

COMMITTEE OF ADJUSTMENT

Minutes

The Committee of Adjustment for the City of Guelph held its Regular Meeting on Thursday September 24, 2015 at 4:00 p.m. in Council Chambers, City Hall, with the following members present:

B. Birdsell, Chair
K. Ash
M. Bosch
S. Dykstra
D. Kendrick
P. Ross

Regrets: L. Janis

Staff Present: T. Donegani, Planner
D. McMahon, Acting Secretary-Treasurer
V. Sobering, Council Committee Assistant

Vice Chair K. Ash called the meeting to Order

Declarations of Pecuniary Interest

Committee member S. Dykstra declared an interest with application A-51/15 as it involves a friend. Chair B. Birdsell declared an interest with applications A-51/15 and A-80/15 as they involved current clients.

As the Chair would not be present for all of the applications, Vice-Chair K. Ash assumed the role of chair.

Meeting Minutes

Moved by P. Ross and seconded by B. Birdsell,

“THAT the Minutes from the September 10, 2015 Regular Meeting of the Committee of Adjustment, be approved as printed and circulated.”

Carried

Committee members B. Birdsell and S. Dykstra left the room at 4:01 pm

Application: A-51/15

Owner: Fazl Ashkar, Nikan Inc.

Agent: N/A

Location: 28-36 Essex Street

In Attendance: Fazl Ashkar
Thomas Gofton
Peter Hettinga
Nicki Hettinga
John Farley
Paul Zoeller
Donna Haley
Pamela Fielding

Acting Secretary-Treasurer D. McMahon advised the Committee that correspondence was received from Mr. P. Hettinga, and Ms. N. Hettinga in opposition to this application. As these letters were submitted after the comment deadline copies of the correspondence were provided to the Committee members.

Vice-Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. F. Ashkar, owner, replied that the notice sign was posted and staff comments received.

Mr. F. Ashkar explained his application and provided some background information regarding the property. He explained that he purchased the property in 2012 to create spaces for new businesses. Four other minor variance applications have been made over the past four years for the same building all of which were successful and not appealed.

Committee member M. Bosch asked about the capacity of the proposed board game café. Mr. F. Ashkar posed this question to Mr. T. Gofton, owner of the tenant business, who replied that no more than 30 people would be in the space at one time. In a response to a follow-up question from committee member M. Bosch, Mr. T. Gofton replied that there were plans to sell alcohol within the restaurant (board game café).

In response to a question from Committee member M. Bosch, Planner T. Donegani stated that uses permitted through previous minor variance applications would not be rescinded, should the application be approved. Vice Chair K. Ash voiced agreement stating that it was not within the jurisdiction of the committee to remove variances.

Committee member M. Bosch raised concerns that vehicles would not park in the public lots as suggested and that there would be an increase in parked vehicles in the residential neighbourhood nearby.

Mr. J. Farley spoke in favour of the application. He indicated that if the building was located on the opposite side of the street it wouldn't require an off-street parking variance. Mr. Farley pointed to parking spaces in the nearby area which can help address parking concerns for patrons. Additionally, he discussed a variety of changes which have occurred to parking in the downtown area recently and further changes which will be introduced as part of future policy documents. Mr. Farley stated that since the subject property is downtown, customers would expect to have to park at an offsite location and walk to their destinations. He said the Downtown Parking master plan will address some of the parking issues raised by committee members.

In response to a question from Committee member P. Ross, Mr. T. Gofton responded that the board game café would provide board games such as chess, checkers and other table top games geared toward artists and creative thinkers and that the space would be offered for strategic leadership development meetings. He suggested several other similar establishments had been successful in nearby communities. When asked by Committee member P. Ross to describe the relationship between this atmosphere and the service of alcohol Mr. T. Gofton stated that the intention was to allow patrons to enjoy a beverage while playing a game and that this would be a quiet establishment similar to other café pubs in downtown Guelph which also serve alcohol.

