

| Agenda Item # | Page # |
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| | |

A. 106/12
Alanna Riley

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| TO: | CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE |
| FROM: | GEORGE KOTSIFAS P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL |
| SUBJECT: | OMB APPEAL 124 ST. JAMES STREET MEETING ON JANUARY 22, 2013 |

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| RECOMMENDATION |
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That, on the recommendation of the Managing Director, Development & Compliance Services & Chief Building Official in response to the letter of appeal to the Ontario Municipal Board, dated November 16, 2012, and submitted by Alasdair Beaton relating to the minor variance application concerning 124 St. James Street, the Ontario Municipal Board **BE ADVISED** that the Municipal Council supports the Committee of Adjustment decision to grant the minor variance and that the City Solicitor and Managing Director, Development & Compliance Services & Chief Building Official **BE DIRECTED** to provide legal and planning representation at the Ontario Municipal Board Hearing to support the Committee of Adjustment's decision.

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| BACKGROUND |
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The Secretary of the Committee of Adjustment circulated notice of application on September 28, 2012 for minor variances to permit the construction of three apartment buildings at 124 St. James Street.

The requested Variances are to regulations in the R8-4 Zone and R9-7.H45 Zone, as follows:

R8-4 Zone:

1. Permission to construct two apartment buildings with a building height of 14.0m (45.9) whereas 13.0m (42.6') is the maximum height; and
2. Permission to provide 48 parking spaces whereas 54 parking spaces are required.

R9-7.H45 Zone:

1. Permission to construct one apartment building with a rear yard setback of 5.0m (16.4) whereas 7.0m (22.9') is required; and
2. Permission to permit a south interior side yard setback of 1.8m (5.9) for the said building whereas 6.0m (19.6') is required.

On October 29, 2012 the City of London Committee of Adjustment approved the minor variance application by London Property Group.

On October 5, 2012 the applicant filed for site plan approval and a site plan public meeting was scheduled to receive the advice of Planning and Environment Committee and Municipal Council; and, to hear from the public on November 26, 2012.

Planning and Development Services Staff provided comments to the Committee of Adjustment. The staff comments are attached to this report (attached Appendix A).

On November 16, 2012, Alasdair Beaton, a neighbour submitted an appeal (attached Appendix B) to the Ontario Municipal Board opposing the Committee of Adjustment's decision granting the variance (attached Appendix C).





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The basis of the appeal are:

1. 9 foot ceilings are unnecessary for these basic rental units. Other 3 storey buildings conform to 13.0m standard
2. A 70% reduction does not constitute a minor variance. Other buildings in the area generally have good space between them either at the sides or back. These proposed buildings will have neither making them inconsistent with the neighbourhood.

The hearing date for this appeal has not been scheduled to date. Development Services maintains its position on the minor variance application.

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| PREPARED AND RECOMMENDED BY: | REVIEWED BY: |
|  |  |
| ALANNA RILEY, MCIP, RPP SENIOR PLANNER DEVELOPMENT SERVICES | BRUCE HENRY MANAGER DEVELOPMENT PLANNING |
| REVIEWED BY: | SUBMITTED BY: |
|  |  |
| TERRY GRAWEY, MCIP, RPP MANAGER DEVELOPMENT SERVICES AND PLANNING LIAISON | GEORGE KOSTIFAS P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL |

AR/ar
"Attach"

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**Appendix "A"
Planning Comments**

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|-----------------|--|
| FROM: | DEPARTMENT OF PLANNING AND DEVELOPMENT |
| SUBJECT: | APPLICATION BY: LONDON PROPERTY GROUP 124 ST. JAMES STREET PUBLIC PARTICIPATION MEETING ON OCTOBER 15, 2012 @ 2:00 PM |

REQUESTED VARIANCES

R8-4 Zone

1. Permission to construct two apartment buildings with a building height of 14.0m (45.9,) whereas 13.0m (42.6') is the maximum height;
2. Permission to provide 48 parking spaces whereas 54 parking spaces are required;

