

COMMITTEE OF ADJUSTMENT

Minutes of a Meeting of the Committee of Adjustment for the City of Peterborough held **Tuesday, July 7, 2009** at 7:00 p.m., in the General Committee Room, City Hall.

PRESENT: Mr. Paul Dorris, Chairperson
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. Len Lifchus
Mr. Bob Waldron, Manager, Building Division

1. **FILE NO.** A13/09
ADDRESS: 296 Stewart Street
APPLICANT: John Hunter

This matter relates to a minor variance application submitted by John Hunter, 11 Turtle Lake Drive, Acton, Ontario, L7J 2W7, being the owner of the property which is subject to this application.

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

- The purpose of this application is to increase the number of residential units within the building on the property from 8 to 11 including the conversion of the one commercial unit that was cited by municipal records. In that the zoning of the property (C.5 Commercial District) requires that a dwelling be located on the second storey or higher, he is requesting a variance to the zoning regulations to permit the use of all levels of the building for residential purposes.
- This application was originally addressed by the Committee at its April 7th, 2009, meeting. At that time, the Committee reviewed the application and determined that it was premature to grant the variance to permit more units before it can be demonstrated that the building can be developed in accordance with the regulations of the Ontario Building Code and Fire Safety Standard for both the existing and new units. Accordingly, the Committee agreed to adjourn this application to the first Committee of Adjustment meeting to be held in July, 2009, to permit the applicant an opportunity to retain a licensed Architect to prepare and submit drawings that would demonstrate how all units within the building can be brought into compliance with the Ontario Building Code and Fire Safety Standards and how parking and landscaping will be accommodated on the property.
- The Architect he has retained has advised that he will need until August 31, 2009, to provide the information required by the Committee and City Staff.
- Accordingly, he is requesting a further adjournment to the first Committee of Adjustment meeting to be held in September, 2009.

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 Chair confirmed receipt of a letter provided to all members of the Committee prior to the meeting from the applicant's Architect, Mr. Christopher Tworkowski, dated June 11, 2009, setting out the work he will be undertaking and confirming that his work will be completed by August 31, 2009.

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

DECISION

The Committee reviewed the application and reconfirmed its position that it was premature to grant the variance to permit more units before it can be demonstrated that the building can be developed in accordance with the regulations of the Ontario Building Code and Fire Safety Standard for both the existing and new units. Accordingly, the Committee agreed to adjourn this application to the first Committee of Adjustment meeting to be held in September, 2009, to permit the applicant and his Architect ample opportunity to prepare and submit drawings that would demonstrate how all units within the building can be brought into compliance with the Ontario Building Code and Fire Safety Standards and how parking and landscaping will be accommodated on the property.

2. **FILE NO.** **A26/09**
 ADDRESS: **480 Brioux Ave.**
 APPLICANT: **Chris Springett**

This matter relates to a minor variance application submitted by Chris Springett, 480 Brioux Ave., Peterborough, Ontario, K9J 4G7, being the owner of the property which is subject to this application.

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

- He has constructed an addition to the front of the dwelling and is seeking a variance to reduce the minimum building setback from the street line from 6 metres (19.75 ft) to 4.1 metres (13.75 ft) to acknowledge the location of the partially constructed addition as established.
- He did not get a permit to construct the addition in that he misunderstood the requirements and thought that he was allowed to construct a 10 ft. by 10 ft. structure. He now realizes that they only structure permitted by the City to be constructed without a permit is a detached shed that is less than 108 sq. feet, which must be located in accordance with the setback requirements set out by the Zoning By-law.
- He is proposing to finish the exterior of the addition, as well as the house and garage, in hardy board (concrete board).

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:

- A building permit is required from the Building Department to construct this addition.
- Once the permit is obtained, a Building Inspector will attend at the property to ensure

compliance with the Ontario Building Code. If the structure is not in compliance the owner of the property will be required to either rectify the errors or remove those portions of the building that do not comply.

- The Building Inspector may ask for the foundation to be dug to its depth and for the interior wall to be open for inspection to determine code compliance.
- Proper building plans are normally required for submission to the Building Department before a building permit will be issued.

