TO: CHAIR AND MEMBERS - PLANNING COMMITTEE

FROM: R. W. PANZER
GENERAL MANAGER OF PLANNING AND DEVELOPMENT

SUBJECT: APPLICATION BY: ROUEL & JAKLIN PUTRUS
918 HYDE PARK ROAD
MEETING ON OCTOBER 16, 2006

RECOMMENDATION

That, on the recommendation of the General Manager of Planning and Development, in response to the letters of appeal to the Ontario Municipal Board, dated August 7, 2006, submitted by Christine Cnich (on behalf of Rouel & Jaklin Putrus for file B.44/06), and June 29, 2006 submitted by Brad Bain, (on behalf of Ronald Robinson & Mary Fox for file A.80/06) concerning 918 Hyde Park Road, the Ontario Municipal Board BE ADVISED that the Municipal Council supports the revised recommendations of Planning Staff and that the City Solicitor and General Manager of Planning and Development be directed to provide legal and planning representation at the Ontario Municipal Board Hearing to support the minor variance and consent applications.

BACKGROUND

On April 28th, 2006, an application for consent was received from Rouel & Jaklin Putrus (file B.44/06) to convey 752 square metres (8099 square feet) from 918 Hyde Park Road to 919 Manchester Road for future residential development; and to sever 1096 square metres (11,798 square feet) from 918 Hyde Park Road for future residential development and retain 938 square metres (10,096 square feet) with an existing single detached dwelling. An associated minor variance file (A.80/060 was also received on May 10, 2006, to permit an existing single detached dwelling with a proposed south interior side yard setback of 1.2 metres (3.9 feet) whereas 1.8 metres 95.9 feet) is required, and allow a front yard setback of 7.9 metres (25.9 feet) whereas 8.0 metres (26.2 feet) is required to the ultimate road allowance.

The subject land is designated Low Density Residential in the City of London Official Plan. The same lands are zoned Residential R1 (R1-9) in Zoning By-law Z-1. The Planning and Development Department supported the proposed consent and associated minor variances. Planning Staff recommend that a one foot reserve be placed on the portion of the proposed lot #2 along the Hyde Park frontage to avoid an additional access point on Hyde park Road and to force access to this lot through Manchester Road. Information has come forward from the City’s Transportation Division which suggests that one additional access point at this location is acceptable. Official Plan policy does allow for an exception to the general policy that does not allow for additional access points onto arterial roads for single family homes. Planning Staff wish to withdraw their recommendation for the one foot reserve and the requirement of an easement/joint internal access for the second lot from Manchester Road.

On July 17, 2006, the City of London Consent Authority refused the consent. Their reasons for refusal include non-conformity with the policies of the Official Plan, and that the proposed lot fabric is not consistent or in character with the lotting fabric and access arrangement to a public street as other lots in the neighbourhood. On June 12, 2006, the Committee of Adjustment supported the proposed variances for the subject site.

The applicant, Rouel & Jaklin Putrus, appealed the refusal of the consent. The stated reason for the appeal is that the proposed lot fabric is said to be in keeping with the provisions of the Zoning By-law.

In addition to this, a nearby property owner, Ronald Robinson & Mary Fox, has appealed the
decision of the Committee of Adjustment for the minor variances. The stated reasons for appeal are the proposed variances are not minor in nature, are not desirable for the appropriate development and use of the lands, are not compatible with the uses and setbacks in the area, the general intent of the Zoning By-law is not maintained, and the proposed variances are not sound land use planning and would cause an unacceptable adverse impact on the subject lands and surrounding land uses.

Municipal Council is asked to support the recommendations of Planning Staff, with the revisions to the original comments, and as such, recommend that the City Solicitor and General Manager of Planning and Development be directed to provide legal and planning representation at the Ontario Municipal Board Hearing to support the applications for minor variance and consent.

The hearing date for both of these appeals has been scheduled for Friday, October 27, 2006.

