

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 April 17th, 2024.

PRESENT

Michelle McCarthy – Chair
Frank Mazzotta
Lynn Barkey
Anthony Woodruff
Ken May
Kyle Rainbow, Director of Development Services
AJ Singh, 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 Lynn Barkey, seconded by Frank Mazzotta, that the minutes of the March 13th, 2024 hearing be approved as presented.

A8/2024 – Paul and Kelly Meek, LT 5, PL 798, 57 Wagner Road

Paul and Kelly Meek were present as the applicants and owners of the property.

- Michelle McCarthy summarized the application.
- Kelly Meek presented the application, stating the intended use of the addition.
- Michelle McCarthy commented that the architectural plans as submitted by the applicant suggest that the addition may be used as an additional dwelling unit although the labels on the architectural plans suggest that it is not. Michelle McCarthy confirmed that the committee will hear the variances as presented.
- Lynn Barkey posed a question to Kyle Rainbow and AJ Singh regarding the current GFA of the existing building.

- AJ Singh clarified that the current building exceeds the maximum allowed in the Zoning Bylaw. The plans submission as part of the Minor Variance application identifies the current building area as 10sqm larger than permitted.
- Frank Mazzotta commented that the architectural plans as submitted by the applicant suggest that the addition resembles additional dwelling unit though the labels on the architectural plans suggest that it is not. Frank Mazzotta confirmed that the committee will hear the variances as presented.
- Steve and Marie Persaud of 52 Wagners road posed a question to the Committee regarding the indicated use of the proposed addition and the labels as indicated on the submitted plans.
- Ms. McCarthy responded, stating that a proposal for an additional dwelling unit would require a Zoning Bylaw amendment per Township policy and that the proposal as presented to the committee does not suggest habitable living space.
- Kyle Rainbow added that as the applicants have indicated the intended use of the structure, which is permitted per the Zoning Bylaw, there is no indication of a different use given the submitted materials. Furthermore, should the use of the proposed addition change to a use not permitted, this would be in violation of the Bylaw and warrant enforcement.
- Ms. McCarthy reported that a comment was received from an adjacent landowner at 55 Wagners road submitted in support of the proposed variance.
- Ms. McCarthy noted that comment was received from the Durham Region Health Department indicating no objection to the proposed variance.
- Ms. McCarthy also noted that comment was received from the Fire Department indicating no objection to the proposed variance.
- The applicant indicated that they have read the staff report and the conditions as outlined in the report.

Written Comments

Adjacent Land Owner – See File

Durham Region Health Department – See File

Report from Development Services – See File

Fire Department – See File

DECISION

Moved by Anthony Woodruff, Seconded by Frank Mazzotta that Application A8/2024-Paul and Kelly Meek, LT 5, PL 798, 57 Wagner Road, Relief from Section **5.1.d.** a maximum gross floor area of **162.2 sqm** and a height of **5.26 m** for a variance of **102.2 sqm** and **0.26m**, respectively, 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 loft over the detached garage under the approval of Application A8/2024 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 A8/2024.
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 A8/2024.
5. The detached garage and proposed loft are intended solely for ancillary purposes and shall not be converted into habitable living space.

CARRIED

A9/2024 – Colin and Nancy Graham, NE1/4 LT 19 CON 6, 4766 Concession Road 7

Colin and Nancy Graham were present as the applicants and owners of the property.

- Michelle McCarthy summarized the application.
- Nancy Graham presented the application, summarizing the history and use of the site and the variance being requested.

- Michelle McCarthy commented on the proposed variance stating that due to the temporal limit placed on the original Minor Variance Approval by the Committee of Adjustment, which was furthermore upheld by the Ontario Municipal Board, the intent was that the use did not continue in perpetuity. Therefore, the use is not in keeping with the Zoning Bylaw as a Home Occupation and should not therefore be considered for Minor Variance approval.
- Ken May posed a question to Ms. McCarthy regarding the decision made by the Ontario Municipal Board.
- Ms. McCarthy clarified, stating that the decision made by the Ontario Municipal Board upheld the decision of the Committee of Adjustment and did not change the conditions.
- Frank Mazzotta stated that the variances as presented appear to be outside of the scope of the Committee. Frank Mazzotta also posed a question to staff regarding consideration of policies of the Ontario Cemeteries Act.
- Kyle Rainbow responded stating that should the Committee require a review of the Ontario Cemeteries Act to provide guidance for the decision staff can provide that information at a later date.
- Lynn Barkey stated that a rezoning application may be more appropriate considering the nature of the relief requested.
- Anthony Woodruff posed a question to the applicant regarding the use and equipment contained in the accessory building. And, if the Fire Department had any comment on the application.
- Nancy Graham responded stating that the contents of the accessory building are used for the pet crematorium.
- Michelle McCarthy responded that the Fire Department responded with no objection to the application.
- Ken May stated that, per the decision of the Ontario Municipal Board, the equipment located within the accessory building was approved by the Ministry of Environment.
- Michelle McCarthy clarified that the variance as presented to the Committee is not in keeping with the general intent and purpose of the Zoning Bylaw. And therefore, does not satisfy all four tests of a minor variance as required by the Planning Act.
- Nancy Graham posed a question to Kyle Rainbow regarding remarks made by the Township of Uxbridge Solicitor with regards to the legality of the conditions imposed.

