



MINUTES

COMMITTEE OF ADJUSTMENT MEETING

TUESDAY FEBRUARY 21ST, 2017 AT 6:00 P.M.

CORPORATION OF THE TOWN OF KINGSVILLE

COUNCIL CHAMBERS

2021 DIVISION RD N, KINGSVILLE, ONTARIO N9Y 2Y9

A. CALL TO ORDER

Acting Chairperson Council Member Larry Patterson called the meeting to order at 6:00 p.m. with the following Committee members in attendance:

Members of Committee of Adjustment	Members of Administration
<ul style="list-style-type: none">• Council Member, Larry Patterson• Russell Horrocks• Allison Vilardi• Thomas Neufeld• Jim Gaffan Jr.	<ul style="list-style-type: none">• Manager of Planning & Development Services – Robert Brown• Town Planner – Kristina Brcic

Absent:

Deputy Mayor Gord Queen

B. APPOINTMENT OF ACTING CHAIRPERSON

Council Member Larry Patterson called for re-appointment of Thomas Neufeld as the Acting Chairperson for this Committee of Adjustment meeting, February 21st, 2017.

CA - 06 - 2017

Moved by Russell Horrocks, seconded by Allison Vilardi that Thomas Neufeld be appointed the Acting Chairperson for this February 21st, 2017 meeting of the Committee of Adjustment.

CARRIED

C. DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

Acting Chairperson, T. Neufeld reminded Committee members to disclose any interest they may have prior to each agenda item being discussed.

D. ADOPTION OF COMMITTEE OF ADJUSTMENT MEETING MINUTES DATED TUESDAY, JANUARY 17TH, 2017.

CA - 07 - 2017

Moved by Jim Gaffan Jr., seconded by Russell Horrocks the Committee of Adjustment Meeting Minutes dated January 17th, 2017 be adopted.

CARRIED

E. HEARINGS

1. A / 02 / 03 / 04 / 16 - 1552843 Ontario Ltd - 43 & 45 Lukas Drive - 39 & 41 Lukas Drive - 35 & 37 Lukas Dr

Town Planner, Kristina Brcic introduced the minor variance applications and reviewed her report dated February 16th, 2017 in which the property owners are requesting to increase the lot coverage and decrease the rear yard and front yard setbacks, and the exterior side yard for the corner lot, for the construction of semi-detached homes on lands known as 35, 37, 39, 41, 43 & 45 Lukas Drive, in the Town of Kingsville.

The subject properties are currently vacant lands within the Royal Oak at the Creek subdivision. The applicant is requesting a minor variance for three blocks (Block 52, 53 & 54), to build 6 semi-detached dwelling units. The requested minor variances include an increase for lot coverage from 50% to 52%, reduction of the rear yard setback from 7.6 m to 5.5 m and reduction of the front yard setback from 6 m to 5.5 m. Pertaining only to the corner lot (Block 52), the applicant is requesting a reduction in the exterior side yard from 4.5 m to 3 m.

Town Planner, Ms. K. Brcic, reviewed the four tests of a Minor Variance as well as any applicable conditions. It was included in the report that one of the neighbours objected to the Minor Variance for the reason being it would create a small yard for the new construction and make her backyard seem even smaller.

Mr. Doug Duff, 71 Robin Court, questioned if there is an easement in the back yard of these lots and what will the new construction look like, which Town Planner, Ms. K. Brcic replied that there is not an easement and that the new homes would be similar in style to those found on neighbouring Robin Court. Mr. D. Duff followed the response with his support of the Minor Variance.

The applicant, Mr. Walter Branco was in attendance and outlined what is included in the total lot coverage.

Committee Member A. Vilardi asked what the square footage is on each unit that is proposed. Ms. K. Brcic outlined that 52% lot coverage is the max so typically each unit could be up to 2,600 sq.ft.

Committee Member R. Horrocks asked to please repeat objection. Ms. K. Brcic outlined the specifics of the neighbours objection mentioned from her report.

Acting Chairperson, T. Neufeld confirmed there were no other comments from the applicant or the audience.

