



**CITY OF ORILLIA  
COMMITTEE OF ADJUSTMENT MINUTES**

**MINUTES OF THE MEETING OF THE COMMITTEE OF ADJUSTMENT,  
WEDNESDAY, SEPTEMBER 19, 2018 AT 9:15 A.M. IN THE BROOKS  
BOARDROOM, ORILLIA CITY CENTRE**

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**Present:**

Richard Bates – Committee Member & Acting Chair  
Wayne Scanlon – Committee Member

**Also Present:**

Susan Votour – Secretary-Treasurer  
Jeff Duggan – Senior Planner

**Regrets:**

Joe Fecht - Chair

**Call to Order**

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

**Appointment of Chair for Meeting of September 19, 2018**

Moved by Wayne Scanlon, seconded by Richard Bates:

That Rick Bates shall be appointed as Chairman of the City of Orillia Committee of Adjustment for the meeting of September 19, 2018.

Carried.

**Approval of Agenda**

Moved by Wayne Scanlon, seconded by Richard Bates:

THAT the agenda for the September 19, 2018 meeting of the Committee of Adjustment be approved.

Carried.

**Disclosure of Interest**

None.

**Deputations**

None.

**Minutes**

Moved by Wayne Scanlon, seconded by Richard Bates:

THAT the minutes of the following meeting be adopted:

- August 15, 2018

Carried.

**Closed Session**

There were no closed session items for this meeting.

## **Correspondence – Information Items**

None.

## **Correspondence – Action Items**

### **a) Minor Variance Application A20/18 (1683521 Ontario Limited) - 97 Dufferin Street**

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

#### **Proposal**

The applicant has requested that the Committee of Adjustment make an interpretation, pursuant to Section 45(2)(b) of the Planning Act, with respect to the proposed use of the subject property as a “Community Food Bank”. The Community Food Bank is proposed to be operated as a “Retail Store” with the product provided to customers without cost. A Retail Store is a permitted use in the “Arterial Commercial Exception Three” (C3-3) Zone.

The purpose of this application is to interpret the term “Retail Store” in Zoning By-law 2014-44 to include a Community Food Bank which is proposed to be operated on the property at 97 Dufferin Street.

#### **Comments from the Public**

None.

#### **Comments from Departments/Agencies**

##### ***Superintendent of Collection and Distribution***

- No concerns.

##### ***Orillia Power***

- No concerns.

##### ***Simcoe County District School Board***

- No objection.

#### **Staff Report:**

Jeff Duggan, Senior Planner

#### **Applicant’s Comments:**

Alex Barnett, the principal of 1683521 Ontario Limited, was present and provided the following comments:

- He has operated a retail store on the premises for 47 years selling automotive parts.
- The automotive parts store generated heavy traffic.
- The proposed food bank is a much quieter use and will generate much less traffic.

- Similar to a retail store, the food bank will offer foodstuffs to the public, the only difference is the cost.

**Public Comments (at meeting):**

Chris Peacock and Scott Weiler, both from the Sharing Place Food Bank, were present and provided the following comments:

- The food bank is only open four days per week and for restricted hours, and therefore should not generate substantial traffic.
- The location is ideal since it is close to a park and a bus stop.

**Committee Comments:**

- Committee indicated support for the application since it will be a beneficial addition to the community.

The Committee approved Application A20/18 (1683521 Ontario Limited) and made the following interpretation of use pursuant to Subsection 45(2)(b) of the *Planning Act*:

With respect to the property known municipally as 97 Dufferin Street, the term “Retail Store” includes a Community Food Bank that offers product to its customers free of charge.

**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 September 19, 2018.

**b) Minor Variance Application A19/18 (O’Connell) - 160 Cedar Island Road**

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

**Proposal**

The applicant proposes to construct a fence having a height of 2.30 m whereas the Zoning By-law restricts the Maximum Height of a Fence to 2.00 m. In addition, the applicant proposes to construct a Retaining Wall along both Interior Side Lot Lines which will have a setback of 0.00 m from the lot lines whereas the Zoning By-law requires a setback of 0.50 m for Retaining Walls.

**Comments from the Public**

Letter of objection from Walter Pezuk of 158 Cedar Island Road.