A location map, a drawing of the proposed consent, and Planning Staff's comments are shown as Appendix "A" – Background Information; and the decision of the Consent Authority and the Committee of Adjustment are shown as Appendix "B" – Decisions, and the appeal letters are shown as Appendix "C" – Letters of Appeal.
APPENDIX “A”
Background Information
ARCHAEOLOGICAL POTENTIAL MAP

Name: Putrus Rouel Alfred, Putrus Jaklin
Address: 918 Hyde Park Rd
Roll Number:
File Number: B.44/06
App Type: Consent

Potential: Y
Condition Imposed:

Date: 5/12/2006
Scale: 1: 1200

LEGEND

Subject Site
Park
Parcel
Flood Plain
Buildings

CORPORATION OF THE CITY OF LONDON
Prepared By: Planning Department

PLANNING DIVISION
SCANNED
The applicant is seeking permission to convey 752 square metres (8099 square feet) from 918 Hyde Park Road to 919 Manchester Road for future residential development; sever 1096 square metres (11,797.6 square feet) from 918 Hyde Park Road for future residential development and retain 938 square metres (10,096 square feet) with an existing single detached dwelling.

The subject land is designated Low Density Residential in the City of London Official Plan. The same lands are zoned Residential R1 (R1-9) in the Z.-1 Zoning By-law.

The land to which this application applies is the also subject of a minor variance application (A.80/06).

The City of London’s Realty Services Division has determined that Graywood Avenue is no longer necessary and will therefore be formally closed and sold as a building lot. This means that proposed lot #1 will not have access from Graywood Avenue, but rather can only be accessed from Hyde Park Road. A similar situation would arise with respect to the location of servicing for the proposed lot #1. Section 19.7.1 of the City of London Official Plan states that any new lots “would not create traffic problems or hazards and that the Official Plan policies regarding road access would be complied with”, or “that adequate municipal services and utilities would be available”. Section 18.2.6 of the Official Plan also limits the number of access driveways onto arterial roads, especially in areas where there are not numerous access points already in existence. Hyde Park Road is a busy arterial with limited driveway access. Any additional driveways are discouraged due to potential hazards. A building lot accessed by Hyde Park Road is not supported for the above reason.

However, the Planning & Development Department does support the creation of two new lots, both to be accessed by Manchester Road, provided that the following conditions are satisfied prior to the certification of any documents:

1. That all right-of-ways/easements (internal and external) for mutual driveways, storm and sanitary sewers and/or all other utilities to be registered on title as shown on the submitted engineering drawings and site plans be to the satisfaction of City of London Environmental and Engineering Services Department and Manager of Site Plan Approval; and further that the Consent Authority be satisfied that there are adequate agreements in place between the two properties for the access and maintenance of any internal driveways.

2. That the owner/applicant convey up to 5% of the land included in the application to the municipality for park purposes. Alternatively, the municipality may accept cash-in-lieu of all or a portion of the conveyance pursuant to the City of London By-law CP-9.

3. That the accompanying Minor Variance application (A.80/06) be in full force and effect.

4. The owner is required to provide for 0.3 m (1′) reserve block for the proposed lot #1 along the Hyde Park Road frontage.
<table>
<thead>
<tr>
<th>Agenda Item #</th>
<th>Page #</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>28</td>
</tr>
</tbody>
</table>

APPENDIX "B"
Decisions
Public Comments:
The applicant Rosemary Kohr was present to request this minor variance.

<table>
<thead>
<tr>
<th>Public Attended</th>
<th>Address</th>
<th>Comments</th>
<th>Decision request</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

L. Stefanko moved, D. Murphy seconded, that the application **BE GRANTED SUBJECT** to the following conditions:

1. That a building permit is obtained prior to the commencement of construction.

**Reasons for Decision:**

- The requested minor variance meets the general intent and purpose of the Zoning By-law;
- The requested minor variance meets the general intent and purpose of the Official Plan;
- The requested minor variance is minor in nature;
- The requested minor variance is desirable for the appropriate developments or use of the land, building or structure.

