



City of
Peterborough

Committee of Adjustment Minutes

March 5, 2019

Minutes of a Meeting of Committee of Adjustment held on Tuesday, March 5, 2019 at 6:00 p.m. in the Council Chambers, City Hall.

Present: Mr. Mauro DiCarlo, Chair
Mr. Claude Dufresne
Mr. Tom Green
Mr. Stewart Hamilton
Mr. Robert Short

Also Present: Ms. Christie Gilbertson, Planner, Policy and Research
Ms. Andrea Stillman, Permit Technician, Plans Examiner
Ms. Jennifer Sawatzky, Secretary-Treasurer

Committee of Adjustment was called to order at 6:00 p.m.

Election of Officers

Term of Office

Moved by Mauro DiCarlo

That the Committee shall appoint a Chair and Vice-Chair to serve a one-year term.

“CARRIED”

Chair

Moved by Claude Dufresne

That Mauro DiCarlo be appointed as Chair of the Committee of Adjustment.

“CARRIED”

Mauro DiCarlo assumed the Chair.

Vice-Chair

Moved by Stewart Hamilton

That Robert Short be appointed as Vice-Chair of the Committee of Adjustment.

“CARRIED”

Disclosure of Pecuniary Interest

There were no disclosures of Pecuniary Interest.

1. **File No.:** A11/19
Address: 777 George Street North
Applicant: Kevin M. Duguay

This matter relates to a minor variance application submitted by Kevin M. Duguay, as applicant on behalf of Paul Gainey, the owner of the property that is the subject of the application.

The purpose of the application is to reduce the number of required parking spaces from 1.75 per unit to 1 per unit; reduce the width of landscaped open space from 1.5 metres to 1.35 metres between the parking area and the side lot lines; reduce the minimum lot width per dwelling unit from 6 metres to 3.42 metres; reduce the minimum lot area per dwelling unit from 230 square metres to 154 square metres; and increase the maximum lot coverage by open parking areas, driveways and vehicle movement areas from 25% to 59% to recognize the current driveway and parking area. The variances are required to recognize two additional dwelling units in the basement of the existing building, resulting in a total of six residential units.

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

- The application seeks to recognize an existing use of the property as a six-unit dwelling.
- The owner of the property received an order from the Building Division regarding the unrecognized units in the basement. This application is in response to that order and seeks to recognize the two basement units that are not currently permitted by the zoning.
- Following consultation with Planning Division staff, he has amended the concept plan from the original submission. All of the parking spaces are now proposed to be located along the north limit of the property and additional landscaped space will be created in the southwest corner. An existing tree will also be preserved.
- He feels that the two basement units are in a position to meet the Building Code requirements.
- He has reviewed the Staff Report and supports the conditions outlined in the recommendation.
- Although the concept plan illustrates the driveway as straight until it enters the parking area, relocating the driveway to this location would require moving the hydro pole. The owner is not in a position to remove the pole at this time. The location of the driveway and parking area will be addressed through the Development Agreement.

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

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

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

- The applicant requested an increase to the maximum lot coverage of parking areas to 59%. This roughly represents the parking area currently established on site. The revised concept plan illustrates a smaller parking area that requires an increase to only 37%. The reduction to the landscaped open space along the south lot line is no longer required if the parking is developed according to the revised concept plan.
- The Development Agreement, recommended in the Staff Report as a condition of approval, is the mechanism staff will utilize to ensure the refinements to the parking area are implemented. Staff will obtain security from the owner that will not be released until the City is satisfied the plan is implemented as proposed.

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 respect to the reduction to the minimum width of landscaped open space between the parking area and the south side lot line:

Having reviewed the application, the revised concept plan illustrating a reduced parking area, the information presented in the Staff Report, and the applicant's presentation, the Committee determined that the revised concept plan meets the zoning regulations for landscaped open space along the south side lot line and represents an appropriate development with a reduced impact on the adjacent properties. The Committee determined that a reduction to the minimum width of landscaped open space between the parking area and the south side lot line is not required to achieve the development depicted in the revised concept plan and is not desirable for the appropriate development or use of the land.

Therefore a variance to reduce the width of landscaped open space between the parking area and the south side lot line to 1.35 metres is DENIED.

In respect to the increase to the maximum lot coverage by open parking areas, driveways and vehicle movement areas:

Having reviewed the application, the revised concept plan illustrating a reduced parking area, the information presented in the Staff Report, and the applicant's presentation, the Committee determined that the revised concept plan does not require the extent of relief proposed in the original application. The Committee determined that an increase to the maximum lot coverage by open parking areas, driveways and vehicle movement areas to 59% is not required to achieve the development depicted in the revised concept plan and is not desirable for the appropriate development or use of the land.

