



**COMMITTEE OF ADJUSTMENT
MINUTES**

The Committee of Adjustment for the City of Guelph held its Regular Hearing on Thursday February 8, 2018 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

B. Birdsell, Chair
K. Ash, Vice Chair
S. Dykstra
D. Gundrum (arrived at 4:05 p.m.)
L. Janis
D. Kendrick
P. Ross

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

Disclosure of Pecuniary Interest and General Nature Thereof

There were no disclosures.

Approval of Minutes

Moved by P. Ross
Seconded by K. Ash

THAT the Minutes from the January 11, 2018 Regular Meeting of the Committee of Adjustment, be approved as circulated.

CARRIED

Requests for Withdrawal or Deferral

Secretary-Treasurer T. Di Lullo noted that correspondence was received from the owner of 78 Yorkshire Street North requesting to withdraw application A-17/18.

Current Applications

Application: A-13/18
Owner: Kristen and Eric Degroot
Agent: N/A

Location: 15 Foster Avenue

**In Attendance: Kristen Degroot
Eric Degroot**

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

Ms. K. Degroot explained the purpose of the application and showed photos of the existing dwelling.

Member D. Gundrum arrived at 4:05 p.m.

The Committee had no questions for staff or the owner.

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 L. Janis

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 4.7 Row 3 of Zoning By-law (1995)-14864, as amended, for 15 Foster Avenue, to permit the open, roofed porch to have a minimum setback of 0.1 metres from the front line, when the By-law requires than an open, roofed porch not exceeding 1 storey in height be setback a minimum of 2 metres from the front lot line,

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

1. That the 0.1 metre setback for an open roofed porch only apply to the location as shown and generally in accordance with the Public Notice sketch.
2. That prior to the 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.

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-14/18
Owner: Karuna Bhanot and Parveen Bhardwaj
Agent: Alvin Brown, AWB Construction Design
Location: 5 Gorman Court
In Attendance: Alvin Brown

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

The Committee had no questions for staff or the agent.

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 K. Ash
Seconded by P. Ross

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.15.1.5 of Zoning By-law (1995)-14864, as amended, for 5 Gorman Court, to permit an accessory apartment size of 88.8 square metres, or 27% of the total floor area, when the By-law permits an accessory apartment that does not exceed 45% of the total floor area of the building or a maximum of 80 square metres of floor area, whichever is lesser,

be **APPROVED**.

REASONS:

This application is approved, as it is the opinion of the Committee that 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-15/18
Owner: Jason Jones and Yancy Smallacombe
Agent: N/A
Location: 159 Dufferin Street
In Attendance: Jason Jones
Yancy Smallacombe

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

Mr. J. Jones provided a brief background on the application.

The Committee had no questions for staff or the agent.

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 D. Gundrum
Seconded by L. Janis

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.15.1.5 of Zoning By-law (1995)-14864, as amended, for 159 Dufferin Street, to permit an accessory apartment size of 100.4 square metres, or 24% of the total floor area, when the By-law permits an accessory apartment that does not exceed 45% of the total floor area of the building or a maximum of 80 square metres of floor area, whichever is lesser,

be **APPROVED**.

REASONS:

This application is approved, as it is the opinion of the Committee that 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

Refund Request for File A-15/18

A request was received from the owner of 159 Dufferin Street, Mr. J. Jones, to refund the minor variance application fee. Mr. J. Jones provided background about the request. B. Bond, Zoning Inspector indicated he fully supported the request.

Moved by L. Janis
Seconded by P. Ross

THAT the minor variance application fee (\$794.00) for File A-15/18, for 159 Dufferin Street, be refunded to the applicant.

CARRIED

Application: A-16/18
Owner: 902325 Ontario Limited
Agent: Jeff Buisman, Van Harten Surveying Inc.
Location: 415 Elizabeth Street
In Attendance: Jeff Buisman
Mark Cohen

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

Mr. J. Buisman provided background on the application. He indicated the owner was in agreement with the recommended conditions.

