



**COMMITTEE OF ADJUSTMENT
MINUTES**

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday May 11, 2017 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

B. Birdsell, Chair
K. Ash, Vice Chair
S. Dykstra
L. Janis
P. Ross

Regrets: M. Bosch
D. Kendrick

Staff Present: B. Bond, Zoning Inspector
L. Cline, Council Committee Assistant
T. Di Lullo, Secretary-Treasurer
K. Nasswetter, Planner (left at 4:15 p.m.)
L. Sulatycki, Planner
M. Witmer, Planner

Disclosure of Pecuniary Interest and General Nature Thereof

There were no disclosures.

Approval of Minutes

Moved by P. Ross
Seconded by L. Janis

THAT the Minutes from the April 13, 2017 Regular Meeting of the Committee of Adjustment, be approved as circulated.

CARRIED

Requests for Withdrawal or Deferral

Application: B-7/17, A-31/17 & A-32/17
Owner: David & Irene Starr
Agent: Jeff Buisman, Van Harten Surveying Inc.
Location: 221 Woolwich Street
In Attendance: Jeff Buisman

Mr. J. Buisman, agent for the owner, stated that he agreed with the staff recommendations and requested the application be deferred.

Member K. Ash noted that parking variance labelled as variance G on the drawing attached to the public hearing notice applies to an adjacent parcel, 229 Woolwich Street, and noted that address was not included in the notice. Mr. J. Buisman indicated that 229 Woolwich Street is a vacant lot that is proposed to merge with the subject property. Member K. Ash questioned if the correct circulation for the notice had been completed if the adjacent parcel was not mentioned in the notice. Planner L. Sulatycki responded that staff will ensure future notice is corrected and that this will be reviewed with the Secretary-Treasurer.

Moved by L. Janis
Seconded by K. Ash

THAT Applications B-7/1, A-31/17 and A-32/17 for 221 Woolwich 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accordance with the Committee's policy on applications deferred sinedie, that the application will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral fee be paid prior to reconsideration of the application.

REASONS:

This application is deferred to allow the applicant to meet with staff.

CARRIED

Application: A-37/17
Owner: HIP Watson Inc.
Agent: Hugh Handy & Sarah Code, GSP Group Inc.
Location: 144 Watson Road North
In Attendance: Hugh Handy

Mr. H. Handy, agent for the owner, requested the application be deferred in order for the applicant to have additional discussions with an adjacent landowner.

Moved by K. Ash
Seconded by S. Dykstra

THAT Application A-37/17 for 144 Watson Road North, 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 fee be paid prior to reconsideration of the application.

REASONS:

This application is deferred to allow the applicant to have further discussions with the owner of an adjacent property to address concerns related to land use compatibility between the properties.

CARRIED

Application: A-33/17
Owner: Misha Wee Armour
Agent: Hock Wee
Location: 96 Harris Street
In Attendance: N/A

Secretary-Treasurer T. Di Lullo indicated that correspondence from the agent was received which indicated that the applicant is in agreement with staff's recommendation for deferral and would not be in attendance.

Moved by S. Dykstra
Seconded by P. Ross

THAT Application A-33/16 for 96 Harris 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 fee be paid prior to reconsideration of the application.

REASONS:

This application is deferred to allow the applicant to modify the application.

CARRIED

Current Applications

Application: A-28/17
Owner: 2278560 Ontario Inc.
Agent: Neal Hallock, Fusion Homes
Location: 43 Arthur Street South
In Attendance: Neal Hallock
Claudia Escandon

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

Mr. N. Hallock explained that the subject property was rezoned previously, and at that time it was thought that all uses were captured. However, a tenant has come forward proposing a micro-distillery and the purpose of this application is to permit this use.

Member P. Ross congratulated the agent on bringing back a historical use to an existing building on the subject property.

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 P. Ross
Seconded by S. Dykstra

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 5.4.3.2.15.8.1 of Zoning By-law (1995)-14864, as amended, for 43 Arthur Street South, to permit a micro-distillery as an additional permitted use, when the By-law permits a variety of uses in the R.4B-15.6 Zone, including a micro-brewery or brew pub, but does not currently permit a micro-distillery, be **APPROVED**, subject to the following condition:

1. That for the purposes of this variance application, "Micro-Distillery" means a place used for the small scale and independent manufacturing of alcohol by distillation, including the retail sales of alcohol meant for consumption off-premises. On-site consumption is permitted as part of the micro-distillery use or when located in a permitted Restaurant or Tavern.

