

**The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – APG Kent Street
Properties Corp.**

Report Number COA2018-009

Public Meeting

Meeting Date: February 15, 2018

Time: 1:00 pm

Location: Council Chambers, City Hall, 26 Francis Street, Lindsay

Ward: 12 – Former Town of Lindsay

Subject: The purpose and effect is to permit the construction of a new (replacement) commercial building on the subject property by requesting relief from:

1. Section 5.12 k) ii. to reduce the required number of parking spaces from 167 spaces to 67 spaces;
2. Section 5.12 c) to reduce the required number of accessible parking spaces from 6 spaces to 2 spaces;
3. Section 5.13 a) to reduce the required number of loading spaces from 2 loading spaces to 1 loading space; and
4. Section 14.2 b. to reduce the minimum front yard setback from 4.0 metres to 0.0 metres.

The property is located at 171-183 Kent Street West, former Town of Lindsay (File D20-2018-006).

Author: Ian Walker, Planning Officer – Large Developments Signature:

Recommendation:

RESOLVED THAT Report COA2018-009 APG Kent Street Properties Corp., be received;

THAT the variance to request relief from Section 5.12 c) to reduce the required number of accessible parking spaces from 6 spaces to 2 spaces to permit the construction of a new commercial building be DENIED, as the variance does not meet the tests set out in Section 45(1) of the Planning Act.

THAT all variances excluding the relief requested from Section 5.12 c), as identified in the application and described in report COA2018-009, be GRANTED, as the variances meet the tests set out in Section 45(1) of the Planning Act.

Conditions:

- 1) **THAT** the construction of the commercial 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 COA2018-009, which shall be attached to and form part of the Committee’s Decision;
- 2) **THAT** the payment of cash-in-lieu of parking, in the amount of \$1,550.00 per parking space, to a maximum of 31 spaces for a total of \$48,050.00 be provided to the City in accordance with Sections 40. (1) and (2) of the Planning Act. The money shall be paid to the municipality at the time of execution of the Site Plan Agreement. The amount to be collected will be dependant on how many additional parking spaces can be provided on-site and/or off-site, prior to execution of the Agreement, based on the operational deficiency; and
- 3) **THAT** the Site Plan Agreement for the subject property be executed and secured 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 COA2018-009. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Background:

The applicant proposes to demolish the existing three storey hotel/restaurant building at 171 Kent Street West, known as “The Grand” hotel, and the existing two storey mixed commercial and residential building at 171-183 Kent Street West, and to construct a new three (3) storey commercial building. The new building is proposed to have retail stores and a restaurant on the first floor, and offices on the second and third floors. The existing buildings were constructed circa 1900 (MPAC). Staff have discussed alternatives for the parking variances with the applicants regarding their proposal (see Other Alternatives Considered).

The parking ratios contained in the Lindsay Zoning By-law are the same for suburban sites as they are in the downtown core. However, the properties in the downtown area have historically been built to the front lot line, and provide little or no parking on-site. The Zoning By-law does consider that if a building is converted to a new use and/or an addition is constructed, that an existing parking deficiency is not required to be addressed. It does require the difference in parking to be addressed (e.g. the difference between the new required total and the previous required total).

For these properties, the Zoning By-law requires a total of 167 parking spaces for the redevelopment of the site. The applicant has requested a variance to reduce

the number of required parking spaces to 67, a variance of 100 spaces. The following discussion outlines how the Zoning By-law regulations treat the property under different scenarios.

1. The building currently has 22 on-site parking spaces. If the existing building were renovated (no changes made to the uses or their size), the Zoning By-law would not require the deficiency to be rectified.
2. If the existing building was to be demolished and rebuilt with the exact same dimensions and uses, the Zoning By-law would require a total of 91 parking spaces. The current building is therefore deficient in parking by 69 parking spaces (91 less the 22 currently provided).
3. If an addition was constructed to the existing building (including conversion of the existing uses to those proposed by this application), they would be required to add 76 new parking spaces to the site (167 for all uses less the 91 currently required), as the Zoning By-law recognizes the existing legal non-complying parking situation. The current proposal would add 45 new spaces to the site (67 proposed less the 22 existing). Under this scenario, they would currently be seeking a variance to reduce the required parking from 76 spaces to 31 spaces, if this development were to renovate, convert and construct an addition.

