



**City of Kingston
Committee of Adjustment
Meeting Number 02-2022
Minutes**

**Monday, January 17, 2022 at 5:30 p.m.
In a virtual, electronic format**

Committee Members Present

Peter Skebo, Chair

Paul Babin (left meeting at 7:00 p.m.)

Vincent Cinanni

Somnath Sinha

Jordan Tekenos-Levy

Regrets

Blaine Fudge

Greg Lightfoot

Staff Members Present

James Bar, Manager, Development Approvals

Ian Clendening, Senior Planner

Tim Fisher, Planner

Julia McCaugherty-Jansman, Committee Clerk

Derek Ochej, Committee Clerk

Jason Partridge, Planner

Riccardo Peggi, Planner

Lindsay Sthamann, Planner & Secretary-Treasurer

Chris Wicke, Senior Planner

Others Present

Members of the public were present.

Introduction by the Chair

The Chair reviewed the order of proceedings for the meeting and informed the public that any individuals with a personal interest in an application can receive written notice of a decision by emailing a request to the Secretary-Treasurer including their name, address, and the file number of the application.

Meeting to Order

The Chair called the meeting to order at 5:33 p.m.

Approval of the Agenda

Moved by Mr. Babin

Seconded by Mr. Tekenos-Levy

That the agenda be amended to include the addendum, and as amended, be approved.

Carried

Confirmation of Minutes

Moved by Mr. Babin

Seconded by Mr. Sinha

That the minutes of Committee of Adjustment Meeting Number 01-2022 held on Monday, December 13, 2021 be approved.

Carried

Disclosure of Pecuniary Interest

There were none.

Delegations

There were none.

Request for Deferral

There were none.

Returning Deferral Items

There were none.

Business

a) Application for: Minor Variance & Consent

File Number: D10-031-2021 & D13-072-2021

Address: 1229 and 1233 Westbrook Road

Owner: Jeff Locke

Applicant: Jeff Locke

Ms. Sthamann introduced the application.

Mr. Fisher conducted a PowerPoint presentation regarding Application for Minor Variance and Consent – 1229 and 1233 Westbrook Road. A copy of the presentation is available upon request through the City Clerk's Department.

Jeff Locke, Owner/Applicant, was in attendance.

Mr. Cinanni inquired as to the potential for redevelopment of the property. Mr. Fisher responded that any redevelopment would need to comply with the permitted uses and zoning, adding that zoning currently permits single-family dwellings. He further stated that any redevelopment that proposed variations to the zoning by-law would require a separate variance process.

Mr. Babin sought further details regarding the item of correspondence received from the current tenant of the building. Mr. Fisher responded that the correspondence referenced an issue before the Landlord Tenant Board and did not concern land use planning. Mr. Locke spoke to the process before the Landlord Tenant Board.

Mr. Tekenos-Levy sought information regarding the current number of semi-detached homes on Westbrook Road. Mr. Fisher estimated that there are three-to-four properties similar to the application before the Committee.

Mr. Skebo stated that a common theme in the correspondence was concern with new construction. He added that he did not get the sense that any construction would be taking place as part of the application.

In response to Mr. Skebo's comments, Mr. Locke stated that the current application was the first step in the process of a potential redevelopment of the property into two single-family homes.

The Chair offered members of the public an opportunity to provide comment.

Jeff Baker, 1236 Westbrook Road, expressed concern with redevelopment in the area and the effect on sewer and water services. He spoke to the age of infrastructure in the area and the frequency of water main breaks. Mr. Baker expressed concerns with increased traffic and noise from potential construction activities.

In response to public comments, Mr. Fisher stated that Utilities Kingston reviewed the application and did not express any concerns related to utility services. He stated that any construction or parking activity is subject to the provisions and enforcement of the noise and parking by-laws. Mr. Fisher spoke to the permitted uses under the zoning by-law as applied to the property.

Mr. Tekenos-Levy spoke to the expanding scope of the application based on public comments. He questioned what decision was before the Committee.

