



Minutes

Committee of Adjustment

Meeting Date: February 20, 2019
Meeting Time: 4:00 pm
Location: Town Hall Council Chambers
32 Mill Street, Thornbury ON
Prepared by Lori Carscadden – Committee of Adjustment Secretary/Treasurer

A. Call to Order

Chairman Morgan called the meeting to Order with the following members in attendance, being Bill Remus and Robert B. Waind. Also attending were Town Planner Travis Sandberg and Secretary/Treasurer Lori Carscadden.

A.1 Fire Evacuation Notice - The Secretary/Treasurer read the Notice aloud.

A.2 Approval of Agenda: Moved by: Robert B. Waind Seconded by: Bill Remus
"THAT the Agenda of February 20, 2019 be approved". Carried

A.3 Declaration of Pecuniary Interest: none

A.4 Adoption of Previous Minutes

Moved by: Robert B. Waind Seconded by: Bill Remus
"THAT the Minutes of January 22, 2019 be adopted, as amended. Carried

A.5 Business Arising from Previous Minutes – none

B. Deputations/Presentations – none

Chairman Morgan read aloud the authority given under the Municipal Act, 2001 and in accordance with Ontario's Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).

C. Public Meeting – 4:00 p.m.

C.1 Application No: A01-2019
Owner: Irma Botden
Applicant: Marius Botden
Legal Description: East Part Lot 33, Concession 11
Civic Address: 067488 33rd Sideroad

Chairman Morgan read aloud the Public Meeting Notice, including the purpose and effect of the application, wherein the proposed variance seeks relief from the provisions of site specific Exception 114 of the Former Township of Collingwood Zoning By-law 83-40 in order to permit a maximum building area of 11,900 sq.m. on the subject lands, whereas Exception 114 permits a maximum building area of 6,700 sq.m.

The effect of this application is to facilitate the construction of an 8,000 sq.m. agricultural produce warehouse on the subject lands.

It is noted that Comprehensive Zoning By-law 2018-65, as passed by Council on November 29, 2018, is currently not in full force and effect. A minor variance would not be required for the proposed development under the provisions of By-law 2018-65 as the site specific provisions applied to lands do not contain maximum building area requirements.

The legal description of the subject lands is Concession 11, East Part Lot 33.

The Secretary/Treasurer stated that the Public Hearing Notice was circulated in accordance with the *Planning Act* by pre-paid first class mail. The Public Notice Placard was provided to the Owner to be posted on the subject lands.

Comments were received from the following:

County of Grey – designated Special Agriculture with a split designation with Rural Employment Lands; a portion of the lands is also designated Hazard and as long as no development is within this feature the County has no concerns; the lands are also identified as Significant Woodlands on a small north east portion and recommend comments be received from the Grey Sauble Conservation Authority; the site exceeds the setback requirements from the stream north of 33rd sideroad and therefore have no concerns; development is commercial/industrial and may include fuel storage and recommend comments be received from the local risk management official; provided positive comments are received from the Grey Sauble Conservation Authority and the local risk management official the County has no concerns;

Grey Sauble Conservation Authority – generally have no objections, however note that the property has the potential of increased runoff from the property and negatively impact downstream water quality; would recommend the proposed development be accompanied by a drainage plan to incorporate grassed swales and, given the sandy soils, encourage infiltration where practical to address the increased runoff and potential impacts on water quality;

Historic Saugeen Metis – no objection or opposition;

Richard Lamperstorfer – objects to the variance being 78% greater than the original exception; objects to the Planning Department's suggestions that a minor variance would not be required under the provisions of By-law 2018-65; objects to the size when the route of crops has changed with the 10th Line bridge failure and the routes now being used; objects to possible future noise and would suggest directing the condensers away from both streets;

Town Building Department – both a building permit and septic permit are required; the proposed building shall be in accordance with the Ontario Building Code and/or the National Farm Building Code of Canada; adequate water supply required for fire protection unless it is a farm building according to the National Farm Building Code of Canada; waste water disposal from the processing and washing facilities must be addressed;

Town Infrastructure & Public Works – requires an entrance permit;

Town Planning Department – meets all four tests of the Planning Act and would recommend approval subject to the conditions stated in Planning Staff Report #PDS.19.28.

The Committee questioned whether or not this application would have been necessary if the new Comprehensive Zoning By-law #2018-65 were in full force and effect, with Town Planner stating that no it would not have been necessary as the site specific maximum building area stipulated by By-law 83-40 was not carried over into the comprehensive Zoning By-law. However, due to certain site specific appeals, the zoning by-law is not yet in full force and effect.

Town Planner stated that the property was subject to a site specific zoning amendment and site plan approval application in 2009 and this portion of the property was rezoned to Rural Employment Lands. The site specific provisions applied to the lands through Exception 114 of By-law 83-40 intended to implement the approved development plan.

