

**COMMITTEE OF ADJUSTMENT**

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday May 14, 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  
D. McMahon, Council Committee Coordinator

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Meeting Minutes

Moved by D. Kendrick and seconded by M. Bosch,

“THAT the Minutes from the April 23, 2015 Special Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

Secretary-Treasurer T. Russell introduced Mr. T. Donegani, Planner who assisted in providing staff comments to the Committee.

Secretary-Treasurer T. Russell advised the Committee that a written request for a refund of the difference between the minor variance application fee and deferral fee (\$232.00) was received from Mr. B. Nonnecke for application A-14/15, 19 Lyon Avenue. She explained that minor variance application A-101/14 was heard at the October 16, 2014 meeting and refused, and a

second similar application (File A-14/15) was considered at the March 12, 2015 Committee of Adjustment meeting. The correspondence from Mr. B. Nonnecke was previously provided to the Committee members for their review. She advised the Committee that during the original meeting on October 16, 2014, the applicant did have the opportunity to request a deferral, but it was not clearly stated by the Committee to the applicant.

Committee member M. Bosch asked whose responsibility it is to ask for a deferral or if a different option was offered at that time. Secretary-Treasurer T. Russell replied that the applicant can ask for a deferral or the Committee could recommend deferral. She indicated that the option to defer the application was given to the applicant at the original meeting; however, the word deferral was not used, upon review of the minutes. She indicated that perhaps there was some confusion on part of the applicant whether or not he could ask for deferral.

Committee member K. Ash indicated that she was present at the meeting of October 16, 2014 and she recalled that the Chair at the time gave the applicant the option to consider the application at another meeting. She indicated that she did not think a refund is necessary in this instance.

Consideration of partial refund of the application fee for application A-14/15, 19 Lyon Avenue

Moved by M. Bosch and seconded by P. Ross,

“THAT the difference between the deferral fee and the minor variance application fee, being \$232.00 for Application A-14/15, 19 Lyon Avenue, be refunded to the applicant.”

Not Carried

As a result of the vote, the motion did not carry and therefore the refund request was not approved by the Committee.

Secretary-Treasurer T. Russell noted that comments from Environmental Planning were received after the comment deadline. She noted that the affected applicants have been notified and copies of the comments were provided to the Committee members.

Secretary-Treasurer T. Russell provided copies listing Ontario Municipal Board (OMB) appeals received in the years 2013-2014 as requested at the Special Meeting on April 23<sup>rd</sup>. This information included a table showing the staff recommendation, Committee decision, legal representation, and resulting OMB decision.

Secretary-Treasurer T. Russell notified the Committee members that the OMB hearing for 58 Dean Avenue (File A-13/15) is set for Friday, July 3, 2015 at 10:30 a.m. A copy of the correspondence from the OMB was provided to the Committee members.

Secretary-Treasurer T. Russell reminded Committee members and those attending that the meeting is audio recorded and recordings are posted on the City's website.

**Application:**                **B-13/15**

**Owner:**                      **Elizabeth Shaver**

**Agent:**                      **James Laws, Van Harten Surveying Inc.**

**Location:**                 **76 Alice Street**

**In Attendance:**         **James Laws**  
                                     **Matt Horsmith**  
                                     **Liz Shaver**

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

Mr. J. Laws outlined the application.

Committee member M. Bosch asked staff if there are any underground services that would be impacted by the severance. Planner T. Donegani replied that he was not aware of any servicing constraints that were identified by Engineering staff.

No members of the public spoke.

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 M. Bosch,

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 94, Registered Plan 161, municipally known as 76 Alice Street, a parcel with a width of 7.2 metres and a depth of 23.8 metres, as a lot addition to Part Lot 94 and Part Lot 95, Registered Plan 161, municipally known as 80 Alice Street,

be approved, subject to the following conditions:

1. That the proposed severed parcel of land be conveyed to the abutting owner as a lot addition only (Form 3 Certificate).

