



Committee of Adjustment Minutes

June 18, 2019

Minutes of a Meeting of Committee of Adjustment held on Tuesday, June 18, 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

Regrets: 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 6:01 p.m.

Disclosure of Pecuniary Interest

Claude Dufresne declared conflict of interest regarding Item 10, File No. A30/19, 137 Rubidge Street, due to daily social interaction with the applicant.

1. **File No.:** B06/19
Address: 730 Orpington Road
Applicant: Monique Cleary

This matter relates to a severance application submitted by Monique Cleary, as applicant on behalf of Cleary Investments Inc. and McLeod Real Estate Inc., the owners of the property that is the subject of the application.

The purpose of the application is to sever the subject property along the party wall of the existing semi-detached building to create two separately conveyable lots.

Paul McLeod, of McLeod Real Estate Inc., attended the meeting and addressed the Committee as follows:

- Cleary Investments Inc. and McLeod Real Estate Inc. recently purchased the property and constructed a semi-detached, two-unit dwelling.
- Council recently approved a Zoning By-law amendment to the R.2 zoning district.
- They are requesting consent to sever the property along the party wall of the semi-detached dwelling.

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.

Moved by Claude Dufresne

That the application be approved in accordance with the recommendation in the Staff Report.

“CARRIED”

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 parcels conform to the Official Plan policy and the Zoning By-law, consent is granted to sever the easterly 9.835 metres of the subject property to facilitate separate ownership of each side of a semi-detached dwelling, CONDITIONAL UPON THE FOLLOWING:

- i) **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. Upon registration of the approved Reference Plan, two copies of the registered reference will be provided to the Secretary-Treasurer;**
 - ii) **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;**
 - iii) **Payment of a Parks Levy in an amount to be determined by the Parks Levy Review Committee;**
 - iv) **Payment of a Tree Levy in the amount of \$124.55;**
 - v) **That the applicant provides the Secretary-Treasurer with a draft of the Transfer/Deed of Land; and**
 - vi) **That if the above conditions are not satisfied within 365 days of the circulation of the Committee’s decision that this consent will lapse.**
2. **File No.: A24/19
Address: 342 Downie Street
Applicant: 2511514 Ontario Inc.**

This matter relates to a minor variance application submitted by 2511514 Ontario Inc., the owner of the property that is the subject of the application.

The purpose of this minor variance application is to reduce the minimum lot area per unit from 230 square metres to 98.8 square metres and reduce the minimum lot width per unit from 6 metres to 2.82 metres to permit two additional units in the lower level of the existing fourplex.

Glen Payne of 2511514 Ontario Inc. attended the meeting and addressed the Committee as follows:

- The existing fourplex was established two and a half years ago.
- He is requesting the variance to permit two additional units within the established building.
- The property is located in the downtown and has sufficient parking.

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.

Moved by Stewart Hamilton

That the application be approved in accordance with the recommendation in the Staff Report.

“CARRIED”

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 as follows:

- a) **A reduction to the minimum lot area per dwelling unit to 98.8 square metres per unit; and**
- b) **A reduction to the minimum lot width per dwelling unit to 2.82 metres per unit.**

Conditional upon the Following:

- i) **Payment of a parks levy in an amount to be determined by the City’s Parks Levy Review Committee for each of the two additional units;**
- ii) **The owner entering into an agreement regarding the requirement of cash in lieu of parking not provided to support the development of the property; and**
- iii) **Confirmation that the size of existing sanitary sewer and water service connections is adequate, to the satisfaction of Infrastructure and Planning Services.**

3. **File No.: A25/19
Address: 205 Sherbrooke Street
Applicant: Emily Whetung-MacInnes, LLF Lawyers LLP**

This matter relates to a minor variance application submitted by Emily Whetung-MacInnes, LLF Lawyers LLP, as applicant on behalf of Donald Harterre and Gwenth Harterre, the owners of the property that is the subject of the application.

The purpose of this minor variance application is to permit two existing residential units on the ground floor of a C.5 zoned building.

Phil Aldrich, LLF Lawyers LLP, attended the meeting and addressed the Committee as follows:

- The owners purchased the property in 2015. The previous owners of the property converted the units on ground floor of the building to residential.
- The owners are seeking relief from the Zoning By-law to permit two residential units on the ground floor of the building.

