

COMMITTEE OF ADJUSTMENT

Minutes of a Meeting of the Committee of Adjustment for the City of Peterborough held **Tuesday, July 12, 2011** at 7:00 p.m., in the General Committee Room, City Hall.

PRESENT: Mr. Paul Dorris, Chairperson
Mr. Claude Dufresne
Mr. Alan Porteous
Ms. Brenda Campbell
Mr. John Duncan

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

1. **FILE NO.** A20/11
ADDRESS: 5 McGregor Court
APPLICANT: 1612328 Ontario Inc. (Parkview Homes)
2. **FILE NO.** A21/11
ADDRESS: 6 McGregor Court
APPLICANT: 1612328 Ontario Inc. (Parkview Homes)

These matters relate to minor variance applications submitted by 1612328 Ontario Inc. / 935976 Ontario Inc. (Parkview Homes), Suite 17, 637 The Queensway, Peterborough, Ontario, K9J 7J6, being the owner of the properties which are subject to these applications.

Jim Baird, from Messrs. Howell, Fleming, Barristers & Solicitors, 415 Water Street, P.O. Box 148, Peterborough, Ontario, K9J 6Y5, attended the meeting on behalf of the owner and addressed the Committee as follows:

- His client is in the process of constructing a dwelling on each of the subject property.
- During the course of construction, it was determined that the foundations have been constructed too close to the rear lot line.
- Accordingly, his client is requesting the following variances:

A20/11 – 5 McGregor Court

A variance is requested to reduce the minimum required building setback from the rear lot line from 7.6 metres (24.9 ft) to 7.46 metres (24.47 ft) to accommodate the dimensions of a particular model dwelling on the irregular shaped property.

A21/11 – 6 McGregor Court

A variance is requested to reduce the minimum required building setback from the rear lot line from 7.6 metres (24.9 ft) to 7.51 metres (24.6 ft) to accommodate the dimensions of a particular model dwelling on the property.

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:

- During the construction of a subdivision, it is very difficult to obtain an accurate measurement to construct the foundation.
- The subject lots are slightly smaller than the other lots on McGregor Court. However, the dwellings under construction are in keeping with other dwelling in the neighbourhood.

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

DECISION – A20/11 and A21/11

The Committee considered the configuration of the property and the orientation of lot lines in relation to the dwellings on the properties. The Committee determined that the proposed reductions in the rear lot lines were minor and would result in development regarded as in-keeping with the standard of property development in the neighbourhood.

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 as follows:

A20/11 – 5 McGregor Court

To reduce the minimum required building setback from the rear lot line to 7.46 metres.

A21/11 – 6 McGregor Court

To reduce the minimum required building setback from the rear lot line to 7.5 metres.

3. **FILE NO. A22/11**
ADDRESS: 248 Murray Street
APPLICANT: Farley Genge

This matter relates to a minor variance application submitted by Farley Genge, 2002 Hilliard Street, Peterborough, Ontario, K9J 6X5, on behalf of St. Vincent de Paul Society, 256 Murray Street, Peterborough, Ontario, K9H 2S9, being the owner of the property subject to this application.

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

- St. Vincent de Paul is amalgamating food banks currently located in various churches into one central location in an effort to provide more efficient service.
- Accordingly, the owner is requesting a variance to consider a food distribution centre as a use considered similar to an establishment for retailing of used clothing and furniture by St Vincent de Paul.

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. John Wilson, c/o Four Seasons Auto Glass, 465 Aylmer Street North, Peterborough, Ontario, K9H 3W3, attended the meeting and expressed concerns regarding loitering.

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

- The food bank will be open from 9 – 6 pm and to start it will only be open 3 days per week. It will never operate 7 days a week and never on a Sunday.
- The trailer currently located on the City Boulevard of Murray Street will be relocated to the new clothing store on Erskine Avenue.

DECISION

The Committee reviewed the application and considered the variance granted by a former Committee of Adjustment file A12/84 allowing the current use. The Committee also noted that a warehouse use is permitted by the zoning. The Committee determined that the request to warehouse and distribute food from the premises is similar in nature to the use permitted by the former variance (A12/84) and conforms to the intent of the Official Plan. The Committee further noted that the location of the food bank was in-keeping with the intent of the Official Plan being conveniently located to serve a residential population concentrated in the core area of the City.

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 consider a food distribution centre (food bank) as a use considered similar to an establishment for retailing of used clothing and furniture by the St Vincent de Paul Society.

