

COMMITTEE OF ADJUSTMENT

HEARING DATE: June 17, 2008

Staff Comments Regarding Files:

A12/08, A17/08, A18/08, A19/08, A20/08, B07/08, A21/08, A22/08 & A23/08

A12/08 – 567 King Street -- Tmichael Munn & Anria Loubser

The applicant is seeking a variance to reduce the minimum building setback from the east side lot line from 1.2 metres (4 ft) to 0 metres to recognize the location of a 26 sq metre detached garage located on the east side of the dwelling.

The subject property was formerly owned by people related to the owners of the adjacent property known municipally as 561 King Street. The development on the property appears to have occurred with less regard for the location of the property line than normal. Staff was contacted by the current owner of the property at 561 King Street who provided a survey attached as Exhibit A. The Survey illustrates that the garage is located 0.29 metres (0.97 ft) west of the lot line and the driveway is located 0.6 metres (2 ft) on the adjacent property. Staff noted that the survey provided by the applicant attached as Exhibit A illustrates that the garage is located 0.18 metres (0.6 ft) from the lot line.



Staff visited the subject property and noted that the structure has a very narrow eaves overhang (approximately 0.15 metres (0.5 ft) and no evestroughing. Staff also noted that the north end of the driveway to the garage is located approximately 0.6 metres on the 561 King Street property as shown on Exhibit A and illustrated on the adjacent photo. It was apparent that the

driveway was located across the lot line to avoid a rather substantial tree estimated to be in excess of 50 years old.

The photo illustrates the separation of approximately 3 metres (10ft) between the garage and the building on the adjacent property at 561 King Street. The dwelling on the subject property was built in 1950 and the garage was built in 1957.

The intention of the by-law is to provide a minimum separation of buildings on lots of 1.2 metres from the lot line effectively resulting in a separation of 2.4 metres between a garage next to a residential building and a dwelling on an adjacent lot. Staff considered the history of the property development in relation to the variance sought and the practicality of the location of the driveway and garage. Although the variance could address the established location of the garage, and its separation from the building on the adjacent property, there would be no space on the subject property to maintain the east wall of the building or even establish an eavestrough on the structure to control storm water being shed onto the adjacent property.

Considering that the purpose of this application is to rectify the legal circumstances associated with the development of the subject property, Staff recommended that the application be adjourned to allow the applicant to negotiate and secure a maintenance easement associated with the location of the garage and an easement associated with the location of the driveway. The applicant has negotiated easements rights with the neighbour and will be seeking a consent to the two easements.

It is the view of Staff that the application should be adjourned to proceed together with the consent application defining the required easements. Counsel for the applicant has asked for the variance application to be decided upon in order to assure there will be a decision justifying the requirement of the easements.

Staff is of the opinion that the impact of the variance if granted by the Committee would be minor, provided that eavestroughing is established and maintained on the garage to manage storm water on the subject property so as not to affect the neighbouring property.

Staff would recommend that the variance be granted on the condition that a 1.2 metre wide, maintenance easement over 561 King Street, providing adequate access to the east side of the garage, is established to the satisfaction of the City.

A17/08 – 7 Sanderson Court - Robert & Margaret Dixon

Referring to the Plan attached as Exhibit B, the applicant would like to construct a one-storey, sunroom addition to the rear of the residential dwelling on the property. The sunroom would be 4.26 metres (14 ft) wide projecting 1.98 metres (6.5ft) from the rear of the dwelling and would require a minor variance to reduce the minimum building setback from the rear lot line from 7.6 metres (24.9 ft) to 6.1 metres (20 ft).

The subject property is located at the end of a cul-de-sac in a relatively new subdivision. Staff visited the property and noted the standard of development of properties in the neighbourhood. Referring to the air photo below, staff also noted that the surrounding properties are larger lots with generous spatial separation between buildings. Adjacent properties to the rear of the subject property fronting on Baker Street have in excess of 12 metres (40 ft) between the rear of the dwelling and the rear lot line. Considering the rear

yards associated with adjacent lots and the conservative dimensions of the proposed addition, Staff is of the opinion that the proposal is reasonable and the impact of the variance would be minor.

Subject to concerns raised by neighbouring property owners, Staff would not object to the Committee granting the variance as described.



7 Sanderson Court

A18/08 – 624 Rubidge Street – Kevin Jarbeau & Selena Mary Mann

The applicant would like to remove and reconstruct the single car, detached garage on the property and construct a new garage 0.6 metres (2 feet) longer, located where it is currently situated in relation to the south side lot line. A variance is therefore requested to reduce the minimum building setback from the south side lot line from 1.2 metres (3.9 ft) to 0.9 metres (3 ft) to permit the slightly larger, detached garage to be constructed.

