



# Minutes of the 7th Meeting of the Committee of Adjustment

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**Meeting Date:** Thursday May 23, 2019  
**Meeting Time:** 7:00 p.m.  
**Meeting Location:** Whitby Municipal Building  
575 Rossland Road East, Committee Room 1

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## **Present:**

S. Haslam, Chair  
J. Cardwell  
B. O'Carroll  
D. McCarroll  
N. Chornobay  
J. Malfara, Secretary-Treasurer  
J. Taylor, Manager of Planning 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/42/19**

**Gary and Janette Giles**

**51 Stargell Drive**

An application has been received from Gary and Janette Giles for a variance from the provisions of the Town of Whitby Zoning By-Law 1784.

The application is for permission to reduce the minimum required setback from a street line (Manning Road) to an accessory structure from 4.5m to 1.2m.

The requested variance is required to permit the construction of an accessory structure (storage shed) located within the rear yard of the subject property.

The subject property is located at 51 Stargell Drive and is zoned Single Family Detached Dwelling House (R2A) within the Town of Whitby Zoning By-law 1784.

In Support of Application	Gary and Janet Giles (Owners)
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In Opposition of Application	No one in attendance
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Also in Attendance	Patricia Macleod
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The Chair introduced the application and asked if anyone would like to speak to the subject application.

G. Giles and J. Giles introduced themselves to the Committee as the owners of the subject property. G. Giles expressed that he would like to build a shed at the rear of the property for storage of garden equipment and to include a small workshop.

G. Giles stated that the shed was sited in its proposed location in order to reduce any impacts on surrounding vegetation. He further noted that another property further east (45 Stargell Drive) also received a similar variance in 2018 to construct a similar shed with a reduced setback to Manning Road.

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

B. O'Carroll stated that the applicant's property does not back onto any other residential lots.

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 correspondence was received.

The Chair asked if there was anyone from the public who wished to speak to the subject application.

Minutes of the 7th Meeting of Committee of Adjustment

P. Macleod introduced herself as the neighbouring resident residing at 53 Stargell Drive. She asked about the height of the proposed shed.

The Chair noted that the height of the structure must comply with the Zoning By-law and this will be reviewed as part of the applicants building permit submission.

J. Taylor asked P. Macleod if she was able to view the Planning Staff Report that includes specific recommendations.

P. Macleod replied yes.

**Moved by:** J. Cardwell

That the application to reduce the minimum required setback from a street line (Manning Road) to an accessory structure from 4.5m to 1.2m located at 51 Stargell Drive be **Granted** subject to the following conditions:

1. The site grading and all services shall conform to the requirements of the Public Works Department;
2. Roof drainage from the proposed structure shall not be directed onto the adjacent property; and
3. That the variance shall apply to the accessory structure located at the south east corner of the property as illustrated on the applicants Site Plan.

**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/43/19**

**Manoj Tahiliani**

**36 Willow Park Drive**

An application has been received from Manoj Tahiliani for variances from the provisions of the Town of Whitby Zoning By-Law 1784.

The application is for permission to:

1. increase the maximum permitted lot coverage from 20% to 25%;
2. increase the maximum permitted building height from 8.5m to 9.0m; and
3. decrease the minimum required front yard setback from 10.5m to 8.5m.

The requested variances are required to permit a new dwelling to be constructed on the subject property. The existing dwelling will be removed.

The subject property is located at 36 Willow Park Drive and is zoned Second Density Residential (R2) within the Town of Whitby Zoning By-law 1784.

In Support of Application

Manoj Tahiliani (Owner)

In Opposition of Application

No one in attendance

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

M. Tahiliani introduced himself to the Committee as the owner of the subject property. He advised the Committee that he and his family recently purchased the property and are proposing to remove the existing dwelling and construct a new two storey detached dwelling on the property.

M. Tahiliani noted that the requested variances are required to increase the lot coverage which would allow for a larger home as well as a future pool cabana to be constructed on the property. The height variance is required to reflect desired increased ceiling heights, and the last variance was required to reduce the front yard setback allowing the dwelling to be closer to the street.

The Chair asked the applicant if he read the Planning Staff Report and was aware that staff were not in support of the variance to reduce the minimum required front yard setback.

