



Committee of Adjustment Minutes

February 2, 2016

Minutes of a Meeting of Committee of Adjustment held on Tuesday, February 2, 2016 at 7:00 p.m. in the Council Chambers, City Hall.

Present: Ms. Brenda Campbell, Chair
Mr. Mauro DiCarlo
Mr. Claude Dufresne
Mr. Len Lifchus
Mr. Frank Steffler

Also Present: Mr. Richard Straka, Planner, Policy and Research
Ms. Jennifer Sawatzky, Secretary-Treasurer

Committee of Adjustment was called to order at 7:00 p.m.

Disclosure of Pecuniary Interest

There were no disclosures of Pecuniary Interest.

1. **File No.:** A47/15
Address: 135 Rubidge Street
Applicant: CB Rubidge Inc.

This matter relates to a minor variance application submitted by CB Rubidge Inc., 423 Highway 36, Lindsay, Ontario K9V 4R3, the owner of the property that is the subject of the application.

This application was adjourned from the December 15, 2015 hearing to allow the applicant time to prepare and submit additional materials to the Planning Division.

Mr. Richard Straka, Planner, Policy & Research, advised that Staff have not yet received the required information and that a meeting has been scheduled with the applicant to review the application. As a revised application will likely include changes to the requested variances and will require recirculation, Staff recommend that the application be adjourned sine die.

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

Accordingly, the Committee agreed to adjourn this application to an undetermined meeting date, at which time the application would be re-advertised and re-circulated at the expense of the applicant.

2. **File No.:** A02/16
Address: 377 Stewart Street
Applicant: Kevin M. Duguay

This matter relates to a minor variance application submitted by Kevin M. Duguay, 560 Romaine Street, Peterborough, Ontario K9J 2E3, as applicant on behalf of Philip McMichael, 624 Homewood Avenue, Peterborough, Ontario K9J 4V5, the owner of the property that is the subject of the application.

Kevin M. Duguay attended the meeting and addressed the Committee as follows:

- The owner of the property is seeking a minor variance to reduce the minimum required floor area of a bachelor unit to recognize the size of an existing residential unit.
- Both he and the property owner have reviewed the staff report and are in agreement with the Staff recommendation.
- Council granted a zoning amendment to permit the property to be used for as many as five dwelling units. Since that time, the owner has decided not to proceed with the planned renovations. He plans to live in the subject property and rent out the existing second unit.

Mr. Richard Straka, Planner, Policy & Research, presented Staff comments with respect to the application on behalf of the Building and Planning Divisions of the Planning & Development Services Department, City of Peterborough.

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

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

- The Minor Variance Application did not indicate if the sunroom is heated or insulated.

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

- The sunroom functions as an entrance and sitting area for the bachelor unit and is included in the calculation of floor area of the unit. The floor plans distributed to the Committee represent existing conditions of the unit that has been in use for some time.
- He is not aware if the sunroom is heated or insulated.

Decision

The Committee reviewed the application, including the illustration of the floor plan of the bachelor unit. The Committee observed that the sunroom, which functions as an entrance to the unit, is included in the measurement of the entire floor area, represented as the liveable floor area of the bachelor unit. The Committee determined that if the sunroom is heated and insulated, and available for use by the tenant year round, the variance is a reasonable given the existing division of space in the building. However, the Committee further determined that granting a variance which includes an unheated sunroom as liveable floor space could not be considered minor if the sunroom is not available for use during the winter season.

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 variance is granted to reduce the minimum required floor area of a bachelor unit to 21.8 square metres PROVIDED THAT:

- i) the variance is applicable to only one unit within the building,**
- ii) parking is provided on the subject property to support the second unit, and**
- iii) the sunroom is heated and habitable on a year round basis as a part of the 21.8 sq metres of floor area.**

3. **File No.:** A03/16
Address: 1090 Clonsilla Avenue
Applicant: Dr. Joseph Hoja Optometry Professional Corporation

This matter relates to a minor variance application submitted by Dr. Joseph Hoja Optometry Professional Corporation, 1090 Clonsilla Avenue, Peterborough, Ontario K9J 5Y5, the owner of the property that is the subject of the application.

Mr. Richard Straka, Planner, Policy & Research, advised that the applicant has asked for an adjournment in response to new information provided by the Legal and Utility Services Departments. City Council has recently adopted a stormwater master plan and Staff are reviewing existing infrastructure for upgrades. A storm sewer crosses the southeastern corner of the property and has been identified in the City's Flood Reduction program for improvements. The existing easement may need to be expanded to accommodate this work and the proposed expansion of the building on the subject property may encroach on the location of the expanded easement. Staff are meeting with the applicant to discuss possibilities for a redesign of the building.

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

Accordingly, the Committee agreed to adjourn the application to the next Committee of Adjustment hearing, scheduled for Tuesday, March 1, 2016.

