



City of
Peterborough

Committee of Adjustment Minutes

March 29, 2022

Minutes of an Electronic Meeting of Committee of Adjustment held on Tuesday, March 29, 2022 at 6:00 p.m.

Present: Stewart Hamilton, Chair
Mauro DiCarlo
Claude Dufresne
Tom Green
Robert Short

Also Present: Christie Gilbertson, Planner, Policy and Research
Andrea Stillman, Zoning Administrator
Jennifer Sawatzky, Secretary-Treasurer
Nolan Drumm, Assistant Planner

Committee of Adjustment was called to order at 6:00 p.m.

Disclosure of Pecuniary Interest

There were no disclosures of Pecuniary Interest.

Applications

1. File No., A49/19, 123 Ridgewood Road

This matter relates to a minor variance application submitted by Kevin M. Duguay, as applicant on behalf of Galen Eagle and Colleen Eagle, the owners of the property that is the subject of the application.

The purpose of the application is to reduce the minimum distance of a residential accessory building from the rear and southwest lot lines from 0.6 metres to 0 metres for the pergola affixed to a 3.8 by 4 metre platform at the southwest corner of the property; from the southwest lot line from 0.6 metres to 0 metres for the pergola covering the hot tub; from the southwest lot line from 0.6 metres to 0 metres for an existing platform; and to increase the extension of the existing platform at the rear of the dwelling into the

building setback from the northeast side lot line from 0.9 metres to 1.2 metres to allow the platform to sit 0 metres from the side lot line. The variances are to recognize the location of existing structures at the subject property.

Kevin M. Duguay attended the meeting and addressed the Committee as follows:

- The structures subject to the application and the in-ground pool were established by a former owner of the property.
- He was hired to assist with the minor variance process when the current owners were made aware that the structures were not in compliance with the Zoning By-law.
- The variances relate to the open pergola over the hot tub, the elevated platform with no pergola along the southwest lot line, the pergola structure at the southwest corner of the property, and the platform at the rear of the dwelling. All structures are constructed with no setback from the lot lines.
- When his clients purchased the property, they were provided a report prepared by a structural engineer. The construction of the deck and pergolas were approved by the structural engineer that prepared the report.
- He has considered the staff report and notes that Otonabee Conservation and the Planner of Urban Design have no objections to the application. However, Development Engineering is requesting that a lot grading and drainage plan be prepared as a condition of the approval. He considers that request to be excessive, as the conditions at the property are existing, and in-ground pools and landscaping are typical of the neighbourhood. The property is not over-developed, and he could find no record of flooding or drainage problems at the property.
- Should the condition be imposed, the requirement to have a topographical survey and drainage plan prepared would cost the owners approximately \$8,000 to \$10,000 for a structure that was present when they purchased the property and professionally installed by a previous owner.
- He agrees with the remaining recommendations in the staff report and the variances as presented, and his clients are happy to work with the City to obtain a building permit for the structures.

Christie Gilbertson, Planner, Policy and Research, advised the Committee that she had an addition to the recommendation outlined in the Staff Report. She recommends that the Committee include a proviso that approval is limited to the development depicted in Exhibit A of the Staff Report. She spoke with the applicant regarding the addition to the recommendation, and there was no concern raised related to the proviso.

No one spoke in objection to the application and no written objections were received.

In response to questions from the Committee, the applicant advised as follows:

- The structures were present when his client purchased the property. He is not aware if the costs associated with the owners obtaining the necessary approvals for the structures would be covered by title insurance in this instance.
- He can't speak to the extent of discussions between the owners and their title insurer or lawyer with respect to structures. They have filed the application with the municipality and hired a professional planner to represent them in good faith.
- The structures are built to the privacy fence along the lot line and there is physical connection to the fence on the upper and lower pergola as evidenced in structural report provided to city earlier in application process.

