

The Corporation of the City of Kawartha Lakes

Minutes

Committee of Adjustment Meeting

COA2019-05
Thursday, May 16, 2019
1:00 P.M.
Council Chambers
City Hall
26 Francis Street, Lindsay, Ontario K9V 5R8

Members:
Councillor E. 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 1:01 p.m. Councillor E. Yeo and Members A. O'Bumsawin, S. Richardson, and S. Strathdee were in attendance.

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

Absent: D. Marsh

2. Administrative Business

2.1 Adoption of Agenda

2.1.1 COA2019-05.2.1.1

May 16, 2019

Committee of Adjustment Agenda

Moved By Councillor E. Yeo

Seconded By S. Strathdee

That the agenda for May 16, 2019 meeting be approved.

Carried

2.2 Declaration of Pecuniary Interest

There were no declarations of pecuniary interest noted.

2.3 Adoption of Minutes

Carried

2.3.1 COA2019-004.2.3.1

April 18, 2019

Committee of Adjustment Minutes

Moved By S. Strathdee

Seconded By S. Richardson

That the minutes for the previous meeting held April 18, 2019 be adopted as circulated

Carried

3. New Applications

3.1 Minor Variances

3.1.1 COA2019-022

David Harding, Planner II

File Number: D20-2019-014

Location: 2173 Elm Tree Road
Part East 1/2 Lot 3, Concession 1, Part 1, 57R-6378
Geographic Township of Fenelon
Owners: Matthew and Amy Coultice
Applicant: RWH Construction - Ryan Hayter

Mr. Harding summarized Report COA2019-022, to request relief to permit a detached garage within a front yard instead of an interior side or rear yard. The application is a result of a Building Division enforcement matter. The detached garage was constructed without a building permit. Staff consulted with owners regarding additions.

Agency Comments:

May 6, 2019 Engineering and Corporate Assets Department - No concerns.
May 6, 2019 Building Division Comments - No concerns.
May 8, 2019 Building Division, Part 8 Sewage Systems - No concerns.

Public Comments:

No public comments received.

The Committee asked staff regarding Condition 3, as to why the removal of the Bus Shelter. Staff replied that there are three existing accessory buildings on the lot plus the garage makes 4.

The Committee questioned Condition 4, requesting building elevation drawings when the garage already exists. Staff replied although the garage is already constructed, a permit has not been issued, therefore changes to add faux windows have been included.

The Committee asked for clarification on the Building Division enforcement issue. Ms. Murchison, Chief Building Official was present and spoke to the Committee regarding timeline of events. Ms. Murchison concluded that in January, 2019 the building inspector was contacted to make the final inspection but then noticed that a building permit was not issued. The Committee asked for confirmation as to whether a building permit was issued. Ms. Murchison confirmed that no building permit was issued.

The applicant, Ryan Hayter of RWH Construction was present and spoke to the Committee. He began by thanking the Committee and Staff. Mr. Hayter

continued to say he had applied for a building permit and had an initial meeting with the building inspector. There was no proof of anyone contacting me after the meeting. We take full responsibility for building without a permit. I have applied for a minor variance with engineering drawings and have been working with Mr. Harding. I have been advised to put windows in the garage but this is not what the client wants as it is being used as storage and the public will be able to see in it.

The Committee asked the applicant if it is common practice to build without a permit. Mr. Hayter replied it is not uncommon, I had a meeting with the building inspector and was told verbally to go ahead and build. The Committee responded, do you not feel the responsibility would lay with you or the owners. Mr. Hayter replied we take full responsibility. The Committee asked Mr. Hayter is he recalled having a meeting with the inspector to go ahead. Mr. Hayter replied at the initial meeting to apply for the permit. The Committee stated it takes 10 days to issue a permit, did you wait.. Mr. Hayter said he couldn't recall timeline. The Committee continues, was it conveyed to you that the building did not comply with the zoning by-law. Mr. Hayter replied it was advised that I install windows/faux windows which serve no purpose. Staff stated that the faux windows were suggested to add appeal. Mr Hayter added, I would prefer to add landscaping rather than windows.

The Chair cautioned Mr. Hayter that there are rules to abide by.

The owner, Mrs. Coultice was present and spoke to the Committee. Although I don't want windows I will agree to the installation of faux windows.

Councillor Yeo supported the motion and agreed with the Chair, you must abide by the rules.

The Committee had no further questions or other persons.

