

Committee of Adjustment Wednesday, May 17, 2017

A meeting of the St. Marys Committee of Adjustment was held on Wednesday, May 17, 2017 at 6:30pm in the Board Room, Municipal Operations Centre, 408 James Street South, St. Marys, Ontario, to discuss the following:

1. Call to Order
2. Disclosure of Pecuniary Interest
3. Approval of Minutes dated April 5, 2017
4. Application for Minor Variance: A02-2017 affecting Registered Plan 235, Pt Lot 18 w/s Church, n/s Victoria, 256 Church Street South, St. Marys, for Marianne DeBrabandere
5. Application for Consent to Sever: B01-2017 affecting Concession 18, Part Lot 20 e/s James Street, 243 James Street South, St. Marys for Robert Brenner
6. Application for Consent to Sever: B02-2017 affecting Concession 18, Part Lot 20 e/s James Street, 243 James Street South, St. Marys for Robert Brenner
7. Application for Consent to Sever: B03-2017 affecting Registered Plan 210, Part Lot 2, as Part 2 on Reference Plan 44R-5205, 299 Queen Street West, St. Marys for 2398315 Ontario Limited
8. Next Meeting
9. Adjournment

Present:

- Chairman Steve Cousins
- Member William J. (Bill) Galloway
- Member Clive Slade
- Member Steve Ische
- Member Dr. J. H. (Jim) Loucks
- Mark Stone, Planner
- Susan Luckhardt, Secretary-Treasurer

Regrets:

- Grant Brouwer, Director of Building and Development

Call to Order:

Chairman Steve Cousins called the meeting to order at 6:30 pm.

Disclosure of Pecuniary Interest:

Member Dr. Jim Loucks declared pecuniary interest with Agenda Item #7 as he is related to one of the owners of the property.

Approval of Minutes dated April 5, 2017

Motion by Member Bill Galloway

Seconded by Member Clive Slade

That the Minutes dated April 5, 2017 be approved as circulated. CARRIED



Resume Public Hearing A02-2017

Application for Minor Variance: A02-2017 affecting Registered Plan 235, Pt Lot 18 w/s Church, n/s Victoria, 256 Church Street South, St. Marys, for Marianne DeBrabandere

Mark Stone, Planner introduced the application. The property is designated “Residential” in the Town's Official Plan and zoned “Residential Zone Four – R4” in the Zoning By-law Z1-1997, as amended.

The property is currently the site of a converted dwelling containing two dwelling units and the proponent is proposing to develop a third dwelling unit as permitted under Residential Zone Four – R4 provisions. However, the property is deficient under Residential Zone Four provisions for a converted dwelling containing three dwelling units, requiring variances to the provisions of the Zoning By-law as follows. The existing lot measures approximately 599.8m² whereas zone provisions require a lot area of 740.0m² for a converted three-unit dwelling, requiring a variance for lot area for a converted three-unit dwelling of approximately 140.2m². The existing lot frontage measures approximately 16.46m whereas zone provisions require a lot frontage of 20.0m for a converted three-unit dwelling, requiring a variance for lot frontage for a converted three-unit dwelling of approximately 3.54m.

Mark Stone summarized the Public Hearing held March 1, 2017 during which the application which was deferred to permit the proponent the opportunity to provide additional information regarding a parking plan. The proponent has provided a parking plan and correspondence from Upper Thames River Conservation Authority (UTRCA).

Mark Stone summarized the comments received regarding the application as follows:

Festival Hydro: no issues with water account for the property.

Town Tax Department: no outstanding taxes.

Upper Thames River Conservation Authority (March 29, 2017): no objection; a permit will be required from the UTRCA for the proposed parking area; and (April 11, 2017): recommended that site grading of parking area be completed in such a way that future runoff is not directed towards adjacent properties.