Ms. N. Hettinga, owner and landlord of 41 and 41½ Nottingham St., spoke against the proposed variance. She suggested that parking in the area was insufficient and that the Downtown Secondary Plan should not be construed to cause undue hardship to existing residents. She indicated that tenants of her properties have signed a lease expecting the area to be residential and that approval of the application could result in nuisance issues for these tenants. She indicated there are cases in the courts, and in local newspapers, regarding the damage and nuisance done in the late hours in Guelph and this variance, if approved, would add to the existing problem. She suggested that the establishment would focus primarily on the service of alcohol and not food. Should the application be approved she urged the committee to recommend to the Alcohol and Gaming Commission that a liquor license only extend to midnight.

Mr. P. Hettinga, owner of 41 and 42 Essex Street and Guelph Import Service, presented a petition in opposition of the application from neighbours and a copy was provided to the Acting Secretary-Treasurer. Mr. P. Hettinga explained that he had supported and been present for the decisions of two previous minor variance applications related to the property, but suggested that the current application was not in the same spirit. He raised concerns of damage to the vehicles parked at his business and suggested that the true nature of the proposed establishment was that of a tavern or bar. He expressed concern that approval of the application would lead to the spread of current downtown nuisance issues onto Essex Street.

He stated that he supported the board game café as proposed but was extremely concerned with the use of the space by future tenants.

Ms. P. Fielding, owner of 45 Nottingham Street, spoke against the proposed application. She outlined current noise issues she faces with existing neighbours and expressed concern that these issues would be amplified should the application be approved.

Ms. D. Haley, owner of 31 Nottingham and manager of other properties on Nottingham, outlined existing parking issues in the neighbourhood and related safety concerns. She suggested that a reduction in the required parking spaces would result in customers parking in the residential neighbourhood.

Mr. T. Gofton addressed the use of the word “tavern”, which he said was intended to reflect the medieval theme of the game café, and stated that the established hours of operation would end before midnight every night. The space, he said, is intended to attract creative individuals, families and working professionals. He addressed the noise concerns raised by neighbours and stated the sizeable artistic studio space separating the game café from the residential homes would prevent unwanted disruptions.

In response to a question from Committee member M. Bosch Mr. T. Gofton confirmed that there would be no gambling activities on the premises.

Committee member M. Bosch asked staff if it is possible to include a condition that would limit the permitted use to the board game café as described by Mr. T. Gofton. He stated that in his opinion this would address the concerns of neighbours that the property may be transformed into a gambling site or tavern in the future. Planner T. Donegani clarified that no future establishment on the subject property would be permitted to sell alcohol after midnight without being granted that additional variance by the committee.

Committee member D. Kendrick asked for clarification as to the number of spots that were required by the by-law prior to the previously granted off-street parking variance. Planner T. Donegani responded that the decision for file A-103/14 granted permission for 8 off-street parking spots where the by-law required 29.

Planner T. Donegani stated that presently, a total of 37 off-street parking spaces are required by the by-law for the subject property including parking for the existing commercial school, residential apartments and proposed restaurant/café uses. He added that the request to permit 8 has been supported by staff.

Committee member D. Kendrick raised concerns that effects of granting an off-street parking variance would be compounded when considered in conjunction with the previously granted variances.

Planner T. Donegani clarified that the previous application related to a use that was never established and that this application would be looked at with fresh eyes and therefore the compounding effect would not apply.

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

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

“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 a restaurant (café) use in addition to the commercial school and studio 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, a variance 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, to permit eight (8) off-street parking spaces for the commercial school/restaurant 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 restaurant provide one (1) parking space per 7.5 m² (80.7 ft²) of gross floor area [total of 37 parking spaces required for Units 28-30 and Units 32-24], be refused.”

Carried

REASONS:

The application is refused, as it is the opinion of the Committee that this application is not minor in nature, is not desirable for the appropriate development of the land, and does not meet the general intent and purpose of the Official Plan.

Committee members B. Birdsell and S. Dykstra returned at 4:52 p.m.

Application: A-66/15
Owner: Michael Barber and Natalie Schlee
Agent: N/A

Location: **38 Alice Street**

In Attendance: **Michael Barber**
 Natalie Schlee

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. M. Barber, owner, replied that the notice sign was posted and staff comments received.

Mr. M. Barber and Ms. N. Schlee indicated that they made several changes to their original design plans in consideration of staff comments.

The Committee had no questions for staff or the applicant.

