

# Committee of Adjustment Fee Refund Request

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## Application Details

Application Number: A-2/20  
Location: 20 Edwin Street  
Owner: Bob and Sue Desautels  
Agent: N/A

**Request:** Refund of minor variance application fee (\$826.00)

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## Staff Recommendation

### Refusal

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### Background

On July 13, 2014, the Committee of Adjustment approved a minor variance application (file A-58/04) to permit a reduced rear yard setback for a proposed addition to the rear of the existing home at 20 Edwin Street. Included with this decision were five conditions, as shown in the attached decision. One of the conditions required the gas fireplace exhaust to be directed through the roof of the addition. The original elevation drawings submitted with the application showed a gas fireplace exhaust on the rear wall of the proposed addition. This condition originated out of concerns expressed at the 2004 hearing by a solicitor representing the owner of property located immediately behind the subject property. The minutes from the 2004 hearing stated that the agent and the owner indicated that they were willing to relocate the exhaust pipe to the roof and had no concerns with the proposed condition.

Correspondence in the file from 2007 indicates the owners changed their plans and the exhaust was vented out of the side wall due to design problems. As indicated in the staff comments for file A-2/20, when the addition was constructed it was discovered that the pipe from the gas fireplace that was to go through the roof would block the view of a stained-glass window. The gas fire place was instead vented out of the side of the dwelling, resulting in condition 4 of file A-85/04 not being met.

Since there is no mechanism to amend, vary or waive minor variance conditions once the appeal period has passed, the owners reapplied for the same minor variance in the hopes that the same condition would not be imposed. Minor variance application A-2/20 was approved at the January 9, 2020 hearing without a condition regarding the gas fireplace exhaust. After the January hearing, the owners submitted a refund request.

## **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 a new 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. This is not a case where staff made any errors in terms of process or information relayed to the applicant.

Section 45(9) of the Planning Act permits the Committee of Adjustment to impose conditions in its decisions as the Committee considers advisable. The responsibility to fulfill conditions related to a Committee of Adjustment decision rests with the applicant. If an applicant does not agree with a condition, they can present these concerns at the hearing or submit an appeal. While the Planning Act does provide a process to amend consent conditions, the same process is not available for minor variance applications. Once a decision has been made and the appeal period passed, the only option available for the applicant is to submit another application.

Staff is not supportive of the request to refund the full minor variance application fee. 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 \$826.00.

## **Report written by**

Trista Di Lullo, Secretary-Treasurer

## **Attachments**

1. Committee of Adjustment Decision A-58/04
  2. Minutes from July 13, 2014 Committee of Adjustment Hearing
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## **Contact Information**

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

519-822-1260 Extension 2524

[cofa@guelph.ca](mailto:cofa@guelph.ca)

**TTY:** 519-826-9771

[guelph.ca/cofa](http://guelph.ca/cofa)

**Facsimile:** 519-763-1269

# City of Guelph

Planning and Building Services

*Working Together to Build Our Community*



**COMMITTEE OF ADJUSTMENT  
APPLICATION NUMBER A-85/04**

Decision

The Committee, having considered whether or not the variance(s) are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this application has met the requirements of Section 45 of the Planning Act, R.S.O. 1990, Chapter P.13, as amended, passed the following resolution:

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.1.2. – Row 8 of Zoning By-law (1995)-14864, as amended, for 20 Edwin Street, to construct a 52.43 square metres (172 square foot) one storey addition to the rear of the existing home which will be situate 1.55 metres (5.08 feet) from the rear lot line when the By-law requires the minimum rear yard be 7.5 metres or 20% of the lot depth [4.83 metres (15.84 feet)], whichever is less, be approved, subject to the following conditions:

1. That the addition has a maximum height of 1 storey.
2. That the variance for the rear yard applies only to the proposed addition as outlined in the application to the Committee of Adjustment.
3. That the owner maintain a 6' high fence along the rear lot line.
4. That the gas fireplace exhaust be directed through the roof of the addition.
5. That the windows along the rear wall of the addition be obscured glass.”

Members of Committee  
Concurring in this Decision

Handwritten signature of R. D. James in blue ink.

Handwritten signature of K. O'Kane in blue ink.

Handwritten signature of P. Bill in blue ink.

The last day on which a Notice of Appeal to the Ontario Municipal Board may be filed is **August 3, 2004.**

I, Kim Fairfull, Secretary-Treasurer, hereby certify this to be a true copy of the decision of the Guelph Committee of Adjustment and this decision was concurred by a majority of the members who heard this application at a meeting held on **July 13, 2004.**

Dated: **June 16, 2004**

Signed:

Handwritten signature of Kim Fairfull in blue ink.

