

The Corporation of the City of Kawartha Lakes
Minutes
Committee of Adjustment Meeting

COA2019-012
Thursday, November 28, 2019
1:00 P.M.
Council Chambers
City Hall
26 Francis Street, Lindsay, Ontario K9V 5R8

Councillor E. Yeo
David Marsh
Andre O'Bumsawin
Sandra Richardson
Lloyd Robertson

Accessible formats and communication supports are available upon request.

1. Call to Order

Chair Robertson called the meeting to order at 1:00 p.m. Members A. O'Bumsawin and S. Richardson were in attendance.

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

Absent: Councillor Yeo and D. Marsh.

2. Administrative Business

2.1 Adoption of Agenda

2.1.1 COA2019-12.2.1.1

November 28, 2019
Committee of Adjustment Agenda

Moved By A. O'Bumsawin
Seconded By S. Richardson

That the agenda for the November 28, 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 COA2019-11.2.3.1

November 7, 2019
Committee of Adjustment Minutes

Moved By S. Richardson
Seconded By A. O'Bumsawin

That the minutes of the previous meeting held November 7, 2019 be adopted as circulated.

Carried

3. New Applications

3.1 Minor Variances

3.1.1 COA2019-070

David Harding, Planner II, RPP, MCIP
File Number: D20-2019-052
Location: 53 Lakewood Crescent
RCP Lot 45, Plan 564
Former Village of Bobcaygeon
Owners: Farah Eskandari and Daryoush Ebrahimi
Applicant: Garry Newhook

Mr. Harding summarized Report COA2019-070, to request relief in order to reconstruct and expand an existing single detached dwelling. The application is a result of a Building Division enforcement file. Mr. Harding stated Condition 4, line 2, which read "evidence that building identified as" be amended to read "evidence that the building identified as". He also stated Condition 5, first line, which read "That the building construction related to the minor variance" be amended to read "That the building construction related to the minor variances".

Agency comments received from the Building Division and Engineering and Corporate Assets Department had no concerns. Kawartha Region Conservation Authority stated that the owners are aware permits are required for proposed work. New additions must be flood-proofed 0.3 metres above the regulatory flood elevation. Building Division - Part 8 Sewage Systems object and require the owner to submit an application for changes to the existing sewage system.

Mr. Harding noted that comments had been received from Community Services since the writing of the report and they had no concerns.

Ms. Murchison, Chief Building Official was present and gave a background summary of events. An order to comply was issued September 6th; and an inspection on September 30th. On October 15th the applicant was advised to apply for a minor variance.

The applicant Mr. Newhook was present and spoke to the Committee outlining how the situation occurred from his perspective. Mr. Newhook requested Condition 5, be amended to extend building construction from 6 to 12 months.

The Committee stated that once again owners are building without permits. The Committee asked if there would be any problem extending Condition 5 from 6 to

12 months. Ms. Murchison, Chief Building Official replied that it is not necessary as 6 months is for the first building inspection, not occupancy. Mr. Newhook stated that he is working with the sewage system supervisor on a new sewage system design.

No further questions from the Committee or other persons.

Moved By S. Richardson

Seconded By A. O'Bumsawin

That minor variance application D20-2019-052 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 related to this approval shall proceed substantially in accordance with the sketch in Appendix C submitted as part of report COA2019-070, 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 to the Secretary-Treasurer written approval from the Building Division – Part 8 Sewage Systems;
3. **That** prior to the issuance of a building permit the owners shall submit to the Secretary-Treasurer written approval from KRCA;
4. **That** prior to the issuance of a building permit the owners shall submit to the satisfaction of the Secretary-Treasurer evidence that the building identified as 'Shed' on the sketch prepared by Garfield Design dated November 11, 2019, has been relocated to comply with the requirements of the Zoning By-law or has been removed; and
5. **That** the building construction related to the minor variances shall be completed within a period of six (6) 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 COA2019-070. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Carried

3.1.2 COA2019-071

David Harding, Planner II, RPP, MCIP
File Number: D20-2019-053
Location: 8-10 Kanata Trail
Part Lot 26, Concession 10, Parts 4-6, 57R-304
Geographic Township of Fenelon
Owners: Earle Baker, Simon Bowers & France Germain
Applicant: Earle Baker

Mr. Harding summarized Report COA2019-071, to request relief to facilitate the separation of ownership of two cottages and recognize the location of an existing cabin.

Agency comments received from Engineering and Corporate Assets Department and Building Division and Part 8 Sewage Systems had no concerns. Comments received from Community Services after the writing of the report on November 25 had no concerns.

The Committee asked staff if the third parcel is to be shared to the owners either side. Staff replied, yes.