Taking into account the proposed deficiency (100 spaces) and the existing deficiency (69 spaces), the new “operational deficiency”, or difference between the proposed and existing, is 31 parking spaces.

Therefore, if the applicant were to renovate and add on the existing building, the variance request would be for a reduction of 31 parking spaces, not 100 spaces. The requirement for a reduction of 100 parking spaces is the result of the proposed demolition of the existing building rather than a proposed renovation and expansion.

Parking has been reduced on other properties in the downtown core. These include the properties at 51 Kent Street West (in 2007), 21 Victoria Avenue South (2012), and 25 King Street (in 2015). There are in excess of 500 municipal parking spaces available nearby and on-street parking is available on Kent Street West, Cambridge Street South, and Victoria Avenue South and North. Off-street parking is available in municipal and private lots to the east (along William Street North and South) and to the north (between Kent Street West and Peel Street). The Transportation Master Plan project, completed by the City, analyzed the parking demand in downtown Lindsay in September of 2009. The maximum utilization of surveyed parking was 59%. More recent information compiled by the By-Law Enforcement Division suggests that these utilization rates have risen to between 75% to 80% for use during normal business hours.

In support of the application, the applicant has submitted a letter justifying their request for the variances. The letter is prepared by Andy Barzetti of Monsey Consulting Group, Inc. dated February 2, 2018. See Appendix ‘E’.

This application was last amended January 30, 2018.

Proposal: To construct an approximately 6,790 square metre (73,089.3 square foot) three (3) storey office building containing a restaurant and retail stores on the first floor, and a 50 vehicle parking garage in the basement. The Gross Floor Area (GFA) for the permitted uses is approximately 3,756 square metres (40,430 square feet).

Owner: APG Kent Street Properties Corp. – Neil Arbour

Applicant: Monsey Consulting Group Inc. – Dean Aziz

Legal Description: Plan 38 Lots 2 and 3 South of Kent Street, 57R-5785 Part of Part 1, former Town of Lindsay, City of Kawartha Lakes; and

Plan 38 Lots 4 to 7 and Part Lot 8, 57R-7668 Parts 2 and 3 and Part of Part 1, former Town of Lindsay, City of Kawartha Lakes

Official Plan: “Central Business District Commercial” – Town of Lindsay Official Plan

Zone: “Central Commercial (CC) Zone” – Town of Lindsay Zoning By-law 2000-75

Lot Area: 2,327.5 square metres (25,053.8 square feet)

Site Servicing: Municipal sanitary sewer, storm sewer and water supply

Existing Uses: Tavern, Restaurant, Commercial, and 8 Residential Units

Adjacent Uses: North Kent St W; Lindsay Service Centre; Library
East: Commercial (Bakery); Cambridge St S; Bank (Scotia)
South: Vacant Land (Parking); Russell St W
West: Commercial (Kent Place); Victoria Ave S

Rationale:

1) Are the variances minor in nature?

- a. Reductions for front yard setback, parking, and loading: **YES**
- b. Reduction for accessible parking: **NO**

The subject property is situated in the Central Business District neighbourhood in downtown Lindsay. With the exception of the building at the southeast intersection of Kent Street West and Cambridge Street South (built circa 1977), all other existing buildings fronting the south side of Kent Street West between Lindsay Street South and Victoria Avenue South maintain a 0 metre front yard setback. The Zoning By-law contains a provision for an Established Building Line (EBL), which allows development closer to the street than the required yard setback, provided it is no closer than the EBL that existed on the date of

passing of the Zoning By-law. The variance to reduce the front yard setback to 0 metres will match the EBL.

As noted in the Background section above, the Zoning By-law requires 167 parking spaces if the existing building is demolished and the site is redeveloped. The applicant has requested a reduction in required parking from 167 to 67 parking spaces for a variance of 100 parking spaces. The “operational deficiency”, or variance based on recognizing the existing deficiency, is 31 parking spaces. Therefore, if the applicant were to renovate and add on the existing building, the variance request would be for a reduction of 31 parking spaces, not 100 spaces. The requirement for a reduction of 100 parking spaces is the result of the proposed demolition of the existing building instead of a renovation and expansion. As there are over 500 municipal parking spaces in Lindsay, the requirement to add 31 new users is considered minor in nature, given that only approximately 400 of the 500 (or 80%) were occupied according to more recent utilization data.

