



Minutes

The Blue Mountains, Committee of Adjustment

Date: January 18, 2023
Time: 1:00 p.m.
Location: Town Hall, Council Chambers and Virtual Meeting
32 Mill Street, Thornbury, ON
Prepared by: Kyra Dunlop, Secretary/Treasurer

Members Present: Robert Waind, Jim Oliver, Greg Aspin, Michael Martin
Staff Present: Town Clerk Corrina Giles, Executive Assistant to Committees of Council Carrie Fairley, Manager of Planning Shawn Postma, Planner Carter Triana and Planner Nicole Schroder

A. Call to Order

A.1 Traditional Territory Acknowledgement

We would like to begin our meeting by recognizing the First Nations, Metis and Inuit peoples of Canada as traditional stewards of the land. The municipality is located within the boundary of Treaty 18 region of 1818 which is the traditional land of the Anishnaabek, Haudenosaunee and Wendat-Wyandot-Wyandotte peoples.

A.2 Committee Member Attendance

The Alternate Secretary/Treasurer confirmed that all members were present.

Town staff present were Town Clerk Corrina Giles, Executive Assistant to Committees of Council Carrie Fairley, Manager of Planning Shawn Postma, Planner Carter Triana, and Planner Nicole Schroder.

A.3 Approval of Agenda

Moved by: Michael Martin

Seconded by: Jim Oliver

THAT the Agenda of January 18, 2023 be approved as circulated, including any additions to the agenda.

Yay (4): Jim Oliver, Greg Aspin, Michael Martin, and Robert Waind

The motion is Carried (4 to 0)

A.4 Declaration of pecuniary interest and general nature thereof

NOTE: In accordance with the *Municipal Conflict of Interest Act*, the Town Committee of Adjustment By-Law 2022-71, and the Town Procedural By-law 2022-76, Committee of Adjustment Committee Members must file a written statement of the interest and its general nature with the Clerk for inclusion on the Registry.

None

A.5 Previous Minutes

Moved by: Jim Oliver

Seconded by: Michael Martin

THAT the Minutes of December 21, 2022 be approved as circulated, including any revisions to be made.

Yay (4): Jim Oliver, Greg Aspin, Michael Martin, and Robert Waind

The motion is Carried (4 to 0)

A.6 Business Arising from Previous Minutes

None

B. Public Meeting

Under the authority of the Municipal Act, 2001 and in accordance with Ontario's Municipal Freedom of Information and Protection of Privacy Act (MFIPPA). The Corporation of the Town of The Blue Mountains wishes to inform the public that all information including opinions, presentations, reports and documentation provided for or at a Public Meeting, Public Consultation, or other Public Process are considered part of the public record. This information may be posted on the Town's website and/or made available to the public upon request.

B.1 Minor Variance Application No. A01-2023

Owner: Arfin

Applicant/Agent: Sean Baradaran

Municipal Address: 137 Interlaken Court

Legal Address: PLAN 16M46 LOT 53

Chair Waind read aloud the Public Meeting Notice and Planning staff also confirmed that the Public Hearing Notice was circulated in accordance with the Planning Act by pre-paid first-class mail and was posted on-site on the subject

lands. The Secretary/Treasurer also provided a summary of all written comments received as a result of the Public Notice.

Chair Waind then opened the public portion of the hearing and asked if anyone in attendance wished to speak to the application.

Shawn Baradaran, the applicant's authorized agent, provided their opinion in support of the application. Shawn noted there was a pool in the backyard and by regulation they needed to enclose that pool. Shawn noted that the option to secure the pool was to erect a fence around it. Shawn noted that the challenge of having a sloped grade a very short distance behind the proposed fence had a steep drop which would make the area hard to maintain, such as cutting the grass, and therefore the solution was to fence the area. Shawn noted that the homeowners had taken many steps to make the area safe and beautiful including landscaping behind the proposed rock fencing. Shawn responded to the points made in the Staff Report.

