

COMMUNICATION 130189

Received from Joanna Bowes, Manager of Development Services
Addressed to Committee of the Whole
Date October 22, 2019
Topic DP1-18-2019, 101 Hurdis Way, Carleton Landing North Subdivision

SUMMARY

Pegasus Development Corporation has applied for a Class 1 Development Permit application for 101 Hurdis Way in the Carleton Landing North Subdivision in order to request a variance to their exterior side yard setback from the maximum allowable 7.5m to 8.34m, a variance of 0.84m (see attached). The Developer is able to provide the correct setback required under the Development Permit By-law and has provided no valid reason as to why this variation is being requested. Typically, this type of application is approved at the Staff level, however, Staff is reluctant to approve this application as the lot can be developed, with the preferred model, without the requirement of variance to the by-law. Numerous similar applications have been received from this Developer. Staff is asking for guidance from Council with respect to this DP1 application as well as how to proceed with similar requests in the future.

COMMENT

Development Permit Class 1 applications are similar to what we know under Zoning By-laws as "Minor Variances". These requests for variances to the Development Permit By-law (or Zoning By-law) should not be approved unless the Developer can show that their property cannot be developed as per the by-law without causing the Developer "hardship". "Hardship" could be considered as issues relating to an attempt to maintain a large tree or special feature on a lot, improving sight lines, construction near hazard lands or other similar situations. For this particular application, no hardship has been indicated by the Developer or examined in the Planning Rationale Report.

The Development Permit By-law also examines applications based on impact as a particular issue with every development. The Planning Rationale Report provided by McIntosh Perry examines the issue of impact with respect to this particular lot noting that no impact will be experienced by the neighbouring lot. Staff agrees with this interpretation.

What has not been explored thoroughly by the Developer is the impact of the erosion of the Development Permit By-law. At the outset of the draft condition stage of this proposed subdivision, Planning Staff asked for a map of the lots in this subdivision indicating the models that would fit on each lot. This would enable the Developer, Planner and the purchaser to know which home fits on each lot, thereby negating the need for multiple variance requests. The Developer refused to do so, noting that the Town could not add this as a condition. The Town confirmed that this was the case, but that many Developers do this in order to ensure compliance.

A blanket variance has already been granted for the entire subdivision for all front yard setbacks to be up to 8.5m deep rather than the required 7.5m maximum. This was

granted for both this Developer and a similar variance to another Developer as they were experiencing difficulties with respect to designing models that fit on their lots.

The Developer is currently constructing Phase 2 of a five (5) phase subdivision and has asked for and received 19 variances in the space of 2 years. Many were granted in order to increase the garage width which the Planning Department believes would have a positive impact on issues with parking, particularly with the number of townhouse units. Many of the variances have been granted without indicating any undue hardship and with no specific reason provided. Attached is the list of variances granted.

The Planning Department is concerned about the continued erosion of the Development Permit By-law's requirements. Staff is requesting that Committee review this specific application, for 101 Hurdis Way, and consider the erosion of the by-law.

Based on the decision for this particular application, staff will take direction as to how Committee wishes to move forward with similar applications.

STAFF RECOMMENDATION

THAT application DP1-18-2019 for 101 Hurdis Way be denied; and

THAT Committee direct Staff to enforce the requirements of the Development Permit By-law unless the Developer can provide valid reasons why variances are required.