

COMMITTEE OF ADJUSTMENT

Minutes of a Meeting of the Committee of Adjustment for the City of Peterborough held **Tuesday, May 12, 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.** **A15/09**
ADDRESS: **534 Bolivar Street**
APPLICANT: **Alyson Bond and Colin Crooks**

This matter relates to a minor variance application submitted by Alyson Bond and Colin Crooks, 273 John Street, Peterborough, Ontario, K9J 3T1, being the owner of the property which is subject to this application.

Ms. Bond and Mr. Crooks attended the meeting and addressed the Committee as follows:

- 534 Bolivar Street is a vacant lot owned by the applicant and separated from 273 John Street by a rear lane used by other abutting property owners.
- They wish to construct a 20 ft. by 24 ft. garage for the purpose of parking motor vehicles and to create a storage area for use in conjunction with their residence located at 273 John Street.
- Accordingly, they are requesting relief from the following provisions of the zoning by-law:
 - i) relief from Section 6.4 to permit the establishment of a building on an un-serviced lot;
 - ii) relief from Section 6.5 to permit a building on a lot that does not abut a public street;
 - iii) relief from Section 6.18 to permit an accessory building on a lot that has no primary establishment; and
 - iv) increase the maximum lot coverage by an accessory building from 10% to 27%.
- The exterior of the garage will be vinyl siding, with a hip or gable roof.
- There will be no plumbing installed and no second story.
- They are aware that the by-law is designed to prevent development on properties that do not have access to a public roadway. Further, they are aware that if a primary use

- cannot be permitted on a property then the by-law is designed to prevent development of a disassociated accessory building.
- They are not proposing to have a home-based business located in the garage.
- They are satisfied with the recommendation set out in the Staff report.

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 following persons attended the meeting to address the Committee

- Tom Kunza, 524 Bolivar Street, Peterborough, Ontario, K9J 4R8
- Mr. Daniel Powell, 537 King Street, Peterborough, Ontario, K9J 2T4

Mr. Powell responded to questions from the Committee, as follows:

- A public laneway that runs behind his property, his neighbours' properties and between the properties owned by the applicant has a section behind the properties municipally known as 277 and 275 John Street that is no longer maintained.
- With the exception of these two properties, every property owner that abuts this rear laneway maintain it and clear the snow for the benefit of all neighbours.
- Most property owners that abut this laneway depend on the laneway for access to their rear yards.

The applicants concurred with Mr. Powell assessment of the foregoing situation.

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

- The application was circulated to the Peterborough Fire Department who expressed no concerns with respect to the proposal to construct a garage on the subject property accessed by the laneway.
- The City does not maintain rear laneways or get involved with disputes between adjacent property owners over the condition of the laneway. The City would, however, at the Committee's request, be prepared to forward a letter to the neighbours who abut the rear laneway reminding them that the laneway is a public laneway.

The Committee requested that staff issue a letter to all adjacent property owners advising that the laneway is a publicly owned parcel of land for the use and enjoyment of all property owners who abut the rear laneway.

DECISION

The Committee reviewed the application and determined that the impact of granting the variance described to permit the proposed development of a two car garage would be minor provided that the building is located so as to ensure that there is adequate functional spatial separation from all lot lines and most importantly, the owner of the property is associated with a neighbouring property owner.

Accordingly, 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, to permit a garage on the property known municipally as 534 Bolivar Street a minor variance is granted including:

- i) **relief from Section 6.4 to permit the establishment of a building on an un-serviced lot;**
- ii) **relief from Section 6.5 to permit a building on a lot that does not abut a public street;**
- iii) **relief from Section 6.18 to permit an accessory building on a lot that has no primary establishment; and**
- iv) **increase the maximum lot coverage by an accessory building to 27%;**

PROVIDED THAT:

- i) **the building is located a minimum of 1 metre from the north, south and west lot line and 6 metres from the east lot line; and**
- ii) **the owner of the property enter into an agreement that would be registered on title that would restrict the ownership of the property known municipally as 543 Bolivar Street to no other than the owner of 532 Bolivar Street or 273 John Street.**

2. **FILE NO. A16/09**
ADDRESS: 694 Sherbrooke Street
APPLICANT: Rolf and Uwaya Erdmann

This matter relates to a minor variance application submitted by Rolf and Uwaya Erdmann, 694 Sherbrooke Street, Peterborough, Ontario, K9J 3P1, being the owner of the property which is subject to this application.

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

- In 2002 he and his spouse purchased the property with the intention of his spouse operating a home based business. This property was rezoned at that time.
- The subject property is zoned to permit a residence and a clinic of limited scale on the property.
- The owner would like to remove a portion of the entrance at the southwest corner of the building and construct an addition in its place that would function as an entrance, waiting and reception area associated with the clinic.