Town Engineering and Public Works Department (February 23, 2017): the proponent has not satisfied conditions of a previous minor variance (#A10-2008) where the proponent was to remove the existing gravel driveway located within the Victoria Street road allowance to the satisfaction of the Director of Public Works; the gravel area located within the Victoria Street road allowance that was previously utilized for parking is to be removed and replaced with topsoil and seeded to the satisfaction of the Director of Public Works. Written confirmation of such should be required prior to issuance of any building permits; the telecommunications panel next to the existing hard surface driveway should be protected to the satisfaction of the Director of Public Works; and (March 16, 2017): staff has completed an on-site review of the proposed parking plan and have no comments; grading plan not required for minor grading modifications for the parking lot; contact Upper Thames River Conservation Authority to confirm any requirements with respect to on-site excavation for the proposed parking area.

This concluded correspondence received regarding the application.

Chairman Steve Cousins asked the applicant for any comments.

Marianne DeBrabandere enquired about the requirement of a lot grading plan. Mark Stone confirmed that a lot grading plan is required to confirm that grading will be such that runoff will not affect adjacent properties.

Marianne DeBrabandere questioned Town Engineering and Public Works Department comments regarding the conditions of a previous minor variance in that the existing parking area had to be removed.

Mark Stone reviewed the four tests of the minor variance as per his planning report. The requested variances maintain the general intent and purpose of the Official Plan which is to provide for a full range of residential activities and housing forms. The requested variances maintain the general intent and purpose of the Zoning By-law in that sufficient amenity areas are able to be provided; parking requirements have been demonstrated to be met through a parking plan; and the applicant has demonstrated that the minimum landscaped open space requirement of 35 percent will be maintained after the parking area is constructed. The application is minor in nature in that the requested variances represent appropriate deviations from the Zoning By-law requirements and the potential impacts resulting from the proposed variances are considered "minor" in nature. The proposed development is desirable for the appropriate development or use of the subject property in that the addition of a dwelling unit in the existing house will not impact the residential character of the neighbourhood. It is recommended that the Committee impose a condition to require the owner to install and maintain the following to reduce the impacts of headlights on adjacent properties – fencing along the north property line extending from the northwest corner of the lot terminating at a point in line with the rear wall of the dwelling; and landscaping south of proposed parking space number five to reduce the impacts of headlights. Also as per comments from UTRCA it is recommended that the Committee require the owner to submit a lot grading/drainage plan to demonstrate that the grading will be such that no runoff affects adjacent properties.

Chairman Steve Cousins asked for comments from members of the public.

Ted Ingram, 150 Victoria Street, provided photos to Committee members to illustrate the parking issues that exist on Victoria Street and provided comments to the matter in that he has been blocked into his own driveway by vehicles parked on the road allowance.

Chairman Steve Cousins asked for comments from Committee members.

Member Dr. Loucks had nothing further.

Member Steve Ische asked about fencing for the property as a fence already exists to the west on the adjacent property. Steve Ische asked if the proponent needs to provide an additional fence to keep the headlights out in the case that the neighbouring fence were not maintained or was removed in future by the neighbour. Mark Stone responded that the existing fence will suffice and if the neighbor removes the fence, it would be with the knowledge that they will have the effect of the headlights from this parking area.

Member Clive Slade asked about the location of the proposed fencing along the north property line. Mark Stone showed the areas requiring fencing and landscaping. It was noted that the landscaping barrier on the south property line would be on municipal property. The landscaping and fencing will be included under a development agreement for the property which is a recommended condition if the application is approved.

In response to Member Clive Slade, Mark Stone confirmed that the parking area is in the UTRCA erosion area.

Member Bill Galloway commented on the parking issues with respect to enforcement and signage.

Ted Ingram stated that he does not have issue with parking on the street, but does have issue with vehicles blocking his driveway.

Marianne DeBrabandere provided additional comments regarding enforcement for parking.

Member Bill Galloway asked Chairman Steve Cousins to adjourn the application to a point later in the meeting.

Chairman Steve Cousins moved to adjourn to the next application and to resume discussion of application A02-2017 later in the meeting.