In response to questions from the Committee, the Zoning Administrator advised as follows:

- The Building Division review the plans submitted with a building permit application to ensure that applicants aren't creating an issue that would affect drainage onto another property or causing drainage toward their house. However, a formal lot grading and drainage plan is only required for a permit for new dwellings or new pools. A lot grading and drainage plan would not be triggered by the Building Code in this instance, unless it is part of a Planning approval condition.
- There is not a record that a permit was issued for the pool when it was installed.

In response to questions from the Committee, the Planner, Policy and Research advised as follows:

- She is not aware that any complaints have been submitted to the City with respect to water runoff.
- There was no response from the public following the circulation of the application to the neighbouring property owners.

Discussion

Mauro DiCarlo stated that he is opposed to removing the requirement to submit a lot grading and drainage plan. He indicated that if this was an application to establish the structures today, it would be considered a reasonable condition to impose, as the Committee regularly requires the submission of lot grading and drainage plans that are not required under the Building Code. It is the responsibility of the owner to contact the title insurer regarding costs incurred as a result of the structures built by the previous owner without a building permit. He considers the conditions presented by the City to be reasonable.

Robert Short indicated that a lot grading and drainage plan would have been submitted to the municipality with the original plan of subdivision. The structures established appear to be elevated and would not impacting grading to the extent that a fixed structure with a foundation would.

Moved by Robert Short

That the application be approved in accordance with the recommendation in the Staff Report, with the removal of condition ii) outlined in the Staff Report and the addition of a proviso stating that the approval is limited to the structures depicted in Exhibit A of the Staff Report.

“LOST”

Moved by Mauro DiCarlo

That the application be approved in accordance with the recommendation in the Staff Report, with the addition of a proviso stating that the approval is limited to the structures depicted in Exhibit A of the Staff Report.

“CARRIED”

Decision

The Committee received no comment or presentation from members of the public concerning the application and thus made its decision on the basis of the Staff Report and the application.

Having reviewed the application and considered the information presented both in the Staff Report and presentation, the Committee determined that the application should be approved as per the Staff Recommendation and that the variances are minor, the proposal is desirable for the appropriate development or use of the land, and the general intent and purpose of the Zoning By-law and Official Plan are maintained.

Therefore, variances are granted as follows:

- a) **A variance to Section 6.18 to reduce the minimum distance of a residential accessory building from a side or rear lot line to 0 metres for the pergola affixed to a 3.8 by 4 metre platform at the southwest corner of the property (upper pergola);**
- b) **A variance to Section 6.18 to reduce the minimum distance of a residential accessory building from a side or rear lot line to 0 metres from the southwest lot line for the pergola covering a hot tub (hot tub pergola);**
- c) **A variance to Section 6.18 to reduce the minimum distance of a residential accessory building from a side or rear lot line to 0 metres from the southwest lot line for the existing platform (pool platform); and**

- d) **A variance to Section 6.19 (b) to increase the extension of a platform into a building setback from a side lot line to 1.2 metres to allow the existing platform at the rear of the dwelling to sit 0 metres from the northeast side lot line (BBQ platform).**

PROVIDED THAT approval is limited to the structures depicted in Exhibit A of the Staff Report dated March 29, 2022, and CONDITIONAL UPON the following:

- i) **Submission of a lot grading and drainage plan to the satisfaction of Development Engineering; and**
- ii) **The owner submitting a complete Building Permit application within two years from the date of the Notice of Decision, failing which the application is deemed to be refused.**

2. File Nos. B01/22 and A10/22, 675 Pinewood Drive

This matter relates to a severance application submitted by Randy Ross and Dawn Ross, the owners of the property that is the subject of the application.

The purpose of the Consent application B01/22 is to sever the southerly 13.56 metres from the subject property to create a new residential lot.

The purpose of the Minor Variance application A10/22 is to reduce the minimum lot width from 15 metres to 13.56 metres and to reduce the minimum lot area from 465 square meters to 421 square metres to facilitate the severance proposed in file number B01/22.