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

Application: A-29/17
Owner: D Four Guelph Developments Ltd.
Agent: Astrid J. Clos Planning Consultants
Location: 1839 Gordon Street
In Attendance: Astrid Clos

Chair B. Birdsell questioned if the signs had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. A. Clos, agent, replied that the signs were posted and comments were received.

Ms. A. Clos explained that the Committee saw this application previously, and since that time the owner has acquired the parcel at the corner of Gordon Street and Clair Road to allow the owner to move the proposed building slightly closer to the intersection. She indicated that the urban design objective for this corner is to provide public space. She indicated that staff are in agreement that a two storey building is not required and a single storey building can be moved slightly closer to the corner.

She indicated that the request in the public notice indicated a 25.1 metres setback from the intersection, when actually what was requested in the application was 25 metres. As the setback is less than 25.1 metres, she asked if the variance request could indicate 25 metres.

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 K. Ash

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 6.2.3.2.25.2.2 of Zoning By-law (1995)-14864, as amended, for 1839 Gordon Street, to permit a single storey building to be located a minimum of 25 metres from the intersection of Gordon Street and Clair Road, when the By-law requires that any building proposed within 40 metres of the corner intersection of Gordon Street and Clair Road shall have the appearance of two (2) storey buildings and shall have a minimum height of 8.5 metres, be **APPROVED**.

REASONS:

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

Any and all written submissions relating to this application that were made to the Committee of Adjustment before its decision and any and all oral submissions related

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

CARRIED

Application: A-30/17
Owner: Paul Hettinga
Agent: Jeff Buisman, Van Harten Surveying Inc.
Location: 18 Cambridge Street
In Attendance: Jeff Buisman
Paul Hettinga

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

Mr. J. Buisman explained that the owner is proposing an addition to the rear of the existing dwelling and part of that addition will include an accessory apartment. He indicated that the existing driveway is long and no construction or alterations are required to facilitate the three stacked parking spaces.

In response to a question from member S. Dykstra, Planner L. Sulatycki responded that during pre-consultation it was determined that the landscape strip was an existing situation and considered legal non-complying.

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 P. Ross
Seconded by L. Janis

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.15.1.4.1 of Zoning By-law (1995)-14864, as amended, for 18 Cambridge Street, to permit three stacked parking spaces for the existing dwelling and accessory apartment, when the By-law requires three parking spaces for the existing dwelling and proposed 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-34/17
Owner: Suzie Diamond
Agent: Gavin Baxter, S.H.E.D. Ltd.
Location: 194 Edinburgh Road North
In Attendance: Gavin Baxter
Suzie Diamond
Colleen Mooney
Matthew Middleton

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

Ms. S. Diamond explained that there was a fire approximately three years ago on the property and the rear addition had to be removed. In her re-construction plans, she explained that accessibility needs were a priority. She explained the current proposal was a compromise, as the ideal situation would be to have two driveways, with the one off Edinburgh Road North remaining. She indicated staff was not supportive of this proposal and many iterations of plans have taken place.

In response to questions from member S. Dykstra, Mr. G. Baxter, the contractor for the owner, acknowledged that the vehicle movement path for the additional parking space was discussed with staff. He explained there is a significant distance between the front of the proposed garage and the sidewalk, and the turning radius is achievable, but not desirable. Ms. S. Diamond indicated the ideal placement of the additional parking space would be for it to be directly in front of the garage, perpendicular to Suffolk Street, however she indicated staff did not support that proposal. Chair B. Birdsell commented that in his professional experience this turn is achievable.

Planner M. Witmer clarified that the subject property only requires one off-street parking space, and the required parking space is proposed to be inside the garage. He clarified that the second parking space is beyond the minimum requirements.

In response to a question from member L. Janis, Ms. S. Diamond responded that she had not spoken with the neighbour that submitted comments at the time. She indicated that she tried to make the plans conform with the regulations as much as possible.

Mr. G. Baxter explained much time and thought had been put into the plans to achieve a more accessible space for the owner and her family. He indicated that the proposed addition is very much in line with what was existing, with the only difference being additional space added on the main floor for an accessible bathroom. He indicated this was done to help achieve a long-term multi-generational approach to housing.

In response to a question from member S. Dykstra, Ms. S. Diamond replied that there is existing screening including an existing fence that is located between the neighbouring property and the side of the proposed garage. She also indicated that a wood fence is proposed to the rear of the garage as well.

