



**COMMITTEE OF ADJUSTMENT
MINUTES**

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday October 12, 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: D. Kendrick

Staff Present: B. Bond, Zoning Inspector
L. Cline, Council Committee Assistant
S. Daniel, Engineering Technologist
T. Di Lullo, Secretary-Treasurer
L. Sulatycki, Planner
M. Witmer, Planner

Disclosure of Pecuniary Interest and General Nature Thereof

There were no disclosures.

Approval of Minutes

Moved by K. Ash
Seconded by S. Dykstra

THAT the Minutes from the September 7, 2017 Meeting of the Committee of Adjustment, be approved as circulated.

CARRIED

Requests for Withdrawal or Deferral

Application: A-64/17
Owner: Jane and Tyler Wilson
Agent: N/A
Location: 10 Chester Street
In Attendance: N/A

Secretary-Treasurer T. Di Lullo indicated that the owner had submitted correspondence indicating agreement with the deferral recommendation. The owner was not present.

Moved by P. Ross
Seconded by S. Dykstra

THAT Application A-64/17 for 10 Chester 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accordance with the Committee's policy on applications deferred sinedie, that the application will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral fee be paid prior to reconsideration of the application.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 time to revise their sketch in accordance with the property survey and apply for the correct variance.

CARRIED

Current Applications

Application: A-66/17
Owner: Joshua Wozenilek
Agent: N/A
Location: 486 Stevenson Street North
In Attendance: Joshua Wozenilek

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. Wozenilek, owner, responded that the sign was posted and comments were received.

Mr. J. Wozenilek briefly explained the application. He acknowledged the correspondence received from the residents at 57 Waverley Drive and addressed concerns with visibility, aesthetics, and shed location.

The Committee had no questions for staff or the owner.

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 Sections 4.5.1 and 4.20.9 of Zoning By-law (1995)-14864, as amended, for 486 Stevenson Street North, to permit:

- a) a shed to be located in the front yard, when the By-law requires that an accessory building or structure not be located in a front yard; and
- b) a fence located in the front yard to be 1.9 metres high, when the By-law requires that within any residential zone, any fence located in the front yard shall not exceed 0.8 metres in height,

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

- 1. That the shed and fence remain in the general location as shown on the Public Notice sketch.

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

Applications: A-17/16, A-18/16, A-19/16, A-20/16, A-21/16, A-22/16 and A-23/16

Owner: 2382917 Ontario Inc.

Agent: N/A

Location: 1023 Victoria Road South (Blocks 33-39)

In Attendance: Kelley des Tombe

Chair B. Birdsell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. K. des Tombe, representative from Fusion Homes, responded that the sign was posted and comments were received.

Ms. K. des Tombe briefly explained the application and file history.

In response to questions from member S. Dykstra, Ms. K. des Tombe explained that the applications apply to a total of 74 lots. Planner L. Sulatycki responded that the driveway width requests were not included in the previous zoning by-law amendment application as they were not requested at the time. She explained that at the time of the zoning by-law

amendment the specific lot frontages were unknown as the subdivision plan was draft approved based on blocks, not individual lots. Member S. Dykstra expressed concern that these applications should be dealt with through the zoning by-law amendment process due to the number of lots affected.

Ms. K. des Tombe explained that the R.1D zoning permits lots to have a minimum lot width of 9 metres, and the lots affected by these applications will have a minimum lot frontage of 12 or 15 metres. She explained this was overlooked at the time the subdivision received draft plan approval. Member S. Dykstra expressed concern about the minor variance process being used to correct an oversight from a previous zoning by-law amendment.

Planner L. Sulatycki responded that the variances were not missed at the time of the previous zoning by-law amendment as at that time the exact number of lots was unknown. She indicated that Planning staff are usually supportive of these types of requests when the lots are 12 metres or greater in width. She explained that on a site-specific basis, the request is considered minor and appropriate. She indicated that driveway width increases are usually dealt with through the minor variance process rather than the zoning by-law amendment process.

In response to a question from member L. Janis, Ms. K. des Tombe explained that the majority of the products for the 12 and 15 metre wide lots have double car garages, and the 5 metre wide driveway would be insufficient to support a double car garage.