- Kyle Rainbow responded, stating that in conversation with the Township Solicitor, the Committee of Adjustment has no authority to overturn the Ontario Municipal Board Decision. Furthermore, the Township Solicitor indicated that any future condition placed requiring lapsing approval upon the sale of property would not be legally enforceable as the approvals are tied to the property and not the property owner. The Township Solicitor recommended that should the property owner seek to remove the condition that a minor variance would be required again.
- Tanya Alexander of 661 Wagg Rd, Uxbridge posed a question regarding the nature of the application. Furthermore, Ms. Alexander stated that she can smell an odour on some days at 661 Wagg Rd, that is believed to have originated from the applicant's property.
- Michelle McCarthy clarified the nature of the application and the variances being requested.
- Colin Graham stated that the crematorium is designed to eliminate odour and smoke and that he has never noticed an odour originating from the crematorium on his property. Mr. Graham also stated that there is no reference to animal cremation in the Ontario Funeral, Burial and Cremation Services Act.
- The applicant indicated that they have read the staff report and the conditions as outlined in the report.
- Ken May brought forth a motion to approve the application.
- Frank Mazzotta proposed to table the application.
- Anthony Woodruff proposed a motion that the request before the committee be tabled and refer the application to staff for further information relative to discussions brought forth in this meeting and report back to the Committee in a future meeting with relevant information.
- Ken May commented on the application stating that the variance applies to an accessory building that contains the crematorium unit and, the cessation of use condition previously imposed by the Committee. Mr. May raised concern with the legality of existing accessory buildings being utilized for home occupation across the Township. Mr. May stated that the use was previously approved by the Ontario Municipal Board and the Committee of Adjustment.
- The motion to table the application was voted in favour by Anthony Woodruff, Lynn Barkey and Frank Mazzotta. The motion to table the application was not voted in favour by Michelle McCarthy and Ken May.

Written Comments

Report from Development Services – See File

Durham Region Health Department – See File

Fire Department – See File

DECISION: Moved by Anthony Woodruff, Seconded by Lynn Barkey that Application A9/2024- Colin Graham and Nancy Graham, NE1/4 LT 19 CON 6, 13209 Regional Road 39, Relief from Section 5.10. to allow the continuation of the home occupation use in an accessory building and to remove the "Cease upon Sale" clause, BE TABLED for the following reasons:

1. **The committee needs further clarification from staff.**

CARRIED

A10/2024 – Roberto and Tracey Lamanna, PCL 36-1 SEC 40M1589; LT 36 PL 40M1589, 50 Mill Run Gate

Roberto and Tracey Lamanna were present as the applicants and owners of the property.

- Michelle McCarthy summarized the application.
- Roberto Lamanna presented the application, summarizing the use of the proposed building and the variance being requested.
- Lynn Barkey posed a question to the applicant regarding the gross floor area of the proposed building.
- Roberto Lamanna clarified the area of the proposed building.
- Aj Singh commented on the lot area covered by accessory buildings and that the new accessory building will add to the cumulative Gross Floor Area of accessory buildings.
- Ms. McCarthy noted that comment was received from the Durham Region Health Department indicating no objection to the proposed variance.
- Ms. McCarthy also noted that comment was received from the Fire Department indicating no objection to the proposed variance.
- The applicant indicated that they have read the staff report and understand the conditions as outlined in the report.

Written Comments

Report from Development Services – See File

Durham Region Health Department – See File

Fire Department – See File

DECISION: Moved by Lynn Barkey, Seconded by Frank Mazzotta that Application A10/2024- Roberto Lamanna and Tracey Lamanna, PCL 36-1 SEC 40M1589; LT 36 PL 40M1589, 50 Mill Run Gate, Relief from Section 5.1.d to permit maximum lot coverage of 161.5 sqm for a variance of 101.5 sqm, 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 detached garage in the rear yard under the approval of Application A10/2024 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 within one year of the final date of appeal of A10/2024.
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 A10/2024.
5. The accessory building is intended solely for ancillary purposes such as storage, garage, and shall not be converted into habitable living space.

CARRIED

A11/2024 – Randy and Dolores Matthys, PART BLOCK 6, PLAN 40M2669 DESIGNATED AS PARTS 24 & 25, 40R31475, 23 Ballinger Way

Abby Steele was present as the agent and representative of the owners of the property. Randy and Dolores Matthys were present as the owners of the property.

