

## COMMITTEE OF ADJUSTMENT

Minutes of a Meeting of the Committee of Adjustment for the City of Peterborough held **Tuesday, March 3, 2009** 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.** A05/09  
**ADDRESS:** 227 and 301 Carnegie Ave.  
**APPLICANT:** John D. Nichols

This matter relates to a minor variance application submitted by John Nichols, solicitor with the law firm Messrs. Howell, Fleming, Barristers & Solicitors, 415 Water Street, Peterborough, Ontario, K9J 7A9, on behalf of Triple T Holdings Limited, P. O. Box 1079, Peterborough, Ontario, K9J 7A9, being the owner of the property subject to this application.

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

- He acts for Triple T Holdings who are constructing a condominium development. This project will be completed in various phases and they are in the process of completing the first phase.
- His clients have entered into an agreement of purchase sale with a purchaser who would like to have a larger deck than what was contemplated by the design. A review of this matter by his clients with the City's Building Division, resulted in the recommendation that a minor variance be requested for units 1, 2, and 3 in Phase I and units 61, 62, 63, 64, 65 and 66 in Phase II in the event that any proposed purchaser may also wish to have the deck enlarged.
- Accordingly, his clients are requesting a minor variance to increase the maximum distance that a platform deck may project into a building setback from the street line from 1.5 metres (5 ft) to 3.65 metres (12 ft) for 3 units located within the residential complex at 227 Carnegie Avenue and 6 units located within the complex at 301 Carnegie Avenue.
- The deck associated with these properties would be located approximately 5.74 metres (18.8 ft) from the Carnegie Avenue street line.
- It is his opinion that, upon review of the site plan, no neighbour is impacted by the enlargement of the decks as these properties back onto Carnegie Avenue.
- The Site Plan Agreement registered on title for Phase I of the development requires that all buyers be notified of the noise issues. It is his opinion that the condition set out on the Staff report has already been complied with in the Site Plan Agreement for Phase I.

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.

In response to questions from the Committee, Staff advised as follows:

- The Site Plan Agreement for Phase I is registered. The Site Plan Agreement for Phase II is "a work in progress" and has not yet been registered. Accordingly, Staff is recommending that the Decision be conditional upon the agreement including a noise warning clause for the benefit of purchasers and future owners.
- Staff have spoken to the author of the Traffic Noise Feasibility Study for Carnegie Avenue and Water Street (conducted by HGC Engineering, dated May 30, 2007), and can confirm the following:
  - i) the exceeded sound levels would impact outdoor living areas and that the noise would be greatest closest to the wall of the dwelling.
  - ii) As you move toward the sound barrier located at the rear of the yard, the noise becomes less.
- If this was a patio, rather than an elevated deck, no variance would be required.

In response to questions from the Committee, Mr. Nichols advised as follows:

- If, in a few years, it was determined that the fence at the rear of the properties backing onto Carnegie Ave. did not effectively reduce the noise, there would be no obligation on the part of the City or Triple T Holdings Limited. Any future purchaser's solicitor will search the title of the property and would find the noise warning clause on the Site Plan Agreement. At that point any prospective purchaser unaware of this noise issue could agree to accept this warning or not complete the purchase.
- He will advise his client that any steps from the deck into the rear yard need to be encompassed within the 12 feet requested for the variance.

## **DECISION**

The Committee considered the recommendation within the Noise Feasibility Study prepared by HGC Engineering, dated May 30, 2007, including that the noise levels would exceed the Ministry of the Environment standards, and that the point of loudest noise would be at the wall of the building.

Based on the foregoing, the Committee determined that there would not be a significant increase in the volume of noise as a result of extending the deck 2.15 metres toward the noise attenuation barrier. However, a noise warning clause must be included in the site plan agreement associated with each unit.

