

**COMMITTEE OF ADJUSTMENT  
MINUTES  
FEBRUARY 19<sup>th</sup> , 2009**

**Present:** Roy Perry, Chair  
Bob O'Brien, Member  
Lee Redmayne, Member

**Also Present:** Bev Mansbridge, Planning Technician  
Colleen Healey, Manager of Planning and Development

Roy Perry, Chair called the meeting to order at 10:01 a.m. and explained the meeting process and the time frame for appeals to those persons present. He advised that all statements and evidence given before the Committee are of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

**MINUTES:**

The Minutes of January 22, 2009 were accepted by Committee.

**DISCLOSURE OF INTEREST:**

There were no disclosures of interest.

**APPLICATIONS:**

**A14/08      OSTROWSKI  
56 Brentwood Road**

Mrs. Ostrowski, along with her father, attended the meeting. Colleen highlighted the change to the proposed garage to be a proposed 1170 ft<sup>2</sup> building and a total roof height of 23 feet or 18 feet to midpoint. Committee concerns in the past stemmed from the proposed size of the garage and to ensure its use would not be of a commercial use nor permit an apartment. Basically, the applicant has now proposed a smaller building, and will now be used for storage purposes only, as confirmed by Mrs. Ostrowski, as the house does not have any basement. The owner noted that this garage will be used to store equipment, cars, lawn mower, snow blower, etc.

Committee Member Lee Redmayne asked about the original size and Colleen reminded Committee from her earlier report noting the proposed garage was to be 44.5 x 33.5 feet being 1490 sq. ft. or basically 1500 sq ft. Ms. Healey then confirmed the Township Zoning By-law only permits 1000 sq ft. as highlighted in the former Planning report. Colleen also suggested that the Committee will want to ensure that the use is for storage purposes only. Lee asked if the mezzanine is still proposed and the applicant said yes a second level will be used for storage only. The applicant informed that the garage will store car parts, as her father resides there and works in Toronto.

Bob O'Brien then asked for clarification as the original application classified the building as a workshop rather than for storage, and Mrs. Ostrowski confirmed

that cars will be kept in the bottom of garage, and storage will be upstairs. Bob inquired why the location so far back and the applicant advised it would be out of sight to neighbours. Bob questioned whether this will be used as a commercial workshop, and the applicant said no. Bob asked the Planning Manager whether and how to ensure it won't be used as a commercial use. Committee noted their concern for operating as a commercial use which is not permitted. Colleen Healey then noted that the Township's Zoning By-law does not permit auto repairs use in a residential area, and that any said works of a commercial nature found would be enforced through the Zoning By-law. No questions were heard from the audience.

**The Committee Members then voted on the minor variance, as revised and all were in favour of granting the revised application subject to the standard conditions.**

Roy Perry, Chair then announced this application has been passed.

**A2/09           TURNBULL  
                      305 Mill Street**

Mr. Rob Catarino, Planner from Skelton Brumwell, acting on behalf of Canadian Tire, attended the meeting on behalf of the developer. Mr. Catarino presented a copy of the proposed Site Plan. Colleen read the Planning Report aloud and corrected wording in Notice, to permit "sale of fossil fuels, not just gas as well as the reduction of loading bays. A copy of the Report was made available by the Planner. Rob Catarino introduced himself acting on behalf of developer who is in the process of purchasing the property from Leesa Turnbull. The terms of the consent have yet to be completed, he noted and also added that Colleen provided a thorough description of the variance. He confirmed that the property is designated and zoned Commercial in the Township's Official Plan and Core Commercial (C2) in Essa's Zoning By-law. Under Commercial uses, Mr. Catarino further noted that repair garages are permitted however the application was made to add diesel sale (all fossil fuels) and clarify requirements for a single loading space, as size of the retail section proposed may only have required 0-1 loading spaces. He added that although the area of the store is larger, the retail portion is smaller than the proposed entire building. Mr. Catarino would request for variance to allow for a single (1) loading space. It is Skelton Brumwell's opinion to meet the intent of the Township Official Plan.