Therefore a variance to increase the maximum lot coverage by open parking areas, driveways and vehicle movement areas to 59% is DENIED.

However, the Committee determined that the parking configuration represented in the revised concept plan was an appropriate development with minimal impact on the adjacent properties. The Committee determined that the reduced variance is minor, the revised 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 lot coverage by open parking areas, driveways and vehicle movement areas to 37%.

In respect to the remaining variances:

Having reviewed the application, the revised concept plan, the information presented in the Staff Report, and the applicant's 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 as follows:

- a) **A reduction to the minimum width of landscaped open space between the parking area and the north side lot line to 1.35 metres;**
- b) **A reduction to the number of required parking spaces to 1 per unit;**
- c) **A reduction to the minimum lot width per dwelling unit to 3.42 metres; and**
- d) **A reduction to the minimum lot area per dwelling unit to 154 square metres.**

All variances are conditional upon the following:

- i) **The owner entering into a Development Agreement with the City requiring that adjustments to the parking area, possible realignment of the entrance from George Street, and relocation of the shed occur to the satisfaction of the Planner Urban Design; and**
 - ii) **That the applicant pay any applicable Parks Levy as assessed by the City's Parks Levy Review Committee.**
2. **File No.: A12/19**
Address: 18 Maria Street
Applicant: Jeanette Boersma and Jason Boyes

This matter relates to a minor variance application submitted by Jeanette Boersma and Jason Boyes, the owners of the property that is the subject of the application.

The purpose of the application is to reduce the minimum building setback from the west side lot line from 1.2 metres to 1 metre to allow the construction of a two and a half storey addition at the rear of the existing dwelling, maintaining the existing setback of the dwelling.

Ms. Boersma and Mr. Boyes attended the meeting and addressed the Committee as follows:

- They are seeking a variance from the minimum building setback from the west side lot line to permit a rear addition to the house.
- The existing house, built in 1912, is established less than 1.2 metres from the west lot line. They would like construct the rear addition with the same setback as the existing house.
- There is a possibility that they may change the design from the plans submitted to the Committee to a one-storey addition with the same footprint. The updated design would not change the requirement for the variance.

Ms. Christie Gilbertson, Planner, Policy and Research, advised that she had nothing further to add to the information presented in the Staff Report and advised that a change to the design would not impact the request for a variance and that there is no requirement for an amended notice. If the addition was redesigned to be one storey, there may be less impact on adjacent properties.

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

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

- It is the applicant's responsibility to hire the archeologist referenced in the recommended condition of approval. Through discussions with the Heritage Preservation Office and Curve Lake First Nation, she understands that the archeologist can be retained within a reasonable timeframe, and she does not anticipate the proposed condition causing a delay.
- The potential for archeological resources being uncovered during excavation was initially identified by Curve Lake First Nation and was supported by comments received from the City's Heritage Resources Coordinator. The property is located in an area of high potential based on the City's Archaeological Resources Potential Map. City Staff concluded that there is sufficient evidence to require that an archeologist and a Curve Lake Liaison Officer be present to monitor the excavation due to the record of human remains being uncovered nearby, the proximity of water, and the property's location on a hill - factors that increase the potential for resources to be found.
- The condition would have to be satisfied prior to the issuance of a Building Permit for the full addition.

- The applicant has been advised that the cost to hire an archeologist and the fee for a liaison from Curve Lake are the responsibility of the applicant. A rough cost estimate was provided by the Heritage Preservation Office and was relayed to the applicant.
- The Development Engineer has been advised that she is not recommending that the conveyance of a daylighting triangle be a condition of approval.

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

- They are willing to cooperate with the condition requiring an archeologist and liaison officer to be on site during excavation, although they are not entirely clear on the process to retain the archeologist.

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 west side lot line to 1 metre for an addition at the rear of the existing dwelling, CONDITIONAL UPON THE FOLLOWING:

- i) The submission and approval of a lot grading and drainage plan; and**
- ii) A licensed Archeologist and Curve Lake Liaison Officer be present to monitor the excavation at the work site.**

3. **File No.: B03/19**
Address: 1637 Hetherington Drive
Applicant: MacNaughton Hermsen Britton Clarkson Planning Limited

File No.: B04/19
Address: 1652 Hetherington Drive
Applicant: MacNaughton Hermsen Britton Clarkson Planning Limited

This matter relates to two severance applications submitted by MacNaughton Hermsen Britton Clarkson Planning Limited, as applicant on behalf of Cor-Plan (2012) Inc., the owner of the properties that are the subject of the applications.

