

MINUTES OF COMMITTEE OF ADJUSTMENT

The meeting (Virtual) of 2024, the Committee of Adjustment for the Township of Uxbridge was held at 7:00 p.m. on Wednesday July 17th, 2024.

PRESENT

Michelle McCarthy – Chairperson
Frank Mazzotta
Lynn Barkey
Ken May
Ted Shepherd
Dave Barton, Mayor
Michael Klose, Chief Building Official
Jennifer Beer, Permits and Approvals Analyst
Debbie Leroux, Township of Uxbridge Clerk
Elizabeth Howson, Macaulay Shiomi Howson Ltd.
Marc Anthony Miller, Planning Technician – Secretary/Treasurer

CALL TO ORDER

The meeting was called to order at 7:00 pm.

The Chairperson asked if any of the members had a pecuniary interest in tonight's applications, none were identified.

Michelle McCarthy – Chairperson read the following:

Under the Freedom of Information and Protection of Privacy Act, unless otherwise stated in the submission, any personal information such as name, address, telephone number and property location included in all submissions become part of the public record files for this matter and can be released, if requested, to any person.

Moved by Michelle McCarthy seconded by Ken May, that the minutes of the June 12th, 2024 hearing be approved as presented.

A21/2024 – LINDSEY & KEVIN BAKER, PT LT 18 CON 3 UXBRIDGE AS IN D328014 S & E PT 2 40R21804, UXBRIDGE, REGIONAL MUNICIPALITY OF DURHAM, 374-378 Durham Region Highway 47

John McDermott was present as the applicant and representative of the owners of the property. Kevin and Lindsey Baker were present as the owners of the property.

- Michelle McCarthy summarized the application.

- John McDermott presented the application, describing the permission being requested. Mr. McDermott explained the nature of the application being presented and the purpose of the proposed use. Mr. McDermott explained the history of the site, detailing the compatibility of the proposal to the authority provided to the Committee of Adjustment pursuant to Section 45(2)(a)(ii) of the Planning Act. Mr. McDermott detailed that the existing use pre-dated Zoning By-law 81-19, rendering the current use of the property as legal non-conforming.
- Mr. McDermott indicated that upon review of the conditions detailed in Development Services Staff Report DS31-24, the applicant identified a concern with respect to the timelines outlined in the report. Mr. McDermott issued a memorandum to Development Services Staff who issued an addendum report recorded as Development Services Staff Report DS37-2024. Mr. McDermott provided staff a proposed amendment to a condition outlined in addendum report DS37-2024 prior to the Committee Meeting.
- Ms. McCarthy posed a question to Mr. McDermott regarding the intent to apply the permission being requested to a portion of the subject property.
- Mr. McDermott clarified that the balance of the lands are used for agricultural purposes and as such, conforms with the Zoning By-law. The requested permission applies to those lands that have been used for legal non-conformity purposes as of the date of application.
- Ms. McCarthy posed a question to Mr. McDermott regarding the continuation of the legal non-conforming use.
- Mr. McDermott indicated that the existing use of the site has slightly changed throughout the years of operation, however, the common elements of the use have continued to exist. Mr. McDermott also indicated that the proposed use seeks to continue those common elements of the existing use. Mr. McDermott outlined that as such, the use of the property remains legal non-conforming as it meets the requirements of the Planning Act.
- Ms. McCarthy posed a question to Mr. McDermott regarding the permission requested to include uses accessory to the proposed use.
- Mr. McDermott indicated that the intent of this permission being requested is to ensure that indicated accessory uses of offices, custom workshop and facilities for the storage of equipment and supplies will be permitted with the limitation to the Gross Floor Area of those buildings.
- Lynn Barkey posed a question to the agent regarding the date of acquisition of the property by the current owners
- Kevin Baker indicated that the property was acquired in April of 2024.