The Committee had no questions for staff or the agent.

No members of the public spoke.

Having considered a change or extension in a use of property which is lawfully non-conforming under the By-law as to whether or not this application has met the requirements of Section 45(2) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and

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
Seconded by S. Dykstra

THAT in the matter of an application under Section 45(2)(a)(i) of the Planning Act, R.S.O. 1990, c.P13, as amended, permission to extend the legal non-conforming use at 415 Elizabeth Street, to permit the existing temporary office building to remain on the property for an additional three years, and

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 7.3 Row 3 and Section 4.24 of Zoning By-law (1995)-14864, as amended, for 415 Elizabeth Street, to permit a front yard setback of 4.8 metres, when the By-law requires a minimum front yard setback of 6 metres,

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

1. That the Owner enters into an Agreement registered on title for the property within 90 days of Committee's final decision that states that the temporary building will be removed within three (3) years of the date of the issuance of a building permit.
2. That prior to issuance of a building permit, the Owner(s) shall complete a Site Screening Questionnaire for Identifying Potential Contamination in accordance with the City's guidelines for Development of Contaminated or Potentially Contaminated Sites.

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

Applications: B-1/18, A-1/18 and A-2/18
Owner: Worton Homes Ltd.
Agent: Jeff Buisman, Van Harten Surveying Inc.
Location: 20 Young Street
In Attendance: Jeff Buisman

**James Dennis
Grant Worton
Marko Podobnik
Wendy Creed
Huu Huynh
Ken Alsop
Peter Marzo
Bruce Ryan**

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

Mr. J. Buisman provided a presentation to the Committee explaining the application and outlining the changes made to application since the last hearing. He indicated the Old University Neighbourhood Residents' Association (OUNRA) is now in support of the application and changes have been made to the application as a result of comments from the neighbours at 16 and 21 Young Street. He requested that condition 9 be revised regarding gravity fed sewers as sewage ejector pumps are needed in the basement of the proposed dwellings. He indicated that the height of the dwellings would need to be increased if sewage ejector pumps are not permitted and as a result these dwellings would not fit in with the surrounding neighbourhood.

In response to a question from member K. Ash, Planner L. Sulatycki responded that Engineering staff requested the condition not be revised due to past litigation when sewage ejector pumps have been permitted.

In response to a question from member S. Dykstra, Mr. J. Buisman provided possible condition wording from previous similar applications that have been accepted by the Committee in the past. Mr. J. Buisman stated that he has discussed this condition with Engineering staff and tried to convince staff that the condition is not appropriate. He indicated that if the condition is not changed, the applicant would be forced to appeal the condition to the Ontario Municipal Board.

Member K. Ash suggested that the applicant may want to defer the application to allow more time to consult with staff. Mr. J. Buisman responded that they have already consulted and Engineering staff are unwilling to change the condition.

Mr. G. Worton, owner, provided background on the application and asked that the condition be changed.

Chair B. Birdsell commented that if a basement was added to the existing dwelling a sewage pump would be installed. He indicated this concern is only arising because of the nature of the application.

In response to a question from member S. Dykstra, Mr. J. Buisman indicated he had no concerns with a condition limiting the side yards and driveway widths to those shown on the drawing. Planner L. Sulatycki indicated she also had no concerns.

In response to a question from member S. Dykstra, Planner L. Sulatycki responded that condition requiring a Tree Inventory and Preservation Plan (TIPP) is required for City owned trees as the property is not subject to the private tree by-law. She said the TIPP will be required prior to building permit as at that time it will be known where the dwelling will be

located. She indicated that she would not recommend this condition be changed. Mr. J. Buisman indicated that a TIPP has already been completed.

Member L. Janis commented that if there is a contentious issue that Engineering staff are aware of, that Engineering staff should be present at the hearing to address the issue.