The purpose of Application Number B03/19 is to sever 27 separately conveyable townhouse lots, resulting in a total of 28 lots on the west side of Hetherington Drive, implementing the SP.358 Zoning District.

The purpose of Application Number B04/19 is to sever 25 separately conveyable townhouse lots, resulting in a total of 26 lots on the east side of Hetherington Drive, implementing the SP.359 Zoning District.

Sheldon Rokin, principal of Cor-Plan (2012) Inc., attended the meeting and addressed the Committee as follows:

- He has worked on developments in the Peterborough area for almost 30 years.
- He won a Request for Proposals from Trent University to purchase some of their endowment lands in 2012. A portion of these lands are the subject of this application.

- He has an agreement with Trent to develop the lands in accordance with the Trent Endowment Lands Master Plan as a mixed use development. Trent is satisfied with the proposed plans.
- The lands will be developed in three phases. The 54 freehold townhomes that are the subject of tonight's applications are phase one.
- Phase two includes the development of 70 apartment units, and phase three is a 22,000 square foot commercial plaza.
- The development is subject to a comprehensive Site Plan Application, and as the development is being constructed along an existing City street, he was advised by City staff that a Plan of Subdivision was not the appropriate method to create the lots.
- Because the City is reviewing the development through a Site Plan Agreement rather than a Plan of Subdivision, the lots cannot be created through Part Lot Control, and he was advised to apply for Consent to sever the lots.
- His company is in the process of rebuilding Hetherington Drive, including the installation of municipal services.
- There are currently 20 units under construction in the top two blocks on the west side and the top block on east side. The consent certificates will be requested in stages as the foundations are constructed.
- He is aware that a letter in objection to the application was received by the Committee raising concerns with traffic and the need for a grocery store to service area residents.
- Regarding traffic, he is required to fully signalize the intersection at Woodland Drive and Water Street as part of the Site Plan Approval. A left turn lane will be incorporated on Water Street in both directions and a middle turning lane will be added to Woodland Drive.
- Currently, the roads have no sidewalks or pedestrian access. The reconstruction of Hetherington Drive will include sidewalks on both sides. A sidewalk will also be extended across the hydro easement to the University Heights subdivision, so that residents of the subdivision can walk on a sidewalk to Woodland Drive. The south side of Woodland Drive will include a sidewalk, which will connect with the commercial plaza.
- He is trying to attract a grocery store tenant to the commercial plaza, although most grocery stores want a larger store than can be accommodated in the plaza.

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

The Chair read a letter into the record in opposition to the application from Frank Mills, Selwyn, Ontario.

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

- The test for evaluating a Consent application relates to the proposal's conformity with the Official Plan and zoning district and the availability of services and infrastructure. The Staff Report recommends approval of the application and staff are satisfied that the application demonstrates that it satisfies these requirements.
- Woodland Drive and Water Street are arterial roads and Hetherington Drive is a collector street.
- As the City grows and intensifies, transit routes are re-evaluated and redesigned to provide a minimum standard of service. However, she does not know if this area is currently identified for improvements to transit service.

- Planning staff reviewed the merits of processing the application through a Plan of Subdivision versus Consent and concurred that the Consent process was an appropriate means to go forward. The proposed lots are located on a public road, the site is undergoing a comprehensive site plan review and the zoning district and Official Plan designation have been in place following City Council's approval in 2015. Staff are satisfied that Consent is the appropriate mechanism to divide the lots.
- This has been a development that has been ongoing for a number of years. The Official Plan Amendment and Zoning By-law Amendment that came into effect in 2015 was the impetus for number of studies to be done. Although she was not the planner that worked on those files, staff was in a position to recommend to Council that the Zoning and Official Plan Amendments be approved based on the review of these studies. The studies and engineering reports for the Site Plan review currently underway, infrastructure improvements, and the redevelopment of Hetherington Drive have also been reviewed by the appropriate members of City staff. Although not all of that information is part of the package before the Committee, it has all been considered when and if appropriate for this development.
- The zoning districts were structured in such a way that the entire block is treated as one lot for the purpose of zoning despite any land division.

