



**COMMITTEE OF ADJUSTMENT
MINUTES**

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday January 12, 2017 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

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

Staff Present: D. McMahon, Acting Secretary-Treasurer
L. Cline, Council Committee Assistant
L. Sulatycki, Planner
M. Witmer, Planner
B. Bond, Zoning Inspector
G. Van den Berg, Council Committee Coordinator

Disclosure of Pecuniary Interest and General Nature Thereof

Chair B. Birdsell declared a conflict of interest regarding application A-84/16 for 199 Elizabeth Street as the applicant is a client of his.

Approval of Minutes

Moved by M. Bosch
Seconded by L. Janis

THAT the Minutes from the December 8, 2016 Regular Meeting of the Committee of Adjustment, be approved as circulated.

CARRIED

Requests for Withdrawal or Deferral

Application: A-2/17
Owner: Frank Sampogna
Agent: Andrew Howarth, Howarth Contracting Inc.
Location: 41 Aberdeen Street
In Attendance: N/A

Council Committee Assistant L. Cline noted that the applicant had submitted a request for deferral of the subject application because an additional variance is required that wasn't included in the original application or drawing. This additional variance was identified by Planning Staff who conducted a site visit late last week, after their original comments recommending approval of the application had been sent out.

The applicant also requested a discounted deferral fee of 50%, which Staff indicated they could support.

Moved by M. Bosch
Seconded by K. Ash

THAT application A-2/17 for 41 Aberdeen Street, be deferred sine die, and in accordance with the Committee's policy on applications deferred sine die, that the application will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application.

REASONS:

This application is deferred to allow the applicant to meet with staff to review comments and provide additional information.

CARRIED

Moved by K. Ash
Seconded by P. Ross

THAT a discounted deferral fee of 50% apply for A-2/17, 41 Aberdeen Street, when the deferred application is resubmitted.

CARRIED

Current Applications

Application: **A-1/17**
Owner: **Kamel Hira, Hira Custom Homes**
Agent: **Jeff Buisman, Van Harten Surveying Inc.**
Location: **103 Dallon Drive**
In Attendance: **Hailey Keast**
 Jeff Buisman
 Caba Horvath

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. H. Keast, agent for the owner, indicated that the sign was posted and comments were received. Ms. H. Keast briefly outlined the subject application.

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 M. Bosch
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 Table 5.1.2, Row 6 of Zoning By-law (1995)-14864, as amended, for 103 Dallon Drive, to permit a front yard setback of 5.8 metres,

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-3/17**
Owner: **Jason Jones**
Agent: **James Laws, Van Harten Surveying Inc.**
Location: **159 Dufferin Street**
In Attendance: **James Laws**
 Jason Jones
 Yancy Smallcombe

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. Laws, agent for the owner, indicated that the sign was posted and staff comments were received. Mr. J. Laws briefly outlined the subject application.

In response to a question from member K. Ash, Mr. J. Laws indicated that the previous variance on the subject property was for two stacked parking spaces and a reduced width of the parking stall.

In response to a question from member K. Ash, Mr. J. Laws indicated that the accessory apartment is not approved and that the required variances for parking and apartment size need to be approved first.

Planner L. Sulatycki clarified that the previous variance from 2014 was refused by the Committee therefore the accessory apartment could not be registered.

In response to a question from member M. Bosch, Planner L. Sulatycki clarified that the previous application submitted in 2014 requested two parking spaces, whereas the current application requests approval for three parking spaces in tandem. Planner L. Sulatycki indicated that staff are supportive of the current application as it is appropriate for the area and won't have any negative impacts on the neighbours.

In response to questions from member M. Bosch, Mr. J. Laws confirmed that the driveway is going to be expanded from what is currently on-site.

In response to a question from member M. Bosch, Mr. J. Laws indicated that the side door located beside the parking area will be moved.

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 S. Dykstra

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 4.15.1.4.1 and 4.15.1.5 of Zoning By-law (1995)-14864, as amended, for 159 Dufferin Street, to permit:

- a) three stacked parking spaces for the existing dwelling and accessory apartment; and
- b) an accessory apartment size of 90.4 square metres, or 22% of the total floor area of the building,

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

1. Prior to registration of the two-unit house, the Owner shall submit a grading plan to the City for review and approval; the grading plan shall be signed and stamped by a professional Engineer.
2. Prior to registration of the two-unit house, the Owner shall submit a detailed drawing of the proposed retaining wall to the City for review and approval.

