COMMITTEE OF ADJUSTMENT

Minutes of a Meeting of the Committee of Adjustment for the City of Peterborough held **Tuesday, July 20, 2010** at 7:00 p.m., in the General Committee Room, City Hall.

PRESENT: Mr. Paul Dorris, Chairperson
Mr. Keith Riel
Mr. Claude Dufresne
Ms. Margaret Wood
Mr. Alan Porteous

ALSO PRESENT: Mr. Richard Straka, Planner, Policy and Research
Mrs. Carolyn Jobbitt, Secretary Treasurer
Mr. Steve Whitehill, Fire Prevention Officer

REGRETS: Mr. Bob Waldron, Manager, Building Division

1. **FILE NO.** **A20/10**
ADDRESS: **516 Hunter Street West**
APPLICANT: **Gregg Gordon**

This matter relates to a minor variance application submitted by Gregg Gordon Architect, 516 Hunter Street West, Peterborough, Ontario, K9H 2N1, on behalf of himself and Dr. Joan Himann, 516 Hunter Street West, Peterborough, Ontario, K9H 2N1, being the owners of the property subject to this application.

Mr. Gordon and Dr. Himann attended the meeting and Mr. Gordon addressed the Committee as follows:

- The subject property is his and Dr. Himann's home and where he operates his home-based business.

- The proposed addition will provide him with a home office.

- The owner would like to make some modifications to the dwelling including a second storey addition over the garage, a roof over the front stoop and a "bump out" addition to the west side of the dwelling that would require the following minor variances to the regulations of the zoning district:

  i) reduce the minimum building setback from the east side lot line from 1.2 metres (3.9 ft) to 1.12 metres to permit a second storey addition over the attached garage;

  ii) reduce the minimum building setback from the west side lot line from 1.2 metres (3.9 ft) to 0.99 metres (3.24 ft) to permit a 2.08 metre wide architectural "bump out" located approximately 1 metres from the north west corner of the dwelling; and

  iii) reduce the minimum building setback from the Hunter Street street line from 6 metres (20 ft) to 4.57 metres (15 ft) to permit a roof over the existing 3 metre (10 ft) wide stoop at the front entrance to the dwelling.

- The proposed additions, in his opinion, will greatly add to the aesthetics of the dwelling.

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. Gordon advised as follows:

- The roof will be a hip roof and the exterior of the addition will be finished in the same brick as the existing dwelling.
- There will be no plumbing in the addition.
- The purpose of the "bump-out" is to push the dining room cabinet into the wall to create more floor space in the dining area.

In response to questions from the Committee, Staff advised that any extra window installations would be reviewed by the Building Division and would be required to comply with the Building Code and the Fire Code prior to the issuance of a building permit.

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

DECISION

The Committee reviewed the application and noted the substantial separation between the building on the adjacent lot to the east lot line to which a variance is requested. The Committee further noted that the variance requested to the west lot line would have no impact on the abutting property owners. Finally, the Committee noted the irregularities in the setback for the buildings and portions of buildings from the street line in the vicinity and determined that the proposed feature would add to the aesthetics of the building and would be compatible with the standard of development in the neighbourhood.

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 building setback from the east side lot line to 1.12 metres to permit a second storey addition over the attached garage;**

ii) **reduce the minimum building setback from the west side lot line to 0.99 metres to permit a 2.08 metre wide architectural "bump out" located approximately 1 metres from the north west corner of the dwelling; and**

iii) **reduce the minimum building setback from the Hunter Street street line to 4.57 metres to permit a roof and partial walls to be constructed in relation to the existing 3 metre wide stoop at the front entrance to the dwelling provided it remain unenclosed.**

2. **FILE NO.** **A21/10**
ADDRESS: **2235 Keene Road**
APPLICANT: **Bradley Hunt and Jill Hunt**

This matter relates to a minor variance application submitted by Bradley and Jill Hunt, 445 Cameron Street, Peterborough, Ontario, K9J 3Z4, being the owners of the property subject to this application.