M. Tahiliani replied yes and withdrew variance No. 3.

N. Chornobay asked the applicant if he accepted the recommendations from the Planning Staff Report to deny variance No. 3.

M. Tahiliani replied yes.

received in relation to the subject application.

J. Malfara 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:** D. McCarroll

That the application as amended to: (1) increase the maximum permitted lot coverage from 20% to 25%, and (2) increase the maximum permitted building height from 8.5m to 9.0m located at 36 Willow Park Drive be **Granted** subject to the following conditions:

1. That the site grading and all other services conform to the requirements of the Public Works Department; and
2. An application shall be made for a new culvert installation for the proposed driveway.

**Carried**

Reason: The members of the Committee were of the opinion that the variances are 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/44/19**

**Glen Schnarr & Associates on behalf of Amica (Taunton) Inc.**

**85 Taunton Road East**

An application has been received from Glen Schnarr & Associates on behalf of Amica (Taunton) Inc. for a variance from the provisions of the Town of Whitby Zoning By-Law 1784.

The application is for permission to amend the definition of a Dwelling, Stacked Townhouse to read as follows:

"means a building other than a converted dwelling, or apartment building, located on a lot or lots containing more than four dwelling units, each of which has a vertical and a horizontal common wall and an independent entrance either directly from the outside or through a common external access to the outside through a common vestibule and a common corridor system."

The requested variance is required to permit the development of the proposed stacked townhouse dwelling units on the subject lands that were approved through Site Plan Application SP-13-17.

The subject property is located at 85 Taunton Road East and is zoned Residential – Exception No.9 (R5A\*-9) within the Town of Whitby Zoning By-law 1784.

In Support of Application

Maurice Luchich (Applicant)

In Opposition of Application

No one in attendance

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

M. Luchich introduced himself to the Committee as the Planner retained by the owners of the proposed development. He advised the Committee that a minor variance application was approved last year for the same property which was required to address zoning deficiencies.

M. Luchich stated that when the site specific Zoning By-law was approved the definition of a Dwelling, Stacked Townhouse did not account for unit access through a common corridor. Access was only permitted through independent entrances from the outside of the building or through a common vestibule. The proposed stacked townhouse dwelling units will now utilize a common corridor for access to the individual units and therefore a variance is required.

The Chair asked the applicant if the building will remain in its originally approved built form.

M. Luchich replied yes, and noted that the variance is interpretation related only.

B. O'Carroll enquired about private parking spaces for the townhouse dwelling units.

M. Luchich replied that some of the units will have a private parking space within an integral garage, while the other units will be in proximity to surface parking.

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 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:** N. Chornobay

That the application to amend the definition of a Dwelling, Stacked Townhouse to read as follows: "means a building other than a converted dwelling, or apartment building, located on a lot or lots containing more than four dwelling units, each of which has a vertical and a horizontal common wall and an independent entrance either directly from the outside or through a common external access to the outside through a common vestibule and a common corridor system" located at 85 Taunton Road East be **Granted** subject to the following condition:

1. That all Public Works requirements related to Site Plan application SP-13-17 are complied with.

**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.





B. French also noted that he spoke with his surrounding neighbours about the proposed works. Two of the neighbours did not have any concerns, but the neighbour located at 53 Meadow Crescent (north) was not in support.

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 correspondence was received.

The Chair asked if there was anyone from the public who wished to speak to the subject application.

D. Cooper introduced himself to the Committee and noted that he was here representing his mother, the owner of the property located at 53 Meadow Crescent. He stated that the application should be tabled until the conditions associated with the applicants previous minor variance approval are satisfied. D. Cooper noted that prior to the applicant completing his detached garage, he would be required to satisfy conditions as they related to satisfying the Town that there will be no grading or drainage issues.

D. Cooper noted that in his opinion these conditions have not been satisfied. He stated that in the 22 years that his mother has lived next door, there has never been any flooding issues. Mr. Cooper noted that in his opinion the applicant altered the grade in the rear yard this has resulted in the flooding of his mother's property. D. Cooper circulated photos illustrating the flooding occurring on his mother's property, resulting in approximately \$55,000 in damage. D. Cooper went on to state that if the applicant further increases his lot coverage the overland flooding issues will become worse.

D. Cooper also noted that he filed a complaint with the Town of Whitby By-law Services Department and the Chief Building Official. He was able to speak with the Chief Building Official but was unable to speak with By-law Services.

