

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday June 11, 2015 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

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

Regrets: None

Staff Present: T. Donegani, Planner
L. Sulatycki, Planner
T. Russell, Secretary-Treasurer
S. Samuel, Legislative Coordinator

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Meeting Minutes

Committee member P. Ross asked the Chair for clarification regarding the difference in applying conditions for Files A-30/15 and A-37/15. Committee member P. Ross asked Chair B. Birdsell to clearly explain his decisions in the future.

Moved by L. Janis and seconded by M. Bosch,

“THAT the Minutes from the May 14, 2015 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

Secretary-Treasurer T. Russell advised the Committee that a written request for a refund of the application fee for a minor variance application fee (\$750.00) was received from Mr. C. Bauch and Ms. M. Anand for application A-40/15 for 124 Liverpool Street. She explained that the

minor variance application was withdrawn by the applicants as they have decided not to go ahead with the building the addition. A public meeting notice and circulation list was prepared, but the withdrawal request was received 1 day prior to the notice being required to be mailed out, therefore the application was never circulated to the Committee members or staff for review.

In response to a question from Committee member L. Janis, Secretary-Treasurer T. Russell noted that some work was done on the file which included reviewing the application, preparing the circulation list and the public meeting notice. She indicated that about 2 hours of staff time was spent on the file.

Committee member M. Bosch asked if the reason the application did not proceed was due to a staff error. Secretary-Treasurer T. Russell indicated that the applicant decided not to pursue the minor variance.

Consideration of full refund of the application fee for application A-40/15, 124 Liverpool Street

Moved by M. Bosch and seconded by K. Ash,

“THAT the minor variance application fee, being \$750.00 for Application A-40/15, 124 Liverpool Street, not be refunded to the applicant.”

Carried

Secretary-Treasurer T. Russell noted that an Ontario Municipal Board (OMB) decision regarding 28 Rodgers Road (File A-115/14) was received. The Committee’s decision to refuse the application was upheld by the OMB.

Secretary-Treasurer T. Russell confirmed that in addition to the next meeting on July 9th, an additional hearing will be held on July 23rd.

Application: B-15/15

Owner: Sandra Reinholds

Agent: Jeff Buisman, Van Harten Surveying Inc.

Location: 75 Division Street

In Attendance: Jeff Buisman
Sandra Reinholds
Terry Harron

Secretary-Treasurer T. Russell advised that comments from Parks Planning were missed in the comments document provided. A copy of the comments and proposed conditions from Parks Planning were 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. J. Buisman replied that the sign was posted and comments were received.

Mr. J. Buisman summarized the application and outlined that the applicant was supportive of the remedial work recommended by Engineering to address the drainage issues.

Committee member M. Bosch asked staff to clarify the purpose of the recommended condition from Planning Services requiring an environmental handbook. Planner T. Donegani replied that this is a standard condition imposed for new development.

Committee member D. Kendrick asked staff if condition 14 is going to adequately satisfy drainage concerns mentioned in the letter received from Mr. T. Harron. Planner T. Donegani replied that engineering conditions 12, 13, and 15 will require a comprehensive grading and drainage solution.

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 K. Ash and seconded by S. Dykstra,

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 Lots 8 and 9, Registered Plan 264, municipally known as 75 Division Street, a parcel with a frontage along Kathleen Street of 19.3 metres and a depth of 22 metres,

be approved, subject to the following conditions:

1. That the owner pays the watermain frontage charge of \$8.00 per foot of frontage for 63.32 feet (19.30 metres), prior to endorstation of the deeds.
2. That the owner shall pay to the City, the sanitary sewer frontage charge of \$11.00 per foot for 63.32 feet (19.30 metres), prior to endorstation of the deeds.
3. 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.

