

THE CORPORATION OF THE TOWN OF GEORGINA
IN THE
REGIONAL MUNICIPALITY OF YORK
COMMITTEE OF ADJUSTMENT

MINUTES

**2008-Dec-01
7:30 P.M.**

1. ROLL CALL:

The Secretary-Treasurer gave the roll call and the following Members were present:

Stephen Pallett, Chairperson Karen Whitney, Member
Donald Rae, Member Chris Burns, Member

2. DECLARATION OF PECUNIARY INTEREST:

Karen Whitney, Member declared a pecuniary interest in Application P410848 submitted by Sharon Hui Mee-Sim of 6 Felix Street as she is one of the abutting property owners to the subject land.

3. EXPLANATION OF HEARING PROCEDURE:

Stephen Pallett, Chairperson explained to the public in attendance, the procedure to obtain a copy of any decision made by the Committee tonight.

4. REQUESTS FOR DEFERRAL OR WITHDRAWAL:

4.1 <u>Consent Application P420222</u>	WHOLESALE FOREST
<u>Consent Application P420223</u>	PRODUCTS LIMITED
(Applications never circulated)	23469 Highway 48
(Applications submitted Jun 7/02)	Concession 2(NG), Part Lot 1 & 2
	RS65R7984, Part 1
	Roll No. 012-663

Mr. Gord Mahoney, agent indicated that these applications have been on hold and the Committee had requested that an update on the status be provided at this meeting. He noted that his client has decided to withdraw one of the consent applications and will proceed with just one severance application. He confirmed that the formal letter of withdrawal of the one application would be submitted soon.

Mr. Mahoney stated that all the technical detailed studies have been submitted but that Planning Staff have not had sufficient time to complete their review of the documents. Mr. Mahoney requested that the application be deferred until the zoning has been dealt with by Council.

Moved by Karen Whitney

Seconded by Donald Rae

THAT CONSENT APPLICATIONS P420222 AND P420223 BE DEFERRED UNTIL A PLANNING REPORT HAS BEEN RECEIVED BY THE COMMITTEE.

Carried.....

**4.2 Consent Application P420617
(Deferred originally Oct 2/06)**

LAWRENCE BRECKLES INC.
The Queensway South E/S
Block 76, Plan 65M3384
Roll No. 146-585

Mr. Michael Smith, agent indicated that he has submitted a letter to the Committee to update them on this application and was requesting that no new application be required for the consent allowing the application to be amended as proposed. He noted that he has met with Planning staff and they are generally satisfied with the proposal as revised and the new easements required to address the Region's restriction on the entrance.

The Secretary-Treasurer advised the Committee that the subject land of the new proposal varies from the subject land of the original application in terms of the location, size and purpose of the application; the purpose of the original application was to create a new lot and the purpose has been changed to be a lot addition.

Mr. Smith confirmed that he would withdraw the original consent application and submit a new consent application together with the two required easement applications.

5. APPLICATIONS FOR MINOR VARIANCE:

**5.1 Application P410837
(Deferred from September 15th)**

1250364 ONTARIO LTD.
7 Red Robin Road
Plan 284, Part Lots 53 & 54
Roll No. 130-726

Mr. Glen Christoff, representing the agent noted that the surveyor missed the zoning requirement of 2.5 metres on one side and after construction they were made aware of the zoning infraction with respect to the side yard setback. He stated that he is in agreement with the Planning report. He stated that the 2.5 metres was to allow access to service the well or septic system in the rear yard area, which is no longer required as these properties are now serviced with municipal water and sewers.

Mr. Christoff confirmed that there are some outstanding engineering grading issues which he is unable to complete because of the early winter weather. He

stated that they will continue to work with the Engineering Department to resolve their concerns.

The Secretary-Treasurer read the following correspondence:

- The comments of the Planner as outlined in Report No. PB-2008-0126.
- E-mail from Deborah Buck, Manager of Building and Chief Building Official received August 26, 2008.
- E-mail from David Jones, On Site Sewage Inspector received September 3, 2008.
- Memorandum dated September 3, 2008 and E-mail received November 24, 2008 both from Michael Baskerville, Engineering Manager.
- E-mail from Cathy Hillier, Senior Tax & Water Collection Clerk received August 22, 2008.
- E-mail from Brock McDonald, Leisure Services Manager of Policy and Development received September 3, 2008.
- E-mail from Bill O'Neill, Fire Chief received September 2, 2008.
- E-mail from Pamela Hunt, By-law Secretary received August 26, 2008.

