

**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 October 28, 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:	Bill Altenhof
		Chris Carpenter
		Lori Chadwick
		Tom Marentette
		Tony Muscedere
	Manager Planning	Chad Jeffery
	Secretary-Treasurer	Donna Ferris

ABSENT: None

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, September 23, 2019.

Motion: (CA-54/19) Moved by Tony Muscedere
Seconded by Paul Morand

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

Carried

V SUBMISSIONS

The following submissions were heard:

Tom Fuerth, Chair suggests to the Committee that they speak to the Applications with respect to 12906 and 12914 Riverside Drive prior to the other Applications as the Applicants have requested a deferral of their Applications as a result of the comments received from ERCA.

Application for Severance B-14/19 – Sandekere & Malavika Anand, 12906 Riverside Drive

Interested parties present: None - Deferred at the Written Request of the Applicants

The purpose of the Application is to request consent to sever a residential lot having a frontage of 14.62 metres (47.9 feet), an irregular depth and a lot area of 1110 square metres (11947.83 square feet) identified as Part 2 on the sketch attached (outlined in yellow). The proposed retained lot, containing an existing dwelling, will have a frontage of 19.87 metres (65.19 feet), an irregular depth and a total area of 1525 square metres (16,414.64 square feet) identified as Part 1 on the attached sketch (outlined in pink). Application for Minor Variance A-27/19 is being heard concurrently with this Application to address the lot frontage of 14.62 metres (47.9 feet) on the severed lot. The dwelling on the proposed severed lands is being demolished and a new dwelling is proposed to be constructed.

The lands are designated Residential in the Tecumseh Official Plan and zoned Residential Zone 1 (R1) in the Tecumseh Zoning By-law.

Application for Minor Variance A-27/19 – Sandekere & Malavika Anand, 12914 Riverside Drive

Interested parties present: None - Deferred at the Written Request of the Applicants

The purpose of the Application is to request relief from subsection 6.1.4 of Zoning By-law 1746 which establishes a minimum lot frontage of 18.0 metres (59.1 feet). As a result of Severance Application B-14/19, being heard concurrently with this Application, the Applicant is proposing a lot frontage of 14.62 metres (47.9 feet). See attached sketch.

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

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 the Application be deferred until the Applicants can confirm study requirements with the Town and ERCA.

County of Essex: No response.

Town Engineer:

- The parcel to be retained and the parcel to be severed are to be serviced with separate water supplies, storm and sanitary sewer systems to the satisfaction of the Town of Tecumseh Public Works and Water Divisions prior to this severance being finalized;
- The owner of 12906 Riverside Drive (the parcel 'to be retained') is to submit a site grading plan and details for how stormwater is being addressed to the satisfaction of the Chief Building Official prior to this severance being finalized. This is to ensure stormwater from the retained parcel will not rely on the parcel to be severed for its stormwater drainage.

Residents at 12954 Riverside Drive: Correspondence dated October 27, 2019, objecting to the Application (Letter read aloud).

DISCUSSION

The Chair seeks a motion from the Committee to defer Applications B-14/19 and A-27/19 as requested by the Applicants in light of the comments received from ERCA.

Motion: (CA-55/19) Moved by Lori Chadwick
Seconded by Bill Altenhof

That Applications B-14/19 and A-27/19 be deferred, as requested by the Applicants.

Application for Severance B-13/19 – Calira Corporation, 11845 Tecumseh Road

Interested parties present: Amy Farkas, Dillon Consulting Limited, Agent

The subject property located at 11845 Tecumseh Road East, Concession 2, Part of Lot 147, has a frontage of 54.86 metres (179.98 feet), an irregular depth and a lot area of 2,989 square metres (0.74 acres). The purpose of this Application is to lease a portion of the property, approximately 691.5 square metres (0.17 acres) outlined in red on the sketch attached for a Tim Horton's Drive Thru Restaurant. The lease agreement is in effective for more than twenty-one years.

The lands are designated General Commercial in the Tecumseh Official Plan and zoned General Commercial (C3) in the Tecumseh Zoning By-law.

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: No objection.

County of Essex: No response.

Town Engineer: No comments.