In response to questions from member P. Ross, Planner L. Sulatycki responded that elevation and design drawings required as part of condition 2 would be circulated internally and changes would be recommended if required. She indicated that this review is not a public process and therefore these drawings would not be circulated to the neighbours for comment. She indicated that the possible changes staff could recommend would depend on the application. Planner M. Witmer added that any recommendations staff would make regarding respecting the character of the existing neighbourhood would only be suggestions.

In response to a question from member D. Gundrum, Mr. J. Buisman stated that he had not done a full sight line analysis to see if the trees would affect the sight line from the driveways. Zoning Inspector B. Bond indicated that any sight line issues said can be caught through enforcement at a later date.

Mr. B. Ryan, representing the Old University Neighbourhood Residents' Association (OUNRA), stated that the owner had made changes based on OUNRA's initial comments and therefore the OUNRA has withdrawn their previous objections. He stated that the Association was concerned that the owner might be forced to build a much higher dwelling that is less in keeping with the neighbourhood.

In response to a question from member S. Dykstra, Planner L. Sulatycki responded that the maximum height for a dwelling in this zone is three storeys rather than a specific measurement.

Ms. W. Creed, resident of 21 Young Street, stated she was concerned that one lot is being split into two lots. She stated that many of the lots in the area are around the same size. She indicated she appreciated the changes the owner has made to ensure compatibility, but that these changes are still minimal.

Mr. P. Marzo, resident of 3 Young Street, stated that most of the neighbours have the same concerns regarding the lot size as many of the existing lots are 60 feet or wider. He indicated that when he built on his lot there were lots of restrictions to ensure the dwellings fit in with the neighbourhood. He stated he has concerns with the two lots being much smaller in size, the limited distance between dwellings, and the increased height in comparison to the other dwellings in the neighbourhood.

File B-1/18

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 S. Dykstra
Seconded by D. Kendrick

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 Registered Plan 464, Lot 22, municipally known as 20 Young Street, a parcel with frontage along Young Street of 14.0 metres, a depth of 33.53 metres and an area of 469 square metres,

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

1. That a site plan shall be submitted to, and approved by the General Manager of Planning, Urban Design, and Building Services, prior to the issuance of a building permit for the new dwellings on the "severed" and "retained" parcels indicating:
 - a) The location and design of the new dwelling;
 - b) Grading, drainage and servicing information; and
 - c) The location of retained trees and trees to be removed.
2. That prior to the issuance of a building permit, elevation and design drawings for the new dwellings on the severed and retained parcels shall be submitted to, and approved by the General Manager of Planning, Urban Design, and Building Services.
3. That prior to the issuance of a building permit and prior to undertaking activities which may injure or destroy City owned trees, a Tree Inventory and Preservation Plan (TIPP) for City owned trees must be prepared and approved to the satisfaction of the Manager of Parks Operations and Forestry.
4. That where it is determined that City tree removal is required; a certified Arborist must provide this in writing to the satisfaction of the Manager of Parks Operations and Forestry prior to the issuance of a building permit or undertaking of activities that may injure or destroy City owned trees.
5. That prior to the issuance of the Certificate of Official, the existing house shall be demolished.
6. That prior to the issuance of the Certificate of Official, the Owner shall enter into an agreement with the City, registered on title, agreeing to satisfy the above noted conditions and to develop the site in accordance with the approved plans.
7. That the owner(s) agrees to pay the actual cost of the construction of the service lateral to the proposed severed and retained lands including the cost of all restoration works within the City's right of way. The owner(s) agrees to pay the estimated cost of the works as determined by the General Manager/City Engineer being paid, prior to the issuance of the Certificate of Official.
8. That the owner provides a servicing plan, showing the lateral connections to the City's infrastructure for review and approval for both the severed lands and retained lands, prior to issuance of a building permit or prior to issuance of the Certificate of Official, whichever comes first.
9. That the owner constructs the new dwelling at such an elevation that all above grade levels of the building can be serviced with gravity connection to

the sanitary sewer and any connections below grade meet the requirements of the Ontario Building Code.

