



Committee of Adjustment Minutes

Thursday, February 9, 2023, 4:00 p.m.

Council Chambers

Guelph City Hall, 1 Carden Street

Members Present	J. Smith, Chair
	K. Meads, Vice Chair
	L. Cline
	J. Goodfellow
	K. Hamilton
	G. Sayer
Staff Present	J. da Silva, Council and Committee Coordinator
	S. Daniel, Engineering Technologist
	T. Di Lullo, Secretary-Treasurer
	K. Patzer, Senior By-law Administrator/Zoning Inspector III
	E. Rempel, Planner
	A. Sandor, Council and Committee Assistant
	L. Sulatycki, Planner
	M. Witmer, Planner

Call to Order

Chair J. Smith called the meeting to order. (4:00 p.m.)

Opening Remarks

Chair J. Smith explained the hearing procedures and quorum was confirmed.

Disclosure of Pecuniary Interest and General Nature Thereof

Member Hamilton noted that in relation to file A-6/23 for 50-60 Fife Road he previously sat on the Board of Directors of Upbuilding! Non Profit Homes from 2013-2016. He indicated no financial payment was made as it was a voluntary position and indicated he has not been in contact with the Board members or staff

in over 5 years. He indicated he did not feel it was a pecuniary interest, but wished to make it known to the Committee. Chair J. Smith agreed and allowed Member Hamilton to participate for the file in question.

Approval of Minutes

Moved by: K. Meads

Seconded by: G. Sayer

That the minutes from the January 12, 2023 Regular Hearing of the Committee of Adjustment, be approved as circulated.

Carried

Requests for Withdrawal or Deferral

There were no requests.

Current Applications

A-1/23 29-31 Paisley Street

Owner: 2782552 Ontario Ltd.

Agent: Jeff Buisman, Van Harten Surveying Inc.

Location: 29-31 Paisley Street

In Attendance: Jeff Buisman

Chair J. Smith questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. J. Buisman, agent, responded that the sign was posted and comments were received. J. Buisman explained the general nature of the application.

No members of the public spoke.

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: K. Meads

Seconded by: J. Goodfellow

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 6.3.2.5.1, Row 1 of Zoning By-law (1995)-14864, as amended, for 29-31 Paisley Street, to

permit a minimum of two (2) parking spaces for the existing 4 residential dwelling units and 1 additional proposed residential dwelling unit, when the By-Law requires a minimum of one (1) off-street parking space per residential dwelling unit [for a total of 5 parking spaces required for the property], be **approved**.

Reason:

This application is approved, as it is the opinion of the Committee that, this application meets all four tests under Section 45(1) of the Planning Act.

Any and all written submissions relating to this application that were made to the committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

Carried

A-6/23 50-60 Fife Road

Owner: Upbuilding! Non Profit Homes (Guelph) Inc.

Agent: Rebecca McEvoy, Tim Welch Consulting Inc.

Location: 50-60 Fife Road

In Attendance: Tim Welsh

Chair J. Smith questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. T. Welsh, agent, responded that the sign was posted and comments were received. T. Welsh explained the general nature of the application.

Member K. Meads raised a point of order about the sign posting, and indicated the sign may not be fully visible from both directions. Chair J. Smith ruled that the sign was posted and sufficient notice was given.

No members of the public spoke.

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: K. Hamilton

Seconded by: G. Sayer

That in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Sections 5.3.3.1.4.1, 5.3.3.1.4.2, 5.3.3.1.4.2.3, 5.3.2.5.1, 4.13.4.3 and 4.13.6 of Zoning By-law (1995)-14864, as amended, for 50-60 Fife Road, to permit:

- a. multiple attached dwellings at 50-60 Fife Road subject to the R.3A-4 Zone regulations, when the By-Law permits a variety of uses in the R.3A-4 Zone, including a townhouse or apartment building, but does not permit a multiple attached dwelling;
- b. a maximum of 84 dwelling units, when the By-Law permits a maximum of 70 dwelling units in the R.3A-4 Zone;
- c. a minimum private amenity area of 10 square metres for the proposed units, when the By-Law requires requires a minimum private amenity area of 20 square metres per unit for cluster townhouses and ground level stacked townhouse units;
- d. a minimum of 82 off-street parking spaces for the existing apartment building, existing townhouse units, and proposed multiple attached dwellings, when the By-Law requires a minimum of 1.5 parking spaces per unit for the first 20 units in an apartment building, and 1.25 spaces per unit for more than 20 units; and 1 parking space per unit for a townhouse unit [total of 100 parking spaces required]; and
- e. a total of 13 off-street parking spaces for the use of visitors (visitor parking), when the By-Law requires a minimum of 20% of the total required number of parking spaces for the use of visitors [total of 20 visitor parking spaces required],

be **approved**, subject to the following conditions:

- 1. That prior to issuance of a Building Permit, the Owner shall engage a consultant to undertake an analysis of noise. Subject to the review of the noise report, the CN Railway may consider other measures recommended by an approved Noise Consultant.
- 2. That the following clause should be inserted in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 300m of the railway right-of-way: "Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway

facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CN Railway will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.”