Moved By A. O'Bumsawin

Seconded By S. Richardson

That minor variance application D20-2019-014 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

1. **That** the building construction of the detached garage related to this approval shall proceed substantially in accordance with the sketch in Appendix C

submitted as part of Report COA2019-022, which shall be attached to and form part of the Committee's Decision;

2. **That** the east wall of the detached garage shall contain two artificial/faux windows in accordance with Appendix E to Report COA2019-022;
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 building identified as Bus Shelter on Appendix C to Report COA2019-022 has been removed;
4. **That** to satisfy Condition 2 the owner shall prepare and submit to the Planning Division building elevations of the detached garage to the satisfaction of said Division. The elevations are to be prepared in general accordance with Appendices D and E to Report COA2019-022, and said satisfactory elevations shall be submitted as part of an amended building permit application; and
5. **That** the building construction related to the minor variance shall be completed within a period of four (4) 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 COA2019-022. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Carried

3.1.2 COA2019-030

Quadri Adebayo, Planner II

File Number: D20-2019-021

Location: 18 Baker Boulevard

Part of Lots 22 and 23, Concession 1, Part Shore Road Allowance, Part 4, RP 57R-3775

Geographic Township of Digby

Owner: Stephan and Deborah Holtze

Applicant: Stephan Holtze

Mr. Adebayo summarized Report COA2019-030, to request relief in order to permit the construction of additions to a single storey detached dwelling.

Agency Comment:

April 29, 2018 Building Division, Sewage System - No concerns.

May 6, 2019 Building Division, Plans Examiner - No concerns.

May 6, 2019 Engineering and Corporate Assets - No objections or concerns.

The Committee noted that the Kawartha Region Conservation Authority (KRCA) have no concerns provided the applicant adheres to the tree removal requirements under the Migratory Bird Act. The Committee noted trees had already been removed and asked staff what the timeline for further tree removal if required. Staff responded it is between May 15 to July 31st. And also added that the owner will be obtaining a permit from the KRCA.

The owner, Mr. Holtze was present and stated that there will be no more trees removed.

Staff commented that as the property is not within the KRCA regulated area, permits are not required. Their comments were recommendations only.

The Committee or other persons had no further questions.

Moved By Councillor E. Yeo

Seconded By S. Richardson

That minor variance application D20-2019-021 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 additions to 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 COA2019-030, 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** as part of the building permitting process for the proposed dwelling, the shed located in the northerly side yard between the front wall of the dwelling

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

3. **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 COA2019-030. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Carried

3.2 Consents

3.2.1 COA2019-032

Ian Walker, Planning Officer, Large Developments

File Number: D03-2019-016

Location: 16 Commerce Place

Lot 11, Plan 606

Former Town of Lindsay

Owner: 1675453 Ontario Limited

Applicant: Arthur Kloosterman

Mr. Walker summarized Report COA2019-032, to create an easement for a right-of-way for storm management purposes.

Agency comments:

April 4, 2019 Building Division - No concerns.

April 9, 2019 Engineering & Corporate Assets Department - No concerns.

April 9, 2019 Community Services Department - No concerns.

April 9, 2019 Enbridge Gas Inc. - No objections.

April 17, 2019 The Kawartha Region Conservation Authority advised that the proposed stormwater management infiltration gallery will contain the 100 year storm event, and the emergency overflow weir outlets to a ditch that is not regulated under Ontario Regulation 182/06. No permits required from Kawartha Conservation. No objection to the proposed easement.

Public Comments:

William and Deborah McDonnell of Lot 9, Plan 608 objected to the application as they do not know if the works will impact on their property and had several questions.

Staff have provided a response to those questions, however in recent correspondence received, they noted that a drainage ditch had been installed, hence they remain concerned with the proposed easement.

The Committee enquired about the objection from the public. Staff spoke to the storm management design and that it would not encroach. The Committee noted in the objectors comments that a drainage ditch had already been installed. Staff confirmed yes.

The applicant, Mr. Kloosterman was present but did not speak.

The Committee or other persons had no further questions .

Moved By S. Strathdee

Seconded By Councillor E. Yeo

That consent application D03-2019-016, being an application to create an easement for a right-of-way of approximately 774.21 square metres over Lot 11 Plan 606 to provide access for storm water management purposes in favour of Lot 10 Plan 606, be **Approved**.

The decision and the following set of conditions represent good planning.

Conditions of provisional consent:

1. This approval applies to the transaction applied for.
2. Submit to the Secretary-Treasurer one copy of the registered reference plan of the easement to be created.
3. Submit to the Secretary-Treasurer payment of all past due taxes and charges added to the tax roll, if any, at such time as the deeds are stamped.
4. Payment to the City of Kawartha Lakes of the stamping fee prevailing at the time the deeds are stamped, for the review and clearance of these conditions.