2. That the following covenant is incorporated in the deed: "The conveyance of (Severed Lands - legal description - Lot and Plan), City of Guelph, County of Wellington, designated as (Part and 61R-Plan Number) as a lot addition only to (Legal Description of Lands to be joined with - Lot and Plan), and shall not be conveyed as a separate parcel from (Legal Description of Lands to be joined with - Lot and Plan)."
3. 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 May 19, 2016.
4. 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.
5. 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.
6. 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-32/15  
**Owner:** Brian Lauder and Sharyn Seibert  
**Agent:** N/A

**Location:** 23 Richardson Street

**In Attendance:** Brian Lauder  
Peter Landsborough  
Sharyn Seibert  
Gary Thomson  
Melodie Wynne

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

Secretary-Treasurer T. Russell noted that comments in support of the application have been received from Ms. M. DiScanno & Mr. S. DiScanno. Copies of the comments were provided to the Committee members.

Mr. P. Landsborough, neighbour, indicated that he had concerns about the proximity of addition to his property and garage.

Mr. B. Lauder indicated that he had a survey of the property and was aware that the neighbour's garage encroached onto his property. He indicated that the proposed addition is on the opposite side of where the existing garage is located so it should have no bearing on this application.

Mr. B. Lauder showed the survey on the overhead projector. Committee member L. Janis asked for the width of the proposed patio and the distance of the proposed patio to the existing garage. Mr. B. Lauder indicated that the patio is approximately 6 feet wide and will not be right up against the property line. Chair B. Birdsell said the patio appears to be about 28 inches from the lot line.

Mr. P. Landsborough indicated that there are trees in the area that have damaged his foundation in the past and he was concerned about possible future damage to his property. He indicated that he had photos on his phone of the trees.

Committee member M. Bosch asked the Chair if these comments made by the neighbour have any bearing on the application. Chair B. Birdsell replied that he does not believe so.

Mr. B. Lauder clarified that there are no longer any growing trees near the foundation of the garage as they have been removed.

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 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, variances from the requirements of Sections 5.1.2.1 and 4.13.2.1 of Zoning By-law (1995)-14864, as amended, for 23 Richardson Street,

- a) to permit a left side yard of 2.0 metres for the proposed addition to the existing dwelling, when the By-law requires that where a garage, carport or parking space is not provided in accordance with Section 4.13.2.1, one side yard shall have a minimum dimension of 3 metres, and
- b) to recognize the required parking space as being located 0.2 metres from the street line and to the front of the front wall of the dwelling, when the By-law requires in a R.1 zone, every required parking space shall be located a minimum distance of 6 metres (19.6 feet) from the street line and to the rear of the front wall of the main building,

be approved.

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.

**Application:**            **A-33/15**  
**Owner:**                 **Roy Kendall**  
**Agent:**                 **John Sibenik**  
**Location:**             **15 Zecca Drive**  
**In Attendance:**       **John Sibenik**

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. Sibenik replied that the sign was posted and staff comments were received.

Mr. J. Sibenik outlined his application.

The Committee members 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 and 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 15 Zecca Drive, to permit an accessory apartment to have an area of 89.2 square metres (26.7% of the total floor area), when the By-law requires that an accessory apartment not exceed 45% of the total floor area of the building and shall not exceed a maximum of 80 square metres in floor area, whichever is lesser, be approved.

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.

**Application:** B-5/15  
**Owner:** The Chandler Holding Company Ltd.  
**Agent:** Catherine Lough  
**Location:** 209-211 Liverpool Street  
**In Attendance:** Mark Lough  
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 were received.

Mr. J. Buisman provided background on the application and proposed easements.

Committee member S. Dykstra asked the applicant to indicate where the proposed property line is located and where a fence could potentially be placed. Mr. J. Buisman outlined the location of the property line and indicated that since the area to the rear of the units is subject to an easement, the right to place a fence may be lost in that area as full access to that area is to be given.

Committee member S. Dykstra indicated he had concerns about the easement in terms of the way it is proposed. Mr. J. Buisman also indicated that part of the reason favouring the easement was that there is a window on the second storey which needs to have separation from the property line under the Ontario Building Code.

Committee member M. Bosch recommended that a condition could be added to prevent a fence from being constructed in this area. Mr. J. Buisman indicated that wording could be added to the easement document preventing a fence from being constructed in the easement area.

No members of the public spoke.