Mr. Sinha agreed with Mr. Tekenos-Levy's comments. He suggested that the Committee may be being used to prevent future work from happening on a property.

Mr. Cinanni stated that the application is seeking to sever the property into two lots. He further stated that any future development would need to comply with the zoning by-law or seek additional variances. Mr. Cinanni stated that any future variances are out of scope of the Committee.

Mr. Skebo stated that he had no objection to application and that he wanted to fully understand the application. He stated that he did not see any grounds to not approve the application.

In response to a question from Mr. Cinanni, Mr. Fisher stated that the two severed lots would comply with the frontage requirements of the zoning by-law and that any future development would need to comply with the zoning by-law.

Moved by Mr. Babin

Seconded by Mr. Sinha

That minor variance application, File Number D13-072-2021 for the property located at 1229 and 1233 Westbrook Road to reduce the minimum interior side yard requirement of 1.2 metres to recognize the common party wall at 0 metres, be approved subject to the conditions attached as Exhibit A (Recommended Conditions – Minor Variance) to Report Number COA-22-001; and

That consent application, File Number D10-031-2021, to sever along the common party wall of the semi-detached dwelling to create an 836 square metre parcel of land with 13.7 metres of road frontage on Westbrook Road containing the northern unit (1233 Westbrook Road) and retain a 836 square metres parcel of land with 13.7 metres of road frontage on Westbrook Road (1229 Westbrook Road), be provisionally approved subject to the conditions included in Exhibit B (Recommended Conditions – Consent) to Report Number COA-22-001.

Carried

b) Application for: Consent

File Number: D10-037-2018 and D10-045-2020

Address: 2539 Isle of Man Road

Owner: Kenneth Paul

Applicant: Kenneth Paul

Ms. Sthamann introduced the application.

Mr. Fisher conducted a PowerPoint presentation regarding Application for Consent – 2539 Isle of Man Road. A copy of the presentation is available upon request through the City Clerk's Department.

Kenneth Paul, Applicant, was present at the meeting. He spoke to the correspondence received regarding the application, stating that he did not believe road access was relevant to the application. Regarding the property, Mr. Paul stated that the field is very shallow and is crossed by a natural gas pipeline, therefore making it less than desirable agricultural land.

Mr. Tekenos-Levy sought confirmation that the land was not appropriate for farming. Mr. Paul confirmed that housing was a more suitable land use than farming.

Mr. Tekenos-Levy sought further details regarding future plans for the severed lots. Mr. Paul stated that he had not yet decided on any future development, adding that the land will be farmed for the immediate future.

Mr. Cinanni stated that the public comments regarding the road are not necessarily within the scope of the Committee.

Mr. Paul advised the Committee that approximately half of each severed lot is protected land and will not be developed.

The Chair offered members of the public an opportunity to provide comment.

There were no comments from members of the public.

Moved by Mr. Tekenos-Levy

Seconded by Mr. Sinha

That consent application, File Number D10-037-2018, to sever a 2.2-hectare parcel of land with 90 metres of road frontage on Isle of Man Road, be provisionally approved subject to the conditions included in Exhibit A (Recommended Conditions) to Report Number COA-22-015; and

That consent application, File Number D10-045-2020, to sever a 2-hectare parcel of land with 90 metres of road frontage on Isle of Man Road, be provisionally approved subject to the conditions included in Exhibit B (Recommended Conditions) to Report Number COA-22-015.

Carried

c) Application for: Minor Variance

File Number: D13-062-2021 and D13-063-2021

Address: 29 and 31 Rideau Street

Owner: 2643573 Ontario Limited (Steven Mann)

Applicant: Youko Leclerc-Desjardins, Fotenn Consultants Inc.

Ms. Sthamann introduced the application.

Mr. Wicke conducted a PowerPoint presentation regarding Application for Minor Variance – 29 and 31 Rideau Street. A copy of the presentation is available upon request through the City Clerk's Department.

Kelsey Jones, Agent, and Steven Mann, Owner, were in attendance.

