



**CITY OF ORILLIA
COMMITTEE OF ADJUSTMENT MINUTES**

**MINUTES OF THE MEETING OF THE COMMITTEE OF ADJUSTMENT,
WEDNESDAY, APRIL 21, 2021 AT 9:15 A.M. – ELECTRONIC HEARING**

Present:

Joe Fecht – Chair
Richard Bates – Committee Member
Ted Southorn – Committee Member

Also Present:

Susan Votour – Secretary-Treasurer
Jeff Duggan – Senior Planner
Ali Chapple – Intermediate Planner
Shania Wonfor – Planning Administrator
Lorrie Jackson – Administrative Assistant

Introduction by Secretary-Treasurer

The Secretary-Treasurer advised those present of the following:

- Due to the current emergency situation, this meeting of the Committee of Adjustment is being held in an electronic format
- The Notices of Hearing that were circulated with respect to the applications being heard at the meeting contained the statements required under Section 5.2 of the *Statutory Power Procedures Act* regarding electronic hearings.
- As of the morning of April 21, 2021, the Secretary-Treasurer has not received any submission from any party claiming that the holding of the hearings in an electronic format will cause them significant prejudice and therefore the Committee has no such submissions to consider prior to proceeding with the hearing of the applications.

The Secretary-Treasurer confirmed that the Chair, Committee Members and the Senior Planner had successfully joined the electronic hearing.

Call to Order

The meeting was called to order at approximately 9:15 a.m.

Approval of Agenda

Moved by Richard Bates, seconded by Ted Southorn:

THAT the agenda for the April 21, 2021 meeting of the Committee of Adjustment is approved.

Carried.

Disclosure of Interest

None

Minutes

Moved by Ted Southorn, seconded by Richard Bates:
THAT the minutes of the following meeting be adopted:

- March 17, 2021

Carried.

Welcome to Attendees and Explanation of Procedures

The Chair welcomed those in attendance and explained the meeting procedures and the appeal process.

Applications

a) Application for Consent B4/21 (St. Germain Estate) – 145 Atlantis Drive

The Secretary-Treasurer outlined the application and reported on correspondence received.

Proposal

An application has been made by THE ESTATE OF GEORGE ST. GERMAIN for consent under File Number B4/21 to sever property municipally known as 145 Atlantis Drive (Orillia)/1005 Atlantis Drive (Oro-Medonte) for purposes of a lot addition to the adjoining property municipally known as 3150 Bass Lake Sideroad East (Orillia).

The applicant proposes to sever a portion of the subject property at 145 Atlantis Drive, Orillia, having area of approximately 176.30 m²/1900.00 ft² to be added as a lot addition to the adjoining property at 3150 Bass Lake Sideroad East, Orillia. The purpose of the lot addition is to allow the adjoining owner to legally access the rear yard of 3150 Bass Lake Sideroad East (Orillia) from Bass Lake Sideroad East since otherwise due to the location of the Main Building on 3150 Bass Lake Sideroad East the rear yard of that property would not be legally accessible from the road.

Notwithstanding that the subject property crosses the municipal boundary between the City of Orillia and the Township of Oro-Medonte, since the proposed lot addition lands are located entirely within the boundaries of the City of Orillia, the Township of Oro-Medonte has advised that no Consent application is required to be brought in the Township, but that the Township wished to be circulated for comment on this application.

The subject property is located within the “Living Area – Stable Neighbourhood” designation of the Orillia Official Plan and is zoned “Open Space One” (OS1) under City of Orillia Zoning By-law 2014-44.

Comments from the Public

None.

Staff Report:

Susan Votour, Planning Coordinator/Secretary-Treasurer and Jeff Duggan, Senior Planner.

Comments from Departments/Agencies

Orillia Power

No concerns.

TransCanada Pipeline

Requested that a condition requiring an Agreement in favour of TransCanada Pipeline Limited be registered on title to the lot addition lands at the expense of the applicant, as set out in a letter from MHBC Planning (agent for TransCanada Pipeline Limited) dated April 16, 2021.

Township of Oro-Medonte

Township Staff have reviewed Consent Application B4-21 and have no concerns with the proposed application as the lands subject to the lot addition are entirely within the boundaries of the City of Orillia. Please send us a copy of the Notice of Decision.

Applicant's Comments:

Steve St. Germain, the applicant and authorized representative of the Estate of George St. Germain, had joined the electronic hearing but was unable to participate due to technical issues. Blake Burgie of 3150 Bass Lake Sideroad East, the intended recipient of the lot addition, was present. Mr. Burgie indicated that he was aware of the recommended conditions of provisional approval and was in agreement with them.