Joe and Sandy Arfin noted they had lived in the Town since 1999, and had purchased 137 Interlaken Court in 2020 with the intention of building their permanent home for themselves, children and grandchildren. Joe noted that his property is the first property on the street, which has a long entry road which is the side-lot and along the front. Joe noted that there is over 300 feet of side-lot along Interlaken Court. Joe noted a fence was required for the lot because they were trying to keep their pets on their property. Joe noted that they intended to place a black wire fence nestled into the forest as much as possible so it keeps their family and pets secure. Joe noted that there were also multiple animals crossing through his lot at night time, including coyotes and wolves. Joe noted the other requirement for a fence was to prevent anyone or animal falling into the pool. Joe noted that they also intended to cover the fencing with trees and shrubbery to soften the black fencing look. Joe noted that there are walls like this adjacent to and between his property, and that he wanted to ensure a minimal impact of the fencing to the look and feel of the neighborhood.

Christina Eaton, resident, noted the public had been forced to sit through almost 2 hours of discussion for one subject application and that this was a huge waste of time. Christina noted that she had built a deck in 2021, her builder had advised her to get a building permit, and that all that was required to prevent this was a building permit and that people needed to respect that.

As there was no one else in attendance to speak in favour of or in opposition to the proposal, Chair Waind closed the public meeting.

Chair Waind noted that the situation was that a retaining wall was put up without the appropriate permits.

Michael Martin noted that the drainage issue was explained by the applicant's agent, but that the Committee was a quasi-judicial committee and that where

there was a By-law residents expected those to be enforced by the municipality. Michael noted that the *Planning Act* requires the Committee to consider whether the proposed change to the By-law was a marginal variance, and that what had happened in the subject application was that something was built that did not comply with the By-law and the building department had issued an order to take it down. Jim Oliver noted that his read of the staff report is that the building department ordered the removal of the structure or to seek a minor variance. Michael noted he was concerned with the jurisdiction of this, and that the only remedy was to have the applicant go to Council and determine whether its forgiveness versus permission.

Town Clerk Corrina Giles noted that the normal order of the Committee was that the applicant provide their presentation following staff's review of the staff report and suggested that staff be able to provide their overview. Planning Staff then provided an overview of the review and recommendations contained in the Staff Recommendation Report. Jim noted that most of the other homes in the neighborhood have similar walls, and they were constructed before the current Zoning By-law. Planner Nicole Schroder noted that the photos provided by the applicant in support of their application were on a different street, and the situation had been different and the wall had been erected by the Town., and had been interior side yards with different set-backs. Nicole noted that those had also been built prior to the change of the current Zoning By-law. Greg Aspin asked if the intention of the homeowner was to fence the entire yard.

Moved by: Jim Oliver

Seconded by: Michael Martin

THAT the Committee of Adjustment receive Staff Report PDS.23.007, entitled "Recommendation Report – Minor Variance A01-2023 – 137 Interlaken Court (Arfin)".

Yay (4): Jim Oliver, Greg Aspin, Michael Martin, and Robert Waind

The motion is Carried (4 to 0)

Moved by: Jim Oliver

Seconded by: Robert Waind

THAT, with respect to Staff Report PDS.23.007 "Recommendation Report – Minor Variance A01-2023 – 137 Interlaken Court (Arfin)", the Committee of Adjustment GRANTS the request for minor variance to subsection (d) of General Provision 4.3 *Accessory Buildings, Structures and Uses* of Zoning By-law 2018-65 to permit the existence of a landscape wall being on the property line (0 m) from the exterior side lot line along Interlaken Court

Yay (4): Jim Oliver, Greg Aspin, Michael Martin, and Robert Waind

The motion is Carried (4 to 0)

B.2 Minor Variance Application No. A02-2023

Owner: Abbotts

Applicant/Agent: Alex Titterington

Municipal Address: 91 Lakeshore Drive

Legal Address: Plan 533 Part Lot 8 RP 16R9998 Part 2

Chair Waind read aloud the Public Meeting Notice and Planning staff also confirmed that the Public Hearing Notice was circulated in accordance with the Planning Act by pre-paid first-class mail and was posted on-site on the subject lands. The Secretary/Treasurer also provided a summary of all written comments received as a result of the Public Notice. Planning Staff then provided an overview of the review and recommendations contained in the Staff Recommendation Report.

Chair Waind then opened the public portion of the hearing and asked if anyone in attendance wished to speak to the application.

