

The Corporation of the City of Kawartha Lakes

Minutes

Committee of Adjustment Meeting

COA2018-011
Thursday, November 8, 2018
1:00 P.M.
Victoria Room
City Hall
26 Francis Street, Lindsay, Ontario K9V 5R8

Members:
Councillor Kathleen Seymour-Fagan
Betty Archer
David Marsh
Sandra Richardson
Lloyd Robertson
Steve Strathdee

Accessible formats and communication supports are available upon request.

1. Call to Order

Vice Chair D. Marsh called the meeting to order at 1:02pm. Councillor K. Seymour-Fagan and Members, B. Archer and S. Richardson were in attendance.

Acting Secretary-Treasurer - M. LaHay
Recording Secretary - C. Crockford-Toomey

Absent: L. Robertson and S. Strathdee

2. Administrative Business

2.1 Adoption of Agenda

November 8, 2018
Committee of Adjustment Meeting Agenda.

Moved By S. Richardson

Seconded By B. Archer

That the agenda for the November 8, 2018 meeting be approved.

Carried

2.2 Declaration of Pecuniary Interest

There were no declarations of pecuniary interest noted.

2.3 Adoption of Minutes

October 18, 2018
Committee of Adjustment Meeting Minutes.

Moved By B. Archer

Seconded By S. Richardson

That the minutes for the previous meeting held October 18, 2018 be adopted as circulated.

Carried

3. New Applications

3.1 Minor Variances

3.1.1 COA2018-070

David Harding, Planner II
File Number: D20-2018-053
Location: Part Lots 3 and 4, Concession 2
Geographic Township of Emily
Owner: Clifford Tate
Applicant: Doug Carroll

Mr. Harding summarized Report COA2018-070. Permission sought to recognize the location of two additions to a dwelling within the Environmental Protection Zone and/or within 15 metres of the EP Zone category boundary whereas Sections 3.13 and 3.18 and Part 5 currently do not permit such expansion. Permission is also sought to construct two decks abutting a dwelling within the EP Zone category and/or within 15 metres of the EP Zone category boundary whereas Sections 3.13 and 3.18 and Part 5 currently do not permit such expansion. Mr. Harding continued to say that there were two affidavits submitted in support of the application. It was his opinion that the affidavits provided insufficient information to confirm that the use has legal non-conforming status. Mr. Harding also noted the letter of objection submitted by Mr. and Mrs. Dupuis of 1055 Ski Hill Road that noted the building had been completely demolished and replaced by a new building. Mr. Harding stated that if further affidavits had been submitted to assist in demonstrating the use was legal non-conforming, any legal non-conforming status would have been lost with the demolition of the building containing the use.

Mr. Harding cited additional comments received from Mr. and Mrs. Dupuis of 1055 Ski Hill Road after the report was written pertaining to the criteria used to evaluate significant wildlife habitat and concerns over some of the content provided in the more recent affidavit.

The applicant, Mr. Doug Carroll, DC Planning Services Inc. was present and spoke. He distributed copies of the following materials to the Committee:

1. Photographs of the property taken by Mr. Tate when he purchased the property,
2. More recent photographs of the property after the alterations to the building used for residential purposes took place,
3. The two affidavits submitted in support of the application,
4. The letter prepared by Mr. Tate addressed to the Director of Development Services dated August 25, 2016,
5. The letter prepared by the Director of Development Services dated September 1, 2016,
6. The aerial photograph and sketch submitted with the application; and
7. Proposed conditions for Committee's consideration should they decide to grant the application as applied for.

Mr. Carroll stated that the application to expand a legal non-conforming use as an application submitted under Section 45(2) of the Planning Act is not required to meet any tests when determining whether or not the proposal represents good planning as the required tests apply to applications submitted under Section 45(1) of the Planning Act. He cited various sections on the Planning Act, CKLOP

and Township of Emily Zoning By-law which speak to the continuation and expansion of legal non-conforming uses. He continued to say there had been three owners from 1973 until today, and that the terms cabin and dwelling were used interchangeably in the affidavits because those providing the affidavit do not distinguish a difference between a cabin and dwelling. He further stated that the zone provisions which permit the restoration to a safe condition of a building were satisfied, but had been satisfied without the benefit of a building permit.