No members of the public spoke in support or opposition of the 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 P. Ross and seconded by B. Birdsell,

“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 38 Alice Street, to permit the residential addition to be situated 0.3 metres from the right lot line, when the By-law requires that the minimum side yard shall be 1.5 metres,

be approved, subject to the following conditions:

1. That the applicant erect protective fencing at one (1) metre from the dripline of all existing trees on or adjacent to the property, to the satisfaction of the City’s Environmental Planner, prior to construction and/or site alteration commencing and prior to the issuance if any building permit.
2. That if tree removal is anticipated the applicant prepare and submit a Tree Preservation Plan undertaken by an arborist and provide tree compensation to the satisfaction of General Manager of Planning, Urban Design and Building Service and prior to building permit issuance.”

Carried

REASONS:

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

Application: B-20/15
Owner: Rashmi and Shirish Clerk
Agent: Michael Hoffman
Location: 86 Callander Drive
In Attendance: Michael Hoffman
Linda Clay

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. M. Hoffman, agent for the owner, replied that the notice sign was posted and staff comments received.

Mr. M. Hoffman outlined his application and explained that it is for a lot line adjustment as the house at 84 Callander Drive is considered legal non-conforming because it was built too close to the property line in 1956. The lot addition will make the property compliant with the current zoning by-law requirement of a 5 foot side yard. He indicated the severed lands do not contain services but are filled mostly with gardens. He suggested this will make the properties much more practical to use.

The Committee had no questions for staff or the applicant.

No members of the public spoke in support or opposition of the application.

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 B. Birdsell and seconded by M. Bosch,

“THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for severance of Lot 1 and Part Lot 2, Registered Plan 533, municipally known as 86 Callander Drive, a parcel with an area of 55.7 square

metres (599.5 square feet), as a lot addition to 84 Callander Drive,

be approved subject to the following conditions:

1. That the proposed severed parcel of land be conveyed to the abutting owner as a lot addition only (Form 3 Certificate).
2. That the following covenant is incorporated in the deed: "The conveyance of (Severed Lands - legal description - Lot and Plan), City of Guelph, County of Wellington, designated as (Part and 61R-Plan Number) as a lot addition only to (Legal Description of Lands to be joined with - Lot and Plan), and shall not be conveyed as a separate parcel from (Legal Description of Lands to be joined with - Lot and Plan)."
3. That the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for endorsement, prior to September 29, 2016.
4. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the endorsement of the deed.
5. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorsement of the deed, that he/she will provide a copy of the registered deed/instrument as registered in the Land Registry Office within two years of issuance of the consent certificate, or prior to the issuance of a building permit (if applicable), whichever occurs first.
6. That a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the draft Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk."

Carried

REASONS:

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

Application: A-78/15
Owner: Daniel Atlin
Agent: N/A
Location: 82-84 Suffolk Street West
In Attendance: Lloyd Grinham

Acting Secretary-Treasurer D. McMahon advised the Committee that correspondence was received from Mr. and Ms. J D’Amato indicating support of this application. As this letter was submitted after the comment deadline a copy of the correspondence was provided to the Committee members.

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. L. Grinham, agent for the owner, replied that the sign was posted and comments were received.

Mr. L. Grinham explained the purpose of his application.

The Committee had no questions for staff or the applicant.

No members of the public spoke in support or opposition of the 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 M. Bosch and seconded by S. Dykstra,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.1.2 Row 7 of Zoning By-law (1995)-14864, as amended, for 82-84 Suffolk Street West, to permit a left side yard of 0.6 metres for the proposed rear addition, when the By-law requires the minimum side yard shall be 1.5 metres, be approved.”

Carried

REASONS:

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

Application: **A-79/15**

Owner: **Jeff Bousfield & James Kritz**

Agent: **L. Alan Grinham Architect Inc.**

Location: **48-52 Macdonell Street**

In Attendance: **Lloyd Grinham**
 Marty Williams
 Conrad Aikens
 Justin Corstorphine
 Derek Boudreau
 Jeff Bousfiels

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. L. Grinham, agent for the owner, replied that the sign was posted and staff comments were received.

Mr. L. Grinham explained the purpose of his application.

Committee member M. Bosch asked staff if a condition of approval could be included to prevent the applicant from reducing the floor area of the kitchen and expanding the main area of the establishment in the future. Planner T. Donegani indicated that he did not believe it would be possible to impose such a condition.

