

The Corporation of the City of Kawartha Lakes

Minutes

Committee of Adjustment Meeting

COA2019-03
Thursday, March 21, 2019
1:00 P.M.
Council Chambers
City Hall
26 Francis Street, Lindsay, Ontario K9V 5R8

Members:
Emmett Yeo
David Marsh
Andre O'Bumsawin
Sandra Richardson
Lloyd Robertson
Steve Strathdee

Accessible formats and communication supports are available upon request.

1. Call to Order

Chair Robertson called the meeting to order at 1:00pm. Councillor E. Yeo and Members D. Marsh, A. O'Bumsawin, S. Richardson and S. Strathdee were in attendance.

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

2. Administrative Business

2.1 Adoption of Agenda

March 21, 2019
Committee of Adjustment Agenda

Moved By D. Marsh

Seconded By S. Strathdee

That the agenda for the March 21, 2019 meeting be approved.

Carried

2.2 Declaration of Pecuniary Interest

There were no declarations of pecuniary interest noted.

2.3 Adoption of Minutes

2.3.1 COA2019-02.2.3.1

February 21, 2019

Committee of Adjustment Meeting Minutes

Moved By D. Marsh

Seconded By E. Yeo

That the minutes for the previous meeting held February 21, 2019 be adopted as circulated.

Carried

3. New Applications

3.1 Minor Variances

3.1.1 COA2019-014

Ian Walker, Planning Officer, Large Developments

File Number: D20-2019-007

Location: 7843 Highway 35

Part Lot 11, Concession 11

Geographic Township of Laxton

Owner: 8536945 Canada Inc.

Applicant: Nitin Malhotra of N Architecture Inc.

Mr. Walker summarized Report COA2019-014, to request permission and relief in order to permit the replacement of the existing motor vehicle gasoline bar and accessory convenience store use with a larger accessory convenience store,

restaurant and a dwelling unit. The minor variances meet the four tests described in the Planning Act.

Comments received from the agencies: MTO, Building Division, Part 8 Sewage Systems Program, KRCA and Engineering and Corporate Assets had no issues, concerns or objections. TSSA stated that the applicant is required to apply for a TSSA license and submit a Site Plan for review for the new gas bar and submit an Environmental Assessment Report once the current underground tanks and piping are removed. Public comments received from Alan Percy on behalf of 821798 Ontario Inc. (Feb 21/19) requested a Notice of Decision, and advised his concerns as to the potential contamination to the abutting property from the existing fuel tanks.

The Committee asked Staff if MTO has concerns with the variances. Staff replied there is a left hand turn and right of way which is being addressed through the Site Plan submission.

The Committee continued to question page 5 of the report. Public concerns from Mr. Percy, owner of abutting property, concerning potential contamination when tanks are removed or possibly have leaked in the past. Staff responded by saying the tanks are likely over 20 years old. Those tanks may have leaked. The owner must apply for TSSA approval. As part of the TSSA approval, they would require the owner to clean up the land.

The applicant, Pankaj Malik was present and spoke to the Committee. He confirmed he would apply for a TSSA license and would replace all tanks with new and clean up the land.

No further questions from the Committee or other persons.

Moved By D. Marsh

Seconded By E. Yeo

That minor variance application D20-2019-007 be GRANTED, as the application meets the tests set out in Section 45(1) and Section 45(2) of the Planning Act.

Conditions:

1. **That** the building construction related to this approval shall proceed substantially in accordance with the sketch in Appendix 'C' submitted as part of Report COA2019-014, which shall be attached to and form part of the Committee's Decision; and
2. **That** the Site Plan Agreement for the subject property be executed and registered on title within 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 registration of the Site Plan Agreement on title.

This approval pertains to the application as described in report COA2019-014. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Carried

3.1.2 COA2019-018

David Harding, Planner II
 File Number: D20-2019-010
 Location: 159 Shadow Lake Road 3
 Lot 10, Concession 11, Part Lot 6, Plan 525
 Geographic Township of Laxton
 Owner: Hormoz Sherkat

Mr. Harding summarized Report COA2019-018, to request relief to recognize the reduced side yard setback of a detached garage.

Mr. Harding noted that since the writing of the report, comments were received from the Kawartha Region Conservation Authority (KRCA), Building Division and the Engineering and Corporate Assets Department, and none of those offices has any objections to the proposal.

