



City of
Peterborough

Committee of Adjustment Minutes

March 7, 2017

Minutes of a Meeting of Committee of Adjustment held on Tuesday, March 7, 2017 at 6:00 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: Ms. Banani Afsana, Planner, Policy and Research
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.:** A02/17
Address: 549 Albert Street
Applicant: Walter (Barry) Douglas Davidson

This matter relates to a minor variance application submitted by Walter (Barry) Douglas Davidson, as applicant on behalf of himself and Darlene Marie Davidson, 549 Albert Street, Peterborough, Ontario K9J 4N7, the owners of the property that is the subject of the application.

The purpose of this minor variance application is to increase the allowable height of an accessory building from 4.3 metres to 5.87 metres to accommodate additional headroom for an art studio in the existing accessory building on the property.

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

- He is seeking a minor variance to increase the allowable height of the accessory building on his property to permit the recent dormer addition. The dormer was added to create more headroom above the existing workshop to accommodate an artist's studio.

Ms. Banani Afsana, 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:

- Staff recommend that the variance be conditional upon the applicant obtaining a building permit. The variance would not be in effect until the condition has been fulfilled.

- Although Staff are not recommending a deadline to obtain the permit, Building Enforcement Staff are aware that the accessory building is not in compliance and the requirement for a permit is on record. The property owner is responsible for ensuring that any outstanding permit applications are closed.
- The Building Division will inspect the accessory building for compliance with the Building Code.

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

- The dormer increased the usable space by approximately half of the total footprint.
- There was no electrical work or plumbing associated with the addition of the dormer.
- He has owned the property for 24 years. The space was formerly used for storage and is currently used as a studio. It has never been used as a residential unit.
- He was not aware that he required a permit for the renovations. The Building Division notified him of the requirement for a Building Permit, and review of the application revealed that a minor variance was required to increase the maximum permitted height of the accessory building.

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 allowable height of an accessory building from 4.3 metres to 5.87 metres for the existing accessory building on the property CONDITIONAL UPON the property owner obtaining a building permit and PROVIDED THAT any alterations to the existing lot grading patterns or roof drainage will not adversely impact adjacent properties.

2. **File No.: A07/17**
Address: 91 Hunter Street East
Applicant: Robert Black

This matter relates to a minor variance application submitted by Robert Black, 30 Nassau Street, Lakefield, Ontario K0L 2H0, as applicant on behalf of Becker Milk Company Limited, 36 Toronto Street, Suite 1000, Toronto, ON M5C 2C5, the owner of the property that is the subject of the application.

The purpose of this application is to request permission for a distillery use, considered as a like use to a "restaurant" and/or "bakeshop" as permitted under "Special District 137" of the Zoning By-law, within the existing commercial building on the subject property.

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

- He is seeking permission to establish a distillery in the unit known as 99 Hunter Street East to be considered a like use to a restaurant or bakery currently permitted by the zoning.

Ms. Banani Afsana, 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 other units in the plaza are currently vacant. The number of required parking spaces for the vacant units will be calculated at the time that the units are occupied based on the use. A minor variance for parking may be required at that time.

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 proposal meets the intent and objectives of the Official Plan and the Zoning By-law and should be approved as per the Staff Recommendation.

Therefore, permission is granted to permit a distillery use as a use considered similar to a restaurant and/or bakeshop permitted under the Special District 137 zoning district for the commercial unit known as 99 Hunter Street East to a maximum of 135 square metres of Floor Area CONDITIONAL UPON providing an onsite "B" size loading space to the satisfaction of the Planner, Urban Design.

3. **File No.: B03/17**
Address: 998 and 1000 Western Avenue
Applicant: John Mesec, Jack McVicar Professional Corporation
- File No.: A08/17**
Address: 998 Western Avenue
Applicant: John Mesec, Jack McVicar Professional Corporation

This matter relates to a severance application and a minor variance application submitted by John Mesec, Jack McVicar Professional Corporation, 314 Rubidge Street, Peterborough, Ontario K9J 3P4, as applicant on behalf of Dario Alfred and Linda Fay DeMarco, 1000 Western Avenue, Peterborough, Ontario K9J 5W3, the owners of the property that is the subject of the application.