Mr. Cinanni sought confirmation that the properties do not currently have parking for tenants. Mr. Wicke confirmed that neither property currently has tenant parking.

Mr. Skebo inquired if the properties did have rear yard parking at any point in the past. Mr. Wicke responded that the applicant initially had received permission from a neighbouring property for access to the rear yard for parking. He stated that after the rear yard parking was established the permission was rescinded.

Mr. Mann advise the Committee that there is an existing easement for access to the rear of the property he owns at 27 Rideau Street. He stated that he initially had consent from a neighbour to extend the easement, adding that the consent has since been rescinded.

The Chair offered members of the public an opportunity to provide comment.

There were no comments from members of the public.

Moved by Mr. Tekenos-Levy

Seconded by Mr. Cinanni

That minor variance application, File Number D13-062-2021, for the property located at 29 Rideau Street to reduce the parking requirement for a second residential unit to zero spaces, be approved; and

That minor variance application, File Number D13-063-2021, for the property located at 31 Rideau Street to reduce the parking requirement for a second residential unit to zero spaces, be approved; and

That approval of the applications be subject to the conditions attached as Exhibits A and B (Recommended Conditions) to Report Number COA-22-019.

Carried

d) Application for: Minor Variance & Interpretation of Use

File Number: D13-073-2021

Address: 1025 Innovation Drive

Owner: The Corporation of the City of Kingston

Applicant: FOTENN Planning & Design

Ms. Sthamann introduced the application.

Mr. Clendening conducted a PowerPoint presentation regarding Application for Minor Variance & Interpretation of Use – 1025 Innovation Drive. A copy of the presentation is available upon request through the City Clerk's Department.

Elysia Ackroyd, Applicant, was in attendance.

Mr. Babin sought further details regarding circulation of the application. Mr. Clendening confirmed that all appropriate City departments were circulated the application and will be consulted through the site plan approval process.

The Chair offered members of the public an opportunity to provide comment.

There were no comments from members of the public.

Moved by Mr. Babin

Seconded by Mr. Sinha

That the application for interpretation of use, File Number D13-073-2021, for the property located at 1025 Innovation Drive to further define the 'public recreation facility' in the Business Park Exception One (BP-1) Zone to include a 'private recreation facility', be approved; and,

That minor variance application, File Number D13-073-2021, for the property located at 1025 Innovation Drive to permit a reduction in parking requirements, an increase in height and a deviation in the distance between buildings, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-018.

Carried

e) Application for: Minor Variance

File Number: D13-048-2021

Address: 162 Division Street

Owner: 162 Division Street GP Ltd.

Applicant: IBI Group (Mark Touw)

Ms. Sthamann introduced the application and conducted a PowerPoint presentation regarding Application for Minor Variance – 162 Division Street. A copy of the presentation is available upon request through the City Clerk's Department.

Aly Moloo, Owner, and Mark Touw, Applicant, were in attendance.

There were no comments from the Committee.

The Chair offered members of the public an opportunity to provide comment.

Chris Barber, 5560 Bath Road, Bath, Ontario, advised the Committee that he is the owner of 347-349 Brock Street, which abuts the parking lot for the application. He stated that he had no issues with the redevelopment. Mr. Barber inquired about the allotment for the right of way of Division Street. He stated that he has had issues with people illegally parking in his lot and blocking the right of way. Mr. Barber sought clarity on the distribution of parking spaces and the provisions for snow storage. He requested that the applicant undertake efforts to prevent future tenants from parking in his lot. Mr. Barber inquired about future repairs to the property's parking lot.

Mr. Touw referenced the site plan slide in the PowerPoint presentation, advising that the right of way off Division Street is protected and will allow for connection to the abutting property. He stated that the owner intends to delineate the parking spaces and add bicycle parking as part of the site plan process. Mr. Touw stated that the spaces will be marked for commercial and residential tenants. Regarding snow storage, he stated that snow will be removed from the site.

Mr. Moloo spoke to the history of the property and the work undertaken to revitalize the corner of Division Street and Garrett Street. He advised that there will be no commercial tenants in the building and that the parking lot would be repaved in the spring.

