



Minutes

Committee of Adjustment

Meeting Date: March 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 March 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 February 20, 2019 be adopted. 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: B01-2019
 Owner: Julie Wells
 Agent: Kristine Loft – Loft Land Use Planning
 Legal Description: Lot 8, Concession 11
 Civic Address: 415508 10th Line

Chairman Morgan read aloud the Public Meeting Notice, including the purpose and effect of the application, which noted that the subject lands were subject to a series of previous consents (B04-2015, B05-2015, and B06-2016) which established the existing parcel fabric. One of the resulting lot lines was established incorrectly upon registration of the final reference plan resulting in an existing entrance and laneway now encroaching onto the subject lands.

The purpose and effect of the proposed lot addition is to correct the lot boundary to ensure that the existing entrance and laneway are located wholly within the appropriate property boundary. The application proposes to sever a 5,306m² parcel of land and to convey it to the northerly abutting parcel, municipally known as 415526 10th Line.

No new building lot is proposed by this application.

The legal description of the lands is Part Lot 8, Concession 11, Town of 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 – County Official Plan designates the subject property as “Niagara Escarpment Plan Area” and defer comments specific to that designation of the NEC; provided positive comments are received from the Grey Sauble Conservation Authority and the severed lot is conveyed to the lands to the north known as 415526 10th Line the County would have no further concerns;

Grey Sauble Conservation Authority – no objection

Bell Canada – no concerns

Niagara Escarpment Commission – does not require an NEC Development Permit

Historic Saugeen Metis – no objection or opposition;

Town Building Department – no comments

Town Infrastructure & Public Works – no comments

Town Planning Department – satisfied that the resulting lot fabric will remain viable for the uses intended by the Official Plan and will remain at a size and character which is compatible with the rural area and would therefore recommend approval of the said severance.

Kristine Loft, Agent for the Owner was in attendance. She had no comments or additional information to provide to the Committee.

Travis Sandberg, Town Planner stated that the planning staff report was self-explanatory with no concerns received from either the public or any agency.

Robert Waind questioned if there was a repetitious paragraph on page 4 of the planning staff report, in that reference to lot creation in the *Escarpment Natural Area* and the *Escarpment Protection Area* under the Niagara Escarpment Plan were not one of the same. Town Planner clarified that although the information is similar, both reference separate Sections in the NEC Plan and must be referenced in the report.

garage that is located closer to the (westerly) side lot line than what is permitted in Zoning By-law 2018-65. The effect of this application is to establish a new minimum side yard setback of 1.5 metres on the subject property. Zoning By-law 2018-65 requires a minimum side yard setback of 2.0 metres.

It is noted that Zoning By-law 2018-65 was approved by Council on November 29, 2018 but is not yet in full force and effect. Zoning By-law 2018-65 replaces the previous Comprehensive Zoning By-law that was in place for the Town of Thornbury and it is noted that this version of the Zoning By-law requires a 1.5 metre side yard setback. A variance from the provisions of Zoning By-law 10-77 is not required.

The legal description of the subject lands is Town Plot, Part Lot 31, Louisa E/S, Part 2, Registered Plan 16R-3760.

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 – no concerns

Historic Saugeen Metis – no objection or opposition;

Infrastructure and Public Works – no comments

Tim Murawsky, Town CBO – no comments or concerns

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.19.32.

Gary Posey, Owner, was in attendance. He had no comments or additional information to provide to the Committee.

Travis Sandberg, Town Planner stated that this minor variance application applies to a proposed addition that has been impacted by the transition between two municipal zoning by-laws, being Town of Thornbury 10-77 and the new comprehensive Zoning By-law 2018-65. Due to one remaining appeal with respect to the passing of By-law 2018-65, it is not yet in full force and effect. Until an Order has been received from the Local Planning Appeal Tribunal (LPAT), all development proposals are currently subject to review under both zoning by-laws and the more restrictive provisions must be enforced. As such, the applicant has applied to the Committee for relief from Zoning By-law 2018-65, as outlined in Planning Staff Report #PDS.19.32.

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.19.32, as amended.

Moved by: Robert B. Waind

Seconded by: Bill Remus

Carried.

Motion:

Moved by: Robert B. Waind

Seconded by: Bill Remus

“THAT the Committee of Adjustment GRANT Minor Variance Application No. A03-2019 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 attached site sketch; and
- 2) 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 March 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.19.32.

