



COMMITTEE OF ADJUSTMENT MINUTES

The Committee of Adjustment for the City of Guelph held its Regular Hearing on Thursday June 27, 2019 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

K. Ash, Chair
D. Kendrick, Vice Chair
S. Dykstra
D. Gundrum
L. Janis
K. Meads
J. Smith

Staff Present: B. Bond, Zoning Inspector
J. da Silva, Council Committee Assistant
T. Di Lullo, Secretary-Treasurer
L. Sulatycki, Planner
A. Watts, Planner

Disclosure of Pecuniary Interest and General Nature Thereof

There were no disclosures.

Approval of Minutes

Moved by D. Kendrick
Seconded by J. Smith

THAT the Minutes from the June 13, 2019 Regular Meeting of the Committee of Adjustment, be approved as circulated.

CARRIED

Requests for Withdrawal or Deferral

There were no requests.

Current Applications

Application: A-3/19
Owner: Jaspreet Dhillon and Gurkirat Dhillon
Agent: Lyle McNair, Sustainable by Design
Location: 622 College Avenue West
In Attendance: L. McNair
J. Dhillon
G. Dhillon

Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. L. McNair, agent, responded that the sign was posted and comments were received.

L. McNair outlined the background of the application and explained how the application met the four tests of the Planning Act.

No members of the public spoke.

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

Moved by S. Dykstra
Seconded by J. Smith

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.13.7.2.3 of Zoning By-law (1995)-14864, as amended, for 622 College Avenue West, to permit a driveway width of 5 metres, when the By-law requires that a residential driveway in an R.2 Zone shall have a maximum driveway width of 3.5 metres, be **REFUSED**.

REASONS:

This application is refused, as it is the opinion of the Committee that this application does not meet all four tests under Section 45(1) of the Planning Act, specifically being that the requested variance does not meet the general intent and purpose of the Zoning By-law and is not considered to be desirable for the streetscape and appropriate development of the lands.

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

CARRIED

Application: A-61/19
Owner: Cindi Downes, Maxwell Kennedy and Maria Kennedy
Agent: Nathan Azzoparde
Location: 20 June Avenue
In Attendance: N. Azzoparde
S. Bullard

Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. N. Azzoparde, agent, responded that the sign was posted and comments were received.

No members of the public spoke.

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

Moved by L. Janis
Seconded by K. Meads

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.15.1.4.1 of Zoning By-law (1995)-14864, as amended, for 20 June Avenue, to permit three (3) off-street parking spaces for the existing semi-detached dwelling and proposed accessory apartment in a stacked arrangement, when the By-law requires three off-street parking spaces for the existing dwelling and accessory apartment with no more than two of the required parking spaces permitted in a stacked arrangement, be **APPROVED**.

REASONS:

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

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

CARRIED

Application: A-62/19
Owner: Vanessa Davis
Agent: William Davis
Location: 40 Milson Crescent
In Attendance: W. Davis

Secretary-Treasurer T. Di Lullo noted that correspondence was received after the comment deadline from the owners of 4 Berry Drive acknowledging the pool location and noting that there have been no past drainage issues. A copy of the correspondence was provided to the members.

Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. W. Davis, agent, responded that the sign was posted and comments were received.

W. Davis indicated that the neighbours had installed drainage along the property line.

No members of the public spoke.

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

Moved by D. Kendrick
Seconded by L. Janis

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.5.5.3 of Zoning By-law (1995)-14864, as amended, for 40 Milson Crescent, to permit the existing swimming pool to be located 0.16 metres from the rear and exterior side yard lot lines, when the By-law requires that every swimming pool shall be located a minimum of 1.5 metres from any lot line, and any decking associated with the pool that is above 0.6 metres from finished grade, shall be located a minimum 1.5 metres from a lot line, be **APPROVED**, subject to the following conditions:

1. Prior to issuance of a pool permit, the owner shall hire an Engineer licensed in the province of Ontario to assess the altered drainage pattern against the approved overall grading plan and confirm that there are no adverse impacts on the upstream and downstream properties. In addition, the engineer shall provide a professional recommendation to the satisfaction of the City Engineer/General Manager confirming that the location of the pool will not cause an adverse impact on any adjacent or upstream properties.
2. Prior to issuance of a pool permit, the owner shall hire an Engineer licensed in the province of Ontario to assess an alternative drainage method to ensure there is

no storm water is being directed towards lot 94 (4 Berry Drive) to satisfaction of the City Engineer/General Manager.

