



## **Township of Clearview Committee of Adjustment Minutes**

Meeting held via Zoom and broadcast on YouTube on July 14, 2021 commencing at 7:00 p.m.

### **Members Present:**

Shawn Davidson, Chairman  
Dave Rowell  
Daniel Fantin  
Chuck Arrand  
Barry Burton  
Christine Taggart, Secretary-Treasurer

### **Staff Present:**

Rossalyn Workman  
Nick Ainley

### **1. Call to Order**

The Chairman called the meeting to order at 7:00 p.m.

### **2. Minutes**

2.1 Minutes of the Committee of Adjustment meeting held on June 9, 2021.

**Moved by** D. Rowell

That the minutes of the Committee of Adjustment meeting held June 9, 2021 be approved as circulated.

Carried.

### **3. Disclosure of Pecuniary Interest**

There was no disclosure of pecuniary interest.

### **4. Applications**

#### **Minor Variance 21-A18**

224 Springfield Crescent – Borg

**PROPOSED MINOR VARIANCE:** To request relief from Section 2.7.1 General Encroachments, to allow a deck to be located 1.99 metres from the rear yard property line where 3 metres is required.

The effect of the application is to allow for the enlargement and construction of a deck attached to the existing dwelling on the subject lands.

The Chairman welcomed the owner, Victor Borg, to the meeting.

The Secretary read the notice of application and advised that circulation of the application was mailed on June 29, 2021 to the applicant, appropriate agencies and property owners within 60 metres. The Secretary advised that comments were received from the Nottawasaga Valley Conservation Authority, having no concerns or objection to the application.

The Chairman asked Mr. Borg if he had any questions or comments. Mr. Borg explained that they intend to keep the existing deck and enlarge it.

The Chairman asked the Committee members if they had any comments or questions, there were none.

It was then;

**Moved by** C. Arrand

That minor variance 21-A18 be granted as applied for.

**Reasons:**

1. The proposal conforms to the Official Plan;
2. The proposal conforms to the general intent and purpose of the Zoning By-law;
3. The variance is minor in nature; and
4. The variance is desirable for the appropriate development of the lands.

Committee concurred in a decision to grant the minor variance as requested in the application known as File No. 21-A18.

Carried.

**Minor Variance 21-A19**

5430 Concession 2 – Squire

**PROPOSED MINOR VARIANCE:** To request relief from the Rural (RU) zone minimum front yard setback requirement of 15 metres to 9.43 metres. A total variance of 5.57 metres.

The effect of the application is to allow for the construction of an addition, including an accessory dwelling unit, to the existing dwelling on the subject lands.

The Chairman welcomed the owner, John Squire, to the meeting.

The Secretary read the notice of application and advised that circulation of the application was mailed on June 29, 2021 to the applicant, appropriate agencies and property owners within 60 metres. The Secretary then advised that comments were received from the Nottawasaga Valley Conservation Authority having no concerns or object to the application.

The Chairman asked Mr. Squire if he had any questions or comments, he had none.

The Chairman asked the Committee members if they had any comments or questions, there were none.

It was then;

**Moved by** D. Rowell

That minor variance 21-A19 be granted subject to the following conditions:

- That the front yard setback of 9.43 m be permitted to apply to the existing house and proposed addition, and
- The existing two entrances will be permitted to remain.

**Reasons:**

1. The proposal conforms to the Official Plan;
2. The proposal conforms to the general intent and purpose of the Zoning By-law;
3. The variance is minor in nature; and
4. The variance is desirable for the appropriate development of the lands.

Committee concurred in a decision to grant the minor variance as requested in the application known as File No. 21-A19.

Carried.

**Minor Variance 21-A20**

236 Sunnidale Street - Freeman

**PROPOSED MINOR VARIANCE:** To request relief from the Residential Large Lot (RS1) zone for the following:

- 1) Maximum Height of Accessory Buildings requirement of 4.5 metres to 5.26 metres; and
- 2) Maximum Gross Floor Area of all Accessory Buildings requirement of 64 square metres to 111.48 square metres.