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

C.3	Application No:	A04-2019
	Owner:	Bay Growers Inc.
	Applicant:	John Ardiel
	Legal Description:	Part Lot 27, Concession 10, Part 1, Registered Plan 16R-5645
	Civic Address:	#828114 Grey Road 40

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 105 of the Former Township of Collingwood Zoning By-law 83-40 in order to facilitate the construction of an approximately 2,680m² addition to the existing agricultural produce warehouse on the subject lands. The applicant has requested the following relief from the provisions of the Zoning By-law:

- 1) To permit a minimum interior side yard setback of 52m, whereas Exception 105 permits a minimum interior side yard setback of 55m;
- 2) To permit a minimum front yard setback of 35m, whereas Exception 105 permits a minimum front yard setback of 40.5m;
- 3) To permit an increase in maximum height of 10m, whereas Exception 105 permits a maximum height of 9.7m; and
- 4) To permit a maximum building size of 11,400m², whereas Exception 105 permits a maximum building area of 9,400m².

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. The variances identified above would not be required for the proposed development under the provisions of By-law 2018-65.

The legal description of the subject lands is Concession 10, Part Lot 27, Registered Plan 16R-5645, Part 1.

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 Applicant to be posted on the subject lands.

Comments were received from the following:

County of Grey – County Official Plan designates most of the subject property as “Space Extensive Commercial” which states that warehousing is a permitted use subject to meeting criteria of that designation; the proposal is subject to an amended site plan and provided conditions in the Space Extensive Commercial designation are met, and in particular “d”, the County would have no concerns; a small portion of the land to the east are designated “Rural” wherein no development is proposed on this portion;

Grey Sauble Conservation Authority – no identified natural hazards found; any significant woodlands are to the east; there appears to be a greater than 30m. distance from the woodland and proposed development; it is not anticipated that negative impacts on this natural feature or its ecological function would occur due to the development; confirm that the underlying soil is a well-drained gravel bed and storm drainage is accomplished through infiltration and no apparent ponding areas were noted on-site; new parking areas are proposed to be gravel and will provide limited infiltration; if gravel areas are proposed to be hard surfaced or additional buildings are proposed in the future, it is recommended that a stormwater management plan be provided for the property to clarify the anticipated change in drainage;

Grey/Bruce Health Unit – no comments or concerns;

Historic Saugeen Metis – no objection or opposition;

Walker Aggregates Inc – no issues with the application;

Infrastructure and Public Works – no comments

Tim Murawsky, Town CBO – additional parking may be required for the addition wherein calculations are required to support any existing spaces; all loading spaces shall be identified with dimensions; an on-site drainage plan should be provided; information required to support adequate water and wastewater services; the site plan design should include the building code provisions for firefighting;

John Ardiel, Applicant – in response to the Town’s CBO concerns regarding parking, “we will not require additional parking”;

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.19.33.

Mete Yorgan, neighbour to the east at 828140 Grey Road 40, who stated that he was not opposed to the actual construction but did have concern with sound levels pertaining to air conditioning running twenty four hours a day. He asked if the sound would be increasing and also if there will be more modern efficient equipment being installed.

Bill Clancy was in attendance on behalf of Bay Growers Inc. He stated that there will be more efficient equipment being installed to be located between the existing structure and the

following relief from the provisions of Zoning By-law 10-77:

- 1) To permit a maximum height of three (3) storeys for a Single Detached Dwelling, whereas Section 13.2(a) permits a maximum height of 2.5 storeys in the Development “D” zone;
- 2) To permit a maximum height of 16.0m for a Detached Accessory Structure (indoor tennis court), whereas Section 6.1(iv) permits a maximum height of 4.5m for accessory structures; and
- 3) To permit maximum building height of 11.0m and 16.0m for a Single Detached Dwelling and a Detached Accessory Structure, respectively, whereas Section 6.3(a) permits a maximum building height of 10.5m for all structures.

The legal description of the subject lands is Town Plot Park Part Lot 13 to Part Lot 15 Alfred, Park Part Lot 15 Napier, Part 3 Registered Plan 16R-503, Less Park of Part Lot 13, Registered Plan 16R-2744.

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:

Richard Lamperstorfer – an e-mail received by the Secretary/Treasurer from Lamperstorfer on March 19, 2019 wherein he requested the Committee of Adjustment to defer his minor variance application to the April meeting as he wished to modify his application.

