



COMMITTEE OF ADJUSTMENT MINUTES

March 4, 2021

5:30 p.m.

Brantford City Hall, 100 Wellington Square

D. Namisniak in the Chair

1. ROLL CALL

Present: Dan Namisniak, Virginia Kershaw, Gregory Kempa, Lee Rynar, Krystal Brooks, Michael Bodnar

Regrets: Tara Gaskin

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 B04/2021 and A12/2021 - 9 Broad Street and 130 Terrace Street, 2021-187

Applicant/Owner – Domenic Zavarella, Carriageview Homes

Agent - J.H. Cohoon Engineering Ltd.

Bob Phillips, J.H. Cohoon Engineering Ltd, Agent, and Domenic Zavarella, Owner, appeared before committee to provide an overview of the application. The application is to re-establish a lot which has merged in title with 130 Terrace Hill Street. The consent application is to create a lot that is in conformance with the Zoning By-law and be

consistent with lots in the neighbourhood. The site is challenging due to the topography on the lot. This application will be subject to site plan approval if approved. The second application has to do with a technical matter with respect to the front set of stairs (elevations submitted with application). The Agent and Applicant have read the report and are fully supportive of the recommendations.

In response to questions, Mr. Phillips advised retaining walls would be required because of the topography, ranging in height from less than 4ft to 7ft. All of the retaining walls would be established and maintained by the lot owner and all costs associated would be borne by the new homeowner.

Sean House, Development Planner, addressed the Committee and provided an overview of the Staff Report. Staff have received a consent and minor variance application for 9 Broad Street and 130 Terrace Hill Street. A single detached dwelling currently occupies the retained lands. The proposed severed lands are currently vacant. The applicant has indicated the properties were merged in titled due to them being held in the same ownership. The applicant is proposing to sever the previously existing lot at 9 Broad Streets to facilitate plans to construct a semi-detached dwelling. To facilitate the development, the applicant is seeking relief to permit an exterior staircase in the front yard. The applications have been circulated to all applicable departments and agencies. Engineering services have requested some conditions of approval.

Notice of Public Hearing was sent by personal mail to all property owners within 60 m as well as posting a sign on both the retained lands and the severed lands. Staff received 6 letters from adjacent property owners whose concerns relate to soil stability, proposed retaining walls, drainage, construction process, and existing vegetation and wildlife in the area. Staff have acknowledged the concerns as documented in the staff report. This application is for the purpose of re-creating a previously maintained lot and meets all the minimum lot requirements. The site plan control process will allow staff to have a detailed review of functionality of the site. Planning Staff are of the opinion that the variance is minor in nature and the staircase is not expected to have any adverse impacts to adjacent neighbours. Planning staff are of the opinion the application meets the 4 tests of act and recommend that applications B04/2021 and A12/2021 be approved.

Four members of the public registered to speak to the application.

Dan Lazaros appeared before Committee and spoke to the application. Mr. Lazaros resides directly beside the proposed building site. Mr. Lazaros is concerned about the impacts the proposal is going to have on his property as well as the neighbours and neighbourhood. Mr. Lazaros is concerned the proposed development will cause irreparable damage to his property and impede on his privacy. Mr. Lazaros would like to request an engineering report for the application. Mr. Lazaros is also concerned that

once the trees on the property have been removed, the rockery and plants on his property will be displaced without anything holding it together. Mr. Lazaros concluded that he has great concerns regarding the removing of dirt as well as efficiency and longevity of the retaining wall. The property is comprised of sand. Mr. Lazaros believes this project is far too aggressive for the property and the neighbourhood and stated he is not in favor of this application.

Mr. Lazaros provided photos of his property which have been placed in the meeting file.

Tyler Korpi appeared before Committee and spoke to the application. Mr. Korpi advised he is opposed to the severance as well as the entire development. The parcel is unsuitable to be built on based on the impact to the attached properties. Mr. Korpi is worried about the impact on his existing retaining walls and who will be responsible to fix them. When trees and roots are removed, what does it mean for soil stability? Mr. Korpi is worried about his historic foundation in his home and would like an engineering report. Mr. Korpi is concerned about the financial and legal risk of this application. Mr. Korpi urges Committee to deny this application.

In response to questions, Mr. Korpi advised he has two retaining walls on his property. One retaining wall is in rough shape and needs to be replaced but one is in decent shape and does not need to be replaced. Mr. Korpi is concerned he will have to cover the costs to put up a new retaining wall.

Helena Gunn appeared before Committee and spoke to the application. Ms. Gunn advised she bought her property solely for the back yard and she is concerned the new development will take away the back yard. Ms. Gunn advised she is opposed to the application.

Ms. Gunn provided photos of her property which have been placed in the meeting file.

Karen Stewart appeared before Committee and spoke to the application. Ms. Stewart supports the prior residents' concerns and objections to the new development. Terrace Hill has a very steep slope. People call it a sand hill. Ms. Stewart is concerned about the size of the building. She understands the building is 4000 sq. feet which she believes is at least double the size of the buildings around it. The development doesn't seem to be a suitable piece of land for such a large building. Ms. Stewart has severe concerns with the application as the property is such a challenging spot to build on.

