



**City of Kingston
Committee of Adjustment
Meeting Number 12-2022
Minutes**

**Monday, November 21, 2022 at 5:30 p.m.
Hosted at City Hall in Council Chamber**

Committee Members Present

Peter Skebo; Chair
Paul Babin
Vincent Cinanni
Blaine Fudge
Greg Lightfoot
Jordan Tekanos-Levy

Regrets

Somnath Sinha

Staff Members Present

James Bar, Manager, Development Approvals
Ian Clendening, Senior Planner
Amy Didrikson, Intermediate Planner
Annemarie Eusebio, Intermediate Planner
Elizabeth Fawcett, Committee Clerk
Tim Fisher, Planner
Sarah Oldenburger, Planner
Jason Partridge, Planner
Iain Sullivan, Committee Clerk
Lindsay Sthamann, Intermediate Planner & Secretary Treasurer
Chris Wicke, Senior Planner

Others Present

Members of the Public were present.

This is not a verbatim report.

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 5:34 p.m.

Approval of the Agenda

Moved by Mr. Cinanni

Seconded by Mr. Babin

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

Carried

Confirmation of Minutes

Moved by Mr. Lightfoot

Seconded by Mr. Fudge

That the minutes of Committee of Adjustment Meeting Number 11-2022, held on Monday, October 17, 2022, be approved.

Carried

Disclosure of Pecuniary Interest

There were none.

Delegations

There were none.

Briefings

There were none.

Request for Deferral

There were none

Returning Deferred Items

There were none.

Business

a) Application for: Minor Variance

File Number: D13-063-2022

Address: 597 Davis Drive

Owner: Mark Foster

Applicant: Mark Foster

Ms. Sthamann introduced the application.

Mr. Clendening conducted a PowerPoint presentation regarding the Application for Minor Variance at 597 Davis Drive. A copy of the presentation is available upon request through the City Clerk's Department.

Mark Foster, Owner, indicated he had no further information to provide.

Mr. Cinanni asked for clarification on what should happen if a second car needed to park. Mr. Clendening stated that the zoning by-law in place at the time required the width of driveway. He noted that over time it has come to service more than one vehicle. He explained that the new zoning by-law allows for a reduction in parking spots for additional units.

Mr. Skebo asked if tenants could park in tandem. Mr. Clendening explained that the depth of the lot would make that difficult.

Mr. Lightfoot referred to an item of correspondence on the addendum asking if its contents were accurate. Mr. Foster stated that current tenants were parking in tandem and causing the issue. He noted that parking was available on only one side of the street.

Mr. Fudge asked for clarification on the nature of an item of correspondence. He asked if Kingston Fire & Rescue had been consulted on the pathway. He asked for clarification on the amount of greenspace that will be returned to the site. Mr. Foster stated that the previous owner had installed the asphalt parking space. He noted that Fire & Rescue had not provided comment on the changes proposed. He explained that the pathway would be built first and then the parking moved. Mr. Clendening confirmed that Fire & Rescue had been circulated the information. He stated that the noncompliant parking stall will be removed and sod placed down.

Mr. Skebo asked about the age of the secondary unit in the building. He sought additional information on its occupancy speaking to a condition in staff's recommendation. Mr. Foster noted that the secondary unit was twelve years old and confirmed that it was currently occupied. Mr. Clendening explained that the wording present in the conditions was due to the nature of the application. Mr. Bar stated that staff would be cautious about amending the wording of the condition without input from the Building & Licensing department who require specific wording.

Mr. Cinanni asked for additional clarification on the nature of the pathway. Mr. Clendening explained that the By-Law required that it be separate from the driveway.

The Chair afforded members of the public an opportunity to speak. There were no comments received from members of the public.

Moved by Mr. Lightfoot
Seconded by Mr. Babin

That minor variance application, File Number D13-063-2022, for the property located at 597 Davis Drive to reduce the required parking for a second residential unit from 1 parking spaces to 0 parking spaces, be approved, as described below:

Variance Number 1:

By-Law Number 2022-62: Table 7.1.1

- Requirement: 1 parking space per second residential unit
- Proposed: 0 parking spaces per second residential unit
- Variance Requested: 1 parking space

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-076.

Carried

b) Application for: Minor Variance

File Number: D13-062-2022

Address: 338 Palace Road

Owner: Pablo Morse, Paul Morse and Valentina Pereira

Applicant: Pablo Morse

Ms. Sthamann introduced the application.

Mr. Wicke conducted a PowerPoint presentation regarding the Application for Minor Variance at 338 Palace Road. A copy of the presentation is available upon request through the City Clerk's Department.

Pablo Morse, Applicant, indicated that he had nothing further to add.

