



City of
Peterborough

Committee of Adjustment Minutes

February 21, 2018

Minutes of a Meeting of Committee of Adjustment held on Wednesday, February 21, 2018 at 6:00 p.m. in the Council Chambers, City Hall.

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

Regrets: Mr. Frank Steffler

Also Present: Ms. Christie Gilbertson, Planner, Policy and Research
Ms. Andrea Stillman, Permit Technician, Plans Examiner
Ms. Jennifer Sawatzky, Secretary-Treasurer

Committee of Adjustment was called to order at 6:00 p.m.

Disclosure of Pecuniary Interest

There were no disclosures of Pecuniary Interest.

- File No.:** A36/17
Address: 1176 Armour Road
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 2160288 Ontario Inc., 637 The Queensway, Suite 17, Peterborough, Ontario K9J 7J6, the owner of the property that is the subject of the application.

This application was adjourned from the November 7, 2017 hearing.

The purpose of this application is to increase the total maximum commercial floor area from 745 square metres to 1,117 square metres; increase the total maximum floor area per commercial purpose from 235 square metres to 315 square metres for Building B; and reduce the width of landscaped open space from 3 metres to 1.5 metres on a lot line abutting a residential district (adjacent to the driveway entrance from Armour Road) to allow the construction of two buildings with commercial and residential units.

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

- The application was adjourned to allow an opportunity by the development team to respond to Otonabee Region Conservation Authority's (ORCA's) comments following circulation of the application for the November 2017 hearing.
- In response to these comments, a revised application was filed with the municipality. The development team believed the submission to have addressed ORCA's concerns.

- ORCA has provided a response to the revised application and has requested clarification regarding grading and slope stability in relation to Thompson Creek. He believes ORCA's requirements exceed what was discussed in the original consultation and the response to the application submitted in November.
- The proposal for the mixed use development is in keeping with the current zoning of the property and the Official Plan.
- The initial submission envisioned vehicle access from Cunningham Boulevard, which has since been eliminated.
- Public notice of the hearing was circulated before ORCA's comments were received and the development team was not able to respond to ORCA's latest comments in time for tonight's hearing.
- Both he and his client have received the Staff Report and accept and support the recommendation to defer the application.

Ms. Christie Gilbertson, Planner, Policy and 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 proposal has been amended from the application originally considered at the November 7, 2017 hearing, and fewer variances have been requested in the current version of the application.
- Following ORCA's November review it was determined that the natural hazards need to be addressed further as the studies submitted with the initial application did not meet ORCA's review requirements.
- The two variance requests to increase the total commercial floor area need to be evaluated against the Commercial Policies of the Official Plan together with the restrictions on development of the property based on the natural hazards present.
- In order to support an increase to floor area, Staff need to ensure that the building area can be increased to ORCA's satisfaction.
- The studies prepared for review by ORCA were not prepared using the current methodology for defining the Erosion Hazard Limits as per Provincial Policy Statement. The current methodology is used by ORCA and has been prepared by the Ministry of Natural Resources and Forestry.

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

- There is not enough time to address ORCA's comments on the Stormwater Management Report and the Geotechnical Investigation Report prior to the deadline for the March 20, 2018 meeting of the Committee. Deferring the application to the April meeting is a more realistic timeline.

Moved by Len Lifchus

That the application be deferred to the April 17, 2018 meeting of the Committee of Adjustment to provide the applicant an opportunity to submit revised technical documents to the satisfaction of the Otonabee Region Conservation Authority and/or make the necessary changes to the proposed site development to be consistent with the natural hazard policies of the Provincial Policy Statement.

"CARRIED"

2. **File No.:** A05/18
Address: 730 Orpington Road
Applicant: Monique Dmytrow

This matter relates to a minor variance application submitted by Monique Dmytrow, 314 Carnegie Avenue, Peterborough, ON K9L 1M9, as applicant on behalf of Cleary Investments Inc., 314 Carnegie Avenue, Peterborough, Ontario K9L 1M9, and McLeod Real Estate Inc., 580 Ashburnham Drive, Peterborough, Ontario K9L 2A2, the owners of the property that is the subject of the application.

