



Committee of Adjustment Minutes

September 8, 2021

Draft Minutes Not Approved

Minutes of a Meeting of Committee of Adjustment held on Wednesday, September 8, 2021 at 6:00 p.m. in the Council Chambers, City Hall.

Present: Robert Short, Chair
Mauro DiCarlo
Tom Green
Stewart Hamilton

Regrets: Claude Dufresne

Also Present: Christie Gilbertson, Planner, Policy and Research
Andrea Stillman, Zoning Administrator
Jennifer Sawatzky, Secretary-Treasurer
Nolan Drumm, Assistant Planner

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

Disclosure of Pecuniary Interest

There were no disclosures of Pecuniary Interest.

Applications

1. File No., A36/21, 1079 St. Paul's Street

This item was deferred from the August 10, 2021 hearing.

This matter relates to a minor variance application submitted by D. M. Wills Associates Limited, as applicant on behalf of Frank Robert Mandeljc, the owner of the property that is the subject of the application.

The purpose of the application is to reduce the minimum building setback from the south side lot line from 1.2 metres to 0.914 metres, measuring 6 metres from the front face of the dwelling and to reduce the minimum building setback from the rear lot line from 7.6 metres to 5.34 metres to facilitate a two-storey addition at the subject property, in place of the existing carport and storage areas.

Diana Keay of D.M. Wills Associates Limited attended the meeting and addressed the Committee as follows:

- The plan for the proposed development has evolved through discussions with City Staff to reduce the impact of the addition to the neighbouring property.
- She agrees with the staff recommendation for the request to reduce the rear yard setback but wants to provide clarification to the Committee with respect to the proposed 0.3 metre reduction to the side yard setback.

- The Staff Report raises a concern with the proposed side yard setback relating to access issues, with the reduced setback potentially resulting in the owner requiring access over the property to the south to maintain the side of the addition.
- The existing dwelling has a carport on the south side of the dwelling with an overhang matching the setback proposed by this development.
- The overhang of the existing carport measures approximately 5.4 feet from the ground, requiring residents to go around the roof to access the rear yard and to maintain the property.
- The location of the existing carport does not result in any maintenance or access issues that require trespass onto the neighbouring property, and it is not anticipated that the proposed addition will change this.
- The roof between the first and second story will be designed to ensure there is no eavestrough overhang that will extend farther into the setback than the wall of the addition.
- The proposed addition will be an improvement on the existing condition as the encroachment into the side yard setback by the addition will begin 6 metres from the front of the dwelling.
- With respect to the objection raised from the adjacent property owner regarding privacy, the addition was designed with no windows or doors where the encroachment into the setback commences, and the second storey complies with the 1.2 metre setback.
- With respect to the concern raised regarding traffic resulting from the home-based business, the hours of operation and number of clients per day will not result in enough traffic to justify a concern. The proposed home-based business meets the size and parking requirements of the Zoning By-law.
- The owner's vehicles have room to park in the garage, leaving space in the driveway for clients and visitors to park.

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

A letter in objection to the application was received from Greg and Wendy Vey, Peterborough, Ontario.

In response to questions from the Committee, the Planner, Policy and Research advised as follows:

- The zoning regulations for home-based businesses restrict the number of participants for a class or workshop.
- A condition requiring a lot grading & drainage plan to be submitted with the building permit to ensure that water run off and grading is properly addressed would be appropriate and is a common condition for committee approvals involving large additions.

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

- The addition will include additional living space for the owner, including a bedroom, bathroom, and living quarters. There is also a studio for the home-based business in the rear of the upper floor.
- There will be between two to eight clients of the personal training business per day.
- There is a gate located at the rear of the existing carport for access to the backyard. If the neighbours erect a fence along the property line, it would be in line with this gate and would leave sufficient room for access into the rear yard. A ladder can easily be placed within this setback for maintenance of the dwelling.

- The additional space in the garage that the variance to the side yard setback would permit is required for storage of tools, lawn furniture, and sporting equipment along the south wall. To minimize any impact on the neighbour to the south, the encroachment of the building into the setback starts 6 metres back from the front of the dwelling. Further, there are no openings that would introduce privacy issues on the south side of the building.
- The setback of the addition would extend farther into the backyard than the existing carport. There is a fence in the backyard between the lots that would minimize the impact on the neighbouring property. The encroachment into the side yard setback will be improved at the front of the dwelling, while it is extended into the rear yard where it wouldn't reasonably have impact on the adjacent property to the south.