4. That the owner pays the actual cost of the removal of the existing asphalt pavement from a portion of the existing driveway within the road allowance, the restoration of the boulevard with topsoil and sod including the required curb fill, with the estimated cost of the works as determined by the General Manager/City Engineer being paid, prior to endorsation of the deeds.
5. 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.
6. 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.
7. 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.
8. That the owner enters into a Storm Sewer Agreement with the City, satisfactory to the General Manager/City Engineer, prior to endorsation of the deeds.
9. 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.
10. 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.
11. 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.
12. The owner agrees to discharge the roof water leaders and sump pump of the proposed new dwelling on the lands to be severed to grade at the front yard of the property towards Kathleen Street.
13. The owner shall pay all the costs associated with the construction of a drainage swale along the east side of the existing dwelling on the upper terrace of the lands to be retained to the Division Street property line for any surface water and roof water run-off, prior to the issuance of any building permits.

14. The owner agrees to discharge the roof water leaders of the existing dwelling on the lands to be retained into a proposed drainage swale along the east side of the existing dwelling and to the front yard of the property towards Division Street.
15. That 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 dwelling, as well as provisions for any easements and/or rights-of-way for their plants, prior to the issuance of any building permits.
16. That the owner makes satisfactory arrangements with Union Gas for the servicing of the severed lands, as well as provisions for any easements and/or rights-of-way for their plants, prior to the issuance of any building permits.
17. 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.
18. That prior to endorsement 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.
19. Prior to the issuance of any building permit for the lands, the owner shall pay to the City, the City's total cost of reproduction and distribution of the Guelph Residents' Environmental Handbook, to all future homeowners or households within the project, with such payment based on a cost of one handbook per residential dwelling unit, as determined by the City.
20. That the applicant 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 (2009)-18729, 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.
21. That a site plan be submitted to, and approved by the General Manager of Planning Services and the City Engineer, prior to the issuance of a building permit for the new dwelling on the severed parcel indicating:

- a) The location and design of the new dwelling;
 - b) 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. The plan should identify trees to be retained, removed and/or replaced and the location and type of appropriate methods to protect the trees to be retained during all phases of construction;
 - c) The location of the new dwelling with a setback that is in character with the surrounding area; and,
 - d) Grading, drainage and servicing information.
22. That the elevation and design drawings for the new dwelling on the severed parcel be submitted to, and approved by the General Manager of Planning Services, prior to the issuance of a building permit for the new dwelling 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.
23. That a Tree Inventory and Preservation Plan be, revised if necessary, to the satisfaction of the General Manager of Planning prior to the issuance of a building permit.
24. That prior to the endorsonation 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.
25. The applicant must make satisfactory arrangements with Technical Services Department of Guelph Hydro Electric Systems Inc. for the servicing of the newly created lot. This will be 100% chargeable to the owner/applicant.
26. 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, and in accordance with the policies of the City of Guelph Official Plan, prior to the endorsement of the Transfer(deed).
27. 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 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.

28. That the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for endorsement, prior to June 16, 2016.
29. 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.
30. 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.
31. That a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the draft Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk.

Carried

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.

Application A-39/15

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

Moved by K. Ash and seconded by 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 Table 5.1.2 Row 3 of Zoning By-law (1995)-14864, as amended, for 75 Division Street, to permit a minimum lot area of 420 square metres for the proposed severed parcel, when the By-law requires that the minimum lot area for the R.1B zone be 460 square metres, be approved, subject to the following condition:

1. That the conditions imposed for Application B-15/15 be and form part of this approval.

Carried

REASONS:

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

Application: B-19/14, A-57/14 & A-58/14

Owner: The Homewood Corporation

Agent: Hugh Handy, GSP Group Inc. & Craig Robson, Robson Carpenter LLP

Location: 148-160 Delhi Street & 49 Emma Street

In Attendance: Caroline Baker
Hugh Handy
Brenda MacElwain
Graham Granger
Mary Throng
Valerie MacLachlan
Mike Marcolongo

Secretary-Treasurer T. Russell noted to the Committee that these applications were originally submitted in May 2014, and at the hearing on June 12, 2014, staff recommended deferral. She noted for reference that the Committee does have the ability to request deferral for any specified period of time, not just sinedie.

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. C. Baker replied that the three signs were posted and staff comments were received.

Ms. C. Baker explained that the reason the applicant is requesting deferral is to allow more time to work with staff and to provide more information regarding natural and cultural heritage issues. She clarified that the intent of the severance application is to allow the owner to register a second mortgage on the property and the owner intends to retain ownership of the severed lot.