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

DECISION

The Committee reviewed the application regarding the setback of the addition from the street line. The Committee's further review of the application determined that because there is a variety of building designs and setbacks of dwellings along Brioux Avenue, the proposed addition is in keeping with the standard of development in the area and the impact on the neighbours would be minor.

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 street line to 4.1 metres to acknowledge the location of the addition as established, PROVIDED THAT a building permit is obtained from the City's Building Department and further that the owner complete the construction, in compliance with the Building Code, by October 31, 2009. Failure to comply with this condition will result in the Decision being null and void.

3. **FILE NO. AA27/09**
ADDRESS: 61 Argyle Street
APPLICANT: Paul-Marc Abrioux

This matter relates to a minor variance application submitted by Paul-Marc Abrioux, 61 Argyle Street, Peterborough, Ontario, K9H 5S9, being the owner of the property which is subject to this application.

Mr. Paul-Marc Abrioux attended the meeting and addressed the Committee as follows:

- He would like to construct an addition to the second storey of a dwelling established 3.7 metres from the rear lot line.
- A variance is therefore requested to reduce the minimum building setback from the rear lot line from 7.6 metres (24.9 ft) to 3.7 metres (12.1 ft) to permit the addition to the second storey to the building as located in relation to the rear lot line.
- The second storey addition will be a full second storey with an attic space above.
- The second storey addition will contain a master bedroom, and perhaps an ensuite.
- It will be a gable roof line and will match the existing style of house.

- There will be no dormers.

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 spatial separation between the two dwellings to the rear and the dwelling on the subject property would exceed 16 metres. This spatial separation would result in minimal impact on the neighbouring property. The Committee further noted that the proposed addition would be in keeping with the standard of development in the area.

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 rear lot line to 3.7 metres to permit the addition to the second storey to the building as established in relation to the rear lot line.

4. **FILE NO. B06/09**
ADDRESS: 562 Otonabee Drive
APPLICANT: The Estate of Cornelius Hendriks
5. **FILE NO. A28/09**
ADDRESS: 562 Otonabee Drive
APPLICANT: The Estate of Cornelius Hendriks

This matter relates to severance application submitted by Mr. Adrian Hendriks, 107 St. Joseph's Drive, Unit 308, Hamilton, Ontario, L8N 2G1, being the Estate Trustee for the Estate of Cornelius Hendriks, the owner of the property subject to this application.

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

- He would like to sever the 30 metre by 39 metre parcel of land upon which the dwelling exists from the balance of the vacant land (approximately 0.77 ha (1.9 acres) to the east.
- The purpose is to separate the dwelling from the vacant land that will one day be developed as a future residential subdivision.
- A variance is also requested to grant relief from Section 6.5 of the by-law that would require a lot to abut a public street. The property could be accessed from a city owned street stub off Milford Drive.
- A draft Plan of Subdivision has been entered into, but not yet registered.

- He did consider selling the property in its entirety. However, the prospective purchaser has advised that they are not interested in obtaining the portion of the land containing the residence. They are only interested in the portion of land that is subject to the draft Plan of Subdivision.
- He is proposing to remove the barn and the addition at the rear of the dwelling.
- The existing draft Plan of Subdivision reflects 15 single-family residential dwellings. However, he is planning on sell the property that is subject to the draft Plan of Subdivision to a developer. Accordingly, the plans for development may be amended.

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 people attended the meeting and addressed the Committee:

1. William Lunn, 833 Milford Drive, Peterborough, Ontario, K9J 8K3
2. Michael Nadeau and Kimberley Millen-Nadeau, 340 Milford Road, Peterborough, Ontario, K9J 8S4

DECISION – A28/09

The Committee reviewed the application and determined that the land to be retained may be accessed from a street stub off of Milford Drive across a one foot reserved held by the City. While the owner of the retained property may one day arrange for services through the street stub, it may, in the meantime, be accessed through the street stub for maintenance purposed at the discretion of the City. Accordingly, in that the property could be accessed from a city owned street stub off Milford Drive, the impact on the abutting properties would be minimal.

Therefore, 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 6.5 of the by-law that would require a lot to abut a public street.

