

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

APPLICATION NUMBER: A-68/15
LOCATION: 282 Victoria Road North and 475-485 Speedvale Avenue East
DATE AND TIME OF HEARING: January 14, 2016 at 4:00 p.m.
OWNER: Suncor Energy Products Inc.
AGENT: Hussein Ghaddar
OFFICIAL PLAN DESIGNATION: Neighbourhood Centre (4650m²)
ZONING: Specialized Neighbourhood Shopping Centre (NC-1) Zone

REQUEST:	The applicant is seeking relief from the By-law requirements to permit operation of a vehicle sales establishment (U-Haul trailer and vehicle rentals).
BY-LAW REQUIREMENTS:	The NC-1 zone permits a variety of uses including a vehicle gas bar, and an automatic car wash, but does not permit a vehicle sales establishment (vehicle sales establishment is defined as a place where new or used vehicles are leased, rented, displayed for sale or sold and includes any other vehicle establishment, excluding a vehicle gas bar).
STAFF RECOMMENDATION:	Refusal
CONDITIONS RECOMMENDED: N/A	

COMMENTS

ENGINEERING SERVICES:

As the Committee is aware, this application was deferred sine die from the November 12, 2015 meeting so the applicant can review the application further. Since this application is similar to the previous application, our previous comments will apply as follows:

Engineering staff have no concerns with the requested use variance to permit operation of a vehicle sales establishment (U-Haul and vehicle rentals only) on the site from an Engineering perspective. However, upon examining Planning staff's comments and recommendations and Zoning staff's comments and recommendation, Engineering staff can support their comments and recommendations for refusal.

PLANNING SERVICES:

This application was deferred at the November 12, 2015 Committee of Adjustment Hearing. The applicant requested deferral to allow time to hire a planning consultant. The application has not changed and staff comments remain applicable that were provided to the Committee at the November 12th Hearing.

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The Official Plan designates the subject property as 'Neighbourhood Commercial Centre', which is a compact node intended to primarily serve the shopping needs of residents living and working in nearby neighbourhoods. Official Plan policies also allow for institutional and small scale office uses in this designation if these uses are compatible with particular surroundings.

On April 5, 2015 the City received a site specific Zoning By-law Amendment application from Astrid J. Clos Planning Consultants to add a Vehicle Rental Establishment as a permitted use on the subject property. The City deemed the application incomplete. In correspondence to the applicant, staff advised that an Official Plan Amendment would be required to amend the land use designation of the subject property from its current 'Neighbourhood Centre' designation to support the proposed 'Vehicle Rental Establishment.' This application remains incomplete.

Policy 7.4.30 of the Official Plan requires the aesthetic character of the site and building design to be consistent with the city's urban design objectives.

The existing U-Haul rental business has a large City-wide draw and is not anticipated to primarily serve the shopping needs of residents living and working in nearby neighbourhoods. Staff are concerned the requested vehicle rental use is space extensive and does not contribute to a compact node. For this reason the proposed use is better directed to lands designated 'Service Commercial' in the Official Plan. Furthermore, the proposed use does not contribute to the City's urban design objectives for such a prominent corner. Accordingly, the requested variance does not meet the intent of the Official Plan.

The site is zoned 'Specialized Neighbourhood Commercial' (NC-1) according to Zoning By-law (1995)-14864, as amended. The intent of restricting the permitted uses in this zone is to implement the 'Neighbourhood Commercial Centre' land use designation of the Official Plan. The requested variance to permit a vehicle sales establishment (U-Haul trailer and vehicle rentals) is not similar in character, function or impact to any of the uses permitted within the zone. The requested variance does not meet the general intent of the Zoning By-law.

The requested use has potential for incompatibility with the adjacent residential uses including noise, dust and lighting. Furthermore, the property is in a prominent location and the requested use would have a significant negative visual impact on the node. Accordingly, the requested variance is not minor in nature and not desirable for the appropriate development of the land.

The requested variance does not meet the 'four tests' and therefore staff recommend refusal of the application.

PERMIT AND ZONING ADMINISTRATOR:

This property is located in the Specialized Neighbourhood Shopping Centre (NC-1) Zone. The NC-1 zone permits a variety of uses including a vehicle gas bar, and an automatic car wash, but does not permit a vehicle sales establishment.

The applicant is proposing to continue operation of an existing vehicle sales establishment (U-haul trailer and vehicle rentals) in the commercial shopping centre which has been operating in contravention of the Zoning Bylaw. Given the proximity to neighbouring residentially zoned lots, Building Services has concerns with the impact of this use. In addition, Building Services has

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already received multiple complaints relating to this use on the property. Therefore Building Services agrees with Planning Staff's recommendation for refusal.

REPORT COMPILED BY: V. Sobering, Council Committee Assistant

SEE ATTACHED CORRESPONDENCE.

Valarie Sobering

From: Derek Prince-Cox
Sent: December 21, 2015 3:42 PM
To: Committee of Adjustment
Subject: A-68/15 U-Haul depot at Victoria Rd N & Speedvale Ave E

To whom it may concern,

My name is Derek Prince-Cox and I own the home at 494 Speedvale Ave E, right across the street from the U-Haul depot. I received a notice of public hearing in the mail. I will do my best to attend but in case I cannot leave work, I wanted to comment on the depot and management.

In dealing with management on three separate occasions for truck rentals and talking to them whenever we pop into the variety store, I don't think these people have done anything to suggest they are anything less than upstanding members of our community. I'm not sure how by-law enforcement is made aware of these infractions, but I fail to see how this U-Haul depot would interfere with any residents in the area. The Victoria/Speedvale intersection would be extremely busy with or without this depot. I think it's actually a great use of that giant lot on the west side of the plaza.

I understand that rules are rules, but in this case, I hope the city would flex so the courteous people at this establishment can carry on with their business, providing a useful service to our community.

Please let me know if you have any questions or concerns.

Best regards and happy holidays!

Derek Prince-Cox
494 Speedvale Ave E
Guelph, ON
N1E 1P3

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Valarie Sobering

From: Committee of Adjustment
Subject: RE: written comments A-68/15

From: THE BARD'S
Sent: December 22, 2015 9:47 AM
To: Committee of Adjustment
Subject: FW: written comments A-68/15

> Good Morning,
>
> We have received notice for the
> public hearing now to be heard Thursday, January 14th deferred from
> November 12th. If we are available we will try to attend but if that
> does not happen you have our email comments/questions from November
> 3rd.
> Please take the email attached below from November 3rd and today as
> the written request required to be emailed the final decision in
> regards to the variance change to property
> 282 Victoria Road North/475-485 Speedvale Ave. E. All our
> comments/questions remain the same as stated below, only to add that
> it is the state of the plaza and what goes into the plaza that will
> affect all the surrounding neighbours properties on Chestnut and
> Acorn. Regards, The Bards @ 7 Chestnut Place
>
>

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Valarie Sobering

From: THE BARD'S
Sent: November 3, 2015 11:08 AM
To: Committee of Adjustment
Subject: written comments by Nov. 5th A-68/15

Committee of Adjustment
Application number A-68 /15

Dear Trista,

Email comments and questions to reflect the request for minor variance adjustment to the property of 282 Victoria Road North & 485 Speedvale Ave. East.

Question:

Why has the person that leases the variety store been able to run the U-Haul business if he now is seeking this application for a variance change.

What are the penalties for running an illegal business.

Why hasn't something been done before now.

If this zone change is allowed to happen for this U-Haul business, what happens in the future when he decides to longer have this business.

