as a member of the Committee. Member D. Gundrum will be joining the Committee at the next hearing.

Secretary-Treasurer T. Di Lullo reminded the Committee that the Chair and Vice-Chair positions are elected annually and this election will take place at the next hearing on January 11, 2018.

Adjournment

Moved by D. Kendrick  
Seconded by K. Ash

THAT the hearing of the Committee of Adjustment be adjourned at 4:45 p.m.

CARRIED

B. Birdsell  
Chair

T. Di Lullo  
Secretary-Treasurer