

Minutes of the 3rd Meeting

Committee of Adjustment

Meeting Date: Thursday March 05, 2020
Meeting Time: 7:00 p.m.
Meeting Location: Whitby Municipal Building
575 Rossland Road East, Committee Room 1

Present:

N. Chornobay, Chair
S. Haslam
B. O'Carroll
D. McCarroll
J. Malfara, Secretary-Treasurer
J. Taylor, Senior Manager, Planning & Zoning

Item 1: Disclosure of Interest:

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

Carried

Item 2: Amendment to Public Hearing Order:

The applicant for application A/13/20 was not in attendance at the commencement of the meeting. A motion was brought forward to move application A/13/20 to the end of the meeting.

Moved by: B. O'Carroll

Carried

Item 3: Public Hearings

A/11/20

OGS Landscape Services (Dane Carman) 9 Thorndyke Crescent

An application has been received from OGS Landscape Services (Dane Carman) for variances from the provisions of By-Law 1784.

The application is for permission to:

1. increase the maximum projection of a deck from the first storey of a dwelling into a rear yard from 3.2m to 3.6m, and
2. reduce the minimum required rear yard setback for a deck projecting from the first storey of a dwelling from 6.0m to 3.9m.

The subject property is located at 9 Thorndyke Crescent and is zoned Residential (R2A*) within the Town of Whitby Zoning By-law 1784.

The requested variances are required to permit the construction of a proposed deck projecting from the first storey of the dwelling into the rear yard of the subject property.

In Support of Application Cameron Murchison (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.

C. Murchison introduced himself to the Committee as the owner of the subject property. He noted that he is planning to remove the existing deck within the rear yard of his property and replace it with a new deck that is larger.

C. Murchison stated that he spoke with his neighbours and they did not have any concerns with the proposed deck.

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

S. Haslam asked the applicant if there is an exterior entrance to the basement.

C. Murchison replied no.

The Chair asked the applicant if the pool seen on the air photo of the property is still located in the rear yard.

C. Murchison replied no. He stated that the pool was an above ground pool and has been removed from the property.

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: S. Haslam

That the application to (1) increase the maximum projection of a deck from the first storey of a dwelling into a rear yard from 3.2m to 3.6m, and (2) reduce the minimum required rear yard setback for a deck projecting from the first storey of a dwelling from 6.0m to 3.9m located at 9 Thorndyke Crescent be **Granted** subject to the following condition:

1. That the site grading conforms to the requirements of the Public Works Department.

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 had an effect on the Committee's decision.

Item 3: Public Hearings

A/12/20

784534 Ontario Inc., DeNoble Homes
9 Durham Street

An application has been received from 784534 Ontario Inc., DeNoble Homes for a variance from the provisions of the Town of Whitby Zoning By-Law 1784.

The application is for permission to increase the maximum permitted lot coverage from 30% to 35%.

The subject property is located at 9 Durham Street and is zoned Residential Type 1 – Village of Brooklin Zone (R1-VB) within the Town of Whitby Zoning By-law 1784.

The requested variance is required to construct a proposed two storey detached residential dwelling on the vacant subject property.

In Support of Application Steve DeNoble (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.

S. DeNoble introduced himself as the applicant. He advised the Committee that he is seeking a variance to the Zoning By-law to increase the maximum permitted lot coverage from 30% to 35%. The proposed dwelling would occupy approximately 32.5% of the lot area, whereas the remaining requested lot coverage would be used to accommodate a future accessory structure should the future home owner seek to construct one.

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

S. Haslam asked the applicant if he has satisfied the requirements from the Policy and Heritage Planning Department.

S. DeNoble advised the Committee that the requirements of the Policy and Heritage Planning Department has been partially satisfied, however, he is just awaiting on the approval of the building material colour packages.

