



Minutes of the 9th Meeting of the Committee of Adjustment

Meeting Date: Thursday July 04, 2019
Meeting Time: 7:00 p.m.
Meeting Location: Whitby Municipal Building
575 Rossland Road East, Committee Room 1

Present:

S. Haslam, Chair
J. Cardwell
B. O'Carroll
D. McCarroll
N. Chornobay
Justin Malfara, Secretary-Treasurer

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/56/19

**The Biglieri Group Ltd.
Scadding Avenue**

An application has been received from The Biglieri Group Ltd., for variances from the provisions of the Town of Whitby Zoning By-law 2585.

The application is for permission to:

1. apply the following provision to the subject property land “where a corner lot or through corner lot abuts a visibility triangle, the setback provisions, minimum front yard landscaped open space provisions, and lot frontage provisions shall be measured and/or calculated as if the visibility triangle had not been conveyed, provided all buildings including window sills, belt courses, steps, cornices, eaves, and eave troughs are set back a minimum of 0.1 metres from the visibility triangle to accommodate a future planned roundabout at the south west corner of Gordon Street and Scadding Avenue”;
2. add Seniors Apartment Building and Retirement Home as permitted uses, whereas Apartment Buildings are currently permitted;
3. interpret the minimum and maximum number of apartment dwelling units to also include Senior Apartment Building and Retirement Home dwelling units; and
4. reduce the minimum required separation distance from an exterior wall of an apartment building, other than an end wall, to an aisle or driveway leading to an underground parking lot from 4.0m to 1.0m.

The requested variances are required to permit the development of a proposed 6 storey, 289 unit retirement residence / seniors apartment building on the subject property in accordance with Site Plan Application SP-45-18.

The subject property is located at the south west corner of Gordon Street and Scadding Avenue and is zoned Residential Type 5 Zone Exception 13 (R5A-13) within the Town of Whitby Zoning By-law 2585.

In Support of Application

Michael Testaguzza (Applicant)

Also in Attendance

Frank Kelleway
Janet Kelleway
Kimberly McGowan
Partha Chatterjee

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

The Chair asked the applicant if he read the planning staff report, and agreed with the modified variances as requested by planning staff.

M. Testaguzza replied yes and he agreed with the modified variance #3 and variance #4.

M. Testaguzza advised the Committee that he agreed with the recommendations in the planning staff report and that he was able to answer any questions that the Committee may have. He also noted that the subject property was subject to an approved site specific Zoning By-law Amendment and Official Plan Amendment in 2016 to permit the proposed 6 storey buildings and the townhouse dwelling units along the west boundary of the site.

M. Testaguzza also noted that the site will be developed in two phases. Phase 1 will comprise of townhouse dwelling units to the west portion of the site and phase 2 will include the three proposed 6 storey apartment buildings. The phase 1 townhouse development already received Site Plan Approval and Site Plan Approval has been conditionally granted for the phase 2 component of the development.

N. Chornobay noted that he does not have any major concerns with the proposal, however, he asked the applicant what advantages there are for senior's apartment versus a standard apartment building.

M. Testaguzza advised the Committee that there is a reduced parking rate for a senior's apartment building compared to a standard apartment building. He further noted that there is a larger demand at the moment for seniors living accommodations.

N. Chornobay asked the applicant if he was aware that you cannot zone for age, only land uses.

B. O'Carroll asked if there were any legal rights for an individual who is not a senior to rent a unit within one of the proposed buildings.

M. Testaguzza replied that the proposed development would comply with the defined term of a senior apartment building as defined in the Town of Whitby Zoning By-law. With regards to the legal rights for an individual who is not a senior to rent a unit within one of the proposed buildings, he was unable to comment on this matter.

J. Cardwell asked the applicant if the proposed senior's apartment and retirement resident buildings will include shared dining areas and amenities.

M. Testaguzza replied yes.

The Chair asked if there were any further 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 two letters were received from two residents located in the existing residential development to the south of the proposed development. He provided an overview of the comments received.