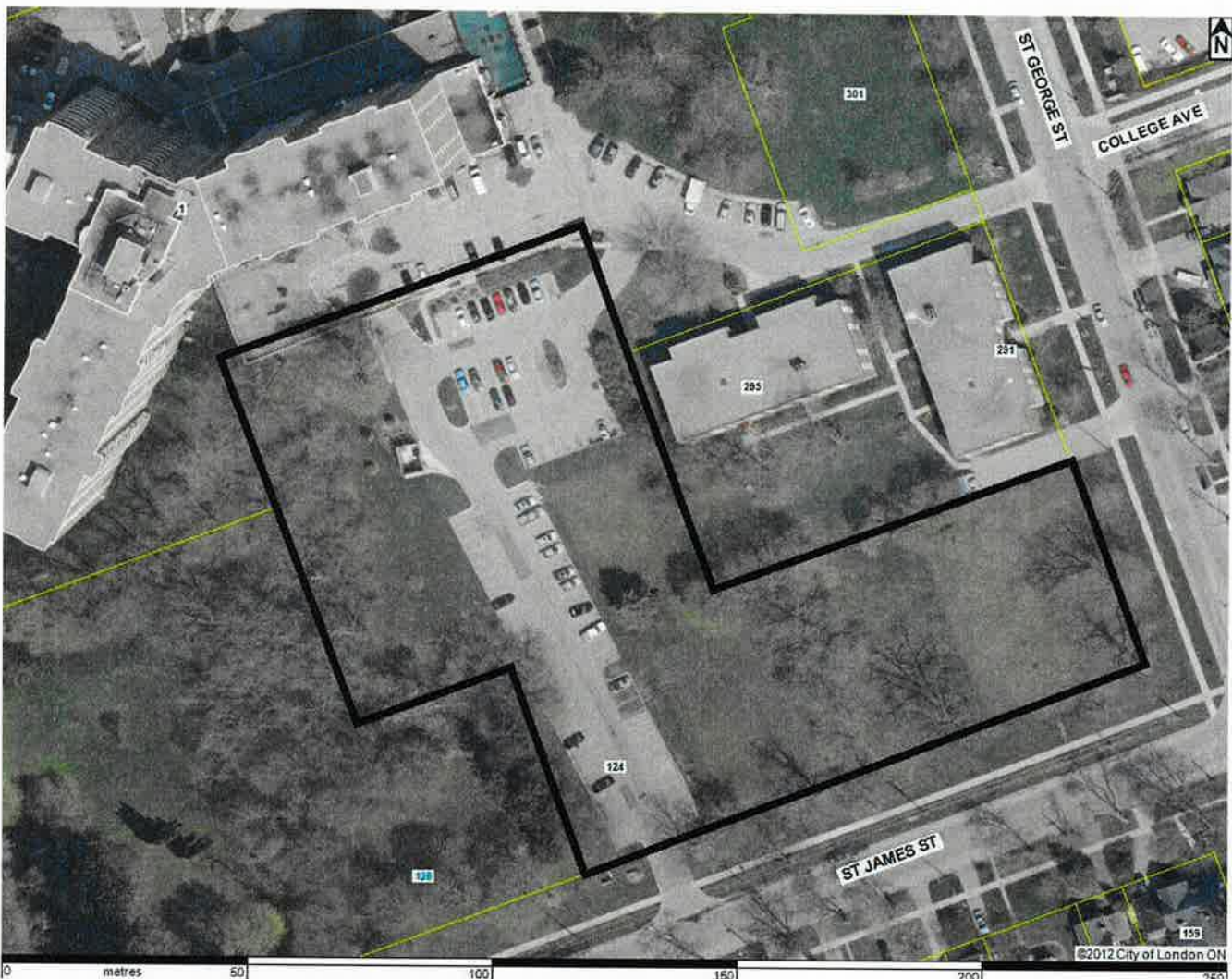
R9-7.H45 Zone

3. Permission to construct one apartment building with a rear yard setback of 5.0m (16.4') whereas 7.0m (22.9') is required; and
4. Permission to permit a south interior side yard setback of 1.8m (5.9') for the said building whereas 6.0m (19.6') is required.