The purpose of the application is to obtain permission for the expansion of a legal non-conforming use to allow the construction of a legal non-conforming duplex larger than the original structure.

The applicant was not in attendance.

Ms. Christie Gilbertson, Planner, Policy and 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.

Ms. Gilbertson advised the Committee that elevations of the proposed development had been submitted to Staff after the circulation of the application and publication of the Staff Report and displayed the elevations to those present.

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

Decision

The Committee received no comment or presentation from members of the public concerning the application and thus made its decision on the basis of the Staff Report and the application.

Having reviewed the application and considered the information presented both in the Staff Report and presentation, the Committee acknowledged the recognized use of the property as a legal non-conforming two unit dwelling, and determined that the proposal is desirable for an appropriate development of the subject property and that the application should be approved as per the Staff Recommendation.

Therefore, permission is granted to enlarge the building footprint of the legal non-conforming duplex use on the subject property for a new, semi-detached, two unit dwelling centered on the lot, as generally depicted in the Site Plan prepared by Cleary Homes and dated January 15, 2018 PROVIDED THAT any alterations to the existing lot grading and roof drainage will not adversely impact the adjacent properties.

3. **File No.:** A06/18
Address: 329 Noftall Gardens
Applicant: Chris McCarthy

This matter relates to a minor variance application submitted by Chris McCarthy, 27 Crestwood Avenue, Peterborough, Ontario K9J 1N1, as applicant on behalf of Ashley McBride and Stephanie McBride, 329 Noftall Gardens, Peterborough, Ontario K9H 0G5, the owners of the property that is the subject of the application.

The purpose of the application is to reduce the required rear yard setback for a 4.3 metre by 5.1 metre unenclosed pergola, attached to the rear of the house, from 6 metres to 2.1 metres.

Mr. and Mrs. McBride attended the meeting to represent the application.

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

In response to questions from the Committee, Ms. Christie Gilbertson, Planner, Policy and Research, advised as follows:

- The application was submitted as a result of a complaint received by the Building Division.
- Although the Zoning By-law provides some flexibility with regards to the encroachment of decks into the rear yard setback, the By-law is silent on regulations respecting pergolas. If the pergola was not attached to the house, it could be located in the rear yard as an accessory structure with reduced setbacks. As the pergola is open and unenclosed, Staff believe that the impact of the structure is minor and support approval of the application.
- If the pergola was freestanding, it may or may not require a building permit depending on the size.

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

- He initially hired the applicant, Mr. McCarthy, to install a stone patio in the rear yard. Mr. McCarthy recommended adding a pergola that was open on all sides. He was not aware that a building permit or planning permission was required for the structure prior to the complaint being filed.

Decision

The Committee received no comment or presentation from members of the public concerning the application and thus made its decision on the basis of the Staff Report and the application.

Having reviewed the application and considered the information presented both in the Staff Report and presentation, the Committee determined that the application should be approved as per the Staff Recommendation and that the variance is minor, the proposal is desirable for the appropriate development or use of the land, and the general intent and purpose of the Zoning By-law and Official Plan are maintained.

Therefore, a variance is granted to reduce the minimum building setback from the rear lot line to 2.1 metres to permit an unenclosed pergola PROVIDED THAT any alterations to existing lot grading patterns or drainage will not adversely impact adjoining properties and the pergola remain unenclosed and not be elevated on a deck or platform.

4. **File No.:** A07/18
Address: 666 George Street North
Applicant: Colin Darling

This matter relates to a minor variance application submitted by Colin Darling, 233 King George Street, Peterborough, Ontario K9J 1R7, as applicant on behalf of 2449139 Ontario Inc., 269 Edinburgh Street, Peterborough, Ontario K9H 3E5, the owner of the property that is the subject of the application.

The purpose of the application is to obtain permission for the expansion of a legal non-conforming use. The applicant proposes to reconfigure the layout of a legal non-conforming triplex by adding a two storey addition to the rear of the building.

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

- He is the design consultant representing the owner of the property.
- The owner would like to make improvements to an existing triplex, including replacing a portion of an older addition, the exterior stairs and detached garage and adding a two storey addition. These structures are in poor condition and approval of the application would allow the owner move forward with improvements to the property.