The Committee asked for clarification on why the minimum side yard requirement for a detached garage within a front yard was greater than if it had been placed in an interior side or rear yard. Staff confirmed that the by-law makes an exception to the yard location requirements for accessory buildings to permit detached garages within front yards, but subjects them to the same setback requirements as a dwelling. This results in the interior side yard setback requirement

increasing from 1.2 metres to 1.3 metres once the detached garage is proposed within the front yard.

No further questions from the Committee or other persons.

Moved By S. Strathdee

Seconded By S. Richardson

That minor variance application D20-2019-010 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Condition:

1) **That** the owner shall carry out the final inspection and closure of the building permit file within six (6) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused.

This approval pertains to the application as described in report COA2019-018. Fulfillment of the condition is required for the Minor Variance to be considered final and binding.

Carried

3.1.3 COA2019-019

David Harding, Planner II
File Number: D20-2019-011
Location: 133 Oakdene Crescent
Lot 3, Plan 354
Geographic Township of Mariposa
Owners: Idele and Rod Hynes

Mr. Harding summarized Report COA2019-019, to create a two storey dwelling by raising the main level and constructing a new level below, to permit the construction of two decks, and to recognize two sheds.

Mr. Harding noted that since the writing of the report, comments were received from Engineering and Corporate Assets Department, Community Services Department, and the Trent Severn Waterway all noting no objections to the proposal.

The Committee asked for clarification as to whether the shoreline served as the boundary between the Environmental Protection Zone and the rear lot line of the subject property. Staff clarified that this was the case for the subject property.

The Committee also questioned whether a 30 metre minimum water setback was a standard setback within the City's zoning by-laws. Staff replied that a 30 metre water setback is standard to shoreline properties subject to the Township of Mariposa and Township of Emily Zoning By-laws.

The owners, Mr. and Mrs. Hynes were present but did not speak.

No further questions from the Committee or other persons.

Moved By D. Marsh

Seconded By S. Richardson

That minor variance application D20-2019-011 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

1. **That** the building construction related to this approval shall proceed substantially in accordance with the sketch in Appendix C submitted as part of Report COA2019-019, which shall be attached to and form part of the Committee's Decision;
2. **That** within 24 months after the date of the Notice of Decision the owners shall submit to the Secretary-Treasurer photographic evidence confirming that the building identified on Appendix C to Report COA2019-019 as Shed 2 has been relocated; and
3. **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 COA2019-019. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Carried

3.1.4 COA2019-020

Quadri Adebayo, Planner II

File Number: D20-2019-012

Location: 14-Fifth Street
 Part Lot 100, Plan 73
 Former Village of Sturgeon Point
 Owner: Norman Howard
 Applicant: Kevin Clynch Ltd.

Mr. Adebayo summarized Report COA2019-020, to request relief to construct a one half storey single detached dwelling, an addition to a detached garage and total lot coverage provision for the single detached dwelling and detached garage. Staff also brought to the attention of the Committee an amendment to the report. Item 4, Section 5.2 f. maximum lot frontage requirement from 20% to 30% was advertised and circulated. The report was amended to read Item 4, Section 5.2 f. to increase the maximum lot coverage requirement from 20% to 30%.

Comments were received from the Building Division and Community Service with no concerns. KRCA had no objections to the proposed variances provided construction proceeds as per plans permitted under their permit. Engineering and Corporate Assets had no objections and Part 8 Sewage System Supervisor had no issues.

The minor variance meets the four tests prescribed under the Planning Act.

The applicant, Mr. Howard was present but did not wish to speak.

The Committee had no questions. No other persons spoke to the application.

Moved By A. O'Bumsawin

Seconded By E. Yeo

That minor variance application D20-2019-012 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 and the detached garage related to this approval shall proceed generally in accordance with the sketch in Appendix C and elevations in Appendix D1 and Appendix D2 submitted as part of Report COA2019-020, 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** notwithstanding the definition of front yard, the granting of the variance for the reduced front yard setback will not be interpreted to permit the placement of any other structure or accessory building between the front wall of the dwelling and the front lot line;
3. **That** the owner acknowledge through the granting of this approval that the detached garage shall not be used for human habitation, and shall not be connected to water or septic facilities. Similar wording shall be placed on the required building permit; 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.