Mr. Cinanni asked for clarification on the nature of the large number of vehicles on the property. He asked if only one vehicle would be able to park legally. Mr. Morse indicated that previously more vehicles had parked on the property. He noted that the number had been reduced. He confirmed that only one vehicle would be able to park legally.

Mr. Skebo asked how many units are in the building and the type of tenancy for these units. Mr. Morse stated that the building was considered one unit but contained four bedrooms, each leased separately.

The Chair afforded members of the public an opportunity to speak.

Karina Murry, 336 Palace Road, noted her opposition to the application. She highlighted traffic issues on Palace Road and the lack of parking. She stated that there were several issues with the building in the past.

In response to the public comments Mr. Morse stated he was correcting the issues brought up. He apologized for the parking situation. Mr. Wicke noted that Building Services had investigated and did not find issues with the building. He explained that parking was available on the street most of the year.

Mr. Cinanni sought additional clarification on the parking situation. He noted his opposition to the proposal and his intention to vote against the motion. Mr. Wicke stated that a second car would encroach on the neighbouring driveway.

Mr. Lightfoot commented on the nature of Palace Road and the developments taking place.

Mr. Tekanos-Levy noted that many comments received were outside the scope of the Committee's decision regarding the proposal.

Mr. Skebo stated that he empathized with the neighbours. He explained his rationale for voting on the recommendation.

Mr. Fudge commented that he agreed with the previous statements. He expressed a hope for better results from the Applicant.

Moved by Mr. Tekanos-Levy
Seconded by Mr. Fudge

That minor variance application, File Number D13-062-2022, for the property located at 338 Palace Road to reduce the required parking for a second residential unit from one space to zero spaces, be approved, as described below:

Variance Number 1:

By-Law Number 2022-62: Table 7.1.1.3(b) – Required Number of Parking, Visitor and Car-Share Spaces

- Requirement: 1 parking space per dwelling unit
- Proposed: 0 parking spaces for the second residential unit
- Variance Requested: Reduction of 1 parking space

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-085.

Carried.

c) Application for: Consent

File Number: D10-023-2017

Address: 237 Mowat Avenue and 6 Herbert Street

Owner: 6948928 Canada Limited and JA Holdings c/o James Nikas

Applicant: RFA Planning Consultant Inc.

Ms. Sthamann introduced the application.

Mr. Fisher conducted a PowerPoint presentation regarding the Application for Consent at 237 Mowat Avenue and 6 Herbert Street. A copy of the presentation is available upon request through the City Clerk's Department.

Carolyn Ross, Agent for the Applicant, conducted a PowerPoint presentation regarding the Application for Consent at 237 Mowat Avenue and 6 Herbert Street. A copy of the presentation is available upon request through the City Clerk's Department.

The Chair afforded members of the public an opportunity to speak.

Siobhan Broekhoven, 7 Herbert Street, asked if greenspace had been considered when the plans were created. She stated that many residents enter the current building from Herbert Street. She expressed concern about egress from and the lighting of two of the units in the remaining parcel. She noted that a commercial vehicle was present on the property illegally.

Angela Broekhoven, 7 Herbert Street, expressed her concern for the neighbourhood.

Lia De Pauw, 58 Hatter Street, noted the disagreement about the original plan for the lot. She asked if Fire & Rescue had been consulted on the changes to the entrance to the property. She disagreed with Staff's statements regarding the use of precedence. She also commented on the commercial vehicle typically parked on the property.

In response to the public comments, Ms. Ross explained that the open space originally calculated for the multi-unit proposal was higher than the 40% required. She noted that the units will still be accessible. She stated that Fire & Rescue did not provide comment on the application. Mr. Fisher noted that by-law infractions are complaint driven and that he was not aware of any open or existing investigations on the property.

Mr. Skebo highlighted the comment on the neighbourhood changing. He sought confirmation that Fire & Rescue had been consulted. He asked for staff to clarify the use of precedent. He asked for clarification on the commercial vehicle. Mr. Bar stated that

the lots fit in with the character of the neighbourhood. He confirmed that the proposal was circulated to Fire & Rescue. He explained that the process being followed is due to the original proposal and that the current one would have had a separate process. He stated that Planning staff will work with By-Law Enforcement with respect to the commercial vehicle.

Mr. Cinanni asked if the severance was restoring the original layout of the lots. Ms. Ross confirmed that that was the intent.

Mr. Skebo noted that he empathized with the neighbours. He commented that staff had done a good job addressing the concerns raised.

Moved by Mr. Babin

Seconded by Mr. Cinanni

That consent application, File Number D10-023-2017, to sever a 634.7 square metre parcel of land with 26 metres of road frontage on Herbert Street, be **provisionally approved** subject to the conditions included in Exhibit A (Recommended Conditions) to Report Number COA-22-079.

