

COMMITTEE OF ADJUSTMENT

Minutes of a Meeting of the Committee of Adjustment for the City of Peterborough held **Tuesday, March 23, 2010** 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. Bob Waldron, Manager, Building Division
Mr. Alan Porteous

1. **FILE NO.** A02/10
ADDRESS: 1607, 1619 and 1633 Lansdowne Street West
APPLICANT: Howell, Fleming (Jim Baird)
2. **FILE NO.** B01/10
ADDRESS: 1607, 1619 and 1633 Lansdowne Street West
APPLICANT: Howell, Fleming (Jim Baird)

This matter relates to a minor variance application submitted by Messrs. Howell, Fleming, Barristers & Solicitors, 415 Water Street, P. O. Box 148, Peterborough, Ontario, K9J 6Y5, on behalf of 1494282 Ontario Inc., 637 The Queensway, Suite 17, Peterborough, Ontario, K9J 7J6, being the owner of the property subject to this application.

The purpose of these applications is as follows:

- i) To request consent to sever the northerly 75.65 metres of property from the southerly 1.62 hectares of land. The purpose is to separate ownership of the lands designated for commercial development in relation to Lansdowne Street from the retained lands that will form a part of a future plan for residential subdivision.
- ii) To request a reduction of the minimum lot area regulation of the southerly property from 16 hectares to 1.62 hectares and for relief from Section 6.5 of the zoning by-law that would require a building lot to abut a street.

These applications were adjourned to this meeting from the February 23, 2010, Committee of Adjustment meeting. The Chairman confirmed receipt of a further written request from the Applicant requesting a deferral until the next Committee of Adjustment meeting to permit the owner of the property to address some outstanding issues with an abutting property owner.

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

DECISION

The Committee agreed to defer this application to sine die, to permit the property owner to address some outstanding issues in relation to adjacent lands before proceeding with the applications. When the proponent is ready to proceed, re-notification will be required at the applicant's expense.

3. **FILE NO.** **A03/10**
 ADDRESS: **63 Weller Street**
 APPLICANT: **J. Laurie Young Drafting and Design**

This matter relates to a minor variance application submitted by J. Laurie Young Drafting and Design, 3197 Westridge Blvd., Peterborough, Ontario, K9K 1Z5, on behalf of Jim Williams Construction Inc., 1675 Waddell Crescent, Peterborough, Ontario, K9K 2G9, being the owner of the property subject to this application.

This application was adjourned to this meeting to permit a review of the proposed drainage plan and for the City Engineer to provide comments with respect to same.

Ms. Laurie Young and Jim Williams attended the meeting and addressed the Committee as follows:

- Mr. Williams would like to construct a fully accessible dwelling for persons with disabilities and is seeking variances to the regulations of the zoning district.
- A variance is requested to reduce the minimum building setback from the rear lot line from 12 metres (39.3 ft) to 10.43 metres (34.25 ft) for the dwelling and to 8 metres (26.42 ft) regarding an elevated deck attached to the dwelling.
- Mr. Williams advised that there are water issues on a neighbouring property that began approximately 1 ½ years ago. In order to assist the neighbouring property owner, Mr. Williams is prepared to construct a retaining wall on the subject property to help direct the flow of surface water out onto the City Boulevard.
- Mr. Williams has provided a revised grading plan illustrating the retaining wall. The elevation of the rear yard has been altered resulting in the deck at the back of the dwelling being 4 – 5 feet from the ground. The front elevation is level to permit entrance for persons with disabilities.
- The total lot coverage by the dwelling is 21.26%.

The following persons attended the meeting to address the Committee:

- i) Bob Bergmann, 1180 Weller Street, Peterborough, Ontario, K9J 7M8
 - He is in support of this application provided that storm water management is addressed as a requirement of development of the subject property.
- ii) Mr. Sean Quinlan, 1172 Weller Street, Peterborough, Ontario, K9J 7M8
 - He is in support of this application provided that storm water management is addressed as a requirement of development of the subject property.
- iii) Mr. Oscar Straub, 35 Weller Crescent, Peterborough, Ontario, K9J 6J4
 - He is not in support of the proposed application.
 - He is concerned that the new construction may impact his property and detract from his privacy.

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. Straub advised as follows:

- His home is a two-storey dwelling that is approximately 1,000 square foot on each of the main and second storey.
- He has never had any problems that resulted from the water that flows at the rear of his and his neighbours' properties.

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

- The City Engineer is satisfied that the proposed retaining wall will direct the storm water appropriately.
- Staff have been able to confirm that the City does not have a registered easement in order to maintain the drainage of storm water to the east, across the rear of the neighbouring properties. Accordingly, any issues relating to storm water management are the responsibility of the property owners.
- The developer, Mr. Williams, will be responsible for providing a drainage plan that will address surface water in relation to his development but the plan will not address sub-surface groundwater flow in relation to adjacent properties.
- A Development Agreement would be registered on the title of the property and the responsibility to maintain it will run with the owner of the property.
- The plan provided by Mr. Williams reflects "trees to be preserved", however, staff is of the opinion that many of trees will be lost impacted by the installation of the retaining wall.

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

- The proposed dwelling will be 2,067 square feet.
- The dwelling will be in keeping with the size of other neighbouring properties.
- The swale between the house and the retaining wall is gradual, as determined by the Engineer.
- He will salvage as many trees as possible.
- The retaining wall will be constructed on a foundation of crushed gravel. The wall will be natural limestone and will be very solid.
- It is a City requirement to ensure that all storm water drains to the street sewer. It is inappropriate to drain storm water through to the rear of a property because of the impact it would have on abutting property owners.