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.

Moved by Tom Green

That the application be approved in accordance with the recommendation in the Staff Report.

“CARRIED”

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 permit two ground floor units to be used as dwelling units PROVIDED THAT the front, ground floor addition is maintained as a commercial unit and CONDITIONAL UPON confirmation of adequate size of existing sanitary sewer and water service connections, to the satisfaction of Infrastructure and Planning Services.

4. **File No.: A26/19**
Address: 115 James Street
Applicant: James Robert Mackie

This matter relates to a minor variance application submitted by James Robert Mackie, the owner of the property that is the subject of the application.

The purpose of this minor variance application is to reduce the minimum building setback for a dwelling from the east side lot line from 1.2 metres to 0.43 metres to allow the applicant to replace the existing rear addition with a larger, two-storey addition, going no closer to the east side lot line than the existing dwelling.

James Robert Mackie attended the meeting and addressed the Committee as follows:

- He is requesting the minor variance to allow him to construct an addition to the existing house, which is located less than 0.43 metres from the side lot line.
- The variance would allow the addition to be built in line with the existing setback, extending 15 feet further back than what is currently established.

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, Staff advised as follows:

- The Zoning By-law does not require a minimum landscaped strip along driveways in the R.1 zoning district.
- The Staff Report recommends a condition to demonstrate drainage along the east side of the dwelling, where the setback is deficient. The setback from the west side lot line is wider, measuring three metres, and the onus is on the property owner to not create any offsite drainage issues as a result of the development.

- The recommended condition requires downspouts going back to front on the east side of the building. An increase to the scope of the condition to include the entire perimeter of the addition could be considered reasonable.

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

- Although he has no current plans for the driveway, it may be extended further into the property to access the proposed shop.
- The existing shed will be removed to allow room for the addition.
- He has no objection to demonstrating adequate drainage along both sides of the dwelling as a condition of approval.

Moved by Stewart Hamilton

That the application be approved conditional upon demonstrating drainage along the east and west sides of the dwelling, including downspouts and grading, to the satisfaction of the Planner, Urban Design.

“CARRIED”

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 it would be appropriate to increase the scope of the condition recommended by Staff to reduce the potential of an impact on neighbouring properties to both the east and west sides of the subject property. The Committee determined 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 east side lot line to 0.43 metres for the proposed addition CONDITIONAL UPON demonstrating drainage along the east and west sides of the dwelling, including downspouts and grading, to the satisfaction of the Planner, Urban Design.

5. **File No.:** **A27/19**
 Address: **4 Kirk Street**
 Applicant: **Ken Currie**

This matter relates to a minor variance application submitted by Ken Currie, as applicant on behalf of Silvia Afonso and Kreig Pattyn, the owners of the property that is the subject of the application.

The purpose of this minor variance application is to reduce the number of required parking spaces from 1.5 per unit to 1 per unit to permit the establishment of a three-unit dwelling.

Ken Currie attended the meeting and addressed the Committee as follows:

- The third unit was established in the building approximately 30 years ago.
- The owners are seeking to have the unit recognized but do not have adequate parking for the third unit.
- Because of the configuration of the corner lot, only three parking spaces can be established on the property.

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, Staff advised as follows:

- The original concept plan that was submitted to the City demonstrated three additional parking spaces accessed by an expanded driveway fronting onto Rubidge Street, an arterial road. However, the Official Plan discourages an increase to the number of vehicles backing out onto an arterial road. The applicant submitted a revised plan illustrating a third parking space accessed from Kirk Street, which is a local street.
- Peterborough Distribution Inc. (PDI) comments on each of the applications that are submitted to the Committee and advise when they are aware of a potential conflict. PDI did not provide comment in respect to the location of the proposed parking space on Kirk Street, adjacent to the pole.
- If the location of the pole prevents the owner from establishing the third parking space, the owner would be required to either move the pole at their expense or find a different location for the parking space that meets the regulations of the Zoning By-law.
- The application is to permit a reduction to the number parking spaces associated with the three-unit dwelling. The third unit would not be legalized until the building is brought into compliance with the Building Code.

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

- The utility pole located on Kirk Street is adjacent to the proposed parking space, but he does not anticipate that it will prevent the owner from establishing the required parking.