**CARRIED.**

D. Chamberlain declared a conflict and removes himself from the Committee.

J. Lisowski took over as Chair of the Committee.

L. Stefanko declared a conflict of interest as one property owner retained her husband's former law firm. (Pecuniary Interest)

A.80/06 - 918 Hyde Park Road - Rouel & Jaklin Putrus

i) Prior to the commencement of A.80/06 the Committee addressed the issue of only having two Committee members for voting purposes.

ii) The Committee took a 5 minute recess.

iii) The Secretary-Treasurer contacted legal advise from Dave Mounteer, and Mr. Mounteer confirmed that the Committee could in fact carry on with only 2 members as a quorum, based on the Municipal Conflict of Interest Act, which states:

"Remedy for Lack of Quorum

7 (1) Where the number of members who, by reason of the provision of this Act, are disabled from participating in a meeting is such that at that meeting the remaining members are not of sufficient number to constitute a quorum, then, despite any other general or special Act, the remaining number of members shall be deemed to constitute a quorum, provide such number is not less than two."

**VARIANCE REQUESTED:**

Application from Rouel & Jaklin Putrus requesting to permit an existing single detached dwelling with a proposed south interior side yard setback of 1.2m (3.9') whereas 1.8m (5.9') is required and a front yard setback of 7.9m (25.9') whereas 8.0m (26.2') is required to the ultimate road allowance. The applicant also applied to the London Consent Authority (B.44/06) to divide the existing holdings.
The Secretary reports that notice of the public meeting was sent to 31 property owners within the circulation distance and that he had received 1 approvals and 9 objections in writing from the property owners most affected.

The Upper Thames River Conservation Authority had no objection to this variance application.

The Planning Division submitted the following comments:

- **Zoning:** Residential (R1-9)
- **Official Plan:** Low Density Residential
- **Current Land Use:** Single Detached Dwelling
- **Surrounding Land Uses:**
  - North: Residential
  - South: Residential
  - East: Residential
  - West: Residential

The request is to permit an existing single detached dwelling with a proposed south interior side yard setback of 1.2m (3.9') whereas 1.8m (5.9') is required and a front yard setback of 7.9m (25.9') whereas 8.0m (26.2') is required to the ultimate road allowance.

In order for this application to be acceptable as a minor variance under the provisions of the Planning Act, R.S.O. 1990, Chapter P.13, the following requirements should be met:

- c) Is the general intent and purpose of the Zoning By-law and of the Official Plan maintained?
  
  Yes. The Official Plan designation is Low Density Residential the Official Plan allows single detached dwellings, semi-detached dwellings, converted dwellings and duplex dwellings.

- d) Is the variance minor in nature and desirable for the appropriate development or use of the land, building or structure?

  Yes. There is an application for consent to permit an additional single detached dwelling lot. The retained lot requires a variance to recognize the existing front yard setback from the ultimate road allowance. The proposed severed lot requires a reduced side yard setback for the proposed two storey dwelling. In the event that the consent is granted, the variance should not cause substantial detriment, hazard or annoyance nor detract from the character of nearby properties. The requested application should not have any significant impacts on adjacent properties and is a matter of local concern.

The Planning and Development Department does not object to this application provided a building permit is obtained prior to the commencement of construction.

The **Environmental and Engineering Services Department** submitted the following comments:

The Environmental and Engineering Services Department has no objection to this variance application. Matters of servicing and access will be dealt with at the Consent stage.

J. Lisowski opened the floor for public comment.
Public Comments:

The agent Christine Crncich was present to request this minor variance.

<table>
<thead>
<tr>
<th>Public Attended</th>
<th>Address</th>
<th>Comments</th>
<th>Decision request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crystal Wettstien</td>
<td>1143 Ivanhill Rd</td>
<td>Expressed</td>
<td>Objection</td>
</tr>
<tr>
<td>Henry Wettstien</td>
<td>1143 Ivanhill Rd</td>
<td>Expressed</td>
<td>Objection</td>
</tr>
<tr>
<td>Bran Bain (Agent)</td>
<td>915 Manchester Rd</td>
<td>Expressed</td>
<td>Objection</td>
</tr>
<tr>
<td>on behalf of Mary Fox</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

D. Murphy moved, J. Lisowski seconded that public comment portion of this hearing is now closed.

D. Murphy moves, seconded by J. Lisowski, that the application BE GRANTED SUBJECT to the following conditions:

1. That a building permit is obtained prior to the commencement of construction.

Reasons for Decision:

- The requested minor variance meets the general intent and purpose of the Zoning By-law;
- The requested minor variance meets the general intent and purpose of the Official Plan;
- The requested minor variance is minor in nature;
- The requested minor variance is desirable for the appropriate developments or use of the land, building or structure.