CA - 08 - 2017

Moved by Jim Gaffan Jr., seconded by Russell Horrocks that Minor Variance Application A/02/16 for 1552843 Ontario Ltd to permit an increase for lot coverage from 50% to 52%, reduction of the rear yard setback from 7.6 m to 5.5 m and reduction of the front yard setback from 6 m to 5.5 m. As well as, a reduction in the exterior side yard from 4.5 m to 3 m. on the lands known as 43 & 45 Lukas Drive in the Town of Kingsville, be **Approved** subject to the following conditions:

1. that any new construction comply with all other applicable provisions of the By-law;

CARRIED

CA - 09 - 2017

Moved by Larry Patterson, seconded by Russell Horrocks that Minor Variance Application A/03/16 for 1552843 Ontario Ltd to permit an increase for lot coverage from 50% to 52%, reduction of the rear yard setback from 7.6 m to 5.5 m and reduction of the front yard setback from 6 m to 5.5 m. on the lands known as 39 & 41 Lukas Drive in the Town of Kingsville, be **Approved** subject to the following conditions:

1. that any new construction comply with all other applicable provisions of the By-law;

CARRIED

CA - 10 - 2017

Moved by Russell Horrocks, seconded by Jim Gaffan Jr. that Minor Variance Application A/04/16 for 1552843 Ontario Ltd to permit an increase for lot coverage from 50% to 52%, reduction of the rear yard setback from 7.6 m to 5.5 m and reduction of the front yard setback from 6 m to 5.5 m. on the lands known as 35 & 37 Lukas Drive in the Town of Kingsville, be **Approved** subject to the following conditions:

1. that any new construction comply with all other applicable provisions of the By-law;

CARRIED

2. B/22/16 – Wayne & Connie STOCKWELL – 182 County Rd 27 E

Town Planner, Kristina Brcic introduced the consent application and reviewed her report dated February 15th, 2017 in which the property owner is requesting consent for lot creation for lands known as 182 County Road 27 East, in the Town of Kingsville.

The subject land is a 9.71 ha (23.99 ac.) farm parcel containing a single dwelling and a farm outbuilding. The applicants wish to create four (4) new residential lots. The proposed lots, as shown on the Appendix 'B', Applicants Sketch, Parts 1-3 and 5, would have a lot area of 4.5 ac. to 5.4 ac. with frontage onto County Road 27 East. The retained lot is described as Part 4 on Appendix 'B'.

The applicants, Wayne & Connie Stockwell were in attendance, along with their lawyer Mr. Michael Laba. Mr. M. Laba outlined why the lands were designated residential in the Official Plan.

Ms. Linda Burling, 185 County Rd 27 E, stated that there were past severances on the property and that when the lagoon lands were purchased, it was not guaranteed the owners were given any development rights as part of the lagoon land conveyance. Ms. L. Burling continues explaining that the Provincial Policy Statement 2014 (PPS) under the Planning Act states that Agricultural lands are to be preserved, this abuts Agricultural lands and she is concerned about the impact development will this have on the agricultural lands. Ms. L. Burling includes that there are impacts from the lagoons such as noise, smell, dust etc. Ms. L. Burling questions where the septic tanks will be installed, how will the terms of the development agreement be enforced and, how will the vacant lands be maintained and accessed?

Acting Chairperson T. Neufeld requested that Mr. M. Laba clarify.

Mr. M. Laba replied that 24 acres is not considered a viable farm parcel. He made note that the septic tanks will be placed in the front yard of each parcel to make sanitary connection easier in the future. The proposed lots are large enough to support septic and there is access to a municipal drain at the rear of each lot, storm outlets will be provided and future connection to municipal sewer will be required. Mr. M. Laba insured that the purchasers will be informed of this as part of their purchase agreement.

Committee Member J. Gaffan Jr. asked for clarification on the zoning of the property, it is currently zoned agricultural? Being rezoned to residential? Town Planner, Ms. K. Brcic replied that the lots are currently 'Agriculture Zone 1 (A1)' however an Zoning Amendment Application will be presented to Council soon to be rezoned to a residential site specific classification.