3. The Owner shall through restrictive covenants to be registered on title and all agreements of purchase and sale or lease provide notice to the public that the noise isolation measures implemented are not to be tampered with or altered and further that the Owner shall have sole responsibility for and shall maintain these measures to the satisfaction of CN Railway.
4. That prior to issuance of a Building Permit, the Owner shall enter into an Agreement with CN Railway stipulating how CN Railway's concerns will be resolved and will pay CN Railway's reasonable costs in preparing and negotiating the agreement.
5. That prior to issuance of a Building Permit, the Owner shall be required to grant CN Railway an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN Railway.

Reason:

This application is approved, as it is the opinion of the Committee that, with the above noted conditions of approval, this application meets all four tests under Section 45(1) of the Planning Act.

Any and all written submissions relating to this application that were made to the committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

Carried

A-7/23 444 Speedvale Avenue East

Owner: Andrew Donlan

Agent: N/A

Location: 444 Speedvale Avenue East

In Attendance: Andrew Donlan, Rae Walton

Secretary-Treasurer T. Di Lullo noted for the Committee that correspondence had been received after the comment deadline from Rita and Tom Walton, residents of Speedvale Avenue East, with concerns about the application.

Chair J. Smith questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. A. Donlan, owner, responded that the sign was posted and comments were received, and that he was not in favour of the staff comments. A. Donlan explained the general nature of the application.

R. Walton, representative of neighbouring residents on Speedvale Avenue East, spoke with concerns about the application related to privacy and maintenance for the proposed dwelling unit.

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: K. Meads

Seconded by: J. Goodfellow

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 Section 4.15.1.7.8 of Zoning By-law (1995)-14864, as amended, at 444 Speedvale Avenue East, to permit a minimum right side yard setback of 0.6 metres for the proposed additional residential dwelling unit within a separate building on the lot, when the By-Law requires an additional residential dwelling unit in a separate building on a lot to have a minimum side yard and rear yard setback of 1.5 metres, be **refused**, as it is the opinion of the Committee that this variance request does not meet all four tests under Section 45(1) of the Planning Act as outlined in the staff comments document, specifically being that the requested variance does not meet the general intent and purpose of the Zoning By-Law, is not desirable for the appropriate development of the land, and is not minor in nature.

Not Carried

The motion was not carried as the vote resulted in a tie.

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: K. Hamilton

Seconded: L. Cline

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 Section 4.15.1.7.8 of Zoning By-law (1995)-14864, as amended, at 444 Speedvale Avenue East, to permit a minimum right side yard setback of 0.6 metres for the proposed additional residential dwelling unit within a separate building on the lot, when the By-Law requires an additional residential dwelling unit in a separate building on a lot to have a minimum side yard and rear yard setback of 1.5 metres, be **approved**, subject to the following conditions:

1. That no windows be located on the right side of the proposed Additional Residential Dwelling Unit; and
2. That the addition to the existing accessory building be setback a minimum of 1.5 metres from the right side lot line.

Reason:

This application is approved, as it is the opinion of the Committee that, with the above noted conditions of approval, this application meets all four tests under Section 45(1) of the Planning Act.

Any and all written submissions relating to this application that were made to the committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

Carried

A-8/23 179 Eramosa Road

Owner: Brian Leonard Van Harten

Agent: Len Van Harten

Location: 179 Eramosa Road

In Attendance: Jeff Buisman

Chair J. Smith questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. J. Buisman, agent, responded that the sign was posted and comments were received. J. Buisman explained the general nature of the application.

No members of the public spoke.