Accordingly, the Committee determined that:

1. the variance is 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, a minor variance is granted to increase the maximum distance that a platform deck may project into a building setback from the street line to 3.65 metres for units 1, 2, and 3, Phase I, located within the residential complex at 227 Carnegie Avenue and for units 61, 62, 63, 64, 65, and 66, Phase II, located within the residential complex at 301 Carnegie Avenue PROVIDED THAT the owner agrees that all Agreements of Purchase and Sale, Occupancy Agreements or Leases pertaining to the foresaid units include the following warning clause:

*Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the dwelling units, the sound levels due to increasing road traffic may occasionally interfere with some of the activities of the dwelling unit's occupants, as the sound levels exceed the Ministry of the Environment's noise criteria*

2.     **FILE NO.**             B04/09  
       **ADDRESS:**         220 Bennet Street  
       **APPLICANT:**      Philip Aldrich

This matter relates to severance application submitted by Philip Aldrich, solicitor with the law firm Messrs. Lockington, Lawless, Fitzpatrick, Barristers & Solicitors, 332 Aylmer Street North, P. O. Box 1146, Peterborough, Ontario, K9J 7H4, on behalf of Edward and Catherine Kingdon, 220 Bennet Street, Peterborough, Ontario, K9H 5B4, being the owner of the property which is subject to this application.

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

- His client would like to convey a triangular portion of the subject property to the owner of the adjacent property known municipally as 216 Bennett Street to align the north east side lot line with the established boundary of the property based on its use and development.
- This re-alignment will bring the location of the garden shed on the property municipally known as 216 Bennet Street, into compliance with the zoning by-law.
- This land is excess to the property municipally known as 220 Bennet 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 to convey a triangular portion of the subject property to the owner of the property municipally known as 216 Bennet Street, PROVIDED THAT Section 50(5) of the *Planning Act* apply to any subsequent transaction involving the parcel of land that is subject of this application. Further, the approval is subject to the applicant providing a survey to the satisfaction of the City Planner showing the parcel to be conveyed.

3.      **FILE NO.**                    **A06/09**  
          **ADDRESS:**                **260 Aylmer Street North**  
          **APPLICANT:**            **Keith & Christa Payne**

This matter relates to a minor variance application submitted by Keith and Christa Payne, 114 Maude Street, Peterborough, Ontario, K9J 3A2, being the owners of the property subject to this application.

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

- There are currently 3 residential units in the building.
- He would like to remove a rear portion of the building and the garage on the property and construct an addition that would contain 4 dwelling units.
- The C.6 Commercial zoning of the property requires that residential use of any building be located on the second storey or higher.
- He would like to “clean-up” the property, stay within the mixed uses of the property and have a total of 6 units.
- Accordingly, he is requesting a variance to the C.6 Commercial zoning of the property to allow residential use of the building on all levels that are not a part of the main level, street front portion of the building on the property.

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 addition, staff advised that this property is located in the Central Area District. The parking requirements for six units in this district are 2 motor vehicle parking spaces (four motor vehicle parking spaces are exempt within the CBD). The owner of the property has the option at the building permit stage to pay cash-in-lieu thereby no motor vehicle parking spaces are required. The funds generated by the cash-in-lieu are used to facilitate public parking areas in the Central Area District.

#### **DECISION**

The Committee reviewed the application and determined that creation of the additional units was in keeping with the provincial growth plan directives regarding compact growth and intensification as well as the City’s Downtown Master Plan objectives to foster residential development in the downtown.

Accordingly, the Committee determined that:

1. the variance is 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, a minor variance is granted to permit residential use of the building on all levels that are not a part of the main level, of the building beyond 14 metres of the street line.**

4.     **FILE NO.**            **A07/09**  
       **ADDRESS:**        **2497 Marsdale Drive**  
       **APPLICANT:**     **Robert Gray**

This matter relates to a minor variance application submitted by Robert Gray, 2497 Marsdale Drive, Peterborough, Ontario, K9L 1Z4, being the owner of the property which is subject to this application.

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

- He would like to construct a vestibule entrance to the front of the dwelling.
- A variance is therefore requested to reduce the minimum building setback from the centre line of Marsdale Drive from 19 metres (62.3 ft) to 17.8 metres (58.39 ft) to allow the proposed construction of the 2.7 metre (9 ft) wide by 1.8 metre (6 ft) deep addition.
- The exterior of the proposed addition would be finished in red or gray brick.

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.

#### **DECISION**

The Committee considered the established standard of development in the neighbourhood, the orientation of the dwellings in relation to the bend in Marsdale Drive and determined that the variance of 1.2 metres would have little impact on neighbouring property owners.