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

F. Kelleway introduced himself as a resident of 670 Gordon Street. He asked if the 6 storey maximum building height is already permitted.

M. Testaguzza replied yes, and the permission for a maximum building height was established through an approved Zoning By-law Amendment and Official Plan Amendment in 2016.

F. Kelleway asked why the proposed buildings have to be 6 storeys and not 4 storeys, the same as the buildings at 660 and 670 Gordon Street. He also asked who approved the Zoning and Official Plan amendments.

J. Malfara replied that the Zoning By-law Amendment and Official Plan Amendment was approved by Council, and the provisions of the Zoning By-law would permit the developer to construct a building not exceeding 6 storeys in height.

F. Kelleway asked if the proposed building will be rental units or condo units.

M. Testaguzza replied rental.

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

J. Kelleway introduced herself to the Committee. She noted that the neighbourhood already has rental apartments to the north of the property. She stated that she was never advised that the applicant's proposal would be comprised of rental accommodations, and was told that the property would be developed to include townhouses.

The Chair responded that the tenure of the proposed development is not related to the requested variances and that rental apartment dwelling units are currently permitted on the property.

B. O'Carroll asked J. Kelleway who told her that the site would be developed for townhouses.

J. Kelleway replied that the builder of her development conveyed this information to her when she purchased her dwelling unit.

J. Kelleway also asked if the proposed development will have 481 dwelling units.

M. Testaguzza replied yes.

J. Kelleway asked if the proposed townhouse dwellings will have 2 parking spaces per dwelling unit.

M. Testaguzza replied yes.

J. Kelleway asked if a traffic impact study was completed to assess any impacts associated with the increased density.

M. Testaguzza replied yes and there were no impacts.

J. Kelleway asked if the study considered the rental tenure.

M. Testaguzza replied yes.

J. Kelleway asked if there is a minimum age to live in the proposed seniors apartment buildings.

M. Testaguzza replied yes. He stated that Zoning By-law provides a minimum age requirements for residents of a seniors apartment buildings.

K. McGowan introduced herself as a resident of 670 Gordon Street. She asked what the setback will be from the southerly lot line and the abutting proposed building.

M. Testaguzza replied 15.0m.

J. Malfara advised the Committee that matters relating to the southerly yard setback is not related to the requested variances.

J. Malfara also advised K. McGowan that if she would like additional information with regards to setbacks or would like to see the proposed plans, she can view them at the Planning Department.

P. Chatterjee introduced himself to the Committee as a resident of 670 Gordon Street. He advised the Committee that he was concerned about the southerly yard setback to the proposed abutting 6 storey building.

M. Testaguzza replied that the proposed building complies with the minimum required southerly yard (interior side yard) setback as per the Zoning By-law.

P. Chatterjee asked the applicant how the setback is calculated.

M. Testaguzza explained to P. Chatterjee how the setback is calculated.

P. Chatterjee asked what the difference is between Phase 1 and Phase 2 of the proposed site development.

M. Testaguzza noted that Phase 1 is anticipated to commence next spring and the commencement of Phase 2 will follow at a later date. He further clarified that the phasing of the development is not related to the requested variances.

The Chair agreed with M. Testaguzza and advised P. Chatterjee that if he has further questions about the development phasing he is welcome to discuss them with the applicant after the meeting.

P. Chatterjee advised the Committee that he received no public notice for the Zoning By-law Amendment and Official Plan Amendment applications.

J. Malfara replied that public notice for these applications were likely circulated in 2016.

J. Cardwell expressed that he will make a motion that variances 3 and 4 be modified as per the variance wording revisions included the Planning Staff Report and as acknowledged by the applicant.