CARRIED.

_________________________ moved, seconded by ___________________ that the meeting be adjourned.

CARRIED.

Meeting Adjourned At 2:55 P.M.
NOTICE OF DECISION
LONDON COMMITTEE OF ADJUSTMENT SUBMISSION NO. A.80/06

MONDAY, JUNE 12, 2006

OWNER: Rouel & Jaklin Putrus
918 Oxford St E
London, ON N5Y 3J9

AGENT: Christine Cmich
384 Cedar Ave
London, ON N6G 1E7

Re: 918 Hyde Park Road, N Pt Lot 25 Con 2, on the west side of Hyde Park Road, south of Fitzwilliam Boulevard.

VARIANCE REQUESTED:
Request to permit an existing single detached dwelling with a proposed south interior side yard setback of 1.2m (3.9') whereas 1.8m (5.9') is required and a front yard setback of 7.9m (25.9') whereas 8.0m (26.2') is required to the ultimate road allowance. The applicant also applied to the London Consent Authority (B.44/06) to divide the existing holdings.

At its meeting on MONDAY, JUNE 12, 2006, the London Committee of Adjustment GRANTED the requested variance on the following condition:

1. That a building permit is obtained prior to the commencement of construction.

CARRIED.

REASON: In all the circumstances, the Committee is of the opinion that the variance requested is minor and is desirable for the appropriate development of the land and is in keeping with the general intent and purpose of the By-law and Official Plan.

This permission is not final until the expiration of a statutory appeal period of twenty (20) days from the date the decision is signed, being 4:30 p.m. on July 3, 2006, during which any objector may file with the Secretary-Treasurer an appeal against this decision of the London Committee of Adjustment.

Any appeal must be accompanied by a cheque or money order (no cash please) in the amount of $125.00, payable to the Minister of Finance. The notice of appeal must set out the objection to the decision and give reasons to support the objection. A copy of the regulations governing appeals is enclosed.

Note: The Planning Act provides for appeals to be filed by "persons". As groups or associations, such as residents or ratepayers groups which do not have incorporated status, may not be considered "persons" for purposes of the Act, groups wishing to appeal this decision should do so in the name or names of individual group members, and not in the name of the group.

Peter Sikic, Secretary-Treasurer
London Committee of Adjustment
Jar
NOTICE OF DECISION
OF THE LONDON CONSENT AUTHORITY

APPLICATION NO. B.44/06

TAKE NOTICE that on July 17, 2006 the London Consent Authority, pursuant to s.53 of the Planning Act, R.S.O. 1990, c.P.13, as amended, REFUSED the application of Rouel & Jaklin Putrus for consent for 918 Hyde Park Road, to convey 752 m² (8099 sq ft) from 918 Hyde Park Road to 919 Manchester Road for future residential development; to sever 1096 m² (11,797.6 sq ft) from 918 Hyde Park Road for future residential development and retain 838 m² (9,086 sq ft) with an existing single detached.

The reasons for refusal include:

1. The application does not conform with the policies of the Official Plan;
2. That proposed lot fabric is not consistent in character with the lotting fabric and access arrangement to a public street as other lots in the neighbourhood.

AND TAKE NOTICE that any person or public body may appeal this decision of the London Consent Authority to the Ontario Municipal Board by filing a notice of appeal with the Consent Authority of the Corporation of the City of London NOT LATER THAN 4:30 p.m. on August 10, 2006. The notice of appeal must set out the reasons for the appeal and must be accompanied by the $125.00 fee prescribed by the Ontario Municipal Board Act in the form of a cheque or money order made payable to the Minister of Finance.

Only individuals, corporations and public bodies may appeal decisions in respect of applications for consent to the Ontario Municipal Board. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group.

Additional information with respect to this decision of the London Consent Authority is available from the Department of Planning & Development Office or by telephoning (519) 661-2500 ext 4988 during business hours (weekdays from 8:30 a.m. to 4:30 p.m.).