Grey County Planning Dept – the County Official Plan designates the majority of the subject property as “Primary Settlement Area” wherein the County OP generally defers detailed development standards to the Local OP and/or Secondary Plans; the County Official Plan designates a small portion of the lands as “Hazard Lands” and identifies a stream on the northerly end of the subject lands that coincides with the hazard lands mapping; buildings and structures are generally not permitted in the hazard lands designation, however minor extensions or enlargements of existing buildings and structures may be permitted subject to policies within Section 2.8 being non-habitable buildings connected with public parks, such as picnic shelters; recommends comments be received from the local conservation authority; County Transportation Services have no concerns or objections; provided positive comments are received from the local conservation authority the County have no further concerns; Grey Sauble Conservation Authority – no objection to the approval of the application provided no development occurs within the hazard zone (area) as outlined on the GSCA mapping. It is recommended that a more detailed site plan be provided prior to the issuance of building permits; the site plan will help them confirm if a permit is required from the GSCA under Ontario Regulation 151/06; the approximate location of the dwelling and driveway on the site plan appears to be within the regulated area and a permit would be required prior to construction of the dwelling and associated site alterations; drainage details for the proposal should be included in the more detailed site plan. For any future development on the site beyond what is currently proposed, the GSCA would recommend that a stormwater

management plan be prepared to the satisfaction of the Town and the GSCA. As well, depending on the scope and nature of the future development, an environmental impact study may also be required to confirm consistency with the Provincial Policy Statement.

Grey/Bruce Health Unit – no comments

Historic Saugeen Metis – no objection or opposition

Town of The Blue Mountains Council – requests the Committee of Adjustment to defer the application until Council has the opportunity to consider matters relating to official plan conformity and zoning by-law compliance through a staff report to be included directly on the April 1, 2019 Council agenda for consideration;

Infrastructure and Public Works – no comments

Town CBO – elevations for the proposed buildings should be provided to determine actual method of height; the proposed 16m (52'6") high accessory building may be visually overpowering when located only 6.2m (20') from the street; increasing the setback may be appropriate; to approve the height requested may set a precedent for future development on the property; questioned whether or not this should be a rezoning from development to residential or rural with a lot specific exception for height;

Town Planning Dept – the application does not meet the four tests of a minor variance as required by the Ontario Planning Act; should the landowner wish to pursue development of a single detached dwelling and any accessory structures within the current provisions of the Official Plan and the applicable Zoning By-law, then Town staff remain available to provide guidance to the applicant.

Neither the Owner/Applicant or any representative was in attendance.

Travis Sandberg, Town Planner, noted that planning staff recommends refusal of the minor variance application, as it was currently presented for Committee's consideration. It was further noted that staff would support deferral of the application, as requested by the applicant, in order to work with the owner to revise the submission to a proposal more in-keeping with the intent of the Zoning By-law. With respect to the current application, the proposed height of 16.0m exceeds the maximum permitted by the Official Plan and cannot be supported through the minor variance process. Further, the proposed increase in height does not appear to maintain the intent of the Development "D" zone, as it is not clear what potential impact the proposed height(s) will have on determining or limiting future use of the lands. It was noted that the existing zone permissions do permit a development of a single detached dwelling and accessory uses on the lands, and that staff are happy to work with the applicant to revise the plan to a proposal that would be more minor in scale and nature. However, staff are not able to support the current request based on the information submitted.

David Morgan stated that since there were no conceptual drawings provided with the application it was impossible to evaluate and determine the level of impact on the surrounding area. Further, Mr. Morgan stated that the Public Notice was not posted in an area that was easily visible and anyone who was interested enough to want to read the posting had to walk a distance onto the property to read it. The Notice should have been posted closer to the road. Mr. Sandberg replied that there is a requirement in the Planning Act that speaks to the posting of Notices.

Notwithstanding non-compliance with the Official Plan, Mr. Waind stated that he was also not satisfied that the proposal maintains the intent of the Zoning By-law. Specifically, Mr. Waind questioned staff about the current status of the Development “D” zone with respect to the recent passing of Zoning By-law 2018-65. The Town Planner highlighted that Council deferred a decision on all Development “D” zones in the passing of the new comprehensive zoning by-law in order to review the zone permissions in further detail as a result of public concerns received through the consultation process. As such, the subject lands remain under the sole authority of the Town of Thornbury Zoning By-law 10-77. As a result of this, Mr. Waind stated that Council has identified that further review and study is needed for the lands and the Committee should respect that decision by only supporting development in accordance with existing zoning approvals, until such time that Council has clarified the intent of the Development “D” zone.

