

# Committee of Adjustment Fee Refund Request

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## Application Details

Application Number: A-47/20  
Location: 523 Kortright Road West  
Hearing Date: February 11, 2021  
Owner: George and Debbie Coutts  
Agent: Phill McFadden, Sutcliffe Homes & Renovations

**Request:** Refund of minor variance application fee (\$950).

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## Staff Recommendation

### Refusal

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## Comments

### Background

On September 22, 2020 the agent for the application submitted a minor variance application to permit:

- a) a minimum front yard setback of 3.25 metres for a proposed building addition [Table 5.1.2, Row 6 from the Zoning By-law]; and
- b) a proposed accessory apartment of 98.4 square metres [Section 4.15.1.5 from the Zoning By-law].

When reviewing this application and preparing the public notice, staff noted that variances required for the proposed addition were missing. The applicant was notified and comments were provided on how to proceed with the application process. As a consequence of the missing variance, the application was not added to the November 12, 2020 hearing agenda.

On December 14, 2020 Guelph City Council approved the City-initiated [Additional Residential Dwelling Unit \(ARDU\) Zoning By-law Amendment \(File OZS20-02\)](#) to conform with changes to the Planning Act and regulations regarding additional residential units and garden suites, known as Bill 108, More Homes, More Choice Act. As required by the Planning Act, there is no appeal with respect to policies on additional residential units, except by the Minister of Municipal Affairs and Housing. The decision of Council was final and came into effect on the day after it was adopted.

Changes to the Zoning By-law that took effect on December 15, 2020 resulted in accessory apartments being permitted to a maximum of 45 percent of the total net floor area of the primary dwelling, and to occupy the entirety of a basement, when

it is located exclusively in the basement of a dwelling. The provision that an accessory apartment within a primary dwelling unit does not exceed a maximum of 80 square metres in floor area is no longer required.

On January 12, 2021 the agent for the application submitted an amended minor variance application to permit:

- a) a minimum front yard setback of 3.25 metres [Table 5.1.2, Row 6 of the Zoning By-law];
- b) a proposed accessory apartment of 95.7 square metres [as indicated above, this variance was no longer needed since the ARDU Zoning By-law Amendment had passed]; and
- c) a proposed open, roofed porch of one (1) storey in height to project a maximum of 3.63 metres into the required front yard [Table 4.7, Row 3 from the Zoning By-law].

On February 5, 2021 staff provided comments to the proposal and staff recommended “refusal” of the application. As a consequence, the applicant asked for the application to be deferred in order “to modify the requested variances, as well as further discussion with Planning staff and the neighboring home owners”, as it was noted on the deferral request. Such request was granted by the Committee at the February 11, 2021 Committee of Adjustment hearing. On May 6, 2021 the applicant requested for the application to be withdrawn.

## **Analysis**

Section 69(2) of the Planning Act provides that a Committee of Adjustment may reduce the amount or waive the fee in respect of an application in circumstances where the Committee of Adjustment is satisfied that it would be unreasonable to require payment. In accordance with the Planning Act, staff are presenting the refund request to the Committee for their consideration.

As an application was submitted, staff followed the required process for a minor variance application by preparing mapping, circulating the application to internal departments, issuing a public hearing notice, and preparing staff comments. It is the applicant’s responsibility to confirm if a minor variance is required prior to application submission.

Staff is not supportive of the request to refund the minor variance application fee as a regular minor variance application process was followed—application review, preparation of notice and circulation, staff comments, and hearing of the application. The fees for applications are set so that costs are recovered for the time and materials required to process applications as per the Planning Act. Refunding the application fee would result in a financial loss of \$950.

## **Report Author**

Trista Di Lullo, Secretary-Treasurer

## **Attachments**

Attachment-1 Refund Request Form

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## Contact Information

**Committee of Adjustment:** City Hall, 1 Carden Street, Guelph ON N1H 3A1

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