

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday October 16, 2014 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

R. Funnell, Chair
C. Downer
L. McNair (left at 4:51 p.m. and returned at 4:53 p.m.)

K. Ash

Regrets: J. Hillen
B. Birdsell

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

Declarations of Pecuniary Interest

There were no declarations of pecuniary interest.

Meeting Minutes

Moved by C. Downer and seconded by L. McNair,

“THAT the Minutes from the September 11, 2014 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Other Business

Secretary-Treasurer T. Russell informed the Committee that an appeal to the Ontario Municipal Board has been filed regarding the application for extension of legal non-conforming use at 220 Edinburgh Road South (File A-91/14). This appeal was received on September 30, 2014 from SmithValeriotte Law Firm LLP on behalf of the owner, Mr. Wayne McMillan. The basis for appeal was regarding the Committee’s decision to impose Conditions #1-3 (inclusive) requiring a road widening and boulevard restoration. A copy of the Appellant Form was provided to the Committee members for their information.

Application: A-70/14

Owner: Audrey Bishop

Agent: Alison Plecke, Ali's Place Aesthetics

Location: 118 Yorkshire Street North

In Attendance: Alison Plecke
Audrey Bishop
Marilyn Young
Fiona Cutway

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements. Ms. A. Plecke replied that the sign was posted.

Ms. A. Plecke acknowledged that one of the conditions is recommending that an inspection occur to confirm that the air conditioner unit has been moved and she asked if that inspection cost can be covered under the fees that have already been paid for inspections. Chair R. Funnell stated that the Committee only has control over fees related to applications to the Committee of Adjustment and the Committee has no control over fees associated with licensing, building permits, or inspections.

Ms. M. Young from 68 Yorkshire Street North, indicated that she has an aesthetics salon about 8-12 dwellings away from the subject property. She commented that she went through the same situation 23 years ago and at that time it was stated that the Committee members can only make decisions based on planning matters only. She stated that she has been before this Committee 8 times in the last 23 years for different matters and has complied with the licensing and Zoning By-law requirements at an added expense to create five off-street parking spaces. She asked the Committee to treat this application equally as believes that there is a lot of inequity.

Committee member C. Downer asked if there is a difference if it is a tenant or owner operating the business and applying to the Committee of Adjustment. Planner M. Witmer replied that there is no difference and this case the property owner has designated the tenant/business owner as the applicant and she has received authorization to make the application on the owner's behalf.

Committee member L. McNair asked for clarification on how many parking spots are being requested. Ms. A. Plecke replied that she is asking for two reduced sized parking spaces, with one being for the tenant's use and one for customers of the personal service establishment. Planner M. Witmer confirmed that this is correct and mentioned that when this application was

previously considered in August, it was deferred to investigate the possibility of relocating an air conditioner unit to provide room for a second parking space.

Committee member K. Ash stated she did a site inspection and was very concerned about the location of the air condition unit. She stated she believes two parking spaces are sufficient given the nature of the business proposed and believes the application meets all four tests under the Planning Act.

Committee member C. Downer stated that she agrees with Committee member K. Ash and believes it meets the four tests. She stated that she does not know what happened in the past regarding the other business at 68 Yorkshire Street North as she was not on the Committee at that time, but she sees this application as minor. She mentioned that her only concern is that when there are overlapping appointments and customers coming early or late for their appointments they would need to park on the street.

Committee member L. McNair stated he is concerned with the breadth of the definition of personal services establishment as it has a huge array of uses. He indicated that by approving this application it opens the door to other future tenants having any type of personal services establishment on the property with the possibility of inadequate parking, and therefore he indicated he is not supporting this application.

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

Moved by K. Ash seconded by C. Downer,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Sections 4.13.4.2 and 4.13.3.2.2 of Zoning By-law (1995)-14864, as amended, for 118 Yorkshire Street North,

- a) to permit one (1) off-street parking space for the personal service establishment, when the By-law requires that a total of two (2) parking spaces be provided for the personal service establishment, as the By-law requires a minimum of 1 parking space per 16.5 square metres of gross floor area for the personal service establishment; and
- b) to permit the minimum exterior parking space dimensions to be 2.13 metres (7 feet) wide, when the By-law requires that the minimum exterior parking space dimensions are 2.5 metres (8.2 feet) by 5.5 metres (18.04 feet),

be approved, subject to the following conditions:

1. That the owner establishes the off-street parking space behind the front face of the building as shown on the applicants plan, prior to the issuance of a building permit.
2. That the existing air conditioning unit in the side yard be relocated to the satisfaction of the General Manager of Planning Services so not to be obstructing the off-street parking area, and be completed prior to the issuance of a business license.
3. That the home occupation be limited to the sole proprietor of the home occupation only and no additional employees be permitted.
4. That the Personal Service Establishment be limited to a business providing personal aesthetics services only.”

Carried

Chair R. Funnell reminded those present who wish to receive a copy of the decision on any of the applications to submit a written request to the Secretary-Treasurer.

