

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 1:01pm. 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

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 stated that they had discussed the proposed modifications with the owners.

The Committee asked enquired why Condition 3, which requires the removal of the bus shelter, was recommended. Staff replied that the zoning by-law permits a maximum of three existing accessory buildings on a lot. Without its removal, there would be four buildings.

The Committee questioned the intent of Condition 4, which requests modifications to the 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 not 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 conduct the final inspection, but upon review, the inspector noted 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. He stated that while there is no hardcopy evidence that his office was contacted notifying them that the building permit was not issued, he took full responsibility for building without a permit. He further stated that he has been working with the City to bring the building into conformity.

The Committee asked the applicant if it is common practice to build without a permit in hand. Mr. Hayter replied it is not uncommon for the building inspector to give a verbal go-ahead with the building permit to follow. The Committee responded by asking whether the owners or his company were responsible for causing this situation. Mr. Hayter replied that his company takes full responsibility.

The Committee stated it takes 10 days to issue a building permit, and questioned why his company did not wait until the permit had been issued to proceed with construction. The Committee continued by asking if it was conveyed to him that the building did not comply with the zoning by-law, which is why the permit was not issued. Mr. Hayter said he could not recall timelines, but stated that everyone gets busy and he realises that he erred.

Mr. Hayter stated that he had been advised by Staff that windows will need to be placed upon the garage, and is concerned that the windows serve no purpose and pose a security concern as it will allow people to see in.

The Committee noted that the staff report had taken that concern into account, and that faux windows were proposed instead. The Chair cautioned Mr. Hayter that there are rules to abide by.

One of the owners, Mrs. Coultice was present and spoke to the Committee. She stated that she will accept whatever treatments the Committee deems necessary, but would prefer plantings instead.

Councillor Yeo supported the staff recommendation and agreed with the Chair that the rules must be followed.

The Committee or other persons had no further questions.

Moved By A. O'Burnsawin

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.

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 storm water 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. The application was previously deferred at the February 21, 2019 Committee of Adjustment meeting.

The Committee asked Staff if a building permit was 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 variance application was submitted on December 14, 2018.

The Committee questioned the fees to be paid when construction takes place without a permit. Ms. Murchison replied that there are penalties: the regular fee is doubled if the building complies with the zoning by-law and tripled if a variance is required.

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 whether a further deferral should be made to ensure the owner makes the staff requested changes to the building prior to the Committee making a decision.

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 schedule an inspection with the Planning Division that the work had been completed. The proposal could then be brought back to the Committee for a decision. The Committee, in consultation with the Chief Building Official, stated that 4 months seemed excessive, and asked the applicant how much time would be needed to carry out the changes. The applicant suggested 2 months would be sufficient time.

The Committee or other persons had no further questions.

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. Ms. Murchison, Chief Building Official, spoke to the Committee and confirmed that there are fines in place. Discussions ensued.

Ms. 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