Committee Member R. Horrocks asked if the use of development agreements is a common practice. Manager of Planning & Development Services Mr. R. Brown stated that this is not typical of lots created by consent but has been used in the past when there are longer-term requirements that need to be addressed.

Committee Member L. Patterson questioned the requirement for septic which Town Planner Ms. K. Brcic clarified that sanitary hook-up will be required in the future when capacity is available.

Committee Member A. Vilardi asked if the reduced number of lots impact cost of future lagoon expansions. Mr. R. Brown commented that there may be impact on the per lot cost but it would not be significant based on the potential lands yet to be developed.

Mr. Dan Newman, 175 County Rd 27 E, has concerns with, run-off of storm water from build-up of lots due to filling, buffer area maintenance, and sewage capacity in the future. Mr. M. Laba responded that the maintenance area will be maintained by individual property owners, and that the lands are subject to the Town Property Standards By-law. These lots will be taken into consideration for future capacity, and a drainage plan will be required and likely improved by the proposed development. Drainage will be addressed as part of the development agreement.

Mr. Don Moore, 170 County Rd 27 E, asked where the run-off is going to be directed. With large lots there is the possibility of different uses of the property in the future, for example

potential businesses starting up on the lots. Mr. R. Brown indicated that storm water will go to the Smith-Newman Drain. The use of the land will be controlled through the Zoning By-law, individual businesses or home industries are not permitted.

Mr. Robin Von Bodenhausen, 184 County Rd 27 E, has concerns regarding run-off, potential basement flooding, and the construction of large houses on these new lots. Mr. M. Laba outlined that drainage will be improved and addressed as part of the development agreement.

Acting Chairperson, T. Neufeld further questioned drainage across these lots. Mr. M. Laba indicated that the properties may require tile drainage as part of the drain plan.

Committee Member A. Vilardi asked why a Plan of Subdivision was not used given the number of issues. Mr. R. Brown explained that the Official Plan does provide some discretion on the use of Plan of Subdivision. In the case of the specific proposal it was not warranted given that the issues are being addressed as conditions of consent or through the development agreement. The main issue based on the comments so far centers around drainage which is being addressed in the development agreement. Mr. M. Laba also commented that a Plan of Subdivision will not address the issues differently then the proposed process.

Mr. R. Von Bodenhausen asked if the Stockwell house is part of the whole retained parcel. Mr. R. Brown responded, that the house will be retained on the remnant lands.

Ms. L. Burling asked if the development agreement will be registered on all titles, and will the barn be removed? Mr. R. Brown assured Ms. L. Burling that the development agreement will be registered on title. Discussion on removal of the barn is ongoing and will be addressed in the development agreement.

Mr. D. Moore asked if we have a guarantee on use of lots for businesses. Mr. R. Brown repeated that the zoning by-law limits use of the lots to residential only. Acting Chairperson, T. Neufeld commented on the use of lots for businesses stating that they would be for residential use, and that each lot must contain and control runoff on their own property.

Mr. D. Newman raised concerns with changing the zoning from Agricultural to Residential and developing for residential uses. Mr. D. Newman purchased his property on the edge of the Town and now has houses developed behind and nearby. He would rather see the lands remain Agricultural.

Committee Member L. Patterson asked what the appeal process looks like, and when is the zoning amendment application going to be presented to Council. Town Planner, Ms. K. Brcic responded that there is a 20 day appeal period following the committee's decision, and that the zoning amendment application will be heard at the following Council meeting, February 27th, 2017.

Committee Member R. Horrocks appreciates the concerns of the neighbours and that our role is one of proper planning and further comment will be had at Council.

Acting Chairperson, T. Neufeld confirmed there were no other comments from the applicant or the audience.