Randy Ross attended the meeting and addressed the Committee as follows:

- He purchased the building lot at 667 Pinewood Drive from the owner of 675 Pinewood Drive and built a home in 1994.
- He subsequently purchased the property at 675 Pinewood Drive, which is a rental property.
- He would like to sever the southerly 44.5 feet of the lot at 675 Pinewood to construct a new, smaller home, as they would like to remain in the area.
- The garage and driveway on 675 Pinewood Drive will be relocated to the north side of the property.
- The planned development is an all brick, two-bedroom bungalow with a finished basement.
- The variances are required because the resulting lot size is smaller than required by the zoning, but the lot size is comparable to others in the neighbourhood.
- He is aware of the requirement in the recommended conditions to relocate the garage and driveway.

Christie Gilbertson, Planner, Policy and Research, advised that she had nothing further to add to the information presented in the Staff Report.

No one spoke in objection to the application and no written objections were received.

In response to questions from the Committee, the Planner, Policy and Research advised as follows:

- The Urban Forest Technologist indicated that it was unlikely that the tree on the proposed lot and the tree impacted by the relocation of the driveway could be saved through tree protection methods. However, it would depend on the placement of new dwelling on the proposed lot and the specific location of driveway. If the trees are not salvageable, removal would be subject to the compensation requirements outlined in the Tree Removal By-law. She spoke to the applicant to advise them of the requirements under the By-law.
- There has not been discussion to restrict the width of the driveway or the placement of the dwelling to not impact the root systems of the trees. The Committee could require that the owner enter into a development agreement regarding the protection of the trees, however, because of the location of the mature tree on the proposed lot, the root system would likely still be harmed.
- The setback of the new dwelling could be as close as 6 metres to the street line.

In response to questions from the Committee, the applicant advised as follows:

- With respect to the conditions of approval, he has discussed the conditions with the Planner, Policy and Research and is familiar with the requirements.
- He does not believe the red maple on the proposed lot can be saved, as it would be located very close to the new dwelling.

Moved by Robert Short

That file numbers B01/22 and A10/22 be approved in accordance with the recommendations in the Staff Report.

“CARRIED”

Decision – B01/22

The Committee received no comment or presentation from members of the public concerning the application and thus made its decision on the basis of the Staff Report and the application.

In that the severed and retained parcels conform to the Official Plan policy and File Number A10/22 addresses the deficiencies from the Zoning By-law, consent is granted to sever the southerly 13.56 metres of the subject property to create a new lot for residential development, **CONDITIONAL UPON THE FOLLOWING:**

- i) **Approval of Minor Variance Application A10/22, dealing with the proposed severed lands;**
- ii) **Receipt of confirmation that the detached garage on the property has been demolished or otherwise removed/relocated through the appropriate permits from the Building Department to the satisfaction of the Chief Building Official;**
- iii) **Receipt of a Servicing Plan to the satisfaction of the Manager of Development Engineering or their designate, indicating that the severed and retained parcels can have their own independent sanitary sewer connection, as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. If they do cross the proposed severance line, or they are not independent, the owner/applicant will be required to relocate or construct new services from the city sewers at their own cost;**
- iv) **Relocation and establishment of a new driveway on the retained lands to the satisfaction of Public Works and Development Engineering, including the reinstatement of the curb and landscaping, at the owner's expense;**
- v) **Payment of a Parks Levy in an amount to be determined by the Parks Levy Review Committee;**
- vi) **Payment of a Tree Levy in the amount of \$489.28;**
- vii) **Prior to registering the Reference Plan at the applicant's cost, the applicant shall submit for approval a draft Reference Plan to the Secretary-Treasurer, showing the proposed severed parcel. Upon registration of the approved Reference Plan, a digital copy of the registered Reference Plan, in PDF format, will be provided to the Secretary-Treasurer;**
- viii) **A closed polygon vector file of the Part boundaries shown on the Reference Plan is to be provided in Autodesk DWG NAD83 UTM CSRS CGVD28 projection Windows-readable format to the satisfaction of the City of Peterborough Geomatics/Mapping Division. It is recommended that the applicant's Ontario Land Surveyor consult with the City of Peterborough Geomatics/Mapping Division to confirm acceptable standards and formatting. The Surveyor should contact the Secretary-Treasurer for instructions on how to submit this document;**
- ix) **That the applicant provide the Secretary-Treasurer with a draft of the Transfer/Deed of Land; and**
- x) **That if the above conditions are not satisfied within two years of the circulation of the Committee's decision that this consent will lapse.**

Decision – A10/22

The Committee received no comment or presentation from members of the public concerning the application and thus made its decision on the basis of the Staff Report and the application.