DECISION

The Committee reviewed the application and determined that the proposed development was appropriate for the neighbourhood. However, the Committee noted the need for attention to management of water draining from the property as a result of its development. The Committee further noted that the lot was well treed and if some of the trees were preserved they could provide a visual screen from the impact of the proposed building location.

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 10.43 metres for the dwelling and to 8 metres regarding an elevated deck attached to the dwelling, PROVIDED THAT the owner enter into a Development Agreement with the City that will include the following:

- i) **A detailed grading plan, storm water management plan and a site servicing plan to the satisfaction of the Planner of Urban Design and the City Engineer. The grading plan is expected to involve the establishment of a retaining wall constructed of natural limestone to support the re-grading of the lot;**
- ii) **Building plans for approval 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;**
- iii) **A plan for the preservation of existing trees where possible and establishment of new trees on the property to the satisfaction of the Planner of Urban Design; and**
- iv) **Provision of a performance security in the sum of \$5,000.00 to ensure fulfillment of the agreement.**

4. **FILE NO. A04/10**
ADDRESS: 307 Bethune Street
APPLICANT: Douglas Walker

5. **FILE NO. A05/10**
ADDRESS: 309 Bethune Street
APPLICANT: Douglas Walker

6. **FILE NO. B03/10**
ADDRESS: 307 and 309 Bethune Street
APPLICANT: Douglas Walker

This matter relates to a minor variance application submitted by Douglas F. Walker, Barrister & Solicitor, 243 Hunter Street West, Peterborough, Ontario, K9H 2L4, on behalf of Donald Wayne Bennett, P. O. Box 143, Peterborough, Ontario, K9J 6Z3, being the owner of the property subject to this application.

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

- The two properties known municipally as 307 and 309 Bethune Street have inadvertently merged in title.
- The owner would like to separate the ownership of the two properties once again and further is requesting the following variances to support the proposed severance of 307 Bethune Street from 309 Bethune Street:

- Regarding four-plex at 307 Bethune Street:
 - i) reduce the minimum required lot area per dwelling unit from 185 to 133 square metres;
 - ii) reduce the minimum required lot width from 30 metres to 15 metres; and
 - iii) reduce the minimum required building setback from the north side lot line from 3 metres to 0.9 metres.
- Regarding the duplex at 309 Bethune Street:
 - i) reduce the minimum required lot area per dwelling unit from 278 to 154 square metres;
 - ii) reduce the minimum required lot width per dwelling unit from 9 metres to 4.8 metres;
 - iii) reduce the minimum required building setback from the lot line from 1.2 metres to 1 metre on the north side and to 0.15 metres on the south side lot line; and
 - iv) increase the maximum lot coverage by parking area from 20% to 24%.
- He and his client are not in agreement with the conditions set out in the staff report. The removal of the framed addition to the rear of 309 Bethune Street will cause undue hardship for his client because the framed addition is part of the rental accommodation. Further, granting the City a road-widening strip across the frontage of both 309 and 307 Bethune Street is an additional expense for his client that will result in the City acquiring approximately 1.5 foot wide strip.

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 – A04/10 (307 Bethune Street)

The Committee reviewed the application considered the establishment of the building years ago and noted that the property does and would continue to function independently of the adjacent property without any impact on the neighbouring property owners.

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 to 133 square metres;**
- ii) reduce the minimum required lot width to 15 metres; and**
- iii) reduce the minimum required building setback from the north side lot line to 0.9 metres as would pertain to the established building for a distance of 9.4 metres.**

DECISION – A05/10 (309 Bethune Street)

The Committee reviewed the application considered the establishment of the building years ago and noted that the brick portion of the building and property does and would continue to function independently of the adjacent property. The Committee also considered the variance requested for the frame addition that exists in poor condition attached to the rear of the brick building. Given the close proximity of the south wall of the frame addition to the lot line, the Ontario Building Code would require the wall to be fire rated. Considering that the entire roof of the addition slopes to the south with an eaves overhand that extends to the lot line, the structure sheds storm water directly onto the adjacent property. The Committee concluded that eavestroughing could not be installed on the structure to reduce the impact on the adjacent property without reconstructing the roof or encroaching on the adjacent property.

Regarding the variance to the location of the frame addition, the Committee determined that:

1. the variance is not minor;
2. the variance considering the proposed severance 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.

Accordingly, minor variance to reduce the setback of the frame shed from the south side lot line as requested is DENIED.

Considering regarding the variances to the rest of the development on the property at 309 Bethune Street, 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 to 154 square metres;**
- ii) **reduce the minimum required lot width per dwelling unit to 4.8 metres;**
- iii) **reduce the minimum building setback from the north side lot line as would pertain to the metal shed building to 1 metre;**
- iv) **reduce the minimum required building setback from the south side lot line to 0.6 metres as would pertain to the established building for a distance of 13.2 metres, and**
- v) **increase the maximum lot coverage by parking area to 24%.**

DECISION – B03/10

The Committee reviewed the application and determined that both 307 Bethune Street and 309 Bethune Street will function independently of each other to a satisfactory degree with the approval of the variances cited under file A04/10 and A05/10. The Committee also considered the City's request for a widening of the road allowance in

relation to the width of other lots along Bethune Street and did not consider the request to be appropriate or necessary at this time.

Consent is therefore granted to convey the southerly 15.24 metres known municipally as 307 Bethune Street P.I.N. 288090-0062 (LT) separate from 309 Bethune Street P.I.N 28090-0061 (LT), subject to the approval of the associated minor variances addressed by application files A04/10 and A05/10.

NEXT MEETING:

The next meeting of the Committee of Adjustment is scheduled for April 20, 2010.

ADJOURNMENT:

Meeting adjourned at 9:40 p.m.

Dated the 1st day of April, 2010.

Paul Dorris
Chairman

Carolyn Jobbitt
Secretary-Treasurer