Mr. M. Marcolongo, resident of Mitchell Street, indicated that a number of neighbours are concerned about the applications. He encouraged the applicant to work with the neighbourhood community.

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, 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 M. Bosch and seconded by S. Dykstra,

THAT Applications B-19/14, A-57/14 and A-58/14 for 148-160 Delhi Street and 49 Emma Street, be deferred sinedie, and in accordance with the Committee's policy on applications deferred sinedie, 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.

Carried

REASONS:

These applications are deferred in order for the submission of additional information.

Application: A-41/15
Owner: Sandra Parmegiani and Russell Kilbourn
Agent: Thomas Ziegler, Corner Stone Contracting
Location: 71 Yorkshire Street South

In Attendance: **Thomas Ziegler**
 Russell Kilbourn
 Catherine Nugent

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. T. Ziegler replied that the sign was posted and comments were received.

Mr. T. Ziegler, Cornerstone Contracting, representative of the owners, outlined the reasons for the application.

Committee member K. Ash pointed out the dimensions of the property and the gross floor area of the proposed structure were missing from the application. Mr. T. Ziegler confirmed the ground floor area of the proposed accessory building will be 60.1 square metres and the area of the mezzanine will be approximately 27 square metres.

Planner T. Donegani confirmed that the Zoning By-law requires that the total area of an accessory building in a residential area shall not exceed 70 square metres. He noted that Zoning staff consider the 70 square metres to reference ground floor area, not gross floor area, as total area is not defined in the By-law.

Committee member K. Ash expressed concerns regarding the total gross floor area, the excessive height and size in relation to the property, and possible future uses if bathroom facilities are installed. She indicated that she would not support the application as she did not feel the request was minor, does not meet the intent of the Zoning By-law, and is not desirable for the area.

Committee member M. Bosch indicated concerns about possible use problems in the future in regards to the proposed plumbing in the structure and commented that two-storeys for an accessory building is excessive.

Mr. T. Ziegler confirmed that the second level is proposed for book storage as it is much drier on the second level. He confirmed that the plumbing was proposed as the dwelling has no bathroom on the first two floors.

In response to a question from Committee member K. Ash regarding appropriate notice, Secretary-Treasurer T. Russell stated that the area of the proposed structure noted on the public hearing notice reflected the ground floor area size only.

Ms. C. Nugent, neighbour, presented concerns that the proposed height of the structure would reduce sunlight into her garden and construction could destroy the roots of the nearby walnut tree. She displayed photos of her backyard and tree to the Committee. Mr. T. Ziegler clarified

that the applicant is trying to mitigate the sunlight reduction and tree impacts by reconstructing the structure away from the property line and re-using the existing foundation.

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

Moved by K. Ash and seconded by M. Bosch,

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 71 Yorkshire Street South, to permit the proposed accessory structure to have a height of 5.8 metres, when the By-law requires that in a residential zone, an accessory structure shall not exceed 3.6 metres in height, be refused.

Carried

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.

Application: **A-42/15**

Owner: **Adabelle Bennett and William Dukelow**

Agent: **Kevin Thompson, SmithValeriotte Law Firm LLP**

Location: **186 Norfolk Street**

In Attendance: **Jennifer Sumner**
 John McMurty
 Kevin Thompson
 William Dukelow
 John Clark
 Jennifer Wallington

Committee member K. Ash left at 4:51 p.m. and returned at 4:53 p.m.

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. K. Thompson replied that the signs were posted and comments received.

Mr. K. Thompson, representative of Sidonio's Custom Men's Shoppe Ltd., the proposed purchaser of the property, provided drawings of existing and proposed conditions to the Committee. He explained the drawings and related application. He stated that there were no concerns with the first two proposed conditions, but wanted to clarify if full site plan approval is required for the third condition regarding the parking spaces. Mr. K. Thompson provided three documents regarding section 41 of the Planning Act for the Committee's reference.