Mr. Babin left the meeting at 7:00 p.m. and did not return.

Moved by Mr. Sinha

Seconded by Mr. Cinanni

That minor variance application, File Number D13-048-2021, for the property located at 162 Division Street to introduce 8 residential units, add a third floor, and reconfigure the parking area, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-014.

Carried

f) Application for: Minor Variance

File Number: D13-075-2021

Address: 1660 Sydenham Road

Owner: Self Storage Matters Inc.

Applicant: IBI Group

Ms. Sthamann introduced the application.

Mr. Partridge conducted a PowerPoint presentation regarding Application for Minor Variance – 1660 Sydenham Road. A copy of the presentation is available upon request through the City Clerk's Department.

Mark Touw, Applicant, was in attendance.

There were no comments from the Committee.

The Chair offered members of the public an opportunity to provide comment.

There were no comments from members of the public.

Moved by Mr. Sinha

Seconded by Mr. Cinanni

That minor variance application, File Number D13-075-2021, for the property located at 1660 Sydenham Road to reduce the minimum loading and parking spaces requirement for the proposed five, 1-storey self-storage buildings comprised of approximately 3,372 square metre of gross floor area, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-021.

Carried

g) Application for: Minor Variance

File Number: D13-009-2021

Address: 4336 Bath Road

Owner: Eamonn Flynn & Rhona Flynn

Applicant: Eamonn Flynn

Ms. Sthamann introduced the application.

Mr. Partridge conducted a PowerPoint presentation regarding Application for Minor Variance – 4336 Bath Road. A copy of the presentation is available upon request through the City Clerk's Department.

Eamonn Flynn, Owner/Applicant and Mike Keene, Agent, were in attendance. Mr. Keene stated that the property is a challenge for based on its size and shape. He spoke to the road-related variance that was initially included in the application, advising that the correction of a rounding error eliminated the need for this variance.

Mr. Cinanni asked if neighbouring houses conform to flood plain setback and sought further details on how the application differs from those previously rejected by the Ontario Municipal Board. Mr. Keene responded that most homes in the area are close to the lake and were likely built before the flood plain was established. He added the application's setback will be similar to homes in the area. Mr. Keene spoke to the history of the OMB cases associated with the property.

Mr. Cinanni inquired if there were any similar-sized lots in the area. Mr. Keene spoke to the history of the property, stating that the property to the south of the subject property was merged and that part of the property to the east of the subject property was sold to the applicant to expand the size of the subject property.

Mr. Skebo, referencing Exhibit G of the Report, questioned the purpose of the two-metre ribbon on the property. Mr. Keene advised that this was land purchased from the neighbouring property. He further advised that the land sticks out since it has not been claimed as part of road widenings, as has been done with other properties in the area.

The Chair offered members of the public an opportunity to provide comment.

Sabena Islam, 4322 Bath Road, sought confirmation from the Committee that her correspondence were received. She advised the Committee that she had only five business days to review the report and that the content of the report has been altered since the public notice was released. Ms. Islam requested that the application be deferred to allow time for further examination by her legal and planning consultants. Ms. Islam stated that the subject property is significantly smaller than neighbouring properties in terms of square footage. She stated that the property is not a lot of record and that the lot that pre-existed the 1976 zoning by-laws is not the same as the current lot. Ms. Islam stated that the rear yard setback requirement specified in the by-law states that the flood plain cannot be included in the calculation and as such as variance is required for the application in this regard. She stated that the height of the building does not match the definition within the zoning by-law. With regards to the weeping bed, Ms. Islam advised that the Ministry of Transportation Ontario (MTO) had previously

stated that it would need be 3 metres from the setback and that the current application is in violation of that requirement. She further advised that the application would be in violation of the building code requirements for setback from her property line.

