



COMMITTEE OF ADJUSTMENT MINUTES

October 7, 2020

5:30 p.m.

Brantford City Hall, 100 Wellington Square

Dan Namisniak in the Chair

1. ROLL CALL

Present: Dan Namisniak, Virginia Kershaw, Lee Rynar, Tara Gaskin, Gregory Kempa

Regrets: Krystyna Brooks

2. DECLARATIONS OF CONFLICTS OF INTEREST

There were no declarations 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 A15/2020 - 15 Wynarden Court (2020-404)

Applicant - Steve Talos

Owner - Wynarden Enterprises Ltd.

Mr. Talos had technical difficulties with his phone line and as such, the Committee proceeded with the staff presentation while Mr. Talos re-connected.

Brynne O'Neil, Development Planner, addressed Committee and provided an overview of the Staff Report. The applicant is proposing to construct a detached garage on the property. The property is designated residential area – low density in the Official Plan and zoned residential conversion zone. This property is subject to a heritage easement through the Ontario Heritage Trust and the property also contains an existing detached garage and an existing legal non-conforming dwelling. The application was circulated to

all departments and agencies and no adverse comments or objections were received. Comments were received from the Ontario Heritage Trust which advised they have no concerns with this variance. There were three residents who had clarification questions regarding the location of the proposed detached garage. The residents were provided clarification.

Mr. Talos was able to regain connection and appeared before the Committee. Mr. Talos advised the Committee that the new structure he intends to build is similar to what the original coach house used to look like. Mr. Talos advised he was able to acquire stained glass windows and bronze memorial plaques from St. Judes Church and will be incorporating these into the building on the inside. Consequently, the building will need additional height to conform with part of the original coach house which was there from 4.5 m to 7.3 m. Mr. Talos advised that The Heritage Trust supports building the new structure.

In response to questions from the Committee, Mr. Talos confirmed that there are no plans at this time to build a residential dwelling.

In response to questioning, Staff confirmed the correct map had been circulated with the report and the constituent was informed of such.

No members of the public spoke to the application.

Moved by Greg Kempa
Seconded by Lee Rynar

- A. THAT Application A15/2020 requesting relief from Section 6.3.1.2.1 of Zoning By-law 160-90 to permit a maximum height of an accessory building of 7.3 m, whereas a maximum height of 4.5 m is permitted for an accessory building 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 No. 2020-404.”

CARRIED

Recorded vote on Item 3.1:

YES: Virginia Kershaw, Tara Gaskin, Dan Namisniak, Greg Kempa and Lee Rynar – 5

NO: None – 0

Item 3.1 carried unanimously on a recorded vote.

3.2 Application B14/2020 - 149 Albion Street (2020-451)**Agent - J. H. Cohoon****Applicant/ Owner - F. Rossi**

Bob Phillips, J.H. Cohoon Engineering Ltd. appeared before the Committee to provide an overview of the application. The application is an administrative process to sever the semi-detached dwelling into two units to allow for a sale of two individual properties. Mr. Phillips has read the staff report and is supportive of all conditions within the report and is seeking approval from the Committee.

Sean House, Development Planner, addressed Committee and provided an overview of the staff report. A two storey semi-detached dwelling was recently constructed on the property. The applicant is proposing a severance to separate ownership of each unit and yards. Each proposed new lot will have an area of approximately 373 sq. m. The creation of the new lot will not restrict development on any of the adjacent properties.

The Application was circulated to all property owners within 60 metres of the property and no objections were received. Staff are satisfied that the Application is desirable and compatible with the surrounding area and will not result in adverse impacts on the surrounding properties and are recommending approval.

No members of the public spoke to the application.

Moved by Lee Rynar

Seconded by Virginia Kershaw

A. THAT Application B14/2020 to sever a parcel of land from the northern portion of the lands municipally addressed as 149 Albion Street, having a lot area of 373 m² and to retain a parcel of land having a lot area of 373 m² BE APPROVED, subject to the conditions attached as Appendix A in Report No. 2020-451;

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. 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, conforms with the policies of the Growth Plan for the Greater Golden Horseshoe and is 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. 2020-451"

CARRIED

Recorded vote on Item 3.2:

YES: Virginia Kershaw, Tara Gaskin, Dan Namisniak, Greg Kempa and Lee Rynar – 5

NO: None – 0

Item 3.2 carried unanimously on a recorded vote.

**3.3 Application A16/2020 - 13 Alma Street (2020-449)
Applicant/ Owner - Cody Eckart & Tikila Babak**

Cody Eckart and Tikila Babia, applicants of the above noted application appeared before Committee to provide an overview of the application. The applicants advised they are applying for two variances. The first variance is to allow for a second storey in the detached structure (the coach house) located on the property. TThe applicants asked neighbors if there are any objections regarding the window and had received no objections. The second variance is to permit a shared common area between the entrance to the second dwelling entrance and the exterior entrance of the main dwelling. The applicants would like access to be able to use the rear door of the garage. The applicants advised it would comply with all the local fire codes.

