



City of
Peterborough

Committee of Adjustment Minutes

August 21, 2018

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

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

Also Present: Ms. Christie Gilbertson, 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.

Moved by Claude Dufresne

That consideration of Item c), File No. A34/18 be moved to the end of the agenda.

“CARRIED”

- File No.: B10/18**
Address: 790 Donegal Street
Applicant: Linda Vittorini

This matter relates to a severance application submitted by Linda Vittorini, 3657 Cochrane Street, Whitby, Ontario L1R 2T2, as applicant on behalf of herself and Tito Vittorini, of same address, the owners of the property that is the subject of the application.

The application proposes to sever the southerly 17 metres of the property to create a new lot for residential development, fronting onto Donegal Street.

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

- She is seeking consent to sever a portion of the property at 790 Donegal Street.

Ms. Christie Gilbertson, Planner, Policy and Research, presented Staff comments with respect to the application on behalf of the Building and Planning Divisions of the Infrastructure and Planning 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:

- She is aware of the requirement to convey a daylighting triangle to the City as a condition of the consent.

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.

In that the severed and retained property would conform to the Official Plan policy and comply with the Zoning By-law, the Committee considers that it is appropriate to allow a severance that would create a new lot for residential development.

Therefore, consent is granted to sever the southerly 17 metres of the subject property to create a new lot for residential development, CONDITIONAL UPON THE FOLLOWING:

- i) **Confirmation of a curb cut permit, tree cutting permit and installation of a driveway to Bellevue Street, with the establishment of two motor vehicle parking spaces on the retained parcel, in accordance with the provisions for driveways and parking spaces in the City's Comprehensive Zoning By-law, to support the use of the existing residential dwelling;**
- ii) **Confirmation that the foundation drain system on the retained parcel does not impact the proposed severed lot, to be illustrated on an approved lot grading and drainage plan, detailing how all drainage is dealt with on the proposed retained lands to the satisfaction of the City's Development Engineer;**
- iii) **Payment of a Parks Levy for the newly created lot, in an amount to be determined by the Parks Levy Review Committee;**
- iv) **Payment of a Tree Levy in the amount of \$215 in relation to the newly created lot;**
- v) **Prior to registering the Reference Plan at the applicant's cost, the applicant shall submit for approval a draft Reference Plan to the Secretary-Treasurer, showing the proposed severed parcel including the 5.0 metre by 5.0 metre daylighting triangle located at the northwest corner of the property. Upon registration of the approved Reference Plan, two copies of the registered reference will be provided to the Secretary-Treasurer;**
- vi) **Conveyance to the City of a 5.0 metre by 5.0 metre daylighting triangle at the northwest corner of the retained lands, free of encumbrances and at no cost to the City;**
- vii) **A closed polygon vector file of the Part boundaries shown on the Reference Plan is to be provided in Autodesk DWG NAD83 UTM CSRS CGVD28 projection Windows-readable format to the satisfaction of the City of Peterborough Geomatics/Mapping Division. It is recommended that the applicant's Ontario Land Surveyor consult with the City of Peterborough Geomatics/Mapping Division to confirm acceptable standards and formatting. The Surveyor should contact the Secretary-Treasurer for instructions on how to submit this document;**
- viii) **That the applicant provide the Secretary-Treasurer with a draft of the Transfer/Deed of Land; and**
- ix) **This Consent will lapse if the above conditions are not satisfied within 365 days of the circulation of the Committee's decision.**

2. **File No.: A33/18**
Address: 207 King George Street
Applicant: J. Laurie Young

This matter relates to a minor variance application submitted by J. Laurie Young, 750 Fife's Bay Road, Selwyn, Ontario K9J 6X4, as applicant on behalf of David Clark and Jennifer Clark, 207 King George Street, Peterborough, Ontario K9J 1R7, the owners of the property that is the subject of the application.

The application proposes to reduce the minimum building setback from the centreline of McKellar Street from 19 metres to 13.64 metres for a one storey addition to the rear of the existing dwelling, measuring approximately 7.6 metres by 6.7 metres in size, and to reduce the minimum setback from the centreline of McKellar Street from 19 metres to 14.5 metres for a 1.8 metre by 5.6 metre platform.

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

- She is the architectural designer on the project.
- The property is currently developed with a small brick bungalow with two bedrooms and one bathroom. The owners require the variances to permit the construction of an addition that will include another bedroom, a bathroom and a family room.
- The house has street frontage at both the front and rear of the property, which necessitates the request for the variances at the rear of the dwelling.

Ms. Gilbertson, Planner, Policy and Research, advised that Staff have nothing further to add to the information presented in the Application and Staff Report.