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

Chair B. Birdsell left the Council Chambers.

Application: A-84/16
Owner: Herve Label
Agent: Josh Frank
Location: 199 Elizabeth Street
In Attendance: Josh Frank
Herve Label

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. J. Frank, agent for the owner, indicated that the sign was posted and staff comments were received. Mr. J. Frank briefly outlined the subject application.

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. Kendrick
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 Table 5.1.2, Rows 6a and 7, and Section 4.13.2.1 of Zoning By-law (1995)-14864, as amended, for 199 Elizabeth Street, to permit:

- a) an exterior side yard setback of 0.46 metres;
- b) a right side yard setback of 0.6 metres; and
- c) a distance of 0 metres from the required parking space to the street line.

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

1. 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.
2. 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.

3. 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.

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: B-25/16
Owner: Terra View Riverside Ltd.
Agent: Tracy Lesperance, Van Harten Surveying Inc.
Location: 68 York Road
In Attendance: Tracy Lesperance

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. T. Lesperance, agent for the owner, indicated that the sign was posted and staff comments were received. Ms. T. Lesperance briefly outlined the subject application.

In response to a question from member S. Dykstra, Ms. T. Lesperance indicated that the City has indicated a tree located on the property close to the entrance of the driveway can't be removed. Planner M. Witmer clarified that there is a city tree on the York Road right-of-way that must be preserved and that the driveway for the subject property will be built on a slight curve.

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 M. Bosch
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 Registered Plan 113, Part of Lot

159, Parts 1 and 2 of Reference Plan 61R-20936, municipally known as 68 York Road, a parcel with frontage along York Road of 7.7 metres, a depth of 33.5 metres, and an area of 258.3 square metres,

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

1. The owner applies for sanitary and water laterals for the proposed severed lands and pays the rate in effect at the time of application, prior to the endorساتion of deeds.
2. That the owner agrees to pay the actual cost of the constructing of the relocation of the existing waste and sanitary lateral to the proposed severed lands including the cost of any curb cuts or fills required, with the estimated cost of the works as determined by the General Manager/City Engineer being paid, prior to endorساتion of the deeds.
3. The owner agrees to contact Joe de Koning, P.Eng, Manager Technical Services, 48 hours prior to the works being undertaken within the City's right of way, and to ensure that City inspect the service relocations. And that the owner agrees to pay for the cost of the inspection completed by the City's Design and Construction division.
4. That the owner agrees to post a security deposit of \$2500.00 to cover for any damages that may occur during the relocation of the services prior to commencing any site servicing work.
5. The owner shall ensure that all telephone service and cable TV service in the 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 Lands, prior to endorساتion of deed.
6. 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 for the endorساتment.
7. 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 endorساتment of the deed.
8. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorساتment 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.
9. 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.

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-4/17**
Owner: **Stockford Developments Inc.**
Agent: **Dustin Campbell, DB Fitness**
Location: **195 Hanlon Creek Boulevard**
In Attendance: **Dustin Campbell**
 Brittany Dalton
 James Nagy

Council Committee Assistant L. Cline noted that Planning staff had conducted a site visit yesterday and identified that the notice sign wasn't posted on the subject property. The applicant indicated to staff that the sign was posted for 10 days, taken down the day before the hearing and reposted.

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. Nagy, owner, indicated that the sign was posted and staff comments were received. Mr. D. Campbell, agent for the owner, briefly outlined the subject application.

Mr. J. Nagy requested that the application be amended to add an additional 47 square metres to the proposed use due to the configuration of the existing building.

In response to a comment from M. Bosch, Planner M. Witmer indicated that an additional 47 square metres of floor space would result in a total gross floor area of 451.5 square metres for the proposed use in the existing industrial building. Planner M. Witmer noted that the business would still represent a very small portion of a large industrial mall with two buildings and that this slight increase would be barely noticeable.

In response to a question from member K. Ash, Planner M. Witmer indicated that the industrial mall has a blended parking ratio and off-street parking wouldn't be impacted.

In response to a question from member K. Ash, Mr. D. Campbell indicated that more space was required because of the building structure as well as to provide additional space for rehab services.