4. **File No.:** A04/16
Address: 302 Park Street North
Applicant: Kevin Dunn

This matter relates to a minor variance application submitted by Kevin Dunn, 452 Charlotte Street, Suite 200, Peterborough, Ontario K9J 2W3, as applicant on behalf of 2357308 Ontario Inc., 1352 Sandalwood Drive, Peterborough, Ontario K9K 1X9, the owner of the property that is the subject of the application.

Kevin Dunn attended the meeting and addressed the Committee as follows:

- The subject property is zoned C.1, which does not permit its use as a general office. He plans to move his accounting practice into the building, and is asking the Committee to grant a minor variance to permit a general office use as a use considered similar to that of a clinic, which is permitted under the current zoning.
- In 1981, the Committee approved a variance to allow the building to be used as a non-profit telephone answering service, which would be considered a general office use.

Mr. Richard Straka, Planner, Policy & Research, presented Staff comments with respect to the application on behalf of the Building and Planning Divisions of the Planning & Development Services Department, City of Peterborough.

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

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

- Exhibit C of the Staff report illustrates how three parking spaces can be achieved on the site in compliance with the zoning by-law. The parking is shown on an angle, as the lot would have to be a minimum of 40 feet wide to permit a 90 degree turn into a parking space.

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

- The current parking spaces are painted with horizontal, not angular, lines.
- His business does not cater to drop in clients, and most of the visits to the office are appointment driven. Therefore, there are usually only two clients requiring parking at any time and the intended use will not put a strain on the parking.

- His business is currently located around the corner on Charlotte Street, and he has not experienced a need for more than three parking spaces at his current location.

Decision

The Committee reviewed the application, considered the use and development of adjacent properties, the previous variance granted to allow the use of a telephone answering service and parking demand related to the requested use. In relation to anticipated demand on parking, the Committee determined that the proposed use would create less demand, and therefore be more appropriate than the permitted clinic use. The Committee determined that the impact of the variance was minor and would result in appropriate development that would be in keeping with the established standard of development of 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 variance is granted to permit the use of the building on the property as an office, considered as a use similar to that of a clinic that is permitted by the C.1 zoning of the property. This decision is limited to an office use of no more than 135 square metres unless subject to the payment of cash in lieu of parking.

5. **File No.: B01/16 and A06/16**
Address: 230 Wallis Drive
Applicant: Anna and Steve Kowalczyk

This matter relates to a severance application submitted by Anna and Steve Kowalczyk, 230 Wallis Drive, Peterborough, Ontario K9J 6C7, the owners of the property that is the subject of the application.

Paul Kowalczyk, representing Anna and Steve Kowalczyk, attended the meeting and addressed the Committee as follows:

- The owners are requesting consent to sever the property into two parts to permit construction of a single unit dwelling on the severed lot. A minor variance is also required on the proposed severed lot to reduce the minimum required lot width and area.

Mr. Richard Straka, Planner, Policy & Research, presented Staff comments with respect to the application on behalf of the Building and Planning Divisions of the Planning & Development Services Department, City of Peterborough.

The Chair read a letter from Christina Coulter, Planner, Kawartha Pine Ridge District School Board, 1994 Fisher Drive, Peterborough, Ontario K9J 6X6 stating that the school board has no objections to the proposed development.

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

- Of the previous applications for severance in the area, he recalls only one that was denied.
- The Utility Services Division has asked for the conveyance of a daylight triangle to widen the road allowance at an intersection to accommodate the maintenance and installation of subsurface services.
- A review of the plans by the Planner of Urban Design ensures that new development will be compatible with existing architecture and fit in with the surrounding neighbourhood.

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

- The owners plan on improving the curb appeal of the property by making improvements to the landscaping at the front of the existing dwelling.

Decision – B01/16

The Committee considered the proposal and determined that the severance would result in a new lot capable of supporting development of a single unit dwelling compatible with the established standard of development in the neighbourhood. The Committee acknowledged that municipal sanitary sewer services are now available to the proposed new dwelling within the Briarhill Road road allowance.

Accordingly, consent is granted to sever the easterly 27.4 metres of the subject property to create a new lot for future development of a single unit dwelling, CONDITIONAL UPON THE FOLLOWING:

- i) the approval of the associated minor variance application file A06/16,**
- ii) payment of a parks levy in an amount to be determined by the Parks Levy Review Committee,**
- iii) payment \$31,142.13 to the City representing the appropriate share of the cost of extending sanitary sewer services along Briarhill Road,**
- iv) conveyance by the owner to the City, free of encumbrances and at no cost to the City, of an 8 metre by 5 metre daylight triangle at the northwest corner of the retained parcel relative to the Wallis Drive and Briarhill Road intersection, and**
- v) that the owners enter into an agreement with the City to provide building plans for approval by the Planner of Urban Design prior to issuance of a building permit to ensure compatibility of building design with the established standard of development in the neighbourhood.**

Decision – A06/16

The Committee reviewed the application, considered the use and development of adjacent properties and determined that the impact of the variance was minor and would facilitate the severance to allow a lot that could support development compatible with other properties in the vicinity.