Discussion of application A02-2017 reconvened at 8:07 pm.

Marianne DeBrabandere provided comments regarding the application and the use of the property.

In response to Member Clive Slade, Mark Stone provided information regarding the parking requirements for a converted dwelling including the previous requirements of 1.5 spaces per unit under the Zoning By-law; and the new requirements under the Zoning By-law of 2 spaces per unit, resulting in a requirement for a total of five parking spaces for three units within the dwelling.

Mark Stone indicated on the parking plan where fencing would be required to guard against headlight spillage onto adjacent properties; being the north side of the property extending to the dwelling with barrier landscaping on the south side of the property.

Marianne DeBrabandere asked if the current cedars located on the north side of the property could be regarded as sufficient barrier in the area from the edge of the parking lot to the dwelling. It was the consensus of staff and the Committee that the barrier fence to be installed at the north end of the parking area would be required to continue to the dwelling as the existing cedar plantings do not form an opaque barrier.

There was discussion regarding the development agreement that will be required as a condition if the Committee approves the application; to ensure that landscaping and fencing is suitable and maintained.

This concluded discussion of minor variance application A02-2017.

DECISION A02-2017

Application for Minor Variance: A02-2017 affecting Registered Plan 235, Pt Lot 18 w/s Church, n/s Victoria, 256 Church Street South, St. Marys, for Marianne DeBrabandere



Moved by: Member Steve Ische

Seconded by: Member William J. (Bill) Galloway

That the Committee of Adjustment for the Corporation of the Town of St. Marys approve Minor Variance Application No. A02-2017 from Marianne DeBrabandere subject to the following conditions:

1. This approval is granted only to the nature and extent of this application being relief for minimum lot area for a 3-unit building measuring 599.8m²; and relief for minimum lot frontage for a 3-unit building measuring 16.46m;
2. A building permit shall be obtained within one (1) year of the Committee's decision;
3. The space shall not be used for home occupation or any other business;
4. Confirmation in writing from the Engineering and Public Works Department that their concerns/issues communicated in their correspondence dated February 23, 2017 have been addressed;
5. The owner is required to install and maintain a parking area on the property in accordance with the approved parking plan and the Town's Zoning By-law;
6. The owner is required to install and maintain the following to reduce the impacts of headlights on adjacent properties:
 - 6 foot high barrier fencing along the north property line extending from the northwest corner of the lot terminating at a point in line with the rear wall of the dwelling on the lot;
 - Landscaping south of proposed parking space number five (as shown on the parking plan);
7. That the owner submit a lot grading/drainage plan to demonstrate that any grading associated with the parking area will be completed in such a way that future runoff is not directed towards adjacent properties;
8. The owner is required to enter into a development agreement with the Town to ensure proper installation of all works associated with the approved parking plan and any required fencing and landscaping, and to ensure the owner (and subsequent owners) maintain these works accordingly;
9. The gravel area located within the Victoria Street road allowance that was previously utilized for parking is to be removed and replaced with topsoil and seeded to the satisfaction of the Director of Public Works at the applicant's expense. Written confirmation of such should be required prior to issuance of any building permit.

And for the following reasons:

1. The relief requested is minor in nature;
2. It is required for appropriate development of the property;
3. It maintains the general intent and purpose of the Town Official Plan;
4. It maintains the general intent and purpose of the Town Zoning By-law.

CARRIED

Public Hearing B01-2017 and B02-2017

Applications for Consent to Sever: B01-2017 and B02-2017 affecting Concession 18, Part Lot 20 e/s James Street, 243 James Street South, St. Marys for Robert Brenner

Mark Stone introduced application B01-2017. The property is designated "Residential" in the Town's Official Plan and zoned "Residential Zone Three – R3" in the Zoning By-law Z1-1997, as amended.

The subject property is the site of a single-detached dwelling. The proponent has applied to sever a portion of the lands measuring 632m², having dimensions of 20.73m X 30.48m located to the rear of the property for the purpose of conveying those lands as a lot addition to the property to the east. This property is also subject to Consent to Sever application B02-2017 to be considered by Committee of Adjustment on May 17, 2017.