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 increase the maximum permitted lot coverage from 30% to 35% located at 9 Durham Street be **Granted** subject to the following conditions:

1. That the applicant satisfy the outstanding requirements of the Heritage Permit Application (HP-11-19) including providing updated elevations, site plan, floor plans and full colour palette for approval by the Policy & Heritage Planning Division prior to application for Building Permit;
2. The site grading and all services shall conform to the requirements of the Public Works Department;
3. Roof drainage from the proposed structure shall not be directed onto the adjacent property; and
4. An acceptable grading and drainage plan shall be provided for Public Works acceptance at the building permit stage.

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 had an effect on the Committee's decision.

Item 3: Public Hearings

A/14/20

2708976 Ontario Inc.

406 Kent Street

An application has been received from 2708976 Ontario Inc. for variances from the provisions of the Town of Whitby Zoning By-Law 2585.

The application is for permission to:

1. increase the maximum permitted floor space index (FSI) from 0.5 to 0.51;
2. increase the maximum permitted lot coverage from 40% to 41%.

The subject property is located at 406 Kent Street and is zoned Residential Type 2 – Downtown Zone (R2-DT) within the Town of Whitby Zoning By-law 2585.

The requested variance is required to permit the development of a new two storey semi-detached dwelling on the severed property (Part 1).

In Support of Application

Gord Allan (Representative)

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.

G. Allan introduced himself to the Committee as a representative of the property owner. He advised the Committee that the owner could not be in attendance at the meeting. He provided an overview of the requested variances and noted that the variances are minor in nature.

G. Allan stated that the additional GFA is required to accommodate additional floor space within the dwelling and the requested increased lot coverage is required to permit a larger front porch which will fit in better with the neighbourhood.

The Chair asked if this application (A/14/20) is the same as the upcoming application (A/15/20).

G. Allan replied yes.

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

B. O'Carroll asked the applicant if the owner plans to live in the dwelling, sell it, or rent it.

G. Allan replied to his knowledge the owner will live in the dwelling and rent out the accessory apartment that is proposed.

B. O'Carroll asked what side of the proposed semi-detached dwelling that owner will live in.

G. Allan was not sure.

B. O'Carroll expressed concerns with the number of parking spaces provided given that between the two proposed semi-detached dwelling units there will also be an additional 2 accessory apartments.

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: D. McCarroll

That the application to (1) increase the maximum permitted floor space index (FSI) from 0.5 to 0.51, and (2) increase the maximum permitted lot coverage from 40% to 41% located at 406 Kent Street (Part 1) be **Granted** subject to the following condition:

1. All Public Works requirements related to Land Division File LD/143/2019 are complied with.

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 3: Public Hearings

A/15/20

2708976 Ontario Inc.

406 Kent Street

An application has been received from 2708976 Ontario Inc. for variances from the provisions of the Town of Whitby Zoning By-Law 2585.

The application is for permission to:

1. increase the maximum permitted floor space index (FSI) from 0.5 to 0.51;
2. increase the maximum permitted lot coverage from 40% to 41%.

The subject property is located at 406 Kent Street and is zoned Residential Type 2 – Downtown Zone (R2-DT) within the Town of Whitby Zoning By-law 2585.

The requested variance is required to permit the development of a new two storey semi-detached dwelling on the retained property (Part 2).

In Support of Application

Gord Allan (Representative)

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.

G. Allan noted that his comments from the previous application (A/14/20) remain the same for this application.

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: D. McCarroll

That the application to (1) increase the maximum permitted floor space index (FSI) from 0.5 to 0.51, and (2) increase the maximum permitted lot coverage from 40% to 41% located at 406 Kent Street (Part 2) be **Granted** subject to the following condition:

1. All Public Works requirements related to Land Division File LD/143/2019 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.

Item 3: Public Hearings

A/16/20

Daniel Carlin
115 Bell Drive

An application has been received from Daniel Carlin 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 from 4.3m to 3.5m where no garage or carport is provided on the lot.

The subject property is located at 115 Bell Drive and is zoned Residential Type 2 (R2) within the Town of Whitby Zoning By-law 2585.

