



## **COMMITTEE OF ADJUSTMENT MINUTES**

August 13, 2020

5:30 p.m.

Brantford City Hall, 100 Wellington Square

Dan Namisniak in the Chair.

### **1. ROLL CALL**

Present: Tara Gaskin, Krystyna Brooks, Dan Namisniak, Virginia Kershaw, Greg Kempa

Regrets: Lee Rynar, Matt Savard

### **2. DECLARATIONS OF CONFLICTS OF INTEREST**

There were no conflicts of pecuniary interest made for items on the agenda by members of the Committee.

### **3. STATUTORY PUBLIC HEARINGS/ PUBLIC MEETINGS**

The procedure to be followed during the Committee of Adjustment Hearings was explained by Chair Namisniak. As the meeting was held in a virtual setting, the procedures for the virtual meeting format were also reviewed prior to commencing the hearings. Proper notification of all applications had been given.

#### **3.1 Application B06/2020 & A08/2020 – 125 Sherwood Drive (2020-208) (Deferral from June 17, 2020)**

**Agent - J. H. Cohoon Engineering Ltd.**

**Applicant/ Owner - Multani Custom Homes**

Rob Van Poorten and Bob Phillips, J.H. Cohoon Engineering Ltd., Rob Multani, Owner and Jay Hitchon, Waterous Holden appeared before the Committee to provide an overview of the application. At the June 17, 2020 meeting the application was deferred at the request of the applicant and owner. The variance and severance application is to allow for the redevelopment of an old industrial property. The rehabilitation of the property is ongoing but will allow for a condominium development. In order to obtain

financing, a severance is necessary as the remediation of the entire property is not feasible. The severed parcel would only be used for access and no bricks and mortar to be built. The only use permitted will be a parking lot and there is no reuse opportunity of the severed property. The only way to develop this brownfields site will be to sever a portion from the property to allow for financing and further remediation of the property.

Jay Hitchon addressed the committee and provided clarification of the property being discussed. The applicant needs to obtain a mortgage however the banks do not want to hold a mortgage on a property that has contamination. In order to do this, they must carve off a piece of the property to hold a mortgage on the property that is not contaminated. Staff have stated that the intent is to delay remediation however Mr. Hitchon stated this is not the intent, the intent is for purposes of obtaining a mortgage.

In response to questions, Mr. Hitchon confirmed that there is no intent to sell the portion as it is to remain as an access to the property. There is currently no remediation necessary for the driveway at this time. Bob Phillips also explained that an environmental consultant was obtained to delineate this property for severance to contain the contaminants.

Sean House, Development Planner addressed the Committee and provided an overview of the Staff Report. The application is to sever a portion of the land to segment the contaminated lands within a parcel. The severed lands will remain vacant as an access to the property. The subject lands are a brownfields and severing these lands will leave it unlikely to be remediated and developed in the future. Due to this, it is staffs opinion that the application does not conform to the general intent and purpose of the Official Plan. The variance is not minor in nature as it is facilitates the creation of an undersized lot that is not suitable for future development and does not maintain the general intent of the Zoning By-law. Upon circulation, one resident did express concerns.

No members of the public spoke to the applications.

Mr. Hitchon reappeared before the Committee and stated that the application is driven by the banks.

Nicole Pettenuzzo clarified that this application will create a non developable parcel. If the parcel were larger and developable it could be remediated however this will create a not developable property that will remain contaminated. The property will be under separate ownership and the easements could be dissolved and there are alternative access points instead of the severed parcel. The trouble is in creating a non developable property that could potentially go into arrears with taxes resulting in the City owning non-developable land.

Moved by Greg Kempa  
 Seconded by Virginia Kershaw

- A. THAT Application B06/2020 to sever a parcel of land from the southeastern portion of the lands municipally addressed as 125 Sherwood Drive, having a lot area of 1,520 m<sup>2</sup> and retain a parcel of land having a lot area of 18,500 m<sup>2</sup> BE REFUSED; and
- B. THAT reason(s) for refusal are as follows: Does not have regard for the matters under Section 51(24) of the Planning Act, and does not meet the policies of the Official Plan respecting lot creation; and
- C. THAT Application A08/2020 seeking relief from Zoning By-law 160-90 for the lands municipally known as 125 Sherwood Drive BE REFUSED for the following variances:
  - Section 10.1.2.1.1 to permit a minimum lot area of 0.15 ha, whereas 0.2 ha is required; and
  - Section 10.1.2.1.2 to permit a minimum lot width of 20.3 m, whereas 30 m is required; and
- D. THAT the reason(s) for refusal are as follows: the proposed variances are not in keeping with the general intent of the Official Plan and Zoning By-law, the relief requested is not considered minor in nature and is not desirable for the appropriate development and use of the land; and
- E. THAT pursuant to Section 53(17)-(18.2) and Section 45(8)-(8.2) of the Planning Act, R.S.O 1990, c.P. 13, the following statement SHALL BE INCLUDED in the Notice of Decision:

*“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report No. 2020-208.”*

CARRIED

Recorded vote on Item 3.1:

YES: Virginia Kershaw, Tara Gaskin, Dan Namisniak, Greg Kempa and Krystyna Brooks – 5

NO: None – 0

Item 3.1 carried unanimously on a recorded vote.

### 3.2 Application A06/2020 - 57 Kennedy Street (2020-194)

**Agent - J.H. Cohoon Engineering Limited**

**Applicant/ Owner - Wole & Titi Kushimo**

Bob Phillips and Rob Van Poorten, J.H. Cohoon Engineering Ltd. appeared before the Committee to provide an overview of the application. The application will allow a reduced exterior side yard and an encroachment to allow for a set of stairs. The owner would like to build a slightly wider house than originally expected with a road allowance on the other side that facilitated this application.

Alexandra Mathers, Development Planner addressed the Committee and gave an overview of the Staff report. The lot is heavily treed and will be developed for a single detached dwelling. The application is minor in nature as it will not have adverse impact on neighbouring properties. The application is desirable as it will permit development. Planning Staff are recommending approval of the application.

No members of the public spoke to the application.

Moved by Virginia Kershaw

Seconded by Greg Kempa

- A. THAT Application A06/2020 requesting relief from the City of Brantford Zoning By-law to permit an exterior side yard of 1.4 m, whereas 3.0 m is required, and to permit an exterior staircase to encroach a maximum of 2.9 m in a required front yard, whereas exterior staircases are permitted to encroach a maximum of 1.5 m in a side or rear yard, provided it is no closer than 1.2 m from the lot line, BE APPROVED;
- B. THAT the reason(s) for approval are as follows: the proposed variances are in keeping with the general intent of the Official Plan and Zoning By-law, the relief requested is considered minor in nature and is desirable for the appropriate development and use of the subject land; and
- C. THAT pursuant to Section 45(8) – (8.2) of the Planning Act, R.S.O 1990, C.P.13, the following statement is included:

*“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report No. 2020-194.”*

CARRIED

Recorded vote on Item 3.2:

YES: Virginia Kershaw, Tara Gaskin, Dan Namisniak, Greg Kempa and Krystyna Brooks – 5

NO: None – 0

Item 3.2 carried unanimously on a recorded vote.

**3.3 Application B07/2020 - 7, 33 & 43 Erie Avenue and 100 Market Street South (2020-346)**

**Agent - J. H. Cohoon Engineering Ltd.**

**Applicant/ Owner - 1821154 Ontario Ltd.**

Bob Phillips and Rob Van Poorten, J.H. Cohoon Engineering Ltd. appeared before the Committee and provided an overview of the application. The application is to sever the lands that were merged. The applicants are in agreement with the conditions of the staff report and are seeking approval.

Sean House, Development Planner appeared before the Committee and provided an overview of the Staff report. The application is to recreate the original holding of 7 Erie Avenue and to create parking and access easements for 31 off street parking spaces. The consent will facilitate the development of an 8 story mixed use building. The site plan application for this application has been conditionally approved. Staff have included an archaeology condition due to the high likelihood of archaeological findings on the property. Staff find the application desirable and are recommending approval.

No members of the public spoke to the application.

Moved by Krystyna Brooks

Seconded by Greg Kempa

- A. THAT Application B07/2020 to sever a parcel of land from the northwest corner of the lands municipally addressed as 7, 33 & 43 Erie Avenue and 100 Market Street South having an area of 2467 m<sup>2</sup> and to retain a parcel of land having a lot area of 1.36 ha, and to create parking and access easements for 31 off-street parking spaces on the retained lands in favour of the severed lands BE APPROVED, subject to the conditions attached in **Appendix A** of Report No. 2020-346; and
- B. THAT the reason(s) for approval are as follows: Having regard for the matters under Section 51 (24) of the *Planning Act*, Staff is satisfied that the proposed development is desirable and compatible with the surrounding area and will not result in adverse impacts on surrounding properties; and

- C. THAT pursuant to Section 53(17)-(18.2) of the Planning Act, R.S.O. 1990, c.P.13, the following statement SHALL BE INCLUDED in the Notice of Decision:

*“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report No. 2020-346.”*

CARRIED

Recorded vote on Item 3.3:

YES: Virginia Kershaw, Tara Gaskin, Dan Namisniak, Greg Kempa and Krystyna Brooks – 5

NO: None – 0

Item 3.3 carried unanimously on a recorded vote.