There were no others in attendance with an interest in this application.

Mr. Christoff noted that the purchasers' lawyer discovered the zoning contravention and explained that any further deferral of this application would create a great hardship to the applicant. He stated that they need the approval of the minor variance and hope that the resolution of the Engineering concerns can be made a condition of approval. He confirmed that the purchasers are aware of the outstanding minor variance approval and further that the approved lot grading plan had been changed during construction. He also explained that Engineering approval cannot be given until the sod has taken root which is impossible with snow on the ground.

Mr. Christoff confirmed that the Engineering Department is holding the security deposit to ensure completion of the grading and covenants will be in place with the purchaser to allow the applicant to enter the property and complete the outstanding grading work after closing.

Moved by Donald Rae

Seconded by Chris Burns

THAT MINOR VARIANCE APPLICATION P410837, TO REQUEST RELIEF FROM SECTION 6.1 (F) TO LEGALIZE THE EXISTING NORTH EASTERLY INTERIOR SIDE YARD SETBACK OF 1.30 METRES FOR THE EXISTING ONE STOREY DWELLING IS HEREBY APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. SUBMISSION TO THE SECRETARY-TREASURER OF WRITTEN CONFIRMATION FROM THE ENGINEERING AND PUBLIC WORKS DEPARTMENT THAT THEIR CONCERNS OUTLINED IN THE MEMORANDUM DATED SEPTEMBER 3, 2008 AND THE EMAIL DATED NOVEMBER 24, 2008 ATTACHED TO THE DECISION AS SCHEDULE 1, HAVE BEEN RESOLVED.**
- 2. ALL CONDITIONS MUST BE SATISFIED WITHIN ONE (1) YEAR OF THE DATE OF THE NOTICE OF THE DECISION.**

Carried.....

Stephen Pallett, Chairperson advised those in attendance of the 20 day appeal period.

**5.2 Application P410848
(Deferred from November 3rd)**

HUI, MEE-SIM
6 Felix Street
Plan 394, Lot 6
Roll No. 035-662

Karen Whitney, Member, declared a pecuniary interest in Application P410848 submitted by Sharon Hui Mee-Sim of 6 Felix Street as she is one of the abutting property owners to the subject land. She did not take part in any discussion, did not vote on the matter and left the room at this time. (7:50 pm)

Ms. Lauri and Billy Fung of John Shuki Lau Architect Inc., the agent, were in attendance. Ms. Lauri noted that the original application was deferred from the November 3, 2008 meeting and that they have worked with the client and the Planning Division to redesign the dwelling in order to address the issues raised by the neighbours. She advised that the original request was to permit a height of 14.8 metres and the original design has been changed to provide for a reduced height request of 12.8 metres. She stated that this reduction in the height addresses the privacy and massing concerns raised.

Ms. Lauri stated that they have submitted a petition with signatures from the property owners on Felix Street and George Street indicating that they have no objection to the application. She confirmed that the previously proposed tower or 4th storey has been completely eliminated from the design and that the proposal now is for 2 storeys with a 3rd floor loft. She noted that the increased rear yard

from 12 metres to 18 metres will address the concerns of privacy and overview expressed by the neighbours on Hedge Road. She explained that the increased rear yard provides a greater distance between the proposed dwelling and the neighbouring homes on Hedge Road. She noted that landscaping and tree planting will occur at the rear lot line in order to provide screening and reasonable privacy for the neighbours.

Ms. Lauri explained that the 11 metre height restriction is based on the average grade and the rear of the dwelling as now proposed will be just over 11 metres in height based on the average finished grade. She noted that the proposed size of the dwelling is not excessive given the size of the lot and the proposal conforms with the maximum permitted lot coverage and noted that the dwelling proposed is a single family dwelling compatible with the surrounding 2 storey homes on Hedge Street.

The Secretary-Treasurer read the following correspondence:

- The comments of the Planner as outlined in Report No. PB-2008-0125.
- E-mail from Deborah Buck, Manager of Building and Chief Building Official received October 29, 2008.
- E-mail from David Jones, On Site Sewage Inspector received October 27, 2008.
- Memorandum from Michael Baskerville, Engineering Manager dated November 3, 2008.
- E-mail from Cathy Hillier, Senior Tax & Water Collection Clerk received October 15, 2008.
- E-mail from Brock McDonald, Leisure Services Manager of Policy and Development received October 17, 2008.
- E-mail from Bill O'Neill, Fire Chief received October 20, 2008.
- E-mail from Pamela Hunt, By-law Secretary received October 16, 2008.
- Letter of objection from Christopher Whitney received October 20, 2008.
- Petition of objection signed by 8 residents of Hedge Road received October 27, 2008.
- Letter of objection from Andrew and Alicia Dubrawski received November 4, 2008.