CA - 11 - 2017

Moved by Jim Gaffan Jr., seconded by Russell Horrocks that Consent Application B/22/16 for Wayne & Connie STOCKWELL for the creation of the following four (4) lots, as described on the survey sketch Appendix B, for lands known as 182 County Road 27 East, in the Town of Kingsville, subject to the following conditions:

1. That the subject property is to be angle staked and a plan of survey prepared and reference plan deposited in the registry office, ***both an electronic and paper*** copy of the registered plan is to be provided for the files of the Secretary-Treasurer;
2. That the deeds, such plan of survey or reference plan, for property lines being newly created, shall be in accordance with the zoning requirements for the municipality including satisfactory proof as to compliance of the location of all buildings on the

subject lands either by way of a plan showing the location of all buildings located thereon, or a certificate from a qualified surveyor indicating the location and sizes of all buildings on the said lands and/or favourable minor variances shall have been processed for any non-compliances;

3. That the necessary deed(s), transfer or charges be submitted in triplicate; signed and fully executed (no photo copies), prior to certification.
4. That the owner shall provide that all municipal taxes be paid in full and that necessary apportionments be undertaken for any special assessment imposed pursuant to the provisions of the Local Improvement Act and/or the Municipal Act;
5. That as a result of severance, owners shall become liable by way of up front monies for the assessment and taxation of their properties for any waterworks or sanitary sewer systems affecting their properties, in accordance with the Fees By-law in effect on the date the consent is being endorsed on the deeds;
6. The applicants provides a **new water service** connection (for Parts 1, 2, 3 & 5), at the applicants' expense and to the satisfaction of the Town;
7. The applicants provides a **new sewage service** connections (for Parts 1, 2, 3 & 5), at the applicants' expense and to the satisfaction of the Town;
8. That the required **park fee** of \$1,500.00 /new lot, totaling \$6,000.00, is paid to the municipality prior to certification;
9. That the applicant obtains the necessary permits from the **County** for any changes to existing entrances or the construction of new entrances, or provide a letter of clearance for access installation from the County;
10. That the applicant obtains municipal address/911 signage from the Town for each of the four (4) new lots at the applicants expense;
11. The owners submit an agreement for drainage apportionment due to land severance;
12. That the applicants enter into a Development Agreement with the Town to address any additional items not addressed as conditions of the consent;
13. The conditions imposed above shall be fulfilled by **February 21, 2018** or this application shall be deemed to be refused in accordance with Section 53(41) of the Planning Act.

CARRIED

3. B/24/16 – Truax Land & Building Corporation – VL Wigle Ave

Town Planner, Kristina Brcic introduced the consent application and reviewed her report dated February 13th, 2017 in which the property owners are requesting consent to establish a permanent easement for the purpose of a shared access over the lands known as 106 Wigle Ave. in favour of the subject property known as 86 Wigle Ave., in the Town of Kingsville.

The subject land is a 0.87 ha (2.15 ac.) vacant parcel. The applicant is proposing to develop the vacant parcel and has submitted an application for Site Plan Approval (SPA/15/16) which will be submitted to Council for approval at the later date. The proposed easement is shown as Parts 1 & 2 on the applicants' sketch (see Appendix B).

The applicant's agent, Mr. Jon Kerr was in attendance.

Committee Member J. Gaffan Jr. asked what the purpose of the easement was. Town Planner, Ms. K. Brcic explained that the easement will be used as a divider for the driveway

and act as an entrance into the property. The easement will not impact maintenance of the lands for the driveway.

Acting Chairperson, T. Neufeld confirmed there were no other comments from the applicant or the audience.

CA - 12 - 2017

Moved by Larry Patterson, seconded by Allison Vilardi that Consent Application B/24/16 for Truax Land & Building Corporation to establish a permanent shared access easement, shown as Parts 1 & 2 on the applicants' sketch, over the abutting lands (106 Wigle Ave.), in favour of 86 Wigle Ave., subject to the following conditions:

1. That a reference plan be deposited in the registry office, ***both an electronic and paper*** copy to be provided for the files of the Secretary-Treasurer.
2. That the necessary deed(s), transfer or charges be submitted in triplicate; signed and fully executed (no photo copies), prior to certification.
3. That the applicant obtains the necessary permits from the Town for any changes to existing entrances or the construction of new entrances prior to building permits being issued;
4. The conditions imposed above shall be fulfilled by **February 21, 2018** for this application shall be deemed to be refused in accordance with Section 53(41) of the Planning Act.