Town Planner then provided a brief explanation of the Planning Staff Report #PDS.19.28. He stated that the increase in the existing maximum building area is to accommodate new apple packing equipment and storage. The nature and scale of the use remains consistent with that originally contemplated by Council through the previous planning approval processes. The parcel currently contains two land use designations under the Official Plan and two zoning categories, being Rural Employment and Special Agriculture. Development is proposed within the Rural Employment portion of the property, which permits the warehouse storage and packing uses and encourages other uses which support the agricultural industry. The proposed structure remains subject to all other zoning provisions in terms of setbacks, lot coverage, and maximum height requirements, and must obtain approval for an amendment to the existing approved site plan.

In terms of impact, the future building is proposed to be located in generally the same location as is currently shown in the approved site plan. The structure will be deeper and wider than originally contemplated, however, is generally of the same design, height, and material. Further, the previous site plan approval required installation of a 25.0m wide treed landscape buffer. Staff indicated that sufficient setback distances and landscape screening/buffering is in place to mitigate potential impacts of the increased building area. The proposed development is desirable to the community as it supports the logical expansion of an existing apple-related agricultural use on appropriately zoned and designated lands within the Municipality.

As there were no other persons in attendance to speak in favour of or in opposition to the variance, Chairman Morgan closed the public meeting.

Motion to adopt the Planning Staff Report #PDS.19.28

Moved by: Robert B. Waing Seconded by: Bill Remus Carried.

Motion:

Moved by: Robert B. Waing Seconded by: Bill Remus

“THAT the Committee of Adjustment GRANT Minor Variance Application No. A01-2019 to permit the development of the lands in accordance with the submitted site sketch.

CONDITIONS:

1. That the development be constructed in a manner substantially in accordance with the site sketch attached as Attachment #2;
2. That the applicant submit and obtain approval of a Site Plan Amendment application prior to the issuance of a Building Permit. The Site Plan Amendment Application shall include:
 - i) A Site Drainage Plan, to the satisfaction of the Grey Sauble Conservation Authority; and
 - ii) Confirmation that adequate water and waste water services are provided for the use, to the satisfaction of Planning and Development Services.
3. That this variance to the zoning by-law is for the purpose of obtaining a building permit and is only valid for a period of two years from the date of decision. If a building permit has not been issued by the Town within two years, the variance shall expire on February 20, 2021.

REASON FOR DECISION:

The Committee is satisfied that the application meets the four tests of a minor variance of Section 45(1) of the *Planning Act*, as noted in the Planning and Development Services Staff Report PDS.19.28.

The Committee received written and/or oral submissions before and/or during the hearing and have taken these submissions into consideration when making the decision”. Carried.

- | | | |
|----|--------------------|------------------------------------|
| 2. | Application No: | A02-2019 |
| | Owner: | Richpark Homes (Thornbury) Inc |
| | Agent: | Colin Travis – Travis & Associates |
| | Legal Description: | 188 Peel Street N. |

Due to certain circumstances, the Planning Staff Report for Minor Variance #A02-2019 was only made available to the Agent and Committee members just prior to the Committee meeting. In order to allow everyone the opportunity to read the report prior to the meeting, Chairman Morgan deemed a ten minute break to do so.

Chairman Morgan read aloud the Public Meeting Notice, including the purpose and effect of the application, wherein the proposed variance seeks relief from the provisions of the Zoning By-law(s) in order to permit the construction of two (2) above ground decks and retaining walls on the subject lands. The following relief is requested:

- 1) From Section 6.1(vi) of Zoning By-law 10-77 (Section 4.3(g) of By-law 2018-65) to permit a 0.3m side and rear yard setback for a retaining wall, whereas a minimum 1.2m is required;

- 2) From Section 25.2 of Zoning By-law 10-77 (Section 8.1 of Zoning By-law 2018-65) to permit an above-ground deck on proposed Unit 11 to encroach 4.5m into the *Hazard (H)* zone; and
- 3) From Site Specific zoning Exception 51 of Zoning By-law 10-77 to permit an above-ground deck on proposed Unit 24 to be setback a minimum of 4.0, whereas a minimum of 7.5m is required (Section 4.11 of By-law 2018-65 to permit a deck to encroach 3.5m into a required yard, whereas a maximum encroachment of 1.5m is permitted).

The effect of the variance request is to facilitate development of the site in accordance with the current site plan proposal which is currently under review by the Town (File No. P2646).

The legal description of the subject lands is 47 NE/S Arthur Street, 48 NE/S Arthur St, 49 NE/S Arthur St. 47 SW/S King St, 48 SW/S King St PL Thornbury, The Blue Mountains AND Minto St PL Thornbury, lying between Arthur St PL Thornbury and Peel St Thornbury, The Blue Mountains.

The Secretary/Treasurer stated that the Public Hearing Notice was circulated in accordance with the *Planning Act* by pre-paid first class mail. The Public Notice Placard was provided to the Agent to be posted on the subject lands.