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: K. Meads

Seconded by: L. Cline

That in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Sections 4.15.1.7.9, 4.15.1.7.8, 4.15.1.7.7, and 4.15.1.7.3 of Zoning By-law (1995)-14864, as amended, 179 Eramosa Road, to permit:

- a. a minimum distance of 2.31 metres between the primary dwelling unit and the proposed additional residential dwelling unit within a separate building on the same lot, when the By-Law requires a minimum distance of 3 metres between a primary dwelling unit and an additional residential dwelling unit in a separate building on the same lot;
- b. a minimum rear yard setback of 1.37 metres for the proposed additional residential dwelling unit within a separate building on the lot, when the By-Law requires a minimum side yard setback and rear yard setback of 1.5 metres for an additional residential dwelling unit in a separate building on a lot within the R.1B Zone;
- c. an additional residential dwelling unit to be partially located in the required exterior side yard, with a minimum exterior side yard setback of 1.95 metres, when the By-Law requires that an additional residential dwelling unit in a separate building on a lot may occupy a yard other than a front yard or required exterior side yard;
- d. the proposed additional residential dwelling unit within a separate building on the lot to occupy 40.43% of the exterior side yard of the lot, when the By-Law requires that an additional

residential dwelling unit shall not occupy more than 30% of a yard; and

- e. the proposed additional residential dwelling unit within a separate building on the lot to occupy 42.8% of the rear yard of the lot, when the By-Law requires that an additional residential dwelling unit shall not occupy more than 30% of a yard,

be **approved**, subject to the following condition:

1. That prior to issuance of a building permit the owner agrees to restore the driveway width to its original condition as shown in the image contained within the comments document.

Reason:

This application is approved, as it is the opinion of the Committee that, with the above noted condition of approval, this application meets all four tests under Section 45(1) of the Planning Act.

Any and all written submissions relating to this application that were made to the committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

Carried

A-9/23 30 Powell Street East

Owner: Kate Stiefelmeyer and Steve Murray

Agent: N/A

Location: 30 Powell Street East

In Attendance: Kate Stiefelmeyer

Chair J. Smith questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. K. Stiefelmeyer, owner, responded that the sign was posted and comments were received. K. Stiefelmeyer explained the general nature of the application.

No members of the public spoke.

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: K. Meads

Seconded by: K. Hamilton

That in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, variances from the requirements of Table 5.1.2 Row 6, Section 5.1.2.7 i), Table 5.1.2 Row 6a, Section 4.6.1 and Table 4.7 Row 12 of Zoning By-law (1995)-14864, as amended, for 30 Powell Street East, to permit:

- a. a minimum front yard setback of 1.25 metres for the proposed addition to the front of the existing dwelling, when the By-Law requires that properties located within Defined Area Map 66 of the Zoning By-law shall have a minimum front yard setback of 6 metres or the average of the setbacks of the adjacent properties [being 3.52 metres];
- b. a minimum exterior side yard setback of 4.5 metres for the proposed addition to the front of the existing dwelling, when the By-Law requires that properties located within Defined Area Map 66 of the Zoning By-law shall have a minimum exterior side yard setback of 6 metres;
- c. the proposed addition to the front of the existing dwelling to be located within the sight line triangle, when the By-Law does not permit a building to be located within a sight line triangle on a corner lot; and
- d. the proposed exterior stairs be located a minimum of 0.28 metres from the front lot line, and project to a maximum of 3.24 metres into the required front yard, when the By-Law requires that exterior stairs have a minimum setback of 0.8 metres from the front lot line, and to project a maximum of 1.5 metres into the required front yard,

be **approved**, subject to the following condition:

1. That the variances only apply to the proposed addition in the front yard and in general accordance with the sketch shown on the Notice of Public Hearing.

Reason:

This application is approved, as it is the opinion of the Committee that, with the above noted condition of approval, this application meets all four tests under Section 45(1) of the Planning Act.

Any and all written submissions relating to this application that were made to the committee of Adjustment before its decision and any and all oral submissions related to this application that were made at a public hearing, held under the Planning Act, have been, on balance, taken into consideration by the Committee of Adjustment as part of its deliberations and final decision on this matter.

Carried

Chair and Staff Announcements

Impact of Bill 23, More Homes Built Faster Act, 2022, 2023-44

Secretary-Treasurer T. Di Lullo summarized the impacts of Bill 23, More Homes Built Faster Act, 2022 to the Committee of Adjustment.

Moved by: K. Meads

Seconded by: J. Goodfellow

1. That the report titled Impacts of Bill 23, More Homes Built Faster Act, 2022 to the Committee of Adjustment, dated February 9, 2023, be received.

Carried

Adjournment

Moved by K. Meads

Seconded by G. Sayer

That this hearing of the Committee of Adjustment be adjourned. (5:31 p.m.)

Carried

J. Smith, Chair

T. Di Lullo, Secretary-Treasurer