Accordingly, the Committee determined that:

1. the variance is 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, a minor variance is granted to reduce the minimum building setback from the centre line of Marsdale Drive to 17.8 metres to permit the proposed construction of the 2.7 metre wide by 1.8 metre deep addition.**

5.     **FILE NO.**            **A08/09**  
       **ADDRESS:**        **2505 Pioneer Road**  
       **APPLICANT:**     **Robert Burgis**

This matter relates to a minor variance application submitted by Robert Burgis, Barrister & Solicitor, 1120 Birchview Road, Lakefield, Ontario, K0L 2H0, on behalf of Camp Kawartha, 1010, Birchview Road, Lakefield, Ontario, K0L 2H0 and Trent University, Trent University, P. O. Box 4800, Peterborough, Ontario, K9J 7B8, being the owner of the property which is subject to this application.

Mr. Jacob Rodenburg, Executive Director at Camp Kawartha, attended the meeting and addressed the Committee as follows:

- The applicant would like to construct a 180 square metre building on lands owned by

Trent University for use as an outdoor education centre.

- This building will be "off grid" and will not be connected to municipal sewer and water services.
- The applicant would like a variance from section 6.4 of the zoning by-law that would require municipal water and sewer services to lands upon which they would like to establish a building as a classroom facility.

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, Staff advised as follows:

- This is an experimental building that is new to Peterborough and it is appropriate to have it located on lands zoned U.C. University College for educational purposes.
- There are no municipal sewer or water services in the vicinity that this building can be connected to.
- ORCA has advised that they have no concerns with respect to this application.

In response to questions from the Committee, Mr. Rodenburg advised as follows:

- The building will accommodate approximately 56 people, but it will likely only have one classroom of students at a time.
- They expect that the building may be used by naturalists as meeting space.
- They are working with the Fire Department to ensure compliance with the Fire Code. One option is the installation of a cistern to store water that would be available for fire suppression.
- They are proposing to have solar power that may be connected to the electrical grid.
- They are proposing to harvest rainwater which will be filtered and treated by a licensed person to be used as potable water.
- A living green roof design was considered, but will be scaled down in size due to the cost.
- The land associated with the building will be leased from Trent University for 20 years.

## **DECISION**

The Committee reviewed the application and determined that the Outdoor Education Centre was an appropriate use of the subject property that would showcase a building design that would be self-contained "off grid" and sustainable.

The Committee was satisfied with the alternative services proposed subject to the approval of regulating agencies.

Accordingly, the Committee determined that:

1. the variance is 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, a minor variance is granted for relief from section 6.4 of the Zoning By-law PROVIDED THAT:

- i. both the public water and wastewater collection facilities are designed and installed to the satisfaction of the Peterborough County City Health Unit, the Ministry of Environment and the requirements of the Ontario Building Code; and
- ii. a letter is received by the Secretary of the Committee of Adjustment from the Peterborough County City Health Unit and the Ministry of the Environment confirming their approval of the potable water supply and waste disposal systems as appropriate for use as a public building prior to issuance of a Building Permit.

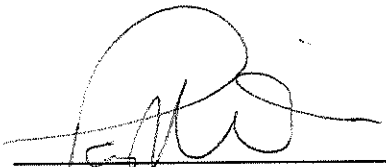
**NEXT MEETING:**

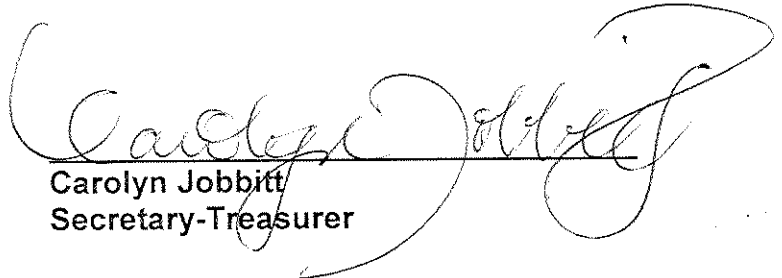
The next meeting of the Committee of Adjustment is scheduled for April 7, 2009.

**ADJOURNMENT:**

Meeting adjourned at 8:30 p.m.

Dated the 13th day of February, 2009.

  
\_\_\_\_\_  
Paul Dorris  
Chairman

  
\_\_\_\_\_  
Carolyn Jobbitt  
Secretary-Treasurer