Planner L. Sulatycki indicated that the parking lot is existing and is not required to go through full site plan approval. She clarified that a scoped site plan would be required along with an agreement or undertaking, and the site plan would not need to go through the Site Plan Review Committee. Mr. K. Thompson requested that the third condition be revised to clarify that the plan does not need to be reviewed by the Site Plan Review Committee. Planner L. Sulatycki agreed.

Mr. K. Thompson addressed concerns outlined in the letter from Mr. J. McMurty and J. Sumner. Mr. K. Thompson indicated that there is no objection to permitting only a boutique clothing store and would like to retain the garage as it was discovered that the garage contains two legal parking spaces.

In response to questions from Committee members L. Janis and S. Dykstra regarding the safety of the basement walkout, Mr. P. Brombal, potential purchaser, replied that safety measures could be entertained upon further information.

Committee member M. Bosch stated he was concerned about future retail uses. In response to Committee member M. Bosch's question regarding parking spaces encroaching on City property, Planner L. Sulatycki replied that it is not the City's preference to enter into encroachments agreements for parking and staff were satisfied with the number of parking spaces proposed. She clarified that City staff would likely refuse an encroachment agreement for parking if proposed.

In response to a question from Committee member K. Ash, Planner L. Sulatycki replied that staff did not feel it was necessary to limit the retail use due to the existing limited ground floor area. She indicated that the Downtown Secondary Plan envisions small-scale retail uses in this area and boutique clothing store is not a defined term in the Zoning By-law.

Committee member K. Ash noted that there was an easement to the right side of the property.

In response to questions from Committee member D. Kendrick, Planner L. Sulatycki confirmed that since no development and re-grading are being proposed, a tree preservation plan was not

required. She clarified that parking is not permitted on the City's right-of-way without permission, and that this is monitored based on a complaint basis.

Mr. J. McMurty, neighbour, stated he would like to see the use limited to a boutique clothing store and is satisfied now that the garage will remain. Planner L. Sulatycki explained that since the Zoning By-law does not define a boutique clothing store, the Committee would need to provide a definition, and that this use cannot be based on price.

In response to a question from Chair B. Birdsell, Planner L. Sulatycki clarified that the use is based on the property, not the owner.

Mr. W. Dukelow, current owner, stated he supports the application.

Planner L. Sulatycki clarified that the Zoning By-law does not specifically define a clothing store due to its general nature. She noted that boutique is defined as a retail establishment with a maximum gross floor area of 100 square metres.

Mr. K. Thompson indicated that if a decision is not made quickly, the purchase agreement may be in jeopardy. He mentioned that even if the use is limited now, it would be superseded later when the Downtown Secondary Plan comes into effect.

Committee member P. Ross suggested the use be limited to a retail clothing store. Planner L. Sulatycki replied that this is sufficient.

The Committee discussed various ways of wording the third condition to clarify that full site plan approval is not required.

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 and 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 Sections 6.5.1, 4.13.2.3, 4.13.3.1, and 4.13.4.2 of Zoning By-law (1995)-14864, as amended, for 186 Norfolk Street,

- a) to permit a retail establishment as an additional permitted use, when the By-law permits a variety of uses in the OR zone, but it does not include a retail establishment;

- b) to permit parking spaces to be within 1.5 metres and 0.1 metres of the street line, for the west and east sides of the parking lot, respectively, when the By-law requires that uncovered parking areas shall be located within all yards in the OR zone provided that no part of a parking space is located closer than 3 metres to any street line;
- c) to permit the off-street parking area to provide means of ingress and egress to and from a street in a forward or backward motion, when the By-law requires that every off-street parking area for non-residential uses shall be provided with adequate means of ingress and egress to and from a street or lane, in a forward motion only; and
- d) to permit a total of ten (10) off-street parking spaces be provided for the office use and retail establishment, when the By-law requires that a total of fifteen (15) off-street parking spaces be provided for the office use [1 parking space per 33 m² of gross floor area] and retail establishment use [1 parking space per 16.5m² of gross floor area),

be approved, subject to the following conditions:

1. That the owner pays the actual cost of the removal of a portion of the existing post and chain fence, wood lattice and concrete curb stops and the existing asphalt pavement within the road allowance, including the restoration of the boulevard with topsoil and sod, 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 retail clothing establishment be limited to the existing ground floor.
3. That the applicant provides a plan to the satisfaction of the General Manager of Planning, Urban Design and Building Services that shows the re-configured parking spaces, including the accessible parking spaces.

