

Minutes of the 12th Meeting

Committee of Adjustment



Meeting Date: Thursday September 7, 2023

Meeting Time: 7:00 p.m.

Meeting Location: Virtual Meeting

Present:

N. Chornobay, Chair

J. Cardwell

S. Haslam

J. Rinella

K. Docherty

Ryan Chow, Secretary-Treasurer

J. Taylor, Senior Manager, Zoning & Regulation

Item 1: Disclosure of Interest:

There was no disclosure of interest by the members of the Committee of Adjustment

Carried

Item 2: Motion to Add to the Agenda:

Moved by: S. Haslam

That Minor Variance Application A/44/23, which was tabled at the August 17th Committee of Adjustment Meeting, be added as the last application to be heard on the agenda of the September 7th Committee of Adjustment Meeting.

Carried

Item 3: Public Hearings

A/45/23

**Cedar City Seaboard Gate Inc.
36 Waterfront Crescent**

An application has been received from Cedar City Seaboard Gate Inc. for a variance from the provisions of By-Law 2585.

The application is for permission to increase the maximum permitted encroachment of a porch projecting from the first storey of a dwelling into a front yard from 1.5 m to 1.8 m.

The requested variance is required to permit an existing porch in the front yard.

The subject property is located at 36 Waterfront Cres and is zoned Residential Type 3 – Exception 4 (R3-4).

In Support of Application: Steve Edwards (Agent)

Charles Vallance (Owner/Applicant)

In Opposition of Application: None at this time.

The Chair introduced the application and asked if anyone would like to speak to the subject application.

S. Edwards introduced himself as the Planning Lead at GHD and explained the need for a variance due to a construction error on the porch. He noted that despite the error, the property conforms to all other provisions, and that the other dwellings under construction in the Plan of Subdivision have correctly been built.

The Chair asked R. Chow, Secretary-Treasurer, if any correspondence had been received in relation to the subject application.

R. Chow advised the Committee that no correspondence was received.

The Chair asked if there were any questions from the Committee.

S. Haslam asked for clarification that the variance is required solely due to the construction error.

S. Edwards responded yes.

There were no further questions from Committee.

The Chair asked if there was anyone from the public who wished to speak to the subject application. There was no one.

Moved by: J. Cardwell.

That the application to increase the maximum permitted encroachment of a porch projecting from the first storey of a dwelling into a front yard from 1.5 m to 1.8 m located at 36 Waterfront Cres be **Granted**.

Carried

Reason:

The members of the Committee were of the opinion that the variance is minor in nature; that the general intent and purpose of the By-law and the Official Plan is being maintained, and that the granting of the application is desirable and would result in the appropriate development of the property.

Having considered the contents of all submissions, the staff report and oral submissions had an effect on the Committee's decision.

A/46/23

John Hawthorn

226 Carnwith Drive West

An application has been received from John Hawthorn for a variance from the provisions of By-Law 1784.

The application is for permission to increase the maximum permitted lot coverage from 40% to 45%.

The requested variance is required to permit an accessory structure (pavilion) in the rear yard.

The subject property is located at 226 Carnwith Dr W and is zoned Residential (R2A*).

In Support of Application: Warren Underhill (Owner Representative)

John Hawthorn (Owner)

In Opposition of Application: None at this time.

The Chair introduced the application and asked if anyone would like to speak to the subject application.

W. Underhill introduced himself as the owner's landscaping contractor, provided an overview of the proposal, and explained the need for a variance.

The Chair asked if there were any questions from the Committee.

S. Haslam asked for clarification regarding a neighbour's letter of objection stating that the accessory structure had already commenced construction.

W. Underhill stated that there was a miscommunication causing the accessory structure to be built early and prior to the granting of the variance.

J. Cardwell asked R. Chow if the Town of Whitby Building Division had already inspected the accessory structure to confirm it was built as proposed.