Alex Titterington, the applicant's authorized agent, provided their opinion in support of the application. Alex noted the accessory apartment has been used as a guesthouse for family to visit. Alex noted that the reason to change the use of the existing building to an accessory apartment is that there is sentimental value for the building. Alex noted that the building has been there long before any Zoning By-law and was in keeping with the neighborhood. Alex noted that there would be ample parking alongside the garage.

Christina Eaton, resident, noted that her impression in reading the application was that the proposed building is situated in a way incongruent with the neighborhood and would set a negative precedent and that the Official Plan needed to be complied with. Christina noted the entire plan seemed to be set around the small existing structure that would not be permitted today due to its proximity to the street. Christina noted that building something consistent with the rest of the neighborhood would be better. Christina noted that vehicle parking would be an issue, as space is required for 3 vehicles, but realistically it is more 2 spaces needed for the accessory apartment and 2 for the main dwelling. Christina noted that it was critical to allow for parking, or overflow will take place onto Lakeshore Drive where parking is not permitted, and may necessitate the need for residents to contact By-law. Christina noted that this detracts from the enjoyment of our properties to have to contact enforcement services about parking. Christina noted that the removal of trees on this lot has already occurred and that the reference to sentimentality around the property should extend to the trees. Christina noted that neighbours had already had to intervene this summer to prevent the removal of boundary trees. Christina noted that existing uses that do not comply with the uses of the Official Plan, being the accessory building, should be gradually be phased out to comply with the Official Plan. Christina noted that the plan to build a swimming pool so close

to the beach, in an area with known drainage issues, and given the water supply, is misguided. Christina noted that one of the variances being requested is lot coverage, and that in a neighborhood like ours, the 30% lot coverage should be maintained and that this would be precedent-setting. Christina asked why a more comprehensive site development plan was not made available to neighbours which would aid neighbours in understanding the development of the property.

As there was no one else in attendance to speak in favour of or in opposition to the proposal, Chair Waind closed the public meeting.

Chair Waind asked if it was not for the request for the addition to the existing dwelling would the applicant be able to build what they wanted without any minor variance application. Planner Carter Triana noted that they would require a minor variance for the front yard setback. Carter noted that with the change of use to be an accessory apartment, the new use is required to be in compliance with all the provisions of the Zoning By-law or require a minor variance for the use. Chair Waind noted this seemed to be a house-keeping schedule.

Jim noted that with respect to the accessory apartment not being able to be used for Short Term Accommodation if that meant the apartment could be used for a maximum of 30 days. Carter noted that under the Zoning By-law that Short Term Accommodations are any accommodations rented for less than 30 days.

Chair Waind asked if the use will be for primarily family if the applicant could get away without an addition so avoid the non-compliance with lot coverage. Alex noted that they could reduce the size of the new dwelling at the back to comply with the lot coverage.

Jim noted that with regard to parking the agent had indicated there would parking along the left side of the property, and on the right hand side of the building. Jim noted that there were several mature trees within a short distance of the side of the house. Alex noted that there is a parking spot on the right hand side of the building. Jim asked if the trees would be removed to accommodate a parking space, and Alex confirmed there would be ample parking on the left-hand side and that there would not be a need to remove the trees. Carter noted that there had been no indication parking would be an issue with this subject application.

Chair Waind noted that accessory uses such as this are permitted, and that most lots are permitted to have secondary dwellings. Chair Waind noted he was not aware of some of the references made by the public speakers with regard to compliance with the Official Plan. Chair Waind noted that the building permit stage would look at drainage issues. Chair Waind noted that as a Committee in making decisions deal with applications on their own merits, and do not cause precedents within the municipality.

Jim noted that Ms. Eaton had raised an issue around drainage and the pool, and asked if Town staff when considering a permit for an in-ground pool if they address the matter of when a pool may have to be drained. Carter noted that staff do review that issue as well as drainage on the rest of the property.

Moved by: Michael Martin

Seconded by: Jim Oliver

THAT the Committee of Adjustment receive Staff Report PDS.23.008, entitled "Recommendation Report – Minor Variance A02-2023 – 91 Lakeshore Drive (Abbotts)".