- Petition of support signed by 1 resident of Felix Street and 1 resident of George Road, received November 24, 2008.

Chris Whitney of 387 Hedge Road addressed the Committee and advised that he appreciates that the applicant has changed the design to three storeys and confirmed that he had agreed not to object if they removed the 4th storey, however he feels the house as now proposed is still excessively high. He indicated that this area is designated low density residential with an 11 metre height restriction and even in a medium density area the height is limited to 12 metres. He stated that the request to increase the height 1.8 metres to a maximum of 12.8 metres is not minor and would be precedent setting in this area. He stated that the proposed elevation is not properly represented and it is only when you look at the side profile does the true extent of the proposed house come to light.

Mr. Whitney indicated that his lot elevation is higher and his roof is close to the 11 metre restriction but the proposed dwelling would still be 4 metres above the peak of his house, if the side profile is correct. He objected to the excessive overlook that would be provided from the proposed dwelling into his property and requested that the Town review the proposed elevations as the eventual height of the dwelling will be relative to the elevation. He confirmed that for the proposed dwelling to be the same height as his dwelling a variance would still be required.

Mr. Whitney advised that the proposed dwelling will tower over everything and confirmed his objection to the variance.

Ms. Vicki Nesbitt of 391 Hedge Road addressed the Committee and stating that Section 5.13 of the Zoning By-law allows the enlargement of an existing building or structures and the proposed dwelling will be replacing a small bungalow with a 5500 square foot home, which is not compatible with the surrounding homes. She noted that the increase in height from 11 metres to 12.8 metres would negatively impact the privacy the neighbours currently enjoy in their rear yards and any approval of this would be precedent setting for this neighbourhood. She noted that the proposed terrace on the roof will be overlooking their backyards and a watchtower will also provide a view into their yards and their homes.

Ms. Nesbitt stated that permitting the loft would provide the potential to create a multi-family use on the property. She noted that the staff report indicates that there will be no adverse impacts from the proposed 12.8 metre height and she asked how many of the staff reside in this neighbourhood that were involved in the preparation of this report.

Ms. Lauri, the agent, advised that the proposal is not medium density as suggested the proposal is for a single family dwelling and therefore that issue is not relevant because the proposed use is still low density residential and will remain a single family dwelling. She advised with respect to the finished elevation, the consultants can only work with the lot they have and that if the neighbours houses are dug deeper into the grade the applicant can not be responsible for that. She stated that the applicant has addressed all of the issues

raised and has eliminated the entire 4th floor with only a partial 3rd floor loft area which does not provide living quarters only a place to sit and view the neighbourhood.

Billy Fung, the agent, distributed a sight line drawing and pointed out the 2 discrepancies from the original sight line drawing; the home at 387 Hedge Road is 6 metres closer to Hedge Road and the proposed dwelling is 1.5 metres lower than the original with the same finished ground floor level. He stated that at a 12 metre rear yard the applicants home would have a greater overlook into Mr. Whitney's backyard compared to the proposed 18.8 metre rear yard setback, completely addressing the overlook issue. He noted that the sight line drawing showed how a buffer of trees would provide additional privacy for the neighbours.

Mr. Whitney again addressed the Committee indicating his objection and stated that the 12 metre height limit is for medium density and the 11 metre height limit should be imposed for this lower density use. He stated that the applicant can not move the house to the 12 metre rear yard setback because of the septic system location in the rear yard area. He stated he is not trying to stop the building of a home on the lot but wants the Town to understand the proposed size is enormous in terms of mass and there will need to be a lot of backfilling to bring the grade up to the level of the Hedge Road lots making it well above his home.

Mr. Whitney stated that during the construction of his home they managed to get their basement windows out of the ground and still comply with the 11 metre height limit and their other neighbours on Hedge Road have also had to work within the 11 metre height limit, as should this applicant.