4. **FILE NO. A23/11**
ADDRESS: 730 The Kingsway
APPLICANT: Dan McWilliams

This matter relates to a minor variance application submitted by Dan McWilliams, 712 The Kingsway, P. O. Box 353, Peterborough, Ontario, K9J 6Z3, on behalf of 1576626 Ontario Limited, 100 Renfrew Drive, Suite 110, Markham, Ontario, L3R 9R6, being the owner of the property subject to this application.

Mr. Claude Dufresne 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.

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

- His Company, McWilliams Moving & Storage, is the proposed purchaser of the subject property and accordingly, he is attending this meeting as a prospective owner of the property and not as a City Councillor.

- He is requesting a variance to permit a training facility for industrial or construction oriented tradesman as a use considered similar to a “tradesman shop” or “woodworking shop”- uses permitted by the M1.2 Industrial zoning of the property.
- Approximately 9,000 square feet will be used for the training facility, plus the cafeteria. The balance of the building will be used by McWilliams Moving & Storage.
- The Sandford Fleming College training facility will be leasing a portion of the building for 3 years. After that time, it is his understanding that the College will have constructed a training facility on the College property.

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 description of the activities that would be carried out within the building on the property and are of the opinion that the training facility for tradesmen would be similar to the activities and operations carried out on the floor of a tradesman’s shop constructing prefabricated products.

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 a training facility for an industrial or construction oriented “tradesman” as a use considered similar to a “tradesman shop” or “woodworking shop” in accordance with the M1.2 Industrial zoning of the property.

(Claude Dufresne returned to the room to participate in the remaining items on the agenda.)

5. **FILE NO. B09/11**
ADDRESS: 268 Towerhill Road
APPLICANT: Kevin Duguay

This matter relates to severance application submitted by Kevin Duguay, 560 Romaine Street, Peterborough, Ontario, K9J 2E3, on behalf of Habitat for Humanity Peterborough and District, 161 Sherbrooke Street, Peterborough, Ontario, K9J 2N2.

Kevin Duguay and his associate, Ali Powers, attended the meeting and addressed the Committee as follows:

- The property was previously rezoned to permit the development of a semi-detached dwelling on the property.

- The owner of the property is requesting consent to convey the easterly 9.67 metres of the subject property resulting in separate ownership of each portion of a semi-detached 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.

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

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 easterly 9.67 metres of the subject property resulting in separate ownership of each portion of a semi-detached dwelling, CONDITIONAL UPON the following:

- i) **Payment of a Parks Levy in an amount to be determined by the Parks Levy Review Committee; and**
- ii) **Payment of a Tree Levy in the amount of \$121.00.**

6. **FILE NO. A24/11**
ADDRESS: 51 Sophia Street
APPLICANT: Michael Scorer

This matter relates to a minor variance application submitted by Michael Scorer, 57 Sophia Street, Peterborough, Ontario, K9H 1E1, and Laurie Davis, 388 Rogers Street, Peterborough, Ontario, K9H 1W7, being the owners of the property subject to this application.

Mr. Michael Scorer attended the meeting and addressed the Committee as follows:

- He is requesting a variance to reduce the minimum building setback from the westerly side lot line from 1.2 metres (3.96 ft) to 0.5 metres (1.6 ft) to allow construction of a second storey addition over the building in its established location.
- The property is zoned R2 and would permit a two unit dwelling.
- The second floor addition will be the second unit. The two units would have similar floor plans.

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 3 metre spatial separation between the dwelling on the property and dwelling on the adjacent property, which would result in no impact on the abutting property. The Committee further noted the established standard of development of the properties in the vicinity of the subject

property and determined that the proposed creation of a second storey would be in-keeping with the established standard of development in the neighbourhood.

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 westerly side lot line to 0.5 metres to permit construction of a second storey addition over the building in its established location PROVIDED THAT eavestroughing is established and maintained on the building to manage storm water on the property so as not to adversely affect the neighbouring properties.

7. **FILE NO.** **A25/11**
 ADDRESS: **119 Greenhill Drive**
 APPLICANT: **Lillico, Bazuk & Kent (Garnet Kent)**

This matter relates to a minor variance application submitted by Garnet Kent, solicitor with the law firm Lillico, Bazuk and Kent, 163 Hunter Street West, Peterborough, Ontario, K9J 6Z6, on behalf of Carolanne Lee and Gerard Lee, 111 Greenhill Drive, Peterborough, Ontario, K9J 6E2, being the owners of the property subject to this application.