The requested variance is required to permit the applicant to slightly enlarge and enclose the existing covered porch located within the interior side yard (north).

In Support of Application Adrian Downs (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. Downs introduced himself to the Committee as the owner of the subject property. He advised the Committee that he has owned the property for 23 years. He noted that the property includes a small detached bungalow with no formal front entry, just a side door.

He expressed to the Committee that he would like to enclose the existing covered porch within the side yard which would allow him to create a more formal and aesthetically pleasing entranceway to the dwelling.

A. Downs noted that the existing driveway provides access to the rear yard, and the requested variance if approved would not impact the movement of his vehicles to the rear yard parking area.

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

B. O'Carroll asked what the exterior finish will be for the enclosed porch.

A. Downs replied that the finish will be a high quality board and batten siding.

D. McCarroll asked the applicant if there is an existing addition at the rear of the dwelling currently.

A. Downs replied no and the only structure at the rear of the dwelling is a wood deck.

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 interior side yard setback from 4.3m to 3.5m where no garage or car port is provided on the lot located at 115 Bell Drive 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: Public Hearings

A/60/19

**Nadeem Irfan on behalf of Barakaa Developer Inc.
160 Hillcrest Drive**

The application was originally heard by the Committee of Adjustment at the July 25, 2019 meeting and was tabled pending the final and binding decision of the Durham Region Land Division Committee with regards to the associated Land Division Application. At this time the Land Division Application has been appealed to the Local Planning Appeal Tribunal (LPAT).

The applicant has requested that the subject tabled application be brought back before the Committee of Adjustment for consideration at the March 5, 2020 Committee meeting.

The application is for permission to reduce the minimum required lot frontage for a single detached dwelling from 15.0m to 11.8m.

The subject property is located at 160 Hillcrest Drive and is zoned Residential Type 2 Zone in the Town of Whitby Zoning By-law 2585.

The requested variance is required to facilitate the severance of the subject property into two parcels and to permit the development of a single detached residential dwelling on the severed portion of the subject property (Part 1).

In Support of Application	Raj Kehar (Solicitor)
In Opposition of Application	Paul Richardson Stephen Jimmo Jennifer Jimmo Linda Richardson John Lafleur Al Armstrong Bernadette Riordan

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

R. Kehar introduced himself to the Committee as the solicitor retained by the applicant. He noted that the requested minor variance application is seeking only one variance from the provisions of the Town of Whitby Zoning By-law as it relates to the minimum required lot frontage.

R. Kehar stated that there are two types of applications applicable to the subject property; a consent application to sever the property and this minor variance application to seek relief from the minimum required lot frontage. He noted that the consent

application which was submitted to the Region of Durham was approved, but had been appealed by a local resident. An appeal hearing with the LPAT was scheduled, but was adjourned pending the outcome of the minor variance application. In the event that the minor variance application was appealed, the LPAT could consider both applications concurrently.

R. Kehar proceeded to circulate an information package to the Committee members.

R. Kehar expressed that during the first Committee of Adjustment meeting to consider this application a recommendation from the Town's Planning Department was not provided. He noted that Planning Staff has now provided a recommendation, and it is in favour of the variance.

R. Kehar asked the Committee to refer to the information package. He referred to a figure that depicted the severed property. R. Kehar concluded that the proposed dwelling as illustrated complied with all zone provisions, except for the minimum required lot frontage.

R. Kehar stated that in his view the subject property is oversized in comparison to the lots in the surrounding neighbourhood. He also noted that there is a wide range of lot frontages within the surrounding area which range from 9.0m to 29.0m.

R. Kehar spoke to the Provincial Policy Statement and the Place to Grow Plan, and how the requested variance represents a modest form of intensification and meets the intent of these policy documents.

R. Kehar also spoke to the Town of Whitby Official Plan. He noted that the property is designated Residential and this land use permits a range of housing types. Reducing the minimum required lot frontage to permit two dwellings on the subject property will increase affordability and housing choices.

