



COMMITTEE OF ADJUSTMENT MEETING MINUTES

February 15, 2024, 6:00 p.m.

Members Present: Steve Bartolini (virtual), Margaret Louter (Vice Chair), Angelo Miniaci, Paul Johnston (virtual), Allan Killin (virtual)

Members Absent: Eric Lehtinen

Staff Present: Natalie Thomson, Secretary-Treasurer
Aimee Alderman, Senior Planner

1. CALL TO ORDER

Vice Chair Margaret Louter called the meeting to order and confirmed quorum at 6:00 p.m.

2. ADOPTION OF AGENDA

Moved by: Angelo Miniaci

that the agenda be adopted, as presented.

3. CONFLICT OF INTEREST

There were no conflicts declared.

4. REQUEST FOR WITHDRAWAL OR ADJOURNMENT

There were no requests for withdrawal or adjournment.

5. APPLICATIONS

5.1 Minor Variance Application A-39/23 – 540 Simcoe Street, CDS-24-031

Natalie Thomson summarized the notice and noted two letters of objection that were received by neighbours.

Aimee Alderman summarized the staff report.

Mike Thiessen (Urban Aesthetics) was present on behalf of the application.

The Chair called on those registered to speak in support or against the proposal. There was no one in the audience who wished to speak for or against the application.

The following topics were discussed by Committee members:

- tree planting to offset visual effects
- exterior versus interior side yard setback requirements
- existing lot coverage of the dwelling
- temporary versus permanent roofing

Moved by: Angelo Miniaci

to accept the recommendation of the staff report that Minor Variance Application A-35/23 for 540 Simcoe Street be approved.

Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.

Reasons: The Committee of Adjustment considered all the written and oral submissions and agrees with the minor variance report analysis and recommendation that this application meets the four Planning Act tests for minor variance:

1. The variance is minor in nature.
2. The variance is appropriate for the development of the land.
3. The general intent and purpose of the Zoning By-law is maintained.
4. The general intent and purpose of the Official Plan is maintained.

The Chair summarized the decision.

5.2 Minor Variance Applications A-01/24 & A-02/24 – 724 Green Street, CDS-24-035

Natalie Thomson summarized the notice and noted one support letter received from the public.

Aimee Alderman summarized the staff report.

Patricia Balasiuk (agent) was present on behalf of the application.

The Chair called on those registered to speak in support or against the proposal. There was no one in the audience who wished to speak for or against the application.

The Committee noted the uniqueness of the lot and discussed alternative uses for the property.

Moved by: Steve Bartolini

to accept the recommendation of the staff report that Minor Variance Application A-01/24 and A-02/24 for 724 Green Street be approved subject to the following condition:

1.1.1 That the owner/applicant obtain final approval of Consent Application B-01/24, to the satisfaction of the Director of Community and Development Services.

Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.

Reasons: The Committee of Adjustment considered all the written and oral submissions and agrees with the minor variance report analysis and recommendation that this application meets the four Planning Act tests for minor variance:

1. The variance is minor in nature.
2. The variance is appropriate for the development of the land.
3. The general intent and purpose of the Zoning By-law is maintained.
4. The general intent and purpose of the Official Plan is maintained.

The Chair summarized the decision.

5.3 Consent Applications B-01/24 – 724 Green Street, CDS-24-034

Discussion for the application took place above.

Moved by: Steve Bartolini

to accept the recommendation of the staff report that Consent Application B-01/24 for 724 Green Street be approved subject to the following conditions:

1. That the owner/applicant provides a legal description of Part 2, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;

2. That the owner/applicant provides a lawyer's undertaking, to the satisfaction of -the Director of Community and Development Services, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 2, has been carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;
3. That the owner/applicant, at their own expense, obtains and submits an appraisal for the purposes of payment of cash-in-lieu of parkland dedication, by a qualified appraiser, which is to be based on the fair market value of Part 2 using the direct comparison approach, to the satisfaction of the Manager of Finance; and that the owner/applicant pays to the Town a cash-in-lieu of parkland dedication, which shall be 5% of the appraised value of Part 2;
4. That the owner/applicant obtain final approval of Minor Variance Applications A-01/24 and A-02/24 for lot area and lot frontage, to the satisfaction of the Director of Community and Development Services;
5. That the owner/applicant provide a lot grading plan for Part 2, completed by an Ontario Land Surveyor or Civil Engineer, to the satisfaction of the Chief Building Official;
6. That the Town's Operations Department be provided with a copy of the deposited reference plan;
7. That the owner/applicant conveys a strip of land to the Town that is approximately 4.29 metres in width, to be confirmed by survey, along the full frontage of Part 1 along Green Street, to the satisfaction of the Director of Operations;
8. That the owner/application provide water and sanitary services wholly fronting Part 2 by way of completed applications to the Town's Environmental Services Department; and,
9. That the Owner/applicant obtain approval for the proposed driveway, in the form of a municipal entrance permit, for Part 2, including the removal and replacement of the existing culvert, and reinstatement of the sidewalk, from the Town's Operations Department.

Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.

Reasons: The Committee of Adjustment agrees that this application meets Planning Act requirements, is consistent with Provincial Policy, the Niagara Region Official Plan and the Town Official Plan regarding the severance applications.

The Chair summarized the decision.

5.4 Consent Application B-35/23 – 474 Simcoe Street, CDS-24-032

Natalie Thomson summarized the notice and noted one letter of objection received from a neighbour.

Aimee Alderman summarized the staff report.

Craig Rhoe (Upper Canada Consultants) was present on behalf of the application.

The Chair called on those registered to speak in support or against the proposal. There was no one in the audience who wished to speak for or against the application.

Committee members spoke on the following topics:

- Zoning By-law Amendment approval
- Survey versus the arborist report
- Some conditions of consent for the application being a reflection of a motion by Council
- Lot sizes compared to surrounding properties
- Lawyer's letter submitted as correspondence
- Tree By-law as it relates to tree removal on the property
- Development agreement

Moved by: Angelo Miniaci

to accept the recommendation of the staff report that Consent Application B-35/23 for 474 Simcoe Street be approved subject to the following conditions:

- 1.1.1 That the owner/applicant provides a legal description of Part 2, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited

reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;

- 1.1.2 That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Community and Development Services, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 2, has been carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;
- 1.1.3 That the owner/applicant, at their own expense, obtains and submits an appraisal for the purposes of payment of cash-in-lieu of parkland dedication, by a qualified appraiser, which is to be based on the fair market value of Part 2 using the direct comparison approach, to the satisfaction of the Manager of Finance; and that the owner/applicant pays to the Town a cash-in-lieu of parkland dedication, which shall be 5% of the appraised value of Part 2;
- 1.1.4 That the owner/applicant enter into a Development Agreement with the Town, and that such Development Agreement will be registered on the title of Part 1, to the satisfaction of the Director of Community and Development Services, in which the owner/applicant shall agree:
 - 1.1.4.1 That Urban Design Committee review is required prior to issuance of a Building Permit for any new dwelling built on Part 1, and that any construction will be consistent with the Town's Official Plan and urban design guidelines and associated review by the Urban Design Committee, to the satisfaction of the Director of Community and Development Services;
 - 1.1.4.2 That the owner submits an updated Arborist Report and Tree Preservation Plan that aims to protect and preserve as many trees as possible on Part 1 that is specific to the proposed location of the dwelling, driveway and any associated construction works, to the satisfaction of the Director of Community and Development Services, in consultation with the Town's Urban Forestry Officer;
 - 1.1.4.2.1 That the owner provides a Replanting and Replacement Plan to replace trees required to be removed to facilitate development, to the satisfaction of the Director of Community and Development Services. The number of trees to be replaced, and amount of security fees will be determined by Town Staff once final tree removal requirements have been finalized.

- 1.1.4.3 That the owner retains a Certified Arborist to attend the property to ensure trees are protected as described in the updated Tree Preservation Plan in accordance with Condition 1.1.4.2;
- 1.1.4.4 That the owner implements the Tree Inventory and Preservation Plan, as approved by Town Staff in accordance with Condition 1.1.4.2;
- 1.1.4.5 That the owner provides the Town with proposed driveway locations and servicing lateral locations prior to the removal and/or alteration of the trees identified as #1 and #2 in the Arborist Report and Tree Inventory and Preservation Plan, prepared by Beacon Environmental, dated August 24, 2023, to the satisfaction of the Director of Community and Development Services; and,
- 1.1.4.6 Any agreements of Purchase and Sale or Lease of Part 1, which may be negotiated, shall contain a clause notifying the purchaser of the Development Agreement and the requirement to comply with the Development Agreement.
- 1.1.5 That the owner/applicant enter into Development Agreements with the Town, and that such Development Agreement will be registered on the title of Part 2, to the satisfaction of the Director of Community and Development Services, in which the owner/applicant shall agree:
 - 1.1.5.1 That Urban Design Committee review is required prior to issuance of a Building Permit for any new dwelling built on Part 2, and that any construction will be consistent with the Town's Official Plan and urban design guidelines and associated review by the Urban Design Committee, to the satisfaction of the Director of Community and Development Services;
 - 1.1.5.2 That the owner submits an updated Arborist Report and Tree Preservation Plan that aims to protect and preserve as many trees as possible on Part 2 that is specific to the proposed location of the dwelling, driveway and any associated construction works, to the satisfaction of the Director of Community and Development Services, in consultation with the Town's Urban Forestry Officer;
 - 1.1.5.2.1 That the owner provides a Replanting and Replacement Plan to replace trees required to be removed to facilitate development, to the satisfaction of the Director of Community and Development Services. The number of trees to be replaced, and amount of security fees will be determined by Town Staff once final tree removal

