

Committee of Adjustment

Wednesday, October 4, 2017

A meeting of the St. Marys Committee of Adjustment was held on Wednesday, October 4, 2017 at 6:30pm in the Board Room, Municipal Operations Centre, 408 James Street South, St. Marys, Ontario, to discuss the following:

- 1.0 Call to order
- 2.0 Declaration of Pecuniary Interest
- 3.0 Approval of Minutes
Regular Meeting of August 16, 2017
Motion: Second:
- 4.0 Resume Application for Consent to Sever: B07-2017 affecting Part Lot 19, Thames Concession as Part 1 on 44R-2419, 449 Queen Street West, St. Marys for 619203 Ontario Limited
- 5.0 Other Business
- 6.0 Next Meeting
- 7.0 Adjournment

Present:

- Chairman Steve Cousins
- Member W. J. (Bill) Galloway
- Member Dr. J. H. (Jim) Loucks
- Member Clive Slade
- Member Steve Ische
- Mark Stone, Planner
- Jeff Wolfe, Asset Management/Engineering Specialist
- Susan Luckhardt, Secretary-Treasurer

Regrets:

- Grant Brouwer, Director of Building and Development

1.0 Call to Order:

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

2.0 Disclosure of Pecuniary Interest:

None noted.

3.0 Approval of Minutes dated August 16, 2017

Motion by: Member Clive Slade

Seconded by: Member Steve Ische

That the Minutes dated August 16, 2017 be approved as circulated.

MOTION CARRIED

4.0 Public Hearing B07-2017

Resume Application for Consent to Sever: B07-2017 affecting Part Lot 19, Thames Concession as Part 1 on 44R-2419, 449 Queen Street West, St. Marys for 619203 Ontario Limited

Chris West of 619203 Ontario Limited was present for the Public Hearing.

Mark Stone provided a brief overview of the application for severance to refresh the application to members since the Public Hearing of August 2, 2017 when the application was first reviewed by the Committee. The subject property is located at the west end of the municipality, fronting on the north side of Queen Street West. The irregularly shaped subject property is the site of the Downtown Pontiac Buick dealership, with vacant undeveloped land on the rear (northern) portion of the property. The applicant also owns the abutting property to the east (425 Queen Street West), where the AllRoads Dodge Chrysler Jeep Limited dealership is located. The applicant has applied to sever the undeveloped rear portion of the subject property measuring approximately 1.16 hectares in size, having dimensions of approximately 102.8 metres (average width) by 107.9 metres (average depth) for the purpose of conveying those lands as a lot addition to the rear of the AllRoads Dodge Chrysler Jeep Limited property. The resulting property sizes will be 1.07 hectares for Downtown Pontiac and 2.17 hectares for AllRoads Dodge Chrysler Jeep.

Mark Stone reviewed the correspondence received:

Festival Hydro:

- Underground primary duct bank crosses the lands proposed to be severed.
- Festival Hydro will require an easement for the duct bank and the transformer installation.

Town Finance Department: No issues.

Bell Canada: No concerns or objections.

Town Building and Development Department:

- Both properties (449 and 425 Queen Street West) are subject to site plan agreements.
- The Town will require amendments to each site plan agreement to reflect the new landholdings.

Town Engineering and Public Works Department:

- The applicant complete a reference plan conveying a 5.0 metre wide road widening to the Town at this time and further that an encroachment agreement be entered into with the Town for the vehicle display platforms that are currently installed on what may be the road allowance.

This concluded correspondence received from agencies regarding the application.

Mark Stone stated that at the Public Hearing on August 2, 2017, a motion was passed to defer a decision on the application to allow time for the Town and the proponent to explore

options regarding the conveyance of a 5.0 metre road allowance as a condition of severance approval. The applicant had objected to the condition of the conveyance of a 5.0 metre road widening along the frontage of 449 Queen Street West at the August 2, 2017 Public Hearing and has since made a number of submissions to support this position.

Chairman Steve Ische invited Chris West to speak to the application.

Chris West spoke to his contributions to the community, requesting that this be taken into account in consideration of the application and the condition requesting conveyance of a 5.0 metre road allowance for the extent of 449 Queen Street West. Chris West stated that if the road widening were being taken from all the properties fronting along Queen Street at this time, he would have no issue and could speak to that with the parties with whom he has business agreements.

Mark Stone provided comments. The severance is being recommended by staff; however it is being recommend with the condition that a 5.0 metre road widening be conveyed to the Town. Sections 51(25) and 53(12) of the Planning Act provide municipalities with the authority to impose conditions of a provisional consent including requiring that sufficient land be dedicated to provide for the widening of a highway that abuts a property, to such width as the approval authority considers necessary. This authority allows municipalities to obtain required road widenings at no cost.

The Town's Official Plan identifies Queen Street as an Arterial Road. Section 5.3.1.1 of the Official Plan states that arterial roads "are the major routes in the road network that are designed to carry high volumes of traffic from one area of Town to another" and that "the right-of-way for Arterial Roads is generally 30 metres". Section 5.3.7 states that "when a road allowance does not meet minimum Town's standards, it may, through plan of subdivision/condominium, consent, site plan agreement or other legislative means, be improved. Where additional land is required for roadway widenings, extensions or Right of Ways such land will be obtained through Plan of subdivision/condominium, Consents, and/or Site Plan Agreements".