Mark Stone introduced application B02-2017. The property is designated "Residential" in the Town's Official Plan and zoned "Residential Zone Three – R3" in the Zoning By-law Z1-1997, as amended.

The subject property is the site of a single-detached dwelling. The proponent has applied to sever a portion of the lands fronting onto James Street South measuring 697m² and having frontage of 15.24m and depth of 45.72m for the purpose of creating an infill lot for residential use. This property is also subject to Consent to Sever application B01-2017 to be considered by Committee of Adjustment on May 17, 2017.

Mark Stone summarized comments received regarding the applications as follows:

Town Tax Department: no outstanding taxes.

Bell Canada: no concerns or objections to the applications.

Festival Hydro: there is an existing underground hydro service which terminates at a hydro pole located at north property line; Festival Hydro met with the owner and it was agreed that, at the time of construction, the existing service would be removed and a new underground service will be installed.

Town Engineering and Public Works Department: no comments regarding B01-2017; regarding B02-2017 – the sanitary service records show that the service for the existing house is potentially within the proposed section of property to be severed. The proponent should be required to daylight the service and confirm that the sanitary service for the existing house is located within the property line of the retained parcel. Services already exist for severed lot.

Trevor McNeil, MTE/OLS Ltd., agent for the application provided comment regarding the proposed severances. The proponent has requested to sever the lands from the rear of the existing property for the purpose of conveying those lands to the adjacent property to the east. The second severance application (B02-2017) is to request that an infill lot be severed from the lands fronting on James Street South.

Mark Stone provided comments regarding the applications as per his planning report. The application to sever the lands from the rear of the property proposes a lot addition from one residential property to lands designated Residential in the Official Plan. The severing of the

lands to the rear and the conveying of these lands to the adjacent property will create lot lines for the properties fronting James Street that align with the existing lots on James Street. The proposed severance to create a second residential lot will provide additional housing opportunities and represents efficient use of land and existing infrastructure. The proposed residential use of the severed and retained parcels will be compatible with the area which consists of single-detached dwellings.

There were no comments from members of the public.

Chairman Steve Cousins asked for questions and comments from Committee members.

Member Dr. Jim Loucks confirmed with Mark Stone that the lands severed to the rear will be consolidated with the adjacent lands to the east.

Member Steve Ische asked about an increased setback for the front yard for the infill lot to allow for parking. Rob Brenner confirmed that development plans for the infill lot at this time have not been confirmed. Trevor McNeil stated this application has only to do with the land and the severing of an infill lot. A building footprint has not been determined at this time.

This concluded discussion of consent applications B01-2017 and B02-2017.

DECISION B01-2017

Application for Consent to Sever: B01-2017 affecting Concession 18, Part Lot 20 e/s James Street, 243 James Street South, St. Marys for Robert Brenner

Moved by: Member William J. (Bill) Galloway

Seconded by: Member Steve Ische

That the Committee of Adjustment for the Corporation of the Town of St. Marys approve Consent to Sever Application No. B01-2017 from Robert Brenner subject to the following conditions:

1. The Certificate of the Official must be issued by the Secretary-Treasurer for Committee of Adjustment within a period of one year from the date of the mailing of the Notice of Decision;
2. Confirmation in writing be provided to the Secretary-Treasurer of Committee of Adjustment from the Town's Treasury Department that their financial requirements have been met;
3. The Committee be provided with a description that is consistent with the application and equal to that required for registration of a deed/transfer or other conveyance of interest in land under the provisions of the Registry Act or Land Titles Act;
4. Confirmation be provided to the Secretary-Treasurer for Committee of Adjustment from the solicitor that the Certificate of the Official will be scanned and attached to the electronic registration of the Transfer;
5. An undertaking be provided to the Secretary-Treasurer for Committee of Adjustment from the solicitor that the parcels will be consolidated under Land Titles onto one P.I.N.;

6. That the severed parcel be deeded as a lot addition only, to the property abutting in accordance with Section 50 (3 or 5) of the Planning Act, R.S.O. 1990.
7. Section 50(3) or (5) of the Planning Act, 1990 shall apply to any subsequent conveyance or transaction of the severed parcel and the Certificate under Section 53(42) shall contain reference to this stipulation;
8. Confirmation be received from the solicitor that the resultant lot (severed lands and the lands being added) will not be encumbered by the existing mortgage and will therefore be discharged.

