

COMMITTEE OF ADJUSTMENT

Minutes of a Meeting of the Committee of Adjustment for the City of Peterborough held **Tuesday, October 26, 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

REGRETS: Mr. Bob Waldron, Manager, Building Division

1. **FILE NO.** A26/10
ADDRESS: 1597 Lansdowne Street West
APPLICANT: Eddie Apelowicz
2. **FILE NO.** B06/10
ADDRESS: 1597 Lansdowne Street West
APPLICANT: Eddie Apelowicz

These matters relate to a minor variance application and a severance application submitted by Eddie Apelowicz, 101 Simcoe Street North, Oshawa, Ontario, L1G 4S4, on behalf of RMJ Holdings Ltd, 101 Simcoe Street North, Oshawa, Ontario, L1G 4S4, being the owner of the property subject to these applications.

This application was adjourned from the September 14, 2010, hearing date, to permit the applicant or his agent an opportunity to attend the meeting to address the Committee.

Staff advised that due to a personal matter, the applicant was not available to attend this hearing. Given the circumstances, staff requested the Committee to consider the application notwithstanding the applicant's absence.

The purpose of these applications is to request the following:

- i) A consent to sever the southerly 152 metres of the property designated for residential purposes.
- ii) Considering the parcel to be severed, a variance to reduce the minimum required lot area from 16 hectares to 0.5 hectares and reduce the minimum lot width from 305 metres to 36 metres, and
- iii) Considering the parcel to be retained, a variance to reduce the minimum building setback from the east side lot line from 10 metres to 3.3 metres.

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

- Granting the severance would allow the owner of the property to deal with each parcel independently facilitating development of the commercial parcel.

- The applicant is aware of the fact that the vacant portion of the property zoned D.2 development District would ultimately need to be developed in conjunction with the development of the land to the west also designated residential.
- There are outstanding levies against the subject property filed under the Property Standard Development for grass cutting maintenance.
- The applicant has requested a consent certificate for each of the two parcels.

Mr. Bob Pakenham, a solicitor with the law firm Howell, Fleming, located at 415 Water Street, P. O. Box 148, Peterborough, Ontario, K9J 6Y5, attended the meeting and addressed the Committee on behalf of his client, Parkview Homes, 637 the Queensway, Suite 17, Peterborough, Ontario, K9J 7J6, who are in opposition to the proposed Minor Variance Application and Severance Application.

DECISION – File B06/10

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 southerly 152 metres of the property designated for residential purposes, CONDITIONAL UPON:

- i) the Committee granting the associated variance (File No. A26/10) to the lot width and the area regarding the parcel zoned D.2;**
- ii) the owner entering into an agreement with the City to:**
 - a. acknowledge that the only use of property zoned D.2 Development District until it is rezoned is “the established use” being vacant land; and**
 - b. secure access rights over the road stub from Spillsbury Drive for maintenance purposes until such time that alternative access is acquired;**
- iii) payment of all outstanding charges levied against the tax rolls for both the severed and retained parcels of land.**

DECISION – File A26/10

The Committee reviewed the application and noted that the commercial nature of the two land uses, the grade separation between the two properties and that both properties are subject to site plan approval. Therefore, the Committee determined that there would be no impact on the abutting property owners by granting the subject variance.

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 3.3 metres regarding the parcel of land zoned SP.268-244, and**

- ii) **reduce the minimum required lot area to 0.5 hectares and the minimum lot width to 36 metres regarding the southerly parcel zoned D.2 Development District PROVIDED THAT the only permitted use is “the established use” being vacant land until it is rezoned.**

3. **FILE NO. A29/10**
ADDRESS: 380 Belmont Avenue
APPLICANT: Thomas Miller and Barbara Chisholm

This matter relates to a minor variance application submitted by Thomas Miller and Barbara Chisholm, 528 Weller Street, Peterborough, Ontario, K9H 2N6, being the owners of the property which is subject to this application.

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

- He would like to make some modifications to the dwelling involving an expansion to the one storey garage attached to the north side of the dwelling on the property. This new living space will result in a family room and a home office.
- A variance is requested to reduce the minimum building setback from the north side yard from 1.2 metres (3.9 ft) to 0.6 metres (2 ft) to permit the expansion to be in line with the north wall of the garage as it currently exists.
- A variance is also requested to reduce the minimum building setback from the east, rear lot line from 7.5 metres to 1.5 metres (5 ft) to permit the addition to the proposed expansion to the east.
- The expansion of the dwelling is not possible on the south side of the property because of the underground geothermal heat system installed in that location.
- The addition will be a single storey and not have a full basement.
- The exterior finish of the addition will be in-keeping with the design of the original dwelling and the standard of development of other buildings in the vicinity.