Committee Members then asked whether the garden centre was enclosed, and the agent said not included. Lee Redmayne then asked if premise is proposed to direct loading into garden centre and Mr. Catarino confirmed as the garden area is for seasonal use and only used for 4-5 months of the year, this is the proposed loading bay. Lee then asked whether the commercial use allows for the sale of gas and Colleen confirmed uses include retail stores, restaurants, auto repair garages, etc. but not sale of gas. Colleen noted that the Notice to neighbours was simplifying the terminology, but the applicant technically wants to sell diesel or all fuels. Committee Member Lee Redmayne then asked what if the fuel is not considered a fossil fuel or what if ethanol? Colleen and Mr. Catarino noted this was an interesting question. Committee further inquired whether this would be

added to the decision, and Colleen noted perhaps Committee will want to add. Colleen confirmed that staff believes sale of gas to be similar to grouping of uses permitted in the Zoning By-Law and therefore will consider this as being allowed. Discussion on sale of ethanol was had and it was suggested by the agent that if this is permitted in future that wording now include “sale of motor vehicle fuels”, which covers everything. Committee discussed and was fine with this wording.

Bob O’Brien then asked if stacking was proposed for transport bay, or only one bay? The agent noted that the store’s location might expect a smaller market as a 20,000 sq ft building is proposed, excluding the garden centre, and believed they will not need 2 trucks unloading at the same time. He further added that the expected loading frequency is approximately 2-3 times/week. Mr. Catarino added that the company will only send out supplies in one truck at a time and that the Alliston store currently is 60,000 sq. ft. and does provide 2 loading spaces as there is a much larger area for floor products. The Committee asked whether the applicants would consider an easement for cross-easement and the agent noted this can be entertained and through the Site Plan Agreement process, as it is hoped that servicing and cross-easement can be addressed at that time. The agent asked how to fulfill the timing of such easement if added as a condition of variance, rather than a condition of consent? Colleen had already reviewed and outlined this was included on the consent decision already.

The Chair then asked for any audience questions, and none were heard.

**The Committee Members then voted on the minor variance and all were in favour of granting the application subject to the standard conditions.**

Roy Perry, Chair then announced this application has been passed.

**A3/09            PORTSVILLE (ANGUS) LTD.  
3 Massey Street**

Ardel Johnston attended the meeting on behalf of C & I Investments, who have an interest in the land, pertaining to Severance Application B8/06. The Committee deferred this application until end of meeting in order that the missing applicant may attend later.

**B1/09            TANGLE CREEK GOLF  
4730 25<sup>th</sup> Sideroad**

Mark Elliott, landowner, attended the meeting. The Planning Report was read by Colleen Healey. Colleen provided the applicant with a copy of the Report and noted that the N.V.C.A. has no objections.

Mr. Elliott explained that a neighbour to the west has come to the meeting with some concerns being Mr. Maurice DiMonte of 4796 25<sup>th</sup> Sideroad, immediately west of the proposed lot, noted he had a previous informal agreement with the

former landowner, (Mr. Elliott Sr.) to agree that the existing fence line at east boundary of the property would be considered as added to his property in event that at rear (north) lot line, some land would be given to the remnant parcel (Mr. Elliott's lands). Colleen suggested that the neighbour may want to address this. Bob asked to see a survey of the lands. The east lot line of neighbor was viewed on the survey.

Neighbour Mr. Maurice DiMonte attended the meeting and indicated they own the house and property west of the proposed lot. He further explained that 19 years ago, he spoke with Mark's father, Mr. Monty Elliott Sr. who had agreed with this, concerning his property line as the driveway was too close on the east side of the property line, and that fence line at top end of property (north lot line) was lost, due to fence installation, so it was agreed to have lands added to his east lot line. However the existing survey did not include this addition, just mutually agreed by handshake.

The fence holes were then drilled and installed, and he didn't mind losing property to the north of his property, but intent was to build garage to east side of property. If viewed presently, the lot line would appear to be his lands. The neighbor was unsure if Mark Elliott, the present owner had realized where marker was for driveway but marker is indicated on paper and added that there is a visual marker on the fence line, and was hoping that this agreement was kept. Colleen suggested this would be taken care of through consent or an amendment through a decision of this application. It was suggested that the landowner think on this and come back, as there was no guarantee that a new lot would be granted.

