



# Minutes of the 2nd Meeting

## Committee of Adjustment

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**Meeting Date:** Thursday February 11, 2021

**Meeting Time:** 7:00 p.m.

**Meeting Location:** Virtual Meeting

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### **Present:**

N. Chornobay, Chair

S. Haslam

J. Cardwell

B. O'Carroll

D. McCarroll

J. Malfara, Secretary-Treasurer

K. Kram, Principle Planner, Zoning & Administration

J. Taylor, Senior Manager, Zoning & Administration

### **Item 1: Disclosure of Interest:**

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

**Carried**

## Item 2: Public Hearings

**A/09/21**

**Paul Demczk, Batory Urban Planning & Project Management**  
**1614 Dundas Street East**

An application has been received from Paul Demczk, Batory Urban Planning & Project Management for a variance from the provisions of By-Law 1784.

The application is for permission to: permit a private school use within the exiting building on the subject property

The subject property is located at 1614 Dundas St E and is zoned (C2-S).

In Support of Application Paul Demczak (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.

P. Demczak introduced himself to the Committee as the Planner retained on behalf of the owner of the subject lands. He advised the Committee that the applicant is proposing a private school for international students within the building.

P. Demczak noted that 7 parking spaces are required, and the site has a total of 152 spaces. Many of the spaces are vacant on a daily basis and parking generated by the proposed use will not be an issue.

P. Demczak noted that the proposed school is complimentary to the permitted uses within the Zoning By-law, and represents good planning.

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

J. Cardwell ask if the use will be tailored to high school students, and also asked how many staff will be present at the school.

P. Demczak confirmed that the use will be for high school students and there will be a maximum of 6 staff.

S. Haslam asked if interior renovations will be required for washroom facilities.

P. Demczak replied that the washroom facilities are currently located within the unit.

D. McCarroll asked how students will be dropped off at the school.

P. Demczak replied that there will be no bussing and transportation to the school will be provided by the student's host family or by personal vehicle.

B. O'Carroll had no concerns.

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

J. Malfara advised the Committee that no public 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:** B. O'Carroll

That the application to permit a private school use within the existing building on the subject property located at 1614 Dundas Street East 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 further 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 2: Public Hearings**

**A/10/21**

**1606-1614 Charles Street East GP Inc.  
1606 Charles Street**

An application has been received from 1606-1614 Charles Street East GP Inc. for a variance from the provisions of By-Law 2585.

The application is for permission to:

1. reduce the minimum required front yard setback and east setback on Appendix A from 4.5m to 4.0m;
2. reduce the minimum required additional front yard setback for any building elevation greater than 4 storeys in height from 3.0m to 2.0m;
3. permit balconies, porches and patios to project a maximum of 3.35m beyond the minimum building setback lines on Appendix A and allow them to project a maximum of 3.35m into the minimum required front and rear yard setbacks;
4. permit covered entrances and other similar ornamental structures to project a maximum of 2.95m beyond the minimum building setback lines on Appendix A and allow them to project a maximum of 2.95m into the minimum required front and rear yard setbacks;
5. permit balconies, patios, porches, canopies/covered entrances, and other similar ornamental structures to project a maximum of 2.8m into the minimum required distance between apartment buildings;
6. increase the maximum permitted rear yard setback to a portion of Building F from 6m to 8.7m;
7. vary the definition of “storey” to increase the maximum permitted height of a storey from 3.5m to 4.95m for the first two storeys of Building A;
8. reduce the minimum required number of parking spaces for residents from 1.25 spaces per unit to 1.12 spaces per unit;
9. reduce the minimum required number of visitors parking spaces from 0.25 spaces per unit to 0.15 spaces per unit;
10. reduce the minimum required interior side yard setback (north) for a parking structure projecting less than 1.2m above finished grade from 1.0m to 0.5m;
11. increase the maximum permitted width of a two-way driveway from 9.0m to 10.0m;

12. reduce the minimum required width of a two-way driveway serving a loading area from 7.0m to 5.0m (Building A) and 6.0m (Buildings C, D and E); and
13. reduce the minimum required number of loading spaces from 6 to 5.

The subject property is located at 1606 Charles St and is zoned (R5A-11).