Carried

3.1.5 COA2019-021

Quadri Adebayo, Planner II

File Number: D20-2019-013

Location: 268 Pigeon Creek Road

Part of Lot 5, Concession 12

Geographic Township of Manvers

Owners: Bradley and Donna Cannon and Terry Robbins

Mr. Adebayo summarized Report COA2019-021, to request relief to reduce the minimum setback from the front lot line in order to permit the construction of a detached garage in the front yard, and confirmed that upon completing the construction of the detached garage, Shed 2 will be removed from the property as part of the conditions.

No objections or concerns were received from the Building Division, Community Services, Engineering and Corporate Assets and KRCA. No public comments were received. The minor variance meets the four tests as prescribed under the Planning Act.

The Committee drew attention to page 4 of the report, Test 3, last paragraph where it states that 8% maximum lot coverage is required, whereas the

applicant's proposal is for 6.4%. Staff confirmed applicant is allowed up to a maximum of 8%.

The applicant was not present.

No further questions from the Committee or other persons.

Moved By S. Richardson

Seconded By D. Marsh

That minor variance application D20-2019-013 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 accessory building 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 COA2019-021, 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 owner acknowledge through the granting of this approval that the detached garage shall not be used for human habitation, and shall not be connected to water or septic facilities. Similar wording shall be placed on the required building permit;
3. **That** notwithstanding the definition of front yard, the granting of the variance for the reduced front yard setback will not be interpreted to permit the placement of any other accessory buildings or structures between the front wall of the dwelling and the front lot line;
4. **That** prior to the issuance of a building permit for the detached garage, the steel storage container located in the front yard be removed from the property to the satisfaction of the Chief Building Official;
5. **That** prior to construction of the detached garage, the applicant shall obtain permit from Kawartha Conservation (KRCA). This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the KRCA advising that permitting process has been initiated by the applicant;
6. **That** as part of building permitting process, upon the complete construction of the detached garage, there be a requirement that the shed (Shed 2) located in the front yard between the eastern wall of the dwelling and the easterly

property line shall be removed from the property to the satisfaction of the Chief Building Official; and

7. **That** the building construction related to the minor variance shall be completed within a period of twenty-four (24) months after the date of 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 COA2019-021. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Carried

3.2 Consents

3.2.1 COA2019-015

Janet Wong, Planner II

File Number: D03-16-015

Location: 305 St. Luke's Road

Lot 6, Concession 10

Geographic Township of Emily

Owners: Robert and Shari Carroll

Applicant: EcoVue Consulting Services Inc. (Ken Hurford)

Ms. Wong summarized Report COA2019-015, to sever four residential lots being applications D03-16-015, D03-16-016, D03-16-017 and D03-16-18, with areas ranging from 0.35 hectares to 0.47 hectares and retaining approximately 15.3 hectares of vacant rural land. Ms. Wong noted an error on page 32 of 34 of the appendices, Consent file D03-16-018, Condition 1, Lot 3 should read Lot 4.

The Committee asked why the Consents were not considered for approval through the Director of Development Services. Staff replied that the neighbours had concerns which were not clarified so it was brought to the Committee of Adjustment.

The Committee also required clarification on water supply. Will there be one well to cover Lots 2 to 4 or individual wells. Staff confirmed there would be individual wells and septic for each lot. The Committee also asked for clarification as to

which drawing showed the final severance. Staff responded Appendices C1 and D refer to Lot 1; C2 and D refer to Lot 2, etc. along with the respective proposed Condition 1 for each application.

The applicant, Ken Hurford of EcoVue Consulting Inc. was present and spoke to the Committee confirming that all questions brought forward by concerned neighbours were addressed.

The owner, Robert Carroll was present and spoke. He asked for clarification on cash-in-lieu of parkland, for Lot 1: would this only be for the land or include the house. Staff replied that cash-in-lieu of parkland would just be for the land.

The Committee nor any persons had further questions.

Moved By E. Yeo

Seconded By D. Marsh

That consent application D03-16-015, being an application to sever 0.47 hectares with an existing dwelling, with the conditions of provisional consent substantially in the form attached as Appendix “H1” to Report COA2019-015, be Granted.

That the Mayor and Clerk be authorized to execute any documents and agreements required by the approval of these applications.

Carried

3.2.2 COA2019-015

Janet Wong, Planner II

File Number: D03-16-016

Location: 305 St. Luke's Road

Lot 6, Concession 10

Geographic Township of Emily

Owners: Robert and Shari Carroll

Applicant: EcoVue Consulting Services Inc. (Ken Hurford)

Ms. Wong summarized Report COA2019-015, to sever four residential lots being applications D03-16-015, D03-16-016, D03-16-017 and D03-16-18, with areas ranging from 0.35 hectares to 0.47 hectares and retaining approximately 15.3 hectares of vacant rural land (refer to item 3.2.1).

