

Committee of Adjustment Comments from Staff, Public and Agencies



Application Details

Application Number: B-4/20
Location: 62 Metcalfe Street
Hearing Date: March 12, 2020
Owner: Linda Oldridge and Kenneth Oldridge
Agent: Jeff Buisman, Van Harten Surveying Inc.
Official Plan Designation: Low Density Residential
Zoning: Residential Single Detached (R.1A) Zone

Request: The applicant proposes to sever a parcel of land to the side of 62 Metcalfe Street with frontage along Metcalfe Street of 4.4 metres and an area of 54 square metres, as a lot addition to the abutting property known as 148 Palmer Street. The retained parcel (62 Metcalfe Street) will have frontage along Metcalfe Street of 29.2 metres and an area of 1,020 square metres.

Staff Recommendation

Deferral

Recommended Conditions

None

Comments

Planning Services

City staff is requesting the application to be deferred. A pre-consultation was not held for this consent application and there are historical applications and decisions for the lands that the applicant did not indicate or make note of in their application. The proposed severed lands are to be added to 148 Palmer Street which was subject to a refused Minor Variance application (File A-120/98) to allow reduced setbacks to permit the construction of a single detached dwelling. The decision was appealed to the Ontario Municipal Board and subsequently denied (see attached).

The applicant is proposing to sever a parcel of land off the side yard of 62 Metcalfe Street to provide a lot addition to the rear of abutting property at known as 148 Palmer Street. The applicant has indicated that 146 & 148 Palmer Street, together with the severed lands are then to be merged to create one parcel.

Planning Staff would like to meet with the applicant to understand the ultimate development proposal of lands. The 1999 OMB decision speaks to the existing lot area of 148 Palmer Street not having a legal non-complying status with respect to its lot area and frontage because it was not used for residential purposes prior to the passage of the city's former Zoning By-law in 1971 and further requiring a 14.11 metre exterior side yard setback from Metcalfe Street, being the average setback of the houses along Metcalfe Street.

Planning staff recommend deferral of the application so we can meet with the applicant and discuss the ultimate development of the proposed merged lands and any further Committee of Adjustment applications that could be triggered by the future proposed development.

Engineering Services

The applicant proposes to sever a parcel of land to the side of 62 Metcalfe Street with frontage along Metcalfe Street of 4.4 metres and an area of 54 square metres, as a lot addition to the abutting property known as 148 Palmer Street. The retained parcel (62 Metcalfe Street) will have frontage along Metcalfe Street of 29.2 metres and an area of 1,020 square metres.

From an engineering perspective, staff have no concerns with the severance application. However, engineering supports the recommendations of deferral made by Planning and Building staff.

Building Services

The subject property is located in the Residential Single Detached (R.1A) Zone. The applicant is proposing to sever a portion of 62 Metcalfe Street as a lot addition to the abutting vacant lot (148 Palmer Street). The enlarged vacant lot will then be merged with the abutting parcel (146 Palmer Street) to create a larger parcel.

Building Services has reviewed and supports the deferral recommendation by Planning as there is an existing Ontario Municipal Board decision regarding the property.

Bell Canada

No concerns.

Comments from the Public

Yes (see attached)

Contact Information

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OCT 14, 1999

DECISION/ORDER NO.
1907



Ontario

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OCT 13 1999 PL990261

BUILDING DIVISION

DEPARTMENT OF PLANNING
& DEVELOPMENT

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

Finoro Custom Homes Inc. has appealed to the Ontario Municipal Board under subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the Committee of Adjustment of the City of Guelph which dismissed an application numbered A-120/98 for variance from the provisions of By-law (1995)-14864 respecting 148 Palmer Street

O.M.B. File No. V990119

APPEARANCES:

Parties

Finoro Custom Homes Inc.

City of Guelph

Counsel or Agents

W. Dahms

P. Pickfield

DECISION DELIVERED BY P. L. WYGER AND ORDER OF THE BOARD

Finoro Custom Homes Inc. purchased 148 Palmer Street, (a legal lot of record), located at the north west corner of Palmer Street and Metcalfe Street in the City of Guelph. The lot was the site of a Guelph Hydro substation from approximately 1947 to 1999. The substation was demolished in 1999. The site is now vacant. Finoro wants to construct a storey and a half single family dwelling on the lands and sought the necessary minor variances from the City's Committee of Adjustment. Following the Committee's decision to refuse the variances, Finoro redesigned the proposed dwelling. The garage entrance was relocated from Palmer Street to Metcalfe Street and the dwelling was sited closer to the west lot line.

