



City of  
**Peterborough**

## Committee of Adjustment Hearing Date: April 21, 2015

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**Staff Comments re: Files A11/15, A12/15, A13/15, A14/15, A15/15, A16/15, B05/15, A17/15 and A18/15**

### **A11/15 – 1037 Avery Avenue – 935976 Ontario Inc.**

The developer has a building design that he would like to establish on the property. A variance is therefore requested to reduce the minimum building setback from the rear lot line from 7.6 metres (25 ft) to 6 metres (20 ft) to allow a dwelling and elevated deck in excess of 3 metres in height to be constructed on the property. A variance would also be required to increase the maximum building coverage of the property from 40% to 45% for the two storey building.

Staff have received 4 editions of plans since the original application was filed in February 2015. The latest edition received April 16, 2015, is attached to the Staff report as Exhibit A. The latest plan illustrates revisions to the grades of the lot such that the elevation of the proposed deck at 3 metres above grade now complies with the definition of a deck being no greater than 3 metre in height.

The subject property is a new build in a new subdivision. A great deal of thought, research and attention had gone into the design of the subdivision and the development of zoning regulations to permit appropriate development of the property.

The zoning of the subject property is R.1, 1m, 2m, 8z-256 Residential District. Most noteworthy are the alternate regulations. The 8z regulation would specifically allow a dwelling to have as little as a 0.6 metre (2 ft) side yard on one side, with a 1.2 metre (4 ft) side yard on the other, provided there is no less than 2.4 metres between buildings on adjacent lots. The other alternate regulation 256 would allow flexibility with respect to the setback from the street line, allowing a dwelling to be 4 metres from the street line and an unenclosed verandah to project a further 2 metres into the setback from the street line. The purpose of these regulations is to allow flexibility for buildings to be established a little closer together and closer to the street. The objective is to foster neo-traditional subdivision design to theoretically increase the pedestrian orientation of the streetscape, allowing buildings to be located in closer proximity to sidewalk lined streets.

The proposed building is pushing the limits of development of the property and is perhaps too large and not suited for the subject property. It is located set back on the property, with no attempt to take advantage of any of the alternate regulations. The subject property

backs onto lands that are zoned as OS.1 Open Space. Through an Environmental Study required as a part of the subdivision development, the adjacent lands to the southwest have been identified as Provincially Significant Wetlands and are zoned OS.1 to be protected. In accordance with the Environmental Study, a buffer has been established to protect the natural features from the impact of development, and the regulations of the zoning district have been established to set a limit for development in proximity to the natural features. A subdivision agreement has also been designed to extend further protection of the natural areas from development of rear yards. The agreement includes detailed grading plans for the rear yards, restrictions regarding the establishment and draining of private swimming pools and includes a “user manual” to educate property owners who back onto natural areas.

The subject property appears to be the largest amongst the larger lots in the subdivision. The proposed development is for a large dwelling involving an extension of a covered portion of a deck into the rear yard extending into the rear yard setback, which may involve an alteration of grades in relation to the rear yard. The development also proposes a large, elevated deck, which if over 3 metres in height, is considered building coverage.

Staff is concerned with the proposed building that is an example of overdevelopment of a large lot. The design of the building has not considered the thought that has gone into the design of the regulations for expected development within the context of this subdivision considering the size of the lots, their proximity to the natural area and the cumulative impact of a precedent setting decision that could result if a variance was granted.

Staff is of the opinion that the property is of sufficient size to support reasonable development of a single unit dwelling and outdoor amenity space in accordance with the regulations of the by-law. Being a new build, Staff can see no reason why a building cannot be designed to fit within the regulations of the zoning district. Staff cannot support the variances requested and is concerned about the potential impact on the interface with an adjacent Provincially Significant Natural area if the variances are granted and a precedent is set.

Staff would recommend the Committee consider the reasons why the “custom” built dwelling cannot be modified to comply with the regulations of the zoning and perhaps adjourn consideration of the application to allow the proponent to relocate the building forward on the property or modify the location or size of the building to comply or reduce the variance required.