It should be noted that the proposed development is positioned on one parcel that is bisected by a zoning line. If the property only had one zone, the only variance that would have been required would have been the height increase.

PURPOSE OF VARIANCES

To construct 3 apartment buildings.



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Appendix "A" (Continued)

A Condition of the consent was:

An urban design guideline document will be submitted for the severed and retained parcels, to address those matters identified in Policy 3.2.3.5 of the Official Plan. The guideline document shall be submitted to the City planner who will subsequently bring it forward for adoption by Municipal Council as a guideline document under Section 19.2 of the Official Plan to guide the review of all future site plan applications for these lands

A guideline document has been received and accepted by the City Planner and are to be recommended to be included under Section 19.2 of the Official Plan at Planning and Environment Committee on November 5, 2012. A recommended condition for this minor variance application will be is included

Description of Design

The proposed development will provide:

- i.) A building with a strong pedestrian base, with front doors along St. James Street with many windows which creates an active streetscape.
- ii.) A building with roof height elements to break up the massing of the building.
- iii.) Building materials which are sensitive to the neighbourhood.
- iv.) Eyes on the street, enhancing the feeling of safety in the area.
- v.) Strong pedestrian corridors to St. James Street.
- vi.) Strong pedestrian access
- vii.) Reduced vehicular interaction with pedestrians, by locating the vehicular access corridor on St. George Street.
- viii.) Enhanced landscaping.

Provincial Policy Statement (PPS)

The PPS promotes and directs efficient land use and development patterns. The proposed development is consistent with Section 1.0 Building Strong Communities and Section 3.0 Protecting Public Health and Safety as it:

- provides for intensification
- provides for infill redevelopment
- provides for a mix of residential uses
- efficiently uses land and resources in the City of London
- provides for the utilization of the existing public transit systems; and
- Promotes a healthy community

Official Plan Policy

The proposed amendment will allow a development that is consistent with Official Plan Policies:

Section 2.4 City Structure Policies

- The proposed development promotes a compact urban form and efficient use of serviced land. The proposed development maximizes the use of existing services, is conducive to the provision of the existing public transit and minimizes the need for and cost of new infrastructure.
- The proposed amendment will allow a development that provides for a residential development that infills and intensifies the lands at an appropriate scale.

Section 2.9 Energy Conservation Policies

- The proposed development promotes the efficient use of existing infrastructure.
- The proposed development is located in close proximity to a public transit corridor providing transportation alternatives to the automobile.

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Appendix "A" (Continued)

Section 2.11.3 Transportation Planning

The proposed development provides for a form of residential development that utilizes existing transit infrastructure.

- Promotes and supports the existing public transit corridor.
- Provides a transit friendly compact development with pedestrian linkages along the corridor.

Section 3.2.3 Residential Intensification

The proposed development provides an opportunity for the efficient use of the land encouraging compact urban form.

Section 4.4 Multi Family Medium Density Residential

- Residential uses are permitted uses in this designation.
- The proposed building will be located at the streetline and provides for a positive infill development at the corner of St. James Street and St. George Street providing a contiguous pedestrian streetscape.



Front Elevation



Rear Elevation

Great Near Campus Neighbourhood Strategy

Over the years there has been an ongoing effort to manage residential intensification within London's near-campus neighbourhoods. Many specific neighbourhood policies were created to address many issues caused by over intensification. These policies have been somewhat successful in their specific areas, however have also pushed land use conflicts onto nearby neighbourhoods which do not have specific policies. The Great Near Campus Neighbourhood strategy was created to assist all neighbourhoods with and without specific policies near The University of Western and Fanshawe College.

Through previous efforts and public consultation 10 strategies were identified to help overcome the issues faced in the Near Campus Neighbourhoods. On November 17, 2008 Council adopted these 10 strategies, which resulted in planning staff drafting new Official Plan and Zoning By-Law amendments. The latest report