DISCUSSION

Amy Farkas, Dillon Consulting Limited, Agent for the Applicant appears before the Committee to discuss the Application. Tom Fuerth acknowledges that the purpose of the Application is to obtain consent for a long-term lease over 21 years that requires approval from the Committee of Adjustment under the Planning Act. Amy Farkas acknowledges receipt of the Planning Report dated October 28, 2019, and is in support of the conditions recommended therein on the approval of the Application. Lori Chadwick request Administration to explain for the record, the purpose or reasoning for the Application under the Planning Act. Chad Jeffery advises that in accordance with the Planning Act, leases that are in effect for more than 21 years requires consent by the Committee of Adjustment. Chad Jeffery further indicates that it is not a policy in the Tecumseh Official Plan but more technical in nature which is prescribed by section 50 (3) of the Planning Act. Chad Jeffery goes on to state that under section 50 (3) there are five ways in which land can be conveyed. Chad Jeffery indicates that no person shall convey land or enter into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more unless consent is given by the Committee of Adjustment. Chad Jeffery indicates that the consent is not to create a separate lot but simply to permit a lease for a period greater than 21 years. If the Lease was not greater than 21 years, the need for consent by the Committee of Adjustment would not be required. The remainder of the property is under the control of the original owner. Lori Chadwick states that she is in agreement with the Consent with the conditions as outlined in the Planning Report.

Motion: (CA-56/19) Moved by Lori Chadwick
Seconded by Tony Muscedere

That Application B-13/19 is granted.

Carried

REASONS

The Application is in keeping with the Planning Act requirements for leased lands over 21 years.

CONDITIONS

1. That at the time the conveyance is prepared for certification, two (2) copies of the reference plan by an Ontario Land Surveyor as well as digital files (.pdf and .dwg) with the .dwg files being in **NAD 83 format (UTM Zone 17 Metric)**, which has been numbered, dated, signed and registered must be submitted to the Town;
2. That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year paid in full, as well as any and all arrears owing on the total parcel;
3. That the appropriate documents for the conveyance be prepared in triplicate (3) suitable for registration, all copies to have original signatures, with one copy to remain as a record with the Town;
4. That any cost in excess of the \$600.00 non-refundable application fee, incurred to process this application such as legal and engineering fees, appraisal reports, etc. shall be the responsibility of the applicant and shall be payable to the Town of Tecumseh where applicable, prior to final consent; and
5. That the above conditions be fulfilled on or before October 29, 2020 prior to this severance being finalized.

Application for Severance B-15/19 – 2593430 Ontario Limited, 14400 Tecumseh Road

Interested parties present: Craig Stevenson, Solicitor for the Applicant
Dina Venturini, Applicant to Application A-28/19

The purpose of the Application is to sever a 2.0 square metre (21.6 square foot) parcel of residential land (shaded in red) for the purpose of a lot addition and consolidate it with the abutting residential lot to the north, municipally known as 408 Brighton Road (shaded in pink). The proposed retained lot, municipally known as 14400 Tecumseh Road (outlined in green), has an area of 1.3 hectares (3.2 acres). This Application is being heard concurrently with Minor Variance Application A-28/19 which requests relief to address the resulting side yard deficiency for 408 Brighton Road.

The lot at 408 Brighton Road is designated Single Family Residential and zoned Residential Type 2 Zone (R2) and the retained parcel at 14400 Tecumseh Road is designated Medium Density Residential and is zoned Residential Type 3 Zone (R3-13).

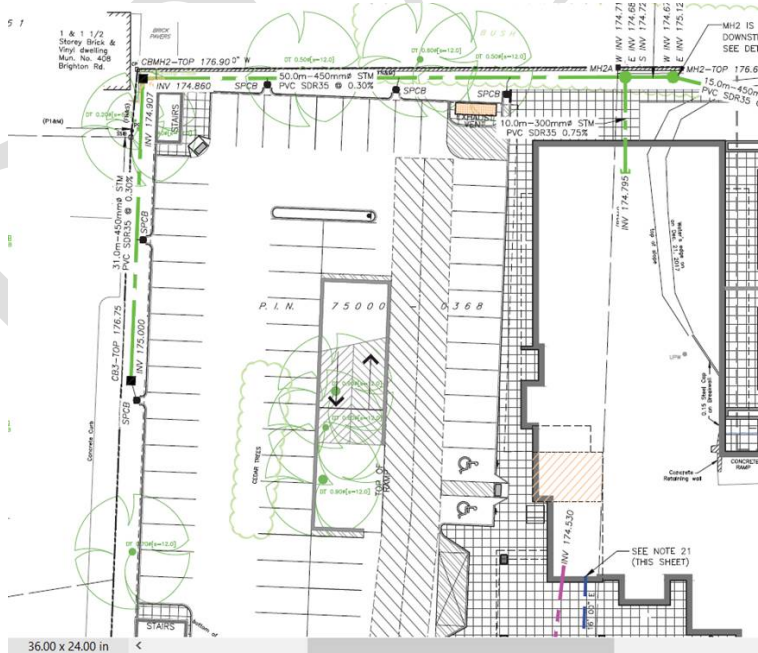
CORRESPONDENCE

ERCA: The lands are subject to Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Pike Creek. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by the regulations. No objection to the Application.