- As the Staff Report indicates, the proposed addition meets the regulations of the zoning district.
- He was advised this morning that the adjacent property at 664 George Street North is a designated heritage property. He understands that they would have to address any concerns that Staff have related to the impact of the development on the heritage property as a condition of approval and he hopes that the Committee can decide on the application tonight without a deferral.

Ms. Christie Gilbertson, Planner, Policy and 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.

Ms. Gilbertson advised that since the publication of the Staff Report, Staff determined that the adjacent property at 664 George Street is a designated heritage property known as Eakins House. This was not identified by the Heritage Preservation Office in time for the publication of the report. She has discussed this with the applicant and Erik Hanson, Heritage Resources Coordinator, and if the Committee wishes to make a decision on the application tonight, Staff advise that approval be conditional upon review and approval of the design by the Heritage Preservation Office to ensure that the addition is not detracting from the heritage features of the adjacent property to the south.

The Chair read an e-mail in objection to the application into the record from Mr. Edward Smith, 110 Antrim Street, Peterborough, Ontario K9H 3G2.

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

- i) Tina Avlonitis, 1377 Hawthorne Avenue, Peterborough, ON K9J 7G1 advised that she owns 672 George Street North and expressed concerns with the size of the addition resulting in an increased number of tenants and possible conflicts with the shared laneway and available on-street parking in the area.
- ii) Gloria Edwards, 167 Antrim Street, Peterborough, Ontario K9H 3G5 spoke in objection to the application and expressed concerns related to parking and the increase to the number of bedrooms in each of the dwelling units.

In response to questions from the Committee, Ms. Gilbertson advised as follows:

- Under the current parking regulations of the Zoning By-law, a total of five parking spaces would be required for the establishment of a new three-unit dwelling. As the number of parking spaces provided on the property has existed since the property has been established as a legal non-conforming use, the number of existing parking spaces to support the three units is considered legal non-complying.
- There are currently a total of eight bedrooms in the three units. The addition will allow the expansion of the interior space and the applicant is proposing that each of the three units will have four bedrooms, for a total of twelve bedrooms.
- A Heritage Permit is not required for alterations at properties adjacent to heritage designated properties. Staff propose that an approval of this application be conditional upon a review of the proposal by the Heritage Preservation Office.

In response to questions from the Committee, Ms. Andrea Stillman, Permit Technician, Plans Examiner advised as follows:

- No building permits have been issued for the construction of the bedrooms in the basement. The Building Division does not have any information on when the bedrooms were created. If the owner can demonstrate that they existed before the Ontario Building Code was implemented in the 1970s, the bedrooms would be considered to be grandfathered, and a permit would not be required. If a Building Inspector determined that the bedrooms were newly installed, a permit would be required and all of the current standards of the Building Code would need to be met.

- If the bedrooms are associated with the existing main floor unit, they do not conflict with the zoning regulations. The Building Division will need to assess the bedrooms for compliance with Building Code requirements such as ceiling height and window egress. If the owner is not able to bring the bedrooms into compliance with the Building Code, the bedrooms would have to be removed.
- The Building Division will follow up on the potential for scheduling an inspection of the bedrooms located in the basement.

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

- He does not know when the bedrooms in the basement were established. The property was recently purchased by the current owner, and the bedrooms could have been constructed by the previous owner.
- The owner is willing to have the plans reviewed by the Heritage Preservation Office to ensure that the designs do not detract from the adjacent heritage property and looks forward to working with the City to ensure the development represents an improvement to the neighbourhood.

Moved by Claude Dufresne

That the application be deferred to the March 20, 2018 meeting of the Committee of Adjustment to allow an opportunity for the owner of the property to be present to represent the application and to allow additional time for the Heritage Preservation Office to review the proposal in relation to the adjacent property at 664 George Street North that is designated under the Ontario Heritage Act.

“CARRIED”

5. **File No.: A08/18**
Address: 319 Maitland Avenue
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 Michael Wilson and Jacelyn Barillari, 319 Maitland Avenue, Peterborough, Ontario K9J 5G8, the owners of the property that is the subject of the application.