No members of the public spoke in support or opposition of the 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 P. Ross and seconded by B. Birdsell,

“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 Section 6.3.2.5.2 of Zoning By-law (1995)-14864, as amended, for 48-52 Macdonell Street, to permit the total floor area of the

licensed establishment to be 505 square metres, when the By-law requires that the floor area of a licensed establishment shall not exceed 230 square metres, be approved.”

Carried

REASONS:

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

Application: B-21/15
Owner: 785412 Ontario Ltd. and 1773438 Ontario Inc.
Agent: N/A
Location: 223 Suffolk Street West
In Attendance: Subhash Chugh

Acting Secretary-Treasurer D. McMahon advised the Committee that both the sketch as provided by the applicant and the public meeting notice incorrectly noted that the subject property was located in the R.1B (Residential Single Detached) zone. The current zoning as a result of Zoning By-law (2015)-19914 passed on June 9, 2015 is R.2 (Residential Semi Detached) Zone. Property owners who were circulated the Committee of Adjustment public meeting notice would have received notice of the zone change at the time of that application. Acting Secretary-Treasurer D. McMahon stated that it was his opinion that adequate notice has been given. He recommended that the Committee satisfy itself that adequate notice had been given prior to considering this application.

Acting Secretary-Treasurer D. McMahon advised the Committee that condition 17 has been removed from the recommended conditions, at the request of staff, after the comments were circulated due to overlap with conditions 22 and 23.

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. S. Chugh, owner, replied the sign was posted and comments received.

In a response to a question from Committee member S. Dykstra, Planner T. Donegani stated that in the R.2 zone the by-law requires a lot width of 7.5 m per dwelling.

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

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

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

“THAT in the matter of an application under Section 53(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, consent for severance of Part of Lot 7, Registered Plan 29, municipally known as 223Suffolk Street West, a parcel with a frontage along Suffolk Street West of 7.6 metres,

be approved subject to the following conditions:

1. Prior to the issuance of a building permit, the Owner shall construct, install and maintain erosion and sediment control facilities, satisfactory to the General Manager/City Engineer, in accordance with a plan that has been submitted to and approved by the General Manager/City Engineer.
2. The Owner shall pay the actual cost of the removal of the existing driveway entrance including asphalt pavement within the road allowance from the area of the existing driveway entrance, the restoration of the boulevard with topsoil and sod including the required curb fill, with the estimated cost of the works as determined by the General Manager/City Engineer being paid, prior to the issuance of a building permit.
3. That the Owner pays the actual cost of the removal of the existing sanitary and water service laterals within the road allowance, with the estimated cost of the works as determined by the General Manager/City Engineer being paid, prior to the issuance of a building permit, and the public laneway, prior to endorsation of the deeds.
4. That the Owner pays the actual cost of constructing new sanitary and water service laterals to the proposed retained lands and the proposed severed lands including the cost of any curb cuts and/or curb fills required, with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid, prior to the issuance of a building permits.
5. That the Owner pays the actual cost of the construction of the new driveway entrances including the required curb cuts and/or curb fills, with the estimated cost of the works as determined necessary by the General Manager/City Engineer being paid, prior to the issuance of a building permits.
6. That prior to the issuance of a building permit on the proposed retained lands and the proposed severed lands, the Owner shall pay the flat rate charge established by