Planner M. Witmer clarified that technically the drawing does not need to show the second parking space, as the only required parking space is in the garage. He further clarified that proper screening is being proposed for the required parking space as it is within the garage structure.

Mr. M. Middleton, owner of 192 Edinburgh Road North, noted that there is an existing hedge between his property and the subject property that acts as a natural barrier and had concerns about how the proposed fence will impact the existing hedge and privacy. He indicated there are mature trees in the area of the garage and wondered how they would be affected. He stated that he felt the applicant was trying to get too much on the property. He inquired if there is a lot size to house ratio, and noted that the addition is encroaching towards his property further than the original footprint prior to the fire. He expressed concerns that this encroachment may affect his future property value.

Ms. S. Diamond responded that the existing hedge has already been shortened and is no longer providing any privacy. She stated she preferred to have a fully fenced back yard. She confirmed that there are mature trees on the property that would be affected. She clarified that one of the trees is preferred to be removed as it is close to hydro lines, another will not be affected, and another that due to its configuration and type may need to be removed. She stated that she is willing to plant more trees, but has reservations on where they would be located due to lack of space. She is proposing a living roof on the garage to provide some greenery. She did confirm that the addition does extend further toward the neighbouring property, but it does meet setback requirements.

Mr. G. Baxter stated that the footprint is different based on the accessible main floor plan. He indicated the old plan had steps up to the main floor and the current plan moved the entrance to the inside to increase accessibility. He acknowledged that the proposed addition meets the required setbacks. He confirmed that an arborist has been consulted to review the trees and indicated he is willing to work with staff on how the trees can be addressed. He suggested that if trees need to be replaced, perhaps they could be accommodated on another property. He indicated that he is willing to work on a suitable arrangement for the fence with the neighbours.

In a response to questions from member K. Ash, Planner M. Witmer responded that the accessory structure needs to be located a minimum of 0.6 metres from the lot line, which is exactly where the garage is proposed. He clarified that since the parking space is within the garage, the setback for the parking space is also 0.6 metres.

In response to a question from member L. Janis, Planner M. Witmer responded that the dwelling size is governed by the setback regulations, and accessory structures are further governed by the maximum 30% coverage of the yard. He indicated that the garage occupies 27% of the rear yard.

In response to questions from member K. Ash, Planner M. Witmer responded that the second requested variance on the notice was added as a precaution, as it depended on where the parking space was located within the garage. Zoning Inspector B. Bond confirmed Planner M. Witmer's comments and indicated that future applications are likely to include both requested variances.

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

Moved by P. Ross
Seconded by 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, variances from the requirements of Section 4.13.2.1, 4.13.7.6, and 5.1.2.7 i) of Zoning By-law (1995)-14864, as amended, for 194 Edinburgh Road North,

- a) to permit the required parking space to be located a distance of 4.03 metres from the street line, when the By-law requires that 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;
- b) to permit the parking area to be situated 0.6 metres from the rear and interior side lot lines, when the By-law requires that where the parking area is situated in the rear yard, the parking area shall not be within 1 metre of any lot line and is to be screened from adjacent properties with a minimum 1.5 metre high solid fence or suitable landscaping; and
- c) to permit the garage setback to be 4.03 metres from the street line, when the By-law requires that where the off-street parking space is located within a garage or carport shall be a minimum of 6 metres from the street line,

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

1. That the property owner complete and install any necessary protective measures for existing City trees on the Suffolk Street right-of-way, and ensure such protective measures are maintained throughout the entire duration of construction, to the satisfaction of Forestry Staff, prior to the issuance of any building permits for detached accessory structures or curb cut permits for a new driveway, whichever occurs first.
2. That all or any portion of the detached garage not be used for human habitation or for a home occupation.
3. That prior to issuance of building permits and prior to undertaking activities which may injure or destroy City owned trees, the Tree Inventory and

Preservation Plan (TIPP) must be prepared for all City owned trees to the satisfaction of the Manager of Parks Operations and Forestry.

4. That where it is determined that City tree removal is required, a certified Arborist must provide this in writing to the satisfaction of the Manager of Parks Operations and Forestry prior to the issuance of building permits or undertaking of activities that may injure or destroy City owned trees.
5. That the undertaking of activities which may injure or destroy trees occur outside of the breeding bird season (approximately April 1 to July 31) or include appropriate mitigation measures to the satisfaction of the Manager of Parks Operations and Forestry.
6. That the Owner will close the existing driveway on Edinburgh Road and pay the actual cost of the construction of the new driveway entrances and the required curb cuts and curb fills, with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid, prior to the issuance of a building permit.