- Mr. Barkey indicated that he finds the application compatible with the previous uses of the property and that he does not find the proposed use to be detrimental to lands within the Oak Ridges Moraine Plan Area.
- Ken May commented that the current use of the site is different from the use of the site at the date of passing of the Zoning Bylaw 81-19. Mr. May indicated that he therefore finds that the application is outside of the jurisdiction of the Committee of Adjustment.
- Mr. McDermott indicated that Zoning By-law 81-19 came into effect on March 13th of 1981. Mr. McDermott indicated that he was advised by the owner of the property at that time that a Garden Nursery and Sales Establishment was in operation. Mr. McDermott stated that the use of the property at the time of passing of Bylaw 81-19 was specifically permitted in the Special Purpose Commercial Zone and not the Rural Zone.
- Mr. Baker stated that the owner of the property at the time of passing of Bylaw 81-19 indicated to him that the property was used as a Garden Nursery and Sales Establishment. Mr. Baker stated that the landscaping business was initiated while the greenhouse business continued to be operational.
- Ms. McCarthy asked if any members of the public were present to speak to the application.
- Mayor Dave Barton made comments in support of the proposal.
- Ms. McCarthy noted that comment was received from the Goodwood Cemetery Board with no objection to the application.
- Ms. McCarthy also noted that comment was received from the Durham Region Health Department with no objection to the application.
- Ms. McCarthy also noted that comment was received from the Durham Region Planning Department with no objection to the application.
- Ms. McCarthy also noted that comment was received from the Lake Simcoe Region Conservation Authority indicating that the proposal is outside of the regulated area and that they will not be providing comments on the application.
- Ms. McCarthy also noted that comment was received from the Toronto Region Conservation Authority indicating that the proposal is outside of the regulated area and that they will not be providing comments on the application.
- Marc Anthony Miller read written comment to the Committee that was received from a member of the public in support of the application.

- Ms. McCarthy asked that the applicant present the proposed amendment to the second condition outlined in the addendum report DS37-2024.
- Ms. McCarthy asked Ms. Howson if she has comments on the proposed amendment to the second condition of addendum report DS37-2024.
- Ms. Howson indicated that after a discussion with staff, there is no concern with the proposed amendment to the second condition of addendum report DS37-2024.
- Mr. McDermott indicated that the intent of the amendment to the second condition of addendum report DS37-2024 is to add clarity to the term development to ensure that it met the definition under section 41 of the Planning Act.
- Frank Mazzotta asked the agent for clarification on the application.
- Mr. McDermott clarified the intent of the proposed permission.

Written Comments

Report from Development Services – See File

Region of Durham Planning Department – See File

Region of Durham Health Department – See File

Lake Simcoe Region Conservation Authority - See File

Toronto Region Conservation Authority – See File

Goodwood Cemetery Board – See File

Resident – See File

DECISION

Moved by Moved by Lynn Barkey, Seconded by Ted Shepherd that Application A21/2024 – Lindsey & Kevin Baker, Part Lot 18 Concession 3 UXBRIDGE AS IN D328014 S & E Part 2 40R21804, UXBRIDGE, REGIONAL MUNICIPALITY OF DURHAM, 374-378 Durham Region Highway 47, Permission to provide for a use similar to the existing use and regarded as an establishment engaged in the maintenance and care of cemeteries, inclusive of the preparation of burial sites, the engraving, finishing and sale of stone monuments, the fabrication of burial vaults, and, greenhouses for the

growing of plant materials related to the preparation of burial sites and the care and maintenance of cemeteries; variance from **Section 4.1.1(c)** to allow accessory uses and activities incidental and subordinate to the proposed uses and activities, inclusive of offices, a custom workshop and facilities for the storage of equipment and supplies provided that the ground floor area of all non-residential buildings and structures associated therewith does not exceed 2,750 square metres, BE APPROVED for the following reasons:

The use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee.

Conditional upon:

1. The proposed rehabilitation of the subject lands shall be in substantial conformity with the design and location of the plans submitted with the application and will be subject to site plan approval under the *Planning Act*.
2. That prior to the issuance of a building permit for any development, as defined in Section 41 of the Planning Act, or the making of an addition to a building or structure which has the effect of substantially increasing the size or usability thereof, including the construction of the proposed maintenance facility as illustrated on Figure "C2" set out in the Land Use Planning Rationale prepared by McDermott & Associates Limited dated May 2024 in support of Application A21/2024, the Owner shall enter into a Site Plan Agreement, or an amendment to a Site Plan Agreement, with the Township.
3. The approval of the variances shall apply to the subject lands in their entirety.

CARRIED

A23/2024 – MUHAMMAD MUSA ASLAMZADA, PT LT 1 CON 1 UXBRIDGE AS IN D438895 ; UXBRIDGE, 104 UXBRIDGE-PICKERING TOWNLINE

Afsoon Enayati was present as the agent and representative of the owners of the property. Dan Aslamzada was present as the applicant.

