



Minutes

Committee of Adjustment

Meeting Date: September 21, 2016
Meeting Time: 4:00 pm
Location: Town Hall, Council Chambers
 32 Mill Street, Thornbury
Prepared by Lori Carscadden – COA Secretary/Treasurer

A. Call to Order

Chairman Waind called the meeting to Order with the following members in attendance, being David Morgan and Bill Remus, as was Town Planner Denise Whaley and Secretary/Treasurer Lori Carscadden who read aloud the Fire Evacuation Notice.

Approval of Agenda: Moved by: David Morgan Seconded by: Bill Remus
 “THAT the Agenda of September 21, 2016 be approved”. Carried

Declaration of Pecuniary Interest: none

B. Adoption of Previous Minutes

Moved by: Bill Remus Seconded by: David Morgan
 “THAT the Minutes of August 17, 2016, be adopted”. Carried

C. Public Meeting – 4:00 p.m.

C.1 Application No: A16-2016
 Owner: Dawna Dinsmore
 Agent: Andrew Pascuzzo, DC Slade Consultants
 Location: South Part Lot 25, Concession 11
 Civic Address: #787517 Grey Road 13

Chairman Waind read aloud the applications purpose and effect of the variance which would allow the applicant to build an accessory building, approximately 142 m² (1528 ft²) in area, 6.4 m high (21 feet), to be used as garage and storage on their property. The height and location of the proposed building does not meet the requirements of the zoning by-law and the applicant has applied for zoning relief to allow the garage.

If this application is approved, it would permit a garage to be constructed:

- in the required front yard, setback approximately 60 metres from the front lot line, where section 5.2 (iii) of the zoning by-law does not allow accessory uses to be built closer to the street than the main building, and

- with a maximum height of 6.4 metres, where 5.2 (v) limits height to 4.5 metres in a residential zone.

The property is legally described as the South Part of Lot 25, Concession 11, RP16R5498, Part 1, being #787517 Grey Road 13.

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

Comments were received from the following:

Grey County Planning Department – it appears that the lands are within the Hazard land designation and comments from the Grey Sauble Conservation Authority (GSCA) should be received; it appears that the proposal will be located outside of any natural feature, i.e. banks of a stream, river, lake or Georgian Bay and its adjacent land;

Transportation Services have no objections; provided positive comments are received from the GSCA, the County would have no further concerns;

Grey Sauble Conservation Authority – as the proposal is located outside of the regulated area which pertains to a river, lake, stream or watercourse, a permit is not required;

Lands and Resources (Historic Saugeen Metis) – no objection;

TOTBM Community Services – no issues;

TOTBM Infrastructure and Public Works – no comments

TOTBM Planning Department – this proposal meets the four tests of the Planning Act and Town staff would recommend support of the application.

Andrew Pascuzzo, DC Slade Consultants, and Agent for the Owner was in attendance. A brief overview was provided noting that when the residence was built it was set further back on the property to help alleviate any noise from Grey Road 13. The proposed structure will be situated so that it is well secluded on the property.

As there were no other persons in attendance to speak in favour of or in opposition to the variance, Chairman Waind closed the Public Hearing portion of the meeting.

Motion to adopt the Planning Staff Report #PDS.16.116

Moved by: David Morgan

Seconded by: Bill Remus

Carried.

Motion:

Moved by: David Morgan

Seconded by: Bill Remus

“THAT the Committee of Adjustment GRANT Minor Variance Application No. A16-2016 to permit an accessory structure to be constructed in the required front yard, setback approximately 150 m from the front lot line, where section 5.2 (iii) of the zoning by-law does not allow accessory uses to be built closer to the street than the main building, and with a maximum height of 6.4 m, where 5.2 (v) limits height to 4.5 m in a residential zone.

CONDITIONS:

1. That the development is constructed substantially in accordance with the attached site plan.

REASON FOR DECISION:

The Committee is satisfied that the application meets the four tests for minor variance of s.45. (1) of the Planning Act, as noted in the Planning and Development Services Staff Report PDS.16.116". Carried

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.