The Zoning By-law requires 2 loading spaces but the applicant has requested a reduction to 1 loading space. The applicant has indicated they have designed the site for efficiency of the loading space by utilizing a waste management diversion program. Based on the proposed uses for the building, with two stories of office use, a significant number of deliveries would not be expected in the same manner as the retail uses or restaurant use. Deliveries may be fewer in number or may be made by smaller vehicles. Through organization and scheduling of any expected deliveries, they should be able to accommodate all deliveries using 1 loading space.

Therefore, these proposed variances are minor in nature and not likely to cause incompatibility issues with the abutting and adjacent uses.

The proposed variance to reduce the number of accessible parking spaces from 6 to 2 spaces is not minor in nature. If the variance to reduce the required parking is granted, based on 67 required spaces, a minimum of 3 accessible parking spaces would still be required by the Zoning By-law. Staff feel that there is a scarcity of accessible parking in the downtown core area. This may lead people to park on accessible parking spaces on other private parking lots. With an increased need for such parking, the applicant should provide the minimum amount required by the Zoning By-law.

Therefore, the proposed variance for the accessible parking is not minor in nature and may cause incompatibility issues with the abutting and adjacent uses.

2) Is the proposal desirable and appropriate for the use of the land?

- a.** Reductions for front yard setback, parking, and loading: **YES**
- b.** Reduction for accessible parking: **NO**

The front yard setback relief requested for the development is not anticipated to impact on the function of the properties as there is currently no front yard setback for the existing building. In the downtown area, buildings have

historically been constructed to the front lot line abutting the municipal roadways. The entire block is currently developed to the front lot line; therefore no massing impacts are anticipated.

As noted in the Background section above, the current site has functioned for a number of years with a deficiency of 69 parking spaces, based on the Zoning By-law requirements for parking. The new request is equivalent to a reduction of 31 additional spaces. The Province is promoting the use of active or alternate modes of transportation. To offset these 31 spaces, a few of these alternatives are being pursued by the applicant. The applicant is proposing to provide bike racks for 27 bikes to promote active transportation. Four (4) of the proposed parking spaces have been identified as carpool spaces, to promote ride sharing and reduce the number of vehicles coming to the property. A reduction in parking may also help to promote the use of public transit as an alternative form of transportation. There is a transit hub on Victoria Avenue South, within the same block. Finally, the applicant is also pursuing the purchase of nearby vacant lots in order to increase the number of parking spaces available for the development.

The reduction of the loading spaces from 2 spaces to 1 space is desirable and appropriate for the use. The anticipated higher uses account for 653 square metres of gross floor area, including the restaurant and retail uses. The office uses are not anticipated to generate a significant amount of loading space traffic. The reduction also allows the development to provide more parking, and reduces the request for a further parking reduction.

Therefore, these proposed variances are considered desirable and appropriate for the use of the land.

The reduction of the number of accessible spaces may result in additional pressure on other existing accessible parking spaces in the downtown area, especially on private property. Therefore, the variance to reduce the accessible parking is not desirable and appropriate for the use of the land.

3) Do the variances maintain the intent and purpose of the Zoning By-law?

- a. Reductions for front yard setback, parking, and loading: **YES**
- b. Reduction for accessible parking: **NO**

The subject property is zoned “Central Commercial (CC) Zone”, which permits a commercial building containing a restaurant, retail stores, and office uses. With the exception of the front yard setback, the proposed commercial building will comply with all other setback provisions of the Zoning By-law. The reduction for the front yard setback has been contemplated through the Established Building Line provision of the Zoning By-law.

The intent of the parking space requirement is to provide adequate on-site parking. However, in the downtown core, there may be additional parking provided off-site. Section 5.12 b) of the Zoning By-law provides that in the instances where the payment of cash-in-lieu of parking may be provided as an alternative, the value is calculated based on the parking standards of the

Zoning By-law. The value determined for cash-in-lieu of parking has been assessed by staff as being \$1,550.00 (based on 2018 value). In 2007, staff assessed a value of \$1,379.00 per space for the redevelopment of 51 Kent Street West. In 2015, staff assessed an indexed value of \$1,500.00 per space for the redevelopment of 25 King Street, which the Ontario Municipal Board (OMB) agreed to in their decision (Case No. PL150180). In 2016 when the site plan agreement was executed, the applicable rate for the project at 21 Victoria Street South was similarly \$1,500.00 per space. This indexing rate was calculated at 1.097% per year on this basis.