Yay (4): Jim Oliver, Greg Aspin, Michael Martin, and Robert Waind

The motion is Carried (4 to 0)

Moved by: Michael Martin

Seconded by: Greg Aspin

THAT, with respect to Staff Report PDS.23.008, "Recommendation Report – Minor Variance A02-2023 – 91 Lakeshore Drive (Abbotts)", provided no other objections are received, the Committee of Adjustment GRANT a minor variance for a reduced front yard setback of 0.8 metres for the existing building and 7.8 metres for the pool storage addition, and to permit the accessory apartment to be located closer to the front lot line than the main building, subject to the following conditions:

1. That the site development be constructed in a manner substantially in accordance with the submitted site plan; and
2. That this variance to the Zoning By-law is for the purpose of obtaining a building permit and is only valid for a period of two (2) years from the date of decision. Should a building permit not be issued by the Town within two years, the variance shall expire on January 18, 2025

AND THAT the Committee of Adjustment REFUSE the minor variance request for an increase to the maximum permitted lot coverage from 30% to 31.96%.

Yay (4): Jim Oliver, Greg Aspin, Michael Martin, and Robert Waind

The motion is Carried (4 to 0)

B.3 Minor Variance Application No. A03-2023

Owner: Furse

Applicant/Agent: Tracey Tyson

Municipal Address: 161 Delphi Lane

Legal Address: PLAN 16M23 LOT 18 PT BLK 33 AND RP 16R10888 PART 3

Chair Waind read aloud the Public Meeting Notice and Planning staff also confirmed that the Public Hearing Notice was circulated in accordance with the Planning Act by pre-paid first-class mail and was posted on-site on the subject lands. The Secretary/Treasurer also provided a summary of all written comments received as a result of the Public Notice. Planning Staff then provided an overview of the review and recommendations contained in the Staff Recommendation Report.

Chair Waind then opened the public portion of the hearing and asked if anyone in attendance wished to speak to the application. As there was no one in attendance to speak in favour of or in opposition to the proposal, Chair Waind closed the public meeting.

Chair Waind asked if the pool was already in place, and Planner Nicole Schroder noted staff were not aware of that. Chair Waind asked if there was ability at the municipal level to ask for a landscaping plan at the time of issuance of the building permit for a swimming pool that might address some of the issues, including around the removal of trees. Nicole noted that they would not be able to do so at that time. Planner Carter Triana noted that with the passing of Bill 23 that municipalities can no longer require landscape plans as part of site plan approval. Manager of Planning Shawn Postma noted that landscaping plans cannot be required under a building permit. Shawn noted that a landscape plan could be added as a condition of approval for the minor variance application but if the application goes through a site plan approval process it would not be a requirement, as the details provided on landscape plans cannot be prescribed by municipality per Bill 23.

Jim noted that with respect to the section of fence on either side of the property if the property owner intends to comply with the Swimming Pool By-law regarding fence height otherwise. Nicole noted the fence starts at either side of the house where the retaining wall exists and continues until it creates a corner, protrudes into the backyard until the retaining wall stops, and that the privacy fence around the pool will contain a section of chainlink fence. Jim asked if the fencing would be a 6 or 8 foot fence all the way around the pool, which Nicole confirmed it would not be. Greg noted that if the requirement was to have a 2 metre minimum height fence around the pool, if the Swimming Pool By-law would be complied with if a 1 metre fence was placed on top of the existing stone armoring around the pool. Nicole noted that from edge of pool the height of the fencing needs to be 6 feet.

Moved by: Jim Oliver
Seconded by: Michael Martin

THAT the Committee of Adjustment receive Staff Report PDS.23.009, entitled “Recommendation Report – Minor Variance A03-2023 – 161 Delphi Lane (Furse)”.

Yay (4): Jim Oliver, Greg Aspin, Michael Martin, and Robert Waind

The motion is Carried (4 to 0)

Moved by: Michael Martin
Seconded by: Greg Aspin

THAT, with respect to Staff Report PDS.23.009, “Recommendation Report – Minor Variance A03-2023 – 161 Delphi Lane (Furse)” provided no other objections are received, the Committee of Adjustment GRANT minor variance application A03-2023, subject to the following conditions:

1. That the site development be constructed in a manner substantially in accordance with the submitted site plan; and
2. That this variance to the Zoning By-law is for the purpose of using the issued Pool Permit (No. PRPP20220001101) that is only valid for a period of two (2) years from the date of issue.