In response to questions of the Committee, the applicants explained that the door could not be moved to the other side of the building as the gate is not large enough for proper access. The applicants also explained that the accessory structure has been used as a residence since 2019 and prior to that it was a computer museum. They further clarified that the bedroom could not be moved to the main floor due to limited space.

Alexandra Mathers, Development Planner appeared before the Committee and provided an overview of the staff report. The applicant has converted the basement and accessory structure into accessory dwelling units without building permits. The applicant

is seeking relief from two sections of the zoning by-law in order to legalize the unit from a zoning perspective and go forward with the building permit process.

The first variance is to permit a shared area between the exterior entrance and the entrance to the accessory dwelling unit. This variance is to allow access to the garage through the yard. The variance is deemed minor in nature and is appropriate use of the lands. Staff is of the opinion that the shared area can be approved and that the general intent of the Official Plan is also maintained.

The second proposed variance is to allow for an accessory dwelling unit within an accessory structure located above the first floor whereas accessory dwelling units in the accessory structures are not permitted above the first floor.

Members of the public had concerns with privacy issues and reported this to Staff. Staff do not feel the property is appropriate for the minor variance. Two members of the public provided letters of opposition.

No members of the public formally registered to speak to this item.

The Committee requested a separate vote on clauses A and C clauses B and D, and clause E.

Moved by Virginia Kershaw

Seconded by Greg Kempa

- A. THAT Application A16/2020 requesting relief from Section 2.4.15.1 of Zoning By-law 160-90 (Variance 1) to permit a shared common area between the exterior entrance and entrance to the accessory dwelling unit, whereas accessory dwelling units are to have a clearly identifiable, separate, exterior entrance, which provides direct access to the accessory dwelling unit from outdoors BE APPROVED; and
- B. THAT Application A16/2020 requesting relief from Section 6.32.8 of Zoning By-law 160-90 (Variance 2) to permit an accessory dwelling unit above the first floor in an accessory structure, whereas accessory dwelling units are not permitted above the first floor in accessory structures BE REFUSED; and
- C. THAT reasons for approval of Variance 1 from Section 2.4.15.1 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 minor in nature and is desirable for the appropriate development and use of the land; and
- D. THAT the reasons for refuse of Variance 2 from Section 6.32.8 of the Zoning By-law are as follows: the variance does not meet the intent of the Zoning By-

law, is not minor in nature and is not desirable for the appropriate development and use of the land; and

- E. THAT pursuant to 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 mater, as discussed in Sections 6.2 and 7.4 of Report 2020-449.”

Recorded vote on Clauses A and C:

YES: Virginia Kershaw, Tara Gaskin, Dan Namisniak, Greg Kempa and Lee Rynar – 5

NO: None – 0

Clauses A and C carried unanimously on a recorded vote.

Recorded vote on Clauses B and D:

YES: Virginia Kershaw, Lee Rynar – 2

NO: Tara Gaskin, Dan Namisniak, Greg Kempa – 3

Clauses B and D failed on a recorded vote of 3 to 2.

Moved by Greg Kempa

Seconded by Tara Gaskin

- A. THAT Application A16/2020 requesting relief from Section 6.32.8 of Zoning By-law 160-90 (Variance 2) to permit an accessory dwelling unit above the first floor in an accessory structure, whereas accessory dwelling units are not permitted above the first floor in accessory structures BE APPROVED; and
- B. THAT the reasons for approval of Variance 2 from Section 6.32.8 of the Zoning By-law are as follows: the variance does meet the intent of the Zoning By-law is minor in nature and is desirable for the appropriate development and use of the land.

Recorded vote:

YES: Tara Gaskin, Dan Namisniak, Greg Kempa – 3

NO: Virginia Kershaw, Lee Rynar None – 2

The motion carried on a recorded vote of 3 to 2.

Recorded vote on Clause E:

YES: Virginia Kershaw, Tara Gaskin, Dan Namisniak, Greg Kempa and Lee Rynar – 5

NO: None – 0

Clause E carried unanimously on a recorded vote.

3.4 Applications B12/2020 & A18/2020 - 38 Golfdale Road (2020-446)

Agent - Ted Tokarz

Applicant/ Owner - Susan Tokarz

Ted Tokarz, Agent, appeared before the Committee to provide an overview of the application. The application is to create a lot on the northern portion of the property. The proposed severed lot would be 761 sq. m. The application does meet the requirements of the *Planning Act*. The applicants are seeking approval of the application and agree to the conditions put forth by staff.