- A variance is therefore requested to increase the maximum permitted floor area of the clinic from 150 sq. metres (1614 sq ft) to 202 sq. metres (2174 sq ft) to permit the proposed addition.
- The exterior of the addition will be stucco and will be more in keeping with the original design of the house.

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 reviewed the application and noted that the building on the property is separated from adjacent development and use by not just spatial distance but also by grades being located on the top of the drumlin on Sherbrooke Street. They also noted that the clinic has operated on the property since 2002 with no conflicts with surrounding land uses. Considering proportionate scale of the building on the property to the size of the property and the separation distance of 26 metres between the proposed building and the west side of the property the Committee determined that the impact of the additional building would be minor. The Committee further noted that there was sufficient space to accommodate parking for 12 motor vehicles within the parking area as developed, which would satisfy the requirements of the by-law.

The Committee considered the variance that would permit the proposed addition to be in-keeping with the Official Plan regarding the nature and small scale of the clinic located within a residentially designated area and with the intent of the site specific zoning.

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 building floor area of the clinic to 202 sq. metres.

3. **FILE NO. A17/09**
ADDRESS: 871 Armour Road
APPLICANT: Ad Bekkers and Johanna Bekkers

This matter relates to a minor variance application submitted by Ad and Johanna Bekkers, 871 Armour Road, Peterborough, Ontario, K9H 2A5, being the owner of the property which is subject to this application.

Mr. and Mrs. Bekkers attended the meeting and addressed the Committee as follows:

- They would like to construct 6 metre (20 ft) by 5.3 metre (17.66 ft) carport attached to the front of an existing garage established on the property.
- The following variances are therefore requested to permit the proposed structure:

- i) reduce the minimum building setback from the south side lot line from 1.2 metres (3.96 ft) to 0.3 metres (1 ft); and
 - ii) increase the maximum lot coverage by an accessory building from 10% to 13%.
- The carport is for their personal use to keep their vehicles out of the winter weather.
 - The building behind the proposed carport has always been a workshop and never a garage. The previous owner used it as a wood working shop. Mrs. Bekkers proposes to operate a home-based “spa” business from this building.
 - Parking will not be an issue for the home based business because only one client will be at the spa at a time.
 - They confirmed their understanding that the carport will be open sided and not enclosed and will have eavestroughing in order to ensure that storm water is directed onto the subject property so as not to adversely affect abutting property owners.

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 reviewed the application and determined that the proposed carport was the standard of development in the neighbourhood and accordingly, the impact of the variances would be minor, provided that storm water management was maintained on the subject property.

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, minor variances are granted to:

- i) **reduce the minimum building setback from the south side lot line to 0.3 metres for the up right supports of the 6 metre by 5.3 metre carport; and**
- ii) **increase the maximum lot coverage by an accessory building to 13%,**

PROVIDED THAT eavestroughing is established and maintained on the carport with a downspout to manage storm water on the property so as not to affect the neighbouring property and no eaves overhang other than the eaves trough may extend beyond the uprights into the south side lot line.

4. **FILE NO.** **A18/09**
 ADDRESS: **377 Highland Road**
 APPLICANT: **Barbara Westropp**

This matter relates to a minor variance application submitted by Barbara Westropp, 377 Highland Road, Peterborough, Ontario, K9H 5J6, being the owner of the property which is subject to this application.

Ms. Westropp attended the meeting and addressed the Committee as follows:

- She would like to construct a 4.8 metre (16 ft) by 7.31 metres (24 ft) garage within 1.2 metres (3.9 ft) of the rear of the dwelling.
- A variance is therefore requested to reduce the minimum building setback from the east side lot line from 1.2 metres (3.9 ft) to 0.6 metres (2 ft).
- The purpose is to locate the garage so as to avoid the slope that falls off to the rear of the property.
- The exterior of the garage will be vinyl siding.
- The foundation of the garage will be designed to provide a crawl space under the floor that will be accessed from the rear yard for use as storage.
- It has been determined that construction of the garage will not impact the drainage of storm water runoff.

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 reviewed the application and noted the grades that fall off dramatically to the rear of the property. The Committee recognize the hardship in terms of the cost of constructing a foundation for the garage grading and the extension of a driveway. Further, the Committee noted the fall of the land which results in storm water draining toward the southwest, away from the property line to which the variance pertains.

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 northeast side lot line to 0.6 metres, PROVIDED THAT an eavestrough and downspout is established and maintained on the building to manage storm water on the property so as not to impact on the neighbouring property.

5. **FILE NO.** **A19/09**
 ADDRESS: **1189 Talwood Court**
 APPLICANT: **Skyline Real Estate Holdings Inc.**

This matter relates to a minor variance application submitted by Skyline Real Estate Holdings Inc., 70 Fountain Street East, Guelph, Ontario, N1H 3N6, being the owner of the property which is subject to this application.