Having had regard to the matters under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of subdivision of the land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by M. Bosch 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 Lot 7, Registered Plan 29, municipally known as 209-211 Liverpool Street, a parcel with frontage along Liverpool Street of 15.6 metres and a depth of 32 metres,

- a) subject to a 3 square metre easement over 211 Liverpool Street in favour of the retained parcel (209 Liverpool Street) to allow the owner of severed parcel (209 Liverpool Street) to have full usage of the 3 square metre area and to allow the owner of the retained parcel access to maintain the walls, eaves, shingles, and foundation in that area, and
- b) subject to an additional 16.5 square metre easement over the front of the retained parcel (209 Liverpool Street) in favour of the severed parcel (209 Liverpool Street) for water and sanitary services,

be approved, subject to the following conditions:

1. That no fence be allowed to be constructed on the easement portion that favours 209 Liverpool Street.
2. That prior to endorsation of the deeds, the owner shall have a licensed Master Plumber certify in writing that the plumbing inside each unit is separate from and independent of the plumbing in the other unit.
3. That prior to endorsation of the deeds, the servient tenement (209 Liverpool Street, Part of Lot 7, Registered Plan 29), grants an easement approximately 2.80-metres (9.19 feet) wide by approximately 6.0-metres (19.69 feet) long, registered on title, in favour of the dominant tenement (211 Liverpool Street, Part of Lot 7, Registered Plan 29) as shown on the applicant's site plan for existing sanitary and water service laterals.
4. That prior to endorsation of the deeds, the owner shall have an Ontario Land Surveyor prepare a reference plan identifying the service easement.
5. That prior to endorsation of the deeds, the owner's solicitor certifies that the easement, in favour of the dominant tenement (211 Liverpool Street, Part of Lot 7, Registered Plan 29), has been granted and registered on title.
6. That the Zoning By-law Amendment application (ZC1504) submitted to change the zoning on the subject lands be approved and in full force and effect, prior to the endorsation of deeds.
7. That prior to the endorsation of the deeds, the owner create a legal off-street parking space for the "severed" lands (211 Liverpool Street) being 2.5 metres by 5.5 metres, and located a minimum of 6 metres from the street line and behind the front wall of the building, to the satisfaction of the Chief Building Official or designate.
8. That prior to the endorsation of the deeds and to the satisfaction of the Chief Building Official or designate, a one hour fire separation be installed from the basement right through to the attic at the common party wall.
9. 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 May 19, 2016.
10. 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.

11. 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.
12. 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-35/15  
**Owner:** Gemma and Patricio Marbella  
**Agent:** N/A  
**Location:** 39 Goldenview Drive  
**In Attendance:** Gemma Marbella  
Patricio Marbella

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

Ms. G. Marbella stated she was satisfied with the proposed condition.

Committee member S. Dykstra indicated that he observed a blue water line upon his site inspection and wanted to ensure there were no conflicts between the servicing and the driveway. Planner T. Donegani showed a photo showing the location of the water locate. Planner T. Donegani said he was not aware of any requirements that a driveway cannot be located over servicing lines.

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 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 5.1.3.4.13.1.3 of Zoning By-law (1995)-14864, as amended, for 39 Goldenview Drive, to permit a driveway width of 5 metres, which constitutes 54.9% of the front yard, when the By-law requires that a driveway shall not constitute more than 50% of the front yard,

be approved, subject to the following condition:

1. That the driveway only be permitted to be widened in a northerly direction and that a 0.9 metre landscaped strip be maintained along the southern lot line.

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-36/15  
**Owner:** Michel and Deborah Hunter  
**Agent:** Tyler and Erica Harrison, Harrison & Co. Design Build Inc.  
**Location:** 46 Kathleen Street  
**In Attendance:** Erica Harrison

Secretary-Treasurer T. Russell noted that the Environmental Planner is recommending a condition requiring a Tree Inventory, Tree Preservation Plan and Compensation Plan.

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

Ms. E. Harrison clarified that the owners intend to keep the existing trees, although they are actually located on the neighbour's property.

No members of the public spoke.

Committee member M. Bosch asked about the comments received from the neighbour regarding the concern of the large window. Planner L. Sulatycki indicated that the window was not a concern from staff's perspective as window sizes are not set out in the Zoning By-law. Ms. E. Harrison clarified that the owners have decided to remove the proposed window from the side of the dwelling.

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 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, variances from the requirements of Table 5.1.2 Row 7 and Section 5.1.2.1 of Zoning By-law (1995)-14864, as amended, for 46 Kathleen Street,

- a) to permit a right side yard of 1.2 metres for the proposed addition to the existing dwelling, when the By-law requires that that the minimum side yard be 1.5 metres, and
- b) to recognize a left side yard of 2.3 metres, and the By-law also requires that where a garage, carport or parking space is not provided in accordance with Section 4.13.2.1, one side yard shall have a minimum dimension of 3 metres,

be approved, subject to the following condition:

1. That prior to the issuance of any building permits, a Tree Preservation Plan be submitted by the applicant to the satisfaction of the General Manager of Planning, Urban Design and Building Services to avoid injury or destruction of trees.