In Support of Application

Diana Mercier (Applicant)

In Opposition of Application

Davina Jones  
Dan Coombes  
Doug Norton  
Louise O'Grady  
William Cross  
Shanthi Narendiran  
Murray Lapp

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

D. Mercier introduced herself to the Committee as the Planning consultant retained on behalf of the applicant. D. Mercier provided an overview of the subject property as well as an overview of the development proposal on the lands.

D. Mercier provided a history of the subject lands and advised that a site specific Zoning By-law was approved by the Ontario Municipal Board in 2010 which included the zone standards to permit the apartment buildings as proposed.

D. Mercier further noted that a previous development proposal was submitted to the Town of Whitby by a former owner. This application did not proceed and the lands were purchased by her client. In 2018, an application for Site Plan Approval was submitted to the Town based on the plans provided to the Committee. As part of the Site Plan process a number of variances were identified.

D. Mercier asked the Committee if they would like her to explain each of the requested variances.

The Chair replied yes.

D. Mercier provided an overview of Variance #1. She noted that this variance was required due to a road widening conveyance along Charles Street. If the road widening was not required, this variance would not be required.

D. Mercier provided an overview of Variance #2. She noted that this variance is minor in nature and is ultimately a result of the road widening conveyance as well.

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

D. Mercier provided an overview of Variance #3. She noted that some of the ground floor balconies project into the required yard setback, particularly along Charles Street.

S. Haslam asked if the 3.35m projection is measured from the 4.0m or 4.5m yard setback.

D. Mercier replied 4.0m.

The Chair noted that the balcony is projecting 3.35m into a 4.0m setback.

D. Mercier replied yes.

D. Mercier provided an overview of Variance #4. She noted that this variance is required to facilitate the main building entrance's along Charles Street. She also expressed that these are ground floor and ornamental features.

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

D. Mercier provided an overview of Variance #5. She noted that this variance applies only to balconies projecting from buildings within and central to the development.

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

D. Mercier provided an overview of Variance #6. She noted that a portion of the property along the west property line jogs out and the By-law requires a maximum permitted setback of 6.0m and the proposed abutting building has an 8.7m setback.

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

D. Mercier provided an overview of Variance #7. She noted that mechanical equipment is proposed within the first storey of Building A and additional floor space height of required to accommodate this equipment.

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

J. Cardwell asked if this variance will apply only to Building A.

D. Mercier replied yes.

D. Mercier provided a combined overview of Variance #8 and Variance #9. She noted that there is a total of 443 parking spaces proposed on the property, of which 53 spaces will be visitor parking spaces.

D. Mercier noted that there is not enough room to create additional parking spaces due to on-site constraints, including the requirement of two large cisterns to be installed below grade for storm water management.

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

B. O'Carroll asked how many residential units are proposed

D. Mercier replied 348 and each residential unit will have access to at least 1 parking space.

J. Cardwell asked if the parking spaces will be sold to residents or if they will be included with each unit.

D. Mercier replied that the spaces will be sold separately.

J. Cardwell asked if it is possible that someone may purchase one space and someone else may purchase two spaces.

D. Mercier replied yes.

D. Mercier also noted that Traffic Impact Study was prepared to address the proposed parking rate reduction. This report was reviewed and accepted by the Town of Whitby Public Works Department.

The Chair asked how many parking spaces will be located at grade.

D. Mercier replied 10 spaces.

The Chair asked if the parking study considered on-street parking.

D. Mercier replied that she was unaware if street parking was assessed.

The Chair noted that he is unaware of parking restrictions on Charles Street.

B. O'Carroll noted that there is no permitted parking on the east side of Charles Street.

B. O'Carroll also noted that she observed on-street parking with occupants exiting these vehicles and walking to the Rowe Condominium.

J. Cardwell asked J. Malfara if no parking signs will be posted along the east side of Charles Street.

J. Malfara replied that Planning is unaware of this matter and the Public Works Department would be responsible for establishing which street are permissible for street parking.

The Chair noted that the Town of Whitby does have overnight parking restrictions.

S. Haslam noted that parking cash-in-lieu has been accepted by the Town. He asked staff if this was considered for this project.

J. Malfara noted that cash-in-lieu for parking is only applicable within Downtown Whitby and this project is outside of the Downtown zone.