In response to a question from member S. Dykstra, Planner L. Sulatycki responded that provincial legislation known as Bill 73 does not apply as the previous zoning by-law amendment was in effect in August 2015 and Bill 73 came into effect on July 1, 2016.

No members of the public spoke.

Application A-17/16

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 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 4.13.7.2.1 iv) of Zoning By-law (1995)-14864, as amended, for 1023 Victoria Road South, to permit the driveways of the proposed single detached dwellings in Block 33 to have a maximum driveway width of 6.5 metres, where the By-law requires a maximum driveway width of 5.0 metres, be **APPROVED**.

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-18/16

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 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 4.13.7.2.1 iv) of Zoning By-law (1995)-14864, as amended, for 1023 Victoria Road South, to permit the driveways of the proposed single detached dwellings in Block 34 to have a maximum driveway width of 6.0 metres, where the By-law requires a maximum driveway width of 5.0 metres, be **APPROVED**.

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-19/16

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 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 4.13.7.2.1 iv)

of Zoning By-law (1995)-14864, as amended, for 1023 Victoria Road South, to permit:

- a) the driveways of the proposed single detached dwellings in Block 35 to have a maximum driveway width of 6.0 metres for lots with a minimum frontage of 12.0 metres, when the By-law requires a maximum driveway width of 5.0 metres, and
- b) the driveways of the proposed single detached dwellings in Block 35 to have a maximum driveway width of 6.5 metres for lots with a minimum frontage of 15.0 metres, where the By-law requires a maximum driveway width of 5.0 metres,

be **APPROVED**.

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-20/16

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 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 4.13.7.2.1 iv) of Zoning By-law (1995)-14864, as amended, for 1023 Victoria Road South, to permit the driveways of the proposed single detached dwellings in Block 36 to have a maximum driveway width of 6.0 metres, where the By-law requires a maximum driveway width of 5.0 metres, be **APPROVED**.

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-21/16

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 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 4.13.7.2.1 iv) of Zoning By-law (1995)-14864, as amended, for 1023 Victoria Road South, to permit the driveways of the proposed single detached dwellings in Block 37 to have a maximum driveway width of 6.0 metres, where the By-law requires a maximum driveway width of 5.0 metres, be **APPROVED**.

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-22/16

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 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 4.13.7.2.1 iv) of Zoning By-law (1995)-14864, as amended, for 1023 Victoria Road South, to

permit the driveways of the proposed single detached dwellings in Block 38 to have a maximum driveway width of 6.0 metres, where the By-law requires a maximum driveway width of 5.0 metres, be **APPROVED**.

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-23/16

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 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 4.13.7.2.1 iv) of Zoning By-law (1995)-14864, as amended, for 1023 Victoria Road South, to permit the driveways of the proposed single detached dwellings in Block 39 to have a maximum driveway width of 6.5 metres, where the By-law requires a maximum driveway width of 5.0 metres, be **APPROVED**.

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

Applications: **A-67/17**
Owner: **John and Nicola Groenewegen**
Agent: **N/A**
Location: **39 Fieldstone Road**
In Attendance: **John Groenewegen**

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. Groenewegen, owner, responded that the sign was posted and comments were received.

Mr. J. Groenewegen briefly explained his application and showed drawings of his property.

In response to a question from member K. Ash, Mr. Groenewegen explained the distance on the drawing shows a setback of 3.65 metres, however to provide greater flexibility at the time of construction he requested a variance of 3.5 metres.

Planner M. Witmer clarified the location of the variance on the drawing. Member K. Ash expressed concerns about the clarity of the drawing.

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 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 Table 5.1.2 Row 8 of Zoning By-law (1995)-14864, as amended, for 39 Fieldstone Road, to permit a rear yard setback of 3.5 metres for the proposed addition, where the By-law requires a minimum rear yard setback of 7.5 metres or 20% of the lot depth [37.84 metres], whichever is less, be **APPROVED**, subject to the following conditions:

1. That the reduced 3.5 metre rear yard setback shall only apply to the southwest corner generally in accordance with the Public Notice sketch.
2. That the proposed addition be limited to one (1) storey in height.