Staff visited the property, considered the standard of development of other properties in the neighbourhood and is of the opinion that the variance requested is minor. Staff would recommend that Committee grant the variance as described.

A19/08 – 116 Parkhill Road East - Psjeqan Inc.

A variance is requested to reduce the minimum building setback from Auburn Street from 6 metres (19.6 ft) to 3 metres (9.8 ft) to permit a proposed, cantilevered, canopy structure to be constructed over the gas pump islands to extend into the setback from the street line as illustrated on the plan attached as Exhibit C.

The subject property is located at the skewed intersection of Parkhill Road an arterial street and Auburn Street, a local street requiring only a 6 metre setback. The applicant has been working with staff toward developing a new site plan for the property including the relocation of the subsurface fuel tanks and pump islands on the property. Considering the functional alignment of the pump islands in relation to the angle of the street intersection and the cantilevered design of the canopy, Staff is of the opinion that the

impact of the variance requested to the setback would be minor. Staff would not object to the Committee granting the variance as described.

A20/08 – 409 Walton Street – Jeff Lanctot & Bubba Lougheed

The applicant would like to construct a one storey, 12 metres (13.5 ft) by 3.9 metres (13 ft) screened in porch attached to the rear of the dwelling on the property. A minor variance is therefore requested to reduce the minimum building setback from the rear lot line from 7.6 metres (24.9 ft) to 5.2 metres (17.32 ft).

Staff visited the subject property and considered the standard of development of properties in the vicinity. Referring to the photo below, staff would ask the Committee to consider that the alignment of properties in relation to the to the rear of the subject property are perpendicular. While the properties are deeper than a typical lot, the separation from development would be a rear yard to side yard circumstance.

The survey provided an attached as Exhibit D, is dated November 1987. In July 20 2004 a permit was issued for a two storey addition to the rear of the building in place of the one storey portion of the dwelling shown on the survey. The addition is described on the permit as 16 ft by 27 ft being dimensionally larger than the one storey portion of the building illustrated on the survey.

Staff is concerned with the representation of the development on the lot and a proposal that may result in development that would appear to be a departure from the standard building setback from rear lot lines of other properties within the vicinity.

Considering the established standard of development in the neighbourhood and the available space on the property to the south side of the dwelling, staff cannot support the variance requested. Subject to concerns raised by neighbouring property owners, Staff would not object to a lesser variance reducing the rear yard setback to 6 metres (20 ft) as reasonable. Should the dimensions represented on the building permit application accurately represent what has been constructed, the porch would be permitted to project approximately 2.7 metres (9 ft) from the rear of the dwelling. Should a larger porch be required, Staff would recommend that the application be adjourned to allow the applicant to provide updated survey information to be considered.



**409 Walton
Street**

B07/08 – 1633 Water Street – Trent University

Referring to the Survey attached as Exhibit E, a consent is requested for a lease of a 2.5 hectare (6 acre) parcel of land for a period that would exceed 21 years. The purpose of the lease is to facilitate development of the property for mixed commercial and multi-unit residential purposes as permitted under the University College zoning.

The proponent is working on development of a site plan for the property but at this stage no plan has been advanced to determine the absolute area of land required for the development contemplated in relation to the municipal infrastructure adjacent to it. There are three issues that will be considered regarding the site plan for the property. One is the relationship of the development considering the widening of the Water Street road allowance in accordance with the Official Plan Policies. The second issue is the relationship of site development and access considering the longer term plan to relocate the Nassau Road bridge crossing over the Otonabee River. The third issue is with respect to Official Plan policies regarding the protection of “raw water” quality within the catchment area for the City’s drinking water intake.

The subject property is located within the area that drains into the Otonabee River up stream from the intake for the City’s drinking water. In order to protect the quality of raw water in this area, the Official Plan Policy provision 3.5.2.1.1 requires that a raw water quality impact analysis be provided as a part of the site plan approval process. The Source Water Protection Planning Process is also underway that would consider the property to be within the Intake Protection Area.

The size of the proposed parcel of land to be leased does conform to the minimum property dimensions of the University College zoning district. Staff would therefore not object to the consent as requested subject to the following conditions:

- 1) The owner providing, free of encumbrances and at no cost to the City, a 6 metre wide strip of land along the entire road frontage of the subject and retained property for the purpose of widening the Water Street road allowance.
- 2) The owner entering into an agreement with the City that will require the preparation of a raw water quality impact analysis in accordance with Official Plan policy 3.5.2.1.1 b) as a condition for site plan design and approval.

