



Committee of Adjustment Minutes

**Thursday, August 13, 2020, 4:00 p.m.
Remote meeting live streamed
on guelph.ca/live**

Members Present	K. Ash, Chair D. Kendrick, Vice Chair S. Dykstra D. Gundrum L. Janis K. Meads J. Smith
Staff Present	B. Bond, Zoning Inspector J. da Silva, Council and Committee Assistant S. Daniel, Engineering Technologist T. Di Lullo, Secretary-Treasurer D. McMahon, Deputy City Clerk K. Patzer, Planner L. Sulatycki, Planner M. Witmer, Planner

Call to Order

Chair K. Ash called the meeting to order. (4:01 p.m.)

Opening Remarks

Chair K. Ash explained the hearing procedures and Secretary-Treasurer T. Di Lullo conducted attendance by roll call and confirmed quorum.

Disclosure of Pecuniary Interest and General Nature Thereof

There were no disclosures.

Approval of Minutes

Moved by D. Gundrum

Seconded by L. Janis

That the minutes from the July 9, 2020 Regular Hearing of the Committee of Adjustment, be approved as circulated.

Carried

Requests for Withdrawal or Deferral

B-7/20 and B-8/20 73 and 93 Arthur Street South

Owner: 2278560 Ontario Inc.

Agent: Charlotte Balluch, Fusion Homes

Location: 73 and 93 Arthur Street North

In Attendance: C. Balluch

Secretary-Treasurer T. Di Lullo noted that C. Balluch, agent for the applications, submitted a request that the applications be deferred to the September 10, 2020 hearing. The agent noted that the reason for the deferral is to work with staff regarding conditions outlined in the staff comments. A copy of the deferral request was circulated to members and staff.

Moved by J. Smith

Seconded by K. Meads

That consent applications B-7/20 and B-8/20 for 73 and 93 Arthur Street South, be **deferred** to the September 10, 2020 hearing, and that the deferral fee be paid prior to reconsideration of the applications.

Reasons:

These applications are deferred at the request of the applicant to allow the applicant additional time to consult with staff.

Carried

Staff Announcements

Hearing Procedures Update - Bill 197

Secretary-Treasurer T. Di Lullo explained the changes to the Committee of Adjustment hearing procedures outlined in the staff report and read the motion as recommended by staff.

Moved by K. Meads

Seconded by S. Dykstra

That the proposed changes to the Committee of Adjustment Hearing Procedures, included as Attachment-1, dated August 13, 2020, be **approved**.

Carried

Current Applications

A-31/20 190-192 Waterloo Avenue

Owner: Myra Buzbuziani

Agent: Rick Rozyle

Location: 190-192 Waterloo Avenue

In Attendance: R. Rozyle

Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. R. Rozyle, agent for the application, responded that the sign was posted and comments were received.

After a brief break to allow members of the public to express interest in speaking to the application, no members of the public spoke via electronic participation.

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 S. Dykstra

Seconded by J. Smith

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 6.1.3.6.1 of Zoning By-law (1995)-14864, as amended, for 190-192 Waterloo Avenue, to permit a food vehicle to be located on the property, when the By-law a variety of uses in the C.1-6 Zone, but does not permit a food vehicle as a permitted use, be **approved**.

Reasons:

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-32/20 588 Starwood Drive

Owner: Rashid Raza

Agent: N/A

Location: 588 Starwood Drive

In Attendance: R. Raza

Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. R. Raza, owner, responded that the sign was posted and comments were received.

R. Raza indicated he was in agreement with the condition recommended by Engineering staff as outlined in the staff comments.

After a brief break to allow members of the public to express interest in speaking to the application, no members of the public spoke via electronic participation.

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 D. Gundrum

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 4.7 Rows 1 and 12 of Zoning By-law (1995)-14864, as amended, for 588 Starwood Drive, to permit:

- a. a minimum left side yard setback of 0.33 metres for the proposed uncovered porch (landing), when the By-law requires a minimum side yard setback of 0.6 metres for an uncovered porch not more than 1.2 metres above finished grade; and
- b. a minimum left side yard setback of 0.33 metres for the proposed exterior stairs, when the By-law requires a minimum side yard setback of 0.6 metres for exterior stairs,

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

1. The owner(s) agrees to construct the stairs/landing with removable material (i.e. wood), as shown on the provided sketch.