The purpose of the application is to reduce the minimum building setback from the south side lot line from 1.2 metres to 0.6 metres. The applicant is proposing to construct a two-storey addition along the south exterior wall and around the rear of the existing dwelling.

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

- The property owners wish to add an addition to the house.
- He spoke with the Heritage Preservation Office to request a pre-consultation and was advised that the Heritage Resources Coordinator would meet to discuss the proposal following the result of this hearing.
- The owners of the property have read the Heritage Conservation District guide and have had designs prepared that are respectful of the district.
- He has distributed a notice to the neighbouring properties and has spoken with the owners of the adjacent property to the south. No objections to the application have been received to date.
- The owner is happy to work with the Heritage Preservation Office during the Heritage Permit Application process that is required for the alteration to the property.

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

Decision

The Committee received no comment or presentation from members of the public concerning the application and thus made its decision on the basis of the Staff Report and the application.

Having reviewed the application and considered the information presented both in the Staff Report and presentation, the Committee determined that the application should be approved as per the Staff Recommendation and that the variance is minor, the proposal is desirable for the appropriate development or use of the land, and the general intent and purpose of the Zoning By-law and Official Plan are maintained.

Therefore a variance is granted to reduce the minimum building setback from the south side lot line to 0.6 metres to permit a two storey addition PROVIDED THAT any alterations to the existing lot grading and roof drainage will not adversely impact the adjacent properties.

6. **File No.: A09/18**
 Address: 62 Dunlop Street
 Applicant: Julia and Robert Wallace

This matter relates to a minor variance application submitted by Julia and Robert Wallace, 62 Dunlop Street, Peterborough, Ontario K9H 1R6, the owners of the property that is the subject of the application.

The purpose of the application is to request a variance from Section 27.2(c) of the Zoning By-law to permit an increase in the floor area from a maximum 10% increase to a 15% increase. The applicant is proposing to remove a portion of the existing building and construct a new addition that will have a half upper storey and larger footprint.

Ken Trevelyan of Trevelyan Architect Inc., 104 Dublin Street, Peterborough, Ontario K9H 3A9, attended the meeting to represent the applicant and addressed the Committee as follows:

- The owners propose to build an addition to replace an existing structure that is in poor repair. The addition will consist of a garage and workshop with living space on the second floor. The total floor area of the addition will represent a 15% increase over the existing floor area. The D.1 zoning district permits a 10% increase and the applicant is requesting an increase to permit the proposed addition.
- The property is a designated heritage property. He attended a meeting of the Peterborough Architectural Conservation Advisory Committee in June 2017, and the Committee approved the proposal, provided that Staff approve the final plans. There have been no significant changes to the plans since that time.

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

Decision

The Committee received no comment or presentation from members of the public concerning the application and thus made its decision on the basis of the Staff Report and the application.

Having reviewed the application and considered the information presented both in the Staff Report and presentation, the Committee determined that the application should be approved as per the Staff Recommendation and that the variance is minor, the proposal is desirable for the appropriate development or use of the land, and the general intent and purpose of the Zoning By-law and Official Plan are maintained.

**Therefore a variance is granted to increase the permitted increase in the floor area of a building used in connection with an established use to 15%
CONDITIONAL UPON consultation with the City's Urban Forest Specialist regarding compliance with the City's Tree Preservation By-law and PROVIDED THAT any alterations to existing lot grading patterns or roof drainage will not adversely impact adjoining properties.**

Minutes

Moved by Brenda Campbell

That the minutes of the Committee of Adjustment hearing held on January 23, 2018 be approved.

"CARRIED"

Other Business

Claude Dufresne inquired about the expiry of the term of the Chair. The Secretary-Treasurer advised that she will review the records and advise the Committee of the term of office.

Next Meeting

The next meeting of the Committee of Adjustment is scheduled for Tuesday, March 20, 2018.

Adjournment

The meeting was adjourned at 7:13 p.m.

(Sgd.) Mauro DiCarlo, Chair

(Sgd.) Jennifer Sawatzky, Secretary-Treasurer