D. Mercier provided an overview of Variance #10. She noted that this variance is required as a result of a slight vertical projection of the below grade parking structure and its proximity to the north property line.

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

J. Cardwell asked if the area above the parking structure will be used for amenity spaces.

D. Mercier replied yes.

D. Mercier provided an overview of Variance #11. She noted that internal to the development, a portion of the driveway as it curves is 10.0m in width.

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

J. Cardwell asked staff if the Fire Department has reviewed and approved the internal driveway configuration.

J. Malfara replied that he will defer this question to K. Kram.

K. Kram noted that the Fire Department has reviewed the Site Plan and have no concerns.

D. Mercier provided an overview of Variance #12. She noted that the loading area driveway width serving Building A is 5.0m and Building C/D/E is 6.0m. The 7.0m minimum requirement can not be met due to site size constraints, and that extra room for pedestrian access and amenity was desired.

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

D. Mercier provided an overview of Variance #13. She noted that each of the loading spaces are within proximity to each of the buildings at grade.

The Chair noted that he was only able to see 4 of the proposed loading spaces.

J. Malfara provided clarification on the location of the loading spaces.

The Chair noted that all of the requested variances have been described by the applicant. He asked D. Mercier if she had any concluding remarks.

D. Mercier replied that the requested variances and proposed development is appropriate and considerable efforts have been made to advance the proposal to this stage. She further noted that the variances are appropriate and meet the four tests.

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

J. Cardwell asked who will control access to the ten proposed parking spaces on the surface.

D. Mercier replied that this will be the responsibility of the condominium board and on site concierge.

S. Haslam asked the applicant how the variances are desirable for the neighborhood.



D. Mercier expressed that the site is underdeveloped and vacant, and the proposal represents an appropriate form of intensification, in line with the Town of Whitby Official Plan. The proposal will enhance the streetscape along Charles Street and the height and massing of the structures have been done in a way to respect the surrounding land uses.

D. Mercier noted that the Zoning permits two 18-storey towers, however only one is proposed. She further noted that the proposal would not result in any adverse impacts on the surrounding lands and meets the general intent of the Zoning By-law.

B. O'Carroll asked if there will be a sidewalk along the Charles Street frontage.

D. Mercier replied yes.

B. O'Carroll asked if landscaping is proposed along Charles Street.

D. Mercier replied yes.

B. O'Carroll asked if a fence is proposed along the Charles Street frontage.

D. Mercier replied no, but a fence is proposed along the north property line.

The Chair asked J. Malfara if any public correspondence was received.

J. Malfara advised the Committee that all written correspondence was circulated prior to this meeting, and there are a number of participants in the audience for this application.

J. Malfara noted that anyone from the public who wishes to speak to this application should state their full name, address, and if they support or object to the application.

D. Coombes introduced himself to the Committee as a resident and President of the condominium board for 1600 Charles Street. He advised the Committee that this proposal will have an adverse impact to residents of 1600 Charles Street with respect to the obstruction of views of Lake Ontario and the Whitby Marina.

D. Mercier advised the Committee that the Zoning for the property, permitting two 18 storey apartment buildings was approved in 2010.

The Chair asked Planning staff to confirm.

J. Malfara advised the Committee that this is correct. A site specific zoning was passed in 2010 permitting two 18 storey buildings on the property.

D. Jones introduced herself to the Committee as the owner of 1705 Charles Street. She expressed concerns with the reduction to the parking requirement. She noted that this area within the Town has a parking issue and there is often an influx of residents continually parking on Charles Street.

D. Norton introduced himself as the owner of 37 Bedell Crescent. He noted that he has similar concerns regarding parking as D. Jones and is in objection to the requested

variances. D. Norton expressed that the parking reduction is excessive and the trend today is for families to have more than one vehicle. The 10 visitor parking spaces is also not sufficient.

D. Mercier replied that there is a total of 53 visitor parking spaces, 10 of which are at grade.

D. Norton asked if visitors will be required to pass through security to enter the below grade spaces.

D. Mercier replied that this will be determined by the condominium corporation.

D. Norton concluded that his main objection relates to the parking variances, and he has no other objections to the other variances.