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 variances are granted to:

- i) reduce the minimum required lot width to 27.4 metres, and**
- ii) reduce the minimum required lot area to 835 square metres.**

CONDITIONAL UPON submission to the City of the registered deed to create a new lot in accordance with the Committee's decision on file number B01/16.

6. **File No.:** A07/16
Address: 769 Borden Avenue
Applicant: Zelinka Priamo Ltd.

This matter relates to a minor variance application submitted by Zelinka Priamo Ltd., 318 Wellington Road, London, Ontario N6C 4P4, as applicant on behalf of Lansdowne Mall Inc., 645 Lansdowne Street West, Peterborough, Ontario K9J 7Y5, the owner of the property that is the subject of the application.

Heather Garrett, representing Zelinka Priamo Ltd., attended the meeting and addressed the Committee as follows:

- Zelinka Priamo has been hired by Loblaw Companies Limited to represent their application for a seasonal garden centre at the Real Canadian Superstore in Lansdowne Place.
- In 2015, the number of parking spaces shown in the parking study did not match the approved site plan. Subsequent review has shown that the paint had worn off some spaces in the mall parking lot, resulting in an incorrect count.
- The spaces have since been repainted, and she can confirm that the current parking layout corresponds with the site plan. This year's request for a reduction in parking reflects the corrected count.
- Otonabee Region Conservation Authority (ORCA) has issued a permit for operation of the garden centre for the 2016 and 2017 seasons.
- She has reviewed the Staff Report and understands why the recommendation is for one season, as the flood remediation measures have not been completed. However, permission for two seasons matches the permit issued by ORCA and there will likely be no changes on the mall property in the next two seasons. Any further development on the mall property would have to take the variance for the garden centre into consideration.
- She is concerned about the recommended condition to amend the site plan agreement, as ORCA will likely not approve an amendment.

Mr. Richard Straka, Planner, Policy & Research, presented Staff comments with respect to the application on behalf of the Building and Planning Divisions of the Planning & Development Services Department, City of Peterborough.

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

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

- Although ORCA may have issued a permit, they have submitted comment in response to circulation of the application stating that they cannot support development located in the flood plain. Staff recommend approval for no more than one season to monitor the implementation of the storm water management plan.
- Concerns of the location of the garden centre in the flood plain are not limited to safety, but are primarily concerned with on site material displacing flood water and impeding drainage, potentially affecting other properties.
- The slide in the staff report shows the elevation of soil and fertilizers stored in the garden centre from the parking lot surface. In a major flood event, the material on the pallets would have to be elevated more than 0.3 metres to have no impact, and there is potential for the material to be picked up by the flood water and carried downstream, blocking culverts and increasing the impact of a flood.

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

- She is not aware of any further discussion in respect to the development of alternative parking at 780 Erskine Avenue. Loblaws was not directly involved in the discussions regarding the development of additional parking, but she has seen site plans that show parking on that property.
- Loblaws hired a hydrologic engineer to review the impacts of a storm event. The material stored on site is raised off the ground on pallets for water to flow underneath. The engineer stated that the impact of a flood event would be minimal.

Decision

The Committee reviewed the application and noted that the conditions on the property in respect to development of additional parking at 780 Erskine Avenue and the City's flood mitigation work had not changed since the Committee's consideration of the application to permit a garden centre in 2015. The Committee also noted that the applicant did not offer any longer term, alternative solution to the parking deficiency that could involve the abutting property at 780 Erskine Avenue owned by the applicant.

As such, the Committee determined that the application should continue to be evaluated on an ongoing basis. The Committee considered the circumstances and determined that the operation of the garden centre would not significantly impact the availability of parking and the functioning of the entire mall property during its operation over one growing season only.

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 variances are granted to provide relief from Section 6.40 of the Zoning By-law to permit a temporary structure on the property and to reduce the minimum number of required parking spaces to 1,863 to permit the operation of a seasonal garden centre between April 1 and July 31, 2016 CONDITIONAL UPON an amendment to the site plan agreement to illustrate the size, location and limits of the garden centre on the registered site plan agreement with the City to the satisfaction of the Planner of Urban Design.

Minutes

Moved by Claude Dufresne

That the minutes of the Committee of Adjustment hearing held on December 15, 2015 be approved.

"CARRIED"

Other Business

There were no items of other business.

Next Meeting

The next meeting of the Committee of Adjustment is scheduled for Tuesday, March 1, 2016.

Adjournment

The meeting was adjourned at 8:30 p.m.

(Sgd.) Brenda Campbell, Chair

(Sgd.) Jennifer Sawatzky, Secretary-Treasurer