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

- Noise studies in relation to the two lots adjacent to Woodland Drive, an arterial road, have not been completed. The noise study requirements of the Site Plan Approval relate to the proximity of the apartments to the commercial plaza.
- He has no objection to an additional noise study being a condition of approval. He advised the Committee that multiple traffic studies were completed, and the actual traffic on Woodland Drive may not have triggered a concern.
- Hetherington Drive is an existing road that been established since the 1960s. Because the proposed lots front onto an existing road, City staff were supportive of a review of the development through Site Plan Approval and Consent.
- Tree planting requirements are included in the Site Plan Agreement, and they will be paying the required tree levies in addition to the tree planting required by Site Plan.
- The application is subject to final Site Plan Approval, which includes every aspect of development that would be reviewed through a Plan of Subdivision.
- He is aware of the regulations of the zoning districts and the setbacks required for the development. Variances will not be required.

Decision – B03/19

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 reviewed the information presented in the application, Staff Report and the presentations by both the applicant and City staff. The Committee noted that the development as presented is permitted by the zoning district and that that the regulations of the zoning district do not prevent the division of the land. The Committee was satisfied the City's Official Plan policies permit the creation of the lots through the consent process and noted that the City has negotiated improvements to the publically owned road to ensure the road is built to current standards. The Committee expressed concern of the potential for noise from Woodland Drive, an arterial road, to have an impact on the lot adjacent to Woodland Drive, and determined that it was appropriate to add a condition to require that an acoustic study be completed in relation to this lot and that the conclusions of that report be implemented through the Site Plan Agreement.

Therefore, consent is granted to sever 27 residential lots, as depicted on the Severance Sketch created by MacNaughton Hermsen Britton Clarkson Planning Limited Planning and dated February 6, 2019, **CONDITIONAL UPON THE FOLLOWING:**

- i) That the Site Plan Agreement for the subject lands be executed and all necessary security be obtained;
- ii) That an acoustic study is completed in relation to the lot closest to Woodland Drive and that the conclusions of that report be implemented through the Site Plan Agreement;
- iii) 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 line of severance along the surveyed party wall of the structures' foundations. Upon registration of the approved Reference Plan, two copies of the registered reference plan will be provided to the Secretary-Treasurer;
- iv) 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 Windowsreadable 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;
- v) That the applicant pay the applicable Parks Levy;
- vi) That the applicant provide the Secretary-Treasurer with a draft of the Transfer/Deed of Land; and
- vii) This Consent will lapse if the above conditions are not satisfied within 365 days of the circulation of the Committee's decision.

Decision – B04/19

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 reviewed the information presented in the application, Staff Report and the presentations by both the applicant and City staff. The Committee noted that the development as presented is permitted by the zoning district and that that the regulations of the zoning district do not prevent the division of the land. The Committee was satisfied the City's Official Plan policies permit the creation of the lots through the consent process and noted that the City has negotiated improvements to the publically owned road to ensure the road is built to current standards. The Committee expressed concern of the potential for noise from Woodland Drive, an arterial road, to have an impact on the lot adjacent to Woodland Drive, and determined that it was appropriate to add a condition to require that an acoustic study be completed in relation to this lot and that the conclusions of that report be implemented through the Site Plan Agreement.

Therefore, consent is granted to sever 25 residential lots, as depicted on the Severance Sketch created by MHBC Planning and dated February 6, 2019 and **CONDITIONAL UPON THE FOLLOWING:**

- i) That the Site Plan Agreement for the subject lands be executed all necessary security be obtained;
- ii) That an acoustic study is completed in relation to the lot closest to Woodland Drive and that the conclusions of that report be implemented through the Site Plan Agreement.

- iii) **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 line of severance along the surveyed party wall of the structures' foundations. Upon registration of the approved Reference Plan, two copies of the registered reference plan will be provided to the Secretary-Treasurer.**
- iv) **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 Windowsreadable 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;**
- v) **That the applicant pay the applicable Parks Levy;**
- vi) **That the applicant provide the Secretary-Treasurer with a draft of the Transfer/Deed of Land; and**
- vii) **This Consent will lapse if the above conditions are not satisfied within 365 days of the circulation of the Committee's decision.**

Minutes

Moved by Claude Dufresne

That the minutes of the Committee of Adjustment hearing held on February 5, 2019 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 2, 2019.

Adjournment

The meeting was adjourned at 7:03 p.m.

Sgd. Robert Short, Vice Chair, for Mauro DiCarlo, Chair

Sgd. Jennifer Sawatzky, Secretary-Treasurer