Carried

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.

Application: **A-43/15**

Owner: **Cameron Green**

Agent: Kevin Thompson, SmithValeriot Law Firm LLP

Location: 74 Suburban Avenue

In Attendance: Kevin Thompson

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. K. Thompson replied that the sign was posted and comments were received.

Mr. K. Thompson handed out drawings to the Committee and outlined the application. He clarified that the maximum amount of parking able to fit on the property is 57; however, he was unsure if this number can be maintained, as there was not sufficient time to consult with staff prior to the hearing. He explained that there is some urgency to proceeding with the application as there is an existing Order to Comply on the property and the variance is needed in order for a building permit to be issued. He requested that the first condition be scoped down so it only deals with parking ingress and egress.

Planner T. Donegani stated that he wanted to ensure that there is a consistent site plan that addresses the deficiencies mentioned in the staff comments.

Committee member S. Dykstra stated that it is up to the applicant to determine the parking request.

Mr. K. Thompson clarified that the Order to Comply is in regards to improvements that have been made to the interior of the building.

In regards to Committee member D. Kendrick's question regarding enforcement for outstanding building issues, Planner T. Donegani said the only option at that time was for the City to provide correspondence to encourage to the owner to comply. Mr. K. Thompson stated that the owner intends to obtain site plan approval.

Planner T. Donegani clarified that the drawings shown to the Committee are part of an approved site plan, but not part of a site plan agreement.

No members of the public spoke in support or opposition of the 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 S. Dykstra and 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 Sections 7.3.4.3.1 and 4.13.4.2 of Zoning By-law (1995)-14864, as amended, for 74 Suburban Avenue,

- a) to permit a vehicle body shop as an additional permitted use, when the By-law permits a variety of uses in the B.4-3 zone, but it does not include a vehicle body shop, and
- b) to permit a total of fifty seven (57) off-street parking spaces be provided for the vehicle body shop use, when the By-law does not provide a specific parking ratio for a vehicle body shop use, but the By-law requires one (1) off-street parking space per 14m² of gross floor area for a vehicle repair shop or vehicle specialty repair shop [total of 67 spaces required],

be approved, subject to the following conditions:

1. The owner agrees to submit a new site plan and receives approval from the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan indicating the location of existing buildings, landscaping, parking, circulation, access, lighting, grading and drainage, servicing, to the satisfaction of the General Manager of Planning Services, prior to the issuance of a building permit for a vehicle body shop establishment in the existing building.
2. That the owner shall develop the property in accordance with the approved site plan and grading and drainage plan, within one hundred and twenty (120) days of site plan approval.

Carried

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.

Application: A-44/15

Owner: Jeff Bousfield and James Kritz

Agent: Lloyd Grinham, L. Alan Grinham Architect Inc.

Location: 48-52 Macdonell Street

In Attendance: Lloyd Grinham

Conrad Aikens
Justin Corstorphine
Derek Boudreau
Aldo Carere
Anthony Veder
Eric Chevalin
Jeff Bousfield

Committee member D. Kendrick left the room at 5:56 p.m. and returned at 5:58 p.m.

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. L. Grinham replied that the sign was posted and comments received.

Mr. L. Grinham, representative of the owners, indicated the owner is agreeable to the staff comments and to rectifying concerns about the exit. He explained that other interior and exterior improvements to the property are planned, including transforming to more of a restaurant use. In regards to the letters received, Mr. L. Grinham stated that the noise and garbage concerns outlined would typically be enforced by By-law enforcement.

In response to Committee member M. Bosch's question, Mr. L. Grinham said the time the patio needs to be vacated follows the liquor licensing rules. He explained that they plan to have a solid board fence to help absorb the noise and light.