In response to questions from residents, Mr. Phillips, Agent, advised Committee that Mr. Zavarella has already engaged Englobe Inc. to do some work with the stability of the slope to ensure there is not a failure in that regard. That will include the review of the retaining wall design and overall stability both during construction and the long term. In addition, the style of wall we are visualizing is a gravity style wall and not a tie back wall. Once the report is in place, there may be some changes to the size of the building in

order to accommodate the retaining walls and overall slope stability. The conditions imposed by City Staff provide protection to the neighbours and there will be an extensive review of those reports including grading.

In response to questioning, Mr. Zavarella, Applicant, advised they have no problem doing a self-supporting wall to avoid tie backs on neighbours properties. As compensation to the neighbours, we are providing a number of incentives to them and have prepared a very detailed agreement for all neighbors. Mr. Zavarella has also provided all neighbours with insurances with them being named as an insured. Mr. Zavarella agreed to put a wall up and install pressure treated fencing. Mr. Zavarella advised he is willing to work with all the neighbours and hopes they are willing to work with him.

In response to questions of Committee, Mr. Zavarella advised it makes more sense to build a 3 level building because of the grade of the property. If a lower one story home was built, it would mean the footprint would be bigger to allow a larger main floor area. Mr. Zavarella advised when he bought the property he bought the single lot on 9 Broad Street first and later offered to buy the entire property. Mr. Zavarella confirmed there will be a future application to sever the units into separate ownership.

Moved by Virginia Kershaw

Seconded by Greg Kempa

- A. THAT Application B04/2021 to sever parcel of land from the south portion of the lands municipally addressed as 9 Broad Street and 130 Terrace Hill Street, having a lot area of 605 m² and retain a parcel of land having a lot area of 589 m², BE APPROVED subject to the conditions attached as Appendix A to Report 2021-187; 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 consent application is desirable and compatible with the surrounding area. 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 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 A12/2021 seeking relief from Section 6.4.1.1 to permit an exterior staircase to project a maximum of 3 m into a front yard, whereas an exterior staircase is not permitted to project into the front yard, 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. 2021-187.”

Committee discussed the feasibility of the application.

FAILED

Recorded vote on Item 3.1:

YES: Virginia Kershaw, Dan Namisniak – 2

NO: Greg Kempa, Lee Rynar, Michael Bodnar, Krystna Brooks – 4

Item 3.1 failed on a recorded vote of 2 to 4

Moved by Michael Bodnar

Seconded by Greg Kempa

THAT Reasons for REFUSAL are as follows:

Potential for future damage through erosion to the neighbors properties in addition to 9 Broad Street; encroachment to the neighbours property surrounding 9 Broad Street; the future cost of the retaining wall for the adjoining property owners would be become responsibility of adjoining property owners; and the development is not in keeping with the neighbourhood, geography and topography of area.

CARRIED

Recorded vote on 3.1 – Reasons for Refusal:

YES: Greg Kempa, Krystyna Brooks, Lee Rynar, Michael Bodnar – 4

NO: Virginia Kershaw, Dan Namisniak – 2

Item 3.1 - reasons for refusal carried on a recorded vote of 4 to 2.

3.2 Application A11/2021 - 3 Allwood Street, 2021-176

Applicant/Owner Lisa Anne Labinowicz

Agent - John Labinowicz

John Labinowicz, Agent, and Lisa Labinowicz, Applicant appeared before Committee and provided an overview of the application. The application is to convert an attached garage to a double garage. As this is a rear yard, the requirement is 7.5 m. The rear yard is only 6.15 m therefore a minor variance is required. A grading and draining plan was has been provided. Mr. Labinowicz is seeking support for the application.

Lisa Labinowicz, Applicant, advised she is currently a stem teacher and needs an addition to conveniently store all her teaching supplies.

Sean House, Development Planner, appeared before Committee and gave an overview of the Staff Report. A single detached dwelling currently occupies the site. The applicant is proposing to expand their existing attached garage into a double car garage. To facilitate the expansion, the applicant is seeking relief to in order to permit a rear yard of 1.8 m whereas 7.5 m is required. Planning staff are satisfied that the 4 tests of the Planning Act have been met. Notice of the Public Hearing was circulated to all property owners within 60 m and no objections were received. Staff recommend this application be approved.

In response to questions, Sean House, Development Planner advised there is an exterior side yard and interior side yard. Where the applicant is proposing to expand the garage is technically the rear yard but is considered functionally as the side yard. Minimum side yard is 1 m if a garage is present.

No members of the public registered to speak to the application.