Joe O'Connor, 4322 Bath Road, spoke to the fishing and spawning habit on the shoreline for the property. He stated that property requires clean up from a previous dock construction and that he was not aware that such clean up would take place until mentioned at this meeting. Mr. O'Connor expressed concern with the variance requested and the potential impact on wildlife. He stated that existing properties in the area may have similar setbacks but cautioned that these were granted when environmental concerns regarding water levels were not as well known. Mr. O'Connor advised the Committee that the previously constructed dock has polluted the water and is in violation of the Fisheries Act.

Dugald Henderson, 4338-4340 Bath Road, inquired if the owner intended to sell the property.

In response to public comments, Mr. Keene stated that the 2015 Ontario Municipal Board hearing confirmed that the lot is a lot of record. He advised that the rear yard setback and flood plain setback are static measurements and that the furthest distance away is what is required by the by-law, therefore no further variance is required. Mr. Keene spoke to the history of the application, advising that it has been reviewed by the appropriate professionals. Regarding the dock, he advised that it would be repaired and that any potential legal violations could be enforced by the proper authorities. He advised the Committee that the applicant is attempting to balance the existing zoning provisions to allow for a house to be built. Mr. Keene spoke to the consultation with the MTO and the Cataraqui Region Conservation Authority. He stated that he was not aware of any plans for the owner to sell the property, adding that any potential purchaser would be limited in what variations they could make to the design found in the application.

Mr. Partridge spoke to the definition of height in the zoning by-law, adding that the definition of finished grade is key to the calculation. He stated that the rear yard setback is measured from the rear lot line to the rear of the building.

Mr. Bar stated that it is not practice to compound setback distances other than those that relate to rights of way. He stated that the rear yard and flood plain setbacks are static and apply from points defined in the zoning by-law.

Mr. Skebo requested that the approval letter from the MTO be made available on DASH.

Mr. Skebo sought staff comment regarding the inference that the lot is undersized for residential development.

Mr. Bar stated that the zoning by-law has provisions for development on smaller lots provided that it meets the requirements of the zoning by-law. He stated the current application seeks a suitable building envelope to accommodate modest development of a single detached building with septic system. With regards to the septic system, Mr. Bar advised that both the MTO and City Building Services have approved the proposed system.

Moved by Mr. Sinha

Seconded by Mr. Tekenos-Levy

That minor variance application, File Number D13-009-2021, for the property located at 4336 Bath Road to build a 92.9 square metre 2 storey single family dwelling, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-011.

Carried

h) Application for: Minor Variance and Consent

File Number: D10-037-2021, D13-069-2021 & D13-070-2021

Address: 398 Victoria Street

Owner: 423307 Ontario Limited

Applicant: Daniel Welsh, Amber Peak Developments & Youko Leclerc-Desjardins, FOTENN Consultants Inc.

Ms. Sthamann introduced the application.

Mr. Peggi conducted a PowerPoint presentation regarding Application for Minor Variance and Consent – 398 Victoria Street. A copy of the presentation is available upon request through the City Clerk's Department.

Youko Leclerc, Applicant, was in attendance.

There were no questions or comments from the Committee.

The Chair offered members of the public an opportunity to provide comment.

Eleanor Marquardt, 120 Market Street, Gananoque, Ontario, spoke to concerns raised in her correspondence to the Committee. She expressed concerns with noise, light intrusion and privacy for the ground floor bedroom at 392 Victoria Street. She inquired if access to the property could be granted through shared use with the driveway.

Mr. Peggi advised the Committee that the location of the house and the walkway are permitted under the by-law, adding that the steps leading to the side door are the subject of the variance. He stated that the walkway is required as the application is for a one-unit building with a secondary residence, which requires a separate walkway from the driveway for safe tenant access.

Mr. Leclerc advised the Committee that the applicant has made all efforts possible to move the building as far away from 392 Victoria Street as possible. He stated that the side yard variance for the shared driveway is required to move the new house as close as possible to the existing house.

Mr. Skebo sought clarity regarding the unfinished basement. Mr. Leclerc stated that the basement will be used for additional storage and utilities.

