

COMMITTEE OF ADJUSTMENT

Minutes of a Meeting of the Committee of Adjustment for the City of Peterborough held **Tuesday, December 2, 2008** at 7:00 p.m., in the General Committee Room, City Hall.

PRESENT: Mr. Paul Dorris, Chairperson
Mr. Len Lifchus
Mr. Claude Dufresne
Ms. Margaret Wood
Mr. Keith Riel

ALSO PRESENT: Mr. Richard Straka, Planner, Policy and Research
Mrs. Carolyn Jobbitt, Secretary Treasurer

REGRETS: Mr. Bob Waldron, Manager, Building Division

1. **FILE NO.** A43/08
ADDRESS: 1174 – 1178 Armour Road
APPLICANT: JLB Civil Engineering Ltd.

This matter relates to a minor variance application submitted by JLB Civil Engineering Ltd., 1001 Nornabell Ave., Peterborough, Ontario, K9K 2S8, on behalf of 2160288 Ontario Inc., 2345 Yonge Street, Suite 302, Toronto, Ontario, M4P 2E3, being the owner of the property which is subject to this application.

This application was adjourned to this meeting from the November 4th, 2008, Committee of Adjustment meeting at the request of the owner.

The owner of the property has requested a variance to increase the maximum commercial floor area of a building on the site from 745 square metres (8,019 sq ft) to 1,160 sq metres (12,486 sq ft) and increase the maximum permitted floor area per commercial purpose from 235 sq metres (2,529 sq ft) to 380 sq metres (4,090 sq ft) to accommodate various tenants.

The Chairman acknowledge a further written request by the applicant dated November 20, 2008, requesting an adjournment once more to the next Committee of Adjustment meeting, to be held on January 20, 2009. The purpose of the request is to permit sufficient time for the proponent to review the proposal in the context of applicable Official Plan Policies.

No one spoke in objection to the application and no written objections were received.

DECISION

The Committee agreed to adjourn this application to the next Committee of Adjustment meeting to be held on January 20, 2009, to permit the applicant an opportunity to review and consider the requirements of the City's Official Plan regarding the proposed use and development of the subject property.

2. **FILE NO.** A47/08
ADDRESS: 844 Rye Street
APPLICANT: The Mattress and Brass Bed Co. Ltd.

This matter relates to a minor variance application submitted by The Mattress and Brass Bed Co. Ltd., 844 Rye Street, Unit 4, Peterborough, Ontario, K9J 6W9, on behalf of, Sherbrooke Holdings Limited, R. R. #3, 2345 Whittington Drive, Peterborough, Ontario, K9J 6X4, being the owner of the property which is subject to this application.

Mr. Charles Porter and Mr. Dean Porter, owners of The Mattress & Brass Bed Co. attended the meeting and addressed the Committee as follows:

- They recently relocated their mattress warehouse to the subject property and would like to use the front half of the premises for retail purposes.
- They stated that the showroom/retail space measured 67 ft. by 40 ft. that falls within 250 sq. m. requested by their application.
- Accordingly, they are seeking permission to use approximately 250 sq metres (2,700 sq ft) of the existing building for the purpose of display and retailing of mattresses in conjunction with the primary use of the building as a warehouse for mattresses.

Mr. Richard Straka, Planner, Policy & Research, presented staff comments with respect to the application on behalf of the Building and Planning Division of the Planning & Development Services Department, City of Peterborough.

No one spoke in objection to the application and no written objections were received.

DECISION

The Committee recognized that the Official Plan designation of the property was Service Commercial that would anticipate a limited range of retail commercial uses that would require large space for storage and display of merchandise. Considering the zoning, the Committee also appreciated that the applicant was requesting a limited area to be used for retail purposes for the sale of mattresses that are warehoused within the building on the property. Accordingly, the Committee determined that the proposed retail use would conform to the intent of the Official Plan and, on a limited scale, would be compatible with other businesses in the vicinity.

Accordingly, the Committee determined that it was appropriate to permit the use.

Therefore, permission is granted to use no greater than 250 square metres of building floor area for the display and retail of mattresses and associated bedding merchandise in conjunction with the warehouse located on the property.