Application: A-84/14

Owner: Cedarvale Developments Ltd.

Agent: John Vos, Labreche Patterson & Associates Inc.

Location: 269 Grange Road

In Attendance: Victor Labreche
Geraldine Kent
John Vos
Matt Robson

Secretary-Treasurer T. Russell advised the Committee that correspondence was received from Y. Liu and G. Kent outlining concerns for this application. As these emails were submitted after the comment deadline, copies of the correspondence were provided to the Committee members for their information.

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements. Mr. V. Labreche replied that the sign was posted.

Mr. V. Labreche outlined the history of the application. He acknowledged that the concerns presented from the public are mostly related to traffic, density, parking, and safety. He stated that the subject property is designated and zoned High Density Residential in the Official Plan and Zoning By-law which allows up to 150 units per hectare. He indicated that the subject property is 0.66 hectares; therefore, up to 99 residential units are permitted on the property. He elaborated that the minimum number of units is 66 units and the minimum density is what the applicant is proposing. He stated that the minimum density proposed will help address the impact of the concerns referenced by the community. Mr. V. Labreche indicated that they are not proposing to limit on-street parking for this development.

Committee member L. McNair indicated that there are a lot of multi-residential buildings which have inadequate parking and he asked how many parking spaces are proposed to be provided. Mr. V. Labreche replied that there are 88 parking spaces proposed for 66 units which complies with the Zoning By-law. Committee member L. McNair asked staff if there is a requirement to provide visitor parking. Planner M. Witmer responded that there is no visitor parking requirement at this time, and it is up to the property owner to determine.

Committee member C. Downer asked if there was no minimum required, how many units would be allowed and still meet the amenity space required. She stated that she is concerned about the capacity of the property. Planner M. Witmer stated that the amenity area is calculated according to the Zoning By-law and it depends on how the site is designed.

Committee member K. Ash asked what the maximum building height is for this property. She indicated that if the building was taller, it would take up less footprint and perhaps accommodate the minimum amenity area. Planner M. Witmer replied that the maximum building height is 10 storeys and he indicated that Planning staff have asked the same question to the applicant previously. Mr. M. Witmer stated that the applicant indicated that building a taller building is not feasible for their building design.

Mr. V. Labreche stated that technically they have 1,314 square metres of common amenity area whereas 1,520 square metres is required; however, the 1,120 square metres that is being requested only includes areas close to the building. There are areas at the back of the site that meet the definition of common amenity area but are not easily accessible. Mr. V. Labreche presented a copy of the landscape plan and stated that they have provided 35 percent of landscaped open space whereas only 20 percent is required.

Ms. G. Kent stated that she has concerns about the high amount of traffic in the area and wondered if the Committee of Adjustment addresses this type of issue. Chair R. Funnell replied that this Committee does not solely deal with traffic issues. Chair R. Funnell stated that Council previously approved the zoning on this property at which time there was a discussion about whether or not an apartment building could be located there and the associated impacts. Chair R. Funnell asked staff if they were aware of when the zoning was approved for this site. Planner M. Witmer replied that he was not sure of the exact date. Chair R. Funnell stated that at the time Council considered the zoning amendment that would have been the time to bring about

the potential traffic issues; however, the zoning has already been approved. Ms. G. Kent stated that she purchased her property she believed that the subject property was going to be used for a park. Planner M. Witmer stated that if there are traffic concerns, the resident can speak to Traffic staff to see if any traffic improvements are warranted along Grange Road or any of the side streets.

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. McNair 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 5.4.2.4 .1 of Zoning By-law (1995)-14864, as amended, for 269 Grange Road, to permit a minimum common amenity area of 1,074 square metres (11,560.4 square feet), when the By-law requires a minimum common amenity area of not less than 30m² per dwelling unit for each unit up to 20 and for each additional dwelling unit, not less than 20m² of common amenity area shall be provided and aggregated into areas of not less than 50m² [total of 1,520 square metres (16,361.1 square feet) required], be approved.”

Carried

Chair R. Funnell reminded those present who wish to receive a copy of the decision on any of the applications to submit a written request to the Secretary-Treasurer.

Application: A-100/14
Owner: Donna Crispi
Agent: John Cox, JL Cox Planning Consultants Inc.
Location: 5 Ardmay Crescent
In Attendance: John Cox

Secretary-Treasurer T. Russell advised the Committee that correspondence was received from Mr. H. Kedra outlining concerns for this application. As this email was submitted after the comment deadline, copies of the correspondence were provided to the Committee members.

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements. Mr. J. Cox replied that the sign was posted.

Mr. J. Cox briefly outlined the purpose of the application which is to demolish the existing garage and replace with a new garage that meets the Zoning By-law setbacks.