Carried

d) Application for: Minor Variance

File Number: D13-057-2022

Address: 1445 Kendal Avenue

Owner: Anthony, Cliara and Milton Tingle

Applicant: Milton Tingle

Ms. Sthamann introduced the application.

Mr. Fisher conducted a PowerPoint presentation regarding the Application for Minor Variance at 1445 Kendal Avenue. A copy of the presentation is available upon request through the City Clerk's Department.

Milton Tingle, Applicant, thanked staff for their work.

The Chair afforded members of the public an opportunity to speak.

Michael Doherty, 1449 Kendal Avenue, noted his support for the project.

There were no further comments from members of the public.

The Committee did not provide comment.

Moved by Mr. Fudge

Seconded by Mr. Cinanni

That minor variance application, File Number D13-057-2022, for the property located at 1445 Kendal Avenue to reduce the rear yard to construct a 11.7 square metre three-season sunroom, be approved, as described below:

Variance Number 1: Minimum Rear Setback

By-Law Number 2022-62: Table 11.4.3, UR3.B

- Requirement: 6.0 metres
- Proposed: 4.36 metres
- Variance Requested: 1.64 metres

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-075.

Carried

e) Application for: Minor Variance

File Number: D13-047-2022

Address: 636 MacDonnell Street

Owner: Samuel Browne

Applicant: Samuel Browne

Ms. Sthamann introduced the application.

Ms. Oldenburger conducted a PowerPoint presentation regarding the Application for Minor Variance at 363 MacDonnell Street. A copy of the presentation is available upon request through the City Clerk's Department.

Samuel Browne, Owner, stated that he had acquired building permits for the other work noted in the presentation.

The Chair afforded members of the public an opportunity to speak. There were no comments received from members of the public.

The Committee did not provide comment.

Moved by Mr. Lightfoot

Seconded by Mr. Babin

That minor variance application, File Number D13-047-2022, for the property located at 636 MacDonnell Street to replace the existing uncovered front porch and exterior stairs with a new covered front porch and uncovered exterior stairs, be approved, as described below:

Variance Number 1:

By-Law Number 2022-62:Table 4.20.4.(2): Minimum front setback for a porch

- Requirement: 3.5 metres
- Proposed: 2.4 metres
- Variance Requested: 1.1 metres

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-080.

Carried

f) Application for: Minor Variance

File Number: D13-038-2022

Address: 88 Helen Street

Owner: Justine Carlone and Jeffrey Di Labio

Applicant: NBS Design Group

Ms. Sthamann introduced the application.

Ms. Oldenburger conducted a PowerPoint presentation regarding the Application for Minor Variance at 88 Helen Street. A copy of the presentation is available upon request through the City Clerk's Department.

Ashely Osmer, Agent for the Applicant, indicated she had nothing further to add.

Mr. Lightfoot asked if the height of the building would set a precedent in the area. Ms. Oldenburger noted that there were no variances requested for the height or depth of the building. Mr. Bar stated that the variances would not affect the building envelope. Ms. Osmer commented that the design was chosen to blend in with the area.

The Chair afforded members of the public an opportunity to speak. There were no comments received from members of the public.

Moved by Mr. Lightfoot
Seconded by Mr. Fudge

That minor variance application, File Number D13-038-2022, for the property located at 88 Helen Street to expand the existing single detached one and a half storey residential dwelling through the construction of a second storey and a two-storey rear addition, a new covered front porch and uncovered set of stairs, a new exterior door and accompanying set of stairs on the south elevation, and new uncovered rear decks, be approved, as described below:

Variance Number 1: Minimum Exterior Setback

By-Law Number 2022-62: Section 11.6.1.(6)

- Requirement: 4.5 metres
- Proposed: 2.7 metres
- Variance Requested: 1.8 metres

Variance Number 2: Decks and Porches

By-Law Number 2022-62: Section 4.20.4.(1): Maximum surface area of floor levels

- Requirement: 10% of the lot area
- Proposed: 14.6% of the lot area
- Variance Requested: 4.6% of the lot area

Variance Number 3: Decks and Porches

By-Law Number 2022-62: Section 4.20.4.(4): Minimum exterior setback for front porch

- Requirement: 4.5 metres
- Proposed: 2.7 metres
- Variance Requested: 1.8 metres

Variance Number 4: Decks and Porches

By-Law Number 2022-62: Section 4.20.4.(4): Minimum exterior setback for rear deck

- Requirement: 4.5 metres
- Proposed: 2.8 metres
- Variance Requested: 1.7 metres

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-066.

Carried

- g) Application for: Minor Variance**
File Number: D13-048-2022
Address: 917 Edward Riley Drive
Owner: Robert and Sheila Napier
Applicant: Shivani Khapare

Ms. Sthamann introduced the application.

Mr. Partridge conducted a PowerPoint presentation regarding the Application for Minor Variance at 917 Edward Riley Drive. A copy of the presentation is available upon request through the City Clerk's Department.

