

single detached dwelling) on the subject property.

The effect of this variance is to permit the construction of a maximum 37.0 square metre surface area in-ground pool with associated 9.0 square metre foot print area single storey pool cabana, to be located a minimum distance of 37.8 metres from the front lot line (43.3 metres for the associated pool cabana), 6.3 metres from the westerly interior lot line (2.4 metres for the associated pool cabana), 8.1 metres from the easterly interior lot line (16.2 metres for the associated pool cabana), and 9.7 metres from the rear lot line (8.2 metres for the associated pool cabana). It should be noted that the lands are zoned Residential Third Density Exception 111 (R3-111) in the former Township of Collingwood Zoning By-law No. 83-40; and that Section 5.2(x) of the By-law requires that accessory uses shall not be constructed prior to the main building (the single detached dwelling).

The land affected by this application is described as Lot 46, Plan 1127; (Alta Road).

Secretary/Treasurer stated that the Public Notice was circulated in accordance with the Planning Act. The Notice was provided to the applicant's agent and was posted on the subject property.

Comments were received from the following:

Grey County Planning Dept. – do not support applications that allow for an accessory use prior to the primary use however could support this application if the building permit was issued for the house; if the applicant(s) do not wish to acquire the building permit then merging of the two lots on title so that the pool and cabana would then be accessory to the existing dwelling would be another option. However, if that is not feasible to the applicant(s) then it would be the County's opinion that this application would be more appropriately dealt with through the zoning by-law amendment process.

Historic Saugeen Metis – no further interest unless archaeological activities or discoveries are found;

Grey Sauble Conservation Authority – no objection; would recommend silt fencing be put in place while construction is being undertaken to aid in reducing sediment laden runoff being directed to the watercourse;

Carolyn Lipton – 106 Escarpment View Court – no objection provided the property remains as residential and a buffer of evergreen trees be planted on the north end of the subject property to shield neighbouring properties from a sight line of the pool and cabana;

TOTBM Engineering & Public Works – questioned whether or not the lands would be joined as one; it is not consistent with the single family lot character of the subdivision;

TOTBM Planning Dept. – recommends refusal as it does not meet the four tests of Section 45 of the Planning Act.

Andrew Pascuzzo, agent for the applicant, was in attendance. He reviewed a power point presentation that he made available and noted that:

- the backyard is already constrained by an existing deck, patio and hot tub, all of which was existing at the time the applicant purchased the property;
- this leaves the property without the ability to install an in-ground swimming pool and landscaping;
- it is the intent of the applicant to build a new residence on the subject property but not for another five years;
- the municipality would loose tax assessment if the lots were merged;
- the pool is proposed in the rear yard which is a requirement of the zoning by-law;
- the pool is a desirable use of the lands;
- to merge the lots would require a Deeming By-law and would not need to be before this Committee.

Mr. Remus noted that there are restrictive covenants on the property for up to 20 years and the prior owner will have to get approval. He suggested that the agent/applicant look at the Title prior to applying for a building permit.

The developer, although not appearing at the Hearing, is unlikely not to have known or heard of this application. He has gone to great lengths to establish quite restrictive covenants for a twenty year period. Although the town cannot enforce them, will try to abide by them and assist where possible. He has no apparent concerns if his absence from this Hearing can be implied.

Mr. Pascuzzo stated that there would be no point in acquiring a building permit for a new residence now, since it is not the intent of the applicant to build prior to five years and also that a building permit must have some type of construction started within six months before it is deemed null and void; this is not the intent of the applicant to do so.

Bryan Pearce, Town Planner, provided a review of Planning Staff Report No. PL.11.43:

- proposed Lot 177 will get its municipal number when a residential dwelling is built, otherwise it is considered a vacant lot with no lot identification;
- the deck which was built in 2006 is inconsistent with the building drawings and encroaches on the lot line; the Town's Building and By-law Dept have been made aware of the infraction;
- there is plenty of room at the front of the lot for a future dwelling however, it is a matter of sequence;

- a building permit in conjunction with the swimming pool and fencing would complement each other;
- there is the ability for the lot to be sold at any time, even within the five year building permit proposal;
- the intent of the subdivision when first designed was to see future development as a prominent use of the lot being the dwelling rather than an accessory use first;
- a Deeming By-law to merge the two lots together would lose the character of the street.

Mr. Waind noted that in the past, it has been known that garages and workshops that have been allowed prior to the residence eventually get turned into 'bunkies', i.e. habitable space. He thought as well that the issuance of a building permit for the residence now could only come to lapse which could put the Municipality in an even worse position. A unique variance does not set precedence as each application must be heard and dealt with on an individual basis.