B. O'Carroll asked how much time the applicant has to fulfill his conditions of approval from the past approved variance related to the detached garage.

J. Taylor replied that the time provided to complete the requirements are at the discretion of the applicant. J. Taylor also advised the Committee that it is at the Committees discretion if they would like to add a condition to their recommendation. He also stated that if a complaint was made with By-law Services, they should have attended the site for a follow up.

B. O'Carroll asked D. Cooper when the complaint was filed.

D. Cooper replied 1 month ago.

J. Taylor noted that Planning staff can follow up with the By-law Services Department.

D. Cooper noted that there is already a drainage issue, and asked what impacts there will be if the variance to increase the lot converge is approved.

J. Taylor replied that a grading plan is required by the Building Department for review. This will be reviewed by both Building and Engineering staff.

N. Chornobay noted that he is sympathetic, and asked staff about the possibility of adding a condition to the recommendation about timing of the current variance being in full force and effect.

J. Taylor replied yes.

B. French noted that a grading and drainage plan was prepared and provided to the Town for review prior to the issuance of the detached garage permit. He is now in the process of cleaning up the property and addressing the prior minor variance conditions. B. French also noted that the drainage issue within the north side yard is coming from a roof leader from the existing dwelling which has not been altered since it was originally constructed.

N. Chornobay asked if the grading and drainage plan was approved.

B. French replied yes.

N. Chornobay asked if the plan was implemented.

B. French replied no. He stated that a weeping tiles need to be installed.

The Chair asked if any inspections have been completed by the Town.

B. French replied that one inspection has been completed at this time.

J. Cardwell asked the applicant how much time he requires to finish constructing the detached garage.

B. French replied 8 weeks.

D. McCarroll asked about the timeframe for the proposed building addition.

B. French replied that the existing roof is in disrepair. He intends to complete this project in two phases. The first phase would start this summer and the second phase would start next year.

N. Chornobay expressed that he would make a motion to approve the requested variance with the inclusion of a third condition. The condition is that “ a building permit associated with A/45/19 shall not be issued until the Town of Whitby has been satisfied that the conditions associated with A/45/17 are satisfied.”

**Moved by:** N. Chornobay

That the application to increase the maximum permitted lot coverage from 20% to 27% located at 51 Meadow Crescent be **Granted** subject to the following conditions:

1. The site grading and all services shall conform to the requirements of the Public Works Department;
2. Roof drainage from the proposed structure shall not be directed onto the adjacent property; and
3. A building permit associated with A/45/19 shall not be issued until the Town of Whitby has been satisfied that the conditions associated with A/45/17 are satisfied.

**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/46/19**

**Garrett Birchard  
306 Arthur Street**

An application has been received from Garrett Birchard for a variance from the provisions of the Town of Whitby Zoning By-Law 2585.

The application is for permission to reduce the minimum required interior side yard setback (west) from 1.2m to 0.45m.

The requested variance is required to permit the construction of a one storey garage addition to the existing dwelling within the west side yard of the subject property. The applicant's proposal also includes a covered corridor (roof) spanning from the roof of the main dwelling to roof of the garage.

The subject property is located at 306 Arthur Street and is zoned Residential Type 3 (R3) within the Town of Whitby Zoning By-law 2585.

In Support of Application	Garrett Birchard (Owner)
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In Opposition of Application	None at this time
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Others in Attendance	Mark Pinkus
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The Chair introduced the application and asked if anyone would like to speak to the subject application.

G. Birchard introduced himself to the Committee as the owner of the subject property. He intends to remove the existing garage on the property, and the requested variance is required to permit a larger garage in its place.

The Chair asked the applicant if he had read the Staff Report recommending that the variance be revised from 0.45m to 0.60m.

G. Birchard replied yes and accepted the recommendation to revised the requested variance to reduce the minimum interior side yard setback from 0.45m to 0.60m.

J. Cardwell asked if the new garage will be framed.

G. Birchard replied yes.

J. Cardwell asked if the garage will be on a floating slab.

G. Birchard replied that it will be on a slab and frost wall.

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

Minutes of the 7th Meeting of Committee of Adjustment

J. Malfara 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.

M. Pinkus introduced himself to the Committee as the owner of the neighbouring property to the west (308 Arthur Street). He noted that he had no concerns with the requested variance as amended by the applicant.