Public Comments (at meeting):

None.

Committee Comments:

- Committee asked for confirmation as to what was being severed. The Secretary-Treasurer confirmed that it was only a small sliver that was being severed.
- Committee asked if the new lot will require a new survey. The Secretary-Treasurer advised that it will not, as a reference plan has already been drafted. If the consent is approved, the plan will be registered together with an application to consolidate the severed land with 3150 Bass Lake Sideroad East which will be registered on title.
- Committee asked if the applicant was agreeable with the conditions being recommended for provisional approval. No communication was received from the applicant during the meeting. The Secretary-Treasurer indicated that she had spoken with the applicant on April 20, 2021 and at that time he had reviewed the staff report and had no concerns regarding the proposed conditions.

The Committee granted provisional approval of the severance of property known municipally as 145 Atlantis Drive, as follows:

THAT: Consent is provisionally granted with respect to a lot addition of approximately 176.30 m²/1900.00 ft² of land from the property municipally known as 145 Atlantis Drive to the adjoining property municipally known as 3150 Bass Lake Sideroad East.

The resultant properties would be as follows*:

Lot	Frontage	Area
145 Atlantis Drive	24.35 m (79.89 ft)	3123.7 m ² (0.77 acre)
3150 Bass Lake Sideroad East	57.74 m (189.43 ft)	1578.27 m ² (0.39 acre)

* Note: Measurements are approximate, exact measurements to be determined by Ontario Land Surveyor.

REASONS: The application conforms with the requirements of the City of Orillia Zoning By-law and the City of Orillia Official Plan and satisfies the requirements of all commenting agencies.

SUBJECT TO THE FOLLOWING CONDITIONS:

Pursuant to Subsection 53(41) of the *Planning Act*, R.S.O. 1990, Chapter P.13, as amended, all conditions imposed must be fulfilled within one year from the date of the sending of the Notice of Decision or the application is deemed to be refused.

It is a requirement that all conditions imposed be fulfilled prior to the granting of this consent and the giving by the Secretary-Treasurer of the certificate provided for in Subsection 53(42) of the *Planning Act*, R.S.O. 1990, Chapter P.13, as amended.

1. That the applicant submit to the Secretary/Treasurer of the Committee of Adjustment:
 - a. One (1) copy of a draft Reference Plan prepared by an Ontario Land Surveyor, identifying the lot addition parcel. Upon review and approval of the draft Reference Plan by the Secretary-Treasurer, one copy of the registered reference plan shall be provided to the City.
 - b. One (1) copy of the electronic registration “in preparation” draft Transfer for the severed lot shall be provided to the Secretary/Treasurer of the Committee of Adjustment together with a signed Acknowledgement and Direction so that the consent certificate may be issued.
2. That the applicants shall pay:
 - a. the required Severance Review Fee (\$75.00) as approved by City Council.
 - b. the required fees for approval of the documents by the Secretary/Treasurer, as approved by City Council.
3. That the applicant shall be required to enter into an Agreement with TransCanada Pipelines Limited, such Agreement to be registered on title to the Severed Lands prior to transfer to the abutting landowner, incorporating the terms and conditions as set out in a letter to the City of Orillia from MHBC Planning dated April 16, 2021 attached to this Decision, with costs of preparation and registration of the Agreement to be at the applicant’s expense.
4. That, immediately following registration of the Transfer of the lot addition lands, the applicant shall register an Application to Consolidate Parcels in order to include the lot addition with the abutting lands municipally known as 3150 Bass

Lake Sideroad East. The Secretary-Treasurer shall accept, in satisfaction of this condition, an Undertaking from an Ontario solicitor in good standing to effect the registration.

5. All conditions of provisional consent shall be fulfilled within one (1) year from the date of the giving of notice of provisional consent, in accordance with Subsection 53(41) of the Planning Act.
6. The full cost of the electrical services and any relocation of any OPDC owned poles, wires or other equipment that may be required is the sole responsibility of the property owner/developer.
7. Section 50(3) of the *Planning Act*, R.S.O. 1990, c. P.13 shall apply to all future transactions with respect to the property.

EFFECT OF PUBLIC INPUT:

In making this Decision, the Committee of Adjustment had regard for all public input received through written and verbal submissions prior to the conclusion of the Public Hearing held on April 21, 2021.

b) Application for Minor Variance A5/21 (Chayko) – 661 Broadview Avenue

The Secretary-Treasurer outlined the application and reported on correspondence received.