Does the by-law go back to shopping Centre NC-1 or will it stay as R1.B and we wouldn't know what could appear in our backyard.

I think these questions need to be answered in order to fully support this motion.

Notice of Decision ~ yes we do wish to be notified of the decision in respect to the proposed minor variance, please consider this the written request you state is required. If there is something further you need in writing please let us know.

This U-Haul business currently runs in the parking lot that is directly behind our home on 7 Chestnut Place.

We currently do not have a problem with the business, it is more the state of the building that is currently there and the graffiti on the alley wall of the building, garbage dumping and creating a place for people to loiter.

We will try to be present at the public hearing meeting on Thursday, Nov. 12th at 4:10pm.

We look forward to hearing from you if there is anything further required from us in this matter.

Regards,
The Bards @ 7 Chestnut Place

Valarie Sobering

From: cwfirewood
Sent: December 30, 2015 2:14 PM
To: Committee of Adjustment
Subject: Application #A-68/15

-68/15

Sent from ALCATEL ONE TOUCH POP7

George and Alice Wisniewski. 281 Victoria Road North, Christopher Wisniewski. Re:variance on 475 and 485 Speedvale Ave E, being directly across the street we have no issue with the proposed changes to allow for vehicle rental and leasing. The owners of the Victoria Variety have been operating this enterprise for awhile now and it has been very succesful bringing more business to the area. There is no added problems due to the leasing of vehicles and the area is much cleaner and with more activity much safer than previously. The owner is respectful and professional and would address concerns in this manner. Sincerely, Alice Wisniewski, George Wisniewski, Chris Wisniewski

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Valarie Sobering

From: Charles Dadd
Sent: January 6, 2016 5:46 PM
To: Committee of Adjustment
Subject: minor variance

Attn: Trista Di Lullo and the Committee of Adjustment

I am writing in regards to the request for the minor variance at 282 Victoria Rd. N. and 485 Speedvale Ave. E.

I am the home owner of the property at 6 Acorn Place, which backs onto the property at 485 Speedvale Ave. E., the side on which the U-Haul equipment is actually kept.

I am opposed to the minor variance because:

Firstly, these vehicles are an eye sore and certainly take away from the appearance of the plaza itself, as well as from the backyards of the neighboring residences. Should one of the residences try to sell their properties, this eye sore could cause potential buyers to look elsewhere, causing devaluation in the property value.

Secondly, there is a considerable amount of noise that stems from these vehicles. With the diesel engines running (which smell terrible) and doors closing. The trucks all have roll up doors at the back that are very noise especially when being closed. When people are dropping off these vehicles, and sometimes it is in the wee hours of the night (2 or 3 am), it is very annoying, due to the noise waking me out of a deep sleep.

Thirdly, there is the issue of safety for the neighborhood. The business looking after the U-Haul equipment have had to install cameras and flood lights on their building overlooking the equipment to help protect it from theft and vandalism (they have had problems with things going missing). That being said, this means there is a potential for unwanted activity and persons lingering around the adjoining back yards, and nobody wants this kind of activity going on their backyards.

At this time, I am requesting the Committee of Adjustment to do the right thing and turn down the request for a minor variance on the said property.

I also wish to be notified of the decision made on this matter.

With Respect

Charles Dadd
6 Acorn Place,
Guelph,
N1E 6L6

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APPLICATION NUMBER: A-1/16
LOCATION: 2 Sagewood Place
DATE AND TIME OF HEARING: January 14, 2016 at 4:00 p.m.
OWNER: John Sun and Ping Huang
AGENT: N/A
OFFICIAL PLAN DESIGNATION: General Residential
ZONING: Residential Single Detached (R.1B) Zone

REQUEST:	The applicant is seeking relief from the By-law requirements to permit continued use of the storage container for a period of one year.
BY-LAW REQUIREMENTS:	The By-law prohibits the use or storage of a container, truck or transport trailer or any part thereof on a residentially zoned property.
STAFF RECOMMENDATION:	Refusal
CONDITIONS RECOMMENDED: N/A	

COMMENTS

ENGINEERING SERVICES:

Engineering staff have no concerns with the requested use variance from an Engineering perspective, to permit continued use of the storage container for a period of one year. However, upon examining Planning staff’s comments and recommendations and Zoning staff’s comments and recommendation, Engineering staff can support their comments and recommendations for refusal.

PLANNING SERVICES:

The subject property is designated, ‘General Residential’ in the Official Plan. The requested variance does not conflict with Official Plan policies.

The property is zoned ‘Residential Single Detached’ (R.1B) according to Zoning By-law (1995)-14864, as amended. Section 4.3.6 of the Zoning By-law prohibits the use or storage of a container, truck or transport trailer or any part thereof on a residentially zoned property. The applicant has requested a variance to permit the continued use of a storage container for a period of one year. The Zoning By-law specifically prohibits storage of these containers since they are not appropriate and incompatible in a residential area. If something is specifically prohibited in the Zoning By-law, it can not be considered to meet the general intent of the Zoning By-law.

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A storage container located on the subject property is not appropriate, is considered to be an 'eyesore' and not considered to be compatible with the surrounding residential neighbourhood. There are many other storage options available at commercially and industrially zoned sites and allowing a storage container, even for a temporary period of one year is not considered to be appropriate or minor in nature. Staff recommend refusal of the application.

PERMIT AND ZONING ADMINISTRATOR:

This property is located in the Residential Single Detached (R.1B) Zone. The applicant is proposing to continue use of an existing 29.7 square metre storage container located to the rear of the dwelling.

This matter came to the attention of Building Services as a result of a complaint. The By-law prohibits the use or storage of a container, truck or transport trailer or any part thereof on a residentially zoned property. This application clearly does not meet the intent of the By-law; therefore Building Services does not support this application.

REPORT COMPILED BY: V. Sobering, Council Committee Assistant

SEE ATTACHED CORRESPONDENCE.

Valarie Sobering

From: G STEELE
Sent: December 30, 2015 4:17 PM
To: Committee of Adjustment
Subject: Per:Application Number A-1/16 2 Sagewood Place

Re:Application Number A-1/16 for Address:2 Sagewood Place .

This is a Residential Single Detached Zone and should be treated as such.The owner of 2 Sagewood has shown no regard for the entire neighbourhood by placing a full sized shipping container in his back yard.I can see this container clearly out of my living room window,and it is very unsightly . Trying(unsuccesfully) to hide it behind a poorly built,hideously ugly fence is not the answer,there is still a Shipping Container there.Clearly it is something that belongs in an Industrial area,not a Residential.This Container is the first thing that is visible when entering or leaving the neighbourhood.By approving this Minor Variance it may open the door for others to put Shipping Containers on their Properties.And what would stop anyone from using it for other purposes,like a place to store a Vehicle.
For these reasons I feel this Variance should be denied.