Mr. Bar added that the recommended conditions include a maximum aggregate numbers of bedrooms for the two houses and that this will prevent future permits from being granted for additional bedrooms. Regarding access to the building from the rear driveway, he stated that provisions in the secondary unit by-law require access distinct from the driveway for tenant safety and access for emergency services. Mr. Bar stated that there is a rear entrance to the property that can be used by tenants.

Mr. Cinanni expressed concerns with the privacy issues for the neighbouring property. He stated that the parking may currently be underutilized and that more demand could result from the application and strain on-street parking resources.

Mr. Leclerc stated that the owner has significant experience renting in the area and that they have advised that parking demand is significantly lower than what is required by the zoning by-law.

Mr. Welsh stated that in his experience most people renting in the area of the application do not have vehicles and try to have a car-free lifestyle. He stated that the proposed parking ratio is more than sufficient.

Mr. Skebo sought clarity on the numbers of bedrooms in the secondary unit. Mr. Welsh stated that the side walkway provides access to a four-bedroom unit and that the main unit will access the property through a rear door.

Moved by Mr. Sinha

Seconded by Mr. Cinanni

That consent application, File Number D10-037-2021, to sever a 371 square metre lot from the 821 square metre subject property, leaving a 450 square metre retained lot, and to designate an easement for the shared driveway to the proposed parking in the rear yard, be provisionally approved subject to the conditions included in Exhibit A (Recommended Conditions – Consent) to Report Number COA-22-022; and

That minor variance application, File Number D13-069-2021 for the property located at 398 Victoria Street to vary the minimum lot area, and minimum aggregate side yard zoning provisions for the existing dwelling on the retained lot known as 398 Victoria Street containing eleven bedrooms in total, including five bedrooms in the front unit and six in the rear unit, and to alleviate the requirement to provide both an entry lane and an exit lane to the parking area and to have one single access lane. be approved subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-027.

That minor variance application, File Number D13-070-2021 for the property located at 398 Victoria Street to vary the minimum interior yard setback, building depth, and exterior wall height zoning provisions for the proposed dwelling on the severed lot, and to alleviate the requirement to provide both an entry lane and an exit lane to the parking area and to have one single access lane to construct a building with a maximum of 8 bedrooms, be approved subject to the conditions attached as Exhibit C (Recommended Conditions – Minor Variance) to Report Number COA-22-022.

Carried

i) Subject: Supplementary Report (to Report Number COA-22-022)

File Number: D10-037-2021, D13-069-2021 & D13-070-2021

Address: 398 Victoria Street

Owner: 423307 Ontario Limited

Applicant: Daniel Welsh, Amber Peak Developments & Youko Leclerc-Desjardins, FOTENN Consultants Inc.

Note: The following item was considered in advance of Business item h).

Mr. Peggi provided an overview of the report.

Moved by Mr. Sinha

Seconded by Mr. Tekenos-Levy

That paragraph 2 of the recommendation in Report Number COA-22-022, be replaced with the following:

That minor variance application, File Number D13-069-2021 for the property located at 398 Victoria Street to vary the minimum lot area, and minimum aggregate side yard zoning provisions for the existing dwelling on the retained lot known as 398 Victoria Street containing eleven bedrooms in total, including five bedrooms in the front unit and six in the rear unit, and to alleviate the requirement to provide both an entry lane and an exit lane to the parking area and to have one single access lane. be approved subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-027.

Carried

Motions

There were none.

Notices of Motion

There were none.

Other Business

There was none.

Correspondence

- o) Correspondence received from Brad & Alison Smith, dated January 17, 2022, regarding Application for Consent – 2539 Isle of Man Road.
- p) Correspondence received from Joan Bowie, dated January 17, 2022, regarding Application for Minor Variance & Consent – 398 Victoria Street.

Date and time of Next Meeting

The next meeting of the Committee of Adjustment meeting is scheduled on Monday, February 14, 2022 at 5:30 p.m.

Adjournment

Moved by Mr. Sinha

Seconded by Mr. Cinanni

That the meeting of the Committee of Adjustment adjourns at 8:17 p.m.

Carried