Committee member K. Ash asked if the height requirement is needed to allow the structure to accommodate a lift for a car. Mr. J. Cox replied that a lift will be included in the structure, but given the roof design a variance would likely be required even if a lift was not part of the proposal. He stated that lift is proposed as the owner has some antique cars and the lift would allow for vehicle storage without increasing the footprint of the proposed accessory building. Committee member K. Ash asked the applicant how the lift works and if it shifts the vehicles over. Mr. J. Cox replied that he is not familiar with the mechanics of how the lift operates. Committee member K. Ash stated she was confused on how the lift works as the increased height appears to be only in the middle of the proposed building, but realized that this area was for a dormer.

Committee member C. Downer asked if the building permit process will address drainage issues mentioned by the neighbour. Planner L. Sulatycki replied that the building permit process will investigate drainage.

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 C. Downer 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 4.5.2.1 of Zoning By-law (1995)-14864, as amended, for 5 Ardmay Crescent, to permit an accessory building to have a height of 4.8 metres (15.7 feet), when the By-law requires that an accessory building in a residential zone shall not exceed 3.6 metres (11.8 feet) in height,

be approved, subject to the following conditions:

1. That the accessory structure not be used for human habitation; and
2. That the accessory structure not be used for a home occupation.”

Carried

Committee member L. McNair left the room at 4:51 p.m. before File # A-96/14 was heard and returned at 4:53 p.m. while discussions on this application were being heard.

Application: **A-96/14**

Owner: **Nematullah Dahi**

Agent: **Naziha Dahi**

Location: **147 Fleming Road**

In Attendance: **Nematullah Dahi**
 Hujatullah Dahi

Secretary-Treasurer T. Russell advised the Committee that correspondence was received from Mr. J. Williamson outlining concerns for this application. As this email was submitted after the comment deadline, copies of the correspondence were provided to the Committee members.

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements. Mr. H. Dahi replied that the sign was posted.

Mr. H. Dahi indicated that he was speaking on behalf of the property owner, his father, as his father's ability to speak English is weak. He indicated that they had no idea needed a building permit was needed at the time and the contractor did not mention that it was needed, so construction of the accessory apartment proceeded. Since then, he indicated that they have been trying to locate the contractor with no success, and they went to City Hall to see what the next steps were.

Committee member L. McNair asked for clarification about the timeline of this application. He indicated that the correspondence from the neighbour indicated that the owner applied for a building permit and was refused and continued to build anyways. Mr. H. Dahi replied that his father did not realize what permits was needed and went to City Hall but did not receive a response right away and since the contractor did not mention anything, the work proceeded.

Chair R. Funnell mentioned that if this application is approved, he will need to work things out with staff.

Committee member K. Ash asked if the applicants had received a building permit yet. Mr. H. Dahi stated that he has not. Committee member K. Ash wondered if this should be added as a condition to the approval. Chair R. Funnell stated that once the application is approved, the applicant will be able to receive a permit and the applicant will need to work this out with staff.

No members of the public spoke.

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

Moved by L. McNair 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 4.15.1.5 of Zoning By-law (1995)-14864, as amended, for 147 Fleming Road, to permit the accessory apartment to have an area of 83.3 square metres (896.5 square feet, 34.8% of the gross 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 (861.1 square feet) in floor area, be approved.”

Carried

Mr. H. Dahi asked if he can take the sign down now since a decision has been made. Chair R. Funnell asked Secretary-Treasurer T. Russell who indicated that the sign can be taken down.

Application: A-97/14
Owner: Thomas MacKillop
Agent: N/A
Location: 277 Cole Road
In Attendance: Thomas MacKillop

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements. Mr. T. MacKillop replied that the sign was posted.

Mr. T. MacKillop passed out an information package to the Committee members. He outlined the purpose of the application, which is to allow an accessory apartment.

Committee member K. Ash noted that there are steps at the side of the house and these steps are not shown on drawing submitted. She stated that she wondered if staff considered this in their comments. Planner L. Sulatycki replied that the Zoning By-law requires a minimum driveway width of 3 metres, and depending on the width of the stairs, the applicant may still

have sufficient width to park a car, which the requirement for an exterior parking space is 2.5 metres wide by 5.5 metres in length. Committee member K. Ash stated she noticed one of the conditions was regarding the length of the driveway, but she wants to ensure that the minimum width of the parking space is complied with as well. Planner L. Sulatycki indicated that additional wording could be added to the condition regarding the width. Committee member K. Ash stated that the applicant needs to be assured that the minimum parking space dimensions can be accommodated, otherwise a deferral may be necessary to avoid another application.

Committee member C. Downer agreed with Committee member K. Ash's statements as she indicated that the drawing does not match the proposal.

Committee member L. McNair also mentioned that there is to be a 0.2 metre wide landscaped strip along the property line, which may reduce the amount of space available for parking. He indicated that he would support the idea of a deferral. Planner L. Sulatycki replied that this sounds reasonable. Committee member C. Downer recommended to staff that there be a site visit with the applicant to ensure the proposal meets all the requirements.

Chair R. Funnell asked if the applicant finds deferral acceptable. Mr. T. MacKillop responded yes and asked what the next step is for his application. Chair R. Funnell replied that he needs to work with staff before coming back to the Committee.