Bill Fung, the agent, confirmed that new grading plans have been submitted providing for a 2 metre drop in elevation from back to front and they are at a disadvantage because the front of the house will be very low and the finished floor at the rear will be lower than grade. He confirmed that the geotechnical report was prepared by Eric Gunnell, an engineer and stated that they are requesting a height of 12.8 metres and if an unforeseen problem comes up during construction they will have to deal with it then.

Mr. Fung confirmed that the requested height variance was required for a house this size with the proposed ceiling heights the applicant wants to provide for more interest inside the home. He stated that the ground floor joists will have to be cut into the basement wall if they have to meet the 11 metre height restriction which has the potential of creating all kinds of problems with water and leakage and this height variance would allow them to set the ground floor joists on the top of the foundation wall and they would not have to cut the foundation wall. He also confirmed that they have already raised the ground floor higher to address the elevation slope. He advised the ground floor will have a ceiling height of 12 feet, the 2nd floor a height of 9 feet, and the basement a height of 10 feet.

Moved by Chris Burns

Seconded by Donald Rae

THAT MINOR VARIANCE APPLICATION P410848 AS AMENDED, TO REQUEST RELIEF FROM SECTION 6.1 (J) TO PERMIT AN INCREASE IN THE MAXIMUM HEIGHT TO 12.8 METRES, IS HEREBY REFUSED.

Carried.....

The Committee expressed their concern with respect to the uncertainty with respect to the final elevation based on the ground conditions in the area.

Stephen Pallett, Chairperson advised those in attendance of the 20 day appeal period.

Karen Whitney, Member came back into the room at this time (8:30pm) and resumed her seat with the Committee.

**5.3 Application P410852
(To be heard in conjunction with
Consent application P420847)**

**SCHWARTZ, BERTHA
ROTSTEIN, SHIRLEY**
150 Lake Drive East
Concession 9(NG), Part Lot 4
Roll No. 127-896

**6.1 Application P420847
(To be heard in conjunction with
Minor Variance Appl. P410852)**

**SCHWARTZ, BERTHA
ROTSTEIN, SHIRLEY**
150 Lake Drive East
Concession 9(NG), Part Lot 4
Roll No. 127-896

Mr. Gord Mahoney, agent, noted that the ownership is not split equally between the sisters but is a 40-60% split. He stated that the subject land is designated Lakeshore Residential in the Official Plan and zoned Residential and the variance is requested from the provisions of the interim control by-law in order to allow the severance of the subject land.

Mr. Mahoney indicated that the minor variance would meet the intent of the Official Plan and would still meet the intent of the interim control by-law as the subject land and remainder each contain an existing dwelling. He stated that the submitted application for severance attempts to reflect that ownership with the subject lands being approximately 46% and the remainder lands being 54% of the lot area. He noted that the remainder parcel has a circular driveway which his clients wish to maintain with the larger frontage. Mr. Mahoney noted that he objects to the increase in frontage of the subject land as requested by the planner.

Mr. Mahoney stated that the proposed variance meets the four tests set out in the Planning Act as it conforms with the intent of the Official Plan which provides for the severance of a lot containing 2 or more dwelling units and conforms with the intent of the Interim Control By-law as no new dwelling will be constructed as the property presently contains two legal non-conforming dwellings. He noted that the severance would create separate ownership for the sisters with no impact on abutting properties.

Mr. Mahoney stated that his clients are not in agreement with the proposed 18 metre frontage for the subject land as suggested by the Planner and advised that a 15 metre lot is not out of character with the surrounding lots. He stated that the proposal complies with the Provincial Policy Statements and Plans and the Regional Official Plan.

The Secretary-Treasurer read the following correspondence:

- The comments of the Planner as outlined in Report No. PB-2007-0127 which should be Report No. PB-2008-0127.
- E-mail from Deborah Buck, Manager of Building and Chief Building Official received November 12, 2008.
- E-mail from David Jones, On Site Sewage Inspector received November 21, 2008.
- E-mail from Darlene Folmeg, Engineering Secretary received November 18, 2008.
- E-mail from Cathy Hillier, Senior Tax & Water Collection Clerk received November 12, 2008.
- Memorandum from Brock McDonald, Leisure Services Manager of Policy and Development received November 19, 2008.
- E-mail from Bill O'Neill, Fire Chief received November 12, 2008.
- E-mail from Pamela Hunt, By-law Secretary received November 14, 2008.

There were no others in attendance with an interest in this application.

Mr. Mahoney confirmed that the location of the water and sewer laterals will be confirmed by the end of the week and further that the laterals can be relocated if required.