R. Chow responded that the Building Division was notified of the situation.

W. Underhill confirmed that the Building Division had visited the site and was satisfied with the construction.

S. Haslam asked if work will be stopped until a Building Permit is obtained.

W. Underhill responded that a Building Permit was already granted for the remainder of the project, including the construction of the pool and associated landscaping works.

The Chair asked what the Building Division does if something is built prior to approval.

J. Taylor responded that the Building Division inspects that the project meets the Ontario Building Code.

J. Cardwell asked if the variance's approval could be subject to a new condition that the Building Division approves the construction of the accessory structure, and that the structure is deemed up to the standard of the Ontario Building Code.

The Chair asked R. Chow, Secretary-Treasurer, if any correspondence had been received in relation to the subject application.

R. Chow advised the Committee that one letter of objection was received and that this letter was forwarded to the Committee.

The Chair asked if there was anyone from the public who wished to speak to the subject application. There was no one.

Moved by: J. Cardwell.

That the application to increase the maximum permitted lot coverage from 40% to 45% located at 226 Carnwith Dr W be **Granted** subject to the following condition:

1. The Building Division approves of the construction of the accessory structure and the structure conforms to the Ontario Building Code.

Carried

Reason:

The members of the Committee were of the opinion that the variance is minor in nature; that the general intent and purpose of the By-law and the Official Plan is being maintained, and that the granting of the application is desirable and would result in the appropriate development of the property.

Having considered the contents of all submissions, the staff report and oral submissions had an effect on the Committee's decision.

A/47/23

**Michelle Ivall
81 Prentice Dr**

An application has been received from Michelle Ivall for a variance from the provisions of By-Law 2585.

The application is for permission to reduce the minimum required setback from the side lot line of a deck surrounding a swimming pool from 2.0 m to 1.5 m.

The requested variance is required to permit a deck surrounding a swimming pool in the rear yard of the subject property.

The subject property is located at 81 Prentice Dr and is zoned Residential (R2B).

In Support of Application: Michelle Ivall (Owner)
 Alexander Ivall (Owner)

In Opposition of Application: None at this time.

The Chair introduced the application and asked if anyone would like to speak to the subject application.

A. Ivall introduced himself and provided an overview of the proposal.

The Chair asked if there were any questions from the Committee. There were none.

The Chair asked R. Chow, Secretary-Treasurer, if any correspondence had been received in relation to the subject application.

R. Chow advised the Committee that no correspondence was received.

The Chair asked if there was anyone from the public who wished to speak to the subject application. There was no one.

Moved by: J. Rinella.

That the application to reduce the minimum required setback from the side lot line of a deck surrounding a swimming pool from 2.0 m to 1.5 m located at 81 Prentice Dr be **Granted** subject to the following conditions:

1. The site grading shall conform to the requirements of the Engineering Services department.
2. Drainage shall not negatively impact adjacent properties.

Carried

Reason:

The members of the Committee were of the opinion that the variance is minor in nature; that the general intent and purpose of the By-law and the Official Plan is being maintained, and that the granting of the application is desirable and would result in the appropriate development of the property.

Having considered the contents of all submissions, the staff report and oral submissions had an effect on the Committee's decision.

A/48/23

Ketul Shah

4 Peter Hogg Ct

An application has been received from Ketul Shah (on behalf of Tanzeela Kausar) for a variance from the provisions of By-Law 1784.

The application is for permission to reduce the minimum parking space requirement for an accessory dwelling unit from 1 to 0.

The requested variance is required to permit an accessory apartment.

The subject property is located at 4 Peter Hogg Ct and is zoned Low Density Residential (LD).

In Support of Application: Ketul Shah

In Opposition of Application: None at this time.

The Chair introduced the application and asked if anyone would like to speak to the subject application.

K. Shah introduced himself and provided an overview of the requested variance. He explained the unique situation of this property as it has a long driveway within the municipal right-of-way where parking will be provided.

The Chair asked if there were any questions from the Committee.