3. **FILE NO.** **A48/08**
 ADDRESS: **534 George Street North**
 APPLICANT: **George Street United Church**

This matter relates to a minor variance application submitted by George Street United Church, 534 George Street North, Peterborough, Ontario, K9H 3S2, being the owner of the property which is subject to this application.

Mrs. Doris Neufeld and Mr. George James, on behalf of George Street United Church, together with Ms. Casey Ready on behalf of Community Counselling & Resource Centre, attended the meeting and addressed the Committee as follows:

- George Street United Church has been facing financial challenges over the past few years.
- The Church has been searching for ways to improve their financial situation and at the same time, find a solution that is compatible with the values of the Church.
- This search has resulted in a proposed lease of the 2nd and 3rd floors of the annex to the north of the church to the Community Counselling & Resource Centre.

- The Church is seeking permission to use approximately 550 sq metres (6,000 sq ft) of the building as an office for the administration of community services. The zoning permits a public administration establishment.
- A variance is also requested to reduce the motor vehicle parking spaces required in association with the proposed use from 10 to 9.
- Nine motor vehicle parking spaces are established on the property to the rear of the church with access from Water Street. The church was interested in establishing 9 additional motor vehicle parking spaces at the front of the building with access from George Street. The additional parking would be to provide "accessible" parking in relation to the elevator within the church for the church on Sundays and could also provide additional parking to support the proposed administrative office space use during the rest of the week.

Mr. Richard Straka, Planner, Policy & Research, presented staff comments with respect to the application on behalf of the Building and Planning Division of the Planning & Development Services Department, City of Peterborough.

The property is regarded as legal non-conforming in terms of the parking provided in relation to its current use and development.

Staff confirmed that a preliminary concept plan was filed with the application that illustrated the possibility of accommodating 9 motor vehicle parking spaces in front of the building, which is to be occupied by the Community Counselling & Resource Centre. The proposed new parking area will be accessed from George Street.

While the floor area to be used for administrative offices space would require 10 parking spaces, Staff suggested that the impact of reducing the number of required parking spaces from 10 to 9 would be minor particularly considering that 3 parking spaces will be designated as accessible parking within the space available.

No one spoke in objection to the application and no written objections were received.

DECISION

The Committee reviewed the application and considered the Official Plan designation of the property that would anticipate the proposed use. The Committee determined that locating the Community Counselling & Resource Centre within the "Central Area" near the central business district would facilitate easier access by a greater number of people being close to central bus service and other services and amenities typically located in the downtown. The Committee further determined that the use of the building for Community Counselling and Resource Centre would conform to the anticipated land uses, the intent of the Official Plan and the nature of the uses permitted by the zoning district.

With respect to the request for the reduction in the number of motor vehicle parking spaces from 10 to 9, the Committee reviewed the application and determined that the impact of varying the parking requirement by one motor vehicle parking space would be minor considering the 3 "accessible parking" spaces to be provided and that the limited area of office space was for the administration of community services.

Accordingly, the Committee determined that it was appropriate to permit a limited area of the building for the proposed use.

Therefore, permission is granted to use up to 550 sq metres of the building floor area of the annex as an office for the administration of community services, provided that no less than 18 motor vehicle parking spaces are established and maintained on the property of which 9 spaces are available for the office.

4. **FILE NO.** B10/08
ADDRESS: 561 King Street
APPLICANT: Philip Aldrich

This matter relates to severance application submitted by Philip Aldrich, solicitor with the law firm, Lockington, Lawless, Fitzpatrick, 332 Aylmer Street North, Box 1146, Peterborough, Ontario, K9J 7H4, on behalf of Morgan John Tamplin and Illi-Maria Tamplin, 561 King Street, Peterborough, Ontario, K9J 2T4, being the owners of the property subject to this application.

Mr. Aldrich attended the meeting and addressed the Committee as follows:

- The application before the Committee was submitted in order to comply with the condition contained in Committee of Adjustment Decision numbered A12/08 for property municipally known as 567 King Street. This condition required the establishment of a 1.2 metre wide easement over 561 King Street in order to provide adequate access to maintain the east side of the garage.
- Accordingly, the owner of the subject property is requesting consent to convey an easement over a 1.21 metre (4ft) X 9.36 metre (30.73 ft) portion of the westerly limit of 561 King Street in favour of the owner of the adjacent property known municipally as 567 King Street.