The purpose of this application is to obtain consent to sever the lands known as 1000 Western Avenue from the lands known as 998 Western Avenue to re-establish the former property line between the two properties merged in title under common ownership and to recreate two parcels under separate ownership. The minor variance application has been submitted to request a reduction to the minimum required building setback from the north side lot line from 1.2 metres to 0.5 metres to recognize the location of the existing non-complying dwelling at 998 Western Avenue.

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

- He is representing the owners of 998 and 1000 Western Avenue for the application for consent to re-establish the former property line of the properties that have merged on title. A minor variance application has been submitted to address the deficiency resulting from the severance from the proposed north side lot line at 998 Western Avenue.

- He noted that he has objections to the second condition recommended in the Staff Report, requiring submission of a reference plan or a legal description approved by the Land Registrar. He noted that the Land Registry Office no longer approves legal descriptions unless the description is complex and his clients would therefore need to have a reference plan prepared. This would delay the sale of the property that is subject to an agreement of purchase and sale.

Ms. Banani Afsana, 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. Afsana advised that Staff had received notice of Mr. Mesec's concern with the conditions as published in the Staff Report and, after discussion with Staff in the City Solicitor's Office, have determined that the condition to provide a reference plan is not required. The applicant can proceed by providing a draft transfer/deed of land to the Secretary-Treasurer based on the legal description assigned to the lands. Should the applicant not be successful in registering the transfer, the City would charge the prescribed fee for issuance of an additional Consent Certificate. Staff notified Mr. Mesec of the revision to Staff's recommendations by e-mail.

Mr. Mesec advised that he did not receive the e-mail from City Staff as his e-mail server was not working that day. Upon review of the revised recommendations, he advised the Committee that he was in agreement with the amendment.

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

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

- The owners have owned 998 Western Avenue since 2006 and 1000 Western Avenue since 2009. It was discovered that the properties were merged in the course of the transaction to transfer ownership of one of the properties.

Decision – B03/17

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.

In that the severed and retained property would conform to the Official Plan policy and comply with the Zoning By-law and that Minor Variance application number A08/17 addresses the deficiency resulting from the severance, the Committee considers that it is appropriate to allow a severance that would re-establish the former property line between the two properties merged on title under common ownership and permit independent ownership of each property. The Committee considered the applicant's concerns and Staff's advice with respect to the second condition recommended in the Staff Report and determined that the submission of a draft reference plan or legal description approved by the Land Registrar was not required as a condition of the approval.

Therefore, consent is granted to sever the property municipally known as 1000 Western Avenue from the property municipally known as 998 Western Avenue, CONDITIONAL UPON THE FOLLOWING:

- i) The approval of Minor Variance Application No. A08/17;**
- ii) The applicant providing a draft transfer/deed of the subject lands to the Secretary Treasurer; and**
- iii) If the above conditions are not satisfied within 365 days of the Committee's decision, this Consent Application will lapse.**

Decision – A08/17

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 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 required building setback from the north side lot line from 1.2 metres to 0.5 metres to recognize the location of the existing dwelling on the subject property.

4. **File No.:** A09/17
Address: 234 Murray Street
Applicant: Martin Leedle

This matter relates to a minor variance application submitted by Martin Leedle, as applicant on behalf of himself and Tanya Leedle, 6042 Hillsdale Drive, Stouffville, Ontario L4A 7X3, the owners of the property that is the subject of the application.

The purpose of this minor variance application is to reduce the minimum required lot area per dwelling unit from 278 square metres to 103 square metres, reduce the minimum required lot width per dwelling unit from 9 metres to 7 metres, and reduce the minimum required lot depth from 30 metres to 14.5 metres to legalize and continue the use of a second dwelling within the basement of the existing dwelling on the subject property.

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

- He purchased the property that was listed as a duplex one month ago. Since that time, he became aware that the second unit was not recognized by the City. He would like to bring the property into compliance with the Building Code and legalize the basement unit.

Ms. Banani Afsana, 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:

- Because of the location of the property within the Central Area in close proximity to City transit, Staff support approval of the application with either one or two parking spaces established on site. Should the applicant establish only one parking space in the proposed driveway from Murray Street, he would have the option of paying cash-in-lieu of parking for the second parking space.
- The length of the proposed parking area from the streetline is illustrated on the Site Plan provided by the applicant. It meets the minimum required length of a parking space.