Garry Steele
404 Ironwood Rd
Guelph

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APPLICATION NUMBER:	B-1/16
LOCATION:	5 Arthur Street South
DATE AND TIME OF HEARING:	January 14, 2016 at 4:00 p.m.
OWNER:	Fusion Homes
AGENT:	N/A
OFFICIAL PLAN DESIGNATION:	Special Policy Area, Floodway, Future Park Policy Area b, Mixed Use 1, Residential 2
ZONING:	Specialized Residential High Density Apartment (R.4B-15) Zone

REQUEST:	<p>The applicant has requested a severance of an irregularly shaped parcel to the right side with frontage along Arthur Street of 28.07 metres, and an area of 4,034 square metres. The parcel to be retained is proposed to be 23,632 square metres.</p> <p>The applicant is also proposing various easements:</p> <ul style="list-style-type: none"> a) a 24 square metre easement for the benefit of the retained lands for maintenance access to the hydro transformer labelled as part 2 on the sketch provided; b) a 9 square metre easement for the benefit of the retained lands for an accessible parking space labelled as part 3 on the sketch provided; and c) five easements totalling 994 square metres to allow for use of a single shared driveway for both the severed lands and the retained lands, and to allow for maintenance access to the heritage building from the retained lands, labelled as parts 4, 6, 7, 8, and 9 on the sketch provided.
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STAFF RECOMMENDATION: Approval

CONDITIONS RECOMMENDED:

ENGINEERING SERVICES

1. That prior to endorsonation 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).
2. That prior to endorsonation 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,

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- registered on title, in favour of the dominant tenement (lands to be retained Parts 5 and 10).
3. 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).
 4. That prior to endorsation of the deeds, the servient tenement (43 Arthur Street, Part 1), grants a maintenance access easement approximately 7.42-metres (24.34 feet) wide by approximately 7.04-metres (23.10 feet) long over Part 4, for maintenance access to the heritage building, registered on title, in favour of the dominant tenement (lands to be retained Parts 5 and 10).
 5. 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).
 6. 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).
 7. 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).
 8. Prior to site plan approval of each phase, the owner shall have a Professional Engineer design a grading plan and stormwater management system, satisfactory to the General Manager/City Engineer.
 9. 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.
 10. Prior to site plan approval for each phase and prior to any construction or grading on the lands, the owner shall construct, install and maintain erosion and sediment control facilities,

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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.

11. Prior to site plan approval for each phase, 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.
12. The owner shall at their cost, address and be responsible for adhering to all the recommended measures that are 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.
13. 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 for each phase, the owner shall pay to the City the estimated cost of the service laterals, as determined by the City Engineer.
14. The owner shall pay to the City the actual cost of removing any existing service laterals to the site that are not being used for the condominium development, consistent with the Sewer Relocation Agreement dated January 13, 2012, and furthermore, prior to site plan approval for each phase, the owner shall pay to the City the estimated cost of removing the existing service laterals, as determined by the General Manager/City Engineer.
15. 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.
16. 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 for each phase. 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.
17. 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.

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PLANNING SERVICES

18. 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 subject 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 (Phase #6), prior to Site Plan Approval for Phase #6.
19. That prior to the issuance of site plan approval, 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.
20. That prior to site plan approval for this phase of development, 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.
21. That prior to the issuance of site plan approval, 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.
22. 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

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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.

23. 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.
24. 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.
25. 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.
26. That the following warning clause shall be incorporated into a future site plan control agreement, offers to purchase and agreements of purchase and sale or lease of each dwelling unit within 300 metres of the railway right-of-way: "Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-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 dwellings(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."
27. That the Owner acknowledges and agrees that any proposed alterations to the existing drainage pattern affecting railway property must receive prior concurrence from the CN Railway and be substantiated by a drainage report to the satisfaction of the Railway.
28. 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 CN.
29. The Owner shall enter into an Agreement with CN stipulating how CN's concerns will be resolved and will pay CN's reasonable costs in preparing and negotiating the agreement.
30. That the Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.
31. That prior to the issuance of site plan approval a noise study shall be submitted and the recommendations of the study be integrated into the redevelopment of the building,

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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.

32. 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 this phase. 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 this phase as recommended in the refined study prior to site plan approval.
33. That the Owner shall prior to the issuance of site plan approval undertake to establish a clear railway sight 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 sight 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.
34. 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.
35. 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 this phase, submit a detailed plan of slope stabilization / shoring completed by a qualified Professional Engineer for approval of the GJR.
36. 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."
37. 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.

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

38. That the Owner agrees to conform to the Environmental Implementation Report conditionally approved by City Staff on February 24, 2015.
39. That the Owner agrees to address the outstanding City Staff comments dated January 8, 2015 (City Environmental Planner) and January 22, 2015 (City Parks and Recreation) associated with the Environmental Implementation Report (EIR) applicable to the subject property prior to site alteration or the issuance of a building permit.
40. That prior to site plan approval, the Owner shall enter into a site plan agreement with the City, registered on title, satisfactory to the City Solicitor, the General Manager of Planning, Urban Design and Building Services and the General Manager/City Engineer, covering the conditions noted above and to develop the site in accordance with the approved plans and reports.
41. That prior to the endorsonation of the deeds, the Owner shall enter into a development agreement with the City, registered on title, agreeing to satisfy the above noted conditions.

PARKS PLANNING

42. The Applicant's obligations under s.42 and 51.1 of the Planning Act, R.S.O, 1990, c. P-13 for parkland dedication or payment in lieu of conveyance as contemplated by section 42 (6) and section 51.1 of the Planning Act for the severed lands shall be to the satisfaction of the City's Deputy CAO of Public Services.

HERITAGE PLANNING

43. 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.

CONDITIONS RECOMMENDED IN ACCORDANCE WITH COMMITTEE OF ADJUSTMENT POLICY

44. 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.
45. 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.
46. 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.
47. 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

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk.

COMMENTS

ENGINEERING SERVICES:

We have no objection to the requested consent for severance of an irregularly shaped parcel of land (Part 1) with a frontage of approximately 28.07-metres (92.09 feet) along Arthur Street, municipally known as 43 Arthur Street; or to the parcel of land to be retained (Parts 5 and 10) with a frontage of approximately 211.62-metres (694.29 feet) along Arthur Street.

The owner is also proposing a consent for a maintenance access easement which is approximately 2.54-metres (8.33 feet) wide by approximately 9.35-metres (30.68 feet) long for maintenance access to the hydro transformer by the lands to be retained (Parts 5 and 10) over Part 2; a consent for an access easement which is approximately 1.63-metres (5.35 feet) wide by approximately 5.40-metres (17.72 feet) long for an accessible parking space by the lands to be retained (Parts 5 and 10) over Part 3; a consent for an access/right-of-way easement which is 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 for use of the single shared driveway by both the lands to be retained (Parts 5 and 10) and the lands to be severed (Part 1) over Part 6; consent for a maintenance access easement which is approximately 7.42-metres (24.34 feet) wide by approximately 7.04-metres (23.10 feet) long over Part 4; consent for a maintenance access easement which is approximately 15.94-metres (52.30 feet) wide by approximately 20.42-metres (66.99 feet) long over Part 7; consent for a maintenance access easement which is approximately 13.39-metres (43.91 feet) wide by approximately 11.00-metres (36.09 feet) long over Part 8; and consent for a maintenance access easement which is approximately 13.35-metres (43.80 feet) wide by approximately 3.01-metres (9.86 feet) long over Part 9; the easements (Parts 7, 8 and 9) are to be used for maintenance access to the heritage building by the lands to be severed (Part 1).

We have no objection to the requested consent for severance of an irregularly shaped parcel of land (Part 1); or to the consent for an access easement (Part 3); or to the consent for maintenance access easements (Parts 2, 4, 7, 8 and 9); or to the consent for an access/right-of-way easement (Part 6), provided the above noted conditions are imposed.