M. Pinkus also noted that he is in the process of repaving his driveway and the applicant has agreed to re-tamp the gravel. He was initially concerned with water run-off from the applicant's property due the higher grade of the paved driveway, but once his driveway is paved the grade between his and his neighbours driveways will be flush and there should not be any water issues.

N. Chornobay noted that grading and stormwater concerns are addressed through the conditions attached to this variance.

D. McCarroll noted that he was ready to make a motion to approve the variance to reduce the minimum interior side yard setback as modified from 0.45m to 0.60m.

**Moved by:** D. McCarroll

That the application to reduce the minimum required interior side yard setback (west) from 1.2m to 0.60m located at 306 Arthur Street be **Granted** subject to the following conditions:

1. That the site grading and all other services conform to the requirements of the Public Works Department;
2. Roof drainage from the proposed structure shall not be directed onto the adjacent property; and
3. That no windows or door openings are permitted along the west elevation of the garage structure.

**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/47/19**

**Radeef Ahmed**

**35 Tempo Way**

An application has been received from Radeef Ahmed for a variance from the provisions of the Town of Whitby Zoning By-Law 1784.

The application is for permission to reduce the minimum required setback from a deck to a rear property line from 6.0m to 4.6m.

The requested variance is required to permit a proposed deck located within the rear yard of the subject property.

The subject property is located at 35 Tempo Way and is zoned Residential (R4A\*) within the Town of Whitby Zoning By-law 1784.

In Support of Application	Radeef Ahmed (Owner)
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In Opposition of Application	No one in attendance
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The Chair introduced the application and asked if anyone would like to speak to the subject application.

R. Ahmed introduced himself to the Committee as the owner of the subject property. He expressed that he is proposing to construct a rear yard deck that will extend from the main floor of the dwelling.

R. Ahmed noted that both of his neighbours have similar size decks . He also expressed that he consulted with the Central Lake Ontario Conservation Authority and they have advised him that there are no concerns with the proposal.

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

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 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 reduce the minimum required setback from a deck to a rear property line from 6.0m to 4.6m located at 35 Tempo Way be **Granted** subject to the following condition:

1. That the site grading and all other services conform to the requirements of the Public Works Department.

**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/48/19**

**The Corporation of the Town of Whitby (Marina)  
1700 Charles Street**

An application has been received from The Corporation of the Town of Whitby (Marina) for a variance from the provisions of the Town of Whitby Zoning By-Law 2585.

The application is for permission to permit outdoor boat and trailer storage that is not accessory to a proposed/existing building or structure located on the subject property and a public parking lot.

The subject property is located at 1700 Charles Street and is zoned Harbor Industrial Zone (MH) within the Town of Whitby Zoning By-law 2585.

In Support of Application

No one in attendance

In Opposition of Application

No one in attendance

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

Since the applicant's representative was not available to attend the meeting. J. Taylor advised the Committee that he can answer any questions relating to this application.

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

B. O'Carroll asked if this site will be used for additional boat storage in addition to the boat storage currently located at the Whitby Mariana.

J. Taylor replied yes. There is a greater demand for boat storage from Whitby residents and the existing marina is at capacity.

B. O'Carroll asked if the property will be fenced.

J. Taylor replied that the boat storage lot will be fenced, but, the public parking lot will not. He also noted that the public parking lot will be used for overflow parking for local community events and to assist with reducing on-street parking.

B. O'Carroll asked if local residents not associated with the marina can use the parking lot.

J. Taylor replied yes.

J. Taylor also noted that there will be enhanced landscaping along the west portion of the site.



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 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 permit outdoor boat and trailer storage that is not accessory to a proposed/existing building or structure located on the subject property and a public parking lot located on the subject property located at 1700 Charles Street 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 3: Approval of Previous Minutes**

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

That the minutes of the Committee of Adjustment held on Thursday May 02, 2019 be adopted.

**Carried**

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

There were no items raised under other business

### **Item 5: Adjournment**

**Moved by:** N. Chornobay

That this meeting of the Committee of Adjustment be adjourned.

**Carried**

[Original approved and signed]

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Secretary Treasurer

[Original approved and signed]

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Chair