10. That the owner provides a full grading plan for review and approval to the City for both the severed lands and the retained lands, and ensures that no storm water is draining towards the adjacent lands. The grading plan must be submitted prior to issuance of a building permit or prior to issuance of the Certificate of Official, whichever comes first.
11. That the owner provides a stormwater management brief for the severed and the retained parcels, prior to issuance of a building permit or prior to issuance of the Certificate of Official, whichever comes first.
12. That the owner enters into a Storm Sewer Agreement with the City, satisfactory to the General Manager/City Engineer, prior to issuance of the Certificate of Official.
13. Prior to issuance of any building permit, the owner(s) shall construct, install and maintain erosion and sediment control facilities, satisfactory to the General Manager/City Engineer.
14. That the owner(s) 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 a building permit.
15. That prior to issuance of a building permit, the applicant makes arrangements for provision of hydro servicing to the severed parcel, satisfactory to the Technical Services Department of Guelph Hydro Electric Systems Inc. The servicing costs would be at the applicant's expense.
16. The owner(s) shall ensure that all telephone service and cable TV service is available to the lands. The owner shall enter into a servicing agreement with the appropriate service providers for the installation of utility services, prior the issuance of a building permit.
17. The Owner shall be responsible for the payment of cash-in-lieu of parkland dedication 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 issuance of the Certificate of Official.
18. That prior to the issuance of the Certificate of Official, the Owner shall provide to the Deputy CAO of Public Services a satisfactory short narrative 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 short narrative 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 short narrative 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 short narrative appraisal for the purposes of calculating the payment of cash-in-lieu of parkland dedication.

19. That the driveways for the severed and retained portions be limited to a maximum width of 6 metres.
20. 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.
21. That all 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.
22. 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).
23. 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.
24. That Minor Variance Applications A-1/18 and A-2/18 are approved at the same time as the consent application and become final and binding.
25. That the driveways and dwelling setbacks be generally in accordance with the drawing included with the Public Notice.

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

File A-1/18

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 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 Table 5.1.2 Row 4 of Zoning By-law (1995)-14864, as amended, for 20 Young Street, to permit a minimum lot frontage of 14.0 metres, when the By-law permits a minimum lot frontage of 15.0 metres,

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

1. That Consent Application B-1/18 receives final certification of the Secretary-Treasurer and be registered on title.

REASONS:

This application is approved, as it is the opinion of the Committee that this application, with the above noted condition of approval, 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.

File A-2/18

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 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 Table 5.1.2 Rows 3 and 4 of Zoning By-law (1995)-14864, as amended, for 20 Young Street, to permit:

- a) a minimum lot area of 450 square metres, when the By-law permits a minimum lot area of 460 square metres; and
- b) a minimum lot frontage of 13.4 metres, when the By-law permits a minimum lot frontage of 15.0 metres,

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

1. That Consent Application B-1/18 receives final certification of the Secretary-Treasurer and be registered on title.

REASONS:

This application is approved, as it is the opinion of the Committee that this application, with the above noted condition of approval, 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 confirmed that an appeal to the Ontario Municipal Board (OMB) was filed on January 25, 2018 by the property owners of 92 Clough Crescent (File A-5/18) regarding the Committee's decision to refuse the requested minor variance.

Secretary-Treasurer T. Di Lullo indicated that correspondence from the OMB was received regarding the appeal of 144 Watson Rd N (File A-37/17) indicating that the hearing that was originally scheduled for January 31, 2018 has been adjourned until further notice.

Adjournment

Moved by S. Dykstra
Seconded by D. Gundrum

THAT the hearing of the Committee of Adjustment be adjourned at 5:02 p.m.

CARRIED

B. Birdsell
Chair

T. Di Lullo
Secretary-Treasurer