### **A12/15 – 1306 Bathurst Street – David White**

The subject property is located on a local street in a neighbourhood of dwellings established in the late 1960s. It is noted that many dwellings in the neighbourhood either have carports attached to the dwellings or no garages at all. The owner would like to construct a garage as a detached accessory building to be located to the south side of the dwelling. A variance is requested to reduce the minimum building setback from the south side lot line from 1.2 metres (4 ft) to 0.6 metres (2 ft) to allow the proposed structure to be located between the existing dwelling and the south lot line, as illustrated on the Plan attached as Exhibit B.

The intent of the side yard setback regulations of the Zoning By-law is to maintain a standard for spatial separation between buildings on adjacent properties. This space provides a standard for dealing with stormwater runoff and development expectations considering the appearance from the street. Staff visited the property and noted that the dwelling on the adjacent lot to the south is located approximately 2.4 metres from the lot line, with the driveway located on the opposite side of the dwelling to the south side of the property. The subject property flares, sloping to the east. To establish the proposed freestanding garage to the rear of the dwelling the rear yard would have to be re-graded to create a level area that would result in the structure being higher and more imposing in relation to the adjacent property than if established on the existing grade. Establishing the garage to the rear of the dwelling would also increase the lot coverage by potentially impervious driveway surface and require more energy and effort to establish and maintain in terms of snow removal.

While stormwater will have to be addressed on the subject property, Staff is of the opinion that the space between the dwellings on the subject property and the adjacent lot does offer flexibility with little or no perceived impact from a streetscape perspective.

Subject to concerns raised by neighbouring property owners, Staff would not object to the Committee granting the variance as described provided that eavestroughing is established and maintained on the accessory building to manage stormwater on the property so as not to affect the adjacent property.

### **A13/15 – 727 Hemlock Street – RD Land Corp**

The developer has a building design that he would like to establish on the property. A variance is therefore requested to reduce the minimum building setback from the street line from 6 metres (20 ft) to 4.38 metres (14.3 ft) to allow a dwelling to be located such that an open sided verandah will extend into the setback from the street line.

Referring to the Plan attached as Exhibit C, the subject property is located at the corner of Hemlock Street and Raymond Street. Both are local streets where Staff do not anticipate high volumes of traffic to be an issue. While the proposed development is a new building within a new plan of subdivision, standards for the setback of open verandahs in relation to the street line of local streets within “neo-traditional” designed subdivisions are being relaxed within reason, to allow a more pedestrian relationship between dwellings and the street. Although the subject property is larger in area than adjacent lots along Hemlock Street, the setback requirements from the street lines, including the unique curvature of Raymond Street, would not allow the proposed dwelling to fit on the lot.

The variance, in this case, would facilitate a similar development standard to what is achievable on the adjacent lot, including the amenity space in the rear yard, as illustrated on Exhibit D. It should be noted that being a corner lot, the setback of the dwelling from the rear lot line is only 4.57 metres. The proposed location of the building, as illustrated on Exhibit D, is 6.6 metres from the side lot line and rear lot line.

Staff would not object to the Committee granting the variance as described that would pertain only to the southwest corner of an open sided verandah on the condition that the building setback from the side lot line relative to Raymond Street be no less than 6.6 metres and the deck be no more than 1.5 meters above grade and setback no less than

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3.5 metres from the side lot line, as illustrated by the plan provided with the application.

#### **A14/15 – 729 Hemlock Street – RD Land Corp**

The developer has a building design that he would like to establish on the property. A variance is therefore requested to reduce the minimum building setback from the rear lot line from 7.6 metres (25 ft) to 6 metres (20 ft) and increase the maximum distance that a deck may project into a minimum rear yard setback from 3 metres (9.8 ft) to 4.62 metres (15.15 ft). The proposal would allow the deck to be within 2.99 m (9.8 ft) of the rear lot line as illustrated on Exhibit D.