REASONS:

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

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

CARRIED

Application: A-35/17
Owner: Michael Nayyer
Agent: Alvin Brown, AWB Construction Consult & Design
Location: 10 Gorman Court
In Attendance: Alvin Brown

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

Mr. A. Brown had no comments.

The Committee had no questions.

No members of the public spoke.

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

Moved by S. Dykstra
Seconded by L. Janis

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.15.1.5 of Zoning By-law (1995)-14864, as amended, for 10 Gorman Court, to permit an accessory apartment size of 97.9 square metres, or 27% of the total floor area, when the By-law permits an accessory apartment that does not exceed 45% of the total floor area of the building or a maximum of 80 square metres of floor area, whichever is lesser, be **APPROVED**.

REASONS:

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

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

CARRIED

Application: A-36/17
Owner: Paul Willis
Agent: John Melehes, Lucky Belly Food Co.
Location: 763-787 Woolwich Street
In Attendance: John Melehes

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. Melehes, agent and owner of the Lucky Belly restaurant, replied that the sign was posted and comments were received.

Mr. J. Melehes had no comments.

In response to a question from member K. Ash, Planner M. Witmer responded that proposed conditions regarding hours of operation and music are standard conditions for an enlarged patio and can be investigated based on a complaint basis. Member K. Ash expressed concerns regarding these conditions and indicated that conditions need to be reasonable and enforceable, and indicated it was unfair to apply these conditions and not to all other existing patios, especially as the business is not adjacent to a residential use.

No members of the public spoke.

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

Moved by K. Ash
Seconded by 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, variances from the requirements of Section 4.17.2.1, 4.17.1, 4.17.2.5 and 4.17.2.6 of Zoning By-law (1995)-14864, as amended, for 763-787 Woolwich Street,

- a) to permit an outdoor patio on a property where more than one lot line adjoins lands which are in a residential zone, when the By-law requires that no outdoor patio shall be permitted where more than one lot line adjoins lands which are in a residential zone;
- b) to permit a 40 person maximum for the outdoor patio, being 100% of the indoor licensed capacity of the associated restaurant, when the By-law requires that the total number of persons permitted on all outdoor patios associated with the restaurant or licensed establishment shall not exceed 50% of the indoor licensed capacity, or 70 persons, whichever is less [licensed capacity of existing restaurant is 40 persons];
- c) to permit an outdoor patio to be situated 0.0 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; and
- d) to permit an outdoor patio to be situated outside of the building envelope, when the By-law requires that were permitted, outdoor patios shall be permitted within the building envelope of the development on the site,

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

1. That the maximum capacity of the patio associated with the restaurant shall not exceed 40 persons, or at no time exceed the licensed indoor capacity of the restaurant, whichever is lesser.
2. That the area of the patio shall be no larger than 138.1 square metres.
3. That the owner shall satisfy any site plan requirements, pursuant to Section 41 of the Planning Act and to the satisfaction of the General Manager of Planning, Urban Design and Building Services, prior to the issuance of any building permits for the patio, or occupancy of the patio, whichever occurs first.
4. That prior to the use of the patio, the applicant shall provide a certification from a Professional Engineer, which states that adequate safety features have been constructed to prevent vehicles from leaving the parking space, parking aisle or driveway and hitting any person or persons on the patio.

5. The provided plans are to be signed and stamped by a Professional Engineer in the Province of Ontario.

REASONS:

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

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

CARRIED

Other Business

Secretary-Treasurer T. Di Lullo provided members with a copy of an Ontario Municipal Board (OMB) decision regarding minor variance file A-63/16 for 21 Halesmanor Court. The application was refused by the Committee on October 13, 2016 and later appealed by the applicant. The OMB allowed the applicant's appeal and authorized the variance, subject to a condition that was originally recommended by City staff that a maximum of ten lodging units be permitted on the property.

Member S. Dykstra requested that the drawings submitted with minor variance applications identify where the requested variances are required.

Adjournment

Moved by K. Ash
Seconded by S. Dykstra

THAT the hearing of the Committee of Adjustment be adjourned at 4:52 p.m.

CARRIED

B. Birdsell
Chair

T. Di Lullo
Secretary-Treasurer