The land to which this application applies is the subject of a Minor Variance application file number A.80/06.


D. N. Stanlake
London Consent Authority

/signed

The Corporation of the City of London
Direct Line: 519-661-2500 ext 4988
Fax 519-661-5397
psko@london.ca
www.london.ca
APPENDIX “C”
Letters of Appeal
Dear London Consent Authority:

This letter is to inform you that we are appealing the decision for the refusal of Application No. B44/06 by the London Consent Authority to the Ontario Municipal Board and have enclosed a cheque for $125.00 to the Minister of Finance.

We are appealing the objection of the reasons that were stated by The London Consent Authority that the application does not conform to the policies of the Official plan and the "Lot Fabric" is not consistent as other lots in the neighbourhood. Our appeal reasons that the above is incorrect and, in fact, in the London Committee of Adjustment's Notice of Decision granting the application (A.80/06) of a minor variance on this property dating June 12, 2006 (attached) states:

"In all the circumstances, the committee is of the opinion that the variance requested is minor and is desirable for the appropriate development of the land and is in keeping with the general intent and purpose of the By-Law and Official Plan."

In the application process and the entire three month period in working with the City Engineering, Zoning, transportation, utility locations etc, we had full support, as well as with Peter Sikic. The London Consent Authority in our application for the creating of two new lots. The only point of negotiation was the entrance to the 2nd lot off Hyde Park Road and between the City Engineer speaking to transportation and the Consent Authority, we had come to an agreement that we were all in favor of. In the absence of The London Consent Authority, Peter Sikic in July, this decision was made in his absence. This application was supported by the all divisions of the City of London (as can be seen in the comments for the committee of Adjustment hearing, The Committee of Adjustment (quoted above and attached), and the Consent Authority (verbally in person) before this refusal decision letter was sent out. We look forward to setting a date to have this decision overturned and this matter settled. Thank you.

Sincerely,

Rouel & Jaklin Putrus and our representative/agent Christine Crnich
Transmission Result Report (MemoryTX) (Jul. 4, 2006 12:24PM)

Date/Time: Jul. 4, 2006 12:24PM

<table>
<thead>
<tr>
<th>No. Mode</th>
<th>Destination</th>
<th>Pg(s)</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>8086</td>
<td>95196606637</td>
<td>P. 2</td>
<td>OK</td>
</tr>
</tbody>
</table>

Reason for error:

<table>
<thead>
<tr>
<th>E. 1)</th>
<th>E. 2)</th>
<th>E. 3)</th>
<th>E. 4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hang up or line fail</td>
<td>Busy</td>
<td>No answer</td>
<td>No facsimile connection</td>
</tr>
</tbody>
</table>

---

LERNERS

June 29, 2009
FILE NUMBER: 47440-0033

DELIVERED VIA COURIER

The Corporation of the City of London
300 Richmond Avenue
12th Floor
London, ON, M4A 4L8

Attention: Peter Gollan, Secretary-Treasurer
London Committee of Adjustment

Dear Sir:

Re: Notice of Appeal to the Ontario Municipal Board of the application for a Zoning Bylaw, 2009-0015, for the property at 915 Manchester Road, City of London.

You are the author of a petition opposing the granting of a Zoning Bylaw for 915 Manchester Road, City of London.

In the petition, you have opposed the granting of the Zoning Bylaw and have raised concerns regarding the potential impact on the surrounding area. We understand your concerns and would like to address them.

We believe that the proposed development will:

1. Harvest the brown cedar trees on the property.
2. Not be consistent with the character of the area.
3. Not be consistent with the character of the area.
4. Not conform to the objectives and purposes of the Zoning Bylaw.
5. Not be consistent with the character of the area.
6. Be consistent with the character of the area.

We believe that the proposed development will:

1. Not be consistent with the character of the area.
2. Not be consistent with the character of the area.
3. Not be consistent with the character of the area.
4. Not be consistent with the character of the area.
5. Not be consistent with the character of the area.
6. Be consistent with the character of the area.

We would like to schedule a meeting with you to discuss these concerns in detail.

Please let us know if you are available to meet. We are flexible with dates and times.

Sincerely,

LERNERS