

**THE CORPORATION OF THE TOWN OF TECUMSEH
MINUTES OF THE COMMITTEE OF ADJUSTMENT MEETING**

A regular meeting of the Committee of Adjustment was held on Monday, August 26, 2019 at the Municipal Building, 917 Lesperance Road, Tecumseh, Ontario at 5:00 p.m.

I CALL TO ORDER

The Chairperson calls the meeting to order at 5:00 p.m.

II ROLL CALL

PRESENT:	Chairperson:	Tom Fuerth
	Vice-Chairperson:	Paul Morand
	Members:	Chris Carpenter
		Lori Chadwick
		Tom Marentette
		Tony Muscedere
	Director Planning & Building	
	Services	Brian Hillman
	Secretary-Treasurer	Donna Ferris

ABSENT: Chad Jeffery, Manager Planning
Bill Altenhof, Member

III DISCLOSURE OF PECUNIARY INTEREST

There is no disclosure of interest made.

IV MINUTES

1. Minutes of the regular Committee of Adjustment meeting held Monday, July 22, 2019.

Motion: (CA-47/19) Moved by Paul Morand
Seconded by Tony Muscedere

That the Minutes of the regular Committee of Adjustment meeting held Monday, July 22, 2019 be adopted, as printed and circulated.

Carried

V SUBMISSIONS

The following submissions were heard:

Application for Minor Variance A-25/19 – Pat and Diane Hayes, 12602 Riverside Drive

Interested parties present: Pat Hayes, Applicant and
Jerome Baillargeon, Agent for the Applicants

The purpose of the Application is to request relief Subsection 6.1.11 establishes that any building or addition on the north side of Riverside Drive shall not extend beyond the established building line. The Applicant is requesting relief for an addition to the existing dwelling, which is currently beyond the established building line. More specifically, the requested relief will allow for:

- i. The construction of a deck extension of 0.76 metres (2.5 feet) that will not exceed 0.4 metres (1.5 feet) above grade along the eastern side of the deck identified in orange on the Site Plan attached;
- ii. The construction of a roof over the remaining portions of the deck identified in yellow and orange on the Site Plan attached; and
- iii. Enclosing the entire covered deck with screening.

A minor variance was granted in 2011 (Application A-27/11) for a second storey addition above the existing first storey, the construction of a 3 metre wide deck that does not exceeding 0.4 metre (1.5 feet) above grade and the construction of a canopy overhang over a portion of the deck along the eastern wall of the dwelling.

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The subject property is designated Residential in the Tecumseh Official Plan and zoned Residential Zone 1 (R1) in the Tecumseh Zoning By-law 1746.

Notice of hearing for the above submission was circulated to landowners within a radius of 60 metres (200 feet) of the subject property (a list of said owners is on file). Notice of Hearing with a sketch attached was sent to the Applicant, each Council Member, Clerk, Public Works and Engineering Department, Planning and Building Services, Fire Department and all required agencies and to each member of the Committee of Adjustment.

CORRESPONDENCE

ERCA: Recommend a deferral until such time as ERCA has an opportunity to undertake pre-consultation with the owners about the application.

County of Essex: No response.

Town Engineer: No comments.

Correspondence dated August 26, 2019 - Residents of 12554 Riverside Drive are not in support of the Application.

DISCUSSION

Pat Hayes, Applicant and Jerome Baillargeon, Agent for the Applicant appear before the Committee to discuss the Application. Jerome Baillargeon informs the Committee that the screens proposed are a roll down style from Seaton and that they will be used during the night hours when the insects are out. Jerome Baillargeon also advises that his clients would not be able to keep the shades down on a regular basis because if a strong wind came off the lake, it would destroy the blinds. Jerome Baillargeon further advises that the roof of the canopy proposed is a flat roof.

Brian Hillman, Director Planning and Building Services informs that a minor variance was granted in 2011 for a second storey addition above an existing first storey. Brian Hillman also explains that the sight line is established from the corner of the octagon shape from the house on the east side to the north-easterly corner of the house on the west side. The previous minor variance included the construction of a 3 metre wide deck, not exceeding 0.4 metres above grade and the construction of a canopy overhang over a portion of the deck along the eastern wall of the dwelling. The previous addition also included a second storey over the existing footprint. Jerome Baillargeon indicates that approximately 50 percent of the existing structure is beyond the sight line but as it was built in the late 50's, it is considered legal non-conforming. Brian Hillman referring to the sketch on the Notice, explains that the relief being sought is for a 2.5 foot deck extension to the east outlined in orange on the sketch and a canopy over all the yellow and orange area. The dark red on the sketch is the existing canopy. Jerome Baillargeon advises that the canopy will have one-foot wide decorative columns. Brian Hillman states that the relief being sought is for a deck extension, construction of a flat roof over the remaining portions of the deck and enclosing the entire covered deck with screening.

Lori Chadwick inquires as to what precludes the Applicant from working within the limits of the zoning by-law. What hardship is the Applicant enduring? Pay Hayes informs the Committee that they would like to sit out even when it is raining and that is it a lot of work to cover the patio furniture daily and that when the sun beats down, it is also extremely hot without any shelter. Jerome Baillargeon indicates his clients want to enjoy the views of the water while being protected from the elements. Lori Chadwick inquires if the Applicant could live with the existing proposal without the screening. Pay Hayes advises that it would not be a problem but it would be nice to have the screening as they are out a lot at night. Lori Chadwick indicates that the proposal without the screening would be more digestible. Jerome Baillargeon indicates that the blinds would be down only at night and that the neighbour to the east has no objection. Jerome Baillargeon indicates that there is no evidence to support the claim that it obstructs the view of the neighbour to the west. Jerome Baillargeon states that the Committee needs to consider the actual impact of the proposal. Tom Fuerth indicates that the concern with the screening is that if they allow one resident to have screening, then they would have to allow ten more. Tom Fuerth states that if the deck extension and canopy are granted, it is like giving the Applicant another room to their dwelling.