CARRIED

4. B/25/16 – Donald Steward DUNMORE – 1645 Elgin Street

Town Planner, Kristina Brcic introduced the consent application and reviewed her report dated February 14th, 2017 in which the property owners are requesting to sever and convey a portion of land, being 0.08 ha (0.196 ac.) in area, as a lot addition to an abutting residential property, from the lands known as 1645 Elgin Street to the lands known as 1639 Elgin Street, in the Town of Kingsville.

The subject land is a 0.28 ha. (0.69 ac.) residential parcel. The applicant received a request from an abutting property owner (1639 Elgin Street) to purchase a 0.08 ha. (0.196 ac.) section of vacant land (shown as Part 2 on the Survey Sketch). These lands would then be conveyed as a lot addition to the abutting parcel.

The applicant's son as well as the applicant's lawyer, Mr. Brian Collins were in attendance.

Mr. B. Collins outlined that the aerial photograph is not a true representation of the actual survey distances.

Committee Member, A. Vilardi asked if the retained parcel was already legal non-conforming in terms of building placement. Ms. A. Vilardi also asked to explain what the neighbours concern was related to access of the park at the rear of the lot.

Town Planner, Ms. K. Brcic replied that the buildings on the lot have not been built recently and that the lot addition to the lands do not impact any buildings on the properties. She also explained that the Town received comment from a concerned neighbour that the proposed lot addition would somehow afford the lot the ability to get access to the rear of the lot from the municipal park. This is not the case as the park is Town lands and access over Town lands to private rear yards without some form of agreement is not permitted.

Acting Chairperson, T. Neufeld confirmed there were no other comments from the applicant or the audience.

CA - 13 - 2017

Moved by Russell Horrocks, seconded by Jim Gaffan Jr. that Consent Application B/25/16 for Donald Steward DUNMORE, to sever and convey a vacant portion of land, being 0.08 ha (0.196 ac.) in area, as a lot addition to an abutting residential parcel, from the lands

known as 1645 Elgin Street to the lands known as 1639 Elgin Street, in the Town of Kingsville, subject to the following conditions:

1. That the lot addition to be severed, shown on the applicant's sketch as Part 2, be conveyed to the owner of the abutting residential parcel (1639 Elgin Street) and Section 50(3 or 5) of the Planning Act applies to any subsequent conveyance of or transaction involving the parcel of land that is the subject of this consent.
2. That reference plan be deposited in the registry office, ***both an electronic and paper*** copy of the registered plan is to be provided to the Town for the files of the Secretary-Treasurer.
3. That the deeds, such plan of survey or reference plan, for property lines being newly created, shall be in accordance with the existing zoning requirements for the municipality including satisfactory proof as to compliance of the location of all buildings on the subject lands either by way of a plan showing the location of all buildings located thereon, or a certificate from a qualified surveyor indicating the location and sizes of all buildings on the said lands and/or favourable minor variances shall have been processed for any non-compliances.
4. That the owner shall provide that all municipal taxes be paid in full and that necessary apportionments of storm drainage be undertaken for any special assessment imposed pursuant to the provisions of the Local Improvement Act and/or the Municipal Act.
5. That as a result of severance, owners shall become liable by way of up front monies for the assessment and taxation of their properties for any waterworks or sanitary sewer systems affecting their properties, in accordance with the Fees By-law in effect on the date the consent is being endorsed on the deeds.
6. That any building(s) on the lot addition not in compliance the zoning standards are removed or relocated.
7. The conditions imposed above shall be fulfilled by **February 21, 2017** or this application shall be deemed to be refused in accordance with Section 53(41) of the Planning Act.

CARRIED

E. OTHER BUSINESS

F. ADJOURNMENT

CA - 14 - 2017

Moved by Jim Gaffan Jr., seconded by Russell Horrocks there being no further hearings scheduled, the meeting was adjourned at 7:25 p.m.

CARRIED



ACTING CHAIRPERSON T. NEUFELD



SECRETARY-TREASURER