In response to a question from member L. Janis, Planner M. Witmer noted that the terminology "no larger than" is equivalent to a maximum and ensures that the recreation centre remains incidental to the overall industrial mall while also capping the gross floor area at a certain rate.

Planner M. Witmer noted that the recreation centre, if increased in size to 452 square metres, would only account for 5.3% of the total gross floor area of the complex and remains minor in nature.

In response to a question from member K. Ash, Zoning Inspector B. Bond indicated that the parking would still be considered at a blended rate within the industrial mall and wouldn't be in conflict with the Zoning By-law.

In response to a question from member D. Kendrick, Mr. D. Campbell noted that the additional space being proposed came up after the initial application was submitted for 405 square metres and no other additional uses were being proposed outside of those outlined in the original business plan, such as registered massage therapy, athletic therapy, physiotherapy and chiropractic services.

In response to a question from member D. Kendrick, Planner M. Witmer indicated that through pre-consultation the applicant noted their intent to have these additional practitioners present within the original 405 square metres that was applied for. Planner M. Witmer clarified that these additional practitioners are considered to be an accessory component to the recreation centre and there are other recreation centres in the city that offer these specialized services.

In response to a question from member S. Dykstra, Planner M. Witmer noted that a recreation centre operating as an accessory use would be limited to employees of the business operating the recreation centre and not open to the general public. Planner M. Witmer added that based on the approved site plan, the applicant is only required to have a total of 94 off-street parking spaces, whereas 244 off-street parking spaces are being provided.

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, a variance from the requirements of Section 7.4.1 of Zoning By-law (1995)-14864, as amended, for 195 Hanlon Creek Boulevard, to permit a recreation centre as an additional permitted use on the property,

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

1. That the Recreation Centre be limited to no larger than 452 square metres (4,865.3 square feet).

2. That the Recreation Centre be limited to providing personal fitness services and wellness consulting.
3. That no other commercial or recreation uses be permitted on the subject property, 195 Hanlon Creek Boulevard, except for those permitted as-of-right in the current Zoning By-law.

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-5/17**
Owner: **Cynthia Folzer**
Agent: **N/A**
Location: **73-75 Essex Street**
In Attendance: **Unto Kihlanki**
 Cynthia Folzer

Council Committee Assistant L. Cline noted that additional comments from heritage planning staff had been received based on Heritage Guelph's meeting on January 9th, 2017 and that copies of these comments have been provided to the Committee members.

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. U. Kihlanki, agent for the owner, indicated that the sign was posted and staff comments were received. Mr. U. Kihlanki briefly outlined the subject application and the requested variances.

In response to a question from member S. Dykstra, Mr. U. Kihlanki indicated that the intent is to move the larger shed so that it is the required distance from the property line.

Planner L. Sulatycki noted that one of planning staff's recommended conditions is that prior to the issuance of a building permit the existing large shed be relocated so that it is a minimum of 0.6 metres from the property line.

In response to a question from member M. Bosch, Zoning Inspector B. Bond indicated that the requirement for screening would be anywhere in the rear yard and could either go around the full perimeter of the property or only around the parking area.

In response to a question from member M. Bosch, Planner L. Sulatycki noted that if the trees or shrubs within the City's right of way were going to be injured or impacted by construction activities, the applicant would be required to prepare a Tree Inventory and Protection Plan. Planner L. Sulatycki clarified that this would only apply to City trees.

In response to a question from member P. Ross, Mr. U. Kihlanki noted that the requirement for fencing is to mitigate the impact of light from vehicles for the comfort of neighbours. Mr. U. Kihlanki indicated that in the rear lot of the subject property the grade rises significantly and it is therefore unlikely that headlights would impact the rear neighbours. Mr. U. Kihlanki further noted that to build a new fence would require destroying a great deal of healthy shrubbery that currently exists on the east side of the property and that the neighbour has indicated they have no concerns with any potential light impacts.

In response to a question from member P. Ross, Planner L. Sulatycki indicated that staff still recommend refusal of variance (f) because the wording of the variance could allow for the removal of the existing shrubbery if it was granted.