- Michelle McCarthy summarized the application.
- Abby Steele presented the application, summarizing the variance and relief being requested.
- Lynn Barkey commented that during a site visit, no notice sign was visibly posted at the front of the property.
- Aj Singh provided a picture of the posted sign to the Committee from the applicant.
- Ms. McCarthy reported that a comment was received from an adjacent landowner at 13 Ballinger Way with no objection to the proposed variance.
- Ms. McCarthy also noted that comment was received from the Fire Department indicating no objection to the proposed variance.
- The applicant indicated that they have read the staff report and the conditions as outlined in the report.

Written Comments

Report from Development Services – See File

Adjacent Land Owner – See File

Fire Department – See File

DECISION: Moved by Ken May, Seconded by Lynn Barkey that Application A11/2024-Randy Matthys and Dolores Matthys, PART BLOCK 6, PLAN 40M2669 DESIGNATED AS PARTS 24 & 25, 40R31475, 23 Ballinger Way, Relief from Section 4.17B v. to permit a Rear Yard Depth of 6.89 m for a variance of 2.61 m, 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 raised deck under the approval of Application A11/2024 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 A11/2024.
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 raised deck contemplated under Application A11/2024.

CARRIED

A12/2024 – Kenneth Matson and Alison McKeown, PT LT 27 CON 3, SCOTT, AS IN D450823, 13209 Regional Road 39

Kenneth Matson was present as the applicants and owners of the property.

- Michelle McCarthy summarized the application.
- Kenneth Matson presented the application, summarizing the variance and relief being requested.
- Lynn Barkey posed a question to staff regarding the history of the variance and why a building permit was issued prior to a minor variance.
- AJ Singh responded, stating that the initial building permit was submitted for a garage and was later amended by the applicant to include a loft. Township staff advised the applicant that a Minor Variance would be required to allow for the addition of a loft.
- Sylvia Quercia of 2 Horner Court, Uxbridge, a neighbour of the property, raised concerns with the proposed building subject to the Minor Variance. Further concerns were raised regarding the potential for an additional dwelling unit as part of the proposed garage.
- Kenneth Matson responded that the process of applying for a building permit was undertaken in accordance with the Township process. Furthermore, the proposed loft will be used for storage purposes only.
- Kyle Rainbow summarized the correspondence between Township Staff and Ms. Quercia with respect to her concerns for the proposed garage.
- Ms. Quercia raised concerns with the proposed second floor.

- Mr. Matson indicated that the loft was not constructed until the final inspection occurred in which case, Mr. Matson was advised by Township staff that a Minor Variance would be required for the addition of the loft.
- Lynn Barkey posed a question to Kyle Rainbow regarding the exterior design and size of the proposed garage.
- Kyle Rainbow indicated, per the correspondence received from the Chief Building Official, that the building footprint and elevations are in accordance with the submitted and approved drawings.
- Ms. McCarthy noted that comment was received from the Fire Department indicating no objection to the proposed variance.
- Ms. McCarthy also noted that comment was received from the Durham Region Health indicating no objection to the proposed variance.
- The applicant indicated that they have read the staff report and the conditions as outlined in the report.

Written Comments

Report from Development Services – See File

Durham Region Health – See File

Fire Department – See File

DECISION: Moved by Lynn Barkey, Seconded by Anthony Woodruff that Application A12/2024- Kenneth Matson and Alison McKeown, PT LT 27 CON 3, SCOTT, AS IN D450823, 13209 Regional Road 39, Relief from Section 5.1.d to permit maximum lot coverage of 109.3 sqm for a variance of 49.3 sqm, 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 detached garage in the rear yard under the approval of Application A12/2024 shall be in substantial conformity with the design & location of the plans submitted with the application.
2. The owner/applicant shall demonstrate that the existing detached garage has been demolished prior to this approval being final, or shall enter into an Development Agreement which includes a requirement to demolish the Accessory Structure following final inspection of the proposed Accessory Structure.
3. The owner/applicant shall obtain a building permit application within one year of the final date of appeal of A12/2024.
4. 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.
5. The approval of the variances shall apply only to the areas contemplated under Application A12/2024.
6. The detached garage and proposed loft are intended solely for ancillary purposes and shall not be converted into habitable living space.

CARRIED

Other business

Final Meeting of the Secretary Treasurer

Kyle Rainbow informed the Committee that Aj Singh has accepted a position of employment in another area municipality and will no longer be Secretary Treasurer of the Committee of Adjustment.

ADJOURNMENT

The meeting adjourned at 8:45 pm

Michelle McCarthy

Michelle McCarthy

Marc Anthony Miller

Marc Anthony Miller, Planning
Technician