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

- They wish to downsize the restaurant portion of their business and expand upon the bakery portion of their business.
- They are proposing to retail bakery products from the restaurant and secondary building on the property.
- The actual creation of bakery products will occur in the kitchen of the main building on the property currently used as a restaurant.
- They are requesting a variance to recognize the use of the kitchen facilities within the restaurant as a "bakery" considered as a similar use of the restaurant's kitchen for the preparation of meals to be provided within the restaurant on the property or offsite where catering services are rendered.

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 use of the commercial kitchen for the preparation of a variety of foods to be consumed on and off site was a similar use to that of a kitchen used for preparation of baked goods to be consumed both on and off site.

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 recognize the use of the kitchen facilities within the restaurant as a "bakery" considered as a similar use of the restaurant permitted by the zoning PROVIDED there is no further expansion to the buildings on the property.

3. **FILE NO.** **A22/10**
ADDRESS: **1523 Champlain Drive**
APPLICANT: **Tom Rowden**

This matter relates to a minor variance application submitted by Tom Rowden, 1523 Champlain Drive, Peterborough, Ontario, K9L 1N3, being the owner of the property subject to this application.

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

- He would like to construct a side entrance into the basement of the north side of the dwelling.
- The proposal involves construction of a concrete foundation wall and a set of stairs on the north side of the dwelling.
- A variance is therefore requested to reduce the minimum required building setback from the north side lot line from 3 metres (9.8 ft) to 1.2 metres (3.9 ft) to allow the foundation wall and stairs to be constructed as an entrance to the basement.
- Creation of this entrance will provide him with access to a small room that he otherwise would not be able to access. It will also permit him to insulate this space resulting in greater climate control for the living space above it.
- He proposes to use this space for storage. Mr Rowden confirmed that the purpose of the entrance was not for access to the lower level of the building for use as additional living space or a dwelling unit.

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 addition is mainly sub surface and that there is no structure above ground other than the safety railing. The Committee determined that the spatial separation between the subject property and the adjacent property would not appear to be compromised, provided that vegetative landscaping is located so as to screen the entrance from the street to mitigate any impact.

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 required building setback from the north side lot line to 1.2 metres to permit the foundation wall and stairs to be constructed PROVIDED THAT the structure is uncovered, unenclosed and vegetative landscaping is established and maintained to screen the structure from the street.

4. **FILE NO.** **A23/10**
ADDRESS: **554 Aylmer Street North**
APPLICANT: **Albert Merrick**

This matter relates to a minor variance application submitted by Albert Merrick, 1143 Rock Road, Warsaw, Ontario, K0L 3A0, on behalf of Ann Sutherland Levitt, 1143 Rock Road, Warsaw, Ontario, K0L 3A0, being the owner of the property which is subject to this application.

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

- In order to comply with fire regulations he is required to install a fire escape.
- He would like to construct an external fire escape from the top level of the building that would wrap around the northeast corner of the building.
- A minor variance to the zoning regulations is therefore requested to reduce the minimum building setback from the north side lot line from 2.4 metres (7.87 ft) to 2 metres (6.56 ft) and reduce the minimum building setback from the rear lot line from 9 metres (29.5 ft) to 4.7 metres (15.4 ft) to permit the external fire escape.

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 provided the following further information to the Committee:

- The property is zoned R3, which permits a rooming/lodging house.
- The property is currently licensed with the City as a rooming house.
- At the time of the Ontario Municipal Board Decision 0496 in 2004, the property contained two dwelling units and 6 rooms.
- According to the application, there is currently 1 dwelling unit and 14 rooms contained within the building.
- Mr Straka offered the opinion that the current use of the building exceeded what was represented to be the use to the O.M.B. and the proposed use would involve variances to permit the fire escape that would extend beyond what the Decision of the O.M.B. anticipated.
- The proposal to construct an external fire escape as represented is complicated by the need to "fire protect" three bedroom widows in relation to the external fire escape. According to the Building Code, Bedrooms must have external ventilation (a window).
- In addition to the variances for the fire escape, a variance to two additional parking spaces required for the number of rooms and units in the building would be required.
- The following choices were described to the Committee:
    - Deny the requested variances and the applicant can either:
        - Convert the upper two levels to one dwelling unit as represented to the Ontario Municipal Board; or

- Convert the entire building to a rooming house for no more than 15 rooms and construct an internal fire escape to provide a safe exist from the upper level.