- Michelle McCarthy summarized the application.
- Dan Aslamzada presented the application, indicating the relief requested and the intended use of the proposed building addition and accessory building.
- Ms. McCarthy posed a question to staff regarding the specific nature of the requested relief.
- Elizabeth Howson clarified that the applicant is seeking permission from section 45(1); 45(2)(a)(i); 45(2)(a)(ii) of the Planning Act.
- Ms. McCarthy posed a question to staff and the applicant regarding the continuation of the permitted use on the property.
- Ms. Howson indicated that staff were advised by the applicant that the existing garage use continues to be operational.
- Mr. Aslamzada agreed with the response from Ms. Howson and indicated that the garage is currently being renovated.
- Ms. McCarthy posed a question to staff regarding the conditions outlined in the staff report, specifically, concerning the timeline to attain a record of site condition.
- Ms. Howson indicated that the intent of the condition to obtain a record of site condition in a two year time period was to ensure that the Committee can monitor the progress of that process as an extension in time may be applied for by the applicant.
- Mr. Aslamzada requested that the condition to obtain a record of site condition be extended to Three years rather than the Two years.
- Lynn Barkey posed a question to the applicant regarding the cost to undertake the environmental clean-up of the property. Mr. Barkey indicated that he does not believe the use of the existing garage continued.
- Mr. Aslamzada indicated that he has received cost estimates for the environmental clean up of the property.
- Lynn Barkey raised concern with regard to the cost of the environmental clean up of the property.

- Mr. Aslamzada indicated that he is aware of the requirements of materials submission for a Re-Zoning application. Mr. Aslamzada also stated that he understands the cost estimate that he has received and is seeking a second opinion and further estimates. Mr. Aslamzada also indicated that the intent of the permission requested is to repair the existing dwelling.
- Ms. Howson indicated that the Chief Building Official could respond to the question regarding repairing the dwelling regardless of the decision made by the Committee to permit the extension of the legal non-conforming use.
- Ms. McCarthy posed a question to the Chief Building Official regarding the repairs that are presently needed to the existing dwelling and the impact of those repairs on the permission being requested.
- Michael Klose stated that the damage to the existing dwelling can be repaired without any variance approval provided that the repairs do not increase the volume, height and size of the dwelling. Mr. Klose indicated that the applicant can apply for a building permit to repair the building provided it does not infringe on these requirements.
- Frank Mazzotta proposed that the Committee consider conditions to resolve the issue of site contamination a prior to the consideration of the expansion of the legal non-conforming use and building on the property.
- Ms. Howson indicated that the Development Services Staff Report recommends approval of the variances conditional on the submission of a record of site condition and its acceptance by the Province of Ontario.
- Ms. McCarthy asked if any members of the public were present to speak to the application.
- Andrew Risk of 106 Uxbridge-Pickering Townline, Uxbridge raised concerns to the Committee regarding the application. Mr. Risk spoke to the history of the site and the contamination on the property. Mr. Risk indicated that he has concerns with the watershed and the potential for contamination of neighboring property as a result of the variance.
- Ms. McCarthy indicated that a letter of opposition was received from the neighboring property owner to the east of the subject site.
- Ms. McCarthy also noted that comment was received from the Durham Region Health Department indicating that the application was reviewed by the department however, they are unable to support the application without further information.
- Ken May posed a question regarding the concerns raised by the Durham Region Health Department.

- Ms. McCarthy restated the comments received from the Durham Region Health Department.
- Mr. May indicated that further to comments from the applicant, the relief sought pursuant to Section 45(1) of the Planning Act for this application is to accommodate a larger area for a future septic field.
- Ms. McCarthy posed a question to staff regarding the potential for a conflict between the available size to support a septic system on the property during a building permit stage and variances approved by the Committee.
- Ms. Howson indicated that should a future septic system be unable to fit on the property to provide for private servicing for approved buildings and structures, this may be determined to inhibit the construction of the buildings and structures contemplated in this application.
- Afsoon Enayati indicated that a septic designer and builder was engaged by the applicant and owner to obtain advise on the space available to support a septic. Ms. Enayati indicated that a smaller septic bed and tank may be able to be oriented to fit on the property,
- Ms. McCarthy clarified with the applicant if the existing septic system is intended to be decommissioned and a new septic system be implemented.
- Ms. Enayati indicated that the engaged septic designer and builder indicated that a geo-technical report can be conducted to assess the soil of the property to determine if a smaller septic system may support the proposed structures. Ms. Enayati indicated that the intent is to decommission the existing septic system to accommodate a new, proposed septic system.
- Michael Klose indicated that there are methods used to reduce the size required for septic systems. Mr. Klose stated that a building permit will not be issued unless an approved septic design is presented and a septic permit from the Region of Durham Health Department.
- Mr. Aslamzada posed a question to the Committee regarding permission to make alterations to the height of the existing dwelling.
- Ms. McCarthy indicated that comments from the Chief Building Official indicated that repairs to the damaged roof of the existing house can be undertaken provided that the repairs do not increase the volume, height and size of the dwelling.

