

DECISION

Committee of Adjustment Application Number A-6/23

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, 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; a maximum of 84 dwelling units, when the By-Law permits a maximum of 70 dwelling units in the R.3A-4 Zone;
- b) a minimum private amenity area of 10 square metres for the proposed units, when the By-Law requires a minimum private amenity area of 20 square metres per unit for cluster townhouses and ground level stacked townhouse units;
- c) 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
- d) 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.

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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.

Members of the Committee of Adjustment concurring in the decision:

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| | _____ J. Smith | DocuSigned by: <i>Karlie Meads</i> E07BF7463E884E0... _____ K. Meads | DocuSigned by: <i>Lindsay Cline</i> A86B8A458DEFB412 _____ L. Cline |
| | DocuSigned by: <i>Janet Goodfellow</i> BA5C54A30C81438... _____ J. Goodfellow | DocuSigned by: <i>Keith Hamilton</i> 91EBD7E501224D0... _____ K. Hamilton | DocuSigned by: <i>Greg Sayer</i> 6D7AA297310242F... _____ G. Sayer |

I, Trista Di Lullo, 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 hearing held on February 9, 2023.

Dated: February 15, 2023

Signed:

DocuSigned by:
Trista DiLullo
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**The last day on which a Notice of Appeal to the Ontario Land
Tribunal may be filed is March 1, 2023**

Committee of Adjustment
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