PLANNING SERVICES:

A previous Zoning By-law Amendment application was approved by Council on August 25, 2014 for the subject property. The proposed development of the subject property is also referred to as the 'Metalworks' project and is proposed to be developed in 6 phases. At this time, the Phase 1 tower is under construction, and the Site Plan Approval application for the Phase 2 tower is underway. The applicant is requesting to sever the parcel of land containing the Heritage building. The redevelopment of the Heritage building is proposed as Phase 6 in the Metalworks project. In addition to severing the parcel, several easements on both the "severed" and "retained" parcels are being requested in order for the site to function as designed.

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

The subject property is designated as 'Mixed Use 1' and 'Residential 2' within the Downtown Secondary Plan. In addition to the standard policies of these land use designations, the Downtown Secondary Plan contains specific policies for the redevelopment of the subject property.

Policy 9.9 of the Official Plan provides criteria to consider when evaluating Consent applications. Below is an evaluation of these policies as it relates to the subject application:

a) That all of the criteria reviewed as a component of subdivision control, as noted in subsection 9.8 are given due consideration;

Staff have reviewed subsection 9.8 of the Official Plan and are satisfied that it conforms to the policies.

b) That the application is properly before the Committee and that a plan of subdivision has been deemed not to be necessary for the proper and orderly development of the Municipality;

A plan of subdivision is not necessary for the subject property.

c) That the land parcels to be created by the consent will not restrict or hinder the ultimate development of the lands;

The proposed severance and easements will allow the Heritage building to be redeveloped as planned.

d) That the application can be supported if it is reasonable and in the best interest of the community.

Extensive public consultation was carried out through the Zoning By-law Amendment application on the subject property. It was always planned that the Heritage building property would be redeveloped as a separate phase and possibly by a different owner(s).

Staff are satisfied that the proposed severance and easements meet the criteria of the Official Plan and the subdivision criteria outlined in 51(24) of the Planning Act.

The proposed "severed" lot is zoned, 'Specialized Residential High Density Apartment with Holding provisions' (R.4B-15.6(H)) according to Zoning By-law (1995)-14864, as amended. Zoning for the whole property contains a specialized parent zone (R.4B-15), together with subzones for each phase of development which have holding provisions that will be removed prior to development of each phase.

An Environmental Impact Study and Environmental Implementation Report were submitted in support of the Zoning By-law Amendment application for the subject property. These environmental studies were approved by City Staff on February 24, 2015 subject to further integration of the staff comments dated January 8, 2015 (Environmental Planner) and January 22, 2015 (Parks and Recreation) into subsequent site plan submissions. In order to ensure all the environmental studies and implications are carried forward through the various phases of development, the environmental planner has provided conditions of approval.

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

A two-stage Cultural Heritage Conservation Plan (CHCP) for the heritage buildings at 5 Arthur Street South has been undertaken as a requirement of the Zoning By-law Amendment application. To date, the Owner (Fusion Homes) has submitted to the satisfaction of Planning staff and Heritage Guelph, Stage 1 of the Cultural Heritage Conservation Plan (CHCP). The CHCP Stage 1 has determined the heritage attributes of the property and guides its stabilization, interim maintenance, and temporary uses of the heritage buildings including measured elevation, plan and section drawings. CHCP Stage 1 was completed prior to Site Plan Approval of Phase 1 of the Metalworks project. CHCP Stage 2 will guide the proposed reuse, redevelopment and long-term maintenance of the heritage buildings.

There are a number of conditions of approval recommended by staff through the Zoning By-law Amendment application. These conditions are to be imposed within a site plan agreement for each phase. Since Phase 6 is being severed off, staff are recommending that conditions pertaining to this phase be included in a Development Agreement to be registered on title, prior to the endorsement of the deeds. This Development Agreement will ensure that any future owner(s) of the "severed" lot are aware of requirements prior to development.

Staff recommend approval of the application, subject to the above noted conditions.

PARKS PLANNING:

Parks Planning has no objection to the proposed severance subject to the above noted condition.

HERITAGE PLANNING:

Heritage Planning notifies the Committee of Adjustment that a two-stage Cultural Heritage Conservation Plan (CHCP) for the heritage buildings at 5 Arthur Street South has been undertaken as a requirement of Zoning By-law Amendment ZC1305. To date, the proponent (Fusion Homes) has submitted to the satisfaction of Planning staff and Heritage Guelph Stage 1 of the Cultural Heritage Conservation Plan (CHCP). The CHCP Stage 1 has determined the heritage attributes of the property and guides its stabilization, interim maintenance, and temporary uses of the heritage buildings including measured elevation, plan and section drawings. CHCP Stage 1 was completed prior to Site Plan Approval of Phase 1 of the Metalworks redevelopment. CHCP Stage 2 will guide the proposed reuse, redevelopment and long-term maintenance of the heritage buildings.

The Owner should be aware that following the completion of the Cultural Heritage Conservation Plan (CHSP) Stage 2 for the heritage buildings, Heritage Guelph intends to recommend to City Council that an intention to designate the heritage buildings within the property to be severed be published under Part IV of the Ontario Heritage Act.

Heritage Planning recommends the above noted condition be added to an approval of the proposed severance.

PERMIT AND ZONING ADMINISTRATOR:

This property is located in the Specialized Residential High Density Apartment (R.4B-15) Zone and is within the special policy area.

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

The applicant is requesting consent to sever the property to create a new lot fronting onto Arthur Street. The existing heritage building (municipally known as 43 Arthur Street) located on the proposed severed portion would be maintained, and no new buildings are proposed on the severed portion at this time. Various easements are also proposed. Building Services has no concerns with this application.

GRAND RIVER CONSERVATION AUTHORITY (GRCA):

The Grand River Conservation Authority does not object to the consent application to sever the property to create a new lot fronting onto Arthur Street and also does not object to the proposed various easements.

REPORT COMPILED BY: V. Sobering, Council Committee Assistant

SEE ATTACHED GRCA REPORT



PLAN REVIEW REPORT TO: City of Guelph, Committee of Adjustment
Tristalyn Russell, Secretary-Treasurer

DATE: January 4, 2016
GRCA FILE: Guelph/2015/Sev

YOUR FILE: B-1/16

RE: Application for Consent B-1/16
5 Arthur Street, City of Guelph

GRCA COMMENT:

The Grand River Conservation Authority (GRCA) does not object to the consent application to sever the property to create a new lot fronting onto Arthur Street and also does not object to the proposed various easements. We understand that no new buildings are proposed on the severed portion at this time and the existing heritage building is to be maintained.

BACKGROUND:

1. Resource Issues:

Information currently available at this office indicates that the subject property within the floodplain of the Speed River.

2. Legislative/Policy Requirements and Implications:

The property is within the Guelph Special Policy Area that allows for new residential development on the floodplain subject to the development meeting technical criteria set out in the City of Guelph Official Plan and Zoning By-law.

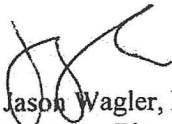
Due to the presence of the floodplain, the property is regulated by the GRCA under Ontario Regulation 150/06 - *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation*. Any future development or other alteration on the subject lands will require prior written approval from GRCA in the form of a permit pursuant to Ontario Regulation 150/06.

3. Additional Information/Suggestions provided in an advisory capacity:

A plan review fee of \$380.00 is required for the processing of this minor consent application. The applicant will be invoiced in the amount of \$380.00.

Should you have any questions or require further information, please contact the undersigned at 519-621-2763 ext. 2320.