S. Haslam asked why this variance is unique, as in the past, variances to permit accessory apartments without an additional parking space on the property would be denied.

J. Taylor summarized new provincial legislation and directives that encourage increasing the housing stock, such as Bill 23. He then explained that the Planning Department looked at different options on this property to provide adequate parking capacity in order to permit an accessory apartment. The Planning Department acknowledged that unlike past cases, this property was a unique situation as it has a long portion of its driveway within the Town-owned boulevard. Following the Province's directives, allowing parking on the boulevard outside of the property lines in order to permit the accessory apartment could be supported in this situation. J. Taylor stated that each application should be evaluated on its own merit.

J. Cardwell asked how much of the additional parking space would be on municipal property.

J. Taylor replied that the space would entirely be on municipal property.

K. Docherty asked if there were any sidewalks on the Town-owned portion of the driveway.

J. Taylor replied no.

The Chair asked R. Chow, Secretary-Treasurer, if any correspondence had been received in relation to the subject application.

R. Chow advised the Committee that no correspondence was received.

J. Cardwell and K. Docherty both expressed their concerns of safety and visibility from having too many cars parked on the street.

K. Shah explained that all 3 parking spaces would fit on the driveway and in the garage.

K. Docherty expressed her concern that having to remove cars from the driveway to access the other cars would be unsafe.

J. Taylor explained that the new provincial legislation requires the Town to permit tandem parking.

S. Haslam expressed his concern that approving this variance could set a precedent for future applications.

J. Taylor stated that each application must be individually considered on a case-by-case basis.

The Chair asked R. Chow, Secretary-Treasurer, if any correspondence had been received in relation to the subject application.

R. Chow advised the Committee that 1 letter of support was received.

The Chair asked if there was anyone from the public who wished to speak to the subject application. There was no one.

Moved by: K. Docherty.

That the application to permit 2 adjacent parking spaces on a 4.5 m wide driveway located at 4 Peter Hogg Ct be **Granted**.

Carried

Reason:

The members of the Committee were of the opinion that the variance is minor in nature; that the general intent and purpose of the By-law and the Official Plan is being maintained, and that the granting of the application is desirable and would result in the appropriate development of the property.

Having considered the contents of all submissions, the staff report and oral submissions had an effect on the Committee's decision.

A/49/23

**Silva Nercessian
26 Queen St**

An application has been received from Silva Nercessian (on behalf of William Medland), for a variance from the provisions of Town of Whitby Zoning By-law 1784.

The application is for permission to increase the maximum permitted lot coverage from 20% to 31%.

The requested variance is required to permit an addition to the side and rear of the existing single-detached dwelling.

The subject property is located at 26 Queen St and is zoned Brooklin Secondary Plan Residential Type 3 (R3-BP).

In Support of Application: S. Nercessian (Applicant)

J. White (Agent)

In Opposition of Application: None at this time.

The Chair introduced the application and asked if anyone would like to speak to the subject application.

S. Nercessian introduced herself and provided an overview of the proposal and of the required variance.

The Chair asked if there were any questions from the Committee.

S. Haslam asked for further details on the proposal.

J. White provided more details on the interior and exterior of the proposed addition.

J. Cardwell asked if the existing detached garage would remain and if there were any concerns with access to the garage.

J. White stated that the garage will remain. He then stated that sufficient space will be provided in the side yard to access the garage, with a 2.75 m setback between the proposed addition and the side lot line.

J. Cardwell asked for the proposed height of the dwelling.

J. White stated that the proposed height had not yet been determined but that it would be below the maximum permitted height as per the Zoning By-law.

K. Docherty expressed concerns about approving the application as the height is not yet finalized.

J. Taylor stated that if the variance gets approved, a zoning check of the final proposal would be completed prior to construction and any deficiencies would be identified. If an additional variance for height were to be required, the applicant would be able to either revise their plans or apply for an additional variance.

There were no further questions from the Committee.