C.2 Application No: A17-2016
Owners: Chris McCaig and Brenda Rudd
Location: Part Lot 29, Concession 8
Civic Address: #208542 Hwy26

Chairman Waind read aloud the applications purpose and effect which would allow for construction of a detached garage, approximately 45 m² (484 ft²) in area, on the subject property. The proposed location of the garage does not meet the requirements of the zoning by-law and the applicant has applied for a variance to the zoning by-law, to allow the garage.

If this application is approved it would permit a garage to be located in the required front yard, setback 15.4 m from the front lot line, where section 5.2 (iii) of the zoning by-law does not allow accessory uses to be built closer to the street than the main building.

The property is legally described as Part of Lot 29, Concession 8, RP 16R2094, Part 1, being #208542 Hwy 26.

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

Comments were received from the following:

Grey County Planning Department – mapping would indicate that the subject lands are within the Intake Protection Zone 2 and would suggest comments be received from the Drinking Water Source Protection staff; the subject lands would appear to be within the Significant Woodlands area and would suggest comments be received from the Grey Sauble Conservation Authority (GSCA); the subject land abuts a Provincial Highway and comments should be received from the Ministry of Transportation (MTO); provided positive comments are received from the GSCA and MTO the County would have no further concerns;

Grey Sauble Conservation Authority – a permit has been filed but will not be issued pending the decision of the minor variance; generally have no objection subject to proper drainage and grading;

Ministry of Transportation – no issues or concerns; the location of the proposed garage meets MTO minimum setback requirements;

Lands and Resources (Historic Saugeen Metis) – no objection;

TOTBM Community Services – no issues;

TOTBM Infrastructure and Public Works – no comments

TOTBM Planning Department – this proposal meets the four tests of the Planning Act and Town staff would recommend support of the application.

It was noted that the property is definitely within a wetland area which backs up to the Georgian Trail, lending it difficult to locate an appropriate location for the proposed garage.

Mr. McCaig, Owner, was in attendance. He stated that the location of the proposed garage is the only area where it could be located due to the area of wetland. They were unable to acquire a separate entrance off of Hwy.26 however through construction of the highway the Ministry of Transportation (MTO) provided them with a right-of-way with a deed to the roadway which makes for a better entrance to the property. Mr. McCaig noted that he has planted nineteen large trees to assist in filling in the area.

As there were no other persons in attendance to speak in favour of or in opposition to the variance, Chairman Waind closed the Public Hearing portion of the meeting.

Motion to adopt the Planning Staff Report #PDS.16.117

Moved by: Bill Remus

Seconded by: David Morgan Carried.

Motion:

Moved by: Bill Remus

Seconded by: David Morgan

“THAT the Committee of Adjustment GRANT Minor Variance Application No. A17-2016 to permit a garage to be located in the required front yard, setback 15.4 m from the front lot line, where section 5.2 (iii) of the zoning by-law does not allow accessory uses to be built closer to the street than the main building.

CONDITIONS:

1. That the development be constructed in a manner substantially in accordance with the Applicant’s Site Plan.
2. That a permit is received from MTO for the development, if required.
3. That a permit is received from GSCA for the development, if required.

REASON FOR DECISION:

The Committee is satisfied that the application meets the four tests for minor variance of s.45. (1) of the Planning Act, as noted in the Planning and Development Services Staff Report PDS.16.117”. Carried

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.

C.3 Application No: A18-2016
Owners: George & Teresa Matamoros
Location: Lot 37, Plan 1023
Civic Address: 102 Moore Crescent (Thornbury)

Chairman Waind read aloud the applications purpose and effect which is to construct a carport, approximately 25 m² (269 ft²) in area, and connected to the house by a covered walkway. The proposed carport and walkway do not meet the provisions of the zoning by-law and the applicant has applied for a variance to the by-law to allow the structure. In addition, the application requests to recognize an existing shed on the property, also in the front yard. A sketch of the proposal is on the back of this notice.