Mr. Waind then asked whether or not a pre-consultation was had with the applicant and Town staff prior to the application being submitted, with Town Planner replying that there is no statutory requirement to have a pre-consultation on a minor variance. In this case, staff did not have the opportunity to conduct a cursory review of the application prior to submission. It was noted that a brief discussion was had with the applicant at the planning counter at the time of submission and it was suggested to the applicant at that time that Town staff would be not be able to support the proposal.

Mr. Waind further noted that, in his opinion, the Development “D” zone is a “holding” zone and this proposal is not within the provisions of that zone. He stated he saw no merit in deferring the application, especially when comments have been received that any future development may require extensive studies/report, i.e. stormwater management and an environmental impact study. Mr. Waind thought by deferring the application now would only delay the inevitable.

At this time Bill Remus spoke to say that he thought the applicant had put a lot of work into his application and that his request to defer it to make revisions was only fair. He thought the Committee should allow him the opportunity to make the appropriate revisions. Mr. Remus stated that, in his opinion, the application should be deferred, as requested by the applicant.

Travis Sandberg noted that a minor variance in the Development “D” zone could potentially be supported by staff provided that it meets the four tests of a minor variance prescribed by the Act. The proposed use and accessory use are currently permitted in the Development “D” zone.

Gerry McGregor, resident at 154 Alfred Street W.

Mr. McGregor asked what the process of submitting a minor variance application was. Town Planner stated that no pre-consultation is required prior to the submission of a minor variance application. Generally, the applicant wishes to meet with staff to review their application prior to submitting, but it is not a statutory requirement for all Planning Act applications. Only Council and delegated authorities thereof, including the Committee of Adjustment, have the authority to make a decision on an application. Staff strive to provide as much information regarding the supportability of proposals prior to submission, but are not able to deny an

individual the right to submit an application and make a request to the approval authority. Staff endeavor to make the applicant aware of any planning concerns and are available to work with the applicant to hopefully have a complete and supportive application upon submission.

Mr. McGregor stated that why a five storey structure is necessary in a 2.5 storey neighbourhood is beyond him and compared it to the previous application wherein an apple processing warehouse is to be constructed at only 10m and this application is asking for 16m. Further, Mr. McGregor could not believe that this application was allowed to be submitted and felt it was a complete waste of Town staffs time.

Andrew Saunders – neighbour on the 10th Line

Mr. Saunders agreed with Mr. McGregor's comments and stated a five storey structure is not a minor variance. This structure would be 150m. from his residence and to have a five storey structure is inappropriate in this area. This application is not in character with the surrounding neighbourhood and disagrees with it.

Jim Keast - 33rd SDRD

Mr. Keast stated that he knows the applicant used to camp out on the property, which he understands is illegal and believes that this will turn into a commercial use. Mr. Keast said that this application is a waste of everyone's time.

Dawn Wansbrough – 157 Alfred Street

Ms. Wansbrough stated that this proposal would have an impact on her property and disagrees with any approval.

Robert Waind then spoke saying that there is a fairness in any process as well as to the applicant, however he did not feel that by refusing the application, that Council would consider that the Committee was undermining their authority in any way. He noted that Council must have had a concern with the proposal or they wouldn't have specifically requested a deferral until they had an opportunity to review the planning staff report. Mr. Waind reiterated that under the Development "D" zone the applicant could still apply for a building permit for a 2.5 storey residential dwelling and accessory use provided it was within the existing zoning provisions. Mr. Waind said he did not feel there was any merit in postponing the inevitable.

David Morgan agreed with Mr. Waind in that the proposal was inappropriate to the surrounding area and felt that to refuse the application was proper.

Town Planner, Travis Sandberg, explained that the Committee of Adjustment has been delegated approval authority from Council for minor variances, and that in this process Council is effectively a commenting agency similar to any other agency or member of the public. Further, should the Committee defer the application, planning staff would work with the applicant to revise the submission to be more supportable by staff and the request that would come back to the Committee would not be in the same form as it is today, (i.e. revisions made to the height, etc.). Mr. Sandberg reminded the Committee members that the applicant has requested a deferral to allow himself the opportunity to revise his application to eliminate the