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-68/17
Owner: Hyun Suk Kim
Agent: Aaron Maksym, Tacoma Engineers Inc.
Location: 262 Eramosa Road
In Attendance: Aaron Maksym
Nancy Soligo

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. Maksym, agent, responded that the sign was posted and comments were received.

Mr. A. Maksym explained the application. He stated that the condition requiring removal of the driveway on Eramosa Road is not appropriate as no external work is being completed. He provided an aerial photo that showed the adjacent corner properties that have driveway access to both Eramosa Road and Metcalfe Street.

In response to a question from member L. Janis, Planner M. Witmer confirmed that the C.1-4 zoning is still in effect and is a site-specific zone.

In response to questions from member P. Ross, Mr. A. Maksym responded that when road construction is completed on Metcalfe Street in the future, that the Metcalfe Street driveway will be difficult to access and the secondary access will be needed. He also indicated that the condition requiring driveway removal may trigger site plan approval which would be an onerous expense based on adding one use that is common in the area. Planner M. Witmer explained that the application does represent a form of intensification as a second unit is being added within the building and will be considered a commercial mall.

In response to a question from member P. Ross, Engineering Technologist Mr. S. Daniel explained that it is not a good practice to just block off a driveway with a concrete barrier as traffic will stop to see if there is potential access. Planner M. Witmer added that under the Provincial Policy Statement this application is considered a form of development through intensification and this gives staff the opportunity to comment on existing site conditions.

In response to questions from member S. Dykstra, Engineering Technologist S. Daniel explained that a right turn only driveway could be considered for the Eramosa Road driveway if designed to current standards. He explained the current development engineering manual requires a 60 metre setback from an intersection for driveways and the current driveway is only 24.5 metres from the intersection. Mr. A. Maksym hesitated to commit to a right turn only driveway as the costs were unknown. He explained that the parking required for a convenience store and personal services establishment is the same

and the subject property has the least amount of traffic of the properties in the area of the intersection due to the size and uses.

In response to a question from member S. Dykstra, Planner M. Witmer explained that Part 2 shown on the drawing is owned by the City. Engineering Technologist S. Daniel explained that parking space 9 would be functional if reversing into the space, but there would be limited space if turning into the parking space. He explained that another reason why the Eramosa Road driveway is requested to be closed is if in the future Eramosa Road is widened, the driveway would be closed. Member S. Dykstra suggested that the applicant many want to defer the application to have further discussions with staff in order to find a more amenable condition.

Member K. Ash stated she felt the driveway condition was appropriate due to the multiple accesses near the intersection and the intensification requested. In response to a question from member K. Ash, Engineering Technologist S. Daniel responded that he does not have any information about the amount of traffic accidents in the area.

In response to questions from member P. Ross, Engineering Technologist S. Daniel explained that typically when there is development it is the owner's responsibility to pay for the costs as it is improving the property. He indicated that since there is an active application on the property, this is an opportunity to rectify issues with the existing driveway.

Member P. Ross referred to a past application which had similar conditions imposed that was overturned by the Ontario Municipal Board and therefore he indicated he would support the application without the driveway condition imposed.

No members of the public spoke.

Due to a tie vote, Chair B. Birdsell voted in favour of the motion. He indicated that he had lived in that neighbourhood previously and had never observed a problem with the driveways in that area.

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 6.1.3.4.1 of Zoning By-law (1995)-14864, as amended, for 262 Eramosa Road, to permit a personal service establishment as an additional permitted use on the property, where the By-law permits a convenience store as the only permitted use within the C.1-4 Zone, be **APPROVED**, subject to the following conditions:

1. That a Personal Service Establishment be limited in floor area to a maximum 115 square metres.
2. That the commercial building be limited to a maximum of two (2) units.

3. That prior to the issuance of a building permit for a Personal Service Establishment or to create a second commercial unit, the property owner shall re-stripe and paint the parking lot as per the submitted Site Plan with the variance application A-68/17 to the satisfaction of the General Manager of Planning, Urban Design and Building Services.