REASONS:

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

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

CARRIED

Application: A-63/19
Owner: Ceri Lamplugh and Jason Mattiussi
Agent: N/A
Location: 196 Cardigan Street
In Attendance: C. Lamplugh
J. Mattiussi

Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. C. Lamplugh, owner, responded that the sign was posted and comments were received.

No members of the public spoke.

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

Moved by J. Smith
Seconded by D. Kendrick

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Sections 4.13.2.1 and 4.13.2.2.2 of Zoning By-law (1995)-14864, as amended, for 196 Cardigan Street, to permit:

- a) the required off-street parking space to be located to the front of the front wall of the dwelling, when the By-law requires that in a R.1 Zone, every required parking space shall be located a minimum distance of 6 metres from the street line and to the rear of the front wall of the main building; and

- b) to permit the existing driveway to be located 0 metres from a door or window in a habitable room, when the By-law requires that no part of any surface driveway or surface parking area shall be located within 3 metres of a building entrance or any window of habitable room,

be **APPROVED**.

REASONS:

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

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

CARRIED

Applications: **B-7/19, A-64/19 and A-65/19**

Owner: **2525271 Ontario Inc.**

Agent: **Nancy Shoemaker, Black, Shoemaker, Robinson and Donaldson Limited**

Location: **9 and 17-19 Elizabeth Street**

In Attendance: **N. Shoemaker**
 I. Panabaker
 N. Couling

Secretary-Treasurer T. Di Lullo noted that comments were received from the Grand River Conservation Authority after the comment deadline. She noted that the Conservation Authority indicated that they had no concerns with the applications.

Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. N. Shoemaker, agent, responded that the sign was posted and comments were received.

N. Shoemaker explained the background of the subject properties and outlined the reasons for the applications.

No members of the public spoke.

File B-7/19

Having had regard to the matters under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of

subdivision of the land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by D. Kendrick

Seconded by 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 Lot 28, Registered Plan 161, currently known as 9 and 17-19 Elizabeth Street, a parcel with frontage along Elizabeth Street of 17.61 metres, a depth of 18.11 metres, and an area of 324.4 metres, substantially in accordance with a sketch prepared by Black, Shoemaker, Robinson and Donaldson Limited, dated May 9, 2019, reference number 18-14-807, be **APPROVED**, subject to the following conditions:

1. That the owner(s) shall deed Part 1 as shown on the sketch completed by Black, Shoemaker, Robinson and Donaldson Limited as a road widening on Elizabeth Street at no cost to the City, free of all encumbrances and no risk to public health and safety and to the environment, prior to issuance of the Certificate of Official.
2. The Owner shall be responsible for the payment of cash-in-lieu of parkland dedication to the satisfaction of the Deputy CAO of Public Services pursuant to s. 51.1 and s. 53(13) of the *Planning Act* prior to the issuance of the Certificate of Official.
3. Prior to the issuance of the Certificate of Official, the Owner shall provide to the Deputy CAO of Public Services a satisfactory short narrative appraisal report prepared for The Corporation of the City of Guelph for the purposes of calculating the payment of cash-in-lieu of parkland dedication pursuant to s.51.1 and s.53(13) of the Planning Act. The short narrative appraisal report shall be prepared by a qualified appraiser who is a member in good standing of the Appraisal Institute of Canada, and shall be subject to the review and approval of the Deputy CAO of Public Services. Notwithstanding the foregoing, if the short narrative appraisal provided by the applicant is not satisfactory to the Deputy CAO of Public Services, acting reasonably, the City reserves the right to obtain an independent short narrative appraisal for the purposes of calculating the payment of cash-in-lieu of parkland dedication.
4. That prior to issuance of the Certificate of Official, the owner transfers an easement over the required lands to protect Bell Canada's existing facilities, to the satisfaction of Bell Canada. All costs associated with this transaction shall be the responsibility of the owner.
5. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the issuance of the Certificate of Official.
6. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to the issuance of the Certificate of Official, that he/she will provide a copy of the registered instrument as registered in the Land Registry Office within two years of issuance of the Certificate of Official, or prior to the issuance of a building permit (if applicable), whichever occurs first.

