



PLANNING REVIEW AND ADJUSTMENT COMMITTEE MINUTES

Date of Meeting: November 18, 2020
Zoom Virtual Conferencing Tool

Attendance:

Andy Leech, Chair
Trevor Welch, Vice-Chair
Elaine English
Kenneth Clark

Regrets:

Kenneth Stephenson
Mark Atwater
Alan McLaughlin

Staff:

Katelyn McGrath, Planning Director
Bev Gullison, Office Administrator

Members of the Public:

Kenneth Tompkins
David Hutton, CAO, Hartland

Meeting was called to order by Committee Chair, Andy Leech at 12:09 pm.

Approval of Minutes

Motion: To approve the minutes of the March 4, 2020 meeting.

Moved: Trevor Welch
Seconded: Elaine English
Carried

Conflict of Interest

None

Variance Application

1. Item: V-1-2020

Applicant: Dale MacFarlane Land Surveying Ltd.
Owner: W & J Craig Holdings Ltd.
Location: 57 Orser Street, Hartland

For consideration to approve an application for a 3.5 metre rear yard setback variance to permit the construction of a single-family dwelling on property identified as PID 10105658.

The Planning Director, Katelyn McGrath, presented Planning Staff Report No. 13/20. The Planning Director stated that after further inspection and discussions with the Chair, Andy Leech, it was determined that according to the Hartland By-Law, *Section 3.5 - General Provision* it would not be necessary for the variance to be approved by the Planning Review and Adjustment Committee. The Planning Director read the below Section 3.5 of the Hartland By-Law, as noted below.

3.5 - Existing Buildings

Where a building has been erected on or before the effective date of this By-law, on a lot having less than the minimum frontage, area, or having less than the minimum frontage or flankage yard or side yard or rear yard required by this By-law, the building may be enlarged, reconstructed, repaired, or renovated provided that:

- (a) the enlargement, reconstruction, repair or renovation does not further reduce the front, side, flankage, or rear yard that does not conform to this By-law; and*
- (b) all other applicable provisions of this By-law are satisfied*

The Planning Director stated it was decided to have the application heard by the Planning Review and Adjustment committee for public process and transparency purposes.

2020-11-01

Motion: To approve the the application submitted by Dale MacFarlane Land Surveying Ltd. for a 3.5 metre rear yard setback variance to permit the construction of a single family dwelling on property located at 57 Orser Street, Hartland, identified as PID 10105658 subject to the following terms and conditions:

- a) A building permit be obtained prior to the commencement of any construction, and all construction comply with the *National Building Code of Canada 2010*;
- b) The site be developed substantially in accordance with Map II attached, to the satisfaction of the Development Officer

On the question, Kenneth Tompkins, a member of the public, inquired why Section 3.5 for existing buildings is being used for support when a new structure is being built on this property. Kenneth Tompkins inquired how section 3.5 could be applied, as the previous dwelling was lost due to fire and it appears you are trying to grandfather in a new building on a lot where the building no longer exists.

The Planning Director responded advising Mr. Tompkins was correct that under the Community Planning Act, Legal non-confirming status is lost after a building burns and damages are greater than 50%. However, the Planning Director stated that according to the Hartland Zoning By-Law B46, they have determined that a structure on an undersized lot is permitted, provided that it does not encroach any closer than the previous structure. The Planning Director stated that the newly proposed structure will have a greater rear yard setback than the previous structure.

The Planning Director further noted that many municipalities in the province of New Brunswick have undersized lots that were created prior to the establishment of zoning by-laws and therefore, Section 3.5 was included to ensure reconstruction on undersized lots would be allowed.

Kenneth Tompkins also asked if he could pose a question on behalf of the rear property owner of the proposed lot who was unable to attend the meeting today. Kenneth Tompkins advised that the rear property owner was concerned that there would be an impact to the resale of his home due to the variance on his property.

Andy Leech advised that he wished to clarify that the variance is not encroaching on the rear property owner's property. Andy Leech asked the Planning Director if the decision could be appealed by the property owner.

The Planning Director advised that since Section 3.5 clearly states that the proposed structure is permitted and that a variance really was not required.

Moved: Elaine English

Seconded: Ken Clark

Motion Carried

G. Old Business

None


H. New Business

None

I. Adjournment:

Motion: To adjourn meeting
Moved: Ken Clark

Meeting adjourned at 12:40 pm.



Andy Leech, Chair