The subject property is a new build in a new plan of subdivision with the lot being oriented toward Hemlock Street. Being one lot away from the intersection of Hemlock Street with Raymond Street, the rear yard of the subject property abuts the flankage of an adjacent lot oriented toward Raymond Street. Staff considered the proposed development of the property and the impact of the proposed development on the abutting property to the rear and is of the opinion that the impact of the reduction of the rear yard setback of the dwelling from what would be the rear yard amenity space associated with the adjacent lot would be minimal. It is noted that the circumstances exist for only two lots in the subdivision under construction, and Staff are not concerned about setting a serious precedent. Staff would therefore have no objection to the Committee granting the variance to the reduced rear yard setback of the dwelling as described.

Considering the variance requested to extend the deck into the rear yard, Staff is concerned about a precedent regarding the reduced distance between structures that support outdoor amenity space on adjacent properties. Specifically, Staff is concerned about supporting the projection of a deck as elevated outdoor amenity space into the expected separation distance from what could be a deck on an adjacent property located as close as 0.3 metres (1 ft) of a side lot line. Staff would have no objection to the Committee granting a lesser variance to allow a deck. The variance recommended would allow the deck to project no more than 3.96 metres into the standard rear yard setback to allow a deck no greater than 1.5 metres (5 ft) above grade to extend no more than 2.4 metres (8 ft) beyond the rear of the dwelling.

#### **A15/15 – 731 Hemlock Street – RD Land Corp**

The developer has a building design that he would like to establish on the property. A variance is therefore requested to reduce the minimum building setback from the rear lot line from 7.6 metres (25 ft) to 6 metres (20 ft) and increase the maximum distance that a deck may project into a minimum rear yard setback from 3 metres (9.8 ft) to 4.62 metres (15.15 ft). The proposal would allow the deck to be within 2.99 m (9.8 ft) of the rear lot line as illustrated on Exhibit E.

As with 729 Hemlock Street, the subject property is a new build in a new plan of subdivision with the lot being oriented toward Hemlock Street. Being two lots away from the intersection of Hemlock Street with Raymond Street, the rear yard of the subject property abuts the flankage of a lot oriented toward Raymond Street. Staff considered the proposed development of the property and the impact of the proposed development on the abutting property to the rear and is of the opinion that the impact of the reduction of the rear yard setback of the dwelling on what would be the rear yard amenity space associated with the dwelling on the adjacent lot would be minimal. The subject property

and 729 Hemlock Street are the only two lots with similar circumstances that are seeking the same variance. Staff would have no objection to the Committee granting the variance to the reduced rear yard setback of the dwelling as described.

Considering the same variance as application as A14/15 proposing to extend a deck into the rear yard, Staff is again concerned about a variance that may set a precedent regarding the reduced distance between elevated outdoor amenity space on adjacent properties. Staff cannot support a variance as requested that would allow the projection of a deck as elevated outdoor amenity space into the expected separation distance from what could be a deck on an adjacent property located within as little as 0.3 metres (1 ft) of a side lot line.

Staff would have no objection to the Committee granting a lesser variance to allow a deck to project no more than 3.96 metres into the standard rear yard setback, to permit a deck no greater than 1.5 metres (5 ft) above grade and extending no more than 2.4 metres (8ft) beyond the rear of the dwelling.

#### **A16/15 – 738 Hemlock Street – RD Land Corp**

The developer has a building design that he would like to establish on the property. A variance is therefore requested to reduce the minimum building setback from the rear lot line from 7.6 metres (25 ft) to 6.5 metres (21.3 ft) and increase the maximum distance that a deck may project into a minimum rear yard setback from 3 metres (9.8 ft) to 4.11 metres (13.48 ft). The proposal would allow the deck to be within 3.49 m (11.45 ft) of the rear lot line.

Referring to the Plan attached as Exhibit F, the development of the subject property is a new build that is located on the west side of Hemlock Street, backing onto the property at 752 Hemlock Street, which includes a dwelling established since 1995. It is noted that there is a 6 metre wide easement that prevents development along the east side of the adjacent property at 752 Hemlock Street. While the easement may serve to maintain the intent of the zoning regulations of the by-law regarding separation between buildings on adjacent properties, there is the expectation by the established property owner at 752 Hemlock Street for the standard separation distance from development on the adjacent property. In addition, there is an expectation for limits to development set by the design of lots in the subdivision. Staff can see no reason why the builder cannot design and construct a dwelling on the property that would comply with the regulations of the zoning district.