The current fee is \$225.00. Payment shall be made by certified cheque, money order, or from a lawyers trust account.

5. Submit to the Secretary-Treasurer a copy of the Registry Office receipted documents with respect to Application D03-2019-016.
6. Submit to the Secretary-Treasurer a deed in triplicate for endorsement with the certificate of consent which deed shall contain a registerable description of the parcel of land described in the decision.
7. The applicant's solicitor shall provide a written undertaking to the Secretary-Treasurer confirming, pursuant to Subsection 53(43) of the Planning Act, that the deed in respect of this transaction shall be registered in the proper land registry office within six months from the date that the Secretary-Treasurer's certificate is stamped on the deed, failing which the consent shall lapse.
8. The applicant's solicitor shall also undertake to provide a copy of the registered deed to the Secretary-Treasurer as conclusive evidence of the fulfillment of the above-noted undertaking.
9. The applicant shall pay all costs associated with the preparation and registration of the required documents.
10. All of these conditions shall be fulfilled within a period of one year after the giving of the Notice of Decision, failing which, pursuant to Subsection 53(41) of the Planning Act, this consent shall be deemed to be refused.

Carried

4. Deferred Applications

4.1 Minor Variances

4.1.1 COA2019-033

David Harding, Planner II
 File Number: D20-2019-004
 Location: 221 Francis Street East
 Part Lot 21, Concession 11, Part 2, 57R-2234
 Geographic Township of Fenelon
 Owner: Nancy and Shirley MacDonald
 Applicant: RWH Construction - Adam Hayter

Mr. Harding summarized Report COA2019-033, to permit a constructed detached garage which was previously deferred at the February 21, 2019 Committee of Adjustment meeting.

Agency Comments:

February 5, 2019 Kawartha Region Conservation Authority - No concerns.
 February 5, 2019 Building Division, Part 8 Sewage Systems - No concerns.
 February 7, 2019 Building Division - The building was built without a permit.
 February 11, 2019 Engineering and Corporate Assets Department - No concerns.

Public Comments:

Judith Currie of 214 Francis Street East spoke at the previous Committee of Adjustment meeting held on February 21, 2019. She raised concerns with application.

The Committee asked staff if a building permit was issued. Staff replied no building permit issued.

Ms. Murchison, Chief Building Official spoke to the Committee. The application is the result of a Building Division enforcement matter. In June of 2017, the applicant applied for a building permit but it could not be issued as the garage location did not comply with the zoning by-law. On February 20, 2018 the Building Division became aware that the garage had been built without a permit. The application was submitted on December 14, 2018. The Committee questioned the fees to be paid, Mrs. Murchison replied there are penalties, regular fee is doubled where there is no permit and trebled if no permit and no minor variance.

The Committee stated that the applicant appears to have a track record. The Chair asked if the applicant wished to speak.

The applicant, Ryan Hayter, RWH Construction was present and spoke to the Committee. He reiterated the same message as given to the first application heard D20-2019-014 for 2173 Elm Tree Road, that he accepts full responsibility for not having a permit.

The Committee questioned Condition 4 as to which department will inspect to make sure the faux windows and cladding are installed and should we consider a further deferral. It was suggested by Staff that the application be further deferred

4 months to allow applicant time to install faux windows and cladding. The applicant would then confirm with the Planning Department that work had been completed, then bring the application back to the Committee of Adjustment to allow the building permit to be issued. The applicant suggested 2 Months would be sufficient time.

The Committee had no further questions or other persons.

Moved By S. Strathdee

Seconded By A. O'Bumsawin

That Minor Variance application D20-2019-004 be further DEFERRED for a period of two (2) months in order to provide the owner sufficient time to install faux windows and stone cladding as per Appendix D or Report COA2019-033 and to contact the Planning Division to confirm installation.

Carried

4.2 Consents

5. Correspondence

6. Other Business

The Chair opened up a discussion with staff as to whether fines should be put in place where construction takes place without a permit. Mrs. Murchison, Chief Building Official, spoke to the Committee and confirmed that there are fines in place. Discussions ensued.

Mrs. Murchison stated that she would like to be included in future meetings where owners have built without a permit. The Committee and Staff welcomed the inclusion.

7. Next Meeting

The next meeting will be Thursday, June 20, 2019 at 1:00pm. in Council Chambers, City Hall.

8. Adjournment

Moved By Councillor E. Yeo

Seconded By S. Richardson

That the meeting be adjourned at 2:51pm

Carried

Mark LaHay, Acting Secretary-Treasurer