Syed Ahmed, Agent for the Applicant, indicated he had nothing further to add.

The Chair afforded members of the public an opportunity to speak. There were no comments received from members of the public.

The Committee did not provide comment.

Moved by Mr. Fudge
Seconded by Mr. Cinanni

That minor variance application, File Number D13-048-2022, for the property located at 917 Edward Riley Drive, to construct a 10.78 square metre, three-season sunroom addition, be approved, as described below:

Variance Number 1:

By-Law Number 2022-62:11.4.3 (5) Minimum rear setback

- Requirement: 6.0 metres
- Proposed: 3.18 metres
- Variance Requested: 2.82 metres

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-083.

Carried

h) Application for: Minor Variance

File Number: D13-059-2022

Address: 30 Stanley Street

Owner: William Nelson

Applicant: William Nelson

Ms. Sthamann introduced the application.

Mr. Partridge conducted a PowerPoint presentation regarding the Application for Minor Variance at 30 Stanley Street. A copy of the presentation is available upon request through the City Clerk's Department.

William Nelson, Owner, indicated he had nothing further to add.

The Chair afforded members of the public an opportunity to speak. There were no comments received from members of the public.

The Committee did not provide comment.

Moved by Mr. Lightfoot

Seconded by Mr. Fudge

That minor variance application, File Number D13-059-2022, for the property located at 30 Stanley Street to construct a front addition with exterior stairs, be approved, as described below:

Variance Number 1:

By-Law Number 2022-62:Section 4.19.3. Exterior Stairs in Other Zones Setback

- Requirement: 0.5 metres
- Proposed: 0.0 metres
- Variance Requested: 0.5 metres

Variance Number 2:

By-Law Number 2022: Section 11.6.1.(4) (d) Front Yard Setback

- Requirement: 1.91 metres
- Proposed: 1.14 metres
- Variance Requested: 0.77 metres; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-084.

Carried

- i) Application for: Permission**
 - File Number: D13-025-2022**
 - Address: 42 Lower Union Street**
 - Owner: Margaret Elie-Garbutt**
 - Applicant: Sam Miller**

Ms. Sthamann introduced the application.

Ms. Eusebio conducted a PowerPoint presentation regarding the Application for Permission at 42 Lower Union Street. A copy of the presentation is available upon request through the City Clerk's Department.

Linda Holmes and Andrew Green, Owners, indicated they had nothing further to add.

The Chair afforded members of the public an opportunity to speak. There were no comments received from members of the public.

The Committee did not provide comment.

Moved by Mr. Cinanni
Seconded by Mr. Fudge

That the application for permission, File Number D13-025-2022, for the property located at 42 Lower Union Street to construct a front and rear dormer onto the roof the existing building, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-046.

Carried

j) Application for: Minor Variance

File Number: D13-060-2022

Address: 4016 Bath Road

Owner: James and Margaret Somerville

Applicant: James Somerville

Ms. Sthamann introduced the application.

Ms. Didrikson conducted a PowerPoint presentation regarding the Application for Minor Variance at 4016 Bath Road. A copy of the presentation is available upon request through the City Clerk's Department.

James Somerville, Owner, indicated that he had nothing further to add.

The Chair afforded members of the public an opportunity to speak. There were no comments received from members of the public.

The Committee did not provide comment.

Moved by Mr. Fudge

Seconded Mr. Tekanos-Levy

That minor variance application, File Number D13-060-2022, for the property located at 4016 Bath Road to enclose a 42 square metre, covered second-level deck for a three-season sunroom, be approved, as described below:

Variance Number 1:

By-Law Number 2022-62: Table 11.2.2.5 Minimum Rear Setback

- Requirement: 7.5 metres
- Proposed: 4.8 metres
- Variance Requested: 2.7 metres

Variance Number 2:

By-Law Number 2022-62: Section 4.23.1 Minimum Distance from the High-Water Mark of a Waterbody

- Requirement: 30 metres
- Proposed: 8.4 metres
- Variance Requested: 21.6 metres; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-077.

Carried

Motions

There were none.

Notices of Motion

There were none.

Other Business

Mr. Babin asked for clarification on when the term of appointment would end. Mr. Sullivan explained that the Committee's last meeting would be in December.

Correspondence

- a) Correspondence received from D. Workman, dated November 8, 2022, regarding Application for Minor Variance - 1445 Kendal Avenue.

See addendum for remaining correspondence.

Date and time of Next Meeting

The next meeting of the Committee of Adjustment is scheduled for Monday, December 12, 2022 at 5:30 p.m.

Adjournment

Moved by Mr. Fudge
Seconded by Mr. Tekanos-Levy

That the meeting of the Committee of Adjustment adjourn at 7:59 p.m.

Carried