Planning Office: 59 Carden Street, 2<sup>nd</sup> Floor, Guelph ON, Tel: (519) 837-5616, Fax: (519) 837-5640, Email: [planning@city.guelph.on.ca](mailto:planning@city.guelph.on.ca)  
Building Office: 2 Wyndham St. N, 2nd Floor, Guelph ON, Tel: (519) 837-5615, Fax: (519) 822-4632, Email: [cofa@city.guelph.on.ca](mailto:cofa@city.guelph.on.ca)

Having considered whether or not the variance(s) requested are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this application has met the requirements of Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by J. Andrews and seconded by R. Funnell,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.1.2. – Row 4 of Zoning By-law (1995)-14864, as amended, for 172 Arthur Street, North, to permit the retained parcel from Application B-22/04 to have a front frontage of 8.64 metres (28.13 feet) when the By-law requires the minimum lot frontage be the average of the existing lot frontages within the same City Block Face [9.88 metres (32.42 feet)], be approved, subject to the following conditions:

1. That the conditions imposed for Application B-22/04 be and form part of this approval.”

Carried.

**Application:** A-85/04  
**Applicant:** Bob and Sue Desautels  
**Location:** 20 Edwin Street  
**For:** Lloyd Grinham  
Bob and Sue Desautels  
**Against:** Izaak deRijcke  
Mrs. Taylor  
Mr. Thompson

Chair A. Clos questioned if the sign had been posted in accordance with Planning Act requirements.

Mr. Grinham replied the notice sign was posted and comments were received from staff.

Mr. Desautels explained they propose to undertake a small renovation while keeping the integrity of the building in tact.

Chair A. Clos questioned how critical the windows are at the rear of the proposed addition.

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Mr. Desautels replied the windows will be 2 stained glass windows with southern exposure. He noted the addition will be utilized for a master bedroom and ensuite bathroom. He noted they would have no objection to the windows being stained glass or opaque.

Chair A. Clos questioned if they would have any objection to relocating the fireplace exhaust from the rear wall.

Mr. Grinham replied they would be willing to relocate the gas exhaust through the roof.

Mr. deRijcke explained he was the solicitor for the owner at 19 Charles and her brother Mr. Thompson. He noted he expressed their concerns in a letter dated July 5, 2004. Was asked to communicate a number of concerns which were set out in his letter dated July 5, 2004 explaining the addition to the rear could allow for a future severance of the side yard area being their amenity area. He requested if the Committee consider the application in a positive light conditions be included relating to the exhaust fence being relocated and the existing fence be maintained along the rear lot line with a height of 6 feet and that no severance of the lands be permitted.

Mr. Desautels replied they have no with the recommendations respecting the fence and the gas vent through the roof

Having considered whether or not the variance(s) requested are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this application has met the requirements of Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by J. Andrews and seconded by L. McNair,

“THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Table 5.1.2. – Row 8 of Zoning By-law (1995)-14864, as amended, for 20 Edwin Street, to construct a 52.43 square metres (172 square foot) one storey addition to the rear of the existing home which will be situate 1.55 metres (5.08 feet) from the rear lot line when the By-law requires the minimum rear yard be 7.5 metres or 20% of the lot depth [4.83 metres (15.84 feet)], whichever is less, be approved, subject to the following conditions:

1. That the addition has a maximum height of 1 storey.
2. That the variance for the rear yard applies only to the proposed addition as outlined in the application to the Committee of Adjustment.
3. That the owner maintain a 6' high fence along the rear lot line.
4. That the gas fireplace exhaust be directed through the roof of the addition.
5. That the windows along the rear wall of the addition be obscured glass.”

Carried.

Committee member L. McNair left the meeting.

**Application:** A-84/04  
**Applicant:** Lisa Calzonetti/Ken Morris  
**Location:** 24 Albert Street  
**For:** Lloyd Grinham  
Lisa Calzonetti  
Ken Morris  
**Against:** Lloyd Grinham

Chair A. Clos questioned if the sign had been posted in accordance with Planning Act requirements.

Mr. Grinham replied the notice sign was posted and comments were received from staff.

The Committee encouraged the applicant to consult with Heritage Guelph with the plans. He noted they would be consulting with Heritage Guelph prior to permit submission as this is part of the building permit process.

Having considered whether or not the variance(s) requested are minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained, and that this application has met the requirements of Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by R. Funnell and seconded by K. O'Kane,

"THAT in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, a variance from the requirements of Sections 4.5.1.1. and 4.13.2.1. and Table 5.1.2. – Row 8 of Zoning By-law (1995)-14864, as amended, for 24 Albert Street, to construct a 54.07 square metre (582 square foot) addition to the side of the existing dwelling and

- (a) to permit the existing frame accessory building to occupy 47.9% of the side yard area after construction of the addition when the By-law requires an accessory building or structure not occupy more than 30% of the side yard area;
- (b) to permit the existing off-street parking space to be situate in front of the main building wall when the By-law requires every parking space be located a minimum distance of 6 metres (19.68 feet) from the street line and to the ear of the front wall of the main building or structure, and