

COMMITTEE OF ADJUSTMENT

Minutes of a Meeting of the Committee of Adjustment for the City of Peterborough held **Tuesday, January 26, 2010** at 7:00 p.m., in the General Committee Room, City Hall.

PRESENT: Mr. Keith Riel, Vice-Chairperson
Mr. Claude Dufresne
Ms. Margaret Wood
Mr. Alan Porteous

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

REGRETS: Mr. Paul Dorris, Chairperson
Mr. Bob Waldron, Manager, Building Division

1. **FILE NO.** **A50/09**
ADDRESS: **2566 Bensfort Road**
APPLICANT: **Gordon Usher**

This matter relates to a minor variance application submitted by Mr. Gordon U. Usher, Barrister & Solicitor, 359 Aylmer Street North, Peterborough, Ontario, K9H 3V7, on behalf of Andrea Elizabeth Morton, 2566 Bensfort Road, Peterborough, Ontario, K9J 1C9, being the owner of the property which is subject to this application.

The purpose of this minor variance is to reduce the minimum building setback from the north side lot line from 1.21 metres (3.9 ft) to 0.1 metres (0.33 ft) to recognize the location of an attached carport constructed along the north side of the dwelling.

At the Committee of Adjustment meeting held on December 15, 2009, the Committee adjourned this application to this meeting to permit Staff an opportunity to provide a further report to address the following concerns:

- i. Requirements to bring the structure into compliance with the fire regulations under the Building Code.
- ii. Comments from the City's Legal Services Department with respect to regulations regarding prescriptive easements between property owners.
- iii. Confirmation that both Jim Hetherton and Gail Hetherton are not in support of the minor variance application as applied for.

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.

A further letter of objection, signed by Gail and Jim Hetherton, dated January 8, 2010 was received by the Committee. Gail and Jim Hetherton are the owners of the adjacent property at 2572 Bensfort Road, Peterborough, Ontario, K9J 1C9.

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

- He and his client have met with Planning and Building Staff setting out the proposed amendments to be made to the carport in order to comply with the recommendations set out in the Staff Report.

- He confirms, on behalf of his client, that the carport will be:
 - open-sided;
 - upright supports will be relocated 0.6 m from the side lot line;
 - the shed located within the carport will be relocated to be 1.2 m from the south side lot line;
 - eavestroughing will be established and maintained, with a downspout, to conduct storm water onto the subject property so as not to adversely affect the neighbouring property.

DECISION

The Committee reviewed the application and acknowledged that while they appreciate the quality of construction of the carport and the fact that it has been there for some time, the structure encroaches onto the neighbouring property. The proximity of the wall to the north side lot line has resulted in building code issues as well as the property owner's inability to maintain the exterior of the wall.

Accordingly, the Committee determined that:

1. the variance is 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 maintained.

Therefore, the minor variance as applied for is DENIED.

However, the Committee determined a carport could be constructed provided that the structure was modified to comply with the Ontario Building Code and that the upright supports be located no closer than 0.6 from the side lot line.

Accordingly the Committee granted a minor variance to reduce the minimum building setback from the north side lot line to 0.6 metres regarding the upright support post to permit the modification of the existing carport along the north side of the dwelling PROVIDED THAT:

- i. **The carport is open-sided;**
- ii. **Eavestroughing is established and maintained on the structure with a downspout to conduct storm water onto the subject property so as not to affect the neighbouring property.**
- iii. **Modifications to the carport be completed to the satisfaction of the Building Division by October 31, 2010, otherwise this decision will be null and void.**

2. **FILE NO. B02/10**
ADDRESS: 875 Barnardo Ave.
APPLICANT: Mark Lamirande

This matter relates to severance application submitted by Mark Lamirande, 875 Barnardo Avenue, Peterborough, Ontario, K9H 5W3, being the owner of the property which is subject to this application.

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

- The owner is proposing to sever the northerly 20 metres of the subject property to create a new lot for development of a single unit dwelling.
- The existing dwelling on the southerly portion of the property is to remain.

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. Lamirande advised as follows:

- Driveway access to the existing dwelling is obtained from McClennan Street.
- Driveway access to the proposed new property will be obtained from Barnardo Avenue.
- Connection to the dwelling on the existing property to municipal services has now been completed.
- The well that previously serviced the property has been capped and disconnected in accordance with the regulations of the Ministry of Environment.

The Vice-Chair confirmed receipt of an email in opposition to the proposed application from Rick Smith, 868 Barnardo Ave., Peterborough, Ontario, K9H 5V9.