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

- The dwelling was constructed in 1956, and the owner at that time lived at the property for 55 years. When the property was sold, it was determined that the front yard set back was deficient.
- Accordingly, the applicant is requesting a variance to reduce the minimum building setback from the Greenhill Road street line from 6 metres (19.6 ft) to 5.9 m (19.4 ft) to recognize the location of the dwelling established on the property in 1956.

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 considered the size of the variance requested and the long established location of the dwelling on the property. The Committee, therefore, determined that the proposed variance was minor and did not impact the neighbouring properties.

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 Greenhill Road street line to 5.9 metres.

8. **FILE NO.** **B10/11**
 ADDRESS: **31 Greenhill Drive**
 APPLICANT: **Patrick Mahoney and Deborah Mahoney**
9. **FILE NO.** **A26/11**
 ADDRESS: **31 Greenhill Drive**
 APPLICANT: **Patrick Mahoney and Deborah Mahoney**

This matter relates to a minor variance application submitted by Patrick and Deborah Mahoney, 31 Greenhill Drive, Peterborough, Ontario, K9J 6E2, being the owners of the property which is subject to this application.

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

- They are proposing to convey the easterly 15 metres (approximately) of the subject property upon which a house is established and retain the westerly portion of the property for development of a new, single unit dwelling.
- To support the proposed severance, a variance is requested to reduce the minimum lot width of the westerly parcel from 15 metres (49.2 ft) to 13.5 fm (44.2 ft).
- Rather than create a new driveway to the east of the existing dwelling, they would like to maintain the existing driveway to preserve the existing trees in front of the property and the landscaping and entrance to the public walkway to the east side of the property.
- They are proposing to construct a new home on the newly created parcel and sell the existing 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.

Staff advised that the sloping grades of the subject property in relation to adjacent properties could present a challenge to development considering the management of subsurface and stormwater in relation to open ditch drainage in the area. In an effort to address these issues, staff would recommend that a comprehensive grading and drainage plan be required in addition to the standard grading plan required at the building permit stage as a condition for approval.

In addition, a concept site plan should be required to demonstrate how the proposed location of the driveways on the existing and new property would function without impacting the neighbouring properties.

The following people attended the meeting to object to this application:

- Linda Steele, 39 Greenhill Drive, Peterborough, Ontario, K9J 6E2
- Cheryl Coss & Jami G. Sanftleben, 35 Greenhill Drive, Peterborough, Ontario, K9J 6E2
- Bryon Robinson, 29 Nevin Ave., Peterborough, Ontario, K9J 6E7

The Chairman read a letter from Margaret Shaughnessy in objection to this application.

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

- The line of severance would be through the existing driveway. The driveway is currently a double wide driveway and it would be converted into a single width driveway.
- Based on an inspection by the City Engineer, the fire hydrant does not need to be relocated. The newly created lot will encounter issues regarding construction, but all of these difficulties can be overcome by the design of the dwelling and a comprehensive site grading and drainage plan that details, in addition to typical City requirements, all existing and proposed driveways on the severed and retained properties.
- The new parcel will have sufficient space for 3 motor vehicle parking spaces and the existing property will have sufficient space for 2 or 3 motor vehicle parking spaces.
- The owner could get a building permit today for an addition to the dwelling that could include a detached garage or attached two storey addition to the dwelling extending westward on the property.
- The owner could tear the house down and construct a new dwelling on the west side of the property without obtaining a variance or being required to enter into a development agreement associated with the new dwelling.
- The variance is only required because the proposed new lot is slightly narrower and the owner wishes to save the trees and landscaping on the east side of the property.
- If the owner wished to sever without obtaining a variance, no condition regarding the drainage plan or development agreement may be imposed. The owner would simply be required to construct a dwelling in accordance with the zoning regulations.

In response to questions from the Committee the Applicants advised as follows:

- They have owned and resided in the property for approximately one year.
- During this time, they have had no water in their basement and are unaware of any past history of water in the basement.
- The hill at the rear of the property is dry and there are no ground water issues apparent.

DECISION – A26/11

The Committee reviewed the application and determined that the variance to allow a slightly narrower lot and the proposed location of the dwelling, being approximately 14 metres from the street line, will minimize the impact on adjacent properties, the public walkway and will accommodate off street parking. This will allow the existing trees and landscaping to remain resulting in minimal impact on the abutting properties.

