

**THE CORPORATION OF THE CITY OF WELLAND
COMMITTEE OF ADJUSTMENT**

MINUTES OF THE HEARING HELD AT WELLAND CITY HALL, COMMUNITY ROOM, December 16, 2009,
5:00 P.M.

Committee Members: George Anderson, Chair
John Perry, Member
Diane Zakraysek, Member

Staff Present: Christine Rossetto, Secretary-Treasurer

Others Present: Jon Whyte, 3350 Merrittville Hwy, Thorold, A11/2009
Aldo Parrotta, 98 Trelawn, A08/2009
Sylvia Parrotta, 98 Trelawn, A08/2009
Henry and Judy Kauffman, 21 Windermere, A08/2009
Ron Hillier, 90 Trelawn, A08/2009
Dave Toulouse, 203 East Main, B012/2009WELL, A12/2009
Ken Christie, 121 ½ Keefer Rd, A08/2009
David Jones, 102 Trelawn, A08/2009
Ronald Ford, 5 Oxford, B012/2009WELL

Chair Anderson called the Hearing to order and introduced the Committee members and staff.

The Secretary-Treasurer explained the purpose of the Committee of Adjustment decision-making process, including the manner in which objections could be filed with the Secretary-Treasurer of the Committee of Adjustment for the purpose of appealing a Decision to the Ontario Municipal Board.

Chair Anderson requested that the Committee members declare any conflicts of interest. None were declared.

Chair Anderson asked if there were any requests for deferral or withdrawal of applications. None were declared.

ADOPTION OF MINUTES

Moved by J. Perry that the Minutes of the Hearing held on November 18, 2009 be adopted as circulated.

CARRIED.

Application Minor Variance Application File No. A08/2009
Aldo Parrotta and Sylvia Parrotta
98 Trelawn Parkway

Presentation

The following correspondence was received and read:

Memorandum from City of Welland Planning and Development Services - Planning Division, dated December 15, 2009.

The owners had no comment.

Perry requested clarification with respect to the required variances and the Secretary-Treasurer confirmed that the request under Section 5.3(c)(i) is still applicable, the east yard variances under Sections 5.6(a) and 5.6(b) are no longer required, and a variance under Section 5.6(b) is still applicable for an increase in the overall aggregate area of 14.5 square metres instead of 10 square metres.

Discussion occurred with respect to Zoning By-law provisions and other practices regarding locating buildings or structures on easements. The Owner advised that the shed is old and he would move or remove it from the easement.

Judy Kauffmann, 21 Windermere Court, advised of the following:

- Concern is with the screening device, not the shed;
- Two parts of the screening device have been removed and the structure (poles and roof) have been left;
- The screening device looks more than 9 feet due to the slope, it is close to the fence, concern as to how the land between the fence and screening device, with respect to weeds and animals, will be maintained;
- She and her husband object to it; and
- She was told that no one owns the easement.

Anderson advised that the rear fence is on the Owner's property and they own the land beyond the fence.

Ron Hillier, 90 Trelawn Parkway, advised of the following:

- There is not much of a problem, he has also completed a survey of his property, he wants to construct a pergola next year, and raising his grade will flood out the neighbours to the rear; and
- He has no problem with the structure, he doesn't want to have an issue and requires more information on the easement.

Dave Jones, 102 Trelawn Parkway, advised of the following:

- His property extends beyond where the fences are located, the fences were erected when the houses were built and he has no problem.

Ken Christie, brother-in-law to the Owners, advised of the following:

- Kids swim in the pool, the neighbours look over, Aldo's grade is higher up in the backyard which makes a difference and from the backyard they can see Windermere Court.

Judy Kauffmann stated that this is the second time it has been hinted that her husband has snooped, her husband has a well know reputation in the City, he doesn't watch the neighbours swim, they live in a neighbourhood and she requested that her comments be recorded in the minutes.

Committee members discussed the possibility of making recommendations to Council on screening devices.

Perry noted his support of the application with respect to the screening device, it is a privacy issue which is important, the variance is minor, there are no impacts and it complies with the 4 tests. He noted the City's current OP process, the Committee's responsibility to pay attention to the intent and purpose of the OP and the opportunity for comment through the current OP process. He noted that the location of the shed is not appropriate on the easement.

Committee members discussed/noted the following:

- Restrictions or conditions to reduce/remove the remaining part of the pergola where the screening device was removed, the appearance of the screening device/pergola including the area remaining at the top, roofing the screening device will create a structure, size of the screening device and pergola, and filling in the screening device requiring a further variance;
- Appropriate conditions can be attached to the decision, clarification that the Committee is dealing with the aggregate area of the screening device, the pergola is permitted under the Zoning By-law, and difficult to have the Owner remove the pergola as a condition when it is something that they can already have as it is permitted under the By-law;

- Committee may enter into Committee-of-the-Whole provided that the reason satisfies the strict criteria under the Municipal Act; and
- They have viewed the site/screening device on several occasions, there is lots of neighbourhood support and there is indication that others are also interested in constructing a screening device.

No further discussions occurred and the Committee rendered and declared its Decision.

Decision Minor Variance File No. A08/2009 – Denied

Signed: “George Anderson”
“Diane Zakraysek”

Two members of the Committee of Adjustment, whose names appear above, were in favour of the above Denial Decision.

Note: John Perry did not sign the Notice of Decision as he was not in favour of the denial.

CARRIED.

Application Minor Variance Application File No. A11/2009
Mountainview Homes
6 Clare Avenue

Presentation

The following correspondence was received and read:

Memorandum from City of Welland Planning and Development Services - Planning Division, dated December 7, 2009.

Mr. Whyte noted that this is a straight forward application.

Committee members questioned the lot ownership and house design for the vacant lot to the north, and the setback requirement for the vacant lot off of Clare Avenue. The owner advised that the vacant lot is owned by Mountainview Homes. The required front yard setback off of Clare Avenue will be the same as the subject lot. The City should consider a Zoning By-law provision to allow a house to face the flanking yard without the need for minor variance approval. The application meets the 4 tests.

No further discussions occurred and the Committee rendered and declared its decision.

Decision Minor Variance File No. A11/2009 – Approved

Signed: “George Anderson”
“Diane Zakraysek”
“John Perry”

CARRIED.

All members of the Committee of Adjustment were in favour of the above Decision.

Applications Consent Application File B012/2009WELL
Minor Variance Application File No. A12/2009
St. Welland Real Estate Inc.
42 Centre Street

Presentation

The following correspondence was received and read:

Email from Engineering, Public Works and Transportation Services dated November 30, 2009.

Response from Welland Fire and Emergency Services dated December 2, 2009.

Memorandum from City of Welland Planning and Development Services - Planning Division, dated December 7, 2009.

Email from Niagara Peninsula Conservation Authority dated December 16, 2009.

Dave Toulouse, agent, had no comments.

Committee members noted that without a Notice of Hearing sign on the property, it was difficult to locate the property. The variance meets the 4 tests.

No further discussions occurred and the Committee rendered and declared its decisions.

Decisions Consent File No. B012/2009WELL – Granted with 4 conditions
Minor Variance File No. A12/2009 – Approved with 1 condition

Signed: “George Anderson”
“Diane Zakraysek”
“John Perry”

CARRIED.

All members of the Committee of Adjustment were in favour of the above Decisions.

OTHER ITEMS

- The Committee requests consideration of the use of Public Notice of Hearing signs for commercial, industrial, rural and vacant properties in order to more easily locate the properties in the field.
- The Committee suggests that the City consider more defined information for pergolas and screening devices.
- The Committee suggests that the Zoning By-law be amended to permit a house to face the flanking yard on a corner lot without the need for minor variance approval.

NEXT MEETING – January 21, 2010

Hearing closed at 6:20 pm.