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 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, Rows 3 and 12, and Sections 4.5.1.2, 4.13.7.6 and 5.1.2.7 of Zoning By-law (1995)-14864, as amended, for 73-75 Essex Street, to permit:

- a) an open, roofed porch to project 3.36 metres into the required front yard;
- b) an open, roofed porch with a 1.47 metre setback from the front lot line;
- c) a setback of 0 metres from the front lot line for the exterior stairs;
- d) a rear yard setback of 0.35 metres for the existing shed;
- e) a setback of 0.91 metres from the right side lot line to the parking area;
- g) a front yard setback of 3.16 metres,

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

1. That prior to the issuance of a building permit the existing large shed that is currently built over the property line, shall be relocated so that it is a minimum of 0.6m from the property line.
2. That prior to the issuance of a building permit and prior to undertaking activities which may injure or destroy City trees, the applicant shall submit a Tree Inventory and Preservation Plan (TIPP) for approval to the satisfaction of the General Manager of Planning, Urban Design and Building Services, if there are trees or shrubs within the City's right-of-way that will be impacted.
3. That the undertaking of activities which may injure or destroy trees occur outside of the breeding bird season (approximately April 1 to July 31) or include appropriate

mitigation measures to the satisfaction of the General Manager of Planning, Urban Design and Building Services.

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 pays the actual cost of the construction of the new driveway entrances and the required curb cuts and curb fills, with the estimated cost of the works as determined by the General Manager/City Engineer being paid, prior to the issuance of a building permit.
6. Prior to issuance of building permit the Owner shall pay the estimated cost and the actual cost of removal of the existing service laterals, including the cost of any curb cuts or fill required.
7. Prior to issuance of building permit the Owner shall pay the estimated cost and shall pay the actual cost of constructing new service laterals, including the cost of any curb cuts or fills required.
8. 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.
9. The owner shall ensure that all telephone service and cable TV service in the 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 Lands, prior to issuance of any building permits.
10. That prior to issuance of a building permit, the owner makes satisfactory arrangements with the Technical Services Department of Guelph Hydro Electric Systems Inc. for the servicing of the new lot. The owner must also maintain 1.5m clearance of the proposed new driveway to the Guelph Hydro pole located on Glasgow Street North. If 1.5m clearance cannot be maintained, Guelph Hydro will relocate the pole at the owner'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.

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 Section 4.13.7.6 of Zoning By-law (1995)-14864, as amended, for 73-75 Essex Street, to permit no fencing or suitable landscaping between the parking area and adjacent properties,

Be **REFUSED.**

REASONS:

This application is refused, as it is the opinion of the Committee that this application does not meet 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: B-1/17
Owner: 2273560 Ontario Inc.
Agent: Benjamin Jones, Fusion Homes
Location: 5 Arthur Street South
In Attendance: Benjamin Jones
Neal Hallock

Council Committee Assistant L. Cline noted that minor revisions were made to some of the conditions put forth by Planning & Engineering Staff based on suggestions made by the applicant. These changes included revising conditions 2 and 5 to clarify "site plan approval of the severed lands", revising condition 27 to clarify the easement is for access/right-of-way rather than for maintenance, and removing condition 37.

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. B. Jones, agent for the owner, noted that the notice sign was posted and staff comments were received. Mr. B. Jones briefly outlined the subject application.

In response to a question from member S. Dykstra, Mr. B. Jones indicated that the previous severance has been withdrawn.

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 Part of Grist Mill Lands, East Side of River Speed, Plan 113, Part Lot 76 and Lots 77, 78, 79, 80, 81 and 83, Plan 113 (as amended) being Parts 11, 12 and 13 on 61R-11955, City of Guelph, County of Wellington, municipally known as 5 Arthur Street South, a parcel with frontage along Arthur Street South of 28.01 metres, a depth of 79.37 metres, and an area of 4,173 square metres,