Mr. Carroll also confirmed that the kitchen, which existed in the early 1970s, disposed of its wastewater via pit privy and that a pit privy was used to deal with human waste. A porta potty was more recently brought in to handle toilet waste as the pit privy contained poison ivy. Mr. Tate had constructed additions to the building being used for residential purposes without a building permit, and that he was convicted and fined \$3700 and paid it in 2017. Mr. Carroll stressed that it is within the Committee's authority to approve the application and provided a set of conditions for Committee's consideration if the application was granted.

The Committee had several questions for Mr. Carroll regarding if there were outstanding Ontario Building Code and Conservation Authorities Act violations, what the total size of the dwelling is, and how the building should be classified as it is too big for a cabin and too small for a dwelling.

Mr. Carroll replied to Committee's questions.

Speaking in opposition to the application, Mr. Benoit Dupuis was present and spoke. He stated that the building was never a dwelling, and was used very infrequently as a cabin. He advised that Mr. Tate had been well aware that the building was in an environmentally protected area before any modifications took place because he had advised Mr. Tate of this. Mr. Dupuis further stated that he had observed that the original building was jacked up as the foundation had rotted. He went on to state that the original building had been removed and demolished, with some walls put off to the side. He further stated that a tile bed had been installed with a holding tank but this had been subsequently removed. He voiced his concern over the noise the generator made which supplies power to the building. He voiced additional concern over the volume of fill that had been brought in, which was disturbing the natural environment.

The Chair explained to Mr. Benoit that there are tests the application must meet, and the Committee will listen to all information presented in order to make an informed decision.

The Chair asked staff if they had anymore information to add. Staff replied that the points examined within the report remain valid, and that it was their opinion

that the restoration to safe condition provisions could only be applied if permits had been obtained before the alteration took place. Staff further added that if the building had been demolished and reconstructed, than any legality the non-conforming use may have had ceased once the building that contained the use ceased to exist.

Councillor Martin was present and spoke in opposition to the application. Councillor Martin stated that permits had not been obtained for the existing development, that animals in coops have been brought in which are soiling the water, and that the generator is loud. She stated that a septic system had gone in which had required a lot of fill, that the building was a shed to begin with, and that the owner should move the building elsewhere on the property outside of the EP Zone.

The applicant, Mr. Carroll cited 45(2) Planning Act once more. The Committee asked Mr. Carroll if the owner had in fact demolished and constructed a new building. Mr. Carroll replied that he was unaware of whether a demolition had taken place. Mr. Carroll confirmed that a septic system that had been installed was removed by his client, and was of the opinion that the generator was not loud.

The Committee asked staff if there was a timeline on a non-conforming use. Staff replied, no timeline. The Committee asked staff for clarification as to whether a shed is permitted in an EP Zone. Staff replied that a shed is not permitted in an EP Zone. The Committee asked whether the owner would be permitted to construct a patio in place of a deck if the application was denied. Staff responded that an at-grade patio would not be subject to the zoning by-law as it would be considered landscaping, but that permits may be required from the conservation authority given the nature of the site.

Moved By Councillor Seymour-Fagan

Seconded By S. Richardson

THAT minor variance/permission application D20-2018-053 be DENIED, as the application does not meet the tests set out in Section 45(2) of the Planning Act to permit the expansion of a use that is in an Environmental Protection (EP) Zone.

Carried

Quadri Adebayo, Planner II
 File Number: D20-2018-055
 Location: 61 Kenhill Beach Road
 Part Lot 10, Concession 3, Lot 29, Plan 192
 Geographic Township of Verulam
 Owner: Richard Kearney
 Applicant: Joe Hood

Mr. Adebayo summarized Report COA2018-072, to request relief in order to permit the construction of a second floor addition to a single detached dwelling.

The Committee questioned if there were any concerns with the detached garage being close to the front lot line and the house. Staff replied the Building Division has no concerns, and that the garage which was built in 1932 predates the by-law and not part of the proposed variance.
 It is legal non-complying with such a time as a minor variance request is received for the garage.

The applicant was not present. No further questions from the Committee.

