

The Corporation of the City of Kawartha Lakes

Minutes

Committee of Adjustment Meeting

COA2020-002
Thursday, February 20, 2020
1:00 P.M.
Council Chambers
City Hall
26 Francis Street, Lindsay, Ontario K9V 5R8

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

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1. Call to Order

Chair Robertson called the meeting to order at 1:01 p.m. Councillor E. Yeo and Members D. Marsh, A. O'Bumsawin, S. Richardson were in attendance.

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

2. Administrative Business

2.1 Adoption of Agenda

2.1.1 COA2020-02.2.1.1

February 20, 2020
Committee of Adjustment Agenda

CA2020-008

Moved By D. Marsh

Seconded By A. O'Bumsawin

That the agenda for the February 20, 2020 meeting be approved.

Carried

2.2 Declaration of Pecuniary Interest

There were no declarations of pecuniary interest disclosed.

2.3 Adoption of Minutes

2.3.1 COA2020-01.2.3.1

January 23, 2020
Committee of Adjustment Minutes

CA2020-009

Moved By A. O'Bumsawin

Seconded By S. Richardson

That the minutes of the previous meeting held January 23, 2020 be adopted as circulated.

Carried

3. New Applications

3.1 Minor Variances

3.1.1 COA2020-004

David Harding, Planner II, RPP, MCIP
File Number: D20-2019-049
Location: 37 Sugar Bush Trail
Lot 12, Plan 252
Geographic Township of Mariposa

Owners: Robert and Colleen Kneale

Applicant: Robert Kneale

Mr. Harding summarized Report COA2020-004 to request relief to construct an addition to the existing dwelling. The addition is to contain living space and a two level attached garage. The lower level of the garage is closer to the road than the upper level. The lower level is entirely underground at the front of the building. The minor variances meet the four tests.

Mr. Harding noted that since the writing of the report, comments were received from the Community Services Department and the Building Division - Part 8 Sewage Systems noting no concerns.

The Committee questioned why Condition 2 was included. Staff replied that it is common to identify and remediate items which do not comply with the zoning by-law when a property goes through the variance process. The accessory building, if considered a boathouse, remains too close to the interior side lot line to comply with the side yard setback provision.

The Committee asked whether there would be sufficient space to park a vehicle in-front of the garage doors on private property and whether the below-grade garage level could support the weight of the vehicles parking above. Mr. Harding responded that a parking space must be at least 6 metres in length, and the proposal complies with this length. Ms. Murchison, Chief Building Official responded that the structural integrity of the proposal will be reviewed through the building permit process.

The Committee also asked whether a condition needed to be added to reflect the KRCA's concerns with respect to flooding. Ms. Murchison suggested a condition be added to ensure a surveyor confirmed the elevation of the proposed construction.

The applicant, Robert Kneale was present and spoke to the Committee. The Committee asked applicant how difficult is it to move the "boathouse". Mr. Kneale replied it is an 8 x 8 foot shed on patio stones. While it is not difficult to move, it is close to the neighbour's sheds which back onto it and is set back into the trees.

The Committee asked for staff's opinion on the repercussions of removing Condition 2. Staff replied that the building does not comply with the zoning by-law and the Committee's decision will not change this fact.

The Committee motioned to delete the wording of Condition 2 in the staff report for its decision and add new wording to read: "That prior to the issuance of a building permit the owners shall submit from an Ontario Land Surveyor, confirmation that the elevation of the openings relating to the proposed construction, are in compliance with the approval issued by the Conservation Authority in relation to the regulatory flood elevations".

No further questions from the Committee or other persons.