- the City to be applied to tree planting for the proposed retained lands and the for the proposed severed lands.
7. That the Owner constructs the new dwellings at such an elevation that the lowest level of the buildings can be serviced with a gravity connection to the sanitary sewer.
 8. That the Owner enters into a Storm Sewer Agreement, as established by the City, providing for a grading and drainage plan, registered on title, prior to endorstation of the deeds.
 9. That the Owner grades, develops and maintains the site in accordance with a Site Plan that has been submitted to and approved by the General Manager/City Engineer.
 10. The Owner agrees to install sump pumps unless a gravity outlet for the foundation drain can be provided on the lot. Furthermore, all sump pumps must be discharged to the rear yard.
 11. The Owner acknowledges that the City does not allow retaining walls higher than 1.0- metre abutting existing residential properties without the permission of the General Manager/City Engineer.
 12. That the Owner shall make arrangements satisfactory to the Technical Services Department of Guelph Hydro Electric Systems Inc. for the installation of an underground hydro service to the proposed new dwellings, prior to the issuance of a building permit.
 13. That the Owner makes satisfactory arrangements with Union Gas for the servicing of the lands, as well as provisions for any easements and/or rights-of-way for their plants, prior to the issuance of a building permit.
 14. The Owner shall ensure that all telephone service and cable TV service on the Lands shall be underground. The Owner shall enter into a servicing agreement with the appropriate service providers for the installation of underground utility services for the Lands, prior to the issuance of a building permit.
 15. That prior to endorstation of the deeds, the Owner shall enter into an agreement with the City, registered on title, satisfactory to the General Manager/City Engineer, agreeing to satisfy the above-noted conditions and to develop the site in accordance with the approved plans.
 16. Prior to this issuance of any building permits, the Owner shall pay to the City, as determined applicable by the Chief Financial Officer/City Treasurer, development charges and education development charges, in accordance with the City of Guelph

Development Charges By-law (2014)-19692, as amended from time to time, or any successor thereof, and in accordance with the Education Development Charges By-laws of the Upper Grand District School Board (Wellington County) and the Wellington Catholic District School Board, as amended from time to time, or any successor by-laws thereof at the rate in effect at the time of the issuance of a building permit.

17. Prior to the issuance of any building permits, the Owner shall submit a site plan under Section 41 of the Planning Act to, and have it be approved by the General Manager of Planning, Urban Design and Building Services and the City Engineer that indicates:
 - a. The location of the semi-detached dwelling, drawn in a metric scale;
 - b. Elevations of the semi-detached dwelling, drawn in a metric scale, showing and detailing the use of building materials and colours that are respective and in character with the built form of the surrounding neighbourhood;
 - c. All trees on the subject property, including the extent of their canopies that may be impacted by the development. Any trees within the City boulevard must also be shown, including appropriate protective measures to maintain them throughout the development process. The plan should identify trees to be retained, removed and/or replaced and the location and type of appropriate methods to protect the trees to be retained during all phases of construction; and
 - d. Comprehensive grading, drainage and servicing information.
18. That, if required, the Owner shall complete and submit a Tree Inventory, Preservation and Compensation Plan to the satisfaction of the General Manager of Planning, Urban Design and Building Services prior to any demolition, grading, tree removal or construction on the site in accordance with the Urban Forest policies as outlined in the Official Plan (September 2014 Consolidation).
19. The Owner shall not remove any vegetation during the breeding bird season (May-July), as per the Migratory Bird Act.
20. The Owner shall pay to the City, the City's total cost of reproduction and distribution of the Guelph Residents' Environmental Handbook, to all future homeowners or households within the project, with such payment based on a cost of one handbook per residential dwelling unit, as determined by the City, prior to the issuance of any building permit for the lands.
21. The Owner shall be responsible for the payment of cash-in-lieu of parkland dedication to the satisfaction of the Deputy CAO of Public Services pursuant to s. 51.1 and s. 53(13) of the Planning Act prior to the endorsement of the Transfer (deed).

22. Prior to the endorsement of the Transfer (deed) by the City, the Owner shall provide to the Deputy CAO of Public Services a satisfactory appraisal report prepared for The Corporation of the City of Guelph for the purposes of calculating the payment of cash-in-lieu of parkland dedication pursuant to s.51.1 and s.53(13) of the Planning Act. The appraisal report shall be prepared by a qualified appraiser who is a member in good standing of the Appraisal Institute of Canada, and shall be subject to the review and approval of the Deputy CAO of Public Services. Notwithstanding the foregoing, if the appraisal provided by the applicant is not satisfactory to the Deputy CAO of Public Services, acting reasonably, the City reserves the right to obtain an independent appraisal for the purposes of calculating the payment of cash-in-lieu of parkland dedication.
23. That the documents in triplicate with original signatures to finalize and register the transaction be presented to the Secretary-Treasurer of the Committee of Adjustment along with the administration fee required for endorsement, prior to September 29, 2016.
24. That all required fees and charges in respect of the registration of all documents required in respect of this approval and administration fee be paid, prior to the endorsement of the deed.
25. That the Secretary-Treasurer of the Committee of Adjustment be provided with a written undertaking from the applicant's solicitor, prior to endorsement of the deed, that he/she will provide a copy of the registered deed/instrument as registered in the Land Registry Office within two years of issuance of the consent certificate, or prior to the issuance of a building permit (if applicable), whichever occurs first.
26. That a Reference Plan be prepared, deposited and filed with the Secretary-Treasurer which shall indicate the boundaries of the severed parcel, any easements/rights-of-way and building locations. The submission must also include a digital copy of the draft Reference Plan (version ACAD 2010) which can be forwarded by email (cofa@guelph.ca) or supplied on a compact disk."