Yours truly,



Jason Wagler, MCIP, RPP
Resource Planner
Grand River Conservation Authority

* *These comments are respectfully submitted to the Committee and reflect the resource concerns within the scope and mandate of the Grand River Conservation Authority.*

Encl. (1)

cc. Fusion Homes, 500 Hanlon Creek Blvd, Guelph, ON, N1C 0A1



B1-16 - 5 Arthur St

LEGEND

- WATERSHED BOUNDARY (GRCA)
- UTILITY LINE (NRVIS)
- ROADS-ADDRESSED (MNR)
- RAILWAY (NRVIS)
- DRAINAGE-NETWORK (GRCA)
- PARCELS-ASSESSMENT (MPAC)
- FLOODPLAIN-SPECIAL POLICY AREA (GRCA)
- FLOODPLAIN (GRCA)
- ENGINEERED
- APPROXIMATE
- ESTIMATED
- WETLAND (GRCA)
- SLOPE VALLEY (GRCA)
- STEEP
- OVERSTEEP
- SLOPE EROSION (GRCA)
- STEEP
- OVERSTEEP
- TOE
- WETLAND (NRVIS)
- PROVINCIALLY SIGNIFICANT
- LOCALLY SIGNIFICANT
- UNEVALUATED
- PARKS (GRCA)
- REGULATION LIMIT 2014 (GRCA)
- DRAINAGE-POLY (NRVIS)
- 2010 ORTHO (ONT)



GRCA Disclaimer

This map is for illustrative purposes only. Information contained hereon is not a substitute for professional review or a site survey and is subject to change without notice. The Grand River Conservation Authority takes no responsibility for, nor guarantees, the accuracy of the information contained on this map. Any interpretations or conclusions drawn from this map are the sole responsibility of the user.

The source for each data layer is shown in parentheses in the map legend. For a complete listing of sources and citations go to:

<http://grims.grandriver.ca/docs/SourcesCitations1.htm>

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NAD 1983, UTM Zone 17 Scale 1:4,000



COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

APPLICATION NUMBER: A-2/16
LOCATION: 66 Eastview Road
DATE AND TIME OF HEARING: January 14, 2016 at 4:00 p.m.
OWNER: 2267498 Ontario Ltd. And 2363707 Ontario Inc.
AGENT: N/A
OFFICIAL PLAN DESIGNATION: General Residential
ZONING: Cluster Townhouse (R.3A) Zone

REQUEST:	The applicant is seeking relief from the By-law requirements: a) to permit unit 6 (Block 1) to have a reduced separation distance of 3 metres from the adjacent unit 7 (Block 3); and b) to permit unit 26 (Block 4) to have a reduced separation distance of 3 metres from the adjacent unit 27 (Block 6).
BY-LAW REQUIREMENTS:	The By-law requires that the distance between the face of one building and the face of another building, each of which contains windows of habitable rooms, shall in no case be less than 15 metres.
STAFF RECOMMENDATION:	Approval
CONDITIONS RECOMMENDED:	N/A

COMMENTS

ENGINEERING SERVICES:

Engineering staff have no concerns with the requested building separation distance variance between Blocks 1 and 3 and Blocks 4 and 6 from an Engineering perspective.

PLANNING SERVICES:

The subject property is currently an active construction site and when completed will be developed with a total of 30 cluster townhouse units. A recent site inspection has identified that need for a variance application to address non-compliance with Section 5.3.2.3.1 of Zoning By-law, which requires the distance between the face of one building and the face of another building each of which contains windows of habitable rooms to be no less than 15 metres. The separation distance between Blocks 1 and 3 and between Blocks 4 and 6 is 3 metres as opposed to the required 15 metres.

The property was subject to site plan application SP13A043, which was approved January 23, 2015. The approved site plan for the subject property shows a separation distance of 3 metres

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

between Blocks 1 and 3 and between Blocks 4 and 6, but only notes a habitable window on Unit 26 in Block 4 and Unit 6 in Block 1. Therefore at the time of site plan approval, the separation distance complied with the Zoning By-law based on the information provided.

Below is staff's evaluation of the 'four tests' for Committee's consideration.

The subject property is designated 'General Residential' in the Official Plan. The nature and extent of the requested variances do not conflict with Official Plan policies and are therefore considered to meet the intent of the Official Plan.

The subject property is zoned "Cluster Townhouse" (R.3A) according to Zoning By-law (1995)-14864, as amended. Section 5.3.2.3.1 of Zoning By-law requires that the distance between the face of one building and the face of another building, each of which contains habitable rooms, shall in no case be less than 15 metres. The intent of this provision is to ensure that residents in each of the end units of blocks have sufficient privacy while in their "habitable room". Other zoning categories do not require setbacks between 'habitable rooms' and establish setbacks of 1.2 to 3.0 metres between units (ie. single detached houses in the R.1D zone requires a minimum side yard setback of 0.6 metres). Additionally, the on-street townhouse zone (R.3B) only requires a minimum side yard of 1.5 metres (which results in a 3.0 metre separation between the end units of two townhouse blocks). The 3.0 metre separation is accepted in other zones in the Zoning By-law and can still provide sufficient privacy to residents. Residents can also use their own mitigation measures (window coverings) to obtain desired privacy. The requested variances are considered to meet the general intent of the Zoning By-law.

The requested variances are considered desirable and minor in nature as the townhouse blocks are already under construction and the changing of the internal floor plans at this stage would create an undue hardship for the Developer. In addition, the inclusion of windows on all faces of the townhouse blocks represents a desirable built form for the residents and increases the amount of natural light in the building's interior.

Staff recommend approval of the requested variances.

PERMIT AND ZONING ADMINISTRATOR:

This property is located in the Cluster Townhouse (R.3A) Zone. The By-law requires that the distance between the face of one building and the face of another building, each of which contains windows of habitable rooms, shall in no case be less than 15 metres.

The property is in the process of constructing 30 cluster townhouse units within 6 blocks. A previous Committee of Adjustment decision (File A-50/14) approved a reduced separation distance between Blocks 2 and 5. An application for site plan approval (File SP13A043) was approved in January 2015.

Building Services has no concerns with this application to permit:

- unit 6 (Block 1) to have a reduced separation distance of 3 metres from the adjacent unit 7 (Block 3); and
- unit 26 (Block 4) to have a reduced separation distance of 3 metres from the adjacent unit 27 (Block 6).

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

GRAND RIVER CONSERVATION AUTHORITY (GRCA):

The Grand River Conservation Authority has no objection to the proposed minor variance

REPORT COMPILED BY: V. Sobering, Council Committee Assistant

SEE ATTACHED GRCA REPORT.



400 Clyde Road, P.O. Box 729 Cambridge, ON N1R 5W6

Phone: 519.621.2761 Toll free: 866.900.4722 Fax: 519.621.4844 Online: www.grandriver.ca

RECEIVED
JAN - 6 2016
CITY CLERK'S OFFICE

**PLAN REVIEW REPORT: City of Guelph
Trista Di Lullo, Secretary-Treasurer, Committee of Adjustment**

DATE: January 6, 2016 **YOUR FILE:** A-2/16

RE: Application for Minor Variance
66 Eastview Road, City of Guelph

GRCA COMMENT: *

The Grand River Conservation Authority has **no objection** to the proposed minor variance to permit a reduced separation distance of 3 metres from the adjacent units as indicated on the circulated materials.

BACKGROUND:

1. Resource Issues:

Information currently available at this office indicates that the property contains the adjacent regulated allowance to portions of the Provincially Significant Guelph Northeast Wetland Complex.

2. Legislative/Policy Requirements and Implications:

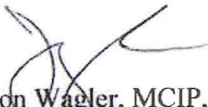
Due to the presence of the above-noted features, portions of the property are regulated by the GRCA under Ontario Regulation 150/06 - Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation. Please note that a permit has been issued for the associated condominium development (GRCA Permit #638/13).