Comments were received from the following:

County of Grey – the application conforms to the Primary Settlement Area designation; recommends comments be received from the Grey Sauble Conservation Authority to ensure that the hazards can safely be addressed and any new hazards are not created with the addition of the above ground decks and retaining walls; no further concerns;

Grey Sauble Conservation Authority – a permit is required prior to any construction, reconstruction, erection or placing of a building or structure of any kind; a recent permit has been issued by the GSCA to re-align the watercourse on the property; the hazard zone was re-aligned in accordance with the proposed watercourse alterations and includes a 30m. setback from the top of bank; agree with the supporting letter from Crozier Consulting Engineers dated January 29, 2019 that the proposed deck supports (Unit 11) would not impact the flood plain of the watercourse; additional permit(s) will be required for the development once the creek re-alignment is completed and stabilized;

Historic Saugeen Metis – no objection or opposition;

Lucy J. Richmond – 102 Fraser Crescent – the application does not appear to be on the Town’s Development Projects list or in the County of Grey development list; the “use” is designated as single family detached (not on water) in Grey County mapping but these appear to be duplexes which are allowed in the Official Plan; property is zoned Urban “D” in a designated “Primary Settlement Area” (Thornbury); the three proposed minor variances outlined in red on the Public Notice affects the design of 12 of the 24 units; the three proposed minor variances in total are too big to be considered “minor” in aggregate; each of the variances encroach on lands designated for other uses, i.e. setback from roads, encroachment on hazards lands, a reduction in setback to permit the building of a retaining wall; the application does not explain why a retaining wall is required; and, as the matter has not been duly considered by Town staff and consent given by Council it would seem to be premature.

Tim Murawsky, Town CBO – the 0.3m retaining wall setback may not provide enough room for

a proper drainage swale when neighbouring properties are developed;
Town Infrastructure and Public Works – Variance 1 – oppose the setback reduction while the lands are still in Town ownership; the retaining wall must be setback to prevent undermining when future works occur on adjacent lands; no loading allowed on Town lands. Variance 3 – Peel Street is being regraded and the plan should reflect the revised edge of road allowance grades.

Town Planning Department – meets the four tests stated in the Planning Act and recommend approval subject to the conditions noted in Planning Staff Report #PDS.19.29.

Colin Travis, Travis and Associates, being the Agent for the Owner was in attendance. He stated that he has been working with the developers for at least two years on this development and that an intense review of the site plan approval process has been done over those two years. The Town's Infrastructure and Public Works concerns will be addressed through the site plan review process. Variance #'s 2 and 3 will assist in squaring off the deck for two of the proposed units.

Bill Remus indicated that a few years ago there was mention of the need for more affordable housing and wondered if this was partially the purpose of this development. Town Planner noted that the land received site specific zoning approval in 2014 to reflect the current proposed site plan design. No specific considerations or requirements for the provision of affordable housing units were included in the decision of Council at the time of approval. The current development proposal will provide a contribution to the existing housing stock in terms of providing a mix of housing types.

Further, the three variances before the Committee have been identified through the site plan review process and remain as the only zoning compliance matters for the proposal. Variances 2 and 3 pertain to decks for the two specific units and would not affect the overall design of the site. Due to the topography of the land, the retaining wall is necessary to assist with grading and therefore some "fill" will be required. Further, the submitted engineer reports and drawings indicate that fill is required in order to properly grade the site for stormwater purposes and to ensure that satisfactory slope can be achieved for the gravity sanitary sewer services. It was noted that the site plan approval process will address such technical matters and site plan approval cannot be granted until zoning has been complied with.

Robert B. Waind stated that, although it is not required under the Planning Act, site plan approval does not go through a public process. Town Planner stated that the plan was before Council in 2014 for minor modifications. Other than that, the Plan is the same as when it first went through Council and public review. Site plan review is more of a technical part of the development where decisions are made on how it is built, etc. It was further noted that the Town's Infrastructure and Public Works have been working through the stormwater management aspect of the development.

Town Planner further stated that some of the concerns raised through public comment are not concerns that the Committee can make a decision on. These concerns would be discussed and

- 2) That the applicant obtain Site Plan Approval for the subject lands, including a detailed engineered stormwater management plan and construction details for the retaining wall, to the satisfaction of the Town of The Blue Mountains; and
- 3) That this variance to the zoning by-law is for the purpose of obtaining a building permit and is only valid for a period of two years from the date of decision. If a building permit has not been issued by the Town within two years, the variance shall expire on February 20, 2021.

REASON FOR DECISION:

The Committee is satisfied that the application meets the four tests of a minor variance of Section 45(1) of the *Planning Act*, as outlined in Planning Staff Recommendation Report PDS.19.29.

The Committee received written and/or oral submissions before and/or during the hearing and have taken these submissions into consideration when making the decision". Carried

D. New and Unfinished Business:

1. Draft Procedural By-law – the Procedural By-law is anticipated to be passed at the February 20, 2019 Council meeting.

E. Next Meeting Date: March, 20, 2019

F. Adjournment

Moved by: Robert B. Waind

THAT this Committee of Adjustment meeting now be adjourned. Carried.