A21/08 – 593 Reid Street - Pro-Tect Lock & Safe Limited

The subject property is located in a residentially designated area at the corner of Reid Street and Dublin Street. The property has site specific zoning SP .34 Commercial District that would permit only an “automotive electric service establishment.”

The applicant is requesting a variance to permit the use of the building on the property for a “lock and safe service” and retail establishment of the same, as a use considered similar to the automotive electric service establishment. A variance would also involve a redevelopment of the site including the replacement of the north portion of the building

and the construction of a peaked roof over the building that may exceed the maximum building height of 4.6 metres (15 ft). Finally, a variance is requested to Schedule A attached to the SP.34 zoning district and this report as Exhibit F.

The applicant is proposing to reconstruct a portion of the building and is prepared to re-delineate the location of the building, parking and landscaped open space areas as represented by the site plan attached as Exhibit G.

Staff considered the compatibility of the existing use of the property as an automotive electrical service establishment compared the proposed use of a lock and safe service and retail establishment. Staff is of the opinion that the proposed use is somewhat similar to the established use but more compatible in the context of the residential neighbourhood. Because the proponent is also offering measures that would improve the development and compatibility of the site in relation to adjacent properties, staff would view the proposed reuse and improvements as more conforming to the residential designation of the neighbourhood.

The proponent has provided the plan attached as Exhibit F. Staff considered the proposed concept site plan along with the proposal and variance requested to construct a peaked roof on the building and is of the opinion that the proposed redevelopment would improve the street front profile of the property. The proposed changes including the peaked roof would make the building appear less industrial and the soft landscaping instead of pavement in relation to the boulevard and street-front corner of the property would improve the streetscape being respectful of the residential nature of adjacent properties in the vicinity.

Staff would support the proposed variances as described on the condition that the owner enter into a site plan agreement with the City to ensure the implementation of the improvements to the site as described and illustrated on Exhibit G. The Site Plan Agreement pursuant to Section 41 of the Planning Act will also address storm water management on the property in relation to adjacent residential properties to the west and south.

A22/08 – 1018 Nornabell Avenue – John & Patricia Taylor

The subject property is the second to last lot in a row of lots in a new subdivision that backs onto an area of land zoned as Open Space known as the Loggerhead Marsh. The owner of the property also owns the last lot in the row to the east that is currently vacant.

The applicant would like to construct an extension to the elevated deck attached to the upper level of the dwelling within the rear yard. A variance is therefore requested to reduce the minimum building setback from the rear lot line from 7.6 metres (24.9 ft) to 6 metres (19.6 ft) to permit the structure that would project approximately 1.9 metres (6 ft) to the rear of the dwelling as illustrated on Exhibit H.

Staff visited the subject property and considered the relationship of the proposal to the development of the adjacent properties and is of the opinion that the variance requested

is reasonable in order to accommodate a larger deck area and the impact on all adjacent properties could be considered minor. Staff did note that the dwelling on the adjacent lot to the west was situated slightly forward on the lot and therefore the deck would project slightly into the line of sight from the adjacent lot out across the marsh. Staff also noted that the elevated deck associated with the adjacent property is on the far (north west) side of the dwelling.

Subject to concerns raised by the neighbouring property owners Staff would not object to the Committee granting the variance as described.

A23/08 – 971 Lansdowne Street West – D. J. Mac Limited

The subject property, located at the south east corner of Lansdowne Street West and The Parkway, is zoned C.4 Commercial District. The applicant is proposing to establish a gas bar on the site and is requesting a variance to reduce the minimum building setback from the centre line of The Parkway right of way from 33.5 metres (109.9 ft) to 26.8 metres (87.9 ft) to permit a cantilevered, canopy to be constructed over the gas pump islands.

The applicant has been working with the city to realize development of the site. The plan includes 5 metres of land considered surplus to the requirements of The Parkway that would form a part of the site. The proponent has prepared a site plan that illustrates the location of a canopy over fuel pump islands that would form a part of the proposed service station on the property. While a service station is a use permitted by the C.4 Zoning District, the property is located within the flood plain of the Byersville Creek. For that reason development of the property is subject to the requirement of a permit from Otonabee Conservation.

While the variance applied for pertains to the location of a canopy on the site in relation to the Parkway Road allowance, the canopy is sought in conjunction with the proposed plan for development of a gas bar on the site. Staff is of the opinion that a variance that would permit the construction of the canopy as proposed would have little impact on adjacent land use. It should be clear that this opinion is provided with regard to the canopy structure only and has no bearing whatsoever on any other approval required for this proposed land use and development.

Respectfully submitted,

Richard Straka
Planner Policy & Research

R. Waldron, C.E.T., CBCO
Manager, Building Division