The Committee asked how old the buildings on the subject property are. Staff replied varying ages, the original cottages were built in the 50s/60s an addition was put on the cottage on Part 2 with variances before 2012 and the cabin was built in 1988.

The applicant, Earle Baker was present but did not wish to speak.

No further questions from the Committee or other persons.

Moved By A. O'Bumsawin

Seconded By S. Richardson

That minor variance application D20-2019-053 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 related to this approval shall proceed substantially in accordance with the sketch in Appendix C submitted as part

of report COA2019-071, which shall be attached to and form part of the Committee's Decision; and

2. **That** if the related application for consent, file number D03-17-044 lapses, this application shall be deemed to be refused.

This approval pertains to the application as described in report COA2019-071. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Carried

3.1.3 COA2019-072

Quadri Adebayo, Planner II
File Number: D20-2019-054
Location: 233 Snug Harbour
Part Lot 4, Concession 8, Lot 22, Plan 129
Geographic Township of Fenelon
Owner: Alma Stacey
Applicant: Alma Stacey

Mr. Adebayo summarized Report COA2019-072, to request relief in order to permit the construction of an addition onto a two-storey dwelling.

Agency comments received from Building Division - Part 8 Sewage System and Engineering and Corporate Assets had no objections. Agency comments received from Community Services after the writing of the report had no concerns.

The Committee asked staff if the applicant obtained building permits for the ongoing construction and landscaping on the property. Staff responded yes, the variance is for the side of the property where construction has not been effected.

The applicant, Henry Wolters, 233 Snug Harbour Road was present and spoke to the Committee. He gave a brief overview of the age of the property and the issues with the basement, interior stairs and second floor. He also stated that he has a medical condition which is why work had taken place on the interior stairs.

The Chief Building Official Ms. Murchison substantiated staff's earlier comment stating that three permits were issued for the septic, deck and interior stairs but

no permits for other interior work as yet.

An amendment to Condition 2, line 2, was made "That notwithstanding the definition of rear yard, the granting of the variance for the reduced front yard setback" be amended to read" That notwithstanding the definition of rear yard, the granting of the variance for the dwelling".

No further questions from the Committee or other persons.

Moved By A. O'Bumsawin

Seconded By S. Richardson

That minor variance application D20-2019-054 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 related to this approval shall proceed generally in accordance with the sketch in Appendix C2 submitted as part of Report COA2019-072, 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 rear yard, the granting of the variance for the dwelling will not be interpreted to permit the placement of any accessory building other than a boathouse between the rear wall of the dwelling and the water's edge;
3. **That** the frame shed currently located between the rear wall of the dwelling and the shoreline be relocated in a compliant manner at a minimum of 15 metres from the water's edge, a minimum of 1.2 metres from the side lot line, and a minimum of 1.2 metres from the residential dwelling. The frame shed shall not be located in the front yard; 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.

This approval pertains to the application as described in report COA2019-072. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Carried

3.2 Consents

4. Deferred Applications

4.1 Minor Variances

4.1.1 COA2019-062

Quadri Adebayo, Planner II
File Number: D20-2019-045
Location: 276 Moorings Drive
Part Lot 32, Concession 10
Geographic Township of Fenelon
Owner: Bartt Barber
Applicant: Bartt Barber

Mr. Adebayo summarized Report COA2019-062, to request relief in order to permit existing installations on a waterfront property thus; a detached boat port, and additions to a single storey dwelling that comprises of an attached garage with supplementary living space above and a sunroom at the rear. The Committee deferred the application at its October 17, 2019 meeting for a maximum period of 2 months to allow sufficient time for the issues identified by commenting agencies to be addressed and to ensure the proposal can be supported by staff.

The building division enforcement process on the property is still active and subject to the outcome of a minor variance decision. The sunroom was built without permits whereas the physical build-out of the attached garage with living space above is largely inconsistent with the drawings provided for the building permit that was issued. A minor variance was recommended upon this discovery and the property owner/applicant was also required to get their property surveyed in company with the minor variance application submission. Planning staff noted that the construction of the attached garage with living space above is incomplete due to a stop-work-order issued by the Building Division. Staff are evaluating the proposal as if the installations subject to this minor variance were non-existent and newly proposed today.

Agency comments received from Kawartha Region Conservation Authority had no concerns. See preliminary comments in Appendix D3 of Report COA2019-

062. Engineering and Corporate Assets had no objections. Building Division had no concerns.

Public comments received from Gail and Harold Kukasch, 268 Moorings Drive, advised that most of the construction on the subject property was done without permits and is causing their property to flood during spring.

