



Committee of Adjustment Minutes

February 24, 2015

Minutes of a Meeting of Committee of Adjustment held on Tuesday, February 24, 2015 at 7:00 p.m. in the Doris Room, City Hall.

Present: Mr. Paul Dorris, Chair
Mr. Claude Dufresne
Mr. John Duncan
Ms. Brenda Campbell
Mr. Alan Porteous

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

- File No.:** A07/15
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, attended the meeting and addressed the Committee as follows:

- She is representing Loblaw Properties Limited, who are seeking a minor variance to allow for a temporary tent structure to accommodate the operation of a garden centre for three months for the 2015 and 2016 seasons. They are also seeking a minor variance to reduce the minimum number of required parking spaces by 96 spaces, from 1,951 to 1,855, while the garden centre is in operation.
- The application was deferred from the January 27, 2015 meeting to allow time to confirm the exact number of parking spaces that would be unavailable while the garden centre is in operation.
- The Otonabee Region Conservation Authority has issued a two-year permit for the garden centre, and Loblaw Properties Limited are seeking permission from the Committee to allow the temporary structure for two seasons, the length of the permit issued by the conservation authority.
- She acknowledged that the permit issued by ORCA may be revoked or the garden centre may need to be relocated if the site experiences flooding during the duration of the permit.
- She has reviewed the condition recommended in the Staff Report and does not think it is necessary to amend the existing site plan agreement. She indicated that the garden centre will be the same size and in the same location as in the 2013 and 2014 seasons.

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:

- Four years ago, the City commissioned a study by an engineering firm, XCG Consultants, to review the floodplain. The Study indicates that the area of the proposed location of the garden centre would be subject to flooding in a 1 in 100 year storm event. Based on that study, the City is currently developing a plan for flood reductions work to remediate flood depths in the vicinity of the proposed Garden Centre. While the plan for remedial work is anticipated to be finished within the year, it is uncertain when the recommendations of the plan will be implemented.
- Should the Committee decide to approve the variance it would be Staff's recommendation that it be for no more than one season to allow for a review of the parking situation and circumstances should heavy rains affect the site during the 2015 season.

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

- In 2013, Lansdowne Mall Inc. had indicated that parking was to be developed on the property previously leased by Habitat for Humanity. When the mall owners were approached regarding the progress of the parking lot development, they indicated that it was not in the budget for 2015. Loblaw Properties Limited have not received any further information from the mall owners since January of this year, and the parking lot may not be developed.
- Some discrepancies were discovered by LEA Consulting while preparing the parking study. Loblaw Properties Limited are working with the mall owners to address these concerns.
- She appreciates the reasons why the Committee may not wish to approve variances to allow the operation of the garden centre on an ongoing basis, as the floodplain and parking issues need to be monitored, and that once the flood reduction measures are in place the circumstances can be re-evaluated.
- She would prefer the committee to approve the operation of the garden centre for two seasons, but understands why the committee may approve the variance for only one season.
- The committee received a chart summarizing the number of parking spaces occupied by seasonal garden centres operated by Loblaw Properties Inc. at other Ontario malls of comparable size. These garden centres required minor variances to allow for a reduction in parking.

Decision

The Committee reviewed the application and noted that the anticipated additional parking at 780 Erskine Avenue, owned by Lansdowne Mall Inc. had not been developed. The Committee acknowledged that the City's flood mitigation work is ongoing, and that the application should be evaluated on an ongoing basis as conditions at the property stabilize. The Committee considered the information provided regarding other malls, noting that the largest variance was for 90 parking spaces for a comparable size of garden centre, however, the information did not include the scale of the mall for comparison purposes. The Committee considered the circumstances and determined that the operation of the garden centre would not significantly impact the functioning of the mall property during its operation over one growing season.

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 1,855 to permit the operation of a seasonal garden centre between April 1 and July 15 of the 2015 season **CONDITIONAL UPON** an amendment to the site plan agreement to illustrate the size and 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. The decision regarding these two variances is null and void beyond July 16, 2015.