Moved by L. McNair seconded by K. Ash,

"THAT Application A-97/14 for 277 Cole Road, be deferred sinedie, to allow the applicant to provide further information, and in accordance with the Committee's policy on applications deferred sinedie, that the applications will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application."

Carried

Application: A-98/14

Owner: Ann Dunning and San Yong Kim

Agent: N/A

Location: 217 Ferguson Street

In Attendance: Anne Dunning
San Yong Kim
Fiona Cutway

Secretary-Treasurer T. Russell advised the Committee that correspondence was received from Ms. D. Palmer and Ms. C. Krampitz outlining support for this application and. As these emails were submitted after the comment deadline, copies of the correspondence were provided to the Committee members.

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements. Ms. A. Dunning replied that the sign had been posted.

Ms. A. Dunning outlined her application. Committee member K. Ash asked how big the existing garden shed is. Ms. A Dunning replied that it is about 100 square feet.

Committee member K. Ash asked what purpose of the new gravel area is between the house and the proposed building. Ms. A. Dunning replied that this area will be for parking. Committee member K. Ash said she is concerned about retail sales occurring from the new accessory building. Ms. A. Dunning replied that it is not her intention to run a retail business from the new accessory building. Committee member K. Ash asked Chair R. Funnell if there is any way to ensure the new gravel area is not a parking area. Chair R. Funnell asked staff to address. Planner M. Witmer replied that staff have no concerns with the gravel parking area as it meets the Zoning By-law requirements and there are no restrictions preventing parking in this area. He noted that one of the recommended conditions is to restrict retail sales related to the home occupation. Committee member K. Ash commented that she still has concerns and the use of a metal roof will be loud.

Committee member L. McNair stated that give the size of the proposed accessory building, he asked why the garden shed can remain and asked if there is a need for a garden shed with such a large accessory building. Ms. A. Dunning stated that the garden shed is for tools and she was not aware that she was not allowed to have another accessory building. Chair R. Funnell asked staff if there is anything that would require the tool shed to be removed. Planner M. Witmer said no as long as all the accessory structures conform with the Zoning By-law in terms of setbacks and height restrictions.

Committee member K. Ash noted that the maximum area for accessory buildings is 70 square metres, and she asked if this requirement applies to this property. Planner M. Witmer replied yes. Committee member K. Ash stated that the proposed building is 67 square metres and the size of the existing tool shed is approximately 10 square metres, and therefore the existing shed will not comply if the new accessory building is constructed. Planner M. Witmer replied that this is correct and indicated that the total area of the existing and new structures would be 76.3 square metres. He further indicated that if a condition is needed to remove the existing tool shed that Planning staff would be supportive of this condition. Chair R. Funnell said this issue should be flagged for the applicant. Committee member K. Ash noted that if the applicant wishes to construct the new accessory structure at the proposed size then the tool shed will need to be removed or another variance required. Ms. A. Dunning stated she was confused since this is the first she has heard about the total area requirement. She stated that the comments from Planning Services indicate that the proposed home occupation will only cover 4

percent of the property area and 15% of the total building floor area. Committee member K. Ash stated that the maximum total area requirement has nothing to do with percentages and she indicates that perhaps staff are just realizing this requirement.

Ms. A. Dunning asked if she needs to reduce the size of the proposed building by 100 square feet. Chair R. Funnell said yes or keep the proposed building as is and remove the tool shed. Committee member L. McNair clarified that three options are available: remove the tool shed and keep the proposal as is, or reduce the size the proposed building by approximately two thirds and keep the tool shed, or increase the size of the proposed building up to 70 square metres if the existing tool shed is removed.

Ms. A. Dunning stated she is okay with reducing the size of the proposed garage to meet the Zoning By-law requirements.

No members of the public spoke.

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

Moved by L. McNair seconded by C. Downer,

“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 4.19.1 (iii) of Zoning By-law (1995)-14864, as amended, for 217 Ferguson Street, to permit the operation of a home occupation (artisan studio) in the proposed accessory structure, when the By-law requires that every home occupation shall be conducted entirely within a dwelling unit and shall not occupy any portion of a garage, carport or accessory building or structure,

be approved, subject to the following conditions:

1. That the detached accessory structure not be used for human habitation.
2. That the home occupation be limited to activities associated with an Artisan Studio, as defined in the Zoning By-law.
3. That the home occupation be limited to a maximum floor area of 33.4 square metres (359.5 square feet).
4. That no exterior signage for the home occupation be installed anywhere on the property.

5. That no retail area be associated with the home occupation, and any manufactured goods from the home occupation be sold off site.
6. That the total footage of the accessory buildings be limited to 70 square metres.”

Carried

Chair R. Funnell reminded those present who wish to receive a copy of the decision on any of the applications to submit a written request to the Secretary-Treasurer.