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

1. That the Owner shall submit to the City, in accordance with Section 41 of the Planning Act, a fully detailed site plan, indicating the location of buildings, landscaping, parking, circulation, access, lighting, tree preservation, grading and drainage and servicing on the said lands to the satisfaction of the General Manager of Planning, Urban Design and Building Services and the General Manager/City Engineer, prior to the issuance of a building permit, and furthermore the Owner agrees to develop the said lands in accordance with the approved plan.
 - a) That further, the Owner commits and agrees that the details of the layout and design for the development of the severed lands shall be generally in conformance with the development concept plan, attached as Attachment 5, to the August 25, 2014 Planning, Building, Engineering and Environment Report Number 14-38.
 - b) That Heritage Guelph be circulated the Site Plan Application for review and comment.
 - c) That the Owner agrees to consider options for including space to be made available for community uses, in the redevelopment of the heritage building, prior to Site Plan Approval of the severed lands.
2. That prior to the issuance of site plan approval for the severed lands, the Owner shall provide the City with written confirmation that the building will be redeveloped to a standard that implements energy efficiency in order to support the Community Energy Initiative to the satisfaction of the General Manager of Planning, Urban Design and Building Services and in accordance with the letter attached as Attachment 11 to Report 14-38 from Planning, Building, Engineering and Environment dated August 25, 2014.
3. That prior to site plan approval of the severed lands, the Owner must provide evidence of agreement to have the development serviced by the Galt District Energy System or, if the Owner is unable to incorporate district energy services in the development, they must provide evidence on how the development will contribute to the Guelph District Energy Strategic Plan or Community Energy Initiative, to the satisfaction of the Corporate Manager of Community Energy.
4. That the Cultural Heritage Conservation Plan (CHSP) Stage 2 be completed prior to Site Plan Approval of Phase 4 of the Metalworks development or prior to the approval for redevelopment of the heritage buildings and its associated property, whichever comes first.
5. That prior to the issuance of site plan approval for the severed lands, written confirmation shall be received from the General Manager of Solid Waste Resources or his or her designate that the proposed development is in conformance with By-law (2011)-19199, known as the Waste Management By-law. Further, the Owner agrees and commits to employ a three-stream waste collection system with considerations and opportunities developed in their Waste Management Plan that would facilitate the transition to City collection at some point in the future.

6. That the Owner shall pay to the City, as determined applicable by the Chief Financial Officer/City Treasurer, development charges and education development charges, in accordance with the City of Guelph Development Charges By-law (2014)-19692, as amended from time to time, or any successor thereof, and in accordance with the Education Development Charges By-laws of the Upper Grand District School Board (Wellington County) and the Wellington Catholic District School Board, as amended from time to time, or any successor by-laws thereof, prior to this issuance of any building permits, at the rate in effect at the time of the issuance of a building permit.
7. That the Owner makes satisfactory arrangements with Union Gas for the servicing of the property, as well as provisions for any easements and/or rights-of-way for their plants, prior to the development of the property.
8. That all electrical services on the property are underground and the Owner shall make satisfactory arrangements with Guelph Hydro Electric Systems Inc. for the servicing of the property, as well as provisions for any easements and/or rights-of-way for their plants, prior to the development of the property.
9. That the Owner shall ensure that all telephone service and cable TV service in the property 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 property.
10. That the Owner acknowledges and agrees that any proposed alterations to the existing drainage pattern affecting the railway property must receive prior concurrence from Metrolinx and be substantiated by a drainage report to the satisfaction of the Railway.
11. That the Owner shall through restrictive covenants to be registered on title and all agreements of purchase and sale or lease provide notice to the public that any fencing and vibration isolation measures implemented are not to be tampered with or altered and further that the Owner shall have the sole responsibility for and shall maintain these measures to the satisfaction of Metrolinx.
12. That the Owner shall enter into an Agreement with Metrolinx stipulating how Metrolinx concerns will be resolved and will pay Metrolinx reasonable costs in preparing and negotiating the agreement.
13. That the Owner shall be required to grant Metrolinx an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of Metrolinx.
14. That prior to the issuance of site plan approval for the severed lands, a noise study shall be submitted and the recommendations of the study be integrated into the redevelopment of the building, particularly with respect to noise mitigation specifications for upgraded windows/cladding, outdoor amenity areas and air-conditioning requirements to the satisfaction of the General Manager of Planning, Urban Design and Building Services.
15. That the Owner shall implement / incorporate the vibration attenuation measures as recommended in the Railway Vibration Analysis prepared by NOVAS ENVIRONMENTAL dated April 12 2013 as applicable to the severed lands. The Owner shall further submit prior to the issuance of a building permit a refined vibration attenuation study

completed by a qualified Professional Engineer for approval of the GJR, if required. The Owner shall be required to implement any additional vibration attenuation measures for the severed lands as recommended in the refined study prior to site plan approval.