7. That prior to the issuance of the Certificate of Official, a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the deposited Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca).
8. That upon fulfilling and complying with all of the above-noted conditions, the documents to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for the issuance of the Certificate of Official.

REASONS:

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

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

CARRIED

File A-64/19

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

Moved by S. Dykstra
Seconded by D. Kendrick

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements from Table 6.3.2.7 Rows 1, 4, and 14 of Zoning By-law (1995)-14864, as amended, for 17-19 Elizabeth Street, to permit:

- a) a 0 metre front yard setback, when the By-law requires that where a dwelling unit occupies the first storey of a building, that portion of the building shall have a minimum setback of 3 metres from the street line;
- b) a rear yard setback of 5.96 metres, when the By-law requires that where a lot line abuts a R.1, R.2 or R.3 zone, the minimum rear yard setback shall be 7.5 metres on the abutting side; and
- c) a floor space index of 0.78, when the By-law requires a minimum floor space index of 1.0,

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

1. That prior to the issuance of any building permit, the owner(s) shall enter into, or amend any existing, encroachment agreement(s) in accordance with City Lands Encroachment By-law (2009)-18799 as may be amended from time to time, or any successor By-law(s) thereto, at the discretion of the City and to the satisfaction of the City Solicitor, for any and all actual or proposed encroachments within the City's right of way.

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.

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

CARRIED

File A-65/19

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

Moved by D. Gundrum
Seconded by J. Smith

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements from Table 4.7 Row 3, Table 6.3.2.7 Rows 3, 7, and 14, and Section 6.3.2.5.2.1.1 of Zoning By-law (1995)-14864, as amended, for 9 Elizabeth Street, to permit:

- a) an open, roofed porch not exceeding 1 storey in height to be located 0 metres from the front lot line (Duke Street), when the By-law requires that an open, roofed porch not exceeding 1 storey in height have a minimum setback of 2 metres from the front and exterior side yard lot lines;
- b) a right side yard setback of 1.95 metres, when the By-law requires that where a lot line abuts a R.1, R.2 or R.3 zone, the minimum side yard setback shall be 3 metres on the abutting side;
- c) a 1.27 metre wide buffer along the right side property line, when the By-law requires a 3 metre buffer where the D.1 zone abuts a R.1, R.2, R.3, institutional, park or wetland zone;
- d) a floor space index of 0.74, when the By-law requires a minimum floor space index of 1.0; and

- e) a parking space within 1.12 meters of the street line (Elizabeth Street), when the By-law requires that no part of a parking space shall be located closer than 3 metres to a street line,

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

1. That prior to the issuance of any building permit, the owner(s) shall enter into, or amend any existing, encroachment agreement(s) in accordance with City Lands Encroachment By-law (2009)-18799 as may be amended from time to time, or any successor By-law(s) thereto, at the discretion of the City and to the satisfaction of the City Solicitor, for any and all actual or proposed encroachments within the City's right of way.

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.

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

CARRIED

Staff Report: Committee of Adjustment Hearing Procedures

Secretary-Treasurer T. Di Lullo outlined the new hearing procedures and answered questions from the members.

Moved by L. Janis
Seconded by J. Smith

1. That the existing Committee of Adjustment Hearing Procedures, included as Attachment-1, be repealed.
2. That the Committee of Adjustment Hearing procedures, included as Attachment-2, dated June 27, 2019, be approved.

CARRIED

Adjournment

Moved by D. Kendrick
Seconded by D. Gundrum

THAT the hearing of the Committee of Adjustment be adjourned at 4:47 p.m.

CARRIED

K. Ash
Chair

T. Di Lullo
Secretary-Treasurer