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 lot pattern of the neighbourhood, the size, the nature of development and use of rear yards in proximity to the property. Accordingly, the Committee determined that there would be no impact by the proposed development on the abutting 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 building setback from the north side yard to 0.6 metres to permit the expansion to be in line with the north wall of the garage as it currently established for a total length of 10.1 metres; and
- ii) reduce the minimum building setback from the east, rear lot line to 1.5 metres to permit the addition to the proposed expansion to the east for a total width not to exceed 6 metres,

PROVIDED THAT eavestroughing is established and maintained on the building to manage storm water onto the subject property so as to not to affect the neighbouring properties.

4. **FILE NO.** **A30/10**
 ADDRESS: **109 Romaine Street**
 APPLICANT: **Shanna Juriga and Jason Juriga**

This matter relates to a minor variance application submitted by Jason Juriga and Shanna Juriga, 109 Romaine Street, Peterborough, Ontario, K9J 2B9, being the owners of the property subject to this application.

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

- They are proposing to construct a two-storey addition to the east side of the dwelling on the property and reconstruct the detached garage on the west side of the dwelling.
- a variance is requested to reduce the minimum building setback from 6 metres (19.6 ft) to 4.1 metres (13.5 ft) regarding the front street line and from 7.6 metres (24.9 ft) to 4.25 metres (14 ft) in relation to the rear lot line to permit the proposed two storey addition to be constructed in line with the front and rear wall of the dwelling as established on the property.
- They are proposing to refinish the existing dwelling, addition and new garage with stone brick siding and board and batton in neutral colours.
- The garage will have no plumbing or living space.
- The covered porch at the front of the dwelling will remain unchanged and accordingly no variance in that regard is required.

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 subject property is a wide, but shallow lot located on a section of Romaine Street that is designated as a local street. The Committee determined that the proposed variances were in keeping with the standard of development of properties in the neighbourhood and further that the impact on the abutting property owners of the proposed addition and reconstructed garage would be minimal.

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 and to 4.25 metres in relation to the rear lot line to permit the proposed two storey addition to the dwelling be constructed in line with the front and rear wall of the dwelling as established on the property for a maximum width of 10.5 metres. A variance is also granted to reduce the minimum building setback from the rear lot line to 4.5 metres regarding a detached garage not to exceed 5 metres in width.

5. **FILE NO. B07/10**
ADDRESS: 863 Abbey Lane and 880 – 884 Armour Road
APPLICANT: The Moher Development Corporation

This matter relates to severance application submitted by The Moher Development Corporation, Unit #2, 880 Armour Road, Peterborough, Ontario, K9H 2A6, being the owner of the property subject to this application.

Mr. Brendan Moher, the principal of The Moher Development Corporation, attended the meeting and addressed the Committee as follows:

- He is requesting a consent, to convey the easterly 30 metres of the property together with easements to support development of a 12 unit apartment building on the property separate and apart from the property upon which Auburn Plaza is established.
- He recently completed a Zoning By-law Amendment Application. Accordingly, he would like to complete the severance in accordance with the newly established zoning line.
- He is in the process of advancing a site plan application.

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.

- It was confirmed that all issues pertaining to land use, access to the site and traffic concerns have been addressed by City Council as a part of the zoning application.
- It was confirmed that the site plan agreement will address site design details including fencing of the property.

The following persons attended the meeting and addressed the Committee to express concerns relating to traffic and access, including sidewalks:

- Mr. and Mrs. Fergus O'Brien, 853 Abbey Lane, Peterborough, Ontario, K9H 7T1
- Mr. John Croft, 846 Abbey Lane, Peterborough, Ontario, K9H 7N6

DECISION

Both the severed and retained property would conform to both the Official Plan policy and the zoning applied to the property, therefore, referring to the draft Reference Plan prepared by Beninger Surveying, dated September 13, 2010, consent is granted to convey the easterly 30 metres of the property illustrated as Parts 5 to 15, inclusive, subject to the establishment of a right of way for the purpose of pedestrian access over Parts 15 and 21 and easements for conducting storm water over Parts 6, 22, 11 and 20, together with an easement over Part 3 for the purpose of storm water management.

6. **FILE NO.** **A31/10**
 ADDRESS: **107 Aylmer Street North**
 APPLICANT: **Reginald A. Robinson (Autosafe Systems Inc.)**

This matter relates to a minor variance application submitted by Autosafe Systems Inc., 107 Aylmer Street North, Peterborough, Ontario, K9J 3J6, being the owner of the property subject to this application.