16. That the Owner shall prior to the issuance of site plan approval for the severed lands undertake to establish a clear railway site line for this phase as referenced in the MRC Safety Crossing Assessment dated April 12th 2013. The Owner further agrees to maintain the aforementioned railway safety site line and shall incorporate such restrictions into building and landscape plans. All proposed driveway locations in this phase shall be located to conform with Transport Canada CRRGCS Standards, to the satisfaction of the GJR.
17. That the Owner acknowledges that the GJR will not accept any overland drainage from the subject property and existing property line elevations are to be maintained.
18. That the Owner shall prior to the issuance of a building permit for demolition, construction or excavation on lands immediately adjacent to the railway right of way, as applicable to the severed lands, submit a detailed plan of slope stabilization / shoring completed by a qualified Professional Engineer for approval of the GJR.
19. That the Owner shall include the following Warning Clause in all Agreements of Purchase, sale or lease.

"Purchasers are advised that the Guelph Junction Railway or its assigns or successors in interest has or have a right of way within 300 metres from the land subject thereof. There may be alterations to or expansion of the rail facilities on such right of way in the future, including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling[s]. The Guelph Junction Railway will not be responsible for any complaints or claims arising from use of said facilities and / or operations on, over or under the aforesaid right of way."

20. That prior to the issuance of site plan approval, the Owner shall erect and maintain a five foot high chain link fence along the property line shared with the GJR with the objective of restricting pedestrian access to GJR trackage. The fence shall extend and be tied into a physical feature that prohibits access along the river edge. Should this be on property not owned by the Owner, the Owner shall be responsible for acquiring the necessary approvals to do so. This fence will remain until such time as the GJR is satisfied with the physical construction of the proposed pedestrian bridge / trail connection and at such time the GJR may at its sole discretion allow modifications to the fencing.
21. That the Owner agrees to conform to the Environmental Implementation Report conditionally approved by City Staff on February 24, 2015, as applicable to the severed lands.
22. The Owner shall provide two easement types: a permanent surface easement for the River Walk; and Public Access Easements for (a) the associated public trail system (south and west of the existing Heritage Structures, from the Riverwalk to the Guelph Junction Railway Corridor), and (b) two east-west pedestrian routes to the

Riverwalk from Arthur Street in favour of the City, to the satisfaction of the Deputy CAO of Public Services, prior to site plan approval.

23. That prior to the endorsation of the deeds, the Owner shall enter into an agreement with the City, registered on title, agreeing to satisfy the above noted conditions.
24. That prior to endorsation of the deeds, the servient tenement (43 Arthur Street, Part 1), grants a maintenance access easement approximately 2.54-metres (8.33 feet) wide by approximately 9.35-metres (30.68 feet) long over Part 2, for maintenance access to the hydro transformer, registered on title, in favour of the dominant tenement (lands to be retained Parts 5 and 10).
25. That prior to endorsation of the deeds, the servient tenement (43 Arthur Street, Part 1), grants a maintenance access easement approximately 1.63-metres (5.35 feet) wide by approximately 5.40-metres (17.72 feet) long over Part 3, for an accessible parking space, registered on title, in favour of the dominant tenement (lands to be retained Parts 5 and 10).
26. That prior to endorsation of the deeds, the servient tenement (lands to be retained (Parts 5 and 10), grants an access/right-of-way easement approximately 6.32-metres (20.73 feet) to approximately 10.56-metres (34.65 feet) wide by approximately 59.26-metres (194.42 feet) long over Part 6, for use of the single shared driveway, registered on title, in favour of the dominant tenement (43 Arthur Street, Part 1).
27. That prior to endorsation of the deeds, the servient tenement (43 Arthur Street, Part 1), grants an access/right-of-way easement approximately 7.42-metres (24.34 feet) wide by approximately 7.04-metres (23.10 feet) long over Part 4, for use of the shared driveway, registered on title, in favour of the dominant tenement (lands to be retained Parts 5 and 10).
28. That prior to endorsation of the deeds, the servient tenement (lands to be retained Parts 5 and 10), grants a maintenance access easement approximately 7.42-metres (24.34 feet) wide by approximately 7.04-metres (23.10 feet) long over Part 7, for maintenance access to the heritage building, registered on title, in favour of the dominant tenement (43 Arthur Street, Part 1).
29. That prior to endorsation of the deeds, the servient tenement (lands to be retained Parts 5 and 10), grants a maintenance access easement approximately 13.39-metres (43.91 feet) wide by approximately 11.00-metres (36.09 feet) long over Part 8, for maintenance access to the heritage building, registered on title, in favour of the dominant tenement (43 Arthur Street, Part 1).
30. That prior to endorsation of the deeds, the servient tenement (lands to be retained Parts 5 and 10), grants a maintenance access easement approximately 13.35-metres (43.80 feet) wide by approximately 3.01-metres (9.86 feet) long over Part 9, for maintenance access to the heritage building, registered on title, in favour of the dominant tenement (43 Arthur Street, Part 1).
31. Prior to site plan approval, the owner shall have a Professional Engineer design a grading plan and stormwater management system, satisfactory to the General Manager/City Engineer.