Moved By A. O'Bumsawin

Seconded By S. Strathdee

That consent application D03-16-016, being an application to sever 0.35 hectares of vacant land, with the conditions substantially in the form attached as Appendix "H2" to Report COA2019-015, be Granted.

That the Mayor and Clerk be authorized to execute any documents and agreements required by the approval of these applications.

Carried

3.2.3 COA2019-015

Janet Wong, Planner II

File Number: D03-16-017

Location: 305 St. Luke's Road

Lot 6, Concession 10

Geographic Township of Emily

Owners: Robert and Shari Carroll

Applicant: EcoVue Consulting Services Inc. (Ken Hurford)

Ms. Wong summarized Report COA2019-015, to sever four residential lots being applications D03-16-015, D03-16-016, D03-16-017 and D03-16-018, with areas ranging from 0.35 hectares to 0.47 hectares and retaining approximately 15.3 hectares of vacant rural land (refer to item 3.2.1).

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Moved By D. Marsh

Seconded By S. Richardson

That consent application D03-16-017, being an application to sever 0.40 hectares of vacant land, with the conditions substantially in the form attached as Appendix "H3" to Report COA2019-015, be Granted.

That the Mayor and Clerk be authorized to execute any documents and agreements required by the approval of these applications.

Carried

3.2.4 COA2019-015

Janet Wong, Planner II
 File Number: D03-16-018
 Location: 305 St. Luke's Road
 Lot 6, Concession 10
 Geographic Township of Emily
 Owners: Robert and Shari Carroll
 Applicant: EcoVue Consulting Services Inc. (Ken Hurford)

Ms. Wong summarized Report COA2019-015, to sever four residential lots being applications D03-16-015, D03-16-016, D03-16-017 and D03-16-018, with areas ranging from 0.35 hectares to 0.47 hectares and retaining approximately 15.3 hectares of vacant rural land (refer to item 3.2.1).

Moved By S. Strathdee
Seconded By E. Yeo

That consent application D03-16-018, being an application to sever 0.40 hectares of vacant land, with the conditions substantially in the form attached as Appendix "H4" to Report COA2019-015 as amended, be Granted.

That the Mayor and Clerk be authorized to execute any documents and agreements required by the approval of these applications.

Carried

4. Deferred Applications

4.1 Minor Variances

4.1.1 COA2019-010

Quadri Adebayo, Planner II
 File Number: D20-2019-003
 Location: 23 Westview Drive
 Part Lot 17, Concession 8
 Geographic Township of Emily
 Owner: Betty Ann Oliver

Mr. Adebayo summarized the memorandum for application D20-2019-003, 23 Westview Drive, requesting relief in order to permit a hot tub room in its current location. On February 21, 2019 the Committee deferred the application to the March 21, 2019 meeting in order to enable the application to be properly advertised with the inclusion of the water setback relief.

March 4, 2019 comments received from Part 8 Sewage Systems expressed undetermined location of the existing sewage system. Also comments from the Building Division on March 7, 2019 requested confirmation of the location of structure as it maybe subject to further detail-rating requirement (s) under the Ontario Building Code.

The Committee took into consideration the information brought forward and recommended a deferral.

Moved By D. Marsh

Seconded By A. O'Bumsawin

That Minor Variance application D20-2019-003 be DEFERRED for a period of three (3) to four (4) months in order to provide the applicant enough time to address the issues identified by the commenting agencies, and to ensure the proposal can be adequately reviewed for supportability by staff.

Carried

4.2 Consents

5. Correspondence

6. Other Business

Mr. Holy, Planning Manager spoke to the Committee regarding up coming training for the new members and retaining members. It would take 2 hours which can be arranged before or after the Committee of Adjustment meeting. It would entail various aspects of the Planning Act to enable members to make decisions on minor variance and consent applications. It was suggested that Mr. Holy draft an agenda and notify members in advance.

7. Next Meeting

The next meeting will be Thursday, April 18, 2019 at 1:00pm in Council Chambers, City Hall.

8. Adjournment**Moved By** E. Yeo**Seconded By** D. Marsh**That** the meeting be adjourned 2:16pm.**Carried**

Mark LaHay, Acting Secretary-Treasurer