Written Comments

Report from Development Services – See File

Region of Durham Health Department – See File

Resident – See File

DECISION

Moved by KEN MAY, Seconded by TED SHEPHERD that Application A23/2024- Muhammad Musa Aslamzada, PT LT 1 CON 1 UXBRIDGE AS IN D438895 ; UXBRIDGE, 104 Uxbridge-Pickering Townline, Variance to Section **4.14.1(c)** to allow accessory uses and activities incidental and subordinate to the proposed uses and activities, including a detached garage provided that the Gross Floor Area of structures associated therewith does not exceed **83.31** square meters; Relief from **Section 5.1(h)(iii)** to permit a Rear Yard Depth of **1.2m** and an Interior Side Yard Depth of **1.2m** of an accessory building. **Section 5.1(h)(iii)** requires that accessory buildings in Commercial and Industrial zones be setback **3m** from the interior side or rear lot line; Permission from the Committee of Adjustment to allow for the enlargement of the existing building associated with the legal non-conforming use, BE APPROVED for the following reasons:

The enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed

AND THAT

The use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee.

AND THAT

1. The application is minor in nature.
2. The development of the land is appropriate and desirable.
3. The intent of the Zoning By-law is being maintained.
4. The intent of the Official Plan is being maintained.

Conditional upon:

1. The approval of any variances on the subject lands shall be condition of the submission of a Record of Site Condition to, and its acceptance by, the Province of Ontario.
2. The owner/applicant shall obtain a building permit application for the proposed development within three years of the final date of appeal of A23/2024.
3. The owner / applicant shall satisfy all conditions of this approval no later than two years from the end of the of the appeal period established under the Planning Act.
4. The approval of the variances shall apply to the subject lands in their entirety.

CARRIED

A24/2024– MARY & BRAD HEWTON, PT W 1/2 LT 16 CON 3 UXBRIDGE PT 2, 40RD55 ; UXBRIDGE, 17 TINDALL LANE

Mary & Brad Hewton were present as the owner of the property. Andrew Hewton was present as the applicant

- Michelle McCarthy summarized the application and the variances being requested as part of the application.
- Mary and Andrew Hewton indicated that they have nothing further to add to introduce the application.
- Ms. McCarthy also noted that comment was received from the Durham Region Health Department with no objection to the application.
- Andrew Hewton indicated that they have not had an opportunity to review the conditions as outlined in the Development Services Staff Report.
- Ms. McCarthy read the conditions as indicated by the Development Services Staff Report DS34-24.

- Brad Hewton posed a question to the Committee regarding the time to obtain a building permit.
- Ms. McCarthy indicated that a building permit can be applied for at any time should the application be approved however, issuance of a permit would be subject to the 20 days appeal period for the application.

Written Comments

Report from Development Services – See File

Region of Durham Health Department – See File

DECISION

Moved by Frank Mazzotta, Seconded by Lynn Barkey that Application A24/2024 – Mary & Brad Hewton - Part W 1/2 LT 16 Concession 3 UXBRIDGE Part 2, 40RD55 ; UXBRIDGE, 17 Tindall Lane Relief from **Section 5.1(d)** for total gross floor area of all accessory buildings of **60m²** to permit the total gross floor area of all accessory buildings of **128.81m²** for a variance of **68.81 m²**, BE APPROVED for the following reasons:

1. **The application is minor in nature.**
2. **The development of the land is appropriate and desirable.**
3. **The intent of the Zoning By-law is being maintained.**
4. **The intent of the Official Plan is being maintained.**

Conditional upon:

1. The proposed Accessory Structure in the rear yard under the approval of Application A24/2024 shall be in substantial conformity with the design & location of the plans submitted with the application.
2. The owner/applicant shall obtain a building permit application within one year of the final date of appeal of A24/2024.
3. The owner/applicant shall satisfy all conditions of the variance no later than one year from the end of the of the appeal period established under the Planning Act.
4. The approval of the variances shall apply only to the areas contemplated under Application A24/2024.

CARRIED

Other business

HEARING OF AN ADDITIONAL APPLICATION

Marc Anthony Miller indicated that pursuant to the Procedural By-law of the Committee of Adjustment, Section 6.1.3 permits the Secretary Treasurer to entertain additional applications should the circumstances warrant. Mr. Miller indicated that, given the volume of applications at the next meeting, an additional application may form the agenda.

Lynn Barkey posed a question to Mr. Miller regarding the nature of the additional application.

Mr. Miller indicated the nature of the applications heard.

Members of Committee indicated no concern with hearing an additional application during the next Committee of Adjustment Meeting.

ADJOURNMENT

The meeting adjourned at 8:35 pm

Frank Mazzotta

Marc Anthony Miller

Frank Mazzotta, Vice-Chair

Marc Anthony Miller, Planning
Technician