He further noted that correspondence was received from a neighbouring property owner requesting a tree buffer, in which Mr. Passcuzzo indicated that the applicant would be in agreement to plant the tree buffer, however would not be in a position at this time to apply for a building permit as it would defeat the purpose of the minor variance.

There was mention of a right-of-way close to the subject property and whether this was used for adjoining lot owners to access the park. Mr. Pearce noted that this is an open space block that the Town owns and is for infrastructure, i.e. servicing, and acts as a drainage corridor.

Mr. Waind indicated that whether or not there is a pool in the rear yard now or in the future, at some point in time there will be a new dwelling built on the lot. He has concern that the merging of the two lots may never see a residential dwelling on the lot.

Mr. Pascuzzo stated that a cabana and swimming pool are not habitable spaces and are intended to be located at the rear of the lot. It was his opinion that this variance would have no negative impacts on the surrounding neighbourhood.

Mr. Pearce reiterated that, in his opinion, the application does not meet the four tests of Section 45 of the *Planning Act* and that a residential use should be the prominent feature on each lot as directed from the Official Plan. Further, that support could not be given to a Deeming By-law on this lot as every lot is to be an individual lot as per the intent of the subdivision from ten years ago.

Mr. Pascuzzo replied that the Official Plan does not specifically note 'primary' and 'secondary' but rather that being the Zoning By-laws objective to do so.

Discussion was had regarding care of the vacant lot, i.e. long grass and weeds with it being noted that the Municipality has By-law Enforcement that deals with those types of things. Also, the Town has no authority to enforce and ensure that a new residential dwelling is built within five years, should a building permit be obtained at this time.

No other members of the public were in attendance to speak either in favour or in opposition to the application. Chairman Waind then closed the hearing portion of the public meeting.

Moved by: Bill Remus

Seconded by: Robert Waind

"THAT the Committee of Adjustment GRANT Minor Variance Application No. A08-2011 in order to permit the construction of a maximum 37.0 square metre surface area in-ground pool with associated 9.0 square metre foot print area single storey pool cabana, to be located a minimum distance of 37.8 metres from the front lot line (43.3 metres for the associated pool cabana), 6.3 metres from the westerly interior lot line (2.4 metres for the associated pool cabana), 8.1 metres from the easterly interior lot line (16.2 metres for the associated pool cabana), and 9.7 metres from the rear lot line (8.2 metres for the associated pool cabana) on the subject property.

CONDITIONS:

1. THAT appropriate screening at the rear at least eight evergreens at least five feet in height, it being understood that the applicant intends to construct a new home within five years.

REASON FOR DECISION:

The Committee is satisfied that the application meets the four tests for minor variance, contrary to the Planning Staff Report PL.11.43".

Chairman Waind then closed the public meeting.

**#2 - A09/2011 - 138188 Ontario Inc (Dr's Margaret McGillis & Dean Smith)
– Part Lot 83, Plan 1023, 21 Bruce Street N.**

Chairman Waind called the meeting to Order and read aloud the applications

purpose and effect of the variance which is to convert the existing 2-storey dwelling into a commercial building and construct a 2-storey northerly side yard addition onto the existing building, consisting of a clinic (related to the orthodontic practice) on the main floor and a retreat (ancillary residential component) on the second floor. The proposed addition would be within the minimum interior side yard setback abutting a residential zone on the subject property. The applicant has also requested relief from the loading space and parking space requirements for the subject property. It should be noted that this application is submitted in conjunction with an application for site plan approval.

The effect of this variance is to permit the construction of a maximum 44.0 square metre foot print area 2-storey addition onto the existing building, to be located a minimum distance of 6.0 metres from the northerly interior side lot line; and to permit the reduction of the loading space requirements to zero; and further to permit the reduction of the parking space requirements to three parking spaces. It should be noted that the lands are zoned Core Commercial (C1) in the former Town of Thornbury Zoning By-law No. 10-77. Section 14.2(f)(ii) of the By-law requires a minimum side yard setback abutting a residential zone of 9.0 metres within the Core Commercial (C1) Zone; and Section 6.6(a) of the By-law requires that a minimum of one loading space for this proposed commercial building with associated addition. Further, Section 6.9(a) of the By-law requires a minimum of four parking spaces on the subject property, as amended through By-law 12-1990.

The land affected by this application is described as Part Lot 83, Plan 1023; Part 1, 16R-8301; (21 Bruce Street North).

Secretary/Treasurer stated that the Public Notice was circulated in accordance with the Planning Act. The Notice was provided to the applicant's agent and was posted on the subject property.

