



Committee of Adjustment Minutes

March 1, 2016

Minutes of a Meeting of Committee of Adjustment held on Tuesday, March 1, 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

Regrets: 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.

- 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.

This application was adjourned from its hearing date on February 2, 2016 to allow the City and the applicant to review and amend the proposed building plans to avoid a conflict with the City's interest in future flood control measures in relation to the property.

Dr. Joseph Hoja attended the meeting and addressed the Committee as follows:

- He is requesting a minor variance to reduce the minimum required building setback from the side lot line to 4.79 metres to permit an expansion to the building on property.
- The business has grown since moving his business to this location, and the number of staff working in the building has increased accordingly. He requires a larger building to accommodate more working space and a staff lunch room.
- The expansion will be located to the rear of the existing building on the property, and will be in line with the setback from the side lot line of the southeastern corner of the existing building.

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. Mr. Straka advised that Staff have revised the recommendation published in the Staff Report to specify that the recommended variance of a minimum building setback of 4.79 metres from the east side lot line would only apply for a distance measured between 31 metres and 45 metres from the street line to permit a proposed, 2 storey addition, as illustrated on

Exhibit A of the Staff Report. Mr. Straka also recommended that the requirement of an amendment to the site plan agreement on the property, including a review of the stormwater management plan on the property, should be a condition of approval.

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 parking on the site is sufficient for the current use of the building as a clinic. After the proposed expansion there may not be sufficient parking to support some of the uses permitted by the C.4-1-213 zoning district.

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

- He has not observed many vehicles in the parking area to the rear of the building and expects to have sufficient room on site for snow storage after the expansion.

Decision

The Committee reviewed the application and noted the trunk sewer line within an easement which crosses the southeast corner of the property. The Committee considered the City's Flood Reduction Program and the City's plans for a future expansion of the flood control works, which could require a wider easement. The Committee determined that the revised building plan, illustrated in Exhibit A of the Staff Report, would not compromise the City's future requirements to implement the Flood Reduction Program. The Committee further considered the use of the neighbouring, residential properties to the east and determined that the building expansion would have little impact due to the separation distance between the buildings and the proposed expansion.

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 east side lot line to 4.79 metres for a distance measured between 31 metres and 45 metres from the street line to permit a 2 storey addition to rear of the existing building on the property, as illustrated on Exhibit A of the Staff Report dated March 1, 2016, CONDITIONAL UPON an amendment to the site plan agreement on the property including a review of the property's stormwater management plan.

2. **File No.: A10/16**
Address: 627 Downie Street
Applicant: Fred Bakker

This matter relates to a minor variance application submitted by Fred Bakker, 507 King Street, Peterborough, Ontario K9J 2T3, as applicant on behalf of Hilary Bakker, 627 Downie Street, Peterborough, Ontario K9H 4K2, the owner of the property that is the subject of the application.

Ms. Hillary Bakker attended the meeting and addressed the Committee as follows:

- She is seeking a minor variance to reduce the minimum building setback from the north side lot line, as she would like to build a second storey on the existing rear addition.

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.

Mr. Straka advised that Otonabee Region Conservation Authority provided comment that the property is subject to Ontario Regulation 167/06, *Otonabee Region Conservation Authority: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses*, and a permit is required prior to construction.

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

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

- The structure visible in the presentation slide is a shed located at the rear edge of the yard. A building permit was obtained for the structure.

Decision

The Committee reviewed the application and noted that the driveway associated with the neighbouring building to the north provides adequate separation distance between the buildings on adjacent properties. The Committee acknowledged that the addition would not exceed the footprint of the existing building on the property and 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 north side lot line to 0.6 metres to allow an addition to the second story addition, extending no more than 4.6 metres to the rear of the original, brick portion of the dwelling, PROVIDED THAT eavestroughing is established and maintained on the dwelling to manage stormwater on the subject property so as not to affect the neighbouring property.

3. **File No.: B05/16**
Address: 91 Langton Street
Applicants: Robert and Joanne Lapum

This matter relates to a severance application submitted by Robert and Joanne Lapum, 91 Langton Street, Peterborough, Ontario K9H 6K3, the owners of the property that is the subject of the application.

Mr. Robert Lapum attended the meeting and addressed the Committee as follows:

- Mr. Lapum provided a history of the property that is comprised of three Lots on Registered Plan 14, being Lot 12 where the house is located, Part of Lot 20 and a Part of Lot 11 that was transferred from the City in exchange for a road widening and an easement in 1985.
- Although he could convey ownership of the portion of his property consisting of Part of Lot 20, the lot line runs through his garage, and he would like to retain a portion of Lot 20 to maintain the location of the existing garage and sell the balance into independent ownership for development of a single unit dwelling.

Mr. Richard Taylor, Barrister and Solicitor, 193 Dalhousie Street, Peterborough, Ontario K9J 2M1, representing Robert and Joanne Lapum, attended the meeting and addressed the Committee as follows:

- He has reviewed the Staff Report and is in agreement with the location of the proposed new property line as illustrated in Exhibit C. He is of the opinion that the application should be characterized as a lot addition, and not a lot creation, as there will be two lots both before and after the transfer of ownership.
- He stated that because the property currently consists of parts of two lots, the condition requiring payment of a parks levy should not apply to this application.
- He noted the applicant's request for a refund of the application fee that was submitted with the application and requested that Committee consider this request.
- He agrees with the comments received from the City's Utility Services Division in respect to costs incurred by the applicant to connect to the City's water and sewer services and the submission of a Site and Grading Plan for portion of the property to the west of the new boundary line. However, he does not agree with the condition to convey an enhancement to the existing daylight radius as the location of the road widening is on the retained property and bears no relation to the newly created parcel. This would represent an additional cost to the applicant to retain a land surveyor.
- Mr. Taylor circulated a document to the Committee members containing a list of alternate conditions he drafted for their consideration and provided an overview of the document to the Committee.
- He advised that Mr. and Mrs. Lapum have entered into an agreement of purchase and sale for the proposed lot with a sale price of \$57,500.