Regarding the variance to the proposed deck, there is no reason the property cannot be developed in compliance with the regulations of the zoning by-law. The variance requested would allow a structure to support elevated amenity space in closer proximity than expected to amenity space on an adjacent property.

#### **B05/15 – 656 Rogers Street – 1799844 Ontario Limited**

Referring to the Plan attached as Exhibit G a consent is requested to convey ownership of the southerly 2.43 metres (8ft) of the property known municipally as 656 Rogers Street to the owner of the adjacent property known municipally as 654 Rogers Street. The parcel of land is surplus to the needs of the subject property and its addition to 654 Rogers Street would improve the functionality and compliance of the property with the zoning regulations

regarding its development.

Staff would recommend the Committee grant the consent as described provided the parcel is merged with the 654 Rogers Street and Sections 50(3) and 50(5) of the *Planning Act* apply to any subsequent dealing with the parcel of land.

#### **A17/15 – 898 Monaghan Road – 1554741 Ontario Inc.**

The owner is requesting consideration of the proposed use of a 498 square metre building on the property for a “Travel Agency –Travel Wholesaler Use” as a use considered similar to the use that is generally described as a bank or financial institution permitted by the C.7 Commercial District zoning of the property.

The subject property is designated as Special Purpose Retail. The purpose of the designation is to complement commercial uses in the Central Area by accommodating larger format facilities that serve Peterborough and the surrounding regional area but do not typically locate in the Central Area of the City. The proposed use would not typically locate in the Central Area being automotive oriented and requiring ease of access by automobiles and ample parking. The proposed use would occupy 498 square metres within the stand alone building on the property formerly used by Rogers Video Rental.

The Subject property is zoned C.7-201 Commercial District that would permit a use generally described as a bank or financial institution.

The proposed “travel agency or travel wholesale use” would operate similar to a bank or financial institution. People could walk in and line up to see a travel agent or arrange appointments to consult with travel counsellors. The counsellors would offer advice on the development of travel plans and insurance similar to a financial consultant offering advice on financial plans and selling insurance policies or investment vehicles.

Considering the nature of the proposed use and the context of the proposed use within a standalone building on a property with other standalone buildings with communal parking, Staff is of the opinion that there would be no adverse impact on surrounding land use from permitting the proposed use as described.

Subject to concerns raised in response to the notice of this application, Staff would not object to the Committee granting permission for the use as described.

#### **A18/15 – 51 Park Street North TDL Group**

The owner is planning to renovate the building on the property used as a drive through Tim Hortons restaurant. A minor variance to Section 6.40 of the By-law is therefore requested to permit a trailer as a temporary building on the property from which a limited drive through service may be provided until the renovations of the permanent building are complete and the building can be reopened.

The temporary structure would be established on the property for approximately one month to allow the drive through operation of the restaurant to function while the permanent building is undergoing renovations.

The subject property is located on the southwest corner of a busy intersection of Park Street and Albert Street controlled by a traffic light. The proponent has provided a plan attached as Exhibit H, illustrating the location of the temporary structure on the site and

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how parking and motor vehicle movement may be accommodated on the property. In addition, the proponent has an agreement with General Electric to provide parking within 100 metres of the property that may be required for the contractors and employees working at the site during the renovations.

Staff considered the proposed location of the trailer and is of the opinion that traffic flow on the property may work satisfactorily and would not object to the relief sought provided that:

1. proof of the agreement with General Electric to provide parking for no less than 6 motor vehicle parking spaces is provided,
2. the Site Plan is amended to illustrate the location of the temporary structure to the satisfaction of the Planner of Urban Design, and
3. the Site Plan is updated to reflect substantially what is illustrated on the plan submitted with the application, attached to the Staff Report as Exhibit I.

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Richard Straka, Planner Policy & Research

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Dean Findlay, C.Tech., CBCO, Chief Building Official