Reasons:

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-33/20 94 Maple Street

Owner: Gail Ruth van Veen and David Richard van Veen

Agent: John Vanderwoerd, Vanderwoerd Drafting and Design

Location: 94 Maple Street

In Attendance: J. Vanderwoerd, D. Van Veen

Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. J. Vanderwoerd, agent for the application, responded that the sign was posted and comments were received.

Member D. Kendrick joined the remote hearing. (4:35 p.m.)

J. Vanderwoerd, confirmed that the height of the proposed accessory building, measured from the ground to the mid-point of the roof, will be 3.4 metres.

D. Van Veen, owner of the property, indicated he had no comments on this application.

After a brief break to allow members of the public to express interest in speaking to the application, no members of the public spoke via electronic participation.

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 S. Dykstra

Seconded by J. Smith

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 4.5.1.4 of Zoning By-law (1995)-14864, as amended, for 94 Maple Street, to permit an accessory building with a maximum ground floor area of 118 square metres, when the By-law requires that that in a residential zone, the total ground floor area of all accessory buildings or structures shall not exceed 70 square metres, be **approved**.

Reasons:

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-34/20 23 Garibaldi Street

Owner: 2680579 Ontario Inc.

Agent: Jacob Goldfarb, Goldfarm Canada

Location: 23 Garibaldi Street

In Attendance: J. Goldfarb

Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. J. Goldfarb, agent for the application, responded that the sign was posted and comments were received.

J. Goldfarb indicated he was in agreement with the condition recommended by staff regarding the use to be permitted on a temporary basis. The agent also noted he addressed garbage concerns raised by neighbours with the property owner, and indicated that the garbage produced by the proposed business will be mostly compost and negligible in relation to the size of the building.

After a brief break to allow members of the public to express interest in speaking to the application, no members of the public spoke via electronic participation.

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 D. Gundrum

Seconded by J. Smith

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 7.3.4.5.1 of Zoning By-law (1995)-14864, as amended, for 23 Garibaldi Street, to permit agriculture (vegetation based) on the property as a permitted use, when the By-law permits a variety of uses in the B.4-5 Zone, but does not permit agriculture (vegetation based) as a permitted use, be **approved**, subject to the following conditions:

1. That the use be permitted for a period of three (3) years from the date of the Committee's final decision, or until the land use study area is complicated, whichever is later.
2. That the use be limited in size to 210.5 square metres of the existing building.

Reasons:

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-35/20 8-14 Macdonell Street

Owner: Downtown Mercury Development Corporation

Agent: N/A

Location: 8-14 Macdonell Street

In Attendance: S. Moraca, M. McCowan

Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. S. Moraca, representative for the owner, responded that the sign was posted and comments were received.

After a brief break to allow members of the public to express interest in speaking to the application, no members of the public spoke via electronic participation.

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 D. Kendrick

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 6.3.2.6.4 of Zoning By-law (1995)-14864, as amended, for 8-14 Macdonell Street, to permit a licensed establishment to be located in the basement of the existing commercial building, when the By-law permits the floor area of a licensed establishment to be located on the first floor only, be **approved**.

Reasons:

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-36/20 37 Arthur Street North

Owner: Ashlee Cooper

Agent: N/A

Location: 37 Arthur Street North

In Attendance: A. Cooper

Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. A. Cooper, owner, responded that the sign was posted and comments were received.

After a brief break to allow members of the public to express interest in speaking to the application, no members of the public spoke via electronic participation.

Having considered a change or extension in a use of property which is lawfully non-conforming under the By-law as to whether or not this application has met the requirements of Section 45(2) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended,

Moved by J. Smith

Seconded by S. Dykstra

THAT in the matter of an application under Section 45(2)(a)(i) of the Planning Act, R.S.O. 1990, C.P13, as amended, permission to enlarge/extend the legal non-conforming use at 37 Arthur Street North to permit two (2) dormers to be constructed on the second storey of the existing semi-detached dwelling unit, be **approved**.

Reasons:

This application is approved, as it is the opinion of the Committee that this application meets the requirements under Section 45(2) 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.