2. **File No.:** A09/15
Address: 51 Park Street North
Applicant: WD Partners Canada

This matter relates to a minor variance application submitted by WD Partners Canada, 5875 Highway #7, Unit 200A, Vaughan, Ontario L4L 1T9, as applicant on behalf of 1447098 Ontario Inc., 39 Strauss Road, Thornhill, Ontario L4J 8Z6, the owner of the property that is the subject of the application.

Sophie Malcangi, representing WD Partners Canada, and Greg Blair, representing 1447098 Ontario Inc., attended the meeting and addressed the Committee as follows:

- The owners are seeking a minor variance to allow for a temporary trailer on the property to accommodate the continued operation of the restaurant during a renovation. They are seeking an additional variance to reduce the minimum number of required parking spaces to allow an update of the current barrier free parking space, which will include an access aisle.
- She indicated that they have requested a reduction in required parking spaces from 6 to 5 spaces, not 7 to 6 as indicated in the Staff Report. She also noted that the renovation will not result in an expansion to the size of the building on the property.
- Ms. Malcangi noted that the site plan attached as Exhibit B of the Staff report has been modified from the site plan associated with the application approved by the Committee in 2014.

Ms. Malcangi distributed copies of the current proposed site plan and the 2014 site plan to the Committee.

- The Committee's approval of File No. A03/14 was conditional upon an amended site plan approved by City staff and obtaining a building permit in 2014. The proposed site plan was not approved by staff, and as the property owner did not meet the condition, the approval lapsed. A request to extend the deadline to allow more time to fulfill the conditions was denied by the Committee.
- The owner has requested that a temporary trailer be allowed on site for two months, but they would be able to complete the renovation within 28 days if the Committee decided to grant relief from the by-law for a shorter period of time.
- To address concerns expressed in the staff report related to parking for vehicles associated with construction activity during the renovation, she indicated that the restaurant enjoys a good relationship with General Electric, and that she did not anticipate any problems with obtaining their permission to use their parking lot during the renovation.

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.

Marie Bongard, 461 Albert Street, Peterborough, ON K9J 4N5, attended the meeting and addressed the Committee in opposition to this application. She expressed concerns with the size of the property in relation to the development and use of the property in proximity to residential properties, the business of activity on the property including the frequency of deliveries, the size of the delivery vehicles, drive through line ups extending beyond the borders of the property into Albert Street, illegal street parking,

pedestrian safety, and noise associated with a proposed temporary trailer in proximity to residences.

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

- The shed on the property is obstructing one of the required parking spaces on the site, and the property currently does not comply with the zoning by-law and site plan agreement in respect to parking and the structures on the lot. The City has afforded some flexibility in enforcing the provisions of the zoning by-law considering this application for a variance to the parking before the Committee of Adjustment.
- The other structures located at the south end of the site are refuse bin enclosures for garbage and recycling.
- A number of variances have already been granted to the C.1 zoning associated with the property. If the property changes ownership, any new business established on the site would benefit from the variances granted.
- Accommodating a temporary structure on the site as proposed will impede the functionality of an already overdeveloped site considering parking and loading.
- The temporary trailer would be located along the west property line, and noise associated with its operation could affect adjacent residential properties.
- A previous variance granted relief from the requirement of loading space on the property. It is expected that the existing parking spaces are used for loading and deliveries to the restaurant.

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

- The shed and the wooden structure on the property will be removed during the renovation.
- They are requesting a reduction of the number of required parking spaces to five to accommodate an access aisle for the barrier free parking space. A ramp to provide access from the parking lot into the restaurant will also be added. The restaurant is currently operating with less than the required number of parking spaces.
- The property owner was not able to remove the shed because they were not able to proceed with the renovation in 2014. The renovation would have eliminated the need for additional storage in the shed.
- The new freezer will be the same size as the existing freezer that is currently on the property and illustrated on the site plan.
- There will be no public access to the proposed temporary trailer. The restaurant would operate strictly as a drive through during the renovation.
- General Electric has not been formally approached to request the use of their parking lot during the renovation.