Mr. Richard Straka, Planner, Policy & Research, presented staff comments with respect to the application on behalf of the Building and Planning Division of the Planning & Development Services Department, City of Peterborough.

No one spoke in objection to the application and no written objections were received.

DECISION

Consent is granted for an easement over a 30.7 square metre portion of the property along the westerly limit of 561 King Street, in favour of the owner of 567 King Street. The purpose of the easement is to provide access to the east side of the garage to maintain the building for the lifetime of the structure.

5. **FILE NO.** A50/08
ADDRESS: 178 – 184 Stewart Street
APPLICANT: Murray D. Stroud

6. **FILE NO.** B11/08
ADDRESS: 178 – 184 Stewart Street
APPLICANT: Murray D. Stroud

These matters relate to a minor variance application and a severance application submitted by Murray D. Stroud, Barrister & Solicitor, 356 Kingston Road, Pickering, Ontario, L1V 1A2, on behalf of David Jones and Joanna Dickson, 711 King Street, Whitby, Ontario, L1N 5A2, being the registered owners of the property.

Mr. Stroud and Mr. Jones attended the meeting and addressed the Committee as follows:

- The properties were inadvertently merged when the property owners purchased the property municipally known as 184 Stewart Street.
- Accordingly, the owners of the property are requesting consent to convey ownership of the northerly 12.7 metres of the property known municipally as 184 Stewart Street that inadvertently merged with 178 Stewart Street.
- The following variances are therefore requested to address the regulations of the zoning by-law with regard to the retained property known municipally as 178 Stewart Street:
 - i. reduce the minimum lot area from 370 sq metres (3982 sq ft) to 306 sq metres (3229 sq ft);
 - ii. reduce the minimum lot width from 12 metres (39.3 ft) to 9 metres (29.52 ft);
 - iii. reduce the minimum building setback from the north side lot line from 1.2 metres (3.9 ft) to 0.3 metres (1.2 ft); and
 - iv. reduce the minimum number of motor vehicle parking spaces required on the property from 1 to 0.
- There is a separate mortgage registered on each portion of the property as described by the application for severance.
- The error of the merger was discovered when the owners recently attempted to acquire title insurance to complete the refinancing of one portion of the property.
- They have read the staff report and agree with the proposed reconfiguration of the property line as recommended by staff, however, they would prefer to have the property line returned to its original location. The severance as requested would permit the owners of the property to complete the mortgage to provide funding for their purchase of a further property. It will also permit the existing mortgages on the property to remain as they are. Once the property line is returned to its original position the owner is agreeable to follow up and apply to the Committee of Adjustment to have the property line located as recommended by Staff. If the Committee grants their request, they would be content that as a condition of severance, they enter into an agreement with the City reflecting the foregoing. This agreement could be registered on the title of both 178 and 184 Stewart Street.

Mr. Richard Straka, Planner, Policy & Research, presented staff comments with respect to the application on behalf of the Building and Planning Division of the Planning & Development Services Department, City of Peterborough.

In response to questions from the Committee, Mr. Stroud and Mr. Jones responded as follows:

- Legally, at this point, the mortgages registered on title are void.
- In order to move the property line, the existing mortgagees would have to be satisfied that the re-location of the property does not adversely impact the value of the property as security.

- The owners consider the mortgages currently registered on the two properties to be at a much lower interest rate than they would be able to obtain if they had to re-negotiate a new mortgage due to the redefinition of each portion of the property. This could cost the owners thousands of dollars, including the discharge of the mortgage and registration of new mortgages.
- The laneway at the rear of the property is not accessible from either of the subject properties to provide access for parking in the rear yard to avoid the variance required for parking.
- The error was discovered on November 4, 2008.
- The Mortgagees have not been asked if they would consent to the relocation of the property line. The first step taken by the owners of the property was to seek the Committee's consent to returning the property line to its original location.

No one spoke in objection to the application and no written objections were received.

DECISION – B11/08

The Committee reviewed the severance application and acknowledge that while it may be economically convenient to locate the line of severance where it once was to correct a legal oversight, it is not practical from a planning perspective. The Committee viewed the need for a severance as an opportunity to redefine two reasonable sized properties in relation to their development making both parcels functional in accommodating parking and safe from a building and fire code perspective considering the location of window openings on the north wall of the building at 178 Stewart Street in relation to a the side lot line as proposed. Relocating the line of severance as recommended by Staff could eliminate the need for a variance to the side lot line and parking required in relation to 178 Stewart Street.