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

- The house has been established in its current location along the Aylmer Street and Murray Street streetlines since 1857.
- There would be approximately five feet between the retaining wall for the proposed parking area and the house, which is adequate protection from frost damage to the foundation.

- He has no objection to entering into an encroachment agreement for any encroachments into the right-of-way.
- He is a landscaper by trade and feels that he can establish two parking spaces in the proposed parking area. If his parking proposal is not approved by the Building Division, he will pay the cash-in-lieu of parking fee.
- He does not believe that the proposed parking area will affect the neighbour to the east.

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 variances are 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, variances are granted to:

- a) Reduce the minimum required lot area per dwelling unit from 278 square metres to 103 square-metres;**
- b) Reduce the minimum required lot width per dwelling unit from 9 metres to 7 metres; and**
- c) Reduce the minimum required lot depth from 30 metres to 14.5 metres.**

CONDITIONAL UPON the following:

- i) The owner obtaining a Building Permit;**
- ii) The owner entering into an encroachment agreement with the City of Peterborough to address the portion of the existing retaining wall, steps, fence and front deck within Murray Street Right-of Way and Aylmer Street Right-of-Way; and**
- iii) The owner entering into an agreement for the payment of cash-in-lieu of parking for any deficiency in parking on site.**

5. File No.: A10/17
Address: 618 Goodwin Terrace
Applicants: Don and Deb Brockie

This matter relates to a minor variance application submitted by Don Brockie and Deb Brockie, 618 Goodwin Terrace, Peterborough, Ontario K9J 0H6, the owners of the property that is the subject of the application.

The purpose of this minor variance application is to increase the maximum permitted building coverage for a one-storey dwelling from 45% to 47.2% to recognize the increased lot coverage resulting from a newly constructed roof over the existing rear deck.

Mr. Don Brockie attended the meeting and addressed the Committee as follows:

- He is seeking the variance to recognize the increase to the building coverage resulting from the addition of a roof over an existing deck at the rear of the house. He was not aware of that the covered deck would increase the total building coverage when the roof was constructed.

Ms. Banani Afsana, 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, the applicant advised as follows:

- The work was completed by a contractor. He was not advised by the contractor that a building permit would be required.

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 consistent with the surrounding residential development and 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 maximum allowed building coverage by a one storey dwelling from 45% to 47.2% CONDITIONAL UPON the owner obtaining a Building Permit and PROVIDED THAT any alterations to the existing lot grading patterns or roof drainage will not adversely impact adjacent properties.

6. **File No.: A11/17**
Address: 740 Water Street
Applicants: Brian Miske, David Miller and Jason Pawchuk

This matter relates to a minor variance application submitted by Brian Miske, David Miller and Jason Pawchuk, 1245 Scollard Drive, Peterborough, Ontario K9H 7K8, the owners of the property that is the subject of the application.

The purpose of this minor variance application is to increase the maximum permitted height of a dwelling from 8.6 metres (a maximum number of two storeys) to 11.12 metres to incorporate two new dormers at the north side and one dormer at the back (east) side of the existing building on the subject property.

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

- In the fall, an application for several variances to permit the conversion of the property to a triplex was approved. The current application has been filed to permit the addition of three dormers to the attic to increase the usable floor space. Because the mid-point of the dormers on the third floor is higher than the mid-point of the existing roof from the grade, the variance for increasing the maximum height is required.

Ms. Banani Afsana, 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. Afsana noted that new drawings had been submitted on March 6, 2017 illustrating the proposed height measured from the grade to the midpoints of the new dormers and the existing main roof, according to the Zoning By-law.

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

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

- The actual measurement of the midpoint of the dormer from the grade is slightly less than the variance applied for.
- The only difference to the roof line is the addition of the dormers, there will be no changes in height to the main roof of the dwelling.

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 maximum height of the existing dwelling from 8.6 to 11.12 metres to permit the accommodation of three dormers within the existing dwelling CONDITIONAL UPON the applicant providing drawings that illustrate the midpoint height of the building roof and the new dormers from the grade according to the definition of the “Building Height” in the Zoning By-law, prior to the issuance of a building permit and PROVIDED THAT the proposed lot grading and roof drainage does not adversely impact adjoining properties.