3. Additional Information/Suggestions provided in an advisory capacity:

A 'minor' minor variance application review fee is required for our review of this application. With a copy of this letter, the owner will be invoiced in the amount of \$250.00.

We trust these comments are of assistance. Should you have any further questions please do not hesitate to contact the undersigned.

Yours truly,


Jason Wagler, MCIP, RPP
Resource Planner
Grand River Conservation Authority

Attch. (1)

* *These comments are respectfully submitted to the Committee and reflect the resource concerns within the scope and mandate of the Grand River Conservation Authority.*

Cc: 2267498 Ontario Limited & 2363707 Ontario Inc., 500 Hanlon Creek Blvd., Guelph, ON, N1C 0A1



Grand River Conservation Authority

Map created: January 6, 2016
Prepared by: J. Wagler

A-2/16 - 66 Eastview Road

LEGEND

- WATERSHED BOUNDARY (GRCA)
- UTILITY LINE (NRVIS)
- ROADS-ADDRESSED (MNR)
- RAILWAY (NRVIS)
- DRAINAGE-NETWORK (GRCA)
- PARCELS-ASSESSMENT (MPAC)
- FLOODPLAIN (GRCA)
- ENGINEERED
- APPROXIMATE
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- WETLAND (GRCA)
- SLOPE VALLEY (GRCA)
- STEEP
- OVERSTEEP
- SLOPE EROSION (GRCA)
- STEEP
- OVERSTEEP
- TOE
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- REGULATION LIMIT 2014 (GRCA)
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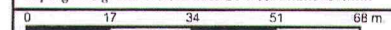


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NAD 1983, UTM Zone 17 Scale 1:1,500



COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

APPLICATION NUMBER: A-3/16
LOCATION: 45 DeShane Street
DATE AND TIME OF HEARING: January 14, 2016 at 4:00 p.m.
OWNER: Nathan Reid Holdings Ltd.
AGENT: N/A
OFFICIAL PLAN DESIGNATION: General Residential
ZONING: Residential Single Detached (R.1D-12) Zone

REQUEST:	The applicant is seeking relief from the By-law requirements to permit the driveway to be 5.92 metres wide.
BY-LAW REQUIREMENTS:	The By-law requires that a residential driveway in the R.1D zone shall have a maximum width of 5.0 metres.
STAFF RECOMMENDATION:	Approval

CONDITIONS RECOMMENDED:

PERMIT AND ZONING ADMINISTRATOR

1. That the driveway be developed in accordance with the plan submitted with application A-3/16 (dated December 7, 2015).

COMMENTS

ENGINEERING SERVICES:

Engineering staff have no concerns with the requested driveway width variance to permit the driveway to be 5.92-metres wide from an Engineering perspective. Accordingly, upon examining Planning staffs comments and recommendations and Zoning staff’s comments and recommendation, Engineering staff can support their comments and recommendations for approval.

PLANNING SERVICES:

The subject property is designated ‘General Residential’ in the Official Plan. The nature and extent of the requested variance does not conflict with Official Plan policies and can be considered to conform to the intent of the Official Plan.

The subject property is zoned “Specialized Residential Single Detached” (R.1D-12) according to Zoning By-law (1995)-14864, as amended. Section 4.13.7.2.1 of the Zoning By-law permits a maximum driveway width of 5.0 metres in a R.1D zone. The Zoning By-law sets out maximum driveway width requirements to ensure that there is an appropriate amount of soft landscaped areas and that the streetscape is not dominated by driveways and cars. The Zoning By-law was updated to reflect driveway width maximums in numbers (previously determined by

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

percentages). Part of the reason for this change was to simplify enforcement of driveway widths. The maximum driveway width of 5.0 metres in a R.1D zone is in place to ensure driveways in R.1D zones with 9.0 metre frontages do not dominate the lot. A 5.0 metre wide driveway on a lot with 9.0 metres would essentially occupy 56% of the lot frontage. The subject property is a corner lot and has a lot frontage of over 16.0 metres. A 5.92 metre wide driveway will occupy approximately 35% of the lot frontage. The subject property can accommodate a wider driveway and the requested variance meets the general intent of the Zoning By-law.

The subject property is zoned R.1D, however, has a lot frontage that far exceeds the minimum requirements of the R.1D zone and is similar in size to a R.1B zone which would permit a maximum driveway width of 6.5 metres. As shown on the application sketch, the driveway will not obstruct the sight line triangle. The requested variance is considered to be desirable for the appropriate development of the land and is considered to be minor in nature.

Staff recommend approval of the application.

PERMIT AND ZONING ADMINISTRATOR:

The property is located in the Specialized Residential Single Detached (R.1D-12) Zone. The By-law requires that a residential driveway in the R.1D zone shall have a maximum width of 5.0 metres. The applicant is proposing to construct a single family dwelling with a future accessory apartment in the basement.

Given the size of this property, Building Services has no concerns with this application to permit the driveway to be 5.92 metres wide. A building permit for the dwelling has not been applied for or approved. Therefore it is recommended that the above condition be imposed.

Please note: A building permit will be required prior to the construction of the dwelling unit. A building permit and Two-Unit Registration will also be required to create an accessory apartment.

REPORT COMPILED BY: V. Sobering, Council Committee Assistant

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

APPLICATION NUMBER: B-2/16
LOCATION: 67 Dean Ave.
DATE AND TIME OF HEARING: January 14, 2016 at 4:00 p.m.
OWNER: Alexandra Neumann
AGENT: Jeff Buisman, Van Harten Surveying Inc.
OFFICIAL PLAN DESIGNATION: General Residential
ZONING: Residential Single Detached (R.1B) Zone

REQUEST: The applicant proposes to sever a parcel with frontage along Dean Avenue of 15.0 metres, a depth of 34.4 metres, and an area of 506 square metres. The severance would allow for construction of a new residential dwelling on the severed parcel.

STAFF RECOMMENDATION: Approval

CONDITIONS RECOMMENDED:

ENGINEERING SERVICES

1. That the owner pays the actual cost of constructing new service laterals to the severed lands including the cost of any curb cuts or curb fills required, with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid, prior to the issuance of a building permit.
2. That the owner pays the actual cost of the construction of the new driveway entrance including the required curb cut and/or curb fill, with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid, prior to the issuance of a building permit.
3. That prior to the issuance of any building permits on the proposed severed lands, the owner shall pay the flat rate charge established by the City per metre of road frontage to be applied to tree planting for the proposed severed lands.
4. That the owner constructs the new dwelling at such an elevation that the lowest level of the building can be serviced with a gravity connection to the sanitary sewer.
5. That the owner enters into a Storm Sewer Agreement with the City, satisfactory to the General Manager/City Engineer, prior to endorsement of the deeds.
6. That a legal off-street parking space be created on the severed parcel at a minimum setback of 6-metres from the property line at the street.

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

7. That the owner grades, develops and maintains the site in accordance with a Site Plan that has been submitted to and approved by the General Manager/City Engineer.
8. 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.
9. The owner agrees to install sump pumps for the foundation drain; furthermore, all sump pumps must be discharged to the rear yard.
10. 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.
11. The owner shall ensure that all telephone service and cable TV service on 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, prior to the issuance of any building permits.
12. That prior to endorsonation of the deeds, the owner shall enter into an agreement with the City, registered on title, satisfactory to the General Manager/City Engineer, agreeing to satisfy the above-noted conditions and to develop the site in accordance with the approved plans.