Moved by Karen Whitney

Seconded by Donald Rae

THAT MINOR VARIANCE APPLICATION P410852, TO REQUEST RELIEF FROM THE INTERIM CONTROL BY-LAW 2007-0028(PL-3) AS AMENDED BY BY-LAW 2008-0036(PL-3), TO PERMIT THE SEVERANCE OF THE SUBJECT LAND, IS HEREBY APPROVED.

Carried.....

Moved by Karen Whitney

Seconded by Donald Rae

THAT CONSENT APPLICATION P420847 BE DEFERRED TO THE MEETING TO BE HELD JANUARY 19, 2009 IN ORDER FOR THE AGENT TO PROVIDE AN ADDITIONAL SKETCH TO THE COMMITTEE PROVIDING AN 18 METRE FRONTAGE FOR THE SUBJECT LAND.

Carried.....

7. POWER OF SALE/FORECLOSURE/VALIDATION OF TITLE APPLICATIONS:

None.

10. OTHER BUSINESS:

10.2 Letter from Michael Smith Planning Consultants RE – request for extension on imposed conditions for minor variance application P410804.

Mr. Michael Smith, agent requested that the Committee extend the deadline to fulfill the imposed conditions from February 2009 to February 2011. He noted that his client has obtained quotes for the work that needs to be done to fulfill the conditions and his client needs more time given the current economic conditions.

Moved by Karen Whitney

Seconded by Chris Burns

THAT THE REQUEST TO THE COMMITTEE OF ADJUSTMENT TO AMEND CONDITION # B4 OF THE DECISION DATED FEBRUARY 19, 2008 FOR MINOR VARIANCE P410804 IS HEREBY APPROVED RESULTING IN CONDITION # B4 BEING AMENDED TO REFLECT THE

DATE OF AUGUST 31, 2009 BEING THE LAST DAY TO SATISFY ALL CONDITIONS IMPOSED ON THE NOTICE OF DECISION DATED FEBRUARY 19, 2008, RATHER THAN ONE(1) YEAR FROM THE DATE OF THE NOTICE OF DECISION AS ORIGINALLY INDICATED IN CONDITION # B4 AND THAT THE CHANGE IS DEEMED TO BE MINOR AND NO FURTHER NOTICE IS REQUIRED.

Carried.....

8. MINUTES OF PREVIOUS MEETING:

8.1 Minutes of the Meeting of October 20, 2008.

Moved by Karen Whitney

Seconded by Donald Rae

THAT THE MINUTES OF THE MEETING OF OCTOBER 20, 2008 BE ADOPTED AS PRESENTED.

Carried.....

8.2 Minutes of the Meeting of November 3, 2008.

Moved by Karen Whitney

Seconded by Chris Burns

THAT THE MINUTES OF THE MEETING OF NOVEMBER 3, 2008 BE ADOPTED AS PRESENTED.

Carried.....

9. COMMUNICATIONS:

None.

10. OTHER BUSINESS:

10.1 2009 Committee of Adjustment budget proposal

Moved by Karen Whitney

Seconded by Donald Rae

THAT THE 2009 COMMITTEE OF ADJUSTMENT BUGET PROPOSAL BE RECEIVED FOR INFORMATION.

Carried.....

10.3 Review of Municipal Submission Form (R3) with respect to the appeal of Minor Variance Application P410727 (Mario Perri) and advisement from the Committee with respect to completing Part 6 & Part 7 of the form.

The Secretary-Treasurer advised the Members of the appeal and the fact that the applicant that appealed the decision will be using the Planning Staff Report in his argument for the Ontario Municipal Board to overturn their decision and in that regard asked direction in terms of whose name should be entered on the OMB Municipal Form as generally the contact is the Planner or the Town Solicitor which would not be appropriate in this case.

The Committee provided direction to the Secretary-Treasurer to put her contact information on the OMB Municipal submission form for this appeal and further to contact the objector advising of the appeal and suggesting he may want to consider hiring a Planning Consultant or a Lawyer to represent his position before the Ontario Municipal Board.

11. ADJOURNMENT:

Moved by Karen Whitney

Seconded by Donald Rae

THAT THE MEETING ADJOURN AT THIS TIME (9:15 PM).

Carried.....

STEPHEN PALLETT, CHAIRPERSON

KATHLEEN FOSTER,
SECRETARY-TREASURER