In the Board's opinion the amendment from the original application is minor. Therefore, pursuant to section 45(18.1.1) of the *Planning Act*, the Board will not require any further notice to be given.

The following is a summary of the minor variances sought in these proceedings :

	BY-LAW REQUIREMENTS	VARIANCES SOUGHT
Min. Lot Area	460 m ²	315.83 m ²
Min. Lot Frontage	15 m	12.155 m
Min. Front Yard Set back	7.28 m	6.13 m
Min. Ext. Side Yard Set back	14.11 m	4.5 m
Min. Side Yard Set back	1.5 m	0.9 m
Min. Rear Yard Set back	7.5 m	6.4 m

The Board heard evidence in support of the proposal from Mr. Cox, a land use planner, and from Mr. Stinson, the solicitor who acted on behalf of Finoro when it purchased the property. The Board heard evidence in opposition to the proposal from Mr. Austin, a land use planner with the City, and from several residents in the area.

The lands are located in an older, fully established neighbourhood, close to downtown. Municipal services are available. The surrounding area is composed primarily of large lots. The lands are designated General Residential in the City's Official Plan and are zoned R.1B which permits a single detached dwelling. Except for the abutting lot to the west, (No. 146 Palmer Street, which is zoned R.1B), all other lots on the west side of Metcalfe Street and the north side of Palmer Street are zoned R.1A. The R.1A zone requires larger lot areas and frontages than the R.1B zone.

The evidence of Mr. Stinson demonstrated that the lands were formerly part of a larger lot (Lot 98, Plan 220). Lot 98 is now divided between the easterly portion of 146 Palmer Street, the whole of the subject lot and the southerly portion of the front yard of the home located immediately north of the subject property, and fronting on Metcalfe Street.

The subject property is a rectangular parcel, 12.155 metres wide and 25.993 metres

deep. The total area of the parcel is approximately 315 square metres. The house next door at 146 Palmer Street, is located very close to the west lot line of the subject property. The survey shows that the chimney of 146 Palmer Street encroaches onto the subject property.

The hydro substation had been designed to look like a house. Notwithstanding, the parties agreed that the property does not have legal non-complying status with respect to its lot area and frontage because it was not used for residential purposes prior to the passage of the city's zoning by-law in 1971.

Mr. Cox gave evidence that the proposed dwelling will be located farther from Metcalfe Street and Palmer Street than the substation was. He indicated that a daylight triangle required by the city can be provided. The substation formerly encroached into the daylight triangle area. It was his opinion that the proposal represents an improvement over the former substation.

Mr. Cox also gave evidence that the proposed dwelling will be located closer to the west lot line than the substation was. The owner of 14 Palmer Street advised the Board that he is concerned that the close proximity of the west side of the dwelling to his house will have a negative impact on his privacy. Mr. Cox indicated that there will be no windows on the west side of the dwelling. If windows are located on the west wall, a 1.2 metre side yard is required in order to provide sufficient separation distance between the buildings to comply with the requirements of the *Ontario Building Code Act*.

Detailed drawings were presented to the Board to indicate that the house has been designed to blend in with the design features of existing homes in the area. The south side of the house is sited to be in alignment with the other houses on Palmer Street. It has roof lines, a front porch and an exterior finish which is in keeping with the older homes on Palmer Street. In Mr. Cox's opinion the development constitutes an efficient use of land, and conforms with the city's Official Plan and that it meets all four tests of section 45(1) of the *Planning Act*.

Mr. Cox and Mr. Austin did not share the same interpretation of section 5.1.2.7 of the By-law. Mr. Cox concluded that section 5.1.2.7 establishes an exterior side yard setback for the property of 6 metres. The city interprets the by-law as requiring an exterior side yard of 14.11 metres. The average set back of the houses along the west side of Metcalfe Street is approximately 14.11 metres. Section 5.1.2.7(i) of the by-law states:

"Despite Row 6 of Table 5.1.2, the minimum Front or Exterior Side Yard for dwellings located within Defined Area Map Number 66 of Schedule "A" of this By-law, shall be:

- i) the average of the Setbacks of the properties having Lot Frontage within the same City Block Face, provided a legal off-Street Parking Space is located entirely on the Lot. Where the off-Street Parking Space is located within a Garage or Carport, the Setback for the Garage or Carport shall be a minimum of 6 metres from the Street Line. Where the average of the Setbacks of the properties having Lot Frontage within the same City Block Face cannot be determined, the minimum Front or Exterior Side Yard shall be as indicated in Table 5.1.2.7:"

The Board reviewed the provisions of the by-law and considered the evidence of the planners and the submissions of the counsel. In this situation the garage does not protrude from the house. In Mr. Austin's opinion the intent of this provision in the by-law is to apply to situation where a garage extends towards the lot line and projects past the front of the house. A 6 metre recess from the exterior lot line to the face of the garage would provide one parking space in front of the garage. Mr. Austin said that the provision was not intended to create an exception to the set back requirements for the entire house, it was intended to create an exception only for the garage portion.