If this application is approved it would permit the construction of a carport, setback approximately 30 m from the front lot line and allow an existing shed, setback of 14.68m from the front lot line, where section 6.1 (v) does not allow accessory uses to be located in the front yard. It would also allow the carport to be attached to the main dwelling by a covered walkway, where 6.1 (ii) does not allow it to be attached to the main dwelling.

The property affected by this application is legally described at Plan 1023, Lot 37 (Thornbury).

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

Comments were received from the following:

Grey County Planning Department – mapping would indicate that the subject lands are within the Intake Protection Zone 2 and would suggest comments be received from the Drinking Water Source Protection staff; the subject lands would appear to be within the Significant Woodlands area and would suggest comments be received from the Grey Sauble Conservation Authority (GSCA); Housing Services have no concerns; provided positive comments are received from the GSCA the County would have no further concerns;

Grey Sauble Conservation Authority – it appears that the proposal will be located outside of any natural feature, i.e. banks of a stream, river, lake or watercourse and therefore no permit is required;

Stewart Sprague – 98 Moore Crescent – supports the minor variance;

Lands and Resources (Historic Saugeen Metis) – no objection;

TOTBM Infrastructure and Public Works – no comments

TOTBM Planning Department – this proposal meets the four tests of the Planning Act and Town staff would recommend support of the application.

Committee member Remus questioned if there was any concern with the rear yard in this case, as this variance would now change the access to the property to be off of Moore Crescent rather than the original entrance and frontage off of Alfred Street. Town Planner Denise Whaley stated that the Town of Thornbury Zoning By-law No. 10-77 requires a 9 metre rear yard setback. As this is a non-complying lot it would not change anything.

George Matamoros, Owner/Applicant, was in attendance.

As there were no other persons in attendance to speak in favour of or in opposition to the variance, Chairman Waind closed the Public Hearing portion of the meeting.

Motion to adopt the Planning Staff Report #PDS.16.118

Moved by: Bill Remus

Seconded by: David Morgan Carried.

Motion:

Moved by: Bill Remus

Seconded by: David Morgan

“THAT the Committee of Adjustment GRANT Minor Variance Application No. A18-2016 to permit a carport accessory structure in the front yard, setback approximately 30m from the front lot line, and allow it to be attached to the main building by a covered walkway; and recognize an existing shed in the front yard, setback approximately 14.6m from the front lot line.

CONDITIONS:

1. That the development is constructed substantially in accordance with the attached site plan.

REASON FOR DECISION:

The Committee is satisfied that the application meets the four tests for minor variance of s.45. (1) of the Planning Act, as noted in the Planning and Development Services Staff Report PDS.16.118”. Carried

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.

C.4 Application No: A19-2016
Owner: 2405369 Ontario Inc
Agent: Andrew Pascuzzo, DC Slade Consultants
Location: Lot 4, Plan 106
Civic Address: 93 Bruce Street S.

C.5 Application No: A20-2016
Owner: Sylvia Held
Agent: Andrew Pascuzzo, DC Slade Consultants
Location: Lot 3, Plan 106
Civic Address: 95 Bruce Street S.

Chairman Waind read aloud the applications purpose and effect which noted that the property owners at 93 and 95 Bruce Street have recently constructed two new detached homes on the lots. They would like to construct garages at the rear of the lot, which would have driveway access on Lemon St. They would also like to have driveway access on Bruce Street. The Town of Thornbury Zoning By-law limits the number of driveways on a lot. A sketch of the proposals is on the back of this notice.

If the applications are approved, it would permit two driveway access points on each lot, where Section 6.9.3.7 of the Town of Thornbury Zoning By-law permits only one driveway on lots having less than 45 metres of Lot Frontage.