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-30/15**

**Owner:**                    **2413448 Ontario Ltd.**

**Agent:**                    **N/A**

**Location:**                **117 Surrey Street East**

**In Attendance:**        **Matt Prigione**  
                                  **BM McCulloch**

Secretary-Treasurer T. Russell noted that the Environmental Planner is recommending an additional condition requiring a Tree Inventory, Tree Preservation Plan and Compensation Plan.

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

Mr. M. Prigione requested that the condition requiring site plan approval be waived due to costs. Planner L. Sulatycki replied that site plan approval is required for establishing commercial parking lots as staff want to investigate issues such as stormwater management and accessible parking spaces. Chair B. Birdsell clarified that the Committee's focus is on the parking reduction.

Committee member P. Ross asked if this proposal did not require a minor variance, would site plan approval still be required. Planner L. Sulatycki replied that site plan approval would still be required as per the Site Plan Control By-law. Committee member P. Ross asked if a condition still needs to be included requiring site plan approval. Planner L. Sulatycki replied yes and that this would be flagged upon review of the building permit. She indicated that she is not comfortable removing an Engineering Services' condition. Committee member P. Ross asked the Chair if it is possible to approve the application without the conditions regarding site plan approval. Chair B. Birdsell replied no.

Committee member K. Ash asked if the requested parking reduction is based on the building size only or if it includes the future outdoor deck shown on the drawing. Planner L. Sulatycki replied that she believes it was just based on the floor area within the existing building. Committee member K. Ash asked if additional parking is needed for the future patio area. Planner L. Sulatycki replied that the Zoning By-law does not speak to patios regarding additional parking spaces.

Committee member K. Ash indicated she has concerns regarding the functionality of the parking layout and is concerned that only 12 spaces can be accommodated on site. Planner L. Sulatycki indicated that when the application was initially deferred, the applicant requested the application go through the site plan process first to identify any additional variances. She indicated that through the site plan process, additional variances may be identified, and that through the site plan process changes may be made to the layout so the final design may be different than what is before the Committee.

Committee member K. Ash identified that there was an incorrect reference to another property within condition 3. She indicated she was concerned that Planning staff's justification was more about supporting the restaurant use which is already permitted by the Zoning By-law than the requested parking reduction. She explained that the Official Plan allows parking reductions in the downtown area if alternate parking locations are available. She was concerned that the staff comments did not outline these alternative sites nor was an alternative parking agreement recommended as a condition. She indicated that this application may be premature. She stated that she does not believe the request is minor, nor is it desirable for the neighbourhood and does not meet the intent of the Zoning By-law.

Committee member D. Kendrick expressed concern that the future municipal parking structure may not go ahead. He referenced that letter submitted from Mr. Ing regarding two other restaurants in the area and asked about the parking ratios associated to those other restaurants.

Mr. M. Prigione replied that Zen Gardens has about 2 to 3 parking spaces and Einstein's has very few spaces.

Committee member S. Dykstra said he was not convinced they can achieve the parking spaces as shown and concerned that the application is premature as further variances may be needed.

Chair B. Birdsell asked the applicant how he wants to proceed. Mr. M. Prigione replied that based on the other two restaurants, he has much more parking available, even if only 12 parking spaces can be accommodated. He also explained that there is on-street parking and municipal parking lot within walking distance. Chair B. Birdsell clarified that if only 12 parking spaces can be provided, this would change the minor variance request. Mr. P. Prigione replied that he believed 14 spaces can be accommodated.

No members of the public spoke.

Committee member D. Kendrick commented that the request is 42% below the requirement and he does not consider the request to be minor. He indicated that a substantial increase in parking would be needed closer to the 33 parking spaces required before he would recommend approval.

Due to a tie vote, Chair B. Birdsell voted with the motion to refuse and therefore the application was refused.

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 Section 4.13.4.2 of Zoning By-law (1995)-14864, as amended, for 117 Surrey Street East, to permit a total of fourteen (14) off-street parking spaces for the restaurant use within the existing building, when the By-law requires that a minimum of one (1) parking space be provided per 7.5 square metres of gross floor area for a restaurant (total of 33 parking spaces required), be refused.