Application: A-99/14
Owner: Jaral Commercial Properties Inc.
Agent: N/A
Location: 225 Hanlon Creek Boulevard
In Attendance: Bruno Marziano
Derek Obermeyer

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

Mr. B. Marziano indicated that he had nothing further to add to the application.

No members of the public were present.

The Committee members had no questions for the applicant.

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 C. Downer,

“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 7.4.2 of Zoning

By-law (1995)-14864, as amended, for 225 Hanlon Creek Boulevard, to permit a recreation centre as an accessory use that is not exclusively devoted to another permitted use, when the By-law permits a recreation centre as an accessory use provided that such use is subordinate, incidental and exclusively devoted to another permitted use,

be approved, subject to the following conditions:

1. That the Recreation Centre be limited to no larger than 929 square metres (10,000 square feet).
2. That no other commercial or recreation uses be permitted on the subject property, 225 Hanlon Creek Boulevard, except for those permitted as-of-right in the current Zoning By-law.”

Carried

Application: A-101/14

Owner: Blair Nonnecke and Heather McDonald

Agent: N/A

Location: 19 Lyon Avenue

In Attendance: Blair Nonnecke
Patricia McCraw

Secretary-Treasurer T. Russell informed the Committee that correspondence was received from the Senior Heritage Planner S. Robinson confirming that Heritage Guelph has no objection to the variances requested and the removal and replacement of the existing accessory building. Therefore, recommended condition #1 listed under the Heritage Planning heading in the comment package is no longer required. A copy of the correspondence from S. Robinson was provided to the Committee members.

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements. Mr. B. Nonnecke replied that the sign was posted.

Committee member K. Ash asked about the use of the other existing accessory building on the property. Mr. B. Nonnecke replied that it is mostly used for storage and some shop equipment. Committee member K. Ash commented that the existing accessory building is quite large, and asked the applicant to explain the nature of the proposed accessory building and if the proposed building is two storeys. Mr. B. Nonnecke replied that the first storey will be heated

and the second storey will be non-heated, and the new proposed building will be used for storage. Committee member K. Ash asked for further clarification about the workshop use. Mr. B. Nonnecke said this will be used for a Ping-Pong table, working tools, and storage of typical workshop items. Committee member K. Ash asked the applicant why the proposed building needs to be two stories in height. Mr. B. Nonnecke replied that this will allow more storage space and a less expensive structure for the square footage.

Committee member K. Ash commented that the application indicated that the height is needed due to the style of the dormers. Mr. B. Nonnecke replied that this is correct. Committee member K. Ash indicated that the applicant could still have a one storey structure with dormers and still maintain the Zoning By-law requirements. Mr. B. Nonnecke indicated that none of the builders he consulted wanted him to do that and that it does not fit in with the style of the main dwelling. Committee member K. Ash clarified that she does not see a need to have such a large accessory building when there already is an existing usable accessory building. She indicated that there is also a concern from the neighbour about the proposed height of the building. Committee member K. Ash indicated she has concerns about the height especially due to the close proximity to the property line. Mr. B. Nonnecke asked how he should address the concern. Committee member K. Ash indicated that she will not be supporting the request for additional building height.

Mr. B. Nonnecke clarified that if he had not put a shed style dormer he might have had a roof of exactly the same height as what is proposed, due to the way the height is measured under the Zoning By-law. Committee member K. Ash commented that she does not believe the intent of an accessory structure is to be two stories in height. She indicated that she believes that an accessory structure could be constructed in such a way to conform to the Zoning By-law regulations.

Mr. B. Nonnecke asked if the Committee members had received the photos of other similar structures in the neighbourhood that he provided with his application. Committee member K. Ash replied yes and indicated that there are also not a lot of situations where these types of structures exist with an already existing large accessory structure on the property. She indicated that the examples provided do not appear to be two stories nor are they located in close proximity to the property. Mr. B. Nonnecke replied that many of these accessory buildings are within the downtown and in older neighbourhoods and on lots that are quite smaller than the subject property. He clarified that approximately three percent of the lot is taken up by the proposed building.

Mr. B. Nonnecke asked if the proposal did not include the shed dormer, if the Committee would find this acceptable. Committee member K. Ash stated that she feels she has been very clear in her responses and that she does not see any need to have a variance for the building height, so she cannot support the proposal. She is also concerned that the proposed structure is not even a garage, but a workshop and a two storey storage area. She is concerned about the impact of the proposed structure on the neighbourhood and does not believe the height proposed is minor in nature and that the proposal does not meet the four tests under the Planning Act.

Mr. B. Nonnecke asked if he could show photos of the existing garage. Chair R. Funnell replied that if they are ready, he can show them quickly. As the photos were saved on a USB stick, and the Secretary-Treasurer was not advised in advance that the computer was needed to show photos, the photos were not shown. Committee member K. Ash commented that the proposal is to demolish the existing garage, so the variance proposed has nothing to do with the existing garage. Mr. B. Nonnecke replied that he will be creating a much nicer structure to replace the existing structure and the footprint is almost the same as what is existing.