Moved By B. Archer

Seconded By Councillor Seymour-Fagan

That minor variance application D20-2018-055 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

1. **That** the construction of the dwelling related to this approval shall proceed generally in accordance with the sketch in Appendix C and elevations in Appendix D submitted as part of Report COA2018-072, which shall be attached to and form part of the Committee's Decision. Any deviation from these specifications will require review by the City and may necessitate further approvals to be granted by the City and/or any other governing agency, body or authority, where applicable;
2. **That** prior to the issuance of a building permit for the proposed addition, the applicant shall obtain all necessary permits required from the Kawartha Region Conservation Authority (KRCA) prior to construction. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the KRCA advising that the permitting process have been initiated to its satisfaction;

3. **That** notwithstanding the definition of front yard, the granting of the variance for the reduced front yard depth will not be interpreted to permit the placement of any other accessory buildings between the front wall of the dwelling and the front lot line; and
4. **That** the building construction related to the minor variance shall be completed within a period of twenty-four (24) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the first Building Inspection.

This approval pertains to the application as described in report COA2018-072. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Carried

3.1.3 COA2018-073

David Harding, Planner II
 File Number: D20-2018-056
 Location: 1473 Highway 7A
 Part of Lot 24, Concession 8, Lot 4, Part Lot 5, Plan 5
 Geographic Township of Manvers
 Owner: 2341209 Ontario Inc.
 Applicant: Carla Gray

Mr. Harding summarized Report COA2018-073, to request relief in order to permit the construction of a storage and receiving area to the north of the existing store. Through pre-screening, the applicant was made aware of the need to apply for a deeming by-law to consolidate Lot 4 with Part of Lot 5 on Registered Plan 5. Deeming by-law application D30-2018-014 was submitted concurrently with the variance application.

The applicant, Carla Gray was present but did not speak.

The Committee did not have questions.

Moved By S. Richardson
Seconded By B. Archer

That minor variance application D20-2018-056 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

1. **That** the construction of the addition related to this approval shall proceed substantially in accordance with the sketch and elevations in Appendices C and D submitted as part of Report COA2018-073, which shall be attached to and form part of the Committee's Decision;
2. **That** prior to the issuance of a building permit, the Chief Building Official or his/her designate shall submit written confirmation to the Secretary-Treasurer that the shed to the immediate north of the dwelling on the subject property has been relocated so that it maintains a setback of 1.3 metres from the west side lot line and a setback of 1.3 metres from the dwelling;
3. **That** prior to the issuance of a building permit, the Chief Building Official or his/her designate shall submit written confirmation to the Secretary-Treasurer that the shed to the immediate north of the commercial use that occupies a portion of the footprint for the proposed addition has been removed from the property;
4. **That** prior to the issuance of a building permit, the owner's application to have Lot 4, Registered Plan 5 be subject of a Deeming By-law in accordance with Subsection 50(4) of the Planning Act be approved by Council and the by-law be in effect; and
5. **That** the building construction related to the minor variances shall be completed within a period of twenty four (24) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the first Building Inspection.

This approval pertains to the application as described in report COA2018-073. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Carried

3.1.4 COA2018-074

Quadri Adebayo, Planner II
 File Number: D20-2018-057
 Location: 674 County Road 24
 Part Lot 12, Concession 6, 57R-3813, Part 3
 Geographic Township of Verulam
 Owner: Cheryl Dodge
 Applicant: Tom deBoer

Mr. Adebayo summarized Report COA2018-074, to request relief to reduce the minimum water setback in order to permit the construction of a supplementary storey of living space and an attached garage.

The applicant, Mr. Tom deBoer was present and spoke. He thanked staff for the report. He clarified that he has applied for a permit with KRCA for shoreline restoration work and that in the spring the foundation work will begin. which will enable vehicular access to proceed with the shoreline works, but the KRCA permit is contingent on Committee's approval of the minor variances.

Mr. William (Ted) Connor, neighbour, was present and spoke to the Committee with concerns as to erosion and heavy equipment, also the effect it may have to his property. Mr. Connor thanked staff for replying to questions prior to the meeting. He also thanked the Committee for letting his concerns be heard and asked that a tree by-law be created by the City for which he is willing to provide input towards the creation of such by-law. Mr. Connor also asked that his input and review be filed with the Committee of Adjustment. The Chair advised Mr. Connor to send a copy of his concerns to the KRCA, Trent Severn Waterway and Councillor Seymour-Fagan.