32. That the owner grades, develops and maintains the site including the storm water 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 approved by the City and that it is functioning properly.
33. Prior to site plan approval and prior to any construction or grading on the lands, 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.
34. Prior to site plan approval, the owner shall provide to the City, to the satisfaction of the General Manager/City Engineer, any of the following studies, plans and reports requested by the General Manager/City Engineer:
 - a) a revised traffic impact and operations report covering all aspects of access and egress to the site and the effect of the development on the surrounding roads;
 - b) a servicing and stormwater management report certified by a Professional Engineer in accordance with the City's Guidelines and the latest edition of the Ministry of the Environment's "Stormwater Management Practices Planning and Design Manual" which addresses the quantity and quality of stormwater discharge from the site together with a monitoring and maintenance program for the stormwater management facility required.
35. The owner shall at their cost, address and be responsible for adhering to all the recommended measures that is contained in the plans, studies and reports outlined in the previous condition, subsections 11 a) and 11 b) inclusive to the satisfaction of the General Manager/City Engineer. The City may have such report be peer reviewed and all associated costs with the peer review will be the responsibility of the owner.
36. The owner shall pay to the City the actual cost of constructing and installing any new service laterals required and furthermore, prior to site plan approval, the owner shall pay to the City the estimated cost of the service laterals, as determined by the City Engineer.
37. The owner shall pay to the City the actual cost of the removal and restoration of the boulevard where the existing accesses are located, prior to site plan approval for each phase and prior to any construction or grading on the lands, the owner shall pay to the City the estimated cost as determined by the City Engineer.
38. The owner shall pay to the City the actual cost of the construction of the new driveway accesses, curb cut including boulevard restoration, i.e. topsoil/sod within right-of-way allowance prior to site plan approval. Furthermore, prior to site plan approval for each phase, the owner shall pay to the City the estimated cost of constructing the new driveway accesses, curb cut, including boulevard restoration, i.e. topsoil/sod within the right-of-way allowance as determined by the General Manager/City Engineer.

39. Prior to the issuance of a building permit, any monitoring wells and boreholes drilled for hydrogeological or geotechnical investigations shall be properly abandoned in accordance with current Ministry of the Environment Regulations and Guidelines. The owner shall submit a Well Record to the satisfaction of the General Manager/City Engineer.
40. That prior to site plan approval, the owner shall enter into an agreement with the City, registered on title, satisfactory to the City Solicitor and the General Manager/City Engineer, covering the conditions noted above.
41. That prior to endorsement of the deed, the applicant must contact the Technical Services Department of Guelph Hydro Electric Systems Inc.
42. 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 endorsement.
43. 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.
44. 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.
45. 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.

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-99/16**

Owner: **Glynis Logue & Leo Barei**

Agent: N/A
Location: 187-191 Paisley Street
In Attendance: Glynis Logue
Leo Barei

Council Committee Assistant L. Cline noted that the applicant is requesting a refund of the deferral fee.

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. G. Logue, owner, indicated that the notice sign was posted and staff comments were received. Ms. G. Logue briefly outlined the subject application.

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 P. Ross
Seconded by K. Ash

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 enlarge/extend the legal non-conforming use at 187-191 Paisley Street, to permit the proposed 30 square metre second storey addition for 187 Paisley Street; 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 5.1.2, Row 6a of Zoning By-law (1995)-14864, as amended, for 187-191 Paisley Street, to permit an exterior side yard setback for the second storey addition of 0.3 metres,

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

Ms. G. Logue requested a full refund of the deferral fee.