Mr. B. Nonnecke asked if he removed the other accessory building, if the Committee would be satisfied. Committee member K. Ash indicated to the Chair that the meeting is not intended to be a negotiation and if the applicant wants to think about the application and make a different proposal, that is up to the applicant. Chair R. Funnell clarified that it has been clearly stated how Committee member K. Ash feels and it is up to the applicant if he wants to go ahead with the proposal.

Committee member L. McNair said that the variance requested is related to the height and size of the proposed building. He asked what the size is of the current building that he is proposing to demolish. Mr. B. Nonnecke replied that it is approximately 43 square metres. Committee member C. Downer indicated that he is replacing this building with a 48.5 square metre building. He clarified that the proposed total area of all accessory buildings will be 186 square metres. Mr. B. Nonnecke clarified that he is only adding 5 square metres to the footprint of the original building.

Committee member L. McNair commented that the existing building may infringe on the neighbour's property, so he is wondering if it meets all the required setbacks. Planner L. Sulatycki replied that she did meet with the applicant prior to the application submission, and the applicant is not able to rebuild the existing structure in the exact same location as part of the existing structure is over the property line and the City cannot issue a building permit for this reason. She elaborated that since the location of the proposed building had to be moved farther away from the property line, the applicant wanted to increase the height to make a structure that would be more functional and usable for his needs. She indicated that he proposed to build the structure at the minimum setback of 0.6 metres from the property line. Mr. B. Nonnecke clarified that on the north side of the proposed building the setback is 4 feet.

Chair R. Funnell stated that it appears that at some time there has been an adjustment in the property line to accommodate the building as the property line layout is quite unusual. Mr. B. Nonnecke replied that the main house was the Cowan house and it was in the same family for 125 years and the family had previously parcelled off land for other properties.

Committee member L. McNair moved to approve the application; however, no one seconded the motion.

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 C. Downer and seconded 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 4.5.2.1 and 4.5.1.4 of Zoning By-law (1995)-14864, as amended, for 19 Lyon Avenue,

- a) to permit the proposed accessory building to have a height of 5.54 metres (18.18 feet), when the By-law requires that an accessory building in a residential zone shall not exceed 3.6 metres (11.8 feet) in height; and
- b) to permit the total area of all accessory buildings and structures on the property to be 186.79 square metres (2,010.59 feet), when the By-law requires that in a residential zone, the total area of all accessory buildings or structures shall not exceed 70 square metres (753.47 square feet),

be refused, for the following reasons:

- a) the application is not minor in nature due to the proposed height;
- b) the application is not desirable for the appropriate development of the lands due to the proposed height;
- c) the application does not conform to the general intent of the Zoning By-law due to the proposed height; and
- d) the application does not conform to the general intent of the Official Plan, due to the proposed height.”

Carried

Mr. B. Nonnecke asked for clarification on what would be acceptable. Chair R. Funnell indicated that the Committee cannot tell the applicant what would be acceptable and the Committee has made a decision based on the current proposal. Mr. B. Nonnecke asked what part of the application does not meet the criteria, and if the concern is with the height or the size or both. Chair R. Funnell asked Committee member C. Downer to respond as she made the motion to refuse. Committee member C. Downer replied that she does not believe the height is minor in nature.

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Application: **A-102/14**

Owner: **Loblaws Properties Limited**

Agent: **Matt Robson, Reid's Heritage Homes**

Location: **98 Farley Drive (originally part of 124 Clair Road East/
1750 Gordon Street)**

In Attendance: **Celine Akram**
 Matt Robson

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements. Mr. M. Robson replied that the sign was posted.

Mr. M. Robson gave some background on the application. He indicated that the current sales trailer is located at 41 Fredrick Drive. He asked if the condition recommended by Planning staff regarding the 3 year time period could be revised to allow for the sales trailer to be located on the property for a period of three years following the issuance of a building permit, to be consistent with the timing condition recommended by Engineering staff.

Planner L. Sulatycki asked to amend the condition recommended by Planning Services to the following wording: "that the real estate sales office be permitted for a maximum of three (3) years from the date of building permit issuance."

Committee member L. McNair asked staff if there is a need for the condition recommended by Planning Services when Engineering Services had recommended a similar condition. Planner L. Sulatycki replied that the condition recommended by Planning Services refers to the land use while the condition recommended by Engineering Services refers more to the building itself. She indicated that if the Committee wishes to remove the condition recommended by Planning Services, then that is possible. Chair R. Funnell indicated that the Secretary-Treasurer could possibly blend these two conditions together to ensure there is no duplication.

Planner M. Witmer noted that the Site Plan Review Committee is currently reviewing the site plan application for the sales trailer and it will come before Council for approval in December 2014.

Ms. C. Akram asked for clarification about the meeting to be held in December. Planner M. Witmer repeated the information he previously stated. He indicated that at that meeting in December there will be the opportunity for public to speak if they register with the City Clerk's office, and the public in the vicinity of the subject property will be notified of the meeting.