Carried

Moved by: D. McCarroll

That the application to (1) apply the following provision to the subject property land “where a corner lot or through corner lot abuts a visibility triangle, the setback provisions, minimum front yard landscaped open space provisions, and lot frontage provisions shall be measured and/or calculated as if the visibility triangle had not been conveyed, provided all buildings including window sills, belt courses, steps, cornices, eaves, and eave troughs are set back a minimum of 0.1 metres from the visibility triangle to accommodate a future planned roundabout at the south west corner of Gordon Street and Scadding Avenue”; (2) add Seniors Apartment Building and Retirement Home as permitted uses, whereas Apartment Buildings are currently permitted; (3) To interpret the zone provisions of the R5A-13 zone category to be also applicable to a Seniors Apartment Building and Retirement Home; and (4) reduce the minimum required separation distance from an exterior wall of an apartment building, other than an end wall, to an aisle or driveway leading to an underground parking lot from 4.0m to 0.9m located at the south west corner of Gordon Street and Scadding Avenue be **Granted** subject to the following condition:

1. The applicant shall adhere to the Public Works conditions and requirements of Site Plan application SP-45-18.

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/57/19

Miller Planning Services on behalf of Fredrick & Cindy Batty
7260 Baldwin Street North (Retained Parcel)

An application has been received from Miller Planning Services on behalf of Fredrick & Cindy Batty, 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 lot area for a farming lot from 40 hectares to 26.5 hectares.

The requested variance is required to facilitate the severance of the subject property in accordance with Land Division file LD/005/2019.

The subject property is located at 7260 Baldwin Street North and is zoned Agricultural (A) within the Town of Whitby Zoning By-law 1784.

In Support of Application Rodger Miller (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.

R. Miller introduced himself to the Committee as the Planner representing the owner of the subject property. He expressed that a Land Division application was submitted the Region of Durham Land Division Committee to sever the property. The application was tabled to the July 15, 2019 as the Committee was awaiting comments from the Town of Whitby Public Works Department and to address comments from the Central Lake Ontario Conservation Authority.

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

N. Chornobay asked the applicant if the Town of Whitby Public Works Department has now provided comments and if the Conservation Authority has been satisfied.

R. Miller replied that comments from the Town of Whitby Public Works Department have been provided to the Region of Durham and the Conservation Authority has been satisfied.

R. Miller stated that he reviewed the Planning Staff Report and is satisfied. He asked the Committee if the condition provided by the Public Works Department could be removed as this condition is already part of the Land Division file. He expressed that he is satisfied with the second condition provided by the Planning Department.

J. Cardwell asked R. Miller if he discussed this matter with the Public Works Department.

R. Miller replied that he tried to, but has not had a response back.

The Chair noted that if the Committee elects, they have the ability to remove or modify the condition provided by the Public Works Department.

B. O'Carroll asked if the owner will continue to use the retained parcel (north) for agricultural operations.

R. Miller replied yes.

B. O'Carroll asked if the severed parcel (south) will continue to be farmed.

R. Miller replied that this portion of the property will be farmed until development occurs.

The Chair asked if there were any other 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 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.

N. Chornobay advised that he was ready to make a motion to approve the variances subject to the modification of the condition from the Public Works Department to read, "that the applicant shall successfully obtain approval from the Land Division Committee to sever the property as per LD/005/2019."

Moved by: N. Chornobay

That the application to reduce the minimum required lot area from 40 hectares to 26.5 hectares located at 7260 Baldwin Street North be **Granted** subject to the following condition:

1. That the applicant shall successfully obtain approval from the Land Division Committee to sever the property as per LD/005/2019

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.

Moved by: N. Chornobay

That the application to reduce the minimum required lot area from 40 hectares to 11.0 hectares located at 7260 Baldwin Street North be **Granted** subject to the following conditions:

1. That the applicant shall successfully obtain approval from the Land Division Committee to sever the property as per LD/005/2019; and
2. That no residential dwellings or residential uses shall be permitted on the severed parcel as long as the lands are zoned Agricultural (A).

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: J. Cardwell

That the minutes of the Committee of Adjustment held on Thursday June 13, 2019 be adopted.

Carried

Item 4: Other Business

There were no items raised under other business

Item 5: Adjournment

Moved by: B. O'Carroll

That this meeting of the Committee of Adjustment be adjourned.

Carried

[Original approved and signed]

Secretary Treasurer

[Original approved and signed]

Chair