PLANNING SERVICES

13. That the owner shall pay to the City, as determined applicable by the City's Director of Finance, development charges and education development charges, in accordance with City of Guelph Development Charges By-law, 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 issuance of a building permit, at the rate in effect at the time of issuance of the building permit.
14. That a site plan shall be submitted to, and approved by the General Manager of Planning, Urban Design, and Building Services and the City Engineer, prior to the issuance of a building permit for the new dwelling on the severed lot indicating:
 - i. The location and design of the new dwelling;
 - ii. All trees on the subject property, including the extent of their canopies that may be impacted by the development. Any trees within the City boulevard must be shown, including appropriate protective measures to maintain them throughout the development process;
 - iii. The location of the new dwelling with a setback that is in character with the surrounding area; and,

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

iv. Grading, drainage and servicing information.

15. That prior to the issuance of a building permit, elevation and design drawings for the new dwelling on the severed lot be submitted to, and approved by the General Manager of Planning, Urban Design, and Building Services, in order for staff to ensure that the design of the new dwelling respects the character of the surrounding neighbourhood in all aspects including the proposed massing, building setbacks and the size and location of any proposed garage.
16. That, if tree removal is to occur during breeding bird season (approximately May 1 to July 31), a nest search be undertaken by a wildlife biologist prior to demolition so as to protect the breeding birds in accordance with the Migratory Birds Convention Act (MBCA) prior to any works occurring.
17. That the applicant consider retention of bur oak #2 and consult with the City's Environmental Planner prior to the issuance of a building permit.
18. That the applicant provide a detailed compensation plan prior to the issuance of a building permit if retention of bur oak #2 is not a feasible option.
19. That the applicant be requested to erect tree protective fencing in accordance with the Tree Preservation Plan submitted by NRSI (December 2015) prior to commencing construction or site alteration.
20. That the applicant contact the City's Environmental Planner to inspect the tree protection fencing prior to commencing construction or site alteration.
21. That the applicant be requested to maintain the tree protective fencing throughout the duration of construction and until site stabilization.
22. That prior to the endorsement of the deeds, 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.

PARKS PLANNING

23. 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 endorsement of the Transfer (deed).
24. Prior to the endorsement of the Transfer (deed) by the City, the Owner shall provide to the Deputy CAO of Public Services a satisfactory 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 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

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

approval of the Deputy CAO of Public Services. Notwithstanding the foregoing, if the 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 appraisal for the purposes of calculating the payment of cash-in-lieu of parkland dedication.

GUELPH HYDRO

25. That prior to the issuance of a building permit, the owner/applicant makes arrangements with the Technical Services Department of Guelph Hydro Electric Systems Inc. for the newly created lot. 100% of the cost to be at the expense of the owner/applicant.

CONDITIONS RECOMMENDED IN ACCORDANCE WITH COMMITTEE OF ADJUSTMENT POLICY

26. 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.
27. 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.
28. 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.
29. 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.

COMMENTS

ENGINEERING SERVICES:

On Dean Avenue abutting the lands to be severed and the lands to be retained there is a 375mm sanitary sewer approximately 2.44-metres (8.00 feet) deep, a 900mm storm sewer approximately 0.90-metres (3.00 feet) deep and a 150mm watermain, two lanes of asphalt pavement, concrete sidewalk on the north side of the street and curb and gutter. After reviewing the contour mapping of the subject property, it would appear that the lands generally slope from north to south towards the adjacent property then towards Dean Avenue. Every property must contain its own surface drainage, therefore, a grading and drainage plan will have to be

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

submitted for review and approval for the proposed lands and how the drainage from the subject lands will be accommodated.

The purpose of the proposed severed parcel of land, with a lot frontage of approximately 15.0-metres (49.2 feet) along Dean Avenue; and a depth of approximately 34.44-metres (112.99 feet) to allow for the construction of a new residential dwelling;

The owner will be responsible for the following:

- apply for and pay the actual cost of constructing new service laterals to the severed lands including the cost of any curb cuts or curb fills required, with the estimated cost of the works as determined necessary by the General manager/City Engineer being paid, prior to the issuance of a building permit;
- pay the actual cost of the construction of the new driveway entrance including the required curb cut and/or curb fill, 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 permit;
- pay the flat rate charge established by the City per metre of road frontage to be applied to tree planting for the said lands, prior to the issuance of any building permit on the lands;
- enter into a Storm Sewer Agreement providing for a grading and drainage plan, registered on title, prior to endorsement of the deeds.

The owner should also contact Guelph Hydro Electric Systems Inc. to determine what the servicing requirements might be for the proposed severed lands, prior to the issuance a building permit.

We have no objection to the requested consent for severance of a parcel of land, provided the above noted conditions are imposed.

PLANNING SERVICES:

A previous severance application (B-8/14) for the subject property was submitted in May 2014 and was deferred at the June 12, 2014 Committee of Adjustment Hearing. Staff recommended deferral to allow the applicant time to provide further details on the application including the submission a Tree Inventory and Preservation Plan. The applicant has been working with staff to provide this information, however, since more than a year has passed since the application was originally deferred, a new application was submitted.

As part of the new severance application, the owner retained Natural Resource Solutions Inc. to prepare a Tree Preservation Plan which has been submitted to and reviewed by the City's Environmental Planner.

The subject property is designated 'General Residential' in the Official Plan. The proposed severance meets the Official Plan policies for infill and intensification. Specifically, policy 7.2.34 of the Official Plan speaks to residential lot infill. The creation of new low density residential lots within the older established areas of the City are encouraged, provided that the proposed

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

development is compatible with the surrounding residential environment. The proposed severances meet subdivision criteria outlined in 51(24) of the Planning Act and Consent criteria of the Official Plan.

The subject property is zoned 'Residential Single Detached' (R.1B) according to Zoning By-law (1995)-14864, as amended. The proposed severance will create one new residential building lot, the "severed" lot and one "retained" lot. Both "severed" and "retained" lots meet all of the provisions of the standard R.1B zone. The proposed severance represents an orderly division of land. Staff are recommending conditions of approval to ensure that the new dwelling is compatible with the existing neighbourhood.

The subject property is less than 0.2 hectares in size, and therefore is not regulated by the Private Tree Protection By-law. However, the property is subject to the Urban Forest policies under the City of Guelph's Official Plan, and therefore the trees on-site and off-site are recommended to be preserved. These trees are anticipated to provide various benefits and services to the neighborhood including: reduction of air pollution, moderation of the urban heat island effect, carbon sequestration, shade and habitat for resident wildlife, and should be preserved to satisfy the City's canopy cover targets. The City's Environmental Planner has reviewed the Tree Inventory and Preservation Plan prepared and submitted by NRSI (December 2015) and is generally satisfied subject to minor comments as summarized below.

There are 4 trees (3 bur oak trees and 1 tulip tree) inventoried for the property which could potentially be impacted during the proposed future residential development. One of the bur oak trees is a large tree with a 133 cm diameter at breast height (dbh) and has potential to be of heritage value. This tree has been described as a boundary tree and a detailed health assessment has been submitted which provides analysis of the required tree protection. Of the 4 inventoried trees there are 2 trees proposed to be removed including 1 bur oak tree of 34 cm dbh along the proposed grading limit, and 1 tulip tree of 42 cm dbh within the proposed driveway. It should be noted that the 34 cm dbh bur oak tree (tree #2) is mostly within the dripline of the larger 133 cm dbh bur oak (boundary tree).