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 as amended seconded by C. Downer,

“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 4.21.5, Table 6.2.2 Row 9, and Section 6.2.3.2.17.2.4 of Zoning By-law (1995)-14864, as amended, for 98 Farley Drive,

- a) to permit a real estate sales office to operate on lands which are not part of an active construction site, when the By-law requires that a real estate sales office shall be permitted as an occasional use on a construction site until such construction is completed or a final building inspection is conducted, whichever events occur first;
- b) to permit the minimum gross floor area to be 167 m² (1,797.6 ft²), when the By-law requires that the minimum gross floor area for the CC zone be 1,875 m² (20,182.3 ft²); and
- c) to permit the real estate office to be located at a maximum 18 metre (59.05 feet) setback from Farley Drive, when the By-law requires that all buildings adjacent to Gordon Street, Clair Road and Farley Drive are required to be constructed at a maximum 3 metre (9.8 feet) “build to line” from the Street Line,

be approved, subject to the following conditions:

1. That the owner enters into a Site Plan Agreement registered on the title of the property prior to the issuance of a building permit, requiring that the temporary real estate sales office (trailer) be removed within three (3) years of the issuance of the building permit.
2. That the owner pays the actual cost of the construction of the new driveway entrance and the required curb cut, with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid, prior to the use of the property for the temporary real estate sales office (trailer).
3. That the owner pays the actual cost associated with the removal of the existing driveway entrance, the restoration of the boulevard with topsoil and sod and the required curb fill, as determined necessary by the General Manager/City Engineer being paid, prior to the temporary real estate sales office (trailer) being removed from the site.

4. That the real estate sales office be permitted for a maximum of three (3) years from the date of building permit issuance.”

Carried

Chair R. Funnell reminded those present who wish to receive a copy of the decision on any of the applications to submit a written request to the Secretary-Treasurer.

Application: A-103/14

Owner: Nikan Inc.

Agent: Melissa Gobeil, Guelph Arts Council

Location: 28-36 Essex Street

In Attendance: Melissa Gobeil
Sonya Poweska
Nan Hogg
John Farley
Katie Wilde
Fazl Ashkar
Karol Murillo
Peter Hettinga
Dominic Carere

Secretary-Treasurer T. Russell advised the Committee that correspondence was received from Ms. K. Lawrence on behalf of the Guelph Creative Arts Association, Mr. B. Grossman on behalf of Silence, and Mr. J. Farley on behalf of Market Commons Condominiums, Mr. R. Wheatcroft, and Ms. J. Grady on behalf of Barking Dog Studios outlining support for this application. As these emails were submitted after the comment deadline, copies of the correspondence were provided to the Committee members.

Correspondence has also been received from Ms. M. Gobeil on behalf of the Guelph Arts Council requesting that recommended condition #7 be revised in order to permit retail sales related to the small gallery on-site. A copy of the correspondence was provided to the Committee members.

Correspondence from Operations, Transit and Emergency Services has also been received regarding the three (3) reserved parking spaces in front of the property. A copy of the correspondence was provided to the Committee members.

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Ms. M. Gobeil replied that the sign was posted.

Ms. S. Poweska provided background on the Guelph Arts Council and the purpose of the application. Ms. M. Gobeil indicated that the primary focus of the Guelph Arts Council will be teaching studios, with accessory uses including a gallery space, artisan studio and office space. She showed photos of the interior and exterior of the building.

Planner M. Witmer asked the Secretary-Treasurer to outline correspondence received from Parking staff. Secretary-Treasurer T. Russell responded that correspondence had been received from Mr. A. McIlveen, Manager of Traffic and Parking, regarding the three reserved parking spaces in front of the building. He indicated that reserved parking spaces would not be permitted to be located on the street unless it is shown to be on private property.

Planner M. Witmer indicated that the parking brief prepared did acknowledge these three reserved parking spaces, and as an alternative, the property owner does own another neighbouring property at 56 Gordon Street that could possibly be available to rent three parking spaces. Planner M. Witmer proposed that the conditions be altered so as to allow the property owner and staff to work towards an off-street parking agreement that would be registered on title.

Committee member C. Downer stated that given the nature of an artisan studio, she was unsure on how the condition should be worded regarding retail sales. She asked staff if they knew what the zoning was for any neighbouring art galleries. Planner M. Witmer said he was unsure of what the zoning was for any neighbouring art galleries, and would need to investigate.

Ms. N. Hogg asked if it matters if the sales are from members of the Guelph Arts Council versus the general public. Planner M. Witmer replied no.

Committee member L. McNair asked staff for the definition of an artisan studio. Planner M. Witmer provided the definition, which is a "place used as the workplace of a photographer, artist, craftsperson, sculptor or potter, but does not include a repair service or manufacturing." Committee member C. Downer asked staff if the definition makes any reference to retail sales. Planner M. Witmer replied no.