Letter of objection from Richard Botham of 162 Cedar Island Road.

**Comments from Departments/Agencies**

**Chief Building Official**

- With respect to the proposed retaining wall on the lot line, a plan is required to ensure that surface water from 160 Cedar Island Road does not spill over the

wall onto neighbouring property. The Engineering Division should be circulated with a plan prior to construction, for review.

***Superintendent of Collection and Distribution***

- Ensure no structure or fence post impedes operation of property line water service shut off valve (curbstop). Ensure any existing drainage pipes or lines on city R.O.W. are not altered or damaged during construction.

***Orillia Power***

- No concerns.

***Simcoe County District School Board***

- No objection.

**Staff Report:**

Ali Chapple, Intermediate Planner

Jeff Duggan, Senior Planner

**Applicant's Comments:**

Thomas O'Connell, the applicant, was present and provided the following comments:

- He purchased the property as a retirement property and plans to move to Orillia in the next few years.
- The structure was built in the 1950's and does not have a proper foundation.
- He plans to raise the building and put a proper foundation under it and proposes to enlarge the building with an addition at that time. As a part of raising the building he will raise the grade of the property in order to achieve the 220.5 C.G.D. minimum opening grade as required in the zoning by-law. The retaining walls are required to hold the fill.
- In some areas he may need to import a metre of fill, but it will be tapered at the front and back of the property. He is aware that an engineered lot grading plan will be required at the time of raising the buildings.
- The garage will also be raised. It currently has a slab on grade foundation.
- There is a gas main on one side of the property and a garage in proximity to the lot line on the other side. Both are obstacles to placing a retaining wall 0.5 m from the side lot lines and this is why he proposes to locate the retaining wall at the lot line.
- He has recently had the property surveyed and the lot lines were marked by the surveyor, and there are also two existing 5/8" survey stakes on the lot line between 160 and 162. He is confident that the fence between 160 and 162 Cedar Island Road is within his property boundaries. There is no fence between 158 and 160.
- The fence is currently 2.3 m in height. Once the grade has been raised, it will comply with the 2.0 m height restriction.
- With respect to the concerns regarding trees, he will not alter the grade in a manner that is detrimental to the trees. The large silver maple that is of concern is almost at the water's edge and therefore should not be subject to a significant grade change.

**Public Comments (at meeting):**

Henry Sutherland of 170 Cedar Island Road was present and provided the following comments:

- Questioned staff whether trees over 2.0 m in height were permitted to be planted at the lot line. Staff confirmed that there was no height restriction with respect to trees.
- The retaining wall on 162 Cedar Island Road appears to be closer than 0.5 m to the lot line, why does it not comply with the setback? Staff and the Chair explained that the City has no record of when that retaining wall was placed and that it was likely legal non-conforming.
- Asked where the fence height was measured from. Staff confirmed that the height was measured from the average finished grade directly under the fence.

**Committee Comments:**

- Committee commented that during a site visit it was noted that there was a large grate at the road that will need to be dealt with when the property is re-graded. The applicant confirmed that he was aware of this and that the grate is half on his property and half on City property.
- The Chair asked the Senior Planner to comment on the application and the issues raised. The Senior Planner indicated that he felt that the variance requests were reasonable; that it was the minimum building opening height that needed to meet the minimum 220.5 C.G.D. grade, not the overall grade of the lot; and that the redevelopment of the property would be subject to Site Plan Control since it is a waterfront lot.
- The Chair asked the Senior Planner to make a note to ensure that the trees were taken into account when reviewing the Site Plan.
- The Chair asked staff if any conditions were proposed. Staff indicated that the only condition contemplated in the Decision as it was drafted was that the development of the property be in substantial compliance with plans and drawings submitted with the application, which constituted only the location of the fence and retaining walls. Staff further noted that an engineered lot grading plan will be required at the building permit stage when the building is raised, so there is no need to impose a condition requiring this in the Committee’s Decision.