Mr. Reg Robinson, the principal of Autosafe Systems Inc., attended the meeting and addressed the Committee as follows:

- A variance to Section 6.4 of the zoning by-law was granted in 2007 to permit a temporary structure as a storage building on the property for a period of three years.
- The variance will lapse as of December, 2010. Accordingly, the applicant is requesting a variance once again to permit the temporary structure to remain for an additional three or more years.

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 considered the neighbourhood context and the Official Plan designation as Industrial Conversion, and determined that because the temporary structure associated with the current use would be for a limited time and would be located on the northwest side of the building next to the rail way tracks, the adjacent properties would not be unduly impacted. 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 permit one 2.4 metre by 12.1 metre temporary structure on the property until December 31, 2014.

7. **FILE NO.** **B08/10**
 ADDRESS: **1154 Chemong Road**
 APPLICANT: **Allan A. Rakowsky**

This matter relates to severance application submitted by Allan A. Rakowsky, solicitor with the law firm Rose, Persiko, Rakowsky, Melvin, Suite 600, 390 Bay Street, Toronto, Ontario, M5H 2Y2, on behalf of Hreit Holdings 30 Corporation, 649 Scottsdale Drive, Suite 502, Guelph, Ontario, N1G 4T7.

Mr. Rakowsky, attended the meeting and addressed the Committee as follows:

- This application is for a severance to permit the owner of the property to enter into a long-term lease agreement over a portion of the property over which the Boston Pizza restaurant building is located.
- Accordingly, the owner is requesting a consent to lease the property upon which the restaurant building is established, for of a period of time that would exceed 21 years.

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

Consent is granted to permit the applicant to enter into a long-term lease agreement over a portion of the property upon which the Boston Pizza restaurant building is located.

8. **FILE NO.** **B09/10**
 ADDRESS: **242 Dublin Street**
 APPLICANT: **Paul Patterson**
9. **FILE NO.** **B10/10**
 ADDRESS: **617 Aylmer Street North**
 APPLICANT: **Paul Patterson**

Committee member Paul Dorris declared an interest with respect to this application and left the room, participating in neither the discussion nor the decision with respect to this application. Committee member, Vice-Chair, Keith Riel took the chair to address this item.

These matters relate to severance applications submitted by Paul Patterson, 99 Ford Street, P. O. Box 72, Warsaw, Ontario, K0L 3A0, being the owner of the properties subject to these applications.

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

- A consent is requested to establish reciprocal easements over the two properties to accommodate access over 242 Dublin Street to parking to be established on 617 Aylmer Street North for the two properties.
- Both a consent and variance by the Committee of Adjustment about a year ago in an attempt to create parking for both of these properties. He was unable to

comply with all of the conditions and the consent lapsed.

- He has now been able to confirm his access rights to the right of way and is able to proceed with this matter.
- Vehicles will be able to drive into the parking area and then back up onto the easement area to turn around and drive out.

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. Michael Lafave, 1521 Westbrook Drive, Peterborough, Ontario, K9J 6R5, owner of 625 Aylmer Street North, Peterborough, Ontario, attended the meeting and addressed the Committee with questions regarding the right of way between the two properties.

DECISION

The Committee reviewed the two applications and determined that the proposed easements could facilitate an arrangement for on-site parking associated with both properties.

Accordingly, consent is granted for the following easements:

- Over the south easterly portion of the property municipally known as 242 Dublin Street in favour of the owner of the property municipally known as 617 Aylmer Street North for the purpose of accessing motor vehicle parking spaces and turnaround for vehicles to drive out onto Dublin Street.**
- Over an area of property municipally known as 617 Aylmer Street North in favour of the owner of the property municipally known as 242 Dublin Street for the purpose of providing sufficient motor vehicle parking spaces associated with both properties, all of which is to be accommodated at 617 Aylmer Street North.**

PROVIDED THAT:

- A plan of survey is prepared illustrating the easements described of an area adequate to function in accordance with the by-law;**
- The owner enters into a Development Agreement with the City, to be registered against both properties. The Development Agreement will address such issues as landscaping, definition of easements and parking, driveway, fencing and any other matters staff deemed necessary, to the satisfaction of the Planner of Urban Design; and**
- The owner pays a Parks Levy in an amount to be determined by the Parks Levy Review Committee.**

Committee Member Paul Dorris returned to the meeting.

NEXT MEETING:

The next meeting of the Committee of Adjustment is tentatively scheduled for December 7, 2010.

ADJOURNMENT:

Meeting adjourned at 9:40 p.m.

Dated the day of November, 2010.

Paul Dorris
Chairman

Carolyn Jobbitt
Secretary-Treasurer