requirements have been finalized.

- 1.1.5.3 That the owner retains a Certified Arborist to attend the property to ensure trees are protected as described in the updated Tree Preservation Plan in accordance with Condition 1.1.5.2;
 - 1.1.5.4 That the owner implements the Tree Inventory and Preservation Plan, as approved by Town Staff in accordance with Condition 1.1.5.2;
 - 1.1.5.5 That the owner provides a legal survey, completed by an Ontario Land Surveyor, to determine the precise location of trees #4 and #5 identified in the Arborist Report and Tree Inventory and Preservation Plan, prepared by Beacon Environmental, dated August 24, 2023, prior to the issuance of a Building Permit and to the satisfaction of the Director of Community and Development Services;
 - 1.1.5.5.1 It is acknowledged that injuring of any boundary tree is subject to an application to the Town for a permit to injure a private tree. The injuring must be carried out by, or under the supervision of a Certified Arborist following approved industry standards. An Arborist Report must be received by the Town prior to the permit being issued, that clearly outlines the process, and that states that the tree can be safely retained following the injuring of the tree.
 - 1.1.5.6 That the owner provides the Town with proposed driveway locations and servicing lateral locations prior to the removal and/or alteration of the tree identified as #3 in the Arborist Report and Tree Inventory and Preservation Plan, prepared by Beacon Environmental, dated August 24, 2023, to the satisfaction of the Director of Community and Development Services; and,
 - 1.1.5.7 Any agreements of Purchase and Sale or Lease of Part 2, which may be negotiated, shall contain a clause notifying the purchaser of the Development Agreement and the requirement to comply with the Development Agreement.
- 1.1.6 That the dwelling proposed for removal is demolished to the satisfaction of the Town and that the owner/applicant obtains any required building permit for demolition and that final inspection and closure of the permit is completed to the satisfaction of the Chief Building Official;

- 1.1.7 That the owner/applicant provide a detailed lot grading plan for Part 1 and Part 2, completed by an Ontario Land Surveyor or Civil Engineer, to the satisfaction of the Chief Building Official;
- 1.1.8 That the Town Operations Department be provided with a copy of the deposited reference plan;
- 1.1.9 That the existing water and sanitary sewer services fronting the subject property be inspected for adequacy by the Town's Environmental Services Department and replaced if found unsuitable for reuse, at the owner's expense;
- 1.1.10 That a new sanitary sewer service wholly fronting Part 1 of the proposed severance be installed via application to the Town's Environmental Services Department;
- 1.1.11 That a new water service wholly fronting Part 2 of the proposed severance be installed via application to the Town's Environmental Services Department;
- 1.1.12 That the Owner/applicant obtains approval in the form of municipal entrance permits from the Town's Operations Department for the proposed driveway on Part 1 of the proposed severance, and for alterations, if any, made to the driveway on Part 2 and that consideration is given to retaining the trees along the street frontage; and,
- 1.1.13 That the owner/applicant obtain final approval of Zoning By-law Amendment Application ZBA-19-2023, to the satisfaction of the Director of Community and Development Services.

Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.

Reasons: The Committee of Adjustment agrees that this application meets Planning Act requirements, is consistent with Provincial Policy, the Niagara Region Official Plan and the Town Official Plan regarding the severance applications.

The Chair summarized the decision.

6. MINUTES FOR APPROVAL

The January 18, 2024 minutes were approved by unanimous consent.

7. NEW BUSINESS

There was no new business.

8. NEXT MEETING DATE

Thursday, March 21, 2024 at 6:00pm.

9. ADJOURNMENT

The meeting was adjourned at 7:10 pm.