The Committee approved Application A19/18 (O’Connell) and the following variances were granted to the provisions of Zoning By-law 2014-44, as amended:

Section	Requirement	Proposed	Variance
5.7 “Fences”	Maximum Height of a Fence in a Residential Zone - 2.00 m (6.56 ft)	Maximum Fence Height of 2.30 m (7.56 ft)	.30 m (0.98 ft)
5.27 “Permitted Yard Encroachments”	(e) Retaining Wall permitted providing the setback complies with the Minimum Setback for Accessory Structure in Section 5.1- 0.50 m (1.64 ft)	0.00 m (0.00 ft) setback from Interior Side Lot Lines for Retaining Walls at both sides of property.	0.50 m (1.64 ft)

**REASONS:** (1) The variances are minor;

- (2) The variances are desirable for the appropriate development or use of the land, building or structure;
- (3) The variances maintain the general intent and purpose of the Zoning By-law; and
- (4) The variances maintain the general intent and purpose of the Official Plan.

## **CONDITIONS:**

1. That construction shall be substantially in compliance with the plans and drawings submitted with the application.

### **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 September 19, 2018.

### **c) Minor Variance Application A21/18 (Bergeron) - 33 Michelle Drive**

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

### **Proposal**

The applicant proposes to widen an existing driveway from 2.68 m (8.79 ft) to 5.41 m (17.75 ft) whereas the Zoning By-law stipulates a Maximum Driveway Width of the lesser of 4.30 m (14.11 ft) or 50% of the Lot Frontage for a one-way Driveway serving a residence having four (4) or fewer Dwelling Units. The subject property has a Lot Frontage of 7.90 m (25.92 ft) and therefore the maximum permitted Driveway width on this property is 3.95 m (12.95 m). In addition, the Zoning By-law stipulates that the maximum amount of the Front Yard of a property in a Residential Zone that can be covered by a Driveway and Parking Area is 50%, whereas the proposed widened Driveway will cover approximately 61.42% of the Front Yard.

### **Comments from the Public**

None.

### **Comments from Departments/Agencies**

#### ***Superintendent of Collection and Distribution***

- Ensure property line water shutoff valve (curbstop) is functional and protected during construction.

#### ***Orillia Power***

- No concerns.

#### ***Simcoe County District School Board***

- No objection.

**Staff Report:**

Susan Votour, Planning Coordinator

Jeff Duggan, Senior Planner

**Applicant's Comments:**

Jessica Bergeron, the applicant, was present and provided the following comments:

- Moved to the property four years ago. At the time when they were shopping for a unit, they noted that other end units had double driveways and decided to purchase one with a single driveway and save up in order to have it widened.
- Provided a list of numerous properties on the street where the driveways have been widened.
- She has been told by a long-time resident that a double driveway was offered by the builder to purchasers of end units.
- The driveway widening was professionally done by a company she hired.
- There is still grass in her front yard on both sides of the driveway.
- Parking is only allowed on one side of the street, the side their house is located on. There is still room for a car to be parked at the boulevard in front of her house, and so no parking space has been eliminated by the widening.
- When the City allowed parking on both sides of the street it was problematic since there were times when there was not sufficient width to drive between the cars parked on both sides.
- Some owners on the street park on the boulevard to avoid having to shuffle cars in their driveways and some park recreational items such as trucks with boat trailers at the boulevard as well.
- She feels that widening her driveway to allow additional parking helps to alleviate the parking issue on the street.

**Public Comments (at meeting):**

Fior Tucci was present representing his son, Michael Tucci, owner of 40 Michelle Drive. Mr. Tucci provided the following comments:

- They are not particularly concerned with the widening of the driveway at 33 Michelle Drive but have concerns regarding the overall loss of green space and the impact in storm water runoff that is caused by multiple driveway widenings on Michelle Drive.
- Parking is an issue and perhaps the City should consider reinstating the parking on both sides of the street.

**Committee Comments:**

- Committee commented that during a site visit it was noted that fifteen driveways on the street have been widened.
- Some driveways have been widened using the addition of paving stone walkways. Staff were asked to comment on whether this was an infraction of the Zoning By-law. Staff advised that this subject is being investigated by the City's By-law Enforcement Department and the Planning Division at present, but generally if there is a 'defined area' on a lot that is being used for parking, it is considered as a parking area even though it may be designed to look like a walkway.