Sean House, Development Planner, addressed the Committee and provided an overview of the Staff report. The lands are occupied by a single detached dwelling with an attached garage and an accessory structure. The applicant is proposing to sever one new lot and retain the existing dwelling and remnant lands. The existing garage and shed are proposed to be demolished to facilitate the severance application. The severed lands would have a lot area of 763 sq. m whereas the retained lands would have an area of 1240 sq. m.

The creation of the new lot will not restrict development on any of the adjacent properties. In staff's opinion, the proposed variance is minor in nature. The application was circulated to all property owners within a 60 metre radius and one letter of support was received.

Two members of the public were in attendance at the meeting and spoke to the application.

Adrian Pynenburg and Barbara Pynenburg, 57 Golfdale Road were in attendance and spoke to the application. A. Pynenburg advised he does not have any opposition to the application but has a couple questions. His understanding was that lot 22 was severed a few years ago and construction couldn't proceed as the infrastructure couldn't maintain it and is seeking clarification.

A. Pynenburg questioned if there are plans to sever the property where the house could remain as it appears that the area to the right of the house could possibly qualify for an additional severance.

Sean House confirmed that the infrastructure capacity was relating to sanitary capacity and the plant with issues handling the sewage capacity has been upgraded and is no longer an issue. Notice from the Engineering department is allowing it and there is a wastewater allocation form to be filled out by each applicant to assess if there is capacity in the area.

T. Tokarz confirmed that a severance on the other side is not possible to occur as the area is too small and would need three variances. He further clarified that the driveway will be relocated on the other side of the property and depending on if the Building Department will allow, the shed will be moved to the south side of the structure.

Moved by Greg Kempa

Seconded by Lee Rynar

- A. THAT Application B12/2020 to sever a parcel of land from the northern portion of the lands municipally addressed as 38 Golfdale Road, having a lot area of 761m² and retain a parcel of land having a lot area of 1,241 m² BE APPROVED subject to the conditions attached as Appendix A to Report 2020-446; 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 A18/2020 seeking relief from Section 7.2.3.2.2 of Zoning By-law 160-90 to permit a minimum lot width of 22.23 m, whereas 24.5 m is required for the severed lands of Application B12/2020 BE APPROVED; 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 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. 2020-446.”

CARRIED

Recorded vote on Item 3.4:

YES: Virginia Kershaw, Tara Gaskin, Dan Namisniak, Greg Kempa and Lee Rynar – 5

NO: None – 0

Item 3.4 carried unanimously on a recorded vote.

3.5 Application B13/2020 - 33 & 77 White Owl Crescent (2020-445)
Agent - Eddy Vance, Waterous Holden Amey Hitchon, LLP
Owner - Rajinder Gill

Eddy Vance, Agent from Waterous Holden Amey Hitchon, LLP, appeared before committee to provide an overview of the application. E. Vance advised the committee that he is looking to correct an inadvertence in registration to legally separate two properties. The properties are located on a crescent that abut each other on the rear and were inadvertently merged. E. Vance advised the application is to correct the merge and separate the parcels.

Brynne O'Neill, Development Planner, addressed the Committee and gave an overview of the Staff report. Brynne advised that the lots abut each other to the rear and had inadvertently merged as they had the same ownership. The application was circulated to all appropriate departments and agencies and no adverse comments were received. The intent of this application is to separate ownership of what already functions as two separate lots.

No members of the public spoke to this application.

Moved by Virginia Kershaw

Seconded by Lee Rynar

- A. THAT Application B13/2020 to sever 33 and 77 White Owl Crescent into two separate lots, both having lot areas of approximately 278.6 m², BE APPROVED, subject to the conditions attached in **Appendix A** of Report 2020-445; 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. 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 and consistent with the policies of the Growth Plan for the Greater Golden Horseshoe and 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. 2020-445”.

Recorded vote on Item 3.5:

YES: Virginia Kershaw, Tara Gaskin, Dan Namisniak, Greg Kempa and Lee Rynar – 5

NO: None – 0

Item 3.5 carried unanimously on a recorded vote.

4. PRESENTATIONS/DELEGATIONS

There were no Presentations/Delegations.

5. ITEMS FOR CONSIDERATION

There were no items for consideration.

6. CONSENT ITEMS

6.1 MINUTES

Moved by Greg Kempa

Seconded by Lee Rynar

THAT the following Minutes BE ADOPTED:

6.1.1 Committee of Adjustment - August 13, 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.

7. RESOLUTIONS

There were no Resolutions.

8. NOTICES OF MOTION

There were no Notices of Motion.

9. ADJOURNMENT

The meeting adjourned at 7:05 p.m.

Dan Namisniak, Chair

J. Sippel, Council & Committee
Services Coordinator