

Committee of Adjustment Public Hearing
Wednesday, August 5, 2015
Council Chambers, City Hall - 5:00 p.m.

Agenda

1. Chair to call the Hearing to Order
2. Amendments/Additions to the Agenda
3. Declarations of Interest
4. Request for Withdrawal or Adjournment

162 Ontario Street – Minor Variance Application – A-75/14 – 60.81.4936

A request has been received by the Owner to withdraw Minor Variance Application –
A-75/14 – 60.81.4936

5. Adoption of the Minutes held July 16, 2015

6. Application:

- 1) 1539 Fourth Avenue, Consent Application, B-28/15SC – 60.84.1990
1569 Fourth Avenue, Consent Application, B-29/15SC – 60.84.1991
- 2) 1 Colton Avenue, Minor Variance Application, A-60/15 – 60.81.4998
- 3) 62 Grantham Avenue South, Minor Variance Application, A-61/15 – 60.81.4999

7. New Business

8. Adjournment



CITY OF
ST. CATHARINES

Technical Report

Report from Planning and Building Services, Planning Services

Date of Report: July 30, 2015

Date of Meeting: August 5, 2015

Submission(s): B-28/15SC
B-29/15SC

File: 60.84.1990
60.84.4991

Subject: 1539 Fourth Avenue
1569 Fourth Avenue

Proposal

Application **B-28/15SC** is made for consent to a partial discharge of mortgage and for consent to sever 44,131 m² of land (Parts 4 and 5 on the submitted sketch) which will be added to the abutting westerly parcel of land municipally known as 1569 Fourth Avenue (Parts 1 and 2). A 42,310.6 m² remnant parcel of land (Part 3) would be retained for continued agricultural use. The application would result in a boundary adjustment between the two parcels of land.

Application **B-29/15SC** is made for consent to a partial discharge of mortgage and for consent to sever 5,324 m² of land (Parts 1 and 5 on the submitted sketch) for the disposal of a surplus farm dwelling and accessory building, municipally known as 1569 Fourth Avenue. A 91,084 m² parcel of land (Parts 2 and 4) would be retained for continued agricultural use.

In summary, three lots will result from these applications:

- Lot 1 – Part 3
- Lot 2 – Part 2 and Part 4
- Lot 3 – Part 1 and Part 5

Recommendation

That Submission **B-28/15SC** by Stephen Bouw and Linda Bouw, as outlined in the Notice of Hearing, be approved, subject to the following conditions:

1. Pursuant to Section 50(12) of the Planning Act, it is hereby stipulated that section 50(3) or 50(5) shall apply to any subsequent conveyance of, or other transaction involving, the identical subject parcel of land. Therefore, the applicant will provide the Secretary-Treasurer with a solicitor's undertaking that the condition of the Committee of Adjustment will be implemented and the properties (Parts 1, 2, 4, and 5) will be merged and become one parcel of land.
2. That the existing storage structures located north of the greenhouse be removed or relocated to the satisfaction of the Chief Building Official.

3. That the retained parcel (Part 3 on the submitted sketch) be rezoned to permit a 3 metre setback from the west lot line to recognize the location of the existing greenhouse.

That Submission **B-29/15SC** by Stephen Bouw and Linda Bouw, as outlined in the Notice of Hearing, be approved, subject to the following conditions.

1. The final approval for application B-28/15SC be received from the Committee of Adjustment.
2. That the retained parcel (Parts 2 and 4 on the submitted sketch) be rezoned as Agriculture Only (A2) to preclude its use for any new residential purposes.
3. That the A2 zoning set out in Condition 2 above include a special provision to recognize the location of the existing dwelling on Part 4, and a reduced lot frontage requirement for agricultural farm parcels in the A2 zone from 60 metres to 9.14 metres.

Summary

The subject lands are currently two parcels, Parts 3, 4 and 5 with an existing greenhouse operation and dwelling, and Parts 1 and 2 which is an adjacent existing farm parcel with a dwelling. The proposed consents will translate into the creation of three parcels, one being a reduced and more suitably sized parcel for the existing greenhouse operation (Part 3); the second being the increased size and viability of the adjacent agricultural parcel (Parts 2 and 4); and the third being a lot for the surplus farm dwelling (Parts 1 and 5). No new residential building lot will be created.

Having regard for the matters under Section 51 (24) of the Planning Act, staff is satisfied that the proposal is desirable for the appropriate use of the land and that the intent and purpose of the Official Plan and Zoning By-law are being maintained.

Staff recommends the approval of the requested consents, subject to the conditions outlined in the recommendation.

Background

Planning Context

Location

The subject properties are located on the north side of Fourth Avenue, west of Third Street Louth. Surrounding lands in all directions are used for agriculture. The Canadian National Railway lies to the south.

Official Plan

The Garden City Plan (GCP) designates the majority of the land as Agricultural, permitting a range of agricultural and agricultural accessory uses, subject to the policies of the Garden City Plan. A northwesterly portion of Part 2 and approximately one half of

the easterly side of Part 4 are designated Natural Area. These areas include portions of Richardson's Creek, and Significant Woodlands.

The GCP provides that consent for a minor boundary adjustment, as proposed in application B-28/15SC, is permitted where the consent does not create a separate lot for a new residential dwelling, and there is no increased fragmentation of a natural area or feature, or a key hydrological feature.

The GCP permits the severance of a dwelling which becomes surplus to a farm operation as a result of a farm consolidation when two or more farms have been amalgamated to form one contiguous parcel of land under one ownership, and provided that no new residential building lot is established.

Zoning By-law

The easterly portion of 1569 Fourth Avenue (Part 2) is zoned Agriculture (A1) pursuant to By-law 2013-283, which permits agricultural farms, agricultural farm related commercial and industrial uses, and detached dwellings.

The parcel known as 1539 Fourth Avenue (Parts 3, 4 and 5) is zoned Agriculture Only (A2) pursuant to By-law 2013-283, which permits only agricultural farms uses.

The northwesterly portion of 1569 Fourth Avenue (Part 2), and approximately one half of the easterly portion of 1539 Fourth Avenue (Part 4) are zoned Conservation/Natural Area (G1). The G1 zone permits trails, picnic shelters, boat ramps, and essential operations for service infrastructure and utilities.

Report

The purpose of the applications is to permit the severance of a surplus farm dwelling located at 1569 Fourth Avenue (Part 1), and is facilitated by the proposed boundary adjustment severing Parts 4 and 5 from Part 3, and merging them with Parts 1 and 2. The proposed consent maintains the existing greenhouse operation on a smaller parcel (Part 3) more adequately sized to accommodate the existing use, and increases the size and farming viability of the adjacent agricultural parcel (Parts 2 and 4).

Parts 4 and 5 are to be merged with Parts 1 and 2 to form one contiguous parcel of land under one ownership for farm purposes, increasing the size and viability of the farming parcel. Since there is an existing dwelling on Part 4, the existing dwelling on Part 1 is surplus to the needs of the farm operation, and may be severed in accordance with the surplus farm dwelling policies contained in the GCP.

As a condition of surplus farm dwelling severances, the GCP requires that the farm parcel to be established (Parts 2 and 4) be zoned Agriculture Only (A2) to preclude the construction of a new dwelling and to protect the lands for farming purposes only. The proposed severance of the surplus farm dwelling (Parts 1 and 5) may only occur with the approval of application B-28/15SC, which facilitates the amalgamation of the farm parcels. Until such amalgamation, the dwelling cannot be considered surplus. Part 5 is

included in the consent applications only insofar as this parcel is required to facilitate and provide direct lot frontage onto Fourth Avenue for the surplus farm dwelling.

The severance of the surplus dwelling is an appropriate use of the land. The dwelling is considered to be of sufficient quality to warrant its retention, and the remnant parcel (Parts 2 and 4) is of sufficient size to support and enhance the viability of the lands for agricultural use.

Overall, the proposed consents would create three properties where there are currently two. No new residential building lot would be created.

Conclusion

In summary, Staff is supportive of the proposed consents as they facilitate an appropriate severance of a surplus farm dwelling. Staff is satisfied that the subject consents are appropriate and desirable for the use of the land and that the intent and purpose of the Official Plan and Zoning By-law are being maintained. It is the opinion of Staff that the consents be approved, subject to the conditions outlined in the recommendation.

Prepared by:



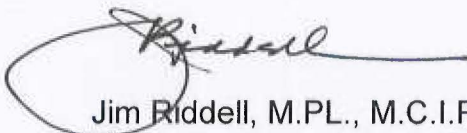
Charlotte McEwan
Student Planner

Submitted by:



Bruce Bellows
Planner I

Approved by:



Jim Riddell, M.P.L., M.C.I.P., R.P.P.
Director of Planning and Building Services



July 29, 2015

File No. MPR 2.13

St. Catharines
Committee of Adjustment
50 Church Street, P.O. Box 3012
St. Catharines, ON L2R 7C2

Attn: Elaine Munro, Secretary-Treasurer

Subject: B-28/15SC & B-29/15SC
1539 & 1569 Fourth Avenue, St. Catharines

The Niagara Peninsula Conservation Authority (NPCA) has reviewed the above noted applications and offers the following for your information.

B-28/15SC

For consent to a partial discharge of mortgage and for consent to sever 44,131 m² (Parts 4 & 5) which will be added to the abutting westerly parcel of land known as 1569 Fourth Avenue (Parts 1 & 2). A 42,310.6 m² remnant parcel (Part 3) will be retained for continued Agricultural use. The application would result in a boundary adjustment between the two parcels of land.

B-29/15SC

For consent to a partial discharge of mortgage and for consent to convey 5,324 m² of land (Parts 1 & 5) with a dwelling known as 1569 Fourth Avenue as the disposal of a surplus farm dwelling. A 91,084 m² of land (Parts 2 & 4) is to be retained for continued Agricultural use.

Niagara Peninsula Conservation Authority Regulations:

The subject lands are traversed by Richardson Creek and impacted by the associated floodplain, wetland, valley slope, and fish habitat.

Authority objectives when reviewing applications and proposals on lots adjacent to steep slopes would pertain to minimizing soil erosion and sedimentation, protecting life and property from the potential for slope stability problems, and ensuring that the natural integrity of the valley slope is maintained over the long term. In accordance with the Authority's *"Regulation of Development, Interference with Wetlands and Alterations to Shoreline and Watercourses"* (O.Reg. 155/06), the Authority can regulate all development within 15 metres of the stable top of bank. Any future development within this setback will require Conservation Authority review and approval, and may be subject to a Slope Stability Analysis by a qualified Geotechnical Engineer and/or a work permit from this office. A minimum 7.5 metre setback for all new works and site disturbances will be required by this office. Under no circumstances will works or site alterations be permitted below the top of slope, on the valley wall.

Richardson Creek has been identified as Type 2 (Important) Fish Habitat and there is an extensive floodplain associated with this section of the Creek. NPCA mapping also identifies a wetland within the valley associated with the Creek. In accordance with the Authority's Regulations, no development is permitted within a wetland and a minimum 30 metre buffer from a wetland is required for all development and site alterations. However, since new development proposed on these lands will not be permitted below the top of the bank, the very steep valley acts as an appropriate natural buffer from the floodplain, Type 2 watercourse and wetland. As such, NPCA staff are of the opinion that the floodplain, fisheries setback and wetland will be adequately protected if any future development is proposed.

B-28/15SC

The subject proposal is for a boundary adjustment only. In accordance with Policy 4.2, boundary adjustments, on lots impacted by the flooding and erosion hazard, can be entertained provided:

- 1) Both existing lots currently contain a portion of the flooding and erosion hazard limit;
- 2) The lot addition will not necessitate or encourage any new or upgraded crossings of the flooding and erosion hazard limit for access/egress purposes; and,
- 3) Existing crossings are sufficient for the intended land use.

NPCA staff are satisfied that both properties currently contain a portion of the flooding and erosion hazard and no new crossings will be required as a result of the subject applications. Staff also note there is sufficient room on each lot outside of the required setbacks to accommodate any future development without negatively impacting the regulated features.

B-29/15SC

The subject proposal is for consent to dispose of a surplus farm dwelling. The lands identified as surplus (Parts 1 & 5) do not contain any NPCA regulated features, and the NPCA offers no concerns to the proposed severance of the surplus farm dwelling.

Niagara Region Core Natural Heritage Comments:

In addition to commenting on proposals with respect to the Conservation Authority's regulations noted above, this agency has entered into a Memorandum of Understanding (MOU) with the Region of Niagara. In accordance with this MOU, the Conservation Authority has a responsibility to review and provide comments on planning applications as they relate to the Natural Environment on the Region's behalf. As such, the following comments pertain to the Core Natural Heritage System Policies within the Regional Policy Plan.

The Region's Core Natural Heritage Mapping identifies an Environmental Conservation Area (ECA) for Significant Woodland and other evaluated wetland. Since these lands also fall within the Natural Heritage System of the Greenbelt Plan, the woodlot and the wetland areas are classified as an Environmental Protection Area (EPA).

B-28/15SC

In accordance with Regional Policy (7.B.1.10), development (including lot creation) is not permitted within an EPA unless it is for conservation uses, wildlife management or passive recreational uses. The proposed lot line at the northern limit of Part 3 intersects the eastern property line at the boundary of the identified EPA features. This lot line does not bisect the EPA feature, and is located entirely within the adjacent lands to the EPA.

In accordance with Regional Policy, as well as the Greenbelt Plan (Policy 4.6.2.c)), minor boundary adjustments or boundary additions are permitted within the Protected Countryside of the Greenbelt Plan provided no new residential lot is created and there is no increased fragmentation of a key hydrologic or key natural heritage feature. The subject application involves a boundary adjustment only, and both properties currently contain portions of the key natural heritage features and key hydrologic features. In addition, the lot lines do not bisect any EPA features. Therefore the proposed boundary adjustment would not result in any increased fragmentation of a key natural heritage feature or key hydrologic feature. Any new development proposed on site will require NPCA review and approval which will not permit development or site alterations below the top of bank, within the valley (area identified as EPA). Staff also note that the subject parcels of land are of sufficient size to ensure all required buffers are adequately met without negatively impacting the natural features.

B-29/15SC

The lands identified as surplus (Parts 1 and 5) are not impacted by any Regional Core Natural Heritage features, and the NPCA therefore offers no concerns to the proposed severance of the surplus farm dwelling.

Conclusion:

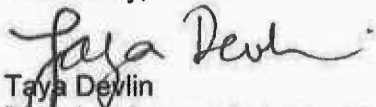
Based on the above, the NPCA offers no objections to the proposed lot boundary adjustment. NPCA and Regional Policies typically discourage new lot lines through regulated features. However, the NPCA notes that this proposal is for a boundary adjustment only at this time and no new lot is being created within the regulated features or their buffers. In addition, the proposed boundary adjustment ensures no further fragmentation of the adjacent natural features since both properties currently contain portions of the natural features and there will be sufficient room on each lot outside of the required setbacks to accommodate any future development without negatively impacting the regulated features.

Based on the above, the NPCA offers no objections to the proposed lot to be severed as a surplus farm dwelling.

Lastly, due to the features identified on the properties, any future works proposed will require NPCA review and approvals prior to the commencement of the works on site and any works proposed within a regulated feature or its buffer may require a work permit from this office, as well as further studies, in accordance with the Authority's "Regulation of Development, Interference with Wetlands and Alterations to Shoreline and Watercourses" (O. Reg. 155/06)".

I trust the above will be of assistance to you. Please do not hesitate to call should you have further questions in this matter.

Yours truly,



Taya Devlin
Planning Approvals Analyst (ext. 262)

Cc: Morgan Casciani, Development Planner, Niagara Region

1539 & 1569 Fourth Avenue, St. Catharines



Legend

- NPCA APPROXIMATE REGULATED FLOODPLAIN EXTENT
 - Advisory (CWR)
 - Regulated
- Reaches Draining 125ha Requiring 125ha Requiring
- Top of Slope Features
 - Stable
 - Unstable
- Top of Slope Allowance
- OWES WETLANDS
 - Non-Provinceally Significant Wetland
 - Provinceally Significant Wetland
- Regulation Wetlands
- Wetland Allowance
- RMN Streets
 - Provincial
 - Regional
 - Municipal Other
- RMN Assessment Parcels
 - 2K HydroPoly
 - 2K Hydrography
- Contours - 1m Region 2002
- NPCA Watershed Municipalities
- NPCA Extended Context Area Surround
- Norfolk; New York; Grand Island; Erie
- Lake Erie; Lake Ontario; Niagara River
- Surround - Hamilton/Halton
- 2010 Niagara Air Photos

1:2,906
7/29/2015



Notes

Consent

0.1 0 0.07 0.1 Kilometers

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1539 & 1569 Fourth Avenue, St. Catharines



Legend

- RMN Streets**
 - Provincial
 - Regional
 - Municipal Other
- RMN Assessment Parcels**
- Fish Habitat Reaches**
 - 'Critical' Type 1
 - 'Important' Type 2
 - 'Marginal' Type 3
- Fish Habitat Areas**
 - 'Critical' Type 1
 - 'Important' Type 2
 - 'Marginal' Type 3
- NHS - Fish Habitat**
- EPA: Greenbelt NHS**
- ECA: Significant Woodlands**
- 2K HydroPoly**
- 2K Hydrography**
- Contours - 1m Region 2002**
- NPCA Watershed Municipalities**
- NPCA Extended Context Area**
- Surround**
 - Norfolk, New York, Grand Island, Br.
 - Lake Erie, Lake Ontario, Niagara Riv.
 - Surround - Hamilton/Halton
- 2010 Niagara Air Photos**



1: 2,906
7/29/2015



Notes

Consent

0.1 0 0.07 0.1 Kilometers

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1539 & 1569 Fourth Avenue, St. Catharines






Legend













OWES WETLANDS

-  Non-Provincially Significant Wetland
-  Provincially Significant Wetland

RMN Streets

-  Provincial
-  Regional
-  Municipal Other

RMN Assessment Parcels

-  EPA: Greenbelt NHS
-  ECA: Significant Woodlands
-  2K HydroPoly
-  2K Hydrography
-  Contours - 1m Region 2002
-  Contours - 1m Watershed 2002
-  NPCA Watershed Municipalities
-  NPCA Extended Context Area Surround
-  Norfolk; New York; Grand Island; B
-  Lake Erie; Lake Ontario; Niagara R
-  Surround - Hamilton/Halton
-  2010 Niagara Air Photos

1:2,060

7/28/2015



0.1 0 0.05 0.1 Kilometers

Notes

Munro, Elaine

From: Taya Devlin <tdevlin@npca.ca>
Sent: Tuesday, July 28, 2015 4:18 PM
To: Munro, Elaine
Cc: 'morgan.casciani@niagararegion.ca' (morgan.casciani@niagararegion.ca)
Subject: A-60/15 1 Colton Avenue, St. Catharines
Attachments: 1 Colton Avenue Map.pdf

Good Afternoon Elaine,

The Niagara Peninsula Conservation Authority (NPCA) has reviewed the subject application (A-60/15) and offers the following for your information.

The subject application has been made for the following:

1. An increase of the total lot area for accessory structures from 10% to 12.5%
2. A reduction of minimum setback from front lot line to the deck from 3.0 metres to 2.6 metres.

The variances are requested to recognize the existing open deck and to facilitate the construction of a new garage.

There are no NPCA regulated features currently identified on the subject property.

In addition to commenting on proposals with respect to the Conservation Authority's regulations noted above, this agency has entered into a Memorandum of Understanding (MOU) with the Region of Niagara. In accordance with this MOU, the Conservation Authority has a responsibility to review and provide comments on planning applications as they relate to the Natural Environment on the Region's behalf. As such, the following comments pertain to the Core Natural Heritage System Policies within the Regional Policy Plan.

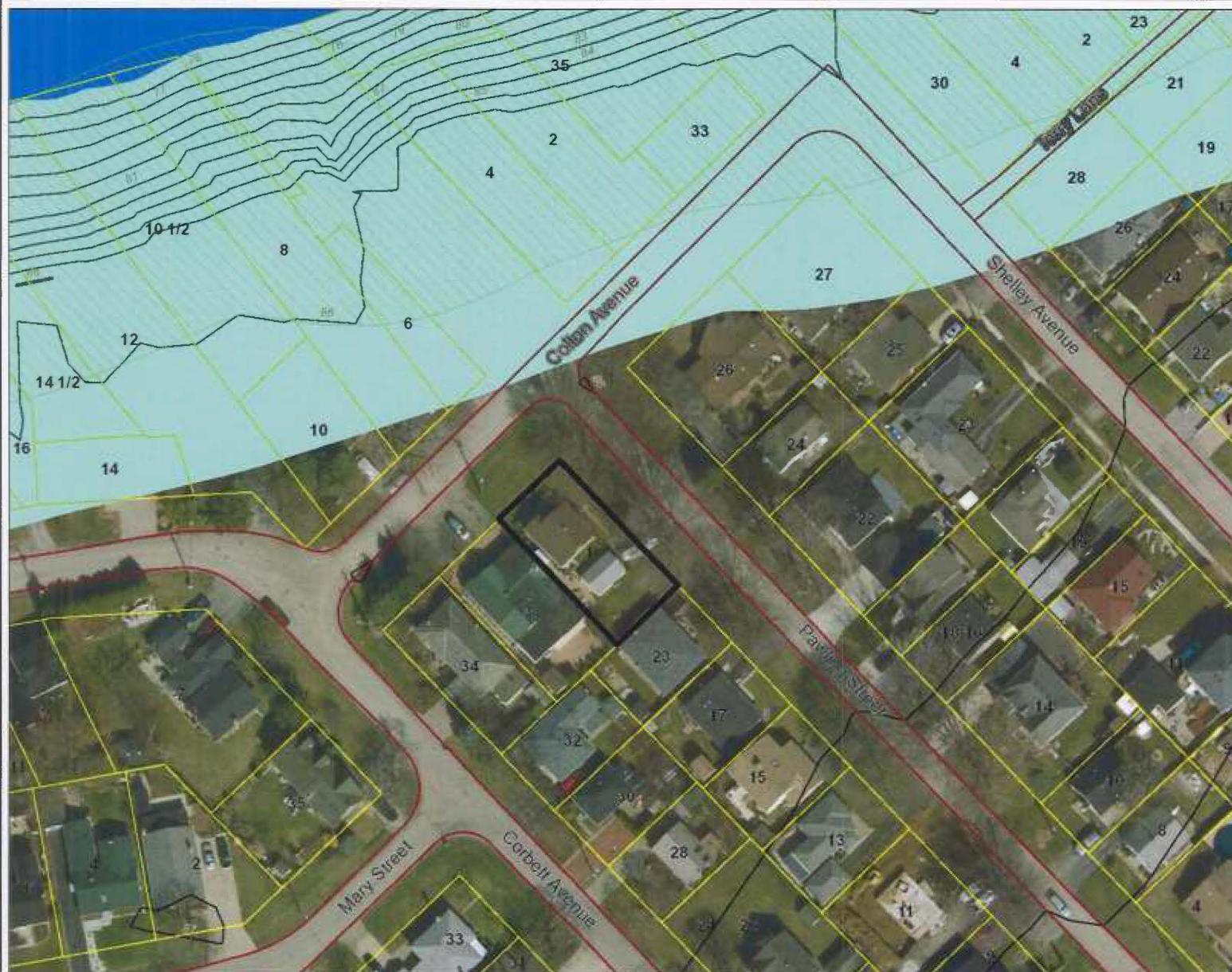
The property is identified as adjacent to (within 50 metres) an Environmental Conservation Area (ECA) for Valley Shoreline associated with Lake Ontario. In accordance with Policy 7.b.1.11, development and site alterations may take place within or adjacent to (within 50 metres) an ECA provided it has been demonstrated that there will be no significant negative impact on the Core Natural Heritage System component or adjacent lands. Due to the location of the property, separated from the ECA feature by Colton Avenue, the NPCA is satisfied that there would be no significant negative impact to the feature as a result of any development proposed on site.

Based on the above, the NPCA offers no objections to the subject applications proposing variance s to recognize an existing deck and the construction of a new garage.

Please contact me if you have any questions.
Thank you,

Taya Devlin
Watershed Planner
Niagara Peninsula Conservation Authority
250 Thorold Road West, 3rd Floor
Welland, Ontario L3C 3W2
Phone: 905 788 3135 (ext. 262)
Fax: 905 788 1121
Email: tdevlin@npca.ca

1 Colton Avenue, St. Catharines



Legend

- NPCA APPROXIMATE REGULATORY
- Road Edges 2002
- RMN Streets Labels
- RMN Assessment Parcels
- ECA: Valley Shoreline Buffer
- 2K HydroPoly
- 2K Hydrography
- Contours - 1m Region 2002
- Contours - 1m Watershed 200
- NPCA Watershed Municipalities
- NPCA Extended Context Area Surround
- Norfolk; New York; Grand Island; B
- Lake Erie; Lake Ontario; Niagara R
- Surround - Hamilton/Halton
- 2010 Niagara Air Photos

1: 1,030
 7/28/2015



0.1 0 0.03 0.1 Kilometers

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Notes

Minor Variance



CITY OF
ST. CATHARINES

Technical Report

Report from Planning and Building Services, Planning Services

Date of Report: July 29, 2015

Date of Meeting: August 5, 2015

Submission(s): A-60/15

File: 60.81.4998

Subject: 1 Colton Avenue

Recommendation

That Submission **A-60/15** by Gary Collins and Jean Stewart, as outlined in the Notice of Hearing, be approved.

Summary

The purpose of this application is to reduce the required front yard setback from 3.0 metres to 2.6 metres to the uncovered deck, and to increase the maximum lot area covered by accessory structures from 10% to 12% in order to recognize the location of the existing deck and to facilitate the construction of a detached garage.

Having regard for the matters under subsection 45 (1) of the Planning Act, staff is satisfied that the proposal is desirable for the appropriate use of the land and that the intent and purpose of the Official Plan and Zoning By-law are being maintained. The variances requested are minor in nature.

Staff recommends granting the requested variances.

Background

Planning Context

Location

The subject property is located on the southwest corner of Colton Avenue, and Pawling Street. Surrounding uses include detached dwellings to the north, south, and east, and detached and semi-detached dwellings to the west.

Official Plan

The Garden City Plan (GCP) designates the land as Low Density Residential, permitting a variety of residential dwelling types including the existing detached dwelling, at a density range generally between 20 and 32 units per hectare, subject to the policies of the GCP.

Zoning By-law

The subject land is zoned Low Density Residential – Traditional Neighbourhood (R2) pursuant to By-law 2013-283, permitting a variety of residential dwelling types and structures accessory to this use, including the proposed detached garage.

Report

A variance to increase the total lot area permitted for accessory structures is requested to allow for the construction of a detached garage. The general land use policies in Section 7 of the GCP state that, when evaluating proposed development, building and site context sensitive design will ensure that adequate outdoor amenity areas to accommodate use are maintained.

Accessory structures are permitted within the zoning; however, they are not permitted to exceed 10% of the total lot area. The purpose of this zoning requirement is to maintain adequate amenity space. The construction of the proposed garage would cause the total lot area of accessory structures to reach 12.5%.

The property currently supports two accessory structures, being a shed and a garage. The shed will remain, and the existing garage will be demolished. The proposed garage is only slightly larger in size than the existing garage, and will be located in its place. The proposed height of 4.44 metres complies with the zoning requirements, and is less than the height of the dwelling. This will ensure that the garage does not impose on the surrounding area and that the dwelling continues to be the prominent structure. The lot size and the massing of the proposed garage and existing dwelling maintain an amenity space that is functional and appropriate for this land use and its relationship to the neighbourhood.

A variance to reduce the minimum setback from the front lot line to the uncovered deck is requested to recognize the location of the existing deck, which is a long-standing situation that will have no impact on streetscape or the character of the surrounding neighbourhood.

Staff is satisfied that the proposal meets the intent and purpose of the GCP and Zoning By-law, is desirable for the use of the land, and will maintain the character of the surrounding neighbourhood. The variances requested are minor in nature. Staff is satisfied that due regard has been had for subsection 45 (1) of the Planning Act.

The applicant is advised that a building permit is required for the demolition of the existing garage.

The applicant is advised that a permit is required for the proposed detached garage.

The applicant is advised that during review of the building permit for the proposed garage, the Parks, Recreation and Culture Services Department will request that the adjacent boulevard tree be protected during construction.

Conclusion


Staff is satisfied that the proposed variances maintain adequate outdoor amenity space on the lands, and will not negatively impact the streetscape or the character of the surrounding neighbourhood. The intent and purpose of the Official Plan and Zoning By-law will be maintained. The proposal is desirable for the appropriate use of this land, and the variances are minor in nature. Due regard has been had for subsection 45 (1) of the Planning Act. It is the opinion of Staff that the variances should be granted.

Prepared by:



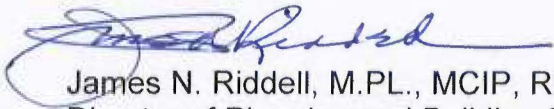
Sara Rogers, CPT
Planning Technician

Submitted by:



Amanda Knutson
Planner I

Approved by:



James N. Riddell, M.P.L., MCIP, RPP
Director of Planning and Building Services



CITY OF
ST. CATHARINES

Technical Report

Report from Planning and Building Services, Planning Services

Date of Report: July 29, 2015

Date of Meeting: August 5, 2015

Submission(s): A-61/15

File: 60.81.4999

Subject: 62 Grantham Avenue South

Proposal

Application A-61/15 is made for permission to extend a non-conforming use to permit the construction of a detached garage.

Recommendation

That Submission **A-61/15** by Beata Ruszewska and Andrzej Ruszewski, as outlined in the Notice of Hearing, be approved, subject to the following conditions:

1. That the height of the detached garage or any accessory structure not exceed 4.5 metres.
2. That the total coverage of all accessory structures, including the detached garage, not exceed 10% of the total lot area.
3. That the detached garage or any accessory structure be located a minimum of 0.6 metres from the rear and side lot lines.
4. That the detached garage be located at least 1.0 metre further distant from the front lot line than the front wall of the dwelling.
5. That front yard parking be restricted in the same manner and with the same effect as if the lands were zoned for residential use.

Summary

The purpose of this application is to facilitate the construction of a detached garage accessory to an existing non-conforming detached dwelling.

Having regard for the matters under subsection 45 (2) (a) (i) of the Planning Act, staff is satisfied that the use of the lands for a detached dwelling has lawfully continued passage of the by-law prohibiting such use.

Staff recommends that the extension of a non-conforming use be granted, subject to the conditions outline in the recommendation.

Background

Planning Context

Location

The subject property is located on the east side of Grantham Avenue South, north of Eastchester Avenue. Surrounding uses include industrial uses to the west and east, and detached dwellings to the north and south.

Official Plan

The Garden City Plan (GCP) designates the land as Business Commercial Employment, permitting a variety of commercial and industrial uses, subject to the policies of the GCP. Residential uses are not permitted.

Zoning By-law

The subject land is zoned Business Commercial Employment (E1) pursuant to By-law 2013-283, permitting a variety of commercial and industrial uses. Residential uses are not permitted.

Report

Residential uses such as this detached dwelling are not permitted in the Business Commercial Employment Zone of By-law 2013-283, nor were they permitted in the previous Zoning By-law 62-86 (rescinded by 2013-283). The existing detached dwelling is therefore a non-conforming use.

Section 45 (2) (a) (i) of the Planning Act grants the Committee of Adjustment the power to extend a non-conforming use, provided the land, building or structure was lawfully and continuously used for that purpose since the passage of the by-law prohibiting the use. Staff has found sufficient evidence to suggest that the existing detached dwelling was constructed prior to the passage of Zoning By-law 62-88 in 1962 and that its residential use has continued since that time. The subject lands formed part of a residential subdivision (RP 88) in the former geographic Township of Grantham. The By-law permitting such subdivision was passed on December 15, 1922.

This dwelling is one of several existing detached dwellings along the east side of Grantham Avenue South. Some of these existing dwellings have detached garages, which are primarily narrow, single-vehicle garages. Based on this situation, staff believe that the construction of a detached garage on the subject lands would be compatible with the surrounding land uses, both industrial and residential, subject to the conditions outlined in the recommendation of this report.

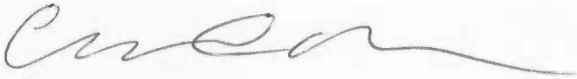
With respect to the conditions recommended, staff would note that the proposed detached garage, as shown on the submitted sketch, will result in a total lot coverage of 15.5% for accessory structures, exceeding the maximum 10% permitted by the Zoning By-law (Section 2.1). This calculation includes the existing shed at the rear of the property. In order to ensure compatibility and that the intent and purpose of the Zoning By-law is being maintained, staff recommends that the size of the detached garage be reduced so that the provisions relating to Accessory Buildings and Structures (Section 2.1) can be met. The applicant might also consider removing the existing shed to reduce access structure coverage.

A fifth condition has been included to address front yard parking. Section 5.4.5 of the Garden City Plan is supportive of zoning that controls residential parking and minimizes expansive parking areas in favour of greening initiatives. As such, staff is recommending that front yard parking be restricted in the same manner and with the same effect as if the lands were zoned for residential use

Conclusion

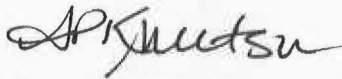
Due regard has been had for subsection 45 (2) (a) (i) of the Planning Act and staff is satisfied that the subject lands has continued to be used for its residential use since passage of the by-law prohibiting the use. With a new detached garage, this existing detached dwelling will continue to be compatible with surrounding uses. It is the opinion of staff that the extension of the non-conforming use should be granted, subject to the conditions outlined in the recommendation.

Prepared by:



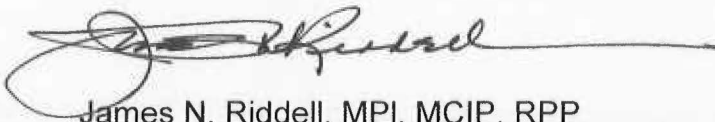
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