Comments were received from the following:

Grey County Planning Dept. – no development is permitted within 30 metres of the banks of a cold water stream; provided positive comments are obtained from the Grey Sauble Conservation Authority they would have no further concerns;

Grey Sauble Conservation Authority (GSCA) – has reviewed the Terraprobe Geotechnical Report to assess slope stability and establish an appropriate setback from the top of bank for any new structure; they are satisfied what is contained in the Report; the natural heritage species such as the butternut tree and fish habitat of the Beaver River would not appear to be negatively impacted; recommendations of the Terraprobe report must be adhered to during construction; a drainage and grading plan will be required as part of the GSCA permit process with roof drainage and paved parking areas being directed to the street with measures to stabilize parking areas to the south end of the building;

Historic Saugeen Metis – no further interest unless archaeological activities or discoveries are found;

Russell Sorichetti – 35 Bruce Street North – no objection;

TOTBM Engineering & Public Works – not in favour of loading and parking reductions without seeing the site plan and parking in lieu charge;

TOTBM Planning Dept. – recommends approval subject to conditions as stated in Planning Report No. PL.11.44.

Margaret McGillis, applicant was in attendance, as was Miriam Vasni, agent for the applicant. Ms. Vasni reviewed a power point presentation that she made available and noted that:

- the property is designated Commercial and Harbour Commercial with other surrounding retail;
- the applicant has an orthodontic practice and is leasing space across the street;
- the applicant has submitted a site plan application in conjunction with this minor variance; parking deficiencies will be dealt with through the site plan process;
- it is the intent to maintain any historic features of the building;
- the main floor will be the orthodontic practice and the top floor used as an ancillary use;
- Bruce Street North has three street light standards and some trees, one tree of which may have to be relocated;

Ms. Vasni then reviewed the four tests of Section 45 of the *Planning Act* noting that the application would have no negative impacts on the surrounding neighbourhood.

Bryan Pearce, Town Planner, reviewed Planning Staff Report No. PL.11.44 noting the following:

- In 1990 a By-law was passed that established new front yard setbacks;
- In 1990 a By-law created a flat rate of a minimum four (4) parking spaces;
- Cash-in-lieu of parking will be recognized through the Site Plan application process; staff have been conferring with the Business Improvement Association (BIA), Chamber of Commerce, et al, to establish appropriate cash-in-lieu.

Chairman Waind indicated that he would be reluctant to approve something that Council should be dealing with through a Site Plan application thereby forcing Council to work out an appropriate site plan amendment and cash-in-lieu of parking.

Mr. Pearce explained that cash-in-lieu is quite common and is something we would want to promote in the downtown core. As this application allows for no

physical space for all the parking space requirements, then cash-in-lieu would be appropriate, in this instance.

Discussion on whether or not a zoning by-law amendment would not have been more appropriate however parking lot relief would not be looked at through that type of application process.

Ms. Vasni stated that if the minor variance application is granted, the applicant will then have to acquire engineers drawings, landscape architect drawings as well as building drawings. The applicant wants to be sure that the variance is given the 3.0 metre setback and relief from the loading space prior to going to all of the work, time and expense. If the variance is granted it gives the applicant some assurance and level of comfort to proceed further.

No other members of the public were in attendance to speak either in favour or in opposition to the application. Chairman Waind then closed the hearing portion of the public meeting.

Moved by: Bill Remus

Seconded by: Robert Waind

“THAT the Committee of Adjustment GRANT Minor Variance Application No. A09-2011 in order to permit the construction of a maximum 44.0 square metre foot print area 2-storey addition onto the existing building, to be located a minimum distance of 6.0 metres from the northerly interior side lot line; and to permit the reduction of the loading space requirements to zero on the subject property.

CONDITIONS:

1. That the relief for the zero loading space provisions only apply to this business/professional use.

REASON FOR DECISION:

The Committee is satisfied that the application meets the four tests for minor variance, as noted in the Planning Staff Report PL.11.44”.

Chairman Waind then closed the Public Meeting.

D. Correspondence: none

E. New & Unfinished Business:

a) Chairman Waind noted that the Committee of Adjustment is a Committee of Council and is a quasi judicial body thereby it not being appropriate for the

applicant, agent and/or consultant to consult with any member of the Committee prior to the Public Hearing. Each Committee member must be perceived as unbiased at the time of the Hearing.

b) OACA Conference – May 29th to June 1st – Woodstock

Committee members Robert Waind and Bill Remus as well as Town Planning Staff member Bryan Pearce will be attending, either all or part thereof.

F. Next Meeting Date – June 16, 2011

G. Adjournment:

Moved by: Bill Remus

Seconded by: Robert Waind

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