Proposal

An application has been made by Richard and Sharon Chayko for Minor Variance under File Number A5/21.

The applicants propose to construct a carport as an addition onto the existing Single Detached Dwelling at 661 Broadview Avenue. The carport is proposed to be located 0.30 m (1.0 ft) from the Interior Side Lot Line whereas the Zoning By-law requires an Interior Side Yard of 1.20 m (3.94 ft) in the Residential One Zone.

The applicants have requested the following variance from the provisions of Zoning By-law 2014-44, as amended:

Section	Requirement	Proposed	Variance
Section 7.4, Table 7.2, Zone Provisions for Residential Zones	Minimum Interior Side Yard in R1 Zone – 1.20 m (3.94 ft)	Minimum Interior Side Yard in R1 Zone – 0.30 m (1.00 ft)	Reduction of Interior Side Yard by 0.90 m (2.95 ft)

The subject property is located within the “Living Area – Stable Neighbourhood” designation of the City’s Official Plan.

Comments from the Public

The following public comments were received. These comments were forwarded to the Committee members and the applicant.

Linda and Doug Albright – 628 Moberley Avenue – support
Donna Drew – 656 Broadview Avenue – support
James and Carol Brooker – 657 Broadview Avenue – objection
John and Jean Watkins – 653 Broadview Avenue - support

Comments from Departments/Agencies

City of Orillia Engineering Division

A detailed lot grading plan prepared by a Consulting Engineer or an Ontario Land Surveyor knowledgeable in such matters may be required prior to issuance of a building permit. A lot grading deposit of \$750 may be required, \$145 of which is non-refundable.

Engineering has reviewed the turning radius information supplied by the applicant and has no issue with the proposal.

Chief Building Official

Generally, a carport involves a roof and some posts for support but sometimes the side is supported by a wall. Any wall located closer than 0.6m to a property line will need to be constructed with a 45min Fire Resistance Rating, clad with a non-combustible finish and is not permitted to have any openings for windows and doors.

If just posts are used for support then no special construction is required.

Orillia Power

No comments or concerns.

Staff Report:

Susan Votour, Planning Coordinator/Secretary-Treasurer and Ali Chapple, Intermediate Planner.

Applicant's Comments:

Richard Chayko, the Applicant, was present. Mr. Chayko provided the following comments:

- Mr. Chayko has resided at 661 Broadview Avenue for 22 years.
- Because of the turning radius, only one car can be parked in the garage. The carport would allow for another vehicle to be parked in the driveway but out of the elements.
- The carport will be a shingled wood structure which he does not intend to enclose.
- According to a consultant, there would be no financial impact to the value of his property or neighbouring properties.
- With respect to runoff, he believes that underground springs that are already present cause sump pumps to run at many properties in that area, more so than runoff.

- He believes that runoff from the rear section of the proposed carport roof would run towards the canal and that runoff from the front section of the roof would flow toward the street.
- The Brooker's property he believes was built below grade. Adding a roof over the paved area of his driveway adjacent to the Brookers would actually redirect the runoff, which he has calculated as 4 and 6 gallons of water per hour which would be redirected, with clay absorption already affecting runoff.
- He is also aware of a French Drain on the Brookers property that may affect their sump pump due to obstruction of the outlet to the canal.
- Despite the reduced setback, construction and repairs to the carport can be completed entirely from his property in a number of different ways, including by use of crane, forklift, bosun's chair, or pumpjacks so that he would not have to access the structure by trespassing onto the Brooker's property.
- Believes the garage entrance was not properly designed and he is trying to rectify the situation with the carport.
- He had considered erecting an accessory structure in the rear yard as an alternative, however he abandoned that idea as he does not feel that an accessory structure is acceptable as it would cause a significant reduction of his neighbour's visibility of the canal.
- He also investigated whether the garage could be reconfigured such that the doors faced the road, however found this option to be very expensive, and if reconfigured in this way, the garage would not be deep enough for the parking of vehicles.

Public Comments (at meeting):

Ted Markle, representative for James and Carol Brooker of 657 Broadview Avenue, the neighbouring property, was present and indicated that James and Carol Brooker object to the Application for the following reasons:

- The negative impact on the curb appeal and property value of their home if the carport is allowed, given its planned close proximity.
- Real Estate Agents were consulted and they were told that close proximity of structures between lots negatively affects curb appeal and property value.
- Their sump pump is on the side of the property adjacent to the applicants and they are concerned that there will be increased runoff.
- The application does not include facts, only assumptions that the Brookers should not have to accept the risk for.
- The garage in question has met the needs of the owners in years past.
- City setback regulations should be respected.
- They believe that the measures described by the applicant to maintain the carport entirely from the applicant's property are beyond reasonable.