DECISION – B06/09

In that the severed and retained property would conform to both the Official Plan policy and the zoning applied to the property, consent is granted to convey the 30 metre by 39 metre parcel of land upon which the dwelling exists from the balance of the vacant land (approximately 0.77 ha (1.9 acres) to the east **CONDITIONAL UPON:**

- i. **All buildings located on the retained property are to be removed;**
- ii. **All portions of buildings that cross the proposed line of severance are to be removed to the extent that the remaining structures will conform with the setback regulations of the applicable zoning district; and**
- iii. **Production of evidence to the satisfaction of the Secretary of the Committee of Adjustment confirming that the dwelling on the property known municipally as 562 Otonabee Drive is connected to municipal water and waste water services, and any well on either the severed or retained property is plugged and sealed in accordance with MOE standards by a licensed well contractor.**

6. **FILE NO. A29/09**
ADDRESS: 504 Chamberlain Street
APPLICANT: Bernard & Jovita Bishop

This matter relates to a minor variance application submitted by Mr. and Mrs. Bernard and Jovita Bishop, Box 238, Blackstock, Ontario, L0B 1B0, being the owners of the property which is subject to this application.

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

- A variance is requested to reduce the minimum building setback from the west side lot line from 1.2 metres (3.9 ft) to 0.37 metres (1.2 ft) to recognize the location of the second storey addition to the dwelling located 0.37 metres from the lot line.

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. Bishop responded as follows:

- He purchased the property with the intention of having his Father live with him at the subject property.
- The property is a single unit residential dwelling unit that contains two bathrooms, two kitchens and five bedrooms.
- He constructed the addition without a permit because he was in a hurry to have it completed for his Father.
- He did not move into the property, but he did rent it to a group of students. In that he had difficulties with them, he evicted them.
- The property is not a duplex. The property is zoned as a single unit residential dwelling.
- The property is currently vacant and listed for sale. He is unaware as to whether his agent is marketing the property as a single-family residential dwelling or as a duplex.

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

- Policing of the property to ensure that it is not used as a duplex is the responsibility of the Building Division.
- The Zoning By-law defines a duplex as *“a building containing a maximum of two dwelling units per lot”* and defines a dwelling unit as *“one or more connecting rooms used, or intended for use, as a housekeeping unit containing cooking, eating sleeping and sanitary facilities”*.
- The parking issue is not resolvable as the property is only 22 feet wide resulting in limited vehicular movement on the property.
- The application before the Committee is to request a variance for the addition. Should that variance be granted, the City will be able to determine if the addition complies with the Building Code. The applicant is not requesting a variance for permission to use the property as a duplex. Once the City inspects the property, a determination will be made as to whether the property is, in fact, two separate units.
- A building permit is required from the Building Department to construct this addition.
- Once the permit is obtained, a Building Inspector will attend at the property to ensure compliance with the Ontario Building Code. If the structure is not in compliance the owner of the property will be required to either rectify the errors or remove that portion that does not comply.
- The Building Inspector may ask for the foundation to be dug to its depth and for the interior wall to be open for inspection.
- Proper building plans are normally required for submission to the Building Department before a building permit will be issued.

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

DECISION

The Committee reviewed the application and noted the modest scale and standard of development of the subject property and others in the vicinity as appropriate opportunities for affordable home ownership. The property does function adequately as an owner occupied, single unit dwelling. The Committee determined that the addition to the dwelling has a minimal impact on the 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 west side lot line to 0.37 metres to recognize the location of the second storey addition to the dwelling, PROVIDED THAT:

- i. **a building permit is obtained from the City’s Building Department for the addition and the structure being determined to be in compliance with the Building Code; and**

- ii) establishment of an eavestrough along the west side of the building with a down spout to conduct storm water onto the subject property so as not to adversely affect the neighbouring property.

Failure to comply with these conditions by October 31, 2009, will result in the Decision being null and void.

NEXT MEETING:

The next meeting of the Committee of Adjustment is scheduled for July 28, 2009.

OTHER BUSINESS:

The Committee agreed to prepare a memorandum to Malcolm Hunt, Director, Planning & Development Services, to raise awareness of:

- i) the increased number of applications being filed with the Committee of Adjustments for additions/structures being constructed without a building permit; and
- ii) the number of variances that are granted where conditions have not been complied with.

ADJOURNMENT:

Meeting adjourned at 9:45 p.m.

Dated the 16th day of July, 2009.

Paul Dorris
Chairman

Carolyn Jobbitt
Secretary-Treasurer