Moved By Councillor Seymour-Fagan

Seconded By S. Richardson

That minor variance application D20-2018-057 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

1. **That** the construction of the dwelling related to this approval shall proceed generally in accordance with the sketch in Appendix C and elevations in Appendix D submitted as part of Report COA2018-074, which shall be attached to and form part of the Committee's Decision. Any deviation from these specifications will require review by the City and may necessitate further approvals to be granted by the City and/or any other governing agency, body or authority, where applicable;
2. **That** prior to the issuance of a building permit for the proposed dwelling, the frame shed located on the property be removed or relocated on the property in a compliant manner at a minimum water setback of 15 metres;
3. **That** upon completion of the construction of the proposed addition, as part of building permitting process, there be a requirement that the frame garage

located in the front yard, and the frame shed identified in Condition 2 shall be removed from the property to the satisfaction of the Chief Building Official;

4. **That** notwithstanding the definition of rear yard, the granting of the variance for the reduced water setback will not be interpreted to permit the placement of any other accessory building or structure between the rear wall of the dwelling and the water's edge;
5. **That** upon completion of the construction of the proposed addition, the applicant shall submit approval documentation from the Kawartha Region Conservation Authority (KRCA) for the shoreline restoration works, along with a revised survey sketch. The revised survey sketch shall show the improved water setback of the rear wall limits of both the existing building and the proposed addition as being increased than the water setback values shown in Appendix C following the shoreline restoration works. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the KRCA advising the shoreline restoration works and the revised sketch have been completed to its satisfaction; and
6. **That** the building construction related to the minor variance shall be completed within a period of twenty-four (24) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the first Building Inspection.

This approval pertains to the application as described in report COA2018-074. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Carried

3.1.5 COA2018-078

Quadri Adebayo, Planner II

File Number: D20-2018-61

Location: 42 Mary Street West

Part Park Lot 4, Plan 109, South Mary Street, West Sturgeon

Former Village of Omemee

Owner: David Ellenzweig

Applicant: Scott Mainhood

Mr. Adebayo summarized Report COA2018-078, the purpose and effect is to recognize the supplementary accessory buildings on the property being a storage shed and a wood shed, in conjunction with a detached garage.

The Committee asked if a gazebo is classed as an accessory structure. Staff replied yes as it is constructed of parts joined together and attached to the ground and has a cover.

No further questions.

Moved By B. Archer

Seconded By S. Richardson

That minor variance application D20-2018-061 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

1. **That** the accessory buildings related to this approval shall proceed generally in accordance with the sketch in Appendix C and elevations in Appendix D submitted as part of Report COA2018-078, which shall be attached to and form part of the Committee's Decision. Any deviation from these specifications will require review by the City and may necessitate further approvals to be granted by the City and/or any other governing agency, body or authority, where applicable;
2. **That** the applicant shall remove the open-air gazebo located in the rear yard to the satisfaction of the Chief Building Official. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the Chief Building Official advising that the open-air gazebo has been removed to his/her satisfaction under the Ontario Building Code; and
3. **That** the applicant shall complete the Building Permit process to the satisfaction of the Building Division. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the Chief Building Official advising that the accessory building situation has been satisfied to his/her satisfaction under the Ontario Building Code; and
4. **That** the Building Permit process shall be completed within a period of twelve (12) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon receipt of a confirmation letter by the Secretary-Treasurer from the Chief Building Official.

This approval pertains to the application as described in report COA2018-078. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Carried

3.2 Consents

4. Deferred Applications

4.1 Minor Variances

4.2 Consents

5. Correspondence

6. Other Business

The Vice Chair, Mr. Marsh confirmed that the proposed dates for the Committee of Adjustment meetings for 2019 were distributed at the meeting.

Mr. Holy, Manager of Planning requested that the Committee members provide him with their mileage calculations.

7. Next Meeting

The next meeting will be Thursday, November 29, 2018 at 1:00pm in the Victoria Room, City Hall.

8. Adjournment

Moved By B. Archer

Seconded By S. Richardson

That the meeting adjourned at 3:28pm.

Carried

Mark LaHay, Secretary-Treasurer