CARRIED

DECISION B02-2017

Application for Consent to Sever: B02-2017 affecting Concession 18, Part Lot 20 e/s James Street, 243 James Street South, St. Marys for Robert Brenner

Moved by: Member William J. (Bill) Galloway

Seconded by: Member Steve Ische

That the Committee of Adjustment for the Corporation of the Town of St. Marys approve Consent to Sever Application No. B02-2017 from Robert Brenner subject to the following conditions:

1. The Certificate of the Official must be issued by the Secretary-Treasurer for Committee of Adjustment within a period of one year from the date of the mailing of the Notice of Decision;
2. Confirmation in writing be provided to the Secretary-Treasurer of Committee of Adjustment from the Director of Engineering and Public Works (or designate) that their concerns/issues regarding Engineering and Public Works issues communicated to the Committee as per their correspondence dated May 11, 2017 have been addressed;
3. Confirmation in writing be provided to the Secretary-Treasurer of Committee of Adjustment from Festival Hydro that their concerns/issues communicated to the Committee as per their email correspondence dated May 5, 2017 have been addressed;
4. To make payment to the Town for one boulevard hardwood tree per lot created as per the Town's tree planting policy;
5. Confirmation in writing be provided to the Secretary-Treasurer of Committee of Adjustment from the Director of Engineering and Public Works (or designate) that a hard surface driveway ramp will be installed for each of the lots from the edge of pavement to at least the property line, or that the applicant enter into an agreement with the Town's Engineering and Public Works Department that a hard surface driveway ramp will be installed for each of the lots from the edge of the pavement to at least the property line;
6. Pay 5 per cent of the value of the land as cash-in-lieu-of parkland pursuant to Section 51 of the Planning Act;

7. Confirmation in writing be provided to the Secretary-Treasurer of Committee of Adjustment from the Town's Treasury Department that their financial requirements have been met;
8. The Committee be provided with a description that is consistent with the application and equal to that required for registration of a deed/transfer or other conveyance of interest in land under the provisions of the Registry Act or Land Titles Act;
9. Confirmation be provided to the Secretary-Treasurer for Committee of Adjustment from the solicitor that the Certificate of the Official will be scanned and attached to the electronic registration of the Transfer;
10. That the owner remove or relocate the garage and shed to the satisfaction of the Town and obtain a building permit from the Town, if required.

CARRIED

Public Hearing B03-2017

Application for Consent to Sever: B03-2017 affecting Registered Plan 210, Part Lot 2, as Part 2 on Reference Plan 44R-5205, 299 Queen Street West, St. Marys for 2398315 Ontario Limited

Having declared pecuniary interest with this application, Member Dr. Jim Loucks abstained from the discussions.

Geoff Loucks and Scott McIntosh, owners of 299 Queen Street West were present for the Public Hearing.

Mark Stone introduced the application. The property is designated "Residential" in the Town's Official Plan and zoned "Residential Zone Four –R4-9" in the Zoning By-law Z1-1997, as amended.

The subject property is the site of a semi-detached dwelling currently under construction. The proponents have applied to sever the subject property into two parcels along the common party wall in order to convey each semi-detached dwelling unit separately.

Mark Stone summarized the comments received as follows:

Town Tax Department: no outstanding taxes.

Town Engineering and Public Works Department: property was serviced for use as a semi-detached. No comments or concerns.