Council Committee Assistant L. Cline noted that staff can support the request for a full refund of the deferral fee as the deferral was due, in part, to staff error.

Moved by M. Bosch
Seconded by K. Ash

THAT 100% of the deferral fee being \$238.00 for application A-99/16 for 187-199 Paisley Street be refunded to the applicant.

CARRIED

Application: A-7/17
Owner: Mike Chaves & Deb Richards
Agent: Alvin Brown, AWB Construction Consultant & Design
Location: 26 Division Street
In Attendance: Mike Chaves

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. M. Chaves stated that the notice was posted and staff comments were received.

Member L. Janis noted that the sign was not posted when she visited the subject property today. Mr. M. Chaves clarified that he posted the sign on December 23rd and recently took it down as he thought it only had to be posted for 10 consecutive days.

In response to a question from D. Kendrick, Zoning Inspector B. Bond indicated that parking requirements are checked at the time the accessory apartment is being registered.

Mr. M. Chaves noted that the house is set back from the sidewalk further than other homes on the street and that the driveway can accommodate four vehicles in line.

In response to a question from member D. Kendrick, Zoning Inspector B. Bond indicated that the zoning by-law permits no more than two vehicles in tandem and that staff will address parking once the applicant applies to register the accessory apartment.

Member D. Kendrick noted that parking has become an issue in dealing with similar applications in the past and that the application should be dealt with completely and thoroughly at one time.

In response to a question from Chair B. Birdsell, Mr. M. Chaves confirmed that there is more than enough parking. Zoning Inspector B. Bond reiterated that parking will be addressed at the time the apartment is registered.

Member K. Ash noted that the drawing for the application has missing information such as property dimensions, frontage, setbacks, etc.

Member M. Bosch noted that parking should be included in all applications for accessory apartments going forward.

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(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 26 Division Street, to permit an accessory apartment size of 92.35 square metres, or 25% of the total floor area of the building,

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-6/17**
Owner: **Peter & June Hofland**
Agent: **Suzanne O'Hara**
Location: **14 St. Arnaud Street**
In Attendance: **Suzanne O'Hara**

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. S. O'Hara, agent for the owner, indicated that the notice sign was posted and staff comments were received.

Ms. S. O'Hara briefly outlined the subject application.

In response to a question from member K. Ash, Ms. S. O'Hara indicated that there is storage space located above the garage.

In response to a question from member K. Ash, Ms. S. O'Hara indicated that during the construction of an addition on the house, an inspector saw stairs and a roof on the garage that weren't on the original building permit.

In response to a question from member K. Ash, Planner M. Witmer noted that a building permit was issued for the garage in 1992 and that during an inspection for an unrelated building permit an inspector noted that the vestibule at the top of the stairs to the garage was added on without a permit.

In response to a question from member K. Ash, Planner M. Witmer clarified what part of the garage the variance applies to.

In response to a question from member D. Kendrick, Planner M. Witmer indicated that since the garage was flagged under the current zoning by-law, it must comply with the current zoning regulations.

Member S. Dykstra indicated that the variance should be restricted to the dormer portion of the garage.

In response to a question from member K. Ash, Planner M. Witmer indicated that a building permit is required for this application and that the order issued for work done without a permit expires in February, 2017.

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. Kendrick
Seconded by S. Dykstra

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 4.5.2.1 of Zoning By-law (1995)-14864, as amended, for 14 St. Arnaud Street, to permit a detached garage with a height of 4.98 metres,

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

1. That no portion of the detached garage be used as habitable space or for a home occupation.
2. That the height of 4.98 metres be restricted to the dormer portion of the garage.

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

Member D. Kendrick raised concerns surrounding the wording of conditions, specifically those related to City trees, as well as the issue of parking as it relates to accessory apartments.

Member K. Ash left the hearing at 5:28 p.m.

Council Committee Assistant L. Cline advised that correspondence was received from the Ontario Municipal Board (OMB) regarding the appeal for 21 Halesmanor Court (File A-63/16) and that a hearing date of Wednesday, April 5, 2017 has been set.

Adjournment

Moved by M. Bosch
Seconded by L. Janis

THAT the hearing of the Committee of Adjustment be adjourned at 5:35 p.m.

CARRIED

B. Birdsell
Chair

D. McMahon
Acting Secretary-Treasurer