County of Essex: No response.

Town Engineer:

- Prior to this severance being approved, the owner of 14400 Tecumseh Road (the parcel 'to be retained') must provide confirmation that severing of this small piece of property does not adversely impact the storm drainage system that is currently proposed for the Residences at Bay Harbour development at 14400 Tecumseh Road. As per the following screen capture from the August 27, 2019 RC Spencer Associates Inc. Sheet No. 3 for the Residences at Bay Harbour development, storm sewer infrastructure is proposed in close proximity to the requested severance.



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.

Application for Minor Variance A-28/19 – Dina Venturini, 408 Brighton Road

Interested parties present: Craig Stevenson, Solicitor for the Applicant
Dina Venturini, Applicant

The purpose of the Application is to request relief from subsection 7.1.3 e) iii) of Zoning By-law 2065 which establishes the minimum interior side yard width is the lesser of 10 feet or 15 percent of the lot frontage. The Applicant is requesting relief to have an interior side yard width of 1.1 metre (3.6 feet). As a result of Severance Application B-15/19, which is being heard concurrently with this Application.

The subject property is designated Single Family Residential in the St. Clair Beach Official Plan and zoned Residential Type 2 Zone (R2) in the St. Clair Beach Zoning By-law. See sketch attached.

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: No objection.

County of Essex: No response.

Town Engineer: Same comments as for Severance Application B-15/19

DISCUSSION

Craig Stevenson, Solicitor/Agent for both 2593430 Ontario Limited and Dina Venturini. Tom Fuerth asks the Applicant's Solicitor if there is any additional information that he would like to add for the Committee's consideration. Craig Stevenson advises that the circumstances of the Application are historical in nature. Craig Stevenson advises that years ago there was a bar marking the boundary as well as a gas pipe that was marked. Craig Stevenson notes that the discrepancy in the boundary was found when Davide Petretta was preparing the site survey for the property development at 14400 Tecumseh Road. During the process of surveying the lands, it was discovered that a portion of the sidewalk and fence at 408 Brighton Road encroached onto the property at 14400 Tecumseh Road and that side yard relief for a 1.6-foot setback would be required from the zoning by-law. Dina Venturini indicates that without the granted of the consent and minor variance, it would make it difficult for her to cut her grass as she would have to go around the entire house as a lawn mower would not be able to fit through the area without the consent. Tom Fuerth acknowledges the difficulty the circumstance presents to the homeowner at 408 Brighton Road. Lori Chadwick reiterates the comments of the Town's Engineer that the owner of 14400 Tecumseh Road must provide confirmation that severing of this small piece of property does not adversely impact the storm drainage system that is currently proposed for the Residences at Bay Harbour development and requests as to whether or not he can confirm that this has been completed. Craig Stevenson indicates that he only became aware of the Town Engineer's comments that afternoon upon reading the Planning Report that was provided to him. He notes that Mr. Petretta's Counsel is on vacation and unable to be reached but indicates that the comments are included as a condition to the consent which should suffice for the Committee. Tom Fuerth notes that if this development had not proceeded, this severance may not have presented itself. Chad Jeffery notes that the Town Engineer is being cautious regarding the stormwater management of the proposed development indicating that there will be only a minor adjustment in the stormwater management calculation as it is merely a silver of land however, to ensure that stormwater management is address, it is recommended that the Town Engineer's comments be included as a condition.

Motion: (CA-57/19) Moved by Tom Marentette
Seconded by Chris Carpenter

That Applications B-15/19 and A-28/19 is granted.

Carried

REASONS

Application B-15/19 is in keeping with the Official Plan policies for the Town of Tecumseh as well as Zoning By-law 2065 and Application A-28/19 meets the four tests of a minor variance in that it is desirable for the appropriate development or use of the land, building or structure, the general intent and purpose of the Official Plan and Zoning by-law is maintained and the variance is minor in nature.