Bell Canada: Bell Canada requires a 3 metre wide easement over existing buried facilities along the north property line; 3 metre wide easement to be measured 1.5 metres on either side of the buried installation, to extend from the buried cable to a minimum 1 metre past the existing pedestal installation.

Scott McIntosh spoke to the application which is to divide the semi-detached dwelling currently under construction along the main party wall.

Mark Stone provided comments regarding the application as per his planning report. The proposal will provide additional housing opportunities through the creation of these infill lots. The proposed development represents efficient use of land and existing infrastructure.

The proposed use of the retained and severed lots for semi-detached residential use will be compatible with the area which is characterized by a variety of building types and forms including single-detached and semi-detached dwellings. The majority of buildings in the area have one or two storeys and the proposed development will have similar setbacks and massing as other lots in the area. The spatial separation between the proposed buildings and uses on adjacent lots is not anticipated to create any negative impacts. The proposed development complies with minimum setbacks under the Town Zoning By-law. The proposed lots will have a similar area, frontage and depth to lots in the surrounding area.

With regard to the garden shed belonging to the adjacent property which encroaches onto the subject lands, Mark Stone stated that staff understands the proponent has been in communication with the adjacent property owner regarding removal of the shed from the property.

There were no comments from members of the public.

This concluded discussion of consent application B03-2017.

DECISION B03-2017

Application for Consent to Sever: B03-2017 affecting Registered Plan 210, Part Lot 2, as Part 2 on Reference Plan 44R-5205, 299 Queen Street West, St. Marys for 2398315 Ontario Limited

Moved by: Member Steve Ische

Seconded by: Member Clive Slade

That the Committee of Adjustment for the Corporation of the Town of St. Marys approve Consent to Sever Application No. B03-2017 from 2398315 Ontario Limited subject to the following conditions:

1. The Certificate of the Official must be issued by the Secretary-Treasurer for Committee of Adjustment within a period of one year from the date of the mailing of the Notice of Decision;
2. To make payment to the Town for one boulevard hardwood tree per lot created as per the Town's tree planting policy;
3. Confirmation in writing be provided to the Secretary-Treasurer of Committee of Adjustment from the Director of Engineering and Public Works (or designate) that a hard surface driveway ramp will be installed for each of the lots from the edge of pavement to at least the property line, or that the applicant enter into an agreement with the Town's Engineering and Public Works Department that a hard surface driveway ramp will be installed for each of the lots from the edge of the pavement to at least the property line;
4. Pay 5 per cent of the value of the land as cash-in-lieu-of parkland pursuant to Section 51 of the Planning Act;
5. Confirmation in writing be provided to the Secretary-Treasurer of Committee of Adjustment from the Town's Treasury Department that their financial requirements have been met;

6. The Committee be provided with a description that is consistent with the application and equal to that required for registration of a deed/transfer or other conveyance of interest in land under the provisions of the Registry Act or Land Titles Act;
7. Confirmation be provided to the Secretary-Treasurer for Committee of Adjustment from the solicitor that the Certificate of the Official will be scanned and attached to the electronic registration of the Transfer;
8. That the shed partially located on the retained lot be moved or removed to the satisfaction of the Town;
9. That the Secretary-Treasurer for Committee of Adjustment be provided with written confirmation that the concerns raised by Bell Canada in the correspondence dated May 5, 2017 have been satisfied and that an easement agreement between the property owner and Bell Canada has been registered on title to the satisfaction of Bell Canada; and further that the Secretary-Treasurer for Committee of Adjustment be provided with a copy of the easement agreement.

CARRIED

Next Meeting

June 7, 2017 at 6:30 pm.

Adjournment

Motion by Member Clive Slade, seconded by Member Steve Ische that the meeting adjourn at 7:56 p.m.

CARRIED

Steve Cousins,
Chairman COA

Susan Luckhardt,
Secretary-Treasurer COA

Copies to:

- Committee of Adjustment Members
- Clerk's Office
- Perth County Planning Office