R. Kehar advised the Committee that the intent and purpose of the minimum required lot frontage provision is meant to maintain the character and to ensure that the proposal is compatible with the neighbourhood. He noted that the Planning Department undertook a lot frontage analysis for the residential lots within 200m of the subject property and lot frontages ranged from 9.0m to 29.0m.

R. Kehar also referenced the planning staff report with regards to the interpretation of compatibility. He agrees with planning staffs interpretation of compatibility.

R. Kehar concluded that the requested variance is minor in nature and would result in the appropriate development of the property.

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

S. Haslam expressed that the subject property is large, and asked why the minimum required setback could not be complied with.

R. Kehar replied that the proposed dwelling complies with all required yard setbacks. The only zoning deficiency is with regards to the minimum required lot frontage. He also

stated that if the property were not to be severed, a very large home could be constructed which would be out of character for the neighbourhood.

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 two letters of objection were received from Al Armstrong and Bernadette Riordan and had been circulated to the Committee prior to the meeting.

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

P. Richardson introduced himself to the Committee as the owner of 161 Hillcrest Drive. He expressed that he does not agree with the rationale provided by the applicant's solicitor. He also noted that the 9.0m wide lots as referenced previously are located on Harris Court and it is not appropriate to use these lots as a comparison.

P. Richardson circulated photos of Hillcrest Drive to the Committee. He noted that the only 12.2m (40ft) wide lots on Hillcrest Drive are a select few corner lots. He stated that the physical character of the street is primarily made up of 1 storey dwellings and the only homes that have been enlarged in size are homes with building additions.

P. Richardson noted that the Official Plan states that new lots shall be compatible with other lots in the neighbourhood. In his opinion the variance would result in a lot that is not compatible with the neighbourhood.

P. Richardson also expressed his concerns with parking. He stated that kids frequently walk down the street and the proposed driveway is much smaller than the other driveways in the area.

P. Richardson stated that in his opinion the requested variance is not minor in nature.

The Chair asked R. Kehar if he had any further comments.

R. Kehar expressed that neighbourhoods naturally go through rejuvenation and change. He also noted that the Zoning By-law already permits a 2 storey dwelling to be constructed on the property, and there is currently an existing 2 storey dwelling on the abutting property to the north.

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

D. McCarroll asked if there is any intent to include an accessory apartment within the proposed dwelling.

R. Kehar replied that it is his understanding that no accessory apartment is proposed. However, the Planning Act would permit an accessory apartment unit within the dwelling as of right.

D. McCarroll asked how the municipal trees located in the boulevard may be impacted.

R. Kehar replied that an arborist report will be prepared to ensure that the trees are protected during construction. He also noted that the staff report includes a condition which reflects the desired preservation of the boulevard trees.

P. Richardson noted that the existing boulevard trees will likely be impacted based on the applicant's proposal. He also asked how many parking spaces would be required for the dwelling.

J. Taylor replied that a minimum two parking spaces would be required for a single detached dwelling. The applicant has illustrated a two car garage on their concept plan as well as an additional two parking spaces on the driveway.

J. Taylor also noted that an accessory apartment is permitted in any of the dwellings located on Hillcrest Drive subject to meeting certain provisions as outlined within the Zoning By-law.

J. Jimmo expressed to the Committee that she is not concerned about the height of the proposed dwelling, but rather the reduced lot frontage.

Moved by: S. Haslam

That the application to reduce the minimum required lot frontage for a single detached dwelling from 15.0m to 11.8m located at 160 Hillcrest Drive (Part 1) be **Denied**.

Carried

Reason: The members of the Committee were of the opinion that the variance is not minor in nature.