Having reviewed the application and considered the information presented in the Staff Report, the Committee determined that the application should be approved as per the Staff Recommendation and that the variances are minor, the proposal is desirable for the appropriate development or use of the land, and the general intent and purpose of the Zoning By-law and Official Plan are maintained.

Therefore, variances are granted as follows:

- a) **A variance to Section 3.4, 1 m) to reduce the minimum lot area to 421 square metres; and**
- b) **A variance to Section 3.4, 2 m) to reduce the minimum lot width to 13.56 metres.**

CONDITIONAL UPON submission of the registered transfer/deed of land related to file number B01/22.

3. File No. B02/22, 551 Parkhill Road East

This matter relates to a severance application submitted by Wolfgang Strutzenberger, the owner of the property that is the subject of the application.

The purpose of the application is to convey a small triangular piece of land where the well is located that services the banquet hall at 555 Parkhill Road East as a lot addition to 555 Parkhill Road East.

Wolfgang Strutzenberger attended the meeting and did not address the Committee with respect to the application.

Christie Gilbertson, Planner, Policy and Research, advised the Committee that she spoke with the applicant who had no concerns with the recommendation in the staff report, subject to an amendment to condition iii) with respect to the road widenings.

Ms. Gilbertson noted that the recommendation for the conveyance of a road widening from the lands at 555 Parkhill Road East was included in the conditions in error, as these lands are not part of the lands subject to the application. The original recommendation references a 12 metre by 12 metre daylighting triangle at the intersection of Television Road and Parkhill Road East. She is recommending removing the requirement to convey this daylighting triangle. The remaining two road widenings, along Parkhill Road East and the small daylighting triangle at the southeast corner of the property are recommended to remain in the conditions as they are on the subject lands.

No one spoke in objection to the application and no written objections were received.

Discussion

Robert Short indicated his appreciation for Staff's withdrawal of the recommendations respecting the road widening at the intersection of 555 Parkhill Road East and Television Road. He also indicated that while the road widenings requested for 551 Parkhill Road East would normally be secured through the development control (site plan) process, in that the applicant appeared to be satisfied with City's request to provide the widenings, he could accept Staff's recommendation.

Mauro DiCarlo stated that he will not oppose the conveyance of the remaining road widenings as the applicant is consenting to the conveyance. However, he would have supported removing the requirement for the road widenings as the application is a lot line adjustment, filed to correct an oversight in relation to the position of the well when the lot was originally created.

Robert Short left the meeting at 6:52 p.m.

Moved by Claude Dufresne

That the application be approved in accordance with the recommendation in the Staff Report, with an amendment to condition iii) removing the requirement to convey a 12 metre by 12 metre daylighting triangle at the intersection of Television Road and Parkhill Road East.

"CARRIED"

Decision

The Committee received no comment or presentation from members of the public concerning the application and thus made its decision on the basis of the Staff Report and the application.

In that the lot addition would facilitate the independent use of the lands at 555 Parkhill Road East, consent is granted to sever a triangular portion of land as generally depicted in Exhibit C of the Staff Report dated March 29, 2022 as a lot addition to 555 Parkhill Road East, CONDITIONAL UPON THE FOLLOWING:

- i) **Prior to registering the Reference Plan at the applicant's cost, the applicant shall submit for approval a draft Reference Plan to the Secretary-Treasurer, showing the proposed severed parcel, including road widenings. Upon registration of the approved Reference Plan, a digital copy of the registered Reference Plan, in PDF format, will be provided to the Secretary-Treasurer;**