Carried

**REASONS:**

This application is refused, as it is the opinion of the Committee that this application is not minor in nature, is not desirable for the appropriate development of the land, and does not meet the general intent and purpose of the Zoning By-law.

**Application:** A-37/15  
**Owner:** Sarah Lewis  
**Agent:** Andrew Howarth, Howarth Contracting Inc.  
**Location:** 367 York Road  
**In Attendance:** Andrew Howarth

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. Howarth replied that the signs were posted and staff comments were received.

Mr. A. Howarth indicated he wants to create a basement apartment and has applied to Realty Services for a fence encroachment as the driveway needs to be widened to accommodate the required parking.

Committee member S. Dykstra indicated he was concerned that the Engineering Services' condition regarding the encroachment agreement is not applicable to the requested variance. Planner L. Sulatycki said that Engineering Services requested the condition and she indicated that she was not comfortable with removing.

Committee member M. Bosch asked how the applicant felt about the possible removal of the condition. Chair B. Birdsell clarified that the applicant spoke earlier that he would like the encroachment, but if needed he could remove the fence.

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 and 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 5.1.3.3.3.1.1 of Zoning By-law (1995)-14864, as amended, for 367 York Road, to permit an exterior side yard of 3.0 metres for the proposed addition (vestibule) to the existing dwelling, when the By-law requires that the minimum exterior side yards shall be 6 metres or the average of the setbacks of the adjacent properties, be approved, subject to the following condition:

1. That the exterior side yard setback of 3.0 metres applies only to the vestibule addition as shown in general accordance with the sketch submitted with this variance application.

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-7/15

**Owner:** Christina Marconi

**Agent:** Brian Beatty, Black, Shoemaker, Robinson & Donaldson Ltd.

**Location:** 109 Grove Street

**In Attendance:** Brian Beatty

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

Mr. B. Beatty indicated he read the staff comments and agreed with the recommendations.

The Committee members had no questions.

No members of the public spoke.

Having had regard to the matters under Section 51(24) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, and having considered whether a plan of subdivision of the land in accordance with Section 51 of the said Act is necessary for the proper and orderly development of the land,

Moved by M. Bosch 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 Lot 22, Registered Plan 227, municipally known as 109 Grove Street, a parcel with a width of 0.9 metres, a depth of 40.7 metre, and an area of 38.5 square metres, as a lot addition to Lot 21, Registered Plan 227, municipally known as 103 Grove Street,

be approved, subject to the following conditions:

1. That the proposed severed parcel of land be conveyed to the abutting owner as a lot addition only (Form 3 Certificate).
2. That the following covenant is incorporated in the deed: "The conveyance of (Severed Lands - legal description - Lot and Plan), City of Guelph, County of Wellington, designated as (Part and 61R-Plan Number) as a lot addition only to (Legal Description of Lands to be joined with - Lot and Plan), and shall not be conveyed as a separate parcel from (Legal Description of Lands to be joined with - Lot and Plan)."

3. That the owner pays the actual cost associated with the removal of the existing driveway entrance including the existing asphalt pavement within the road allowance, and the restoration of the boulevard with topsoil and sod and the required curb fill, with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid, prior to endorsonation of the deeds.
4. That the driveway abutting the lot line between 109 and 103 Grove Street be removed and replaced with landscaped open space to the satisfaction of the Chief Building Official or designate, prior to endorsonation of the deeds.
5. 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 May 19, 2016.
6. 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.
7. 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.
8. 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-38/15  
**Owner:** Lena Ceccato  
**Agent:** Brian Beatty, Black, Shoemaker, Robinson & Donaldson Ltd.  
**Location:** 103 Grove Street  
**In Attendance:** Brian Beatty

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

The Committee members 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 M. Bosch 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 7 of Zoning By-law (1995)-14864, as amended, for 103 Grove Street, to permit a left side yard of 0.6 metres, when the By-law requires a minimum side yard of 1.5 metres,

be approved, subject to the following condition:

1. That the conditions imposed for Application B-7/15 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.

May 14, 2015 Committee of Adjustment Minutes

The meeting was adjourned by B. Birdsell at 5:33 p.m.

B. Birdsell  
Chair

T. Russell  
Secretary-Treasurer