CA2020-010

Moved By Councillor Yeo

Seconded By A. O'Bumsawin

That minor variance application D20-2019-049 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-2 and elevation in Appendix D submitted as part of Report COA2020-004, which shall be attached to and form part of the Committee's Decision,
2. **That** prior to the issuance of a building permit the owners shall submit from an Ontario Land Surveyor, confirmation that the elevation of the openings relating to the proposed construction, are in compliance with the approval issued by the Conservation Authority in relation to the regulatory flood elevation,
3. **That** prior to the issuance of a building permit the owners shall submit a holding tank design to the satisfaction of the Building Division – Part 8 Sewage Systems; and
4. **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 COA2020-004. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Carried

3.1.2 COA2020-005

David Harding, Planner II, RPP, MCIP

File Number: D20-2020-001

Location: 945 Frank Hill Road

Part of Lot 22, Concession 6

Geographic Township of Emily

Owner: The Anglican Diocese of Toronto

Applicant: Paul Heath, on behalf of Wardens of St. James Anglican Church

Mr. Harding summarized Report COA2020-005, to request relief from zoning provisions to facilitate the construction of a main floor addition to the existing building.

Mr. Harding brought to the attention of the Committee a typo error in Report COA2020-005, page 3, rationale, last sentence, which read: "...5 accessory and 2 regular..." which should read: "...5 accessory and 3 regular...". Also in the report, page 2, Conditions, the conditions were omitted in the original printed version due to a software issue. Two conditions have been added to the hardcopy to reflect the digital report and were distributed for the Committee's and applicant's review. Mr. Harding noted that since the writing of the report, comments were received from Community Services, noting no comments or concerns.

The Committee asked if the parking spaces exist. Staff clarified that the parking surface exists but the lines are yet to be painted.

The Committee questioned the proposed aisle width from a safety aspect, noting that large vehicles are used for accessible parking. They were concerned whether it is acceptable according the Zoning By-Law as well as the AODA (Accessibility for Ontarians with Disabilities Act) to have aisle widths of the proposed size. Mr. Holy, Manager of Planning, replied that the parking lot area is substantially constrained due to the location of the church, septic system and cemetery, and recognized that multiple turns may be needed to successfully navigate the smaller aisle if backing up from a parking space. The proposal achieves the best design possible given the site constraints.

The applicant, Paul Heath, Warden Representative, was present and spoke to the Committee. He spoke to the preservations of the Churches in rural areas. Their intention is to bring the Church up to code by making it more accessible as they have an ageing congregation. The Church would like to be a community hub where elections can be held, as well as meetings and events. Being an accessible building will facilitate its ability to be a community hub.

The Committee questioned why the Diocese did not approve the improvements suggested in 2012. The applicant, Mr. Heath responded by saying that the Diocese reviewed and suggested applying for a grant. The Diocese rejected the proposal as it was focused on dealing with declining congregations and church closures.

The Committee asked Mr. Heath what made the Diocese change their mind and support the upgrades. Mr. Heath replied, due to having the right Minister and positive atmosphere resulted in a thriving congregation. The Diocese saw revenues increase and the congregation in good spirits, and in return decided to support the addition.

The Committee also had some questions about the location and status of the tile bed. The Committee asked staff if the parking lot is paved. Staff replied yes. The Committee asked whether the pavement over the portion of the tile bed has been removed.

Ms. Murchison, Chief Building Official confirmed due to the weather it will be spring before it can be pulled back. Mr. Heath confirmed that they had spoken with the parking lot installer and had scheduled the partial removal in spring.

The Committee asked about the number of cars present at services.

Emil Nychka, Warden, was present and advised that due to carpooling about 15-20 cars are parked during regular church events, but this can increase substantially during the holidays.

No further questions from the Committee or other persons.

CA2020-011

Moved By D. Marsh

Seconded By S. Richardson

That minor variance application D20-2020-001 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 COA2020-005, which shall be attached to and from part of the Committee's Decision; and
2. **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 COA2020-005. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Carried

3.1.3 COA2020-006

David Harding, Planner II, RPP, MCIP

File Number: D20-2020-002

Location: 84-86 Queen Street

Part Lot 25, Lot 26, Part Park Lot 32, N/S Queen Street, Plan 15P; Parts 5 and 6, 57R-4585

Former Town of Lindsay

Owner: Jamol Johnson

Applicant: Doug Carroll, DC Planning Services

Mr. Harding summarized Report COA2020-006 to reduce the driveway setback requirement from a side lot line from 0.6 metres to nil in order to permit a shared driveway between two abutting lots, which are to be created via application D03-2018-018. The minor variance application meets the four tests.