Carried

REASONS:

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

Committee member B. Birdsell left the room.

Application: A-80/15
Owner: Fatima Naqawe
Agent: Ahmad Lmohamad
Location: 30 Elizabeth Street
In Attendance: Ahmad Lmohamad

Acting Secretary-Treasurer D. McMahon advised the Committee that correspondence was received from Mr. A. McKay on behalf of the Red Chevron Club outlining concerns with the requested parking variance. As this letter was submitted after the comment deadline copies of the correspondence were provided to the Committee members.

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. A. Lmohamad, agent for the owner, replied that the sign had been posted and subsequently removed without his knowledge 2 times over the posting period and that staff comments were received.

Acting Secretary-Treasurer D. McMahon advised the committee that the sign had been picked up and posted on Friday September 4th and that staff received a call from the applicant on Tuesday September 15th indicating the sign had been removed on Sunday September 13th. A new sign was provided, picked up later that day, and promptly posted. On Wednesday September 23rd staff received a call from the applicant indicated that the sign had been removed a second time on Tuesday September 22nd.

Committee member M. Bosch raised concerns with the existing parking and suggested that when he visited the site there were abandoned vehicles which in his opinion had sat for many years and were taking up parking spaces. Planner T. Donegani indicated there may be an opportunity through the property standards by-law to remedy this situation.

Committee member M. Bosch asked about the process for by-law enforcement regarding property standards for parked and/or stored vehicles. The applicant indicated that he could remove some of the cars which have been sitting for an extended period of time.

In response to a question from Committee member S. Dykstra, Planner T. Donegani confirmed that there is no existing site plan for the subject property.

Committee member S. Dykstra recommended the removal of condition number 3 because it was his opinion that approval of site plan was the general intention of the recommended conditions and limiting the timing of the development was not relevant.

In response to a question from Committee member D. Kendrick Planner T. Donegani expressed that the 120 days referenced in condition 3 were proposed by Engineering staff as a reasonable timeline for completion.

Vice Chair K. Ash asked the applicant if he felt the timeline was acceptable and Mr. M. Lmohamad replied that it was.

Committee member S. Dykstra repeated his request to remove the condition but stated that if the applicant believes they could complete the development within 120 days then he would not oppose it.

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

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

“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 33 Elizabeth Street, to enlarge the existing vehicle repair shop by 52 square metres, and

THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.13.4.2 of Zoning By-law (1995)-14864, as amended, for 33 Elizabeth Street, to permit fourteen (14) parking spaces for the vehicle repair shop and residential dwelling, when the By-law requires a minimum of one (1) off-street parking space per 14 square metres of gross floor area in a vehicle repair shop (total of 21 off-street parking spaces required for the repair shop and single detached dwelling),

be approved subject to the following conditions:

1. That the owner deeds to the City free of all encumbrances a 2.0-metre wide parcel of land for road widening across the entire frontage of number 33 Elizabeth Street as shown in red on the owners site plan, prior to site plan approval.
2. The owner agrees to submit and receive approval from the City, in accordance with Section 41 of The Planning Act, a fully detailed site plan indicating the location of the building, landscaping, parking, circulation, access, lighting, grading and drainage and servicing to the satisfaction of the General Manager of Planning Services, prior to the issuance of a building permit.

3. That the owner develops the property in accordance with the approved site plan, within one hundred and twenty (120) days of site plan approval.
4. That prior to site plan approval, the owner applies to the City Solicitor for an encroachment agreement and obtains approval for the encroachment of an existing ground sign that will encroach on the Elizabeth Street road allowance after the road widening dedication.”

Carried

REASONS:

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

Committee member B. Birdsell returned.