Mr. Greg Jones, a representative from Skyline Real Estate Holdings Inc., attended the meeting and addressed the Committee as follows:

- The property was acquired in March 2009, at which time they realized that there were, 103 units established in the building.
- They are requesting relief from the regulations of the zoning by-law to acknowledge the 103 units established within the high-rise apartment building on the property supported by 119 motor vehicle parking spaces.
- A variance is therefore requested to reduce the minimum required lot area per dwelling unit from 93 square metres to 91.
- There is no change proposed to the exterior dimensions of the building on the property.
- Relief is also requested from the parking regulations of the by-law regarding the motor vehicle parking spaces that would be required in relation to the additional unit.
- There are 119 motor vehicle parking spaces – 66 surface and 53 underground. Currently 19% of these spaces are not being used.
- Sufficient land is available on site to create additional motor vehicle parking spaces should more parking spaces ever be required. However, in that these motor vehicles spaces are not currently required, it is the preference of the owner of the property to leave the space as landscaping.

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.

Staff asked the Committee to note that a variance granted in 1980 File A90/80 upon completion of the building's construction regarding the 102 units supported by 128 motor vehicle parking spaces was never complied with. Staff also asked the Committee to note that while Staff could not recommend that the Committee grant the variance required to parking without further a parking study and further research to be done by the applicant, Staff asked the Committee to note that the 1998, 2005 and 2008 air photos illustrate that less than 50% of the surface parking was being used where the photos were taken at different day time hours.

The Committee noted that no one spoke in objection to the application and no written objections were received.

DECISION

Two Committee members were concerned that this property had a previous Minor Variance Decision that was never complied with. Accordingly, it is their opinion that this property needs to be brought into compliance with the Zoning By-law and at the very least, four additional motor vehicle parking spaces need to be created in relation to the

two additional units. Based on the foregoing, they are unable to support the variance as applied for.

However, it was noted by three Committee members that the existing parking arrangement appeared to be more than adequate to address the motor vehicle parking requirements in relation to the development of the 103 units since 1980, which also provided sufficient motor vehicle parking for visitors to the premises. They further noted that there is sufficient surface space for the creation of additional motor vehicle parking spaces should the need arise, but felt the land at this time was better left as landscaping.

Accordingly, 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 minor variances are granted to:

- i) **reduce the minimum required lot area per dwelling unit from 93 square metres to 91.**
- ii) **reduce the minimum number of motor vehicle parking spaces required on the property to 119 for 103 units.**

6. **FILE NO. A20/09**
ADDRESS: 91 Hunter Street East
APPLICANT: The Becker Milk Company Limited

This matter relates to a minor variance application submitted by APM Building & Property, 1007 Monaghan Road, Suite 4, Peterborough, Ontario, K9J 5R6, on behalf of The Becker Milk Company Limited, 393 Eglinton Ave., East, 2nd Floor, Toronto, Ontario, M4P 1M6, being the owner of the property which is subject to this application.

The applicant was not in attendance at the meeting.

The purpose of this application is to request a variance to permit a "pet grooming establishment" as a use considered similar to a "barber shop" or "beauty shop" listed as permitted uses by the site specific, commercial zoning of the property.

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

DECISION

In that the Committee had questions to ask the applicant, the Committee adjourned the application to the next Committee of Adjustment meeting, scheduled for June 2, 2009, to permit the applicant or his agent to attend the meeting to address the Committee.

7. **FILE NO.** **A21/09**
 ADDRESS: **971 Chemong Road**
 APPLICANT: **Richard Mortensen**

This matter relates to a minor variance application submitted by Richard Mortensen, P. O. Box 1521, Lakefield, Ontario, K0L 2H0, on behalf of Shoppers Drug Mart c/o Mike Hyde, 971 Chemong Road, Peterborough, Ontario, K9J 6Y8, being the owner of the property that is subject to this application.

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

- The owner is requesting a variance to the sign by-law to increase the maximum area of a portable sign permitted on the property from 2 square metres (21.5 sq ft) to 4.5 square metres (48 sq ft).
- A variance is also requested to permit luminous signs on a local commercial property within a residentially designated area.
- The Zoning By-law permits a portable sign that is approximately half the size they are requesting and they could have up to three signs this size at the property. It is his opinion that one larger sign, at the size they are requesting, creates better clarity than the three smaller signs that would be permitted without the variance.
- The purpose of this portable sign is to advertise the owner's specials.

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 reviewed the application and determined that the proposed location of the portable sign is to be midway in front of the building, 1.5 metres back from the street line and like the established freestanding sign, it would be greater than 15 metres from adjacent residentially zoned property.