Discussion

Tom Green noted that it would be challenging to maintain the south side of the addition as proposed, as it would be difficult to place a ladder within the reduced building setback from the side lot line for maintenance of a two-storey building.

Robert Short noted that although the proposed addition is located at the existing setback to the overhang of the carport, the impact on the neighbouring property is increased with the increase in height from the low-profile carport to a two-storey wall that extends further into the rear yard. He noted that building the addition within the required setback to the side lot line would still permit the property owner to build a large addition with room for storage in the garage.

Moved by Robert Short

That the application to reduce the minimum building setback from the south side lot line be denied and that the application to reduce the minimum building setback from the rear lot line be approved in accordance with the recommendation in the Staff Report, with the addition of a condition to require submission of a lot grading and drainage plan in conjunction with the building permit application for the addition.

"CARRIED"

Decision

The Committee heard from members of the public concerning the application and gave due consideration and weight to the comments made and received.

With respect to the application to reduce the minimum building setback to the south side lot line:

Having reviewed the application and considered the information presented both in the Staff Report and presentation, the Committee determined that a reduced side yard setback would not provide adequate room for maintenance of the two-storey addition, and that the variance was not required to construct an addition with sufficient storage space. The Committee concluded that the application should be denied as per the Staff Recommendation and that the variance does not meet the general intent and purpose of the Zoning By-law.

Therefore, a variance to Section 7.1 (e) (i) of the Zoning By-law to reduce the minimum building setback from the south side lot line to 0.914 metres is DENIED.

With respect to the application to reduce the minimum building setback to the rear lot line:

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 to Section 7.1 (e) (ii) of the Zoning By-law to reduce the minimum building setback from the rear lot line to 5.34 metres is granted **CONDITIONAL UPON** the submission of a lot grading and drainage plan in conjunction with the building permit application for the addition **AND PROVIDED THAT:**

- i) The addition is constructed substantially in accordance with the concept plan attached as Exhibit A. Any minor variances that may appear on these plans but are not listed in the written decision are not authorized.
- ii) Any new windows along the west and south façade of the addition be clerestory (high in the wall) to mitigate overlook impacts, similar to the proposal in Exhibit A, page 4.

2. File No., A38/21, 165 Aylmer Street North

This matter relates to a minor variance application submitted by EcoVue Consulting Services Inc., as applicant on behalf of Adeel Baig, the owner of the property that is the subject of the application.

The purpose of the application is to reduce the minimum lot area per dwelling unit from 230 square metres per unit to 100.61 square metres per unit and to reduce the minimum building setback from the north side lot line from 2.4 metres to 0.77 metres to facilitate the legalization of a third dwelling unit within the existing dwelling on the subject property.

Ashlyn Kennedy of EcoVue Consulting Services Inc. attended the meeting and addressed the Committee as follows:

- The owner is seeking minor variances to reduce the required lot area per dwelling unit and minimum building setback from north side lot line to permit the existing legal duplex to be used as a triplex within the existing 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.

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

- It does appear that the existing curb cut facing Wolfe Street meets the required driveway width for the proposed parking area. Should the existing curb cut meet the required width, the property owner would not need to have an approval from Public Works, and the condition would be considered satisfied.
- With respect to the reinstatement of the curb facing Aylmer Street and the reinstatement of the asphalt with topsoil and sod, there would be flexibility if the owner wanted to establish other vegetation to the satisfaction of the Planner of Urban Design.
- The third unit already exists within the dwelling.
- The Zoning By-law permits tandem parking spots in triplexes in the R.3 zoning district. Although the tandem parking spaces may require the tenants to come to a parking arrangement, the proposed recommendation will remedy other outstanding issues on this property that has been used as a three unit dwelling for at least 25 years.
- The two-year time limit to satisfy the conditions is recommended as an incentive for the applicant to move forward to satisfy the conditions of approval and obtain a building permit. Through the building permit process, the City can ensure that the unit is compliant with Building Code requirements. A previous application to legalize the third unit was denied by the Committee, but the unit was never removed.