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. He circulated comments received from the City's Utility Services Department to the Committee, which were submitted to the Secretary-Treasurer after the publication of the Staff Report.

Mr. Straka provided a review of the conditions recommended by Staff as follows:

- Currently, the whole of 91 Langton Street is designated by By-law under the *Ontario Heritage Act*, not just the building on the property. The Amendment to the designating by-law would have to be passed by City Council.
- The agreement to consolidate ownership of the parts comprising the newly created lot is requested to ensure parts are not held in different ownership going forward. Part 3 of Reference Plan 45R-5635 had previously been held in separate ownership to Parts 1 and 6 and the parts should be under common ownership to take advantage of the variance granted in 2012 by file A24/12.
- The requirement to submit building plans for approval by the City's Heritage Resources Coordinator will ensure that the design of the new building is compatible and would not compromise the heritage value of the existing building on the property. This has been recommended by Staff in accordance with provisions in the City's Official Plan to evaluate proposed development adjacent to protected heritage properties to preserve the heritage attributes of these properties.
- The Parks Levy will be evaluated at a rate of 5% of the value of the property.
- Collection of a Tree Levy is authorized by by-law for new development and provides an established fund for trees in the City.

- Additional conditions have been requested by the Utility Services Department and were not received in time to include in the Staff Report. They have requested for an enhancement of the existing 7.62 metre daylight radius to any area within a 5.0 metre by 12.0 metre triangle at the southwest corner of Langton and Water Streets, provided at no cost to the City, and a lot grading plan for the newly created parcel. The lot grading plan is in the interest of the owner of the retained parcel for management of stormwater after development of the lot.

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:

- An agreement registered on title to require approval of building plans by the City's Heritage Resources Coordinator will obligate a future owner of the proposed parcel to obtain approval prior to issuance of a building permit. This will permit flexibility in satisfying a condition for consent and in the timing of the submission of the plans so that the new owner can submit plans for approval when they are ready to proceed with development some time in the future.
- A minor variance for the proposed new parcel was granted when the application came before the Committee in 2012. Although the consent lapsed, the minor variance is still in effect. Development was not anticipated as a right on a lot of the proposed dimensions without the variance being granted. This discrepancy from the typical lot size in the neighbourhood is another reason for Staff's request to review plans for the proposed development for compatibility with its surroundings.
- The document circulated by Richard Taylor was not submitted to City Staff prior to tonight's meeting.
- The Staff Report was reviewed by the City Solicitor's office, who concurs with the analysis.

Richard Straka read the comments received from the Heritage Resources Coordinator to the Committee in respect to the application.

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

- He will be conveying the vacant lot and the purchaser will develop the property.

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

- He does not believe that development on the new lot should have regard to the heritage designation of the existing heritage building, as the property is not located in a heritage district.

Decision

In respect to the applicant's request to refund the application fee, the Committee reviewed the costs involved with the circulation of notice and determined that as the conditions of the Committee's conditional approval of File No. B11/12 was allowed by the applicant to lapse some time ago, a new application was required and the standard fee was appropriate.

In respect to the application for consent, the Committee acknowledged the Minor Variance granted on File No. A24/12, bringing the lot size of the parcel to be severed into compliance with the Zoning By-law. The Committee reviewed the proposed conditions of severance and determined that a review of the building plans by the Planner of Urban Design would be sufficient to ensure compatibility with the established standard of development in the vicinity and the heritage features of the designated property. The Committee discussed the recommendation for conveyance to the City at no cost of an enhancement to the existing daylight radius and determined that the request was not warranted by the scope of the application before the Committee. The Committee concurred that the remaining recommended conditions were reasonable and appropriate.

Therefore, Consent is granted to sever the westerly 18.29 metres of the subject property to create a new lot for a single unit dwelling to the west of the existing dwelling on the property, **CONDITIONAL UPON THE FOLLOWING:**

- i) That the owner enters into an agreement with the City to:
 - a. amend the Heritage Designation By-law that applies to the subject property;
 - b. have all of the lands currently comprising the subject property consolidated into one parcel of land prior to the creation of the new lot; and
 - c. require the submission of building plans prior to issuance of a building permit, for approval by the City's Planner of Urban Design, which will ensure compatibility of the design of any building on the new lot with the building on the subject property.
- ii) Payment of a parks levy in an amount to be determined by the Parks Levy Review Committee, and
- iii) Payment of a tree levy in the amount of \$229.00.

Minutes

Moved by Claude Dufresne

That the minutes of the Committee of Adjustment hearing held on February 2, 2016 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, April 5, 2016.

Adjournment

The meeting was adjourned at 8:48 p.m.

(Sgd.) Brenda Campbell, Chair

(Sgd.) Jennifer Sawatzky, Secretary-Treasurer