Accordingly, the consent as requested is DENIED.

Alternatively the Committee determined that it would be more appropriate to grant a consent that would permit the conveyance of the northerly 10 metres of the subject property subject to the approval of the variances granted under file A50/08.

DECISION – A50/08

The Committee reviewed the variance application for 178 Stewart Street and determined that the impact of the variance requested to reduce the requirement of a motor vehicle parking space to zero was not minor and the variance to reduce the minimum building setback from the north side lot line was not minor considering the window openings on the north wall of the dwelling. The Committee also considered the alternative to granting the variances by re-locating the line of severance 2.6 metres to the north to reduce the number and degree of variances required in relation to the two parcels.

Considering the variances applied for, the Committee determined that:

1. the variances are not minor;
2. the proposal is not desirable for the appropriate development or use of the land;
3. the general intent and purpose of the Zoning By-law is not maintained; and,
4. the general intent and purpose of the Official Plan is not maintained.

Therefore the minor variances are DENIED.

The Committee alternatively considered variances for the two parcels that would be delineated by relocating the line of severance 2.6 metres to the north listed as follows:

a) 178 Stewart Street

- i. reduce minimum lot width from 12 metres to 11.7 metres.

b) 184 Stewart Street

- i. reduce the minimum lot area from 370 square metres to 355 square metres; and
- ii. reduce the minimum lot width from 12 metres to 10 metres.

The Committee determined that:

1. the variances are minor;
2. the proposal is desirable for the appropriate development or use of the land;
3. the general intent and purpose of the Zoning By-law is maintained; and,
4. the general intent and purpose of the Official Plan is maintained.

Therefore the following variances are granted to support the decision under file B11/08:

a) 178 Stewart Street

- i. reduce minimum lot width to 11.7 metres.

b) 184 Stewart Street

- i. reduce the minimum lot area to 355 square metres; and
- ii. reduce the minimum lot width to 10 metres.

The variances are granted provided that one motor vehicle parking space is established and maintained on each of 178 and 184 Stewart Street.

7. FILE NO. A49/08
ADDRESS: 730 Hawley Street
APPLICANT: Rick Lockett

This matter relates to a minor variance application submitted by Rick Lockett, 1650 Chemong Road, Peterborough, Ontario, K9J 6X2, on behalf of 724 Erskine Inc., c/o Monreal Property Manage Inc., 41 Main Street, Unionville, Ontario, L3R 2E5, being the owner of the property which is subject to this application.

The purpose of this application is to seek permission use the property for retail sale and repair of recreation vehicles as a use similar to the sale of heavy trucks and a motor vehicle repair establishment which are uses permitted by the industrial zoning of the property.

Staff advised that permission from the owner of the subject property to proceed with the application had not been received. Staff advised the Committee that the application was incomplete and suggested that the Committee defer the application to the next meeting of the Committee on January 20, 2009 to permit the applicant time to provide the documentation required to perfect the application.

DECISION

The Committee agreed to adjourn this application to the next Committee of Adjustment meeting to be held on January 20, 2009, to permit the applicant an opportunity to obtain the owner's authorization to pursue this application.


NEXT MEETING:

The next meeting of the Committee of Adjustment is scheduled for January 20, 2009.

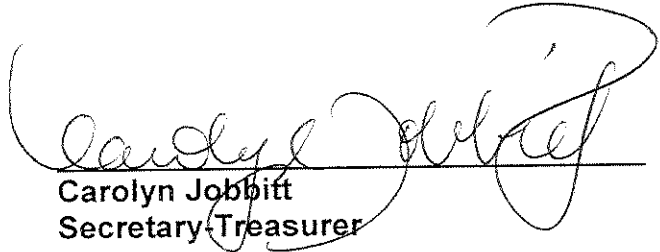
ADJOURNMENT:

Meeting adjourned at 9:30 p.m.

Dated the 11th day of December, 2008.



Paul Dorris
Chairman



Carolyn Jobbitt
Secretary-Treasurer