The Committee approved Application A21/18 (Bergeron) and the following variances were granted to the provisions of Zoning By-law 2014-44, as amended:

Section	Requirement	Proposed	Variance
6.2.1.5 'Width of Access Ramps and Driveways'	Maximum Width of One-Way Driveway serving a Residential Building with 4 units or less - Lesser of 4.30 m or 50% of Lot Frontage (3.95 m)	Driveway Width of 5.41 m	1.46 m (Driveway to be 68.48% of Lot Frontage)
6.3 'Parking Area Location on a Lot'	Parking Area and Driveway shall not cover more than 50% of the Front Yard	Driveway to cover 61.42% of the Front Yard	11.42%

- REASONS:**
- (1) The variances are minor;
  - (2) The variances are desirable for the appropriate development or use of the land, building or structure;
  - (3) The variances maintain the general intent and purpose of the Zoning By-law; and
  - (4) The variances maintain the general intent and purpose of the Official Plan.

**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 September 19, 2018.

**d) Sign Variance Application T07/33 (Guardian Angels Parish) - 115 West Street North**

The Senior Planner outlined the application.

**Proposal**

Guardian Angels Church proposes to install an LED electronic sign at the church property at 115 West Street North. As a result of a change to the Sign By-law in May of 2018, Electronic Illumination Signs are only permitted on an Industrially or Commercially Zoned property and therefore the parish requires a variance to the Sign By-law to allow the sign on an Institutionally zoned property. The purpose of the amendment was to ensure adjacent residential properties are aware of an application for an EIS and to ensure every reasonable measure has been taken to mitigate any potentially negative impacts associated with the light emitted from an Electronic Sign.

**Comments:**

The Sign By-law requires circulation only to the neighbouring properties on the same side of the street. No response was received to the circulation.

**Staff Report:**

Jeff Duggan, Senior Planner

**Applicant’s Comments:**

Phil Austin of Guardian Angels Parish, the applicant, was present and provided the following comments:

- One part of the sign will display messages that rotate every five to ten seconds while the other part will display messages that rotate less frequently.
- They would like to place the sign as far north as possible since otherwise it will be obscured by trees and not visible to those driving north on West Street.

**Committee Comments:**

- Committee commented that in other cases red signs have caused confusion with traffic lights in the vicinity since drivers may perceive the red as a stop light. Mr. Austin advised that the sign will not be visible from the intersection of Coldwater Road and West Street and therefore there will be no interference or confusion with the traffic lights. The Senior Planner advised that the Sign By-law addresses interference with traffic, and if any adverse effects are found when the sign is installed, they can be rectified.

Moved by Wayne Scanlon seconded by Richard Bates:

THAT Application No. T07-028 made by Guardian Angels Parish with respect to property municipally known as 115 West Street North be APPROVED to permit the following variance to Chapter 832 of the City’s Municipal Code - Signs:

Sign Section	By-law	Sign Requirement	Where Variance is Required	Proposed Variance
Section 832.10.1 (e)(i) (Figure 3)		Electronic Illumination Sign or Electronic Variable Message Centre only permitted on a property zoned “Industrial” or “Commercial”.	Subject property is zoned “Institutional Two” (Place of Worship) (I2).  Ground Sign to be located on the East (Exterior Side) of the property, adjacent to West Street North	To permit one (1) Electronic Illumination Ground Sign on a property zoned “Institutional Two” (Place of Worship) (I2).

Subject to the following condition:

1. That a Sign Permit and Building Permit be obtained for the proposed Ground Sign.

Carried.

Decisions of the Committee on Minor Variance Applications are subject to the statutory appeal periods as set out in the *Planning Act*. There is no appeal with respect to Sign Variances.

**Date of Next Meeting**

Wednesday, October 17, 2018 at 9:15 a.m. in the Economic Development Boardroom (1<sup>st</sup> floor) Orillia City Centre.

**Adjournment**

Moved by Richard Bates seconded by Wayne Scanlon:  
THAT the meeting be adjourned.  
Carried.

MEETING ADJOURNED – 10:16 A.M.

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R. Bates, Acting Chair

(NOTE: These minutes are Draft until approved and adopted by the Committee.)