- ii) **A closed polygon vector file of the Part boundaries shown on the Reference Plan is to be provided in Autodesk DWG NAD83 UTM CSRS CGVD28 projection Windows-readable format to the satisfaction of the City of Peterborough Geomatics/Mapping Division. It is recommended that the applicant's Ontario Land Surveyor consult with the City of Peterborough Geomatics/Mapping Division to confirm acceptable standards and formatting. The Surveyor should contact the Secretary-Treasurer for instructions on how to submit this document;**
- iii) **Conveyance by the owner to the City, free of encumbrances and at no cost to the City, of a 1.89 metre wide road widening along Parkhill Road East and a 6.08 metre wide road widening at the southeast portion of the property, in coordination with Legal Services;**
- iv) **That the applicant provide the Secretary-Treasurer with a draft of the Transfer/Deed of Land;**
- v) **The owner's solicitor shall provide an Undertaking to consolidate the severed lands with the property municipally known as 555 Parkhill Road East and to provide a registered copy of the Application Consolidation. The consolidated parcels shall be considered as one lot and shall not be dealt separately, and Section 50 (3) or 50 (5) shall apply to any subsequent conveyance or transaction involving the parcel of land that is subject to this Consent application; and**
- vi) **That if the above conditions are not satisfied within two years of the circulation of the Committee's decision that this consent will lapse.**

4. File No., A11/22, 201 Barnardo Avenue

This matter relates to a minor variance application submitted by Peter Robinson, Spotlight Home and Lifestyle, as applicant on behalf of Scott Anderson and Cheri Anderson, the owners of the property that is the subject of the application.

The purpose of the application is to reduce the minimum building setback from the centreline of Barnardo Avenue from 16 metres to 13.2 metres to facilitate the construction of a roofed structure (portico) at the front of the existing dwelling.

Peter Robinson attended the meeting and addressed the Committee as follows:

- The property owners would like to construct a front portico on the existing home to improve the curb appeal and safety of the entrance, as the current stairs are showing signs of decay.
- The setback from the centreline of Barnardo Avenue is 16 metres, but the existing house does not meet that setback and they are asking for a reduction to 13.2 metres to allow for the portico shown in the concept drawing.

Christie Gilbertson, Planner, Policy and Research, advised that she had nothing further to add to the information presented in the Staff Report.

No one spoke in objection to the application and no written objections were received.

Moved by Mauro DiCarlo

That the application be approved in accordance with the recommendation in the Staff Report.

“CARRIED”

Decision

The Committee received no comment or presentation from members of the public concerning the application and thus made its decision on the basis of the Staff Report and the application.

Having reviewed the application and considered the information presented in the Staff Report, the Committee determined that the application should be approved as per the Staff Recommendation and that the variance is minor, the proposal is desirable for the appropriate development or use of the land, and the general intent and purpose of the Zoning By-law and Official Plan are maintained.

Therefore a variance is granted from Section 6.10 (3) of the Zoning By-law to reduce the minimum building setback from the centreline of Barnardo Avenue to 13.2 metres to facilitate the construction of a roofed structure (portico) at the front of the existing dwelling PROVIDED THAT construction related to this approval proceed substantially in accordance with the concept plan attached as Exhibit D to the Staff Report dated March 29, 2022 and CONDITIONAL UPON the submission of a Tree Protection Plan to the satisfaction of the Urban Forestry Division prior to the issuance of a building permit.

Minutes

Moved by Tom Green

That the minutes of the Committee of Adjustment hearing held on March 1, 2022 be approved.

“CARRIED”

Other Business

Tom Green asked if the City had plans to return to in person hearings. The Secretary-Treasurer advised that there had been no direction provided to date regarding a change to the current meeting format.

Next Meeting

The next meeting of the Committee of Adjustment is scheduled for Tuesday, April 26, 2022.

Adjournment

The meeting was adjourned at 6:59 p.m.

(Sgd). Stewart Hamilton, Chair

(Sgd.) Jennifer Sawatzky, Secretary-Treasurer