There has been interest from the neighbouring property owner to preserve and retain the large bur oak tree (133 cm dbh) which has been documented as a boundary tree. The large bur oak tree has been proposed to be preserved with a 10 m buffer for the dripline and an additional 2 m setback for the future building structure is recommended by NRSI. NRSI has also recommended pruning the branches of the large bur oak tree in accordance with current industry standards. While staff is generally satisfied with these measures and proposed buffer and setback to this tree, there is some concern over the removal of the 34 cm dbh bur oak (#2) as this tree is within the dripline of the boundary bur oak tree (133 cm dbh). It appears the proposed future residential development is well outside the dripline of the tree, and there may be an opportunity to retain the bur oak tree, and therefore staff recommend that this tree be considered for retention. A compensation strategy has been discussed and is proposed to be finalized and negotiated with the City Staff prior to the issuance of a building permit.

Staff recommend approval of the application, subject to the above noted conditions.

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

PARKS PLANNING:

Parks Planning has no objection to the proposed severance, subject to the above noted conditions.

PERMIT AND ZONING ADMINISTRATOR:

This property is located in the Residential Single Detached (R.1B) Zone. The applicant is proposing to sever a parcel with frontage along Dean Avenue of 15metres, a depth of 34.4 metres, and an area of 506 square metres. The severance would allow for construction of a new residential dwelling on the severed parcel.

Building Services has no concerns with this application to sever the property to create a new residential lot.

A building permit will be required for any new construction.

GUELPH HYDRO:

See above noted condition.

REPORT COMPILED BY: V. Sobering, Council Committee Assistant

SEE ATTACHED CORRESPONDENCE.

Valarie Sobering

From: Sylvia Watson
Sent: January 4, 2016 12:27 PM
To: Committee of Adjustment
Subject: Lot severance at 67 Dean Ave
Attachments: P1220989.JPG; P1220990.JPG

Committee of Adjustment
City Hall
1 Carden St
Guelph N1H3A1

Re: Application number B-2/16, 67 Dean Ave

Dear Committee Members,

When this application was first submitted in June of 2014, I wrote with concerns re the impact of the construction on the large Bur Oak boundary tree situated on the lot line between 67 and 69 Dean Ave. Committee members need to remember that in Dec 2013, the Ontario Court Of Appeal (Hartley v Cunningham, 2013 ONCA 759) upheld an earlier court decision that a boundary tree is jointly owned and any action that could impact the tree must first be agreed upon by both owners.

As Michael Foderick, of McCarthy Tetrault LLP, wrote in "Who owns a tree on or over the property line" (The Lay of the Land, Jan 8, 2014): The Ontario Court of Appeal ruling "...in the urban development and real property context...has the potential to be very problematic for developers...As a result, resolving boundary tree issues can no longer be considered a trivial afterthought..."

So again this is not a simple severance. The applicant needs to prove conclusively that the Bur Oak will not be negatively impacted by construction. One only has to look down the street to the houses being built at 58/60 Dean Ave to see how poorly the trees have been protected (photos attached). If this severance is granted there needs to be some mechanism that makes sure that this applicant, or if the lot is sold, subsequent builders, are very careful with tree protection protocols.

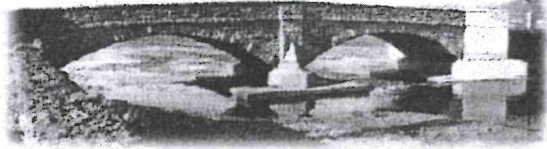
In my opinion given the heritage aspects of this tree, the city, if a severance is granted, needs to be involved with its protection throughout the construction process. The conditions of this monitoring need to be written into the Committee of Adjustment decision.

Thank you for your consideration,
Sylvia Watson
69 Talbot St

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Gow's Bridge



Linking the Old University Neighbourhood to the City of Guelph since 1897

Old University Neighbourhood Residents' Association Inc.

102 Forest Street
Guelph, ON, N1G 1H9
January 4, 2016

RECEIVED

JAN -6 2016

CITY CLERK'S OFFICE

Committee of Adjustment
City Hall
Guelph, Ontario

sent by email to cofa@guelph.ca

Re: application B-2/16, 14 67 Dean Avenue

Dear Committee members,

The Executive Committee of the Old University Neighbourhood Residents' Association (OUNRA) has considered the application for severance on the property at 67 Dean Avenue. This is a re-application for a request for a severance originally submitted to the Committee of Adjustment for its June 2014 meeting. The decision then was to defer consideration until the applicant could provide information concerning the historic Bur Oak tree that stands towards the back of the property and on the boundary with the property at 69 Dean Avenue. That decision was in keeping with the position taken by the OUNRA at that time.

The current application makes it clear that the applicant took seriously the Committee's concern about the Oak tree. They sought advice from NRS Inc., which recommended that a 2-metre buffer zone be added to the 10-metre radius estimate of root extension. This would provide for a 12-metre tree protection zone, which is satisfactorily within commonly adopted requirements.

However, given the age of the tree and in consideration of unknown soil characteristics, the OUNRA recommends that the adequacy of the proposed tree protection zone be verified through physical inspection using test holes in the outer edges of the proposed protection zone, should the Committee approve the application.

The OUNRA met with the neighbours who live at 69 Dean Avenue. We share a reservation with them concerning the forward placement of a building planned for the severed lot. Although the proposed setback at 6 metres is in keeping with the current language of the by-law, it will result in a structure that is noticeably forward compared with the adjacent properties as well as other houses along the street.

In summary, the OUNRA is not opposed to the severance application if the Committee ensures that adequate tree protection provisions are made a requirement but we have a concern if, in granting the

severance, the Committee is also approving the marked alteration to the streetscape the application seems to anticipate with a 6 metre setback from the street.

Yours truly,

A handwritten signature in black ink, appearing to read 'Bruce Ryan', with a stylized flourish at the end.

Bruce Ryan
President OUNRA

69 Dean Avenue
Guelph ON N1G 1L3

7 January 2016

Committee of Adjustment
City of Guelph
1 Carden St
Guelph, ON N1H 3A1

RECEIVED
JAN -7 2016

CITY CLERK'S OFFICE

Re: Application number B-2/16, 67 Dean Avenue

Dear Committee Members,

We are the owners and residents of 69 Dean Avenue. We are writing to state our opposition to the proposal to sever the property at 67 Dean Avenue, which is immediately adjacent to ours.

We appreciate that the applicant has proposed development that would minimize impact to the great bur oak on the property line, which was the focus of the previous round of application.

In order to protect the trees roots and canopy, however, they have proposed a structure that will appear very out of place in this long-established neighbourhood in several ways:

1. The building will project forward of neighbouring structures by at least 3 metres or in most cases. A common feature of our street is the large setback of the houses (typically 9 metres).
2. The frontage of the proposed new lot, and of the retained lot, will be very small compared to others in the neighbourhood.
3. The small lots will be very "crowded" compared to the others nearby, with very little space between the structures and the proposed property lines.
4. A two storey structure in a neighbourhood of bungalows or "one-and-a-halves" will be startlingly out of place.

We feel strongly that the proposed new residence on the lot would have a detrimental effect on the character of our neighbourhood, and negatively impact the value of nearby properties. We do not object to in-fill in principle, but do feel that it should be done in a way that preserves the character and visual nature of the surrounding neighbourhood.

The proposed severance, together with the planned development, will not be an appropriate addition to our neighbourhood.

Yours truly,

Mr Jaydee Smith and Ms Jane Coventry