**3.4 Application B08/2020 - 298 & 310 Mount Pleasant Road (2020-340)**

**Agent - J.H. Cohoon Engineering Ltd.**

**Applicant - Paul Randorf**

**Owner - Mary Walsh**

Bob Phillips and Rob Van Poorten, J.H. Cohoon Engineering Ltd. appeared before the Committee and provided an overview of the application. The application is to unmerge the lots that were merged in a previous application. Lot 5 will be recreated as it was previously. These lands are part of the annexation from the County of Brant. The lot will be developed for residential purposes. There are three conditions however that the applicant would like reconsidered by the Committee. This includes condition 1 and would like the reference plan to not include the retained parcel as this is already complete. Condition 6 requests a road widening from the severed and retained parcel as assigning a road widening to the retained parcel would result in the municipality taking 2,000 square feet of land at no cost. There are also brick and mortar accessories on the proposed road widening which would result in the City having to maintain and be liable for them. They are asking that this condition only apply to the severed parcel and not the retained or removed. Condition 8 is also in question as it requires an archaeological study to be completed. When this property was within the County of Brant, there were no archaeological conditions set and did not require it. They are requesting that the condition be waived as this lot was already created without the condition imposed.

Sean House, Development Planner addressed the Committee and provided an overview of the Staff report. The severed lands are currently vacant and the retained

lands include residential and accessory buildings. The application will sever one parcel of land which were merged with retained land and they are seeking to recreate this parcel of land. This land will allow a single detached dwelling which will require a septic system. Staff recommend approval as the application is desirable however subject to the conditions of the report.

There were no members of the public who spoke to the application.

Mr. Van Poorten reappeared before the Committee and explained that the approval by the Ministry was later but the approval of the Official Plan by the municipality predated the severance by a year and a half. If the provision for archaeological was in this by-law it would have been needed at that time. In regards to the road widening, this is a large amount of land retained by the City and the request for the removal of the structures at the cost of the applicant is extensive and has an impact on the value of the property.

Moved by Virginia Kershaw

Seconded by Greg Kempa

- A. THAT Application B08/2020 to sever a parcel of land from the north side of the lands municipally addressed as 298 and 310 Mount Pleasant Road having an area of 3,652.6 m<sup>2</sup> and to retain a parcel of land having a lot area of 2.74 ha BE APPROVED, subject to the conditions attached in **Appendix A** in Report No. 2020-340 with the removal of conditions 1 and 6 and that condition 8 be amended to apply only to the severed parcel and within the portions zoned suburban residential; and
- B. THAT the reason(s) for approval are as follows: Having regard for the matters under Section 51 (24) of the *Planning Act*, Staff is satisfied that the proposed development is desirable and compatible with the surrounding area and will not result in adverse impacts on surrounding properties; and
- C. THAT pursuant to Section 53(17)-(18.2) of the Planning Act, R.S.O. 1990, c.P.13, the following statement SHALL BE INCLUDED in the Notice of Decision:

*“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report No. 2020-340.”*

CARRIED

Recorded vote on Item 3.4:

YES: Virginia Kershaw, Dan Namisniak, Greg Kempa and – 3

NO: Tara Gaskin and Krystyna Brooks – 2

Item 3.4 carried on a recorded vote of 3 to 2.

**3.5 Applications B09/2020 & A13/2020 - 70-73 Wadsworth Street (2020-352)**

**Agent - R & R Designs Inc.**

**Applicant - Safaa Alhamadani, Canadian Construction & Consultant Engineers Inc.**

**Owner - 2027982 Ontario Inc.**

Safaa Alhamadani, Canadian Construction & Consultant Engineers Inc. and Sandor Spisak appeared before the Committee to provide an overview of the application. The application is proposing to sever a portion and add to the adjacent property. This will create a lot for industrial development. They are also seeking a setback of zero metres whereas three metres is required.