CONDITIONS TO SEVERANCE APPLICATION B-15/19

1. That at the time the conveyance is prepared for certification, two (2) copies of the reference plan by an Ontario Land Surveyor as well as digital files (.pdf and .dwg) with the .dwg files being in **NAD 83 format (UTM Zone 17 Metric)**, which has been numbered, dated, signed and registered must be submitted to the Town;
2. That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year paid in full, as well as any and all arrears owing on the total parcel;
3. That the appropriate documents for the conveyance be prepared in triplicate (3) suitable for registration, all copies to have original signatures, with one copy to remain as a record with the Town;
4. That any cost in excess of the \$600.00 non-refundable application fee, incurred to process this application such as legal and engineering fees, appraisal reports, etc. shall be the responsibility of the applicant and shall be payable to the Town of Tecumseh where applicable, prior to final consent;
5. That subsection 50(3) and/or 50(5), as the case may be, of the Planning Act, R.S.O. 1990, as amended shall apply to any subsequent conveyance of or transaction involving the parcel which is the subject of this consent ("subject parcel") the transfer of which shall be registered in the same name as the parcel to which it is to be added ("abutting parcel") so as to merge the two parcels. Further, that an Undertaking be provided by a solicitor licensed in Ontario to register on title an application to consolidate the subject parcel and abutting parcel and provide evidence of such registration and merger of the two parcels to the Secretary of the Committee of Adjustment within 15 days following registration of the transfer;
6. That a minor variance at 408 Brighton Road be applied for and granted providing relief from subsection 7.1.3 e) iii) of Zoning By-law 2065 for an interior side yard width of 1.1 metres (3.6 feet);
7. That the owner of 14400 Tecumseh Road (the parcel "to be retained") provide confirmation that the severance does not adversely impact the storm drainage system that is currently proposed for the Residences at Bay Harbour development at 14400 Tecumseh Road; and
8. That the above conditions be fulfilled on or before **October 29, 2020** prior to this severance being finalized.

Application for Severance B-16/19 – Lionel and Gail Baillargeon, 11221 County Road 42

Interested parties present: Lionel and Gail Baillargeon, Applicants

The purpose of the Application is to sever 83.6 square metres (900 square feet) of vacant residential land (outlined in red) and consolidate it with the abutting residential lot (shaded in pink), municipally known as 11215 County Road 42, as shown on the attached sketch. The retained residential lot (outlined in green) will have a frontage of 32.6 metres (107 feet) and an area of 0.3 ha (0.74 ac).

The proposed severed and the retained parcels are designated Low Density Residential in the Sandwich South Official Plan and zoned Residential Zone 1 (R1) in the Sandwich South Zoning By-law.

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.

➤ The Owners must enter into, and provide the Town of Tecumseh, a written agreement for the reapportionment of the drainage assessment for the subject lands, in accordance with Section 65(2) of the Ontario Drainage Act, RSO. 1990, as amended and that the associated costs of same be borne solely by the Applicant.

Lionel and Gail Baillargeon, Applicants appear before the Committee to discuss the Application. Lionel Baillargeon informs the Committee that the property owner of 11215 County Road 42 constructed a retaining wall of large rocks on the easterly boundary between the properties but inadvertently put them on the Applicants' property therefore, the Applicant is seeking consent to sever a three-foot strip of land the length of the property and convey same to the property owner at 11215 County Road 42. Tom Fuerth points out that the owner of 11215 County Road 42 should be the one responsible to maintain the retaining wall as it was constructed by him. The Applicant agrees with Tom Fuerth's assessment. Paul Morand is in agreement with the consent as it will correct the situation that was created with the installation of the retaining wall. Paul Morand also notes that the consent be subject to the conditions recommended in the Planning Report.

Motion: (CA-58/19) Moved by Paul Morand
Seconded by Bill Altenhof

That Application B-16/19 is granted.

Carried

The Application is in keeping with the Official Plan policies for the Town of Tecumseh as well as Zoning By-law 85-18.