The regulations under the Planning Act and the policies of the Official Plan exist in the public interest. Without these provisions, the Town would be required to acquire the land for road allowances through expropriation which would be a cost to the community.

In recognition of the concerns expressed by the applicant, Town staff has considered possible options other than conveyance of the road widening at this time and has consulted with the Town lawyer on the matter of the road widening condition. Town staff is of the opinion that the required road widening should be conveyed now as a condition of provisional consent, if granted, as this is the best option in the public's interest. If a road widening is not obtained as a condition of approval of a Planning Act application, the Town would be required to purchase or expropriate the land in the future. In conveying the lands as a condition of this severance application, an encroachment agreement with the proponent would allow the owner to continue use of the lands until the lands are needed.

Staff explored the option with the Town lawyer for the Committee to impose a condition requiring that the applicant enter into an agreement to convey the land at some point in the future. Concerns with this approach include potential difficulties in the Town enforcing the

contract in the future; and the fact that the agreement would need to include a specific date or deadline for conveyance of the land.

Chairman Steve Cousins asked for question from Committee members.

Dr. Jim Loucks asked if the information provided by Chris West to the Committee on September 29, 2017 was personal information or if it was relevant to this application. Chris West responded that the information was provided to comment on the impact government decisions have on businesses. Dr. Jim Loucks questioned the relevance of the letter to this application.

Steve Ische asked Chris West about the removal of the rear lands through this severance application with respect to his business agreements. Chris West stated that the rear lands are not part of the dealership parcel of land; any change to the paved lot area is critical to his business agreements, changes to the grassed portion to the rear is not.

Clive Slade provided comments on road widenings with respect to mortgages. Clive Slade asked for clarification on the extent of the 5.0 metre road widening into the property. Jeff Wolfe provided clarification, referencing the aerial view lot fabric (PowerPoint), but noted that the lot fabric on the GIS is not absolute. In response to Clive Slade, Town staff advised that the encroachment agreement would be good for a term of 20 years.

Bill Galloway asked where the requirement of 5.0 metres came from. Jeff Wolfe responded that 30.0 metres is the standard width for arterial roads as defined in the Town Official Plan. The original Queen Street Road allowance is 20.0 metres. Five metres will be taken from each side to achieve the 30.0 metre road allowance. The additional 5.0 metres on each side is wide enough to allow for turning lanes.

Bill Galloway asked if this policy to take road widenings during planning applications has been applied consistently. Jeff Wolfe stated that this policy is being applied consistently and cited examples where this has been done.

Chris West provided closing comments in that if frontage along the entire street were being taken for widening, he could agree with that for the good of the community. To take the widening from one business is not acceptable to him. He is willing to do this in future when road widenings are taken from the other properties fronting on Queen Street West.

This concluded discussion.

DECISION B07-2017

Application for Consent to Sever: B07-2017 affecting Part Lot 19, Thames Concession as Part 1 on 44R-2419, 449 Queen Street West, St. Marys for 619203 Ontario Limited

Motion by: Member W. J. Galloway

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. B07-2017 from 619203 Ontario Limited subject to the following conditions:

- 1) That 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 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 received from the solicitor that the Certificate of the Official will be scanned and attached to the electronic registration of the Transfer;
- 5) Undertaking 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) Confirmation be received from a solicitor that the resultant lot (severed lands and the land to which it is being added) will be encumbered by any mortgage(s) as one lot at the time of registration of transfer or that there are no outstanding mortgages/encumbrances on the lands to which the severed lands are being added;
- 8) That the owner of the lands (449 Queen Street West) and the abutting lands to the east (425 Queen Street West) enter into amending site plan agreements with the Town for both properties to recognize the new lot configurations resulting from this Consent to Sever Application;
- 9) That the Secretary-Treasurer for Committee of Adjustment be provided with written confirmation that the requirements identified by Festival Hydro in the correspondence dated July 17, 2017 have been satisfied and that an easement agreement between the property owner and Festival Hydro has been registered on title to the satisfaction of Festival Hydro; and further that the Secretary-Treasurer for Committee of Adjustment be provided with a copy of the easement agreement;
- 10) That the owner of the lands at 449 Queen Street West prepare a Reference Plan to the satisfaction of the Town of St. Marys Engineering and Public Works Department showing a 5.0 metre road allowance parallel to Queen Street West for the extent of the frontage of 449 Queen Street West to be conveyed to the Town; and further, those lands identified on the Reference Plan as the 5.0 metre road allowance be conveyed to the Town of St. Marys; and,
- 11) That the owner of the lands at 449 Queen Street West enter into an encroachment agreement with the Town of St. Marys to recognize the vehicle display platforms currently installed on what will be the road allowance upon conveyance of the 5.0 metre road allowance fronting 449 Queen Street West to the Town of St. Marys.

MOTION CARRIED



5.0 Other Business

None.

6.0 Next Meeting

T.B.D.

7.0 Adjournment

Motion by: Member Dr. Jim Loucks

Seconded by: Member W. J. Galloway

That the meeting adjourn at 7:07 pm

MOTION CARRIED

Steve Cousins,
Chairman COA

Susan Luckhardt,
Secretary-Treasurer COA

draft unapproved