Decision

The Committee appreciated that the application was for a variance to reduce the required motor vehicle parking spaces from 6 to 5 involving no expansion to the building on the property and a variance to allow a drive through restaurant to operate temporarily from a trailer on the property. The Committee reviewed the application and considered the size of the property with limited space available to accommodate an additional temporary structure. The Committee expressed concern that congestion of vehicular traffic would occur during the renovation if the drive through restaurant continued to operate while construction activity was taking place on the site. The Committee noted that an impact to the flow of traffic may not only affect vehicles at the intersection of Albert Street and Monaghan Road, but may also threaten the safety of pedestrians using the intersection and sidewalk. The Committee noted that an alternate plan for off site parking was not in place for accommodating vehicles associated with construction activity during the renovation.

The Committee further noted that variances have already been granted to the property to allow a small site to be developed and used as a restaurant and to reduce the number of required parking spaces to six associated with its use as a restaurant. The Committee considered the zoning of the property, the circumstances of this proposal in relation to adjacent land use and roadways and is concerned that granting a further parking variance will result in an overdevelopment of the property.

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 maintained.

Therefore, the minor variances are DENIED.

3. **File No.: A10/15**
Address: 910 Wentworth Street (892 Clonsilla 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 1496986 Ontario Inc., c/o 637 the Queensway, Unit 7, Peterborough, Ontario K9J 7J8, the owner of the property that is the subject of the application.

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

- He is before the Committee today to represent Parkview Homes in respect to the residential development on the property. The owners are seeking a minor variance to the minimum building setback from the centreline of Clonsilla Avenue from 24.4 metres to 22 metres.
- The development is currently undergoing site plan review, and the location of one of the proposed buildings has changed to be slightly closer to the northwest corner of the property. The proposal meets the zoning by-law in all other regards.
- The owner is hoping to begin construction this summer, subject to site plan approval.

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.

Charlotte Lackie, 909 Wentworth Street, Unit 11, Peterborough, Ontario K9J 8R7, attended the meeting and addressed the Committee in opposition to this application. She expressed concerns related to available parking, traffic flow and stormwater management.

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

- The site plan shows a sidewalk along the west side of Wentworth Street.
- Parking requirements are calculated based on a formula that provides for visitor parking in addition to parking for residents. There is no variance to the required number for parking spaces for this development and there is adequate parking spaces available for the number of residential units.
- Approval of a variance from the setback of the building from Clonsilla Avenue will have no impact on traffic flow or available parking on the property.
- Utility Services received a copy of the application and did not request a traffic study. The proposed development is anticipated by the zoning on the property.
- Stormwater management will be addressed through the site plan application.

Decision

The Committee reviewed the application, and noted the site plan had not changed considerably from the application presented to the Committee in 2013. The Committee noted that any impacts from the development were mitigated through conditions imposed by the decision on File No. A50/13. 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 reduce the minimum building setback from the centreline of Clonsilla Avenue to 22 metres CONDITIONAL UPON the owner entering into a site plan agreement with the City that would address, among other site plan requirements, the following:

- i) **The establishment of mature tree stock on the property as a part of an enhanced soft landscaping plan, to the satisfaction of the Planner of Urban Design. The trees would include a variety of species that would serve to screen the building and parking area from the established development of surrounding properties and assist in the transpiration of surface water from soft landscaped areas on the site.**
- ii) **Consideration of permeable asphalt or surface finish of the parking area to mitigate the impact of runoff from the increased lot coverage by the parking area.**
- iii) **The rooftop area of buildings on the property be linked to rain gardens, bio-retention cells and/or a sub-surface stormwater management system designed to capture, store and use rain water for the irrigation of landscaping on the property.**

These variances would not apply to a plan for development that is a significant departure from the plan as depicted in Exhibit 'C' to the Staff Report, illustrating two three-storey buildings at the south and north end of the property with no less than 77 shared surface parking spaces between them.

4. **File No.: B03/15
Address: 1866 Lansdowne Street West
Applicant: Kelly Rhodenizer, Colonnade Development**

This matter relates to a severance application submitted by Kelly Rhodenizer, Colonnade Development, 16 Concourse Gate, Suite 200, Ottawa, Ontario K2E 7E8, as applicant on behalf of 2351058 Ontario Inc., 16 Concourse Gate, Suite 200, Ottawa, Ontario K2E 7E8, the owner of the property that is the subject of the application.