A-37/20 23 Wellington Street East (Units 8 and 9)

Owner: 922444 Ontario Ltd.

Agent: Tony Varvaris

Location: 23 Wellington Street East

In Attendance: G. Sedra

Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. G. Sedra, representative for the agent, responded that the sign was posted and comments were received.

After a brief break to allow members of the public to express interest in speaking to the application, no members of the public spoke via electronic participation.

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 D. Kendrick

Seconded by D. Gundrum

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 6.4.3.1.2.1 of Zoning By-law (1995)-14864, as amended, for 23 Wellington Street East, to permit a 128 square metre retail establishment at 23 Wellington Road East, units 8 and 9, when the By-law permits a variety of uses in the Specialized Service Commercial (SC.1-2) zone, but does not permit a retail establishment, be **approved**.

Reasons:

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.

A-38/20 104 Winston Crescent

Owner: Donnette Harnett and Sheryl Harnett

Agent: Phill McFadden, Sutcliffe Homes Inc.

Location: 104 Winston Crescent

In Attendance: P. McFadden, T. Botter, S. Odorico

Secretary-Treasurer T. Di Lullo noted that correspondence was received after the comment deadline from S. Reynolds, M. Freitag, and L. Patterson, with concerns about the application. She also mentioned that two (2) letters were received after the comment deadline from L. and D. Harnett, owners of 104 Winston Crescent, addressing concerns raised in the staff comments. All late correspondence was circulated to staff, committee members and applicants.

Chair K. Ash questioned if the sign had been posted in accordance with Planning Act requirements and if the staff comments were received. P. McFadden, agent for the application, responded that the sign was posted and comments were received.

P. McFadden explained the general intent and purpose of the application. He also indicated to be working with the neighbour at 102 Winston Crescent regarding the removal of half of the existing shared detached garage and addressed concerns raised by neighbours regarding the intended use of the property.

T. Botter and S. Odorico, both residents on Franklin Avenue, spoke in opposition to the application with concerns regarding privacy and traffic intensification, and that the proposed development is not minor in nature.

Secretary-Treasurer T. Di Lullo noted that a break for members of the public to call into the meeting was not required as the hearing's call-in information was shown for more than three (3) minutes while registered delegates spoke to the application.

The following registered delegate did not speak at the hearing:

A. Steel

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 S. Dykstra

Seconded by D. Gundrum

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 7 and Section 4.15.1.5 of Zoning By-law (1995)-14864, as amended, for 104 Winston Crescent, to permit:

- a. a minimum left side yard setback of 1.2 metres for the proposed attached garage and two-storey addition to the existing detached dwelling, when the By-law requires a minimum side yard setback of 1.5 metres for a property in an R.1B zone of 1 to 2 storeys; and
- b. an accessory apartment size of 95.5 square metres, or 30.4 percent of the total floor area of the detached dwelling (including proposed addition), when the By-law requires that an accessory apartment shall not exceed 45 percent of the total floor area of the building and shall not exceed a maximum of 80 square metres in floor area, whichever is lesser,

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

1. Prior to the issuance of a building permit for the modifications to the accessory building, the owner provides written documentation, including drawings, that no encroachment is proposed or provides a copy of an agreement between the two owners that has been executed recognizing the encroachment.
2. That prior to the issuance of a building permit, the owner confirms and provides written confirmation that an access agreement for the purposes of maintenance of the accessory building at 102 Winston Crescent has been registered on title.

Reasons:

These minor variance requests are 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.

AND

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 104 Winston Crescent, to permit a minimum rear yard setback of 4.38 metres for the proposed two-storey addition

to the existing detached dwelling, when the By-law requires a minimum rear yard setback of 7.5 metres or 20 percent of the lot depth [being 6.1 metres], whichever is lesser, be **refused**.

Reasons:

This minor variance request is 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, specifically being that it is not minor in nature and it is not considered to be desirable for the appropriate development of the lands.

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

Adjournment

Moved by J. Smith

Seconded by L. Janis

That this hearing of the Committee of Adjustment be adjourned. (6:35 p.m.)

Carried

K. Ash, Chair

T. Di Lullo, Secretary-Treasurer