Committee member L. McNair stated he has concerns about going from 28 required parking spaces to only 8 parking spaces and stated that he believes a condition prohibiting general retail sales is essential. Planner M. Witmer asked if the Committee needed further clarification for the wording for the condition regarding the off-street parking agreement. Chair R. Funnell stated that staff can discuss the wording with the Secretary-Treasurer.

Mr. J. Farley indicated that in nearby commercial areas there is no off-street parking requirement.

Ms. K. Murillo from the City's Economic Development Services indicated that Downtown Renewal staff supports the application.

Mr. F. Askar stated that he is willing to work with staff regarding an off-street parking agreement.

Mr. P. Hettinga stated that he supports the application.

Committee member C. Downer acknowledged that the subject property is a very difficult site to accommodate parking. She indicated that the nearby parking lot on Wilson Street may be another option. She stated that it is interesting how the area is developing as a cultural hub. She indicated that staff will need to look at the definition of artisan studio in the future and consider developing policies regarding retail sales for these types of uses.

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 C. Downer seconded by L. McNair,

"THAT in the matter of an application under Section 45(2)(a)(i) of the Planning Act, R.S.O. 1990, c.P13, as amended, permission to extend the legal non-conforming use at 28-36 Essex Street, to allow for an office use in addition to the commercial school uses, and

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 5.4.1.4, 5.4.3.4.1.1, 4.13.4.2 of Zoning By-law (1995)-14864, as amended, for 28-36 Essex Street,

- a) permit an art gallery and artisan studio as accessory uses to an office use for Units 32-34, when the By-law requires that accessory uses are permitted in accordance to the permitted uses in the R.4D Zone; and
- b) permit eight (8) off-street parking spaces for the commercial school/office uses and accessory uses in Units 28-30 and Units 32-34 (which includes two off-street parking spaces for two residential units), when the By-law requires that a commercial school provide 1 parking space per 2 staff members plus 1 parking space per 28m² of classroom floor space [total of 29 parking spaces required for Units 28-30 and Units 32-34],

be approved, subject to the following conditions:

1. That no “Noxious Use” as defined in the Zoning By-law shall be permitted on the premises of the proposed artisan studio.
2. That the property owner erect and maintain adequate and permanent signage over each of the off-street parking spaces at 28 Essex Street, indicating that the spaces are private parking and reserved at all times for the sole and exclusive use of the residential apartments, Royal City CrossFit or the Guelph Arts Council, whatever the case may be and as depicted on the site plan submitted with application A-103/14, and provide sufficient evidence that the signs have been changed and/or installed to the satisfaction of the General Manager of Planning Services prior to the issuance of any building permit and Community Improvement Plan grants by the City.
3. That the property owner shall enter into an off-street parking agreement with the City, registered on title to both 28-36 Essex Street and 56 Gordon Street, agreeing to ensure the continued availability of three (3) off-street parking spaces at 56 Gordon Street, to the satisfaction of the General Manger of Planning Services, prior to the issuance of any building permits and any Community Improvement Plan grants by the City.
4. That the property owner demarcate the eight (8) off-street parking spaces as indicated on the site plan submitted with application A-103/14, prior to the issuance of any building permit and Community Improvement Plan grants by the City.
5. That exterior bicycle parking facilities be installed and maintained on the property as recommended in the Parking Justification Brief submitted with application A-103/14 to the satisfaction of the General Manager of Planning Services, prior to the issuance of any building permit and Community Improvement Plan grants by the City.
6. That the Guelph Arts Council as a commercial school and accessory artisan studio, artisan gallery and office not have any more than four (4) employees at any given time on the premises.
7. That no general retail sales that are open to the public shall be permitted on the premises.
8. That the applicant take all reasonable approaches to encourage patrons to use alternate modes of travel as outlined in the Parking Justification Brief submitted with application A-103/14.”

Carried

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Application: **A-104/14**

Owner: **Brodie Limited**

Agent: **Lisa Gilbert**

Location: **919 York Road**

In Attendance: **Lisa Gilbert**
 Jim Gilbert
 Gerald Looyinga

Chair R. Funnell questioned if the sign had been posted in accordance with Planning Act requirements. Ms. L. Gilbert replied that the sign was posted.

Planner M. Witmer outlined Planning Services' comments and the recommendation for deferral.

Ms. L. Gilbert stated that she agreed with the recommendation to defer the application.

Moved by L. McNair seconded by C. Downer,

“THAT Application A-104/14 for 919 York Road, be deferred sinedie, to allow staff to further discuss the operating procedures of the Food Preparation and Vending Vehicle with the applicant and to explore opportunities such as, but not limited to finalizing a specific location on the subject property, related site plan approval matters (under Section 41 of the Planning Act), parking, seating and amenities for customers, and waste collection, and in accordance with the Committee's policy on applications deferred sinedie, that the applications will be considered to be withdrawn if not dealt with within 12 months of deferral and that the deferral application fee be paid prior to reconsideration of the application.”

Carried

The meeting was adjourned by Committee member K. Ash at 6:32 p.m.

R. Funnell
Chair

T. Russell
Secretary-Treasurer