Kevin M. Duguay of 560 Romaine Street, Peterborough, Ontario K9J 2E3 attended the meeting to speak on behalf of Colonnade Development and addressed the Committee as follows:

- The applicant is requesting consent for a long term lease for the No Frills grocery store located on the property.
- He has reviewed the Staff Report and believes that conveyance of a 2.76 metre wide strip of land for road widening purposes would compromise the ability of the property to abide with the zoning by-law in respect to the number of required parking spaces.

- If conveyance of a road widening strip was required, the 57 parking spaces located along the frontage of Lansdowne Street West would be located on City property and the site would no longer conform to the City By-law and a variance would be necessary.
- Lansdowne Street was recently reconstructed to a full four lane cross section and he not believe a further reconstruction of the roadway would be anticipated in the foreseeable future.

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.

Decision

Consent is granted to permit the applicant to enter into a long-term lease agreement for the internal space of the building in which the No Frills grocery store is located as generally illustrated on the plan attached to the application.

5. **File No.:** B04/15
Address: 246-270 George Street North
Applicant: Peter Lawless, LLF Lawyers LLP

This matter relates to a severance application submitted by Peter Lawless, LLF Lawyers LLP, 332 Aylmer Street North, Peterborough, Ontario K9J 7H4, as applicant on behalf of Hunter Promenade Corporation, P.O. Box 719, Station Main, Port Perry, Ontario L9L 1A6, the owner of the property that is the subject of the application.

Peter Lawless attended the meeting and addressed the Committee as follows:

- The applicant is requesting consent to convey ownership of the southerly 30 metres of the property under separate ownership from the balance of the land known as 270 George Street North.
- The properties operate independently, have individual assessment roll numbers, and are billed for property taxes separately, but have merged on title due to common ownership.
- He considers this to be a technical severance, which is required to facilitate the sale of the property.
- The building has been vacant for a number of years and the money from the sale of 246 George Street North will go towards maintenance of the building at 270 George Street North.
- He expressed concern with the requirement to convey a 5 metre by 5 metre daylight triangle. He could see no practical need for the conveyance and indicated that it could jeopardize the sale of the property.
- He had no issues with the other conditions outlined in the Staff Report.

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 daylight triangle was requested by the Utility Services Department following their review of the application. It was requested to accommodate sub surface utilities and surface improvements for pedestrian access between George Street and the waterfront as a part of a future plan for the urban streetscape redesign of George Street.

- The bollards delineating the parking area on the property are located within the City's road allowance. The number of required parking spaces will need to be reviewed once the property's use has been determined. The property will be eligible for cash in lieu of parking should there be a shortfall in the number of parking spaces that could be accommodated within the property lines. It is in the public interest to have the City's Sherbrooke Street road allowance used to create an attractive pedestrian link to the waterfront along the Otonabee River.

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

- The owner is willing to grant the easement for maintenance purposes provided he is allowed to maintain the parking spaces located in the area.
- The purchaser has not disclosed the intended use of the building.

Krista Vanderham of Key Impressions Design, a consultant for the applicant, presented a proposal for improvements to the facade and the fence surrounding the property for the Committee's consideration.

Decision

Considering flexibility allowed by the C.6 Zoning of the properties and that both 246 and 270 George Street North have functioned independently since the merger of the properties, the Committee considers it appropriate to allow conveyance of the southerly 30 metres of the property together with a 2.4 metre wide easement along the north wall of the building located on 246 George Street, CONDITIONAL UPON THE FOLLOWING:

- i) **Conveyance, free of encumbrances and at no cost to the City, of a 5 metre by 5 metre daylight triangle at the southwest corner of George Street and Sherbrooke Street,**
- ii) **Confirmation that the north wall of the building complies with the Ontario Building Code and that all or any remedial work is done to ensure compliance with the Ontario Building Code.**
- iii) **The owner enter into an agreement with the City to require a permit at such time as the building is put to a use and enter into a site plan agreement with the City to establish parking on the subject property in compliance with the by-law.**

Adjournment:

Meeting adjourned at 9:10 p.m.

Dated the 27th day of February, 2015.

(Sgd.) Paul J. Dorris, Chair

(Sgd.) Jennifer Sawatzky, Secretary-Treasurer