Committee Comments:

- Committee asked if a Site Plan would be required through which Engineering could review issues like storm water runoff. The Secretary-Treasurer advised that the Engineering Division had commented that an engineered lot grading and drainage plan, together with a lot grading deposit, may be required at the building permit stage, in accordance with standard City practice.

- Committee does not consider the effect on property values when making a decision on a minor variance application.
- Committee asked who owned the opaque fence. Mr. Chayko confirmed that it belongs to the Brookers, installed in the Fall of 2020.
- Committee asked for clarification on turning radius. The Applicant advised that his research indicated that 19 feet 2 inches is required for turning radius to park in garage. Committee commented that the current driveway encroaches (according to the 1989 Kitchen Survey) onto the Brooker's property currently giving a wider turning radius.
- Committee asked for clarification regarding the petition that was included in the package supplied to the Committee members. Mr. Chayko advised that it was circulated in the Fall of 2020. He spoke to Mr. Brooker then about his intentions and acquired his signature on the petition at that time.
- Committee asked for clarification of run off. Mr. Chayko advised that it currently runs from his paved driveway towards the Brookers. The peaked roof of the proposed carport would redirect this runoff to the front and back of his property.
- Committee asked Mr. Markle how long the Brooker's have lived there. Mr. Markle believes the Brooker's have lived there 12-15 years.
- Committee asked if Mr. Markle was aware of any drainage coming from Mr. Chayko's property onto the Brooker's property. He was not.
- Committee asked for clarification of Mr. Brooker's signing of the petition last Fall in agreement to the carport. Mr. Markle advised that Mr. Brooker has health issues and that in Mr. Markle's opinion he should not have been approached to sign the petition due to these health issues.
- Committee asked for clarification regarding condition #4 for requiring that the part of the carport facing 657 Broadview Avenue shall be finished with low-maintenance materials. Mr. Chayko confirmed that he is proposing vinyl siding that resembles cedar shakes on the gable end portion only and he has no plans to enclose the structure.
- Committee asked if the size of the car was considered when purchased given the size of his garage and turning radius. Mr. Chayko advised that he did not consider this at the time and has tried parking two vehicles in the garage with no success. There is only enough room for a lawn mower adjacent to the collector car that he currently parks in the garage.
- Members Bates and Southorn commented that they were not in support of the application and expressed concern about allowing a one foot side yard setback in this case, given the Zoning By-law requirement is four feet.
- Chair Fecht expressed support for the application, given the design of the house with a side entrance garage, and indicated that there are similar situations in the neighbourhood. He feels this is a way to make the property more useable for the property owner and does not believe it would significantly impact the neighbouring property.
- Committee asked if Mr. Chayko would like the application deferred to allow him to redesign the carport. Mr. Chayko indicated he would consider redesigning the structure and requested a deferral.

Secretary-Treasurer comments:

- The Secretary-Treasurer clarified that financial impact as noted in the staff report does not reflect the impact on property values as stated by the applicant, but rather reflects the fact that there is no financial impact on the City as a result of the application. A statement regarding potential financial impact to the City is a required statement in City staff reports.
- The Secretary-Treasurer advised that should the Committee defer the application, the Committee may wish to provide the applicant with some specific direction as to what revisions it would like to see to the application.
- The Secretary-Treasurer advised that should the proposal be changed, a recirculation of the revised proposal would be required and therefore setting a meeting date as a term of the deferral may be difficult, therefore, it should be deferred to a future Committee of Adjustment meeting.
- The Secretary-Treasurer further advised that anyone that submitted comments will be advised as to when the application will come back before the Committee.

Deferral of Application for Minor Variance A5/21

Moved by Ted Southorn, seconded by Richard Bates:

THAT Application No.A5/21(Chayko) – 661 Broadview Avenue be deferred to a future meeting for the following reason(s):

1. To allow the applicant the opportunity to redesign the carport.

Carried.

Correspondence

None.

Date of Next Meeting

Wednesday, May 19, 2021.

Adjournment

Moved by Richard Bates seconded by Joe Fecht:

THAT the Committee of Adjustment meeting be adjourned at 10:45 a.m. on April 21, 2021. The Committee will reconvene at 9:15 a.m. on May 19, 2021.

Carried.

MEETING ADJOURNED – 10:45 A.M.

J. Fecht, Chair