Moved by Lee Rynar

Seconded by Greg Kempa

- A. THAT Application A11/2021 seeking relief from Section 7.3.2.1.6 of Zoning By-law 160-90 to permit a rear yard of 1.8 m, whereas 7.5 m is required 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 160-90, 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 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. 2021-176.”*

CARRIED

Recorded vote on 3.2:

YES: Greg Kempa, Krystyna Brooks, Lee Rynar, Michael Bodnar, Virginia Kershaw, Dan Namisniak – 6

NO: None - 0

Item 3.2 carried on a recorded vote of 6 to 0.

3.3 Application B06-2021 - 150 Savannah Oaks Drive, 2021-179

Applicant/Owner – Brantford Power Inc.

Agent - Kevin Muir ,GSP Group Inc.

Kevin Muir, Senior Planner, GSP Group Inc., Agent, appeared before Committee and provided an overview of the application. GSP Group appeared before Committee approximately one year ago for a small lot addition to the west end of this property. This application now pertains to the east end. Brantford Power has deemed 11 acres as surplus to their needs and wish to create a lot for potential disposition of the property. At this time there are no plans in terms of a sale of the property.

Sean House, Development Planner, appeared before Committee and gave an overview of the Staff Report. The lands are occupied by a large industrial office building and associated parking lot and a pond. The subject lands are designated business park industrial in the Official Plan and zoned business park – industrial park –exception 5 – in Zoning By-law 160-90. The applicant is proposing to sever 11.1 hectares of land on the east side of the property. The existing office building will remain on the retained parcel which will have an area of 6 hectares. In staff’s opinion, the proposed lot does comply with all regulations. Notice of Public Hearing was circulated to all property within 60 m and no objections were received. This application was circulated to all applicable departments and agencies and no objections were received. Staff are recommending the application be approved.

Moved by Greg Kempa

Seconded by Virginia Kershaw

- A. THAT Application B06/2021 to sever 11.1 hectares of land from 150 Savannah Oaks Drive, and retain a parcel of land having a lot area of 6 hectares BE APPROVED, subject to the conditions attached in Appendix A of Report No. 2021-179; 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 conforms 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. 2021-179.”

CARRIED

Recorded vote on 3.3:

YES: Greg Kempa, Krystyna Brooks, Lee Rynar, Michael Bodnar, Virginia Kershaw,
Dan Namisniak – 6

NO: None - 0

Item 3.3 carried on a recorded vote of 6 to 0.

3.4 Application B07-2021 and B08-2021 - 179 Garden Ave., 2021-145

Applicant/Owner - 2725125 Ontario Inc.
Agent - MHBC Planning

Stephanie Mirtitsch, MHBC Planning, Agent, appeared before Committee and provided an overview of the application. The purpose of this application is for two severance applications to create three separate industrial lots to allow for the future development of three separate industrial buildings. Each proposed building will be required to go through separate Site Plan Applications in the future. We have reviewed the comments provided and are fully supportive of the staff recommendations and conditions.

Sean House, Development Planner, appeared before Committee and gave an overview of the Staff Report. Staff have received two consent applications. The lands are located on the east side of Garden Avenue and are currently vacant. The applications intend to sever the lands into three separate industrial lots with each lot containing an industrial building with external office space. There are adequate municipal services and the applications won't restrict development of any adjacent areas. Notice of public hearing was circulated to all property within 60 m and no objections were received. Notice of this application was circulated to all applicable departments and agencies and no objections were received. Staff are recommending the application be approved.

Moved by Virginia Kershaw

Seconded by Michael Bodnar

- A. THAT Application B07/2021 to sever a parcel of land from the northern portion of the lands municipally addressed as 179 Garden Avenue, having a lot area of 11,840 m² (Lot A, Appendix C) and retain a parcel of land having an area of 28,187 m², BE APPROVED subject to the conditions attached in Appendix A1 of Report No. 2021-145; and
- B. THAT Application B08/2021 to sever a parcel of land from the retained lands of application B07/2021, municipally addressed as 179 Garden Avenue, having a lot area of 18,225 m² (Lot C, Appendix C) and retain a parcel of land having an area of 9,962 m² (Lot B, Appendix C), BE APPROVED subject to the conditions attached in Appendix A2 of Report No. 2021-145; and
- C. THAT reasons for approval 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, conforms with the policies of the Growth Plan for the Greater Golden Horseshoe and is consistent with the Provincial Policy Statement; and

- D. 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 Decisions:

“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. 2021-145.”

CARRIED

Recorded vote on 3.4:

YES: Greg Kempa, Krystyna Brooks, Lee Rynar, Michael Bodnar, Virginia Kershaw, Dan Namisniak – 6

NO: None - 0

Item 3.4 carried on a recorded vote of 6 to 0.

4. PRESENTATIONS/DELEGATIONS [list, if any, available at the meeting]

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 Krystyna Brooks

THAT the following minutes BE APPROVED:

6.1.1 Committee of Adjustment - February 3, 2021

CARRIED

7. RESOLUTIONS

There were no Resolutions.

8. NOTICES OF MOTION

There were no Notices of Motion.

9. ADJOURNMENT

The meeting adjourned at 7:34.

Dan Namisniak, Chair

E. Vokes, Council & Committee
Services Coordinator