Moved by Claude Dufresne

That the application be approved in accordance with the recommendation in the Staff Report.

“CARRIED”

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 number of required parking spaces to one per dwelling unit.

6. **File No.:** B07/19
Address: 400 Ashburnham Drive
Applicant: Leonard Vass and Susan Vass
7. **File No.:** A28/19
Address: 400 Ashburnham Drive, Severed Lands
Applicant: Leonard Vass and Susan Vass
8. **File No.:** A29/19
Address: 400 Ashburnham Drive, Retained Lands
Applicant: Leonard Vass and Susan Vass

This matter relates to a severance and minor variance applications submitted by Leonard Vass and Susan Vass, the owners of the property that is the subject of the application.

The purpose of the severance application is to sever an approximate 0.49 hectare parcel associated with the legal non-conforming residential use of the subject property. The applicant is also seeking consent for easement to facilitate the encroachment of a shed at the southwest corner of the severed lot over the retained lands. Supporting minor variance applications have been submitted relating to both the severed and retained lands.

The applicant was not in attendance.

Christie Gilbertson, Planner, Policy and Research, advised that the Otonabee Region Conservation Authority has requested a deferral to allow time to review the proposal and provide comment to the Committee.

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

Moved by Claude Dufresne

That applications B07/19, A28/19, and A29/19 be deferred to the July 16, 2019 hearing to permit time for Otonabee Region Conservation Authority to finalize their review of the proposal.

“CARRIED”

9. **File No.:** B08/19
Address: 402 Water Street; 116 and 118 Hunter Street West; and 421 and 437 Sheridan Street
Applicant: Kevin M. Duguay

This matter relates to a severance application submitted by Kevin M. Duguay, as applicant on behalf of The Incumbent and Church Wardens of St. John's Anglican Church Peterborough, the owner of the property that is the subject of the application.

The purpose of the application is to sever approximately 1,679 square metres from the subject property at the northeast corner of Water Street and Hunter Street West.

Kevin M. Duguay attended the meeting and addressed the Committee as follows:

- The owners are proposing to sever a square parcel of land at the corner of Hunter and Water Streets. The proposed severed portion of the property contains two buildings, one facing Water Street and one facing Hunter Street. The middle portion is a surface parking lot.
- There are no development applications contemplated at this time. However, the severance could facilitate a future redevelopment at this property.
- A heritage impact assessment is not required to support the severance application. An assessment would be prepared if a redevelopment was proposed at a future time in conjunction with a *Planning Act* application.
- The prospective purchaser is addressing the concern raised by the Fire Department related to the fire escape on the building fronting onto Hunter Street. He does not believe that the outstanding order compromises the severance in any way.
- He has reviewed the Staff Report and has no objections to staff's recommendation.

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, Staff advised as follows:

- Staff received feedback from Fire Services indicating that there is an outstanding Fire Order on the property in relation to the fire escape. Staff reviewed the request to have that remedied before the Committee considered the severance. However, because Fire Services has the authority to ensure compliance through the *Fire Protection Act* and the order does not impact the property's compliance with the Zoning By-law or the Official Plan, staff does not feel that the order should delay the application for severance.
- In general terms, the Fire Order indicates that the existing fire escape is undersized and not in compliance with current requirements. The building is a long-standing multi-use building that has been established with the existing office and residential uses for many years.

Moved by Tom Green

That the application be approved in accordance with the recommendation in the Staff Report.

“CARRIED”

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 parcels conform to the Official Plan policy and the Zoning By-law, consent is granted to sever an approximately 1,679 square metre parcel of land from the southwest corner of the subject property, CONDITIONAL UPON THE FOLLOWING:

- i) **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 5 metre by 5 metre daylighting triangle. Upon registration of the approved Reference Plan, two copies of the registered reference will be provided to the Secretary-Treasurer;**
- ii) **That the owner convey to the City a 5 metre by 5 metre daylighting triangle, free of encumbrances and at no cost to the City;**
- iii) **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;**
- iv) **That the applicant provide the Secretary-Treasurer with a draft of the Transfer/Deed of Land; and**
- v) **That if the above conditions are not satisfied within 365 days of the circulation of the Committee's decision that this consent will lapse.**

10. **File No.: A30/19**
Address: 137 Rubidge Street
Applicant: CB Rubidge Inc.