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-69/17
Owner: Annamaria Bartolomucci, Maria Bartolomucci and Leslie Miller
Agent: N/A
Location: 58 Memorial Crescent
In Attendance: Annamaria Bartolomucci

Secretary-Treasurer T. Di Lullo noted that comments were received after the comment deadline from R. and M. van Twest. Copies of the correspondence were provided to the members and the owner.

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

Ms. A. Bartolomucci explained the purpose of the application. She indicated that she had contacted Forestry staff who confirmed that the trees are not on City property. She explained she had concerns about paying for the costs of the closure of the original driveway. In regards to the comments received from the neighbour, she indicated she tried to provide a design to accommodate the neighbour's concerns, but that the design had to be altered due to the City's requirement that the original driveway be closed for traffic issues.

In response to a question from member K. Ash, Planner M. Witmer responded that the rationale for condition 1 is that the setback applies to the area of the proposed chimney only and does not run for the entire side yard of the dwelling. Member K. Ash expressed concern about the condition being too restrictive in regards to the width of the chimney and that the location of the variance was not identified on the drawing.

In response to a question from member L. Janis, Planner M. Witmer responded that there is no maximum gross floor area for a detached dwelling; however this is regulated by the setback provisions in the Zoning By-law.

No members of the public spoke.

Planner M. Witmer confirmed that two conditions regarding the City trees can be removed as Forestry staff have confirmed that the tree on the property is on private property not City property. Ms. A. Bartolomucci explained the tree has been causing plumbing issues.

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, variances from the requirements of Section 4.15.1.5 and Table 5.1.2 Row 7 of Zoning By-law (1995)-14864, as amended, for 58 Memorial Crescent, to permit:

- a) an accessory apartment size of 118 square metres or 17.9% of the total floor area, where 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, whichever is lesser; and
- b) a minimum side yard setback of 1.1 metres, where the By-law requires a minimum side yard setback of 1.5 metres,

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

1. That the reduced side yard setback of 1.1 metres applies to a portion of the south side yard of the property for the purposes of a 1.7 metre wide chimney.
2. Prior to issuance of the building permit, the owner agrees to close the existing driveway at the intersection of Memorial Crescent/Goldie Avenue and agrees to pay for the estimated cost and the actual cost for all the restoration works 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 and conforms with Section 45(2) 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-70/17
Owner: Candevco Property (One) Ltd.
Agent: Nancy Shoemaker, Black, Shoemaker, Robinson & Donaldson Ltd.
Location: 650 Scottsdale Drive
In Attendance: Nancy Shoemaker
Karen Fazzari
Glenn Millar

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

Ms. N. Shoemaker briefly explained the background of the application.

Member K. Ash noted that she has concerns about the second condition regarding the certification by a Professional Engineer and if it was feasible for an Engineer to guarantee that safety features have constructed to prevent vehicles from hitting any person or persons on a patio. Ms. N. Shoemaker indicated that it is preferred that the condition be amended so the wording regarding hitting any person or persons be removed. Member K. Ash indicated concerns with the condition being enforceable.

In response to a suggestion from member S. Dykstra, Ms. N. Shoemaker indicated she was in agreement with the first condition being amended to limit the gross floor area to the area shown on the plan attached to the public hearing notice.

In response to questions from member P. Ross, Planner L. Sulatycki acknowledged that conditions 2 and 3 could have been combined, but that the third condition was just to clarify that plans are to be signed and stamped by a Professional Engineer in the Province of Ontario. She indicated that she will share the suggestion with Engineering staff to combine these types of conditions for future applications.

No members of the public spoke.

Chair B. Birdsell recommended that condition 3 be modified to state the plans can be signed and stamped by a Professional Engineer or Architect as restaurant designs are under the purview of an Architect.