Brynne O'Neill, Development Planner appeared before the Committee and provided an overview of the Staff report. The application will sever a portion from 70 Wadsworth and add it to 73 Wadsworth. The application is also seeking a setback of zero down from the required three metres. There were no verbal or written submissions from members of the public. The property is deemed to meet the Official Plan and industrial development is an approved use. Staff are of the opinion that the applications are desirable and minor in nature. The applications meet the general intent and purpose of the Zoning By-law and Official Plan. Staff are recommending approval of the applications.

No members of the public spoke to the applications.

Moved by Krystyna Brooks

Seconded by Greg Kempa

- A. THAT Application B09/2020 for a lot boundary adjustment to sever 2,880 m<sup>2</sup> of land from the northwest corner of 70 Wadsworth Street, and merge with the lands at 73 Wadsworth Street, and retain a parcel of land having a lot area of 4,269 m<sup>2</sup> BE APPROVED subject to the conditions attached as **Appendix A** of Report 2020-352; and
- B. THAT the reason(s) for approval are as follows: having regard for the matters under Section 51(24) of the *Planning Act*, Staff is satisfied that the proposed boundary adjustment is desirable and compatible with the surrounding area and will not result in adverse impacts on surrounding properties, The applications are in conformity with the general intent of the



policies of the Official Plan and Zoning By-law 160-90, specifically Section 18.9 of the Official Plan respecting consent applications including boundary adjustments within the City of Brantford and consistent with the policies of the Growth Plan for the Greater Golden Horseshoe and Provincial Policy Statement; and

- C. THAT Application A13-2020 requesting relief from Section 10.2.2.7.1.2 to permit a 0 m interior side yard, whereas 3.0 m is required BE APPROVED for the southern lot line of 73 Wadsworth Street; and
- D. THAT the reason(s) for approval are as follows: the proposed variance is in keeping with the general intent of the Official Plan and Zoning By-law, the relief requested is considered minor in nature and is desirable for the appropriate development and use of the land; and
- E. THAT pursuant to Section 53(17)-(18.2) and Section 45 (8)-(8.2) of the Planning Act, R.S.O 1990, c.P.13, the following statement SHALL BE INCLUDED in the Notice of Decision:

*“Regard has been had for all written and oral submission received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report No. 2020-352.”*

CARRIED

Recorded vote on Item 3.5:

YES: Virginia Kershaw, Tara Gaskin, Dan Namisniak, Greg Kempa and Krystyna Brooks – 5

NO: None – 0

Item 3.5 carried unanimously on a recorded vote.

**3.6 Application A14/2020 - 286 Brantwood Park Road (2020-350)**

**Agent - George Ziotek**

**Applicant/ Owner - William Gendron**

George Ziotek appeared before the Committee to provide an overview of the application. The application is to convert a one car garage into a living space for the single family dwelling. The application is to reduce the side yard to 1 metre whereas 3 metres is required where an integral garage is not provided. The applicant is seeking approval of the application.

Brynne O'Neill, Development Planner addressed the Committee and provided an overview of the Staff report. The application is to convert a garage into living space which requires a minor variance of the side yard setback. There are no additions to the property, just interior renovations at the property. The current use meets the intent of the Official Plan and the use is appropriate. The sideyard requirement is for car parking purposes however there is adequate space in the driveway for parking. There are no negative impacts of the application and are recommending approval.

No members of the public spoke to the application.

Moved by Greg Kempa

Seconded by Virginia Kershaw

- A. THAT Application A14/2020 requesting relief from Section 7.3.2.1.7.1 of the City of Brantford Zoning By-law 160-90 to permit a side yard of 1.0 m, whereas a side yard of 3.0 m is required where there is no integral garage BE APPROVED; and
- B. THAT the reason(s) for approval are as follows: the proposed variance is in keeping with the general intent of the Official Plan and Zoning By-law, the relief requested is considered minor in nature and is desirable for the appropriate development and use of the land; and
- C. THAT pursuant to Section 45(8) – (8.2) of the Planning Act, R.S.O 1990, c.P.13, the following statement SHAL BE INCLUDED in the Notice of Decision:

*“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this planning matter, as discussed in Section 6.2 of Report 2020-350”.*

CARRIED

Recorded vote on Item 3.6:

YES: Virginia Kershaw, Tara Gaskin, Dan Namisniak, Greg Kempa and Krystyna Brooks – 5

NO: None – 0

Item 3.6 carried unanimously on a recorded vote.