The effect of the application is to allow for the construction of a detached accessory building (garage) on the subject lands.

The Chairman welcomed the owners, Joshua and Amy Freeman, to the meeting.

The Secretary read the notice of application and advised that circulation of the application was mailed on June 29, 2021 to the applicant, appropriate agencies, and property owners within 60 metres. The Secretary then advised that no comments were received.

The Chairman asked Mr. & Mrs. Freeman if they had any questions or comments, they had none.

The Chairman asked Mr. & Mrs. Freeman if they understood the conditions including the removal of the existing shed. Mrs. Freeman answered yes.

The Chairman asked the Committee members if they had any comments or questions, there were none.

It was then;

**Moved by** B. Burton

That minor variance 21-A20 be granted as applied for subject to the following conditions:

- Total Gross Floor Area for the accessory building will be permitted to be a maximum of 111.64 m<sup>2</sup>,
- That the maximum height of the accessory building is to be 5.26 metres; and,
- The existing accessory building (shed), shown on the site plan attached to the report, will be demolished and removed prior to the building permit being issued for the new accessory detached building.

**Reasons:**

1. The proposal conforms to the Official Plan;
2. The proposal conforms to the general intent and purpose of the Zoning By-law;
3. The variance is minor in nature; and
4. The variance is desirable for the appropriate development of the lands.

Committee concurred in a decision to grant the minor variance as requested in the application known as File No. 21-A20.

Carried.

**Consent File 21-B10**

7740 & 7734 County Road 91 – Beattie

The purpose and effect of the application is to provide an easement for access over 7740 County Road 91 to 7734 County Road 91.

**PROPOSED EASEMENT:** 15.5 metres of frontage on County Road 91, overall 0.11 hectares.

The Chairman welcomed the owners, John & Andrew Beattie, to the meeting.

The Secretary read the notice of application and advised that circulation of the applications was mailed on June 29, 2021 to the applicant, appropriate agencies and property owners within 60 metres. The Secretary then advised that no comments were received.

The Chairman asked Mr. Beattie if they had any questions or comments. Mr. John Beattie apologized to Committee for bringing back this application again and explained that they had some complications due to Covid and it did not get the conditions finished.

The Chairman commented that Committee understands and that if there was a way under the legislation to offer an exemption they would however, they cannot.

The Chairman asked the Committee members if they had any comments or questions, there were none.

It was then;

**Moved by** D. Rowell

That consent application 21-B10 be granted subject to the following conditions:

1. That the applicant meet all the requirements, financial and otherwise of the Municipality including payment of the fee of \$150.00 for each Certificate of Consent to be issued;
2. That the applicant provides a description of the lands which may be registered under the requirements of the Registry Act or Land Titles Act as applicable;
3. That the solicitor provide an undertaking confirming that the easement will be registered on the title of the parcel on which it is located.

4. That the applicant meet all requirements of the County of Simcoe Transportation and Engineering Department as stated within their letter dated February 4, 2020.

## **REASON FOR DECISION**

The Committee believes that the request is desirable for the appropriate development and use of the lands.

Carried.

## **Consent File 21-B06 & 21-B07**

1918 Concession 8 South – Warwick

The purpose of the application is to sever a portion of lands from 90 South Road and 1918 Concession 8 South to be added to 1930 Concession 8 South. An application for an access easement block of 15 metres by 50 metres over a stream crossing is also being considered.

**PROPOSED SEVERED PARCEL:** 75 metres of frontage, overall 12.77 (31.5 acres) vacant land.

**RETAINED PARCEL:** approximately 149 metres of frontage, overall 16.15 hectares (40 acres) with dwelling.

The receiving lands (1930 Concession 8 S) will have a resulting 151 metres of frontage on Concession 8 South overall, 13.7 hectares (33.8 acres) with dwelling.

The Chairman welcomed the agent, Gord Russell, and the owners, Douglas Warwick and Shanthi Weerasekera, and lawyer Leo Longo to the meeting.