Ms. Murchison, Chief Building Official was present and stated that an order to comply was issued not a stop-work-order. Ms. Murchison continued to give a brief overview of events that led to the issuance of an order to comply. Including that it took some heavy-handed effort to get the applicant to eventually comply.

The Committee questioned page 7 of the report, "Other Alternatives Considered". Ms. Murchison and The Manager of Planning, Mr. Holy agreed that a Juliette balcony is a loose term that could be misconstrued. It is better to say no decks or external floors in the wall-opening of the master bedroom except a guard to the outside wall. They suggested that a condition be added to prevent an upper level deck. Condition 4 was added and read "That an elevated deck or extension is not permitted in the rear yard". Previous Condition 4 now becoming Condition 5.

The Committee asked if it was confirmed that the boat slip installation is a cause of the flooding in spring. Staff replied that the objectors are aware of the area being a flood zone. Agency comments received together with staff analysis did not rationalize any of the installation as being a root cause of flooding in the area.

Applicant, Mr. Barber was present and spoke to the Committee. He also stated that the neighbour had filled the creek between the cottages which caused the flooding. And that they are looking to comply with building enforcement.

Committee asked if drainage control can be put in the interior side yard. Ms. Murchison responded that through the building code, a side yard is typically graded with maybe a requirement to install swales. A lot grading and drainage plan only applies to new builds and not additions.

No further questions from the Committee or other persons.

Moved By S. Richardson

Seconded By A. O'Bumsawin

That minor variance application D20-2019-045 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

1. **That** the dwelling and accessory building related to this approval shall proceed generally in accordance with the sketch in Appendix C submitted as part of Report COA2019-062, 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 rear yard, the granting of the variance for the reduced water setback will not be interpreted to permit the placement of any other accessory structure(s) or the construction of any addition(s) between the rear wall of the dwelling and the water's edge;
3. **That** the applicant shall complete the Building Permit process to the satisfaction of the Building Division. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the Chief Building Official advising that the building permit situation has been satisfied to his/her satisfaction under the Ontario Building Code;
4. **That** an elevated deck or extension is not permitted in the rear yard; and
5. **That** the Building Permit process shall be completed within a period of twelve (12) 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 receipt of a confirmation letter by the Secretary-Treasurer from the Chief Building Official.

This approval pertains to the application as described in report COA2019-062. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Carried

4.1.2 COA2019-073

David Harding, Planner II, RPP, MCIP

File Number: D20-2019-004

Location: 221 Francis Street East

Part Lot 21, Concession 11, Part 2, 57R-2234

Geographic Township of Fenelon

Owners: Nancy and Shirley MacDonald
Applicant: RWH Construction - Adam Hayter

Mr. Harding summarized Report COA2019-073, to permit the constructed detached garage. The application was the result of a Building Division enforcement matter. The application had been deferred by the Committee at its February 21, May 16, July 18 and November 7, 2019 meetings. At its November 7, 2019 meeting the Committee received a memorandum by Richard Holy, Manager of Planning, recommending that instead of the Committee contemplating the action outlined in staff report COA2019-069 prepared for that meeting, that the application be deferred one further time and brought back to the November 28 meeting for a decision. The Committee agreed to defer the application to give the applicant time to meet the requirements discussed. Mr. Harding was pleased to announce that he had received:

- 1) Confirmation that the faux windows are installed.
- 2) Confirmation that the foundation is parged.
- 3) The application fees for creation of a site plan agreement along with required securities.
- 4) Copies of the site plan agreement signed by the owners and the Mayor and Clerk, which has been forwarded for registration; and
- 5) Payment of the application deferral fees.

Ms. Murchison, Chief Building Official had no comments.

The applicant, Ryan Hayter was present and spoke to the Committee.

No further questions from the Committee or other persons.

Moved By S. Richardson

Seconded By A. O'Bumsawin

That minor variance application D20-2019-004 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 detached garage related to this approval shall proceed substantially in accordance with the sketch in Appendix C, the landscape plan sketch in Appendix D and the landscape plan elevation in

Appendix E submitted as part of report COA2019-073; and

2. **That** the building construction related to the minor variances 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 COA2019-073. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Carried

4.2 Consents

5. **Other Business**

Committee acknowledge receipt of proposed dates for the Committee of Adjustment meetings for 2020.

6. **Correspondence**

7. **Next Meeting**

The next meeting will be Thursday, January 23, 2020 at 1:00pm. in Council Chambers, City Hall.

8. **Adjournment**

Moved By A. O'Bumsawin

Seconded By S. Richardson

That the meeting be adjourned at 2:20pm.



Mark LaHay, Acting Secretary-Treasurer