The Chair asked R. Chow, Secretary-Treasurer, if any correspondence had been received in relation to the subject application.

R. Chow advised the Committee that no correspondence was received.

The Chair asked if there was anyone from the public who wished to speak to the subject application. There was no one.

Moved by: J. Cardwell.

That the application to increase the maximum permitted lot coverage from 20% to 31% located at 26 Queen St be **Granted** subject to the following conditions:

1. The site grading and services shall conform to the requirements of the Engineering Services department.

2. Roof leaders from the proposed structure shall not spill onto the neighbouring properties.

Carried

Reason:

The members of the Committee were of the opinion that the variance is minor in nature; that the general intent and purpose of the By-law and the Official Plan is being maintained, and that the granting of the application is desirable and would result in the appropriate development of the property.

Having considered the contents of all submissions, the staff report and oral submissions had an effect on the Committee's decision.

A/44/23

Mohammad Ghofrani
79 Barkerville Dr

An application has been received from Mohammad Ghofrani (on behalf of Abdul Khan) for a variance from the provisions of Town of Whitby Zoning By-law 1784.

The application is for permission to reduce the interior side yard setback to a below grade access stairway from 0.6 m to 0.23 m.

The requested variance is required to permit below grade access stairs within the south interior side yard of the subject property.

The subject property is located at 79 Barkerville Drive and is zoned Low Density Residential (LD).

In Support of Application: A. Khan (Owner)

In Opposition of Application: None at this time.

The Chair introduced the application and asked if anyone would like to speak to the subject application.

A. Khan introduced himself and provided an overview of the application, which was tabled at the August 17th Committee of Adjustment meeting.

The Chair asked what changes have been made since the August 17th Committee of Adjustment meeting.

A. Khan stated that a letter of consent has been provided from owner of 81 Barkerville so that the applicant would be permitted to encroach on the neighbouring property of 81 Barkerville during the construction of the below grade access stairs.

J. Taylor stated that A. Khan and his engineer (the applicant) met with the Planning Department to discuss options for this application. The Planning Department also met internally with the Town's Building and Engineering Divisions to discuss options for this application. A letter of consent from 81 Barkerville was received by the Planning Department stating that construction works could encroach on this property as long as sodding and grading would be returned to preexisting conditions following the construction period. J. Taylor stated that the letter of consent will be presented to the Building Division, as they will require this letter prior to their approval of the application.

There were no further questions from the Committee.

The Chair asked R. Chow, Secretary-Treasurer, if any correspondence had been received in relation to the subject application.

R. Chow advised the Committee that the letter of consent was from the owner of 81 Barkerville was received.

The Chair asked if there was anyone from the public who wished to speak to the subject application. There was no one.

J. Cardwell stated that an additional condition of approval should be added. The variance should be approved with the letter of consent.

Moved by: J. Cardwell.

That the application to reduce the interior side yard setback to a below grade access stairway from 0.6 m to 0.23 m located at 79 Barkerville Dr be **Granted** subject to the following condition(s):

1. The site grading and services shall conform to the requirements of the Engineering Services department.
2. Drainage shall not negatively impact adjacent properties.
3. A letter of consent to encroach on the property of 81 Barkerville Drive during construction is submitted to the Town of Whitby.

Carried

Reason:

The members of the Committee were of the opinion that the variance is minor in nature; that the general intent and purpose of the By-law and the Official Plan is being maintained, and that the granting of the application is desirable and would result in the appropriate development of the property.

Having considered the contents of all submissions, the staff report and oral submissions had an effect on the Committee's decision.

Item 4: Approval of Previous Minutes

Moved by: K. Docherty

That the minutes of the Committee of Adjustment held on Thursday August 17, 2023 be adopted.

Carried

Item 5: Other Business

There were no items raised under other business.

Item 6: Adjournment

Moved by: K. Docherty

That this meeting of the Committee of Adjustment be adjourned.

Carried

Secretary Treasurer

Chair