Yay (4): Jim Oliver, Greg Aspin, Michael Martin, and Robert Waind

The motion is Carried (4 to 0)

B.4 Minor Variance Application No. A04-2023

Owner: Hitchman/Petrie
Applicant/Agent: Cynthia Gibson, Hicks Design Studio Inc.
Municipal Address: 13 Alice Street East
Legal Address: TOWN PLOT PARK PT LOT 4 ALICE W/S

Chair Waind read aloud the Public Meeting Notice and Planning staff also confirmed that the Public Hearing Notice was circulated in accordance with the Planning Act by pre-paid first-class mail and was posted on-site on the subject lands. The Secretary/Treasurer also provided a summary of all written comments received as a result of the Public Notice.

Bill Hicks, agent for Item B.4., requested that his item be deferred as given the length of the discussion at Item B.1., he had another appointment to attend and would be unable to present on behalf of his client and noted that his client had approved this request to defer the subject application.

The Committee discussed deferral of the application.

Moved by: Michael Martin
Seconded by: Jim Oliver

THAT, with respect to Application A04-2023, the Committee of Adjustment grants the Applicant's request for a deferral of the hearing of the application for no more than 90 days from January 18, 2023

Yay (4): Jim Oliver, Greg Aspin, Michael Martin, and Robert Waind

The motion is Carried (4 to 0)

B.5 Minor Variance Application No. A05-2023

Owner: Wessinger

Applicant/Agent: Andrew Pascuzzo, Pascuzzo Planning Inc.

Municipal Address: 208567 Highway 26

Legal Address: Plan 377 Part Lots 6-8, RP 16R6499 Parts 1, 2, 3 & 6, RP 16R10763 Parts 2, 7 & 8

Chair Waind read aloud the Public Meeting Notice and Planning staff also confirmed that the Public Hearing Notice was circulated in accordance with the Planning Act by pre-paid first-class mail and was posted on-site on the subject lands. The Secretary/Treasurer also provided a summary of all written comments received as a result of the Public Notice. Planning Staff then provided an overview of the review and recommendations contained in the Staff Recommendation Report.

Chair Waind then opened the public portion of the hearing and asked if anyone in attendance wished to speak to the application.

Andrew Pascuzzo, the applicant's authorized agent, provided their opinion in support of the application. Andrew noted that in general there was support for the application from the neighbours. Andrew noted that the first concern one neighbour had was with respect to road access. Andrew noted that the neighbour's property gains access to Highway 26 from the same private right of way that the applicants used and the road functions appropriately for the number of individuals using it. Andrew noted that there was no reason to believe the right of way will have a reduced function as a result of the proposed structure. Andrew noted that the proposed height of the building was 7.18 metres, which was a 2.68 metre increase, and was minor as there was a significant vegetation buffer that sits in between the neighbours property and the applicant's property. Andrew noted that his client's lands has a significantly lower elevation moving towards the bay, than the neighbour's property, by at least 1 metre. Andrew noted that to mitigate the impacts of the height is the proposal of a flat roof rather than a pitched roof. Andrew noted that his clients were proposing to plant a number of coniferous trees on the west side of the new accessory building to enhance the existing buffer. Andrew noted that

another concern from the neighbour was of the large single-family residential home lots, and that the subject property proposed a higher density. Andrew noted that the existing house, proposed accessory buildings and tennis courts are permitted and comply with the lot coverages permitted in the R-1 Zone. Andrew noted that the density was not changing, as the number of dwellings on the lot would remain at one. Andrew noted that the accessory building was 487 square metres and conforms to the accessory building provisions and makes up less than 6 percent of the lot, when 10% coverage was permitted. Andrew noted that the photos submitted as part of the application that the trees extend well beyond the height allowing anyone to see the lake from neighbouring properties. Andrew noted that on the west side of the tennis court there is a wide opened grassed area, which is where the building is proposed to be located, and will be outside of any existing treed area. Andrew noted that should any of the trees need to be removed, they will be replaced with a large row of coniferous trees. Andrew noted that no additional traffic on the laneway are expected, as the recreational use is for private use only.

Brad Abbott, the architect, noted the building was originally planned with a half-basement to reduce the height, but it was discovered the water table was too high, which is why the building is proposed to be 2 storeys.

As there was no one else in attendance to speak in favour of or in opposition to the proposal, Chair Waind closed the public meeting.