The Secretary advised that the original application was heard at the June 9, 2021 Committee of Adjustment meeting and that Committee agreed to defer the application. The Secretary then summarized the comments received from Dan Perreault, Deputy Director of Public Works and the letter received by Leo Longo. The Secretary then read the addendum report recommendation from the Planning Department.

The Chairman asked Mrs. Workman to provide an executive summary of her addendum report based on the questions Committee had when they deferred last month particularly the conversation with the Niagara Escarpment Commission (NEC).

Mrs. Workman advised that staff were able to speak with Judy Rhodes-Munk on June 18, 2021 and were able to confirm that when a consent application is being considered, even when a development permit has been issued by the NEC, the consent is considered under a different policy document and is considered on its own merits and not fettered by the NEC permit approval. She advised that a condition of

the NEC permit is that a consent approval be obtained because the NEC staff do not have the approval authority to grant consents. Mrs. Workman advised that confirmation was given by Judy Rhodes-Munk, regarding the applicants concerns of having to reapply to change the development permit and the length of time to do so that could exceed the one year time to meet conditions of a consent approval, that it would take less than six months to obtain a new development permit if an application was made. Mrs. Workman then advised that she also confirmed with Judy Rhodes-Munk, regarding the one-hectare building envelope which was required under the original recommendation report, would not be required as the applicants would need to apply for a new development permit for the construction of a dwelling and Township staff could provide comments on the application in the future. Mrs. Workman then advised that she asked Judy Rhodes-Munk if a new development permit application would be required if there was a removal of the dog leg portion (13.9 m) connection to the South Road, Judy advised that she did not believe a new development permit application would be required and that it could be an administrative change that staff could undertake. This is because there is no development being considered and it is only a change in the lot configuration. Mrs. Workman advised that Judy has not yet gotten back to her and that is why Mrs. Workman added to the condition of a development permit if required. Mrs. Workman concluded that staff do not approve irregular shaped lots within plans of subdivision or other types of lot creation and are consistent in applying this to any lot creation applications whether outside or inside the Niagara Escarpment and asked Committee to consider this.

Mr. Russell introduced the owners of the property and then provided a summary and background of the application and the application process they engaged in with the Niagara Escarpment Commission. He further advised that they consulted with the County of Simcoe, Nottawasaga Valley Conservation Authority, and the Township of Clearview. Mr. Russell spoke to the lot configuration of Lot A in regard to the entrance and access to South Road, the applicants wish to have access to South Road as they are members of the Devils Glen Ski Club. Mr. Russell gave his interpretation of the policies of the County Official Plan and Township Official Plan in relation to the Niagara Escarpment. He then stated that the application is in conformity with the Niagara Escarpment Plan, County Official Plan and Township Official Plan. Mr. Russell requested Committee of remove conditions one and five of the Township's recommendation to allow them to comply with the NEC development permit.

Mr. Longo provided his legal prospective and referred to his letter which was submitted to staff and Committee which argued that conditions one and five do not conform to the County or local plan and will conflict with the NEC Plan. Mr. Longo spoke to the requirements of the NEC Plan, County Plan and Township Official Plan regarding the NEC Plan prevailing. Mr. Longo stated that he agrees with Mrs. Workman that the NEC doesn't grant the actual consent and that that power reposes

with the Township however, the NEC Plan has lot creation and development criteria. Mr. Longo stated that the applicants submitted their proposal and no objection was filed by the Township and no appeal was filed against the development permit. Mr. Longo then spoke to the legal issue that will arise if conditions one and five remain, the clients will be in a never-ending circle between the NEC and the Township.

Mr. Russell advised that Judy Rhodes-Munk advised him that if they change the application, they will have to renotify the decision and there will be a new appeal period and they are not prepared to do that.

Mr. Longo commented that the proposal conforms with the Act and the NEC development permit and they are prepared to comply with all conditions save and except conditions one and five.

Mr. Russell asked Committee to revise condition six of the recommendation as they are not seeking to add all of 1918 Concession 8 to be merged but only a portion of the property, as it would not be in compliance with the NEC development permit. Mr. Russell then asked Committee to consider the local plan policies and that they can apply more restrictive conditions than the development permit approval however, conditions one and five would prohibit the NEC development permit.