7. **File No.:** **A12/17**
 Address: **850 Emery Way**
 Applicant: **Linda Gendron**

This matter relates to a minor variance application submitted by Linda Gendron, 850 Emery Way, Peterborough, Ontario K9J 0H7, the owner of the property that is the subject of the application.

The purpose of this minor variance application is to increase the maximum distance a platform can extend into the rear yard setback from 3 metres to 4.86 metres to allow a new platform to be located a distance of 2.74 metres from the rear lot line of the subject property.

Ms. Gendron attended the meeting and addressed the Committee as follows:

- She is seeking a minor variance to permit the construction of a platform at the rear of the dwelling. There is currently a small deck and she does not want to increase the size of the deck at the current height. She would prefer to establish a platform at a lower height to maintain privacy and use the existing deck and stairs for access into the house. She is asking for an increase to the distance the platform can extend into the setback so that she will have enough room for patio furniture.

Ms. Banani Afsana, 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.

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 consistent with the surrounding residential development and 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 maximum distance a platform may extend into the setback from the rear lot line from 3 metres to 4.86 metres PROVIDED THAT any alterations to existing lot grading patterns or roof drainage from the proposed construction will not adversely impact adjacent properties.

8. **File No.:** **A13/17**
 Address: **16 Bruce Street**
 Applicant: **Gabriele Zeh-Abramsky**

This matter relates to a minor variance application submitted by Gabriele Zeh-Abramsky, 2320 Salmon Bay Road, Lakefield, Ontario K0L 2H0, as applicant on behalf of Pepeita McQuigge, 515 Maniece Avenue, Peterborough, Ontario K9L 0C1, the owner of the property that is the subject of the application.

The purpose of this minor variance application is to reduce the minimum required building setback from the west side lot line from 1.2 metres to 0.7 metres to permit a two storey dwelling on the existing footprint with a verandah and deck, each having a depth of 2.5 metres, at the front and rear of the dwelling; to reduce the minimum required setback from the streetline for a verandah from 6 metres to 5 metres; and to reduce the minimum required setback from the streetline for verandah steps from 6 metres to 3.8 metres, to permit the construction of a new two-storey, single-unit dwelling on the subject property.

Ms. Zeh-Abramsky attended the meeting and addressed the Committee as follows:

- She recently purchased the property and will take possession on April 3, 2017. She initially planned to renovate the existing house. However, due to major water damage in the basement, she has decided to build a new, two-storey dwelling on the existing footprint. Because she is adding the second storey with additions, she requires a variance to recognize the existing non-complying setback from the side lot line and variances from the streetline for the proposed verandah.

Ms. Banani Afsana, 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 Zoning By-law permits an overhang of 0.6 metres into a building setback. The illustrated overhang appears to comply with Zoning By-law regulations, and Staff recommend that the decision be conditional upon the applicant demonstrating that eavestroughing will be being established to drain stormwater into the subject property.

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

- She has advised Peterborough Utilities Services that she will move the new garage forward 2 metres from the location illustrated on the site plan to allow clearance of the overhead electric services. The electrical servicing for the dwelling will be moved to the other side of the dwelling.

- The proposed second storey overhang is one foot (0.3 metres). In consultation with the Building Division, she was advised that the maximum distance the overhang can project into the setback is 0.6 metres. She believes that her proposal complies with the regulations.
- She would prefer not to defer the application to a future meeting, as she believes that the proposed overhang will be in compliance with the by-law.

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 variances are 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, variances are granted to:

- Reduce the minimum required building setback from the west side lot line from 1.2 metres to 0.7 metres to permit a second storey on the existing footprint and for expansions (verandah and deck), each having a depth of 2.5 metres, attached to the front and back walls;**
- Reduce the minimum required setback from the street line for a verandah from 6 metres to 5 metres; and**
- Reduce the minimum required setback from the street line for verandah steps from 6 metres to 3.8 metres.**

CONDITIONAL UPON the applicant demonstrating that eavestroughing will be established to manage stormwater draining onto the subject property so as not to affect the neighbouring property to the west side, prior to the issuance of a building permit.

Minutes

Moved by Len Lifchus

That the minutes of the Committee of Adjustment hearing held on January 24, 2017 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 4, 2017.

Adjournment

The meeting was adjourned at 7:35 p.m.

(Sgd.) Brenda Campbell, Chair

(Sgd.) Jennifer Sawatzky, Secretary-Treasurer