Greg asked for clarification with respect to section B.2.4 of the Official Plan regarding recreational uses as it applied to the subject application, referred to in the staff report. Carter provided an overview of the section B.2.4. of the Official Plan and noted that it was staff's opinion that the use does not constitute a private recreational use. Carter noted that private recreational use are generally used for commercial uses and it was staff's understanding that this would not be a commercial use as no fees would be charged. Greg asked if the proposed recreational building was built on one floor if there would be an overage of the site coverage on the lot. Carter noted that he could do the calculations to determine if that would meet the lot coverage. Greg noted that there was an adjoining neighbour concerned about site lines and the massing of the building, and that whether the building was one or two storeys it would still exist beside them. Greg noted the proposal of the applicant was to ensure a densely populated tree line between them.

Jim noted that in reviewing the site plan attached to the Notice, that part of it was shaded dark and a lighter grey, and asked what the footprint of the building was. Carter noted that the lighter shading below the building is the shadow, and the dark grey was the footprint of the building. Jim noted he had some concerns about the height of the building as well as the proposed use. Jim noted that one of the neighbour's comments was in reference to a grandstand, and asked if that

was being proposed, and if the applicant was intending to use the site for something else in future. Carter noted that no grandstand was mentioned in the application, and that at the top of the building there is a balcony looking out over the tennis court which may have been what the neighbor was referencing as a grandstand. Jim asked with respect to the western property line if it was heavily treed. Carter noted that there were a lot of trees in the area and the setbacks for the building were met and that they were further back from the lot line than required. Jim noted that he wanted to get a sense of how much of the treed area would need to be removed in order to accommodate the structure, as during his site visit that from the edge of the tennis court to the west end was heavily treed and looked like it would need to be removed.

Chair Waind asked if Mr. Pascuzzo had a presentation to share with the Committee. Carter noted that presentations needed to be provided to Clerks in advance of the meeting but the photos referenced by Mr. Pascuzzo had been circulated to the Committee members.

Jim asked who owned the right of way on the property. Mr. Pascuzzo noted his client did not own the right of way, and was not aware if the right of way was owned by the municipality. Jim noted that planning staff had advised that they would not consider this a private recreational use, and asked why the applicant requires a 5,000 square foot building as an accessory recreational building and why it needed to be so large. Mr. Pascuzzo noted that the set of drawing submitted with the application demonstrate a number of recreational opportunities in the building, including a full size bowling alley, a squash court, a steam sauna, a home theatre, bike storage, and other storage spaces, with a deck for viewing of the tennis court on the first floor, and the second floor has a lounge with a games area, music stage, a golf simulator and a small gym and yoga area.

Moved by: Jim Oliver

Seconded by: Michael Martin

THAT the Committee of Adjustment receive Staff Report PDS.23.011, entitled "Recommendation Report – Minor Variance A05-2023 – 208567 Highway 26 (Wessinger)"

Yay (4): Jim Oliver, Greg Aspin, Michael Martin, and Robert Waind

The motion is Carried (4 to 0)

Moved by: Michael Martin

Seconded by: Greg Aspin

THAT, with respect to Staff Report PDS.23.011, "Recommendation Report – Minor Variance A05-2023 – 208567 Highway 26 (Wessinger)", provided no other

objections are received, the Committee of Adjustment GRANT minor variance application A05-2023, subject to the following conditions:

1. That the site development be constructed in a manner substantially in accordance with the submitted site plan; and
2. That this variance to the Zoning By-law is for the purpose of obtaining a building permit and is only valid for a period of two (2) years from the date of decision. Should a building permit not be issued by the Town within two years, the variance shall expire on January 18, 2025.

Yay (4): Jim Oliver, Greg Aspin, Michael Martin, and Robert Waind

The motion is Carried (4 to 0)

C. Other Business

C.1 Committee Member Expenses

D. Notice of Meeting Date

February 15, 2023

Town Hall, Council Chambers and Virtual

March 15, 2023

Town Hall, Council Chambers and Virtual

E. Adjournment

Moved by: Jim Oliver

Seconded by: Michael Martin

THAT the Committee of Adjustment does now adjourn at 4:46 p.m. to meet again at the call of the Chair.

Yay (4): Jim Oliver, Greg Aspin, Michael Martin, and Robert Waind

The motion is Carried (4 to 0)