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, variances from the requirements of Sections 6.2.1.1, 4.17.2.5 and 4.17.2.8 of Zoning By-law (1995)-14864, as amended, for 650 Scottsdale Drive, to permit:

- a) a tavern use with the ability to sell liquor past 12:01 a.m. as an additional permitted use on the property, where the By-law permits a variety of uses within the NC Zone, including a restaurant, which is only permitted liquor sales until 12:01 a.m.;
- b) an outdoor patio to be located 0.5 metres from a parking space, where 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
- c) a covered, outdoor patio to be enclosed by more than 50%, where the By-law requires that if any part of the outdoor patio is covered above by a permanent or temporary material of any kind, the covered outdoor patio or the portion thereof so covered above shall not be enclosed by any material by more than 50%,

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

1. That the tavern shall be limited to a maximum of 290 square metres of gross floor area (GFA) as generally shown on plan attached to the Public Notice.
2. 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.
3. The provided plans are to be signed and stamped by a Professional Engineer or Architect, as applicable, in the province of Ontario.

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-71/16
Owner: Judith and Alex MacLeod
Agent: Rob Sajkunovic, JR Design & Consultants
Location: 56 Harrison Avenue
In Attendance: Rob Sajkunovic

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

Mr. R. Sajkunovic explained the application.

Chair B. Birdsell indicated that based on the plans and a site visit, he believed the requested variance should be 0.468 metres rather than 0.5 metres. Mr. R. Sajkunovic indicated he was in agreement.

Member K. Ash mentioned that the location of the requested variance could be better identified on the drawing.

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 Table 5.1.2 Row 7 of Zoning By-law (1995)-14864, as amended, for 56 Harrison Street, to permit a minimum side yard setback of 0.468 metres for the proposed addition, where the By-law requires a minimum side yard setback of 1.5 metres, be **APPROVED**, subject to the following conditions:

1. That the side yard variance shall only apply to the left side yard as shown in the sketch attached to the Public Notice.
2. That prior to issuance of a building permit and prior to undertaking activities which may injure or destroy City owned trees, a Tree Inventory and Preservation Plan (TIPP) shall be prepared for all City owned trees to the satisfaction of the Manager of Parks Operations and Forestry.
3. The roof, soffit or eaves trough shall not project over the property line.
4. Roof drainage shall not be discharged from the building onto the adjacent property.

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: B-14/17
Owner: Italian Canadian Club of Guelph
Agent: Jeff Buisman, Van Harten Surveying Inc.
Location: 125, 127 and 135 Ferguson Street
In Attendance: Jeff Buisman
John Sanvido

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, responded that the sign was posted and comments were received.

Mr. J. Buisman explained the application.

The Committee had no questions for the agent or 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 S. Dykstra
Seconded by K. Ash

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 M, N, and O, Registered Plan 263, and Lots 90 and 91, Part of Lot 92, Registered Plan 231, municipally known as 125, 127 and 135 Ferguson Street, a parcel with frontage along Ferguson Street of 20.0 metres and an area of 770 square metres, be **APPROVED**, subject to the following conditions:

1. 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.
2. 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.
3. 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).
4. That upon fulfilling and complying with all of the above-noted conditions, the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for 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, 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

Other Business

A request was received from Mr. M. Belcastro to refund the application fee for the withdrawn minor variance application for 390 York Road (File A-65/17). The applicant or owner was not present. Planner L. Sulatycki indicated that Planning staff had no objections to the request as no Planning staff time was spent on the application. In response to a question from member L. Janis, Secretary-Treasurer T. Di Lullo responded that the only staff time involved was the receipt of the application.

Moved by S. Dykstra
Seconded by K. Ash

THAT the minor variance application fee (\$935.00) for file A-65/17, for 390 York Road, be refunded to the applicant.

CARRIED

Secretary-Treasurer T. Di Lullo confirmed that an appeal to the Ontario Municipal Board (OMB) was filed on September 25, 2017 by Auto Reflections Auto Care Limited regarding the Committee's decision to refuse 7 of the 10 requested minor variances for 705 Southgate Drive (File A-61/17).

Member P. Ross indicated that he had concerns in general about conditions being recommended by staff that involved City trees when no City trees are actually present on the subject property.

Adjournment

Moved by K. Ash
Seconded by P. Ross

THAT the hearing of the Committee of Adjustment be adjourned at 5:18 p.m.

CARRIED

B. Birdsell
Chair

T. Di Lullo
Secretary-Treasurer