Due to his previously declared conflict of interest, Claude Dufresne left the Council Chambers at 6:35 p.m. and did not participate in the discussion or consideration of this item.

This matter relates to a minor variance application submitted by CB Rubidge Inc., the owner of the property that is the subject of the application.

The purpose of this minor variance application is to reduce the minimum lot area per dwelling unit from 185 square metres to 67 square metres to facilitate the establishment of eight dwelling units within the approved building footprint.

Dion Gemmiti, of CB Rubidge Inc., attended the meeting and addressed the Committee as follows:

- He is requesting the minor variance to permit the development of four additional dwelling units for a total of eight.
- He plans to develop the property with affordable housing units and has been working with the Housing Division to secure funding for the project.
- He noted that the eight units could only be established following an agreement with the City to establish the affordable housing units and that the variance must be in place before moving forward with the applications for provincial and municipal funding.

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, Staff advised as follows:

- Staff are recommending that the variance be conditional upon the withdrawal of the existing application for Site Plan Approval for a four-unit building and the submission of a new application reflecting the modified proposal.
- If the agreement for affordable housing is not finalized, the applicant would not be eligible for cash-in-lieu of parking and would not meet the Zoning By-law requirement for the eight-unit development. The previously granted variances would still be in effect and the applicant could proceed to fulfill the conditions of approval for the four dwelling units.

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

- He will not withdraw his application for Site Plan Approval until the affordable housing agreement is executed and he is confident that the proposal for the eight-unit dwelling can proceed.

Moved by Stewart Hamilton

That the application be approved in accordance with the recommendation in the Staff Report.

“CARRIED”

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 lot area per dwelling unit to 67 square metres, **CONDITIONAL UPON THE FOLLOWING:**

- i) **Payment of a parks levy in an amount to be determined by the City's Parks Levy Review Committee for each of the four additional units;**
- ii) **The cancellation of the current application for Site Plan Approval that considers four units and approval of a new Site Plan Application for the eight-unit building to the satisfaction of the Planner, Urban Design, including a lot grading plan; and**
- iii) **Confirmation of adequate size of existing sanitary sewer and water service connections, to the satisfaction of Infrastructure and Planning Services.**

Claude Dufresne returned to the Council Chambers at 6:42 p.m.

11. **File No.: B10/19**
Address: 1144 Lansdowne Street West
Applicant: Abby Pakyanathan, Dillon Consulting Ltd.

This matter relates to a severance application submitted by Abby Pakyanathan, Dillon Consulting Ltd., as applicant on behalf of 1050947 Ontario Ltd., the owner of the property that is the subject of the application.

The purpose of the application is to obtain consent for a long-term lease for the lands associated with the Tim Hortons on the subject property.

Abby Pakyanathan attended the meeting and addressed the Committee as follows:

- The owner is requesting consent for a long-term lease that would apply to the building that operates as a Tim Hortons restaurant and the associated drive through service.

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, the applicant advised as follows:

- The current tenant has occupied the building since 1991.

Moved by Claude Dufresne

That the application be approved in accordance with the recommendation in the Staff Report.

"CARRIED"

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.

Consent is granted to facilitate a long-term lease agreement regarding the portion of the property illustrated in Exhibit L of the Staff Report dated June 18, 2019.

Minutes

Moved by Claude Dufresne

That the minutes of the Committee of Adjustment hearing held on May 7, 2019 be approved.

“CARRIED”

Other Business

An application to amend the conditions of provisional consent related to File No. B10/18, 790 Donegal Street was received by the Committee.

Moved by Stewart Hamilton

- a) **That Condition i) of the provisional consent is amended to remove the requirement for a tree cutting permit and a curb cut permit;**
- b) **That the change to the Conditions is minor and Notice of the Change of Conditions is not required; and**
- c) **That the request to waive the \$50 fee is granted.**

“CARRIED”

Next Meeting

The next meeting of the Committee of Adjustment is scheduled for Tuesday, July 16, 2019.

Adjournment

The meeting was adjourned at 6:48 p.m.

(Sgd.) Mauro DiCarlo, Chair

(Sgd.) Jennifer Sawatzky, Secretary-Treasurer