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

Item 3: Public Hearings

A/61/19

**Nadeem Irfan on behalf of Barakaa Developer Inc.
160 Hillcrest Drive**

The application was originally heard by the Committee of Adjustment at the July 25, 2019 meeting and was tabled pending the final and binding decision of the Durham Region Land Division Committee with regards to the associated Land Division Application. At this time the Land Division Application has been appealed to the Local Planning Appeal Tribunal (LPAT).

The applicant has requested that the subject tabled application be brought back before the Committee of Adjustment for consideration at the March 5, 2020 Committee meeting.

The application is for permission to reduce the minimum required lot frontage for a single detached dwelling from 15.0m to 11.8m.

The subject property is located at 160 Hillcrest Drive and is zoned Residential Type 2 Zone in the Town of Whitby Zoning By-law 2585.

The requested variance is required to facilitate the severance of the subject property into two parcels and to permit the development of a single detached residential dwelling on the retained portion of the subject property (Part 2).

In Support of Application	Raj Kehar (Solicitor)
In Opposition of Application	Paul Richardson Stephen Jimmo Jennifer Jimmo Linda Richardson John Lafleur Al Armstrong Bernadette Riordan

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

R. Kehar introduced himself to the Committee and advised that the comments that he previously provided for application A/60/19 are also applicable to this application.

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 two letters of objection were received from Al Armstrong and Bernadette Riordan and had been circulated to the Committee prior to the meeting.

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

The Chair asked the members of the public if their comments are the same with respect to application A/60/19. The members of the public noted that their previous comments are applicable to this application.

Moved by: S. Haslam

That the application to reduce the minimum required lot frontage for a single detached dwelling from 15.0m to 11.8m located at 160 Hillcrest Drive (Part 2) be **Denied**.

Reason: The members of the Committee were of the opinion that the variance is not minor in nature.

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

Item 3: Public Hearings

A/13/20

Curtis De Souza
1465 Byron Street South

An application has been received from Curtis De Souza, 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 width of a two-way driveway leading to a parking area within the rear yard from 6.0m to 4.1m.

The subject property is located at 1465 Byron Street South and is zoned Residential Type 4 (R4) within the Town of Whitby Zoning By-law 2585.

The requested variance is required to permit the construction of 2 dwelling units within the basement of the existing converted dwelling house.

In Support of Application	Curtis De Souza
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In Opposition of Application	None at this time
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Also in Attendance	Vicky Zucaro Frank Zucaro
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The Chair introduced the application and asked if anyone would like to speak to the subject application.

C. De Souza introduced himself as the owner of the subject property. He advised the Committee that the property currently includes a two storey converted dwelling with a three bedroom unit on the second storey and a two bedroom unit on the main floor. He is proposing to add two additional dwelling units within the basement.

C. De Souza noted that he will be removing the existing detached garage located in the rear yard, and constructing a parking area for five vehicles.

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

B. O'Carroll asked the applicant if the neighbouring building located at 1467 Byron Street South is also a multi-tenant building.

F. Zucaro replied that this is his property and that the building is a multi-tenant building.

B. O'Carroll stated that she had no further comments.

The Chair asked the applicant to confirm that the detached garage will be removed.

C. De Souza replied yes.

The Chair asked the applicant if anyone is living in the building now.

C. De Souza replied no.

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: D. McCarroll

That the application to reduce the minimum required width of a two-way driveway leading to a parking area within the rear yard from 6.0m to 4.1m located at 1465 Byron Street South be **Granted** subject to the following conditions:

1. That the site grading shall conform to the requirements of the Public Works Department; and
2. No adjacent properties shall be negatively impacted by drainage from the proposal.

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 4: Approval of Previous Minutes

Moved by: B. O'Carroll

That the minutes of the Committee of Adjustment held on Thursday February 13, 2020 be adopted.

Carried

Item 5: Other Business

There were no items raised under other business.

Item 6: Adjournment

Moved by: S. Haslam

That this meeting of the Committee of Adjustment be adjourned.

Carried

[Original approved and signed]

Secretary Treasurer

[Original approved and signed]

Chair