- Approve the requested variances and the applicant will be required to:
  - Apply for a further variance for a parking reduction;
  - Apply for a building permit to construct the fire escape in accordance with the Fire Code regulations and the Building Code regulations; and
  - Address issues including storm water drainage and the location of accessory buildings established on the property without a permit.

The following persons attended the meeting and addressed the Committee in opposition to this application:

i) Steven Vass, 3573 Bramble Road, Peterborough, Ontario, K9L 1S7

ii) Graham Hawkins, 243 London Street, Peterborough, Ontario, K9H 2Z1

iii) Sharon Quibell, 556 Aylmer Street, Peterborough, Ontario, K9H 3W7

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

- He did attend the Ontario Municipal Board hearing.
- At that time, it was his understanding that this building would be used as a 4-unit dwelling unit.

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

- There are numerous disturbances from the occupants of the property (day and night) that have negatively impacted his use and enjoyment of his property.
- While some of the neighbours have spoken to their Councillor, nothing formal has been requested. Some of the neighbours are uncomfortable to speak out. The Police have been contacted.
- He did not own his property when the property was subject to an Ontario Municipal Board appeal in 2003.
- He was concerned with the number of people in the building and the "illegal use" of the building.

In response to questions from the Committee, Mrs. Quibell advised as follows:

- She did not attended the Ontario Municipal Board hearing.
- Her mother owned the property immediately to the north at the time the subject property was before the O.M.B.
- She has read the Ontario Municipal Board decision and is disappointed with their decision.
- She is concerned with her loss of privacy due to the proximity of the proposed addition being too high and too close to the lot line.

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

- He did receive a permit from the City for construction of five rooms in the 3rd floor, with a kitchen and a bathroom.

- He is proposing to use fire exist doors that will not allow entry from the out side and will be alarmed upon exist so they should not be used as a method access and egress to the building.

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

- The use of the upper level of the building is "Unsafe". If the fire escape is not constructed as soon as possible, the upper level of the building will be deemed "Unsafe for occupancy " and the appropriate steps will be taken immediately.

- As per the Building Code, all bedrooms must have a window. According to the Fire Code, a window next to an external fire escape must be "fire protected". This may involve protecting the window with a steel fire shutter with a fused shutting mechanism for example.

- The existing fire escape, from the second floor is not constructed in accordance with the fire code today. It would not be acceptable to connect new construction to the existing fire escape that does not satisfy the Code.

- The Fire Department does not care whether the fire escape is internal or external provided it meets the Fire Code and is constructed as soon as possible.

DECISION

The Committee reviewed the application and noted the possibility of the conversion of the building to be primarily a rooming house requiring the proposed fire escape and variances to permit the use. The Committee determined that the development of the property is at its limits and does not consider the impact of the variances that would facilitate the intensity of the use of this property as minor or desirable. The Committee further considered that it may be possible to construct the fire escape internally, which would require no variances, not deviate from what was anticipated by the O.M.B Decision and result in no impact on the abutting property owners.

Accordingly, the Committee determined that:

1. the variances are 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 not maintained.

Therefore, minor variances are DENIED.

NEXT MEETING:

The next meeting of the Committee of Adjustment is tentatively scheduled for September 14, 2010.

ADJOURNMENT:

Meeting adjourned at 9:00 p.m.

Dated the 27th day of July, 2010.

Paul Dorris
Chairman

Carolyn Jobbitt
Secretary-Treasurer