1. That at the time the conveyance is prepared for certification, two (2) copies of the reference plan by an Ontario Land Surveyor as well as digital files (.pdf and .dwg) with the .dwg files being in **NAD 83 format (UTM Zone 17 Metric)**, which has been numbered, dated, signed and registered must be submitted to the Town;
2. That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year paid in full, as well as any and all arrears owing on the total parcel;
3. That the appropriate documents for the conveyance be prepared in triplicate (3) suitable for registration, all copies to have original signatures, with one copy to remain as a record with the Town;
4. That any cost in excess of the \$600.00 non-refundable application fee, incurred to process this application such as legal and engineering fees, appraisal reports, etc. shall be the responsibility of the applicant and shall be payable to the Town of Tecumseh where applicable, prior to final consent;
5. That subsection 50(3) and/or 50(5), as the case may be, of the Planning Act, R.S.O. 1990, as amended shall apply to any subsequent conveyance of or transaction involving the parcel which is the subject of this consent ("subject parcel") the transfer of which shall be registered in the same name as the parcel to which it is to be added ("abutting parcel") so

as to merge the two parcels. Further, that an Undertaking be provided by a solicitor licensed in Ontario to register on title an application to consolidate the subject parcel and abutting parcel and provide evidence of such registration and merger of the two parcels to the Secretary of the Committee of Adjustment within 15 days following registration of the transfer;

6. That the Owners enter into, and provide the Town of Tecumseh, a written agreement for the reapportionment of the drainage assessment for the subject lands, in accordance with Section 65(2) of the *Ontario Drainage Act*, R.S.O. 1990, as amended, and that the associated costs of same be borne solely by the Applicant. Apportionments for affected Municipal Drains are required and are to be assessed against the lands affected in accordance with any past, current or future drainage by-laws, until otherwise determined under the provisions of the *Drainage Act*; and
7. That the above conditions be fulfilled on or before **October 29, 2020** prior to this severance being finalized.

Application for Minor Variance A-29/19 – Brett Massender, 12460 Clarice Avenue

Interested parties present: Brett and Nicola Massender, Applicant

The purpose of the Application is to request relief from the following subsections of Zoning By-law 1746:

1. Subsection 7.1.5 which establishes a maximum lot coverage of 30 percent; and
2. Subsection 7.1.10 a) which establishes a minimum interior side yard width of 1.2 metres (3.9 feet).

The Applicant is proposing to construct a 176.5 square metre (1900 square foot) addition including a garage, kitchen, dining area, great room and a covered deck having a side yard width on the westerly interior side lot line of 1.1 metres (3.6 feet) and a total lot coverage of 33 percent in accordance with the attached sketch. The existing accessory building is being demolished.

The subject property is designated Residential in the Tecumseh Official Plan and zoned Residential Zone 2 (R2) in the Tecumseh Zoning By-law.

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: No objection.

County of Essex: No response.

Town Engineer:

- The owner is to provide details of how the site will drain stormwater to the satisfaction of the Chief Building Official to ensure there are no adverse effects to the neighbouring properties.

DISCUSSION

Brett and Nicola Massender appear before the Committee to discuss the Application. Tom Fuerth requests if there is anything the Applicant would like to add for the Committee. Brett Massender speaks to the comments made by the Town Engineer regarding stormwater drainage. He advises that he diverts his stormwater to the front yard as the storm sewer is on the opposite side of the road. Brett Massender further advises that when he installed a backwater valve and stormwater disconnect, it was not feasible due to costs to trench under the road, so it was resolved that the stormwater would pump out onto his front yard. Tom Fuerth inquires as to whether or not they are experiencing any problems with the stormwater being pumped onto the front yard and is advised by Brett Massender that he is not having any problems. Chad Jeffery clarifies that the Town Engineer is referring to rain water run-off from the addition being added and not the water from the sump pump. Chad Jeffery indicates that the Town Engineer is looking for a plan that would for example strategically locate the down spouts ie. at the back of the garage to the back

Motion: (CA-59/19) Moved by Tom Marentette
Seconded by Lori Chadwick

Carried

REASONS

The Application meets the four tests of a minor variance in that it is desirable for the appropriate development or use of the land, building or structure, the general intent and purpose of the Official Plan and Zoning by-law is maintained and the variance is minor in nature.

VI DEFERRALS

VII NEW BUSINESS

VIII UNFINISHED BUSINESS

IX ADJOURNMENT

Motion: (CA-60/19) Moved by Tony Muscedere
Seconded by Bill Altenhof

That there being no further business the October 28, 2019 regular meeting of the Committee of Adjustment now adjourn at 5:58 p.m.

Carried

Tom Fuerth, Chairperson

Donna Ferris, Secretary-Treasurer