Mr. Warwick explained to Committee that they are just estate planning for their children and want to leave a similar lot size to each child. He stated that they can guarantee that there will be no new development permit for a new large house for a couple of decades and a new well was just installed for the small farmhouse. Mr. Warwick advised that the Devil's Glen Ski club will never grant an easement, it is always a road access agreement and they already have that, further the condo board has agreed to the proposed configuration to split the driveway and a new owner will have to get their own road access agreement. He then advised that there is no objection from the Ski Club or members.

The Chairman asked the Committee members if they had any comments or questions.

Member Rowell commented to Mr. Russell that the purpose of the deferral was to allow all three planners, yourself included, Township and NEC to discuss. He then asked Mr. Russell if he was contacted about the meeting because Committee is aware that Mrs. Workman and Judy Rhodes-Munk did talk. Mr. Russell answered that he was not. Member Rowell asked Mr. Russell again to confirm that he was not contacted. Mr. Russell answered that he was not informed that they were having a meeting and that the last time he spoke to Ms. Rhodes-Munk was the day of the last Committee of Adjustment meeting and was advised that a new development permit would be required and he believes it was put in writing. Member Rowell commented that if all three were expected to follow up and share information based on the comments and deferral by the Committee last meeting.



Member Arrand commented that after the one-month deferral the Township is not willing to remove conditions, you did not meet, and this is the second time the Township has looked at this and have made changes. He then commented that this second look seems to have caused more trouble.

Member Burton asked Mrs. Workman why Committee should not remove conditions one and five. Mrs. Workman answered that the proposal is not a normal sized configured lot. Mrs. Workman advised Committee that she did email Mr. Russell twice to call and discuss and is disappointed that they could not all come together to chat because she believes that what Mr. Russell is saying he was told by Judy is different from what she was told by Judy. Mrs. Workman explained that the lot addition is something they can support but what they cannot support is a lot that is not configured normally, and this is how staff consistently apply their decisions. Mrs. Workman advised that when she and Mara Burton pre-consulted with Mr. Russell they expressed that they were not in agreement with the proposed lot configuration. Mrs. Workman stated that she is happy to amend condition six and agrees it is poor wording and can be changed to read a portion of 1918 if everyone is agreeable.

It was then;

Moved by: B. Burton

To remove conditions one and five and to amend condition six to include a part of.

The Chairman asked Member Fantin if he had any comments before they proceed with the motion. Member Fantin commented that he had nothing further to add.

The Chairman clarified that by removing conditions one and five would allow the 13.9 metre finger and give the lot both frontage on Concession 8 and the condominium road.

The Chairman then clarified that the motion by Member Burton is to approve the recommendation less condition one and less condition five and the alteration of condition six to add a part of.

Member Arrand seconded the motion. Committee voted and the result was two in favor of and three against the motion. The motion was not carried.

It was then:

Move by: D. Rowell

That Committee defer the application to the next meeting to allow Mr. Russell, Mrs. Workman and the NEC Planner to discuss and have content in writing from Judy Rhodes-Munk.

Carried.

Mrs. Workman advised that she will be unavailable for August due to vacation. The Secretary advised that Committee could call a special meeting or come back to the regular scheduled meeting in September. The Chairman recommended that the planners figure out their schedule and when they have information to report back to Committee, they can contact the Secretary to schedule a new meeting date. Committee agreed to the recommendation.

## **5. New Business**

No new business.

## **7. Next Meeting**

Tentatively scheduled for Wednesday, September 8, 2021.

## **8. Adjournment**

There being no further business, the Chairman adjourned the meeting at 8:10 pm.

*Shawn Davidson*

[Shawn Davidson \(Sep 9, 2021 07:55 EDT\)](#)

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Shawn Davidson, Chair

*Christine Taggart*

[Christine Taggart \(Sep 9, 2021 07:51 EDT\)](#)

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Christine Taggart, Secretary-Treasurer