The intent of the loading space requirement is to ensure there are adequate loading spaces provided for the uses. The restaurant and retail uses would generate a higher number of deliveries than the office use. The requirements in the Zoning By-law would be based on using the highest intensity use for calculating the loading space provisions. As the second and third floors are for the office use, it is not unreasonable to presume the loading space requirement is not as intense as if the entire building were utilized for retail or restaurant uses.

Therefore, the proposed variances to reduce the front yard setback, parking and loading space requirements maintain the general intent and purpose of the Zoning By-law.

The Zoning By-law requires a minimum of 3% of parking spaces be accessible. The proposed reduction to 2 spaces would bring the total number of spaces below the 3% threshold. Therefore, reducing the accessible parking to 2 spaces does not maintain the general intent and purpose of the Zoning By-law.

4) Do the variances maintain the intent and purpose of the Official Plan?

- a. Reductions for front yard setback, parking, and loading: **YES**
- b. Reduction for accessible parking: **NO**

The properties are designated “Central Business District Commercial” within the Town of Lindsay Official Plan (Lindsay OP). The designation anticipates a full range of retail and commercial uses, and permits residential uses on the upper stories of commercial buildings or in free standing residential buildings. Financial institutions are also permitted uses.

Policy 4.3.2.2. a) requires that the density of commercial buildings shall not exceed two (2) times the lot area. Policy 4.3.2.2. c) requires supplying adequate off-street parking and loading spaces, or cash-in-lieu of parking shall be provided. The proposed development density is 1.61 times the lot area, therefore less than 2.

The variances, if approved, will allow for a reduction to the parking and loading space requirements of the Zoning By-law, subject to cash-in-lieu of parking. The cash-in-lieu must be used expressly for the provision of additional parking spaces in an appropriately defined area. The Lindsay OP requires the implementing Zoning By-law to establish the parking standards. It remains silent on accessible parking, but defers to the Zoning By-law to establish the

standards. The Lindsay OP does not speak to the relevance of the front yard setback.

Therefore, the proposed variances to reduce the front yard setback, to reduce the parking and to reduce the loading space requirements maintain the general intent and purpose of the Official Plan, but the variance to reduce the accessible parking requirement does not maintain the general intent and purpose of the Official Plan.

Other Alternatives Considered:

The original proposal provided approximately 26 on-site surface parking spaces. In the meantime, the applicant has revised the proposal to provide 50 underground parking spaces. The property owner is also pursuing the purchase of other vacant properties to be consolidated with their land holdings to increase the availability of parking for this development.

Servicing Comments:

The lots are connected to full municipal services within the Lindsay municipal service area.

Consultations:

Notice of this application was circulated in accordance with the requirements of the *Planning Act*. Comments have been received from:

Agency Comments:

Building Division (February 5, 2018): No concerns with respect to the requested variances.

Engineering and Corporate Assets Department (February 7, 2018): No objection to the proposed minor variances from a technical perspective. The accessible parking space reduction appears to be contrary to the City's Strategic Plan Mission of "Providing Responsible, efficient, and effective services, especially improving accessibility in the City.

Public Comments:

Joseph Found of Linborough Property Corporation (February 1, 2018): Requested a copy of the preliminary drawings for review.

Attachments:

The following attached documents may include scanned images of appendices, maps, and photographs. If you require an alternative format, please call Ian Walker, Planning Officer – Large Developments, (705) 324-9411 extension 1368.



COA2018-009
Attachments A-F.pdf

- Appendix “A” – Location Map
- Appendix “B” – Aerial Photo
- Appendix “C” – Applicant’s Sketch
- Appendix “D” – Elevations
- Appendix “E” – Letter
- Appendix “F” – Department and Agency Comments

Phone: 705-324-9411 ext. 1368
E-Mail: iwalker@kawarthalakes.ca
Department Head: Chris Marshall
Department File: D20-2018-006