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 in the Staff Report, 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 building setback from the centreline of McKellar Street to 13.64 metres for a 7.6 metre by 6.7 metre one-storey addition; and**
- b) Reduce the minimum setback from the centreline of McKellar Street to 14.5 metres for a 1.8 metre by 5.6 metre platform along the side of the new addition.**

Conditional upon the submission of a lot grading and drainage plan prior to the issuance of a building permit.

- 3. File No.: B11/18
Address: 439 and 441 Rubidge Street
Applicant: Trevelyan Architect Inc.**

This matter relates to a severance application submitted by Trevelyan Architect Inc., 104 Dublin Street, Peterborough, Ontario K9H 3A9, as applicant on behalf of St. Andrew's Church, operating as Emmanuel United Church, 534 George Street North, Peterborough, Ontario K9H 3S2, the owner of the property that is the subject of the application.

The application proposes to sever the property known as 441 Rubidge Street from the balance of the property to create a new 0.28 hectare lot. The application further proposes to create a 6.4 metre wide right-of-way over the retained lands to provide access to the parking area for the newly created lot.

Ken Trevelyan of Trevelyan Architect Inc. attended the meeting and addressed the Committee as follows:

- He has been informed by staff that the application is not eligible for approval this evening, as a requirement for supporting Minor Variance applications to address the deficiencies from the Zoning By-law regulations created from the severance has been recently identified.

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

Moved by Frank Steffler

That the application be deferred until the October 16, 2018 hearing to allow the applicant time to submit Minor Variance applications to support the application for consent.

“CARRIED”

4. **File No.: A35/18**
Address: 11 Edgewater Boulevard
Applicant: Larry Conlin, Conlin Premier Construction Inc.

This matter relates to a minor variance application submitted by Larry Conlin, Conlin Premier Construction Inc., 901 Burnside Road, Bridgenorth, Ontario K0L 1H0, as applicant on behalf of Hilda Johnson, 11 Edgewater Boulevard, Peterborough, Ontario K9H 1A1, the owner of the property that is the subject of the application.

The application proposes to reduce the minimum building setback from the north side lot line from 1.2 metres to 0.9 metres for portions of an attached deck that have a height exceeding 1.5 metres above grade.

Mr. Jake Conlin of Conlin Premier Construction Inc. attended the meeting and addressed the Committee as follows:

- The owner of the property is seeking a reduction to the minimum setback from the north property line to permit a deck.

Ms. Gilbertson, Planner, Policy and Research, advised that Staff have nothing further to add to the information presented in the Application and Staff Report.

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

Therefore a variance is granted to reduce the minimum building setback from the north side lot line to 0.9 metres for the portions of an attached deck exceeding a height of 1.5 metres above grade CONDITIONAL UPON approval of a revised lot grading plan, including the proposed deck connection, by the City’s Urban Design Technologist to ensure that any alterations to the existing lot grading patterns or drainage will not adversely impact adjoining properties.

5. **File No.:** A36/18
Address: 456 Rogers Street
Applicant: Luc Matteau

This matter relates to a minor variance application submitted by Luc Matteau, 456 Rogers Street, Peterborough, Ontario K9H 1W9 as applicant on behalf of Linda Matteau, 456 Rogers Street, Peterborough K9H 1W9, the owner of the property that is the subject of the application.

The application proposes to reduce the minimum building setback from the south side lot line from 1.2 metres to 0.6 metres for a proposed carport.

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

- He is requesting the reduction to the setback regulations to construct a carport at the side of his house.
- He advised that the Otonabee Region Conservation Authority (ORCA) have already issued the permit to construct the carport that was referenced in the Staff Report.

Ms. Christie Gilbertson, Planner, Policy and Research advised that ORCA has provided comment that it has no objection to the carport provided that the carport remain open and not consist of habitable space, which reflects the proposal shown in the exhibit to the Staff Report.

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

- As of the time of publication of the Staff Report, Staff had received only verbal comments from ORCA. Written submissions were received on Friday, August 17 that confirmed the verbal comments following the publication of the Staff Report.

Decision

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

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

Therefore a variance is granted to reduce the minimum building setback from the south side lot line to 0.6 metres for a carport PROVIDED THAT any alterations to existing lot grading patterns or drainage will not adversely impact adjoining properties and CONDITIONAL UPON THE FOLLOWING:

- a) **That no habitable space be created as a result of the carport construction; and**
- b) **That the carport remains open, with no sidewalls.**

6. **File No.:** A37/18
Address: 1756 Stewartcroft Crescent
Applicant: Thomas Parnell

This matter relates to a minor variance application submitted by Thomas Parnell, 1756 Stewartcroft Crescent, Peterborough, Ontario K9K 1J9, the owner of the property that is the subject of the application.