Application: **A-81/15**

Owner: **Bozena Borek**

Agent: **N/A**

Location: **64 Paulstown Crescent**

In Attendance: **Bozena Borek**
 Andrew Borek

Vice Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. Mr. A Borek, representing the owner, replied that the sign was posted and comments were received.

The Committee had no questions for staff or 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 D. Kendrick and seconded by P. Ross,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Section 4.15.1.5 of Zoning By-law (1995)-14864, as amended, for 64 Paulstown Crescent, to permit the accessory apartment to have an area of 90 square metres (35% of the total floor area), when the By-law requires that an accessory apartment not exceed a maximum of 80 square metres in floor area, and shall not exceed 45% of the total floor area of the building, whichever is lesser, be approved.”

Carried

REASONS:

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

Application: A-82/15, & A-83/15

Owner: Guelph Watson 5-3 Inc.

Agent: Black, Shoemaker, Robinson & Donaldson Limited

Location: 11 Starwood Drive, Block 12 and Block 18

In Attendance: Nancy Shoemaker

Acting Secretary-Treasurer D. McMahon advised the Committee that there was an error in the zoning designation as stated on the notice. The subject property is located in the Specialized On-Street Townhouse Zone as described, but the designation should read R.3B-18 and not R.1C-10. The designation was corrected in the publicly posted comment document. Acting Secretary-Treasurer D. McMahon stated that it was his opinion that adequate notice has been given.

Acting Secretary-Treasurer D. McMahon advised the Committee that the recommended condition for file A-82/15 was repeated on the comment document for file A-83/15 in error. A copy of the recommended condition was provided to committee members.

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

Ms. N. Shoemaker outlined her application and indicated that the current designs were a result of consultation with staff. She indicated that Block 18 was to be comprised of live/work units and that urban design standards for this area involve a reduced building setback. She indicated that when this is taken in conjunction with the unit being a corner unit it was not possible to meet the minimum lot frontage required by the by-law. She indicated that in relation to Block

12 staff had recommended a treatment to the end unit so that there would be a face to Pettit Street and a face to Law drive which, when implemented, encroached into the minimum side-yard.

Committee member D. Kendrick inquired as to why a separate application was accepted for each block. Ms. N. Shoemaker replied that she was happy with submitting two applications.

Application A-82/15

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

Moved by D. Kendrick and seconded by B. Birdsell,

“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 5.3.2 Row 5A of Zoning By-law (1995)-14864, as amended, for Block 12 of Draft Plan of Subdivision 23T-11502 – 11 Starwood Drive, to permit an exterior side yard of 3.7 metres, when the By-law requires a minimum exterior side yard of 4.5 metres,

be approved subject to the following condition:

1. That the reduced side yard of 3.7 metres apply to Unit No. 5 of Block No. 12 only of draft plan of subdivision 23T11502.”

Application A-83/15

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

Moved by D. Kendrick and seconded by B. Birdsell,

“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 6.6.3.12.2.3 of Zoning By-law (1995)-14864, as amended, for Block 18 of Draft Plan of Subdivision 23T-11502 – 11 Starwood Drive, to permit a lot frontage of 3.5 metres, when the By-law requires a minimum lot frontage of 4.5 metres,

be approved subject to the following condition:

1. That the reduced lot frontage of 3.5 metres apply to Unit No. 1 of Block No. 18 only of draft plan of subdivision 23T11502.”

Carried

REASONS:

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

Other Business

Vice Chair K. Ash raised concerns with the use of the word “minor”, when describing proposed variances in the public meeting notices.

Acting Secretary-Treasurer D. McMahon advised the committee about discussion with staff surrounding the highlighting of variances on applicant drawings. While staff recognized the value in having the requested variances highlighted, they raised concerns with ensuring the correct variance is identified while maintaining onus on the applicant.

Acting Secretary-Treasurer D. McMahon advised the Committee that correspondence was received from the Ontario Municipal Board indicating the hearing for the appeal relating to file A-48/15 for 6 Tolton Drive originally scheduled for September 29th would be adjourned. A new hearing date was not provided.

The meeting was adjourned by Committee member S. Dykstra at 5:29 p.m.

B. Birdsell
Chair

D. McMahon
Acting Secretary-Treasurer