The Board accepts Mr. Austin's interpretation of section 5.1.2.7 which the Board considers to be a logical, reasonable interpretation of the wording of that provision. The Board finds that the exterior side yard set back for the property required by the by-law is 14.11 metres.

It was also the opinion of Mr. Austin that the proposed development is out of character with the area and will stand out from the other lots in the neighbourhood. He said that the lot is too small for a corner lot. Given the size of the lot, and the provisions in the by-law which restrict the location of fencing in side yards of corner lots, there will not be a sufficient outdoor amenity area to provide a suitable living environment. The proposal requires relief from six standards in the by-law. The lot area is to be reduced by over 30% of the requirements of the R.1B zone. This is the smallest lot on the block. Mr. Austin was also concerned that the proposal will have unacceptable negative impacts on the privacy of the 146 Palmer Street property because of the location of the house on that lot.

Mr. Cox brought to the Board's attention the particulars of another former hydro substation site in Guelph where a house was permitted to be constructed on the site following the demolition of the substation. Mr. Austin distinguished that location from 148 Palmer Street as that site was an interior lot in an area with smaller lots. The subject site is a corner lot in an area surrounded mostly by large lots. Mr. Austin said that the by-law intends that corner lots have large exterior side yards. In this situation, the exterior side yard set back is 14.11 metres whereas the lot itself is only 12.5 metres wide. In Mr. Austin's opinion the proposed variances fail to meet all tests of section 45(1) of the *Planning Act*.

The proponent argued that the Board should consider each of the minor variances sought individually, rather than cumulatively. The Board has considered each variance individually and has considered the cumulative effect of the variances needed for the development proposal. Based on the evidence provided by the city's planner, the Board finds that the proposal will have an unacceptable negative impact on the Metcalfe Street streetscape and on the 146 Palmer Street property. The Board finds that the proposal is out of character with the surrounding area and the development is not compatible with the surrounding residential environment. The variances are not desirable for the proper and orderly development of the lands and are not minor in nature.

None of the variances are authorized. The appeal is dismissed.

The Board so orders.

"P. L. Wyger"

P. L. WYGER
MEMBER

B-4120

Re: The Property Corner of Metcalfe
to Palmer

I have lived in the St. George's Park area for over 65 years. The lot at Metcalfe & Palmer has been bought and sold a number of times. It was referred to as the "Hydro lot."

The Hydro bought the lot in the 40's to 50's and placed a brick building with a transformer in it. The transformer & the building were removed in the 70's or 80's. I do not know if there was a proper cleanup done by Hydro (back then there was the PCB worry). Hydro made the corner lot a recreational area with a bench, lovely "historical" bushes which was tended by a neighborhood gardener.

There were many services placed on that property to boulevard Union Gas, Rogers, Bell.

Hydro placed the Metcalfe & Palmer corner lot up for sale in 1999 and it was purchased by the Finero Bldg company. They were not successful building a house.

on that property. The Finaro Bldg company sold the lot back to Hydro.

Hydro sold the lot again in 2013 to a neighbour. There was an attempt to build a house and move the Bell Services across the street into the Park. If you drive by, you can currently see the Bell Boxes placed in St. George's Park - Metcalfe & Palmer corner. It created quite a "stink" and there were petitions involved & the St. George's Park neighbours valiantly tried to keep the Services out of the Park. City counselors, City Managers, Bell CEO's and our neighbourhood spokespersons were involved. It was not a pleasant experience & left a lot of "hurt" feelings.

So here we go again. So if the "new" buyer who I know lives next door wants to improve his house & size of his lot ~~size~~ - great. However if he wants to sell the lot for a new build, I wonder what kind of house could be constructed on that site with hardly any front yard, back yard & side yard & where

would the driveway to garage be placed as it is a corner lot I know if there is a house to be built those "ugly" services will have to be moved & probably into the park.

I know there are many neighbours that feel that this corner lot should be maintained as an addition to the residential lot. Property in St. George's Park is very expensive to search. The addition of the "allotment" will square up the lot and may make it easier to sell the flat and "crowd" in another house. I hope I am wrong.

Sorry for the scribbling. I did this in a hurry. I just wanted you to have some history of the area

J. Evans
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Received on March 3, 2020

City of Guelph - Clerk's Office