Mr. Harding noted that since the writing of the report, comments were received from the Community Services Department noting no concerns.

The Committee asked staff if the lot line runs equally through the middle of the properties. Staff replied that it is proposed to run down the driveway. The Committee continued to ask if both properties are required to provide parking.

Staff read the conditions of consent D03-2018-018 to the Committee and confirmed that a site plan agreement is a requirement to accommodate the parking for the four-plex building, addressed as 84 Queen Street.

Discussions ensued regarding zoning compliance and the particulars of the site plan agreement process.

The applicant, Doug Carroll, DC Planning Services was present and spoke to the Committee. He requested that Condition 2 be deleted in case the consent lapses on April 23, 2020. If the consent does lapse his client will have to re-apply for the consent application as well as minor variance. Mr. Carroll noted that he received a concept plan survey yesterday for the parking lot on 84 Queen Street, which would form part of the site plan agreement. The concept plan survey also shows parking behind 86 Queen Street. He passed it to Staff and the Committee to review.

The Committee asked staff if a deferral would cause further costs to the applicant with respect to the minor variance process. Staff replied, no.

The Committee asked Mr. Harding if Condition 2 should be removed.

Mr. Harding replied that it is practical to tie a variance decision to the consent application since a condition of provisional consent is the only item requiring the variance application and the owner is given 1 year to fulfill all provisional consent conditions.

In opposition to the application is Ryan Shotlander of 88 Queen Street. He spoke to the Committee regarding his fence which has been there since 1920. He asked if he is required to move the fence line to allow for the 5 foot landscape area and curb shown in the concept plan survey presented to the Committee. Staff replied that he is not required to make any adjustments as a result of this variance application.

Councillor Yeo moved to grant the minor variance application with the exclusion of Condition 2. There was no seconder. The motion failed.

Mr. Marsh moved to defer the minor variance application. Mr. O'Bumsawin seconded.

Staff clarified that a deferral is not necessary as the site plan agreement need not be registered before the provisional consent lapsing date. The condition in

application D03-2018-018 requires a solicitor's undertaking that no other document be registered until the site plan agreement is registered.

Mr. Marsh and Mr. O'Bumsawin withdrew the motion.

The Committee motioned to grant the application as printed.

No further questions from the Committee or other persons.

CA2020-012

Moved By Councillor Yeo

Seconded By S. Richardson

That minor variance application D20-2020-002 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Condition:

1. **That** the variance related to this approval shall be applied in accordance with the sketch in Appendix C-2 which depicts shared driveway access between 84 and 86 Queen Street.
2. **That** should the related application for consent, file number D03-2018-018 lapse, this application shall be deemed to be refused.

This approval pertains to the application as described in report COA2020-006. 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. Other Business

Tribunal Case No. PL190381, 45 Marsh Creek Road, Kawartha Lakes.

At 2:56pm the Chair called for a break. At 3:03pm the Chair called the meeting back to order.

Tribunal Case No. PL190381, 45 Marsh Creek Road, Kawartha Lakes.

Mr. Holy, Manager of Planning spoke to the Committee regarding the Local Planning Appeal Tribunal (LPAT) decision for 45 Marsh Creek Road. Discussion ensued.

The Committee reiterated its displeasure at the lack of support it received from the City Solicitor and Council. The Committee proposed to better articulate its decision so that the City Solicitor and Council have a better understanding of their rationale when deciding whether to support a decision different from the staff recommendation.

The Acting Secretary-Treasurer, Mark LaHay, reminded the Committee that it fulfilled its commitment and obligation to make a decision, and that it has no legal obligation to defend its decision if appealed.

6. Correspondence

7. Next Meeting

The next meeting will be Thursday, March 19, 2020 at 1:00pm in Council Chambers, City Hall.

8. Adjournment

CA2020-013

Moved By Councillor Yeo

Seconded By D. Marsh

That the meeting be adjourned at 3:24pm

Carried

Mark LaHay, Acting Secretary-Treasurer