The application proposes to reduce the minimum building setback from the south side lot line from 1.2 metres to 0.9 metres for a proposed carport.

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

- He is seeking a variance to permit the construction of a carport along the length of his house.

Ms. Gilbertson, Planner, Policy and Research, advised that Staff have nothing further to add to the information presented in the Application and Staff Report.

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

Therefore a variance is granted to reduce the minimum building setback from the south side lot line to 0.9 metres PROVIDED THAT any alterations to existing lot grading patterns or drainage will not adversely impact adjoining properties.

7. **File No.: A34/18**
Address: 700 Erskine Avenue
Applicant: Travis Mathews

This matter relates to an application for permission submitted by Travis Mathews, 700 Erskine Avenue, Peterborough, Ontario K9J 6V9, as applicant on behalf of Jerry Nurse Auto Parts Limited, 700 Erskine Avenue, Peterborough, Ontario K9J 6V9, the owner of the property that is the subject of the application.

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

- He is seeking permission to replace the existing building on the property with a new, 560 square metre building that has a slightly smaller footprint than the existing building.

Ms. Christie Gilbertson, Planner, Policy and Research, presented Staff comments with respect to the application on behalf of the Building and Planning Divisions of the Infrastructure and Planning Services Department, City of Peterborough.

Further to Ms. Gilbertson's summary of the Staff Report she clarified that the Site Plan attached to the Staff Report as Page 1 of Exhibit C is a preliminary drawing showing the proposed building location contemplated by the application and that details of a stormwater management plan were not reviewed. She noted that if the application is approved, the applicant will submit plans produced by qualified engineers and other professionals to address Site Plan details such as stormwater management, parking areas, vehicle movement areas and lighting that would be assessed during the Site Plan Review process.

The Secretary-Treasurer read a letter into the record in opposition to the application from Janice Adams, 714 McKellar Street, Peterborough, Ontario K9J 1R3.

The Secretary-Treasurer read a letter into the record in opposition to the application from Julie Morris, 675 Cameron Street, Peterborough, Ontario K9J 3Z9.

The Secretary-Treasurer read a letter into the record in opposition to the application from Vision Glass Inc., 685 Erskine Avenue, Peterborough, Ontario K9J 5T7.

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

- i) Ann Farquharson, 469 Water St, Peterborough, Ontario K9H 3M2 spoke in objection to the application and expressed concerns related to compatibility of the use with the neighbourhood, including the adjacent park and trail use, perpetuation of the legal non-conforming use, the business use of the municipal address of the adjacent residential property, the business use of the lands associated with the adjacent residential property, compliance with the Municipal Business Licence and City By-laws, the need for further consultation and soil testing, and traffic issues on Erskine Avenue.
- ii) Kim Zippel, 1712 Stenson Boulevard, Peterborough, Ontario K9K 2E8 spoke in objection to the application and expressed concerns related to the use of the municipal address in the City's notice, the need for further consultation, compliance with the Municipal Business Licence and City By-laws, limited public input for Site Plan applications, environmental concerns, emergency management, and damage to the City roads.

Janice Adams addressed the committee to provide information supplementary to her correspondence and expressed concerns related to run off during storm events, soil contamination, and the business's use of the adjacent residential street address for business purposes.

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

- The Site Plan would address aspects such as stormwater management, vehicular movement and parking, fencing, lighting, and surface treatments for dust control. She is not aware if the Site Plan Review would trigger a requirement for soil testing.
- The intent for the sound attenuation is to improve on the current corrugated metal fence. The materials used on the fence will be outlined in the Site Plan Agreement through consultation with the applicant.
- The applicant is proposing a controlled stormwater management system on the site, which the preliminary site plan submitted with the application refers to as a "retention pond". The applicant will be required to submit a stormwater management report prepared by an engineer, who would assess both water quality and quantity requirements for the system.
- Complaints regarding operation of heavy equipment outside of the hours of operation permitted by the Business Licence are directed to by-law enforcement. Enforcement staff work on a complaint driven basis.
- It could be appropriate to incorporate some of the suggestions from Vision Glass Inc. into the Committee's decision through the conditions related to site plan control. The Committee should also recognize that as the building is moved further from the street line, as requested by Vision Glass Inc, its location would be closer to the park and residential uses.
- Deferring the application to have the applicant conduct noise, water and air studies may not assist in evaluating the application, as we already know that the use does not meet today's standards.
- The Planner of Urban Design indicated that he would be open to have a neighbourhood meeting during Site Plan Review, if the Committee added this as a condition of approval.