**3.7 Applications B10/2020 & B11/2020 - 140 Oak Park Road (2020-358)**  
**Agent - MHBC Planning**  
**Applicant/ Owner - Telephone City Aggregates Inc., James Dick**  
**Construction**

Dave Aston, MHBC Planning and Gregory Sweetnam, Telephone City Aggregates Inc. appeared before the Committee to provide an overview of the application. The severance application will facilitate development in the City with a new distribution centre within the City. A modified proposal is being presented for the application rather than what was proposed in the original application. They are in favour of the modified conditions and are seeking approval of the application.

Alexandra Mathers, Development Planner appeared before the Committee and provided an overview of the Staff Report. The application will create a new site for future development. A request was received to withdraw application B11/2020 and include the lands of the application within B10/2020 through amending the application. The retained lands will be subdivided. The consent application as amended was reviewed and Staff are of the opinion that it meets the Planning Act, is desirable and will not have a negative impact on the neighbouring properties. Planning Staff recommended condition amendments which were distributed as part of the memo distributed to members of the Committee.

No members of the public spoke to the application.

Moved by Virginia Kershaw

Seconded by Greg Kempa

- A. THAT Application B10/2020 to sever a parcel of land from the western portion of the lands municipally addressed as 140 Oak Park Road, having a lot area of +/- 224,594,488 m<sup>2</sup> (Lot 1) and retain a parcel of land having an area of +/- 106,709 m<sup>2</sup> BE APPROVED subject to the conditions attached in Appendix C of this memo; and
- B. THAT reasons for approval of Application B10/2020 are as follows: having regard for matters under Section 51(24) of the Planning Act, Staff is satisfied that the proposed development is desirable and compatible with the surrounding area and will not result in adverse impacts on surrounding properties. The application is in conformity with the general intent of the policies of the Official Plan and Zoning By-law, specifically Section 18.9 (Official Plan) respecting the creation of lots within the City of Brantford, confirms with the policies of the Growth Plan for the Greater Golden Horseshoe and consistent with the Provincial Policy Statement; and
- C. THAT pursuant to Section 53(17) – (18.2) of the Planning Act, R.S.O 1990, c.P.13, the following statement SHALL BE INCLUDED in the Notice of Decision:

“Regard has been had for all written and oral submissions received from the public before the decision was made in relation to this

planning matter, as discussed in Section 6.2 of Report No. 2020-358.”

CARRIED

Recorded vote on Item 3.7:

YES: Virginia Kershaw, Tara Gaskin, Dan Namisniak, Greg Kempa and Krystyna Brooks – 5

NO: None – 0

Item 3.7 carried unanimously on a recorded vote.

**4. PRESENTATIONS/DELEGATIONS**

None

**5. ITEMS FOR CONSIDERATION**

None

**6. CONSENT ITEMS**

**6.1 MINUTES**

Moved by Greg Kempa

Seconded by Krystyna Brooks

THAT the following Minutes BE APPROVED:

**6.1.1 Committee of Adjustment - July 15, 2020**

CARRIED

Recorded vote on Item 6.1:

YES: Virginia Kershaw, Tara Gaskin, Dan Namisniak, Greg Kempa and Krystyna Brooks – 5

NO: None – 0

Item 6.1 carried unanimously on a recorded vote.

**6.2 Updates**

Planning Staff updated the Committee on previous appeals to the Local Planning Appeals Tribunal.

The Committee discussed the recruitment currently underway by the City of Brantford noting that one member of the Committee has not provided regrets for three

consecutive meetings. Although Staff have attempted to reach out to the member, there has been no response to all attempts. Under Chapter 26 of the City of Brantford Municipal Code, a committee can through resolution deem the position vacant. Due to the current recruitment by the City and the necessity to have full composition of the Committee members found it appropriate to move a motion to deem the position vacant.

Moved by Greg Kempa

Seconded by Virginia Kershaw

- A. THAT the position held by Matt Savard BE DECLARED vacant; and
- B. THAT the City Appointments Committee BE REQUESTED to fill the vacancy.

Recorded vote:

YES: Virginia Kershaw, Tara Gaskin, Dan Namisniak, Greg Kempa and Krystyna Brooks – 5

NO: None – 0

The motion to deem a position vacant by the Committee of Adjustment carried unanimously on a recorded vote.

## **7. RESOLUTIONS**

None

## **8. NOTICES OF MOTION**

None

## **9. ADJOURNMENT**

The meeting adjourned at 8:08 p.m.

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Dan Namisniak, Chair

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Sean House,  
Secretary-Treasurer

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Julia Sippel, Supervisor of Legislative  
Services