W. Cross introduced himself as the owner of 1600 Charles Street. He expressed concerns with the parking variances. He also noted that people within the community are currently parking in their visitor parking spaces, who are not visiting residents within their building. Further, he expressed concern with additional parking impacts along Charles Street when other developments nearby are constructed.

L. O'Grady introduced herself to the Committee as a resident of 360 Watson Street and expressed concerns with the reduction to the parking rate.

M. Lapp introduced himself as a resident of 360 Watson Street. He asked the Committee if municipal garbage collection vehicles can maneuver the site based on the driveway widths.

D. Mercier noted that a swept path analysis was prepared and accepted by the Town, confirming truck movements within the site.

M. Lapp asked if waste collection will be private or public.

D. Mercier replied private collection.

J. Malfara confirmed that this site will be subject to private waste collection.

M. Lapp noted that if the site is serviced by private collection, the Town has no control over how the waste is processed.

J. Taylor stated that waste collection for wet garbage, standard waste and recycling is required within each of the buildings.

M. Lapp asked if residents of these condominiums would be permitted a tax break since they have paid for private waste collection through their condominium fees.

J. Malfara replied that no tax reductions or credits would be issued.

S. Narendiran introduced herself as a resident of 1600 Charles Street. She expressed concerns with the parking reduction as well as a lack of parking for current residents

already in the area. She noted that people would be forced to park at the GO Station parking lot which is not desirable.

A motion was brought forward by J. Cardwell to **APPROVE** the requested variances subject to the conditions included within the Planning Staff Report.

The motion was defeated.

A motion was brought forward by S. Haslam that:

That the application to:

1. reduce the minimum required front yard setback and east setback on Appendix A from 4.5m to 4.0m;
2. reduce the minimum required additional front yard setback for any building elevation greater than 4 storeys in height from 3.0m to 2.0m;
3. permit balconies, porches and patios to project a maximum of 3.35m beyond the minimum building setback lines on Appendix A and allow them to project a maximum of 3.35m into the minimum required front and rear yard setbacks;
4. permit covered entrances and other similar ornamental structures to project a maximum of 2.95m beyond the minimum building setback lines on Appendix A and allow them to project a maximum of 2.95m into the minimum required front and rear yard setbacks;
5. permit balconies, patios, porches, canopies/covered entrances, and other similar ornamental structures to project a maximum of 2.8m into the minimum required distance between apartment buildings;
6. increase the maximum permitted rear yard setback to a portion of Building F from 6m to 8.7m;
7. vary the definition of "storey" to increase the maximum permitted height of a storey from 3.5m to 4.95m for the first two storeys of Building A;
8. reduce the minimum required number of parking spaces for residents from 1.25 spaces per unit to 1.12 spaces per unit;
9. reduce the minimum required number of visitors parking spaces from 0.25 spaces per unit to 0.15 spaces per unit;
10. reduce the minimum required interior side yard setback (north) for a parking structure projecting less than 1.2m above finished grade from 1.0m to 0.5m;
11. increase the maximum permitted width of a two-way driveway from 9.0m to 10.0m;

12. reduce the minimum required width of a two-way driveway serving a loading area from 7.0m to 5.0m (Building A) and 6.0m (Buildings C, D and E); and
13. reduce the minimum required number of loading spaces from 6 to 5. located at 1606 Charles Street be **Refused**.

**Carried**

Reason: The members of the Committee were of the opinion that the variances were not minor in nature and further that the granting of the application is not desirable.

### **Item 3: Approval of Previous Minutes**

**Moved by:** S. Haslam

S. Haslam noted that the discussion regarding the appointment of the Chair from the past meeting was not included in the minutes.

J. Malfara noted that the revised minutes will be circulated to the Committee.

S. Haslam noted that there were no other concerns with the minutes.

**Carried**

### **Item 4: Other Business**

J. Malfara advised the Committee that a new virtual meeting platform is being explored (Zoom).

S. Haslam asked if the revised Chair's Speech will be circulated to the Committee.

J. Malfara replied yes, and noted that revisions are being made to better reflect the virtual meeting setup.

### **Item 5: Adjournment**

**Moved by:** B. O'Carroll

That this meeting of the Committee of Adjustment be adjourned.

**Carried**

[Original Approved]

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Secretary Treasurer

[Original Approved]

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Chair