Mr. A. Carere, owner of four residential apartments nearby, expressed concerns about noise and garbage being generated from the patio.

Committee member S. Dykstra asked if anything can be done to mitigate the noise and garbage concerns, such as increasing the fence height. Mr. L. Grinham said staff had indicated that the maximum fence height permitted is 1.8 metres. Chair B. Birdsell recommended that the applicant work with staff and the neighbour to provide a solution to these issues.

Mr. A. Veder, representing a property on Macdonell Street, provided concerns about noise, garbage, and lack of By-law enforcement in the area.

Mr. L. Grinham stated that the effect of the transformation from the present use to more of a restaurant use may help with these concerns. He stated that he is unsure if that the proposed movement of the patio more toward the rear will have a substantial additional effect on noise.

In response to Committee member L. Janis' question about the renovations, Mr. L. Grinham replied the plans are currently being prepared for the interior renovation and will be submitted soon. He stated that the intent is for the patio to be built first and it is proposed to be open air patio without a roof.

Mr. J. Bousfield, property owner, said he is supportive of the 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 and seconded by P. Ross,

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.17.2.5 of Zoning By-law (1995)-14864, as amended, for 48-52 Macdonell Street, to permit the proposed outdoor patio to be located 0 metres from any loading space, parking space, parking aisle or driveway, when the By-law requires that every outdoor patio shall be located a minimum of 3 metres away from any loading space, parking space, parking aisle or driveway,

be approved, subject to the following condition:

1. That any garbage and refuse areas be visually screened from the seating area by a wood screened fence.

Carried

REASONS:

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

Application: B-16/15

Owner: Paul and Maria Leombruni

Agent: Jeff Buisman, Van Harten Surveying Inc.

Location: 315 Victoria Road North

In Attendance: Paul Leombruni
Josh Leombruni
Jeff Buisman

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

Mr. J. Buisman, agent for the application, explained that a previous consent application had been approved by the Committee, but lapsed. He indicated that the owner would like to proceed with a flag shaped lot this time to allow for additional amenity space. To address staff concerns regarding the flag shape of the lot, Mr. J. Buisman suggested that a condition be added requiring the dwellings to have a minimum rear yard setback of 27 metres.

Committee member K. Ash noted that there were no conditions recommended by Planning staff provided. Planner T. Donegani replied that Planning staff are recommending refusal so conditions were not included. In response to Committee member K. Ash's question, Planner T. Donegani stated that these conditions will be the standard conditions, as outlined in the first consent application (File B-15/15), with the exception that the condition requiring a tree preservation plan should state prepare not revise. Mr. J. Buisman confirmed these conditions were acceptable.

Chair B. Birdsell commented that he felt it was inappropriate for planning staff to assume the Committee would refuse the application by omitting conditions.

Committee member M. Bosch indicated that he prefers the lots to be straight and narrow to be consistent with the area and would not support a flag shaped lot.

Committee member D. Kendrick asked if the recommended conditions from the previous consent approval would be applicable. Planner T. Donegani explained that the Planning conditions provided in the consent application earlier this evening (File B-15/15) would be more in line with common practice.

Committee member K. Ash stated that the proposal will not alter the streetscape and is supportive of the application. She stated that she did not feel the minimum rear yard setback was necessary.

Committee member L. Janis commented that she does not feel this application is considering the long view, as the owner may have trouble selling the lot in the future.

Committee member M. Bosch stated he would not be supporting the application as he feels it is not desirable for the area.

No members of the public spoke in support or opposition.

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 K. Ash and 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 Lot 1, Concession 6, Division 'C', municipally known as 315 Victoria Road North, a parcel with a frontage along Victoria Road North of 15 metres, a depth of 33.8 metres, and an area of 507 square metres,

be approved, subject to the following conditions:

1. Prior to endorstation of the deeds, the owner shall be responsible for all of the costs associated with the demolition and removal of the existing dwelling and accessory buildings from the proposed retained lands and the proposed lands to be severed.
2. That the owner pays all the costs associated with the removal of the existing sanitary and water service laterals to the existing house from the proposed retained lands and from the proposed severed lands, satisfactory to the Plumbing/Sewage System Inspector, prior to endorstation of the deeds.
3. That the owner pays the actual cost of the removal of the existing sanitary and water service laterals from the road allowance, with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid, prior to endorstation of the deeds.
4. That the owner pays the actual cost of constructing new sanitary and water service laterals to the proposed retained lands and to the proposed severed lands including the cost of any curb cuts and/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 any building permits.
5. That the owner pays the actual cost associated with the removal of the existing asphalt pavement within the road allowance from the area of the existing driveway entrance, the restoration of the boulevard with topsoil and sod where required including any required 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 permits.
6. That the owner pays 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 General Manager/City Engineer being paid, prior to the issuance of any building permits.

7. That prior to the issuance of any building permits on the proposed retained lands and 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 retained lands and the for the proposed severed lands.
8. That the owner enters into a Storm Sewer Agreement, as established by the City, providing for a grading and drainage plan, registered on title, prior to endorsation of the deeds.
9. That the owner constructs the new dwellings at such an elevation that the lowest level of the buildings can be serviced with a gravity connection to the sanitary sewer.
10. That a legal off-street parking space is created on the proposed retained lands and proposed severed lands at a minimum setback of 6.0-metres from the Victoria Road property line.
11. 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.
12. 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.
13. Prior to the issuance of a building permit, the owner agrees to install sump pumps unless a gravity outlet for the foundation drain can be provided on the lot. Furthermore, all sump pumps must be discharged to the rear yard.
14. That 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 dwelling, prior to the issuance of a building permit.
15. 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.
16. 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.

17. That prior to endorsation 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.
18. Prior to the issuance of any building permit for the lands, the owner shall pay to the City, the City's total cost of reproduction and distribution of the Guelph Residents' Environmental Handbook, to all future homeowners or households within the project, with such payment based on a cost of one handbook per residential dwelling unit, as determined by the City.
19. That the applicant 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 (2009)-18729, 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.
20. That a site plan be submitted to, and approved by the General Manager of Planning Services and the City Engineer, prior to the issuance of a building permit for the new dwelling on the severed parcel indicating:
 - a) The location and design of the new dwelling;
 - b) 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. The plan should identify trees to be retained, removed and/or replaced and the location and type of appropriate methods to protect the trees to be retained during all phases of construction;
 - c) The location of the new dwelling with a setback that is in character with the surrounding area; and,
 - d) Grading, drainage and servicing information.
21. That the elevation and design drawings for the new dwelling on the severed parcel be submitted to, and approved by the General Manager of Planning Services, prior to the issuance of a building permit for the new dwelling 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.

22. That a Tree Inventory and Preservation Plan be prepared to the satisfaction of the General Manager of Planning prior to the issuance of a building permit.
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 and to develop the site in accordance with the approved plans.
24. The Owner shall be responsible for the payment of cash-in-lieu of parkland dedication at the rate of 5% of the value of the lands (Area=1665 sq. m.) calculated on the day prior to the provisional consent being granted by the Committee of Adjustments 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).
25. 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(1 & 3) 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 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.
26. Prior to the release of a building permit, the applicant must make arrangements with Technical Services Department of Guelph Hydro Electric Systems Inc. for the servicing of the newly created lots via underground services. Any electrical upgrades needed to Guelph Hydro Electric System Inc.'s electrical distribution system to service the new lots, will be at the owner/applicants expense.
27. That the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for endorsement, prior to June 16, 2016.

28. 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.
29. 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.
30. That a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the draft Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk.

Carried

REASONS:

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

Application A-45/15

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

Moved by K. Ash and seconded by 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 Table 5.1.2 Row 4 of Zoning By-law (1995)-14864, as amended, for 315 Victoria Road North, to permit a lot frontage of 13.9 metres, when the By-law requires that the minimum lot frontage for the R.1B zone be 15 metres,

be approved, subject to the following condition:

1. That the conditions imposed for Application B-16/15 be and form part of this approval.

Carried

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.

The meeting was adjourned by L. Janis at 6:40 p.m.

B. Birdsell
Chair

T. Russell
Secretary-Treasurer