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

Comments were received from the following:

Grey County Planning Department – the subject property is within the Municipal WHPAs which requires a Hydrogeological Study or Environmental Impact Study be completed by a qualified individual; would recommend that comments be received from the Drinking Water Source Protection staff; the subject lands abut a County and Township road and within Section 5.2.2(6)(e) of the County Official Plan it states that “the County shall follow a policy encouraging the utilization of an internal road system and/or service road” and further that it “*shall be the County policy to restrict the number of access points to the minimum required for proper development of the subject lands*”; Transportation Services note in the Entrance Permit procedure that under Section 2.5.3 “*where a subdivision or individual lot fronts on both a County Road and a Local Road, the entrance will be from the Local Road where feasible*”; once notification from the Town of The Blue Mountains that access was approved onto Lemon Street, “*the County decided that the access to Bruce Street (Grey Road 13) was not required*”; however, the proponent could apply for an exemption to the Entrance Policy for the entrances onto Grey Road 13 in writing to the Director of Transportation Services and the Transportation and Public Safety (TAPS) Committee; as the applications do not meet County Roads policy Section 2.5.3 the County staff would recommend against the proposal;

Grey Sauble Conservation Authority – no fees were collected so no formal comments are provided, however the structures are not within a regulated area administered by the Conservation Authority;

Lands and Resources (Historic Saugeen Metis) – no objection;

Don Green – these applications are not minor but rather a rezoning; two driveways are not minor; has a safety concern for the children coming to and from school;

TOTBM Community Services – suggest considering having the two driveways (93 & 95) onto Lemon Street and delete entrances onto Bruce Street;

TOTBM Infrastructure and Public Works – opposes two driveways due to increased maintenance and for future replacement costs; concern with precedence setting; the County has jurisdiction over entrances from County Road 13; the County policy is for entrances off of lower tier roads;

TOTBM Planning Department – staff are not satisfied that these applications meet the four tests of the Planning Act and are not able to support the two minor variances; however, should the Committee decide to approve the two variances staff would recommend that two conditions be considered: 1. That the development be constructed in a manner substantially in accordance with the applicants site plan; 2. That a permit be received from the County of Grey for the entrances from Bruce Street.

Regarding the Town’s IPW comments where there was concern that these two applications setting a precedence for others to do the same, the Committee members noted that each application received is considered on its own merits.

Committee member Morgan questioned where the carports would be located in the front yard as noted on the application as he did not see where even part of a car could be

parked there and from the sketch provided it would appear to be more of a porch than a carport.

Andrew Pascuzzo, DC Slade Consultants and Agent for both applications, was in attendance. He apologized for the wording used in his Justification Report and stated that the enclosed area would be more for someone to pull in to make deliveries or drop-offs rather than a resident parking a vehicle.

Discussion was had as to whether or not a common/mutual driveway would suffice for the driveways off of Lemon Street or perhaps the one residence have a driveway off of Bruce Street and the other off of Lemon Street. However, the consensus from the Committee members and the Agent did not feel that this would not be practical and would in all likelihood require an easement.

Bill Mayne was in attendance. He stated that he is the father of the person overseeing the project and is anticipating living in one of the residences. He does not see where these applications should even require a variance as these driveways are quite common along Bruce Street.

Mr. Mayne provided comments from his son, who was unable to attend. He noted that the Town's Building Department have approved the site plan for the garage and carport and that the carport is necessary to meet the Town setbacks. He stated that this project has been in discussions with the Town since 2014 and that the Town has never mentioned the back ditch along Lemon Street. As well, discussions have been ongoing with the Town's Planning Department since 2013 and there was no mention of two accesses not being acceptable.

Chairman Waind noted that in the past, if more than one culvert was required that the Town was usually responsible for the costs.

Town Planner Denise Whaley responded to the comments given, stating that she has reviewed the file pertaining to this project extensively and it had been made very clear that two entrances would not be permitted. She noted that in past years Lemon Street did not have the same activity that it does today. This would be a drastic change for both entrances if approved. Further, although there is a curb pad it does not mean that it was ever used as an entrance or for parking of a vehicle. There have already been a few lots where owners have created another entrance to their property on Lemon Street but without any permits being issued. Ms. Whaley stressed that safety is a big concern as children walk that sidewalk to the public school and Bruce Street is a very busy County road. Further, if these applications were approved, the residence to the north could also request an entrance onto Bruce Street even though there was no previous curb cut for an entrance either. It was also noted that there are culverts along Lemon Street for ditching purposes.