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 lot width of the westerly parcel portion of 31 Greenhill Drive to 13 metres.

DECISION – B10/11

In that adequate space exists and services are available to create a new building lot to the west side of the subject property, the Committee considers it appropriate to allow severance that would result in a new lot for a single unit dwelling.

Therefore consent is granted to convey the easterly 15 metres of the subject property upon which a house is established and retain the westerly portion of the property for development of a new, single unit dwelling subject to the following conditions:

- i. **The associated minor variance file A26/11 is approved,**
 - ii. **Provision of a plan of survey illustrating the proposed severed parcel to the satisfaction of the City Planner.**
 - iii. **The owner entering into a development agreement with the City to be registered on the title of the westerly portion of the property that would require the owner to provide the following before issuance of a building permit:**
 - a. **a site plan illustrating the location of a driveway to the retained property that would have a width of no greater than 3 metres at the curb line, with driveways to each lot designed to accommodate parking for no less than two motor vehicles per property, with the dwelling on the westerly lot to be located no less than 14 metres from the street line;**
 - b. **a comprehensive site grading and drainage plan for development of the westerly portion of the property; and**
 - c. **building plans for approval by the Planner of Urban Design to ensure compatibility of building design with the established standard of other buildings in the neighbourhood prior to issuance of a building permit.**
 - iv. **Payment of a parks levy to be determined by the Parks Levy Review Committee.**
 - v. **Payment of tree levy in the amount of \$168.00.**
10. **FILE NO. A27/11**
ADDRESS: 630 Garside Drive
APPLICANT: William Little and Ethel Little

This matter relates to a minor variance application submitted by William Little and Ethel Little, 630 Garside Drive, Peterborough, Ontario, K9H 7C9, being the owners of the property subject to this application.

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

- They attended at the Building Division to obtain a building permit for the construction of a garage. Unfortunately, by way of a misunderstanding, the garage was located 6 metres from the curb line of Garside Street rather than 6 metres from the property line.
- A variance is requested to reduce the minimum building setback from the Garside Drive street line from 6 metres (19.6 ft) to 1.5 metres (5 ft) to recognize the location of partially constructed, detached garage as established.

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 considered the circumstances including the orientation of development across the street. The Committee further determined that the impact of the variance on the abutting properties is significantly reduced due to the mature trees established along the property line.

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 Garside Drive street line to 1.5 metres to recognize the location of a detached garage, as established.

11. **FILE NO. A28/11**
ADDRESS: 16 Lansdowne Street West
APPLICANT: Vince Martignetti and Michelle Connaghan

This matter relates to a minor variance application submitted by Vince Martignetti and Michelle Connaghan, 283 Rogers Street, Peterborough, Ontario, K9H 1W4, on behalf of 1254681 Ontario Ltd., 171A Rink Street, Suite 272, Peterborough, Ontario, K9J 2J7.

Michelle Connaghan attended the meeting and addressed the Committee as follows:

- She is one of the owners of JJT Fries and they have been in the present location since June 2011.
- Prior to opening her business, she attended at City Hall to obtain a business license.
- Shortly after receiving her license, she was contacted by the Building Division, who advised that the license had been issued in error.
- She immediately attended at the Planning Division to apply for a minor variance.

- Accordingly, she is requesting a variance to Section 6.40 of the zoning by-law to permit a temporary structure on the property from which prepared foods will be sold.
- The second trailer located on the property belongs to the owner and is not a part of this application.
- The recommended time limit on the variance will allow time to find alternative arrangements for next year, allowing her to continue to operate for this season.

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 circumstances by which the current trailer became established on the property. Although the trailer was not allowed on the property, a business license to operate was issued in error. In view of the hardship on the business operator and the fact that there is space on the property, the Committee determined that it would be appropriate to grant a temporary variance.

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 Section 6.40 of the zoning by-law to permit one temporary structure on the property in the form of a 8.5 metre long trailer from which prepared foods would be sold UNTIL JANUARY 12, 2012 after which this decision will lapse and no trailer or temporary structure will be permitted on the property.

NEXT MEETING:

The next meeting of the Committee of Adjustment is scheduled for September 7, 2011.

ADJOURNMENT:

Meeting adjourned at 9:00 pm.

Dated the 18th day of July, 2011.

Paul Dorris
Chairman

Carolyn Jobbitt
Secretary-Treasurer