Brian Hillman indicates that there is a history on the shoreline and a high sensitivity to views on waterfront properties. Brian Hillman goes on to say that there is an OMB decision that supports the "right to a view on waterfront properties". Brian Hillman also informs the

Committee that a recent decision by the Committee for a covered porch beyond the established building line was granted provided it is not enclosed with walls. By-law Enforcement was recently involved with this property as blinds were installed which effectively become a wall when closed. The Planning Department has no concerns with the deck extension and as the canopy has a flat roof, no concerns with the canopy either however the screening does cause great concern. The difficulties arise when applying the four tests with respect to the screening. Pat Hayes explains the difficulties he is has as a result of the house already being beyond the established building line.

Lori Chadwick questions Administration with respect to the deferral being requested by ERCA. Jerome Baillargeon indicates that they thought they would get approval for the minor variance prior to consulting with ERCA. Administration notes that there is some confusion on the part of ERCA with respect to the permit for the previous addition. The reason a permit was not needed from ERCA was because the addition was for a second storey over an existing single storey therefore there were no elevation issues thereby eliminating the need for a permit from ERCA.

Discussion ensues with respect to whether or not granting a decision without the Applicant having consulted with ERCA prior to the hearing. Would a decision by the Committee somehow put undue pressure on ERCA. ERCA's scope is shoreline protection. Tom Fuerth advises the Committee that they can defer the Application as recommended by ERCA until such time as the Committee has a report from ERCA. Tom Fuerth notes that with the current high elevation of water/lake levels, there is a heightened awareness with regards to damage to building on waterfront properties particularly if there is a north wind. Although, the Chair notes that ERCA is not present this evening. Tom Fuerth further advises that the Committee can approve the Application on the condition that the permit from ERCA is obtained but then the Applicant is taking a chance that if ERCA does not approve the existing proposal, then you would have to come back to the Committee with a new application for a revised proposal.

Tom Marentette also concurs with the comments made by Lori Chadwick and Brian Hillman with respect to the proposed Application. The difficulties with respect to properties on the waterfront is the desire to build closer to the lake and to want to sit out as much as possible therefore wanting to enclose the areas with screening. Whether the screening is motorized to go up and down, the fact is that when it is down, it is essentially a wall thereby creating an obstruction and violating the "right to a view". Pat Hayes indicates that they would be willing to withdraw Item iii) enclosing the entire deck with screening from the Application.

Lori Chadwick notes that the house to west is already impacted by sight lines as a result of the house being legal non-conforming and that the current owner to the east has no concerns but one must also consider future owners of the subject lands. Lori Chadwick also notes that as a result of the canopy having a flat roof there is no impact to the house to the west but some impact to the property to the east.

Brian Hillman notes that if the Application is revised to exclude the screening, that would eliminate the potential for future enforcement with respect visual impediments.

Tom Fuerth advises that if ERCA is prepared to issue a permit for the deck and canopy with post it would eliminate the factor of granting a minor variance for relief that may not be supported by ERCA. The Committee has to balance the hardship the owners are facing while adhering to the four tests. Brian Hillman advises that the Committee has the capacity to make a decision. Tom Marentette points out that the property is close to the flood plan, is the Applicant hiring the services of an Engineer noting the deck is not to be attached to the house. Tom Fuerth indicates that the deck is existing and that just a 2.5 foot extension to the deck is being request and a flat roof extension over the entire deck. Brian Hillman questions whether the flat roof will have post. Jerome Baillargeon confirms that it will have concrete columns.

Tom Fuerth is concerned that if the application is granted, ERCA may feel forced into a decision as a result of the Committee's decision. Tom Fuerth advises the Applicant that they have the right to object to the deferral of the Application but if ERCA does not concur with the proposed Application you might have to come back before the Committee, perhaps a special meeting and then wait the 20-day appeal period. Tom Fuerth also advises that if ERCA has concerns with the

proposal, ERCA has the authority to deny the Application. Alternatively, the Applicant's Engineer can work with ERCA through the permit process. Brian Hillman indicates that there are challenges with respect to the Application in regards to regulations as it relates to shoreline protection. It is noted by ERCA that they have no information on this property and that there is also a dock extension going out approximately 80 feet into the water as well as large stones that have been added for a break-wall for which they have no records.

The Committee concurs that as this Application has the potential to be revised by ERCA and the sensitivity surrounding the intent of the zoning by-law as it relates to construction beyond the building line, the Committee is desirous of deferring this Application as additional information is need by the Committee prior to rendering a decision.

Motion: (CA-48/19) Moved by Tom Marentette
Seconded by Chris Carpenter

That Application A-25/19 is deferred.

Carried

VI **DEFERRALS**

VII NEW BUSINESS

VIII UNFINISHED BUSINESS

IX ADJOURNMENT

Motion: (CA-49/19) Moved by Paul Morand
Seconded by Tom Marentette

That there being no further business the August 26, 2019 regular meeting of the Committee of Adjustment now adjourn at 5:44 p.m.

Carried

Tom Fuerth, Chairperson

Donna Ferris, Secretary-Treasurer