DECISION

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 northerly 20 metres of the subject property to create a new lot for development of a single unit dwelling CONDITIONAL UPON:

- i. **The owner entering into a Development Agreement with the City requiring that building plans be approved by the Planner of Urban Design to ensure compatibility of the building design with the standard of other buildings established in the neighbourhood, prior to the issuance of a building permit.**
- ii. **Payment of a parks levy in the amount to be determined by the City's Parks Levy Review Committee, and**
- iii. **Payment of a tree levy in the amount of \$186.00.**

3. **FILE NO. A01/10**
ADDRESS: 581 McDonnell Street
APPLICANT: City of Peterborough

This matter relates to a minor variance application submitted by the City of Peterborough, 500 George Street North, Peterborough, Ontario, K9H 3R9, on behalf of The Peterborough Lawn Bowling Club Limited, P. O. Box 1052, Peterborough, Ontario, K9J 7A9, being the owner of the property subject to the application.

Richard Straka, Planner of Policy & Research, addressed the Committee and advised as follows:

- The City of Peterborough is requesting this minor variance with the support and co-operation of owner of the property.

- The Peterborough Lawn Bowling Club would like to construct a new building on the property while facilitating the municipal interest in preserving the existing clubhouse building on the property.
- To allow development of the proposed new building the following variances are being requested:
 - i) reduce the minimum width of landscaped open space separation between the parking area on the property and the McDonnell Street Boulevard from 3 metres to 1.5 metres; and
 - ii) reduce the minimum number of parking spaces required on the property from 108 to 73 associated with the new building.

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.

Mr. Bob Guppy, President of The Peterborough Lawn Bowling Club, attended the meeting and confirmed that the owner of the property is in support of this application and are in agreement with the comments set out in the Staff report.

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

- The By-law requires 108 motor vehicle parking spaces. However, staff have been advised that it is a rare occasion that all motor vehicle parking spaces are in use.
- There is flexibility regarding the parking circumstances because the City owns Bonnerworth Park across the street that can accommodate approximately 135 motor vehicle parking spaces.
- The east end of the property is currently at a higher grade. However, it will be modified to permit access from McDonnell Street into the parking area on site.
- The utility buildings at the east end of the property are to remain.

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

- The existing building is not design for access for persons with disabilities.
- Parking issues arise approximately 2 – 3 times a year. However, the new proposal reflects having 2 greens rather than 3 greens. That will result in less people being at the facility at one time.

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

DECISION

The Committee reviewed the application and determined that a reduction of the landscaped open space along the boulevard is reasonable because of the amount of open space provided by the bowling greens and the amount of permeable open space in the area provided by Bonnerworth Park. The Committee further determined that because additional parking can be accommodated on the City property across the street from the subject property, neighbouring properties will not be impacted by granting a reduction to the motor vehicle parking requirements on site.

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 reduce:

- i) **the minimum width of landscaped open space separation between the parking area on the property and the McDonnell Street Boulevard to 1.5 metres; and**
- ii) **the minimum number of parking spaces required on the property to 73 associated with the new building, PROVIDED THAT the heritage building located on the property is preserved. If the heritage building is removed, the variance relating to the reduction of parking on the property will be null and void.**

OTHER BUSINESS:

FILE NO: A40/09
ADDRESS: 141 Bowen Drive
APPLICANT: Mason Homes Limited

Corrigendum of the wording of the decision of the Committee regarding the variance granted at the hearing held on November 17, 2009.

Planning Staff reviewed the survey with the Committee that was presented on November 17, 2009 upon which the Committee based their decision. The survey illustrated that the dwelling was located 3.7 metres from the laneway along the east side of the lot and less than 3.7 metres in relation to the radius of the laneway at the northeast corner of the lot that was considered acceptable to the Committee on November 17, 2009.

While the wording of the Committee's Decision on November 17, 2009 addressed the variance reducing the building setback to 3.7 metres from the laneway along the east side of the lot, it did not address the 3 metre setback from the radius of the laneway at the northeast corner of the lot.

It was the intention of the Committee to approve the development as represented by the survey presented on November 17, 2009.

To clarify the wording of the Decision of the Committee on November 17, 2009, the Committee advised that a minor variance is granted to reduce the minimum building setback of the dwelling to 3.7 metres in relation to a laneway along the east side of the property and to 3 metres in relation to the northeast corner the property.

NEXT MEETING:

The next meeting of the Committee of Adjustment is scheduled for February 23, 2010.

ADJOURNMENT:

Meeting adjourned at 8:30 p.m.

Dated the 3rd day of February, 2010.

Keith Riel
Vice-Chairman

Carolyn Jobbitt
Secretary-Treasurer