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

- He advised that he took over operations of Nurse Scrap Metal in the fall of 2015. He is aware that the previous operator was working outside of the by-law regulations and that there were complaints from neighbours. He would like to work with the neighbours and thinks that the new building would address many of their concerns.
- He does not operate equipment before 8:00 a.m. or after 5:00 p.m. He has observed other nearby businesses operating equipment as early as 7:00 a.m. and believes the noise is carrying over.
- He is willing to erect better sound proofing, within reason, with fencing up to 8 to 10 feet tall.

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

- If the application is deferred, it will allow time for public consultation, soil testing and monitoring, and sound testing. It is important to have testing completed by the Ministry of the Environment, Conservation and Parks so that the Committee knows what the current hazards are.
- She asked the Committee to deny the application tonight as the community has not been consulted and there is typically not a public process for Site Plan Approval.
- In response to a statement by Mr. DiCarlo stating that a denial of the application would not remove the business but would maintain the status quo, Ms. Zippel noted that the existing conditions on the property do not reflect the City's requirements through the Business Licensing By-law, which should be enforced.

Decision

The Committee heard from members of the public concerning the application and gave due consideration and weight to the comments made and received. The Committee acknowledged the consensus among the submissions requesting more consultation during Site Plan review and decided that an additional condition would be appropriate to consider concerns from owners with properties located in close proximity to the subject property. They further acknowledged concerns related to the compatibility of the use with the surrounding neighbourhood. The Committee stated that because the taller building would allow the applicant to move more functions of the business indoors and that approval of the application would allow the Committee to impose conditions that would implement noise barriers and control of dust and mud, approval of the application would improve compatibility with neighbouring uses and lessen the impact on the neighbourhood. The Committee stated that although some submissions requested that the application be denied, denial of the application would allow the business to continue without implementing the planned improvements and without the ability for the City to have further oversight through a Site Plan Agreement.

Having reviewed the application and considered the information presented both in the Staff Report and presentation, the Committee acknowledged the recognized use of the property as a legal non-conforming Salvage Yard and determined that approval of the application would result in improvements to the property that would lessen the impact of the use on the neighbourhood.

Therefore permission is granted to support the existing Legal Non-Conforming salvage yard use, being similar to the purpose for which it was used for on the day the Zoning By-law was amended in 1996, by way of allowing a new, 557 square metre, two storey building to be located adjacent to the weigh scales as generally depicted in Exhibit C of the Staff Report dated August 21, 2018 and conditional upon the following:

- i) **That the applicant enter into an agreement with the City requiring the following:**

- a. That the existing building (as noted on Exhibit C), be demolished within 30 days of the completion of the new building;
 - b. That the City be granted permission to enter on to the property to demolish the old building if it does not occur within 30 days of the completion of the new building; and
 - c. That financial security be provided to cover the costs associated with the demolition of the building in the event it is not removed within the time frame outlined in the agreement.
- ii) That the applicant revise all future Salvage Business Licence requests to reflect the approved location of the Legal Non-Conforming Salvage Yard Use;
- iii) That the owner enter into a Site Plan Agreement including the following:
- a. The reinstatement of a physical division between the residential property to the south and the Salvage Yard, recognizing the Legal Non-Conforming Residential Use;
 - b. Provision for appropriate fencing in accordance with the Business Licence and Zoning By-law requirements and sound attenuation around portions of the perimeter fence that backs onto the trail and the residential dwelling to the south and Hawley Street. Sound attenuation construction shall be in place within 2 years of entering into the Site Plan Agreement and related financial security shall be obtained to ensure compliance; and
 - c. The installation of surface treatments on all vehicle movement and parking areas to control dust and mud; and
- iv) As part of the Site Plan Approval process, that the new building and supporting parking and driveways be located to consider concerns from owners of properties in close proximity to the subject property, including the comments received from Vision Glass Inc.

Minutes

- a) June 19, 2018

Moved by Brenda Campbell

That the minutes of the Committee of Adjustment hearing held on June 19, 2018 be approved.

“CARRIED”

- b) July 17, 2018

Moved by Mauro DiCarlo

That the minutes of the Committee of Adjustment hearing held on July 17, 2018 be approved.

“CARRIED”

Other Business

The Secretary-Treasurer advised that General Committee considered Report CLSCLK18-015 a report at the August 20, 2018 meeting to extend Citizen Committee and Board Appointments to March 1, 2019. This report is scheduled to be ratified at the September 10, 2018 meeting of City Council.

Next Meeting

The next meeting of the Committee of Adjustment is scheduled for Tuesday, October 16, 2018.

Adjournment

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

(Sgd.) Len Lifchus, Chair

(Sgd.) Jennifer Sawatzky, Secretary-Treasurer