- Staff did not recommend that the owner enter into a development agreement with respect to the landscaping and parking requirements, as the items would have to be completed prior to obtaining a building permit. For the file to proceed to legalize the third unit they would need to address these items first.

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

- The proposal is for one parking space per dwelling unit. The tenants would have to make arrangements for access to the northerly tandem parking space. The required parking is proposed on the Wolfe Street side to permit the restoration of the illegally established parking area off Aylmer Street to landscaped open space.
- A two-year deadline to complete the conditions of approval would give the owner an opportunity to complete the required renovations and bring the property into conformity with the Building and Fire Codes to legalize the apartment.
- She believes that the unit is not occupied.

Discussion

Tom Green noted that the condition requiring the owner to replace the asphalt in the existing parking area off Aylmer Street with topsoil and sod may be too restrictive if they wanted to utilize other landscaping options.

Robert Short noted that he had concerns with the tandem parking space causing issues for the tenants to access the most northerly parking space.

Moved by Mauro DiCarlo

That the application be approved in accordance with the recommendation in the Staff Report, with the following amendments:

- a) That iii) a) be amended as follows: **“A full barrier curb shall be reinstated along Aylmer Street North. The asphalt shall be removed on the subject lands and within the right-of-way and be fully landscaped.”**; and
- b) That iii) b) be amended as follows: **“That the existing curb cut along Wolfe Street, shall be expanded, if necessary, to facilitate any proposed driveway expansion. The driveway shall be asphalted.”**

“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 in the Staff Report, the Committee determined that the application should be approved as per the Staff Recommendation, as amended, 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 variance from Section 9.2(b) to reduce the minimum lot area per dwelling unit to 100.61 square metres per unit, and**
- b) **A variance from Section 9.2(e)(i) to reduce the minimum building setback from the north side lot line to 0.77 metres to recognize the current location of the dwelling.**

Conditional upon the Following:

- i) **The owner obtaining any necessary building permits and receiving satisfactory final inspections on any open building permits associated with buildings on the subject property. This condition must be satisfied within two years of this Committee's decision or the benefit of this decision will lapse and become null and void;**
- ii) **Payment of a Parks Levy in an amount to be determined by the Parks Levy Review Committee for the additional dwelling unit; and**
- iii) **That the owner completes the following to the satisfaction of the Planner, Urban Design prior to obtaining a building permit for the third unit:**
 - a) **A full barrier curb shall be reinstated along Aylmer Street North. The asphalt shall be removed on the subject lands and within the right-of-way and be fully landscaped;**
 - b) **That the existing curb cut along Wolfe Street, shall be expanded, if necessary, to facilitate any proposed driveway expansion. The driveway shall be asphalted.**
 - c) **The staircase along the west elevation of the building shall be removed to accommodate the proposed parking. Prior to obtaining building permits, the applicant shall establish three parking spaces with access from Wolfe Street. The entrance to be closed off shall be finished with brick; and**
 - d) **The existing shed along the west side of the property shall be removed to accommodate the proposed parking arrangement.**

3. File No., A40/21, 2531 Denure Drive

This matter relates to a minor variance application submitted by Robert M. Hynes, Your Own Design, as applicant on behalf of Jeff Taylor and Jennifer Taylor, 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 Haggis Drive street line from 6 metres to 3.048 metres to facilitate the construction of a partially enclosed, residential accessory building measuring 35.67 square metres in size.

Robert M. Hynes attended the meeting and advised the Committee that he has nothing further to add to the information provided to the Committee in the application.

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 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 from Section 6.11(a) of the Zoning By-law to reduce the minimum building setback from the Haggis Drive street line to 3.048 metres to facilitate the construction of a partially enclosed, residential accessory building PROVIDED THAT construction related to this approval proceed substantially in accordance with the concept plan attached as Exhibit C to the Staff Report dated September 8, 2021.

Minutes

Moved by Tom Green

That the minutes of the Committee of Adjustment hearing held on August 10, 2021 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, October 5, 2021.

Adjournment

The meeting was adjourned at 6:57 p.m.

Robert Short, Chair

Jennifer Sawatzky, Secretary-Treasurer