Chairman Waind stated that given the hierarchy for entrances being a County and local tier road, would the building permits be predicated that access was off of Lemon Street? Ms. Whaley commented that it is unknown how the Building Department determined them. Chairman Waind then asked for confirmation that if the applications are

approved, that there would then be one access per lot off of Lemon Street and the second entrance to be issued would then rest with the County of Grey, with all members being in agreement that this would be the case.

Bill Remus stated that he did not see how the County could stop a driveway at 93 Bruce Street as there is already a curb cut there.

Andrew Pascuzzo spoke stating that the County is not a land use policy but is rather more for the rural roads with Chairman Waind saying that he felt this was putting a difficult burden on the County. Mr. Pascuzzo followed up by noting that the Town's Public Works do not have a procedure in place for allowing second entrances and that they need to separate the difference between settlement areas and rural lots. Further, the age of the current Zoning By-law, i.e. No. 10-77 did not likely intend it as a through lot and that the zoning by-law was interpreted incorrectly. He has found that other municipalities in the area allow for through lots. Mr. Pascuzzo then spoke to the first two of the four tests of the Planning Act recognizing the impact, safety and long term costs. In regard to long term costs, the area in question is a small area of 18 square metres. If that area were to be paved, the Town would have to bear the costs of a few hundred dollars so he failed to see why the Town would be so concerned with long term costs, because to him it would seem to be only minor.

Mr. Pascuzzo further stated that the applications are minor in nature as other lots in the area have all done it and is desirable. If Lemon Street were the front yard then there would be a rear yard onto Bruce Street and then his clients would be wanting to sit out there but then needing a fence for privacy which would not be a desirable streetscape.

Mr. Pascuzzo requested that the Committee make a decision today rather than deferring it for County approval.

Mr. Remus commented that a second entrance is being requested since the zoning by-law does not recognize a through lot and he therefore had sympathy towards the applications and gave his support for both. All Committee members agreed stating they had sympathy towards the two applications.

Chairman Waind noted that there is a County policy that no second entrance be allowed.

Ms. Whaley noted that the applicants were advised that their applications would not be supported by Town staff and by applying they would be taking a risk.

Andrew Pascuzzo further stated that there is no traffic study for ingress/egress and that the entrances at the back of the properties, i.e. Lemon Street, are only temporary but have been allowed for the building permit and the construction of the two residences.

As there were no other persons in attendance to speak in favour of or in opposition to the variance, Chairman Waind closed the Public Hearing portion of the meeting.

Motion to refuse the Planning Staff Report #PDS.16.119

Moved by: Bill Remus

Seconded by: David Morgan Carried.

Motion:

Moved by: Bill Remus

Seconded by: David Morgan

“THAT the Committee of Adjustment GRANT Minor Variance Application No. A19-2016 to allow a two driveway entrances on a lot, where Section 6.9.3.7 of the Town of Thornbury Zoning By-law permits only one driveway on lots having less than 45 metres of Lot Frontage.

CONDITIONS:

1. That the development is constructed substantially in accordance with the attached site plan.

REASON FOR DECISION:

The Committee is satisfied that the application meets the four tests for minor variance of s.45. (1) of the Planning Act”. Carried

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.

Motion:

Moved by: Bill Remus

Seconded by: David Morgan

“THAT the Committee of Adjustment GRANT Minor Variance Application No. A20-2016 to allow a two driveway entrances on a lot, where Section 6.9.3.7 of the Town of Thornbury Zoning By-law permits only one driveway on lots having less than 45 metres of Lot Frontage.

CONDITIONS:

1. That the development is constructed substantially in accordance with the attached site plan.

REASON FOR DECISION:

The Committee is satisfied that the application meets the four tests for minor variance of s.45. (1) of the Planning Act”. Carried.

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.

D. Correspondence – none

E. New and Unfinished Business

Secretary/Treasurer informed the Committee members that a Public Open House and Public Meetings will be forthcoming in the Fall 2016 on the new DRAFT Comprehensive Zoning By-law. Dates and times to follow.

F. Next Meeting Date – October 19, 2016

G. Adjournment

Moved by: David Morgan

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