The Committee noted that the development is across the street from the entrance to a Walmart store. Given the land use in the vicinity of the subject property as in transition from residential to commercial, the Committee determined that the impact of the variance to permit the proposed larger portable sign and the luminous, freestanding and fascia signage would be minimal provided that the signs were located no less than 15 metres from a residentially zoned property and the lights were turned off after midnight.

Accordingly, 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, a minor variance is granted to:

- i) **increase the maximum area of one portable sign permitted on the property to 4.5 square metres provided that no other portable signs were permitted; and**

- ii) **permit luminous freestanding and fascia signs on the property PROVIDED THAT the signs are illuminated only during the hours of operation.**

8. **FILE NO.** **A22/09**
 ADDRESS: **756 George Street North**
 APPLICANT: **CL Properties Inc.**

This matter relates to a minor variance application submitted by CL Properties Inc., c/o Craig Larmer, 68 Allen Ave., Toronto, Ontario, M4M 1T4, being the owner of the property which is subject to this application.

Mr. Larmer, owner of CL Properties Inc., attended the meeting and addressed the Committee as follows:

He would like to convert the existing building on the property from a rooming house to a 7 unit dwelling and is requesting the following variances to the zoning by-law to permit the change in use:

- i) reduce the minimum required number of motor vehicle parking spaces provided on the property from 13 to 12;
- ii) reduce the minimum dimensions of a motor vehicle parking space from 2.7 metres by 5.7 metres to 2.5 metres by 5.5 metres;
- iii) reduce the minimum width of a laneway in relation to the parking spaces from 6.4 metres to 6 metres;
- iv) reduce the minimum lot area per dwelling unit from 230 sq metres to 208 sq metres;
- v) reduce the minimum required lot depth from 30 metres to 26 metres;
- vi) reduce the minimum building setback from a rear lot line from 9 metres to 1.2 metres;
- vii) reduce the minimum distance that a motor vehicle parking space may be located from the north side lot line from 1.5 metres to 0 metres; and
- viii) reduce the minimum distance that a motor vehicle parking space may be located from a window of a habitable room from 6 metres to 1.2 metres.

- He would like to return the property to its previous standard.
- There are no external fire escapes to be installed because there are two separate staircases contained inside the building. That is the requirement under the Building Code.
- He is working towards converting these units into condominium units.

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 based on the new plan presented by the applicant, the variance regarding parking is not required.

David Peacock, 476 Parnell Street, Peterborough, Ontario, K9J 4J5, attended the meeting to address the Committee on behalf of Kim Foley and Laura Martin, 757 Water Street, Peterborough, Ontario, K9H 3N5.

DECISION

The Committee reviewed the application and noted the variance to the lot area per dwelling unit would still fall within the medium density range at 48 units per hectare and would be an appropriate use of an established residential building located along a transportation corridor to the inner city. Further, the Committee noted that there is no change to the exterior dimension of the building and the neighbouring properties have become accustomed to the established standard of development in the neighbourhood. The impact of the variances to lot depth and the setback for the building as established is minor. The Committee also determined that the activity associated with the nature of a rooming house compared to a 7 unit condominium, would be an improvement in terms of a lesser impact on the neighbourhood.

The Committee considered the size of the property and site plan designed to accommodate the maximum number of parking spaces of a reasonable size and with site plan agreement to address snow removal, fencing and storm water management, the development could function. Considering that the units will be air-conditioned, the impact of distance of a parking space to the window of a habitable room was minor.

Accordingly, 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, a minor variance is granted to:

- i) reduce the minimum dimensions of a motor vehicle parking space from 2.7 metres by 5.7 metres to 2.5 metres by 5.5 metres;**
- ii) reduce the minimum width of a laneway in relation to the parking spaces from 6.4 metres to 6 metres;**
- iii) reduce the minimum lot area per dwelling unit from 230 sq metres to 208 sq metres;**
- iv) reduce the minimum required lot depth from 30 metres to 26 metres;**
- v) reduce the minimum building setback from a rear lot line from 9 metres to 1.5 metres to recognize the building as established; and**
- vi) reduce the minimum distance that a motor vehicle parking space may be located for a window of a habitable room to 1.2 metres provided such units are equipped with heater and air conditioning units;and**
- vii) reduce the minimum distance that a motor vehicle parking space may be located from the north side lot line from 1.5 metres to 0 metres;**

PROVIDED THAT the owner enter into a Site Plan Agreement with the City to address, among other details, storm water management, landscaping, fencing along the north lot line and snow removal from the property.

NEXT MEETING:

The next meeting of the Committee of Adjustment is scheduled for 2nd day of June, 2009.

ADJOURNMENT:

Meeting adjourned at 9:45 p.m.

Dated the 22nd day of May, 2009.

Paul Dorris
Chairman

Carolyn Jobbitt
Secretary-Treasurer