Committee Member Lee Redmayne then indicated she wants more information and then perhaps the applicant may want to make a decision on whether to request a deferral or not. Lee questioned whether Green Acres was used as a precedent and Colleen noted yes, but perhaps this was not the best example. Colleen confirmed that presently there are no policies in place within Essa's Official Plan to stop a severance from Commercial lands. Lee added, "nor to allow a severance". Lee then discussed severances on Agricultural and Rural lands. Lee does not know why a severance would be considered for a residential lot off the Township's rural concession road in order to basically create this new lot. She then asked why this lot was being created and the applicant noted that he himself may move onto this lot or he may sell. The landowner also relayed that this land is not presently used for the Commercial Recreation business. Lee further noted her concern for the creation of a residential lot in this neighbourhood.

Discussion on a neighbouring residential modular home park was held and the landowner confirmed that a 28 ac residential parcel had been severed from the trailer park at the corner of the 25<sup>th</sup> Sideroad and 10<sup>th</sup> Line which includes a residence. Some discussion was had.

Colleen noted that this is not in a prime agricultural area, however, the Province says no to developing Prime Agricultural lands, not Commercial Recreation. The Township's Official Plan appears silent in this regard. Colleen noted she is not opposed to the new lot. Ms. Healey then noted that other examples may be

sought if the matter is deferred, as Commercial lands in the past have been permitted severances. She also confirmed the County is silent, and the N.V.C.A. is supportive of this severance.

Committee asked when was the last lot severed from this parcel at hand? It was noted the severance occurred in 1990, and further discussion took place about previous severances on Rural lands.

Bob O'Brien noted that if something is not straightened out today, perhaps the applicant will want a deferral. The applicant Mark Elliott then asked if an agreement was met between the 2 parties, would Committee allow a new lot? It was noted that all three members think differently and that there were no guarantees. The applicant then asked what would be involved in moving the property line? Colleen noted that this would involve the same process, for a lot addition, and would require a survey, if permitted by Committee. Some discussion was held regarding whether to proceed to add to existing application and have a new survey prepared and the Committee agreed in principle to a possible lot line adjustment, being fairly minimal, and would hear at a future meeting, should the applicant wish to pursue this. The applicant noted his signs were installed and returned, thus asked whether new signs would be required pending deferral? It was indicated no.

Members requested a deferral and the Chair asked if there were any further audience comments and none were heard.

Roy announced a deferral of the application.

**A3/09          PORTSVILLE (ANGUS) LTD.  
3 Massey Street**

Portsville (Angus) Ltd. owner Tom Kovacevic, the applicant, then attended the meeting. Additional owner, Amos Adler also attended on behalf of Portsville. Ardel Johnston attended the meeting on behalf of C & I Investments. Colleen then read the Staff Report and recommended approval of the application. It was asked whether Committee would like a site plan posted and it was confirmed yes. Ms. Healey then noted that adjacent to the Foodland unit, an approved future addition on original site plan was proposed and agreed. Colleen noted that her calculations for the parking were not the same, however worst case scenario was being considered. Some discussion was held on parking requirements.

It was noted that C & I's lot was granted a few years back and discussion ensued regarding parking arrangements and existing easements on title. Colleen noted to Ms. Johnston and to Portsville that a shared parking area may be beneficial to both parties, as clients/public going into each other's buildings and the Township believed this was a good suggestion.

The Township suggested a mutual parking lot however C & I's Lawyer questioned how to establish cost-sharing in this regard, as due to market conditions, they may not sell nor build right away.

Discussion on potential construction ensued with regard to then creating the parking lot following any construction and those users involved.

Ms. Johnston noted as her client is out of the country, that she must get instructions from her client. Colleen noted that neither parties may be happy with the suggestion, however, staff does recommend that this is only method to proceed and noted that other users or neighbours cannot be forced into an agreement.

Discussion was held regarding Portsville providing parking to existing businesses (under legal obligation). Parking was noted as an important issue and both parties will need to meet to discuss parking and best use and to work the details out.

Tom Kovacevic would not discuss other issues being legal or otherwise today. Colleen noted the Committee requested to deal through a minor variance application to help alleviate those concerns of Portsville and Mr. Kovacevic said this is a major variance, not a minor variance.

A lengthy discussion followed. Colleen further noted that the Committee had previously approved of the consent application and thought by imposing condition, this would avoid future problems with parking. Committee agreed to defer to next meeting to allow those interested parties to enter into discussion/agreement.

**OTHER BUSINESS:**

No further business was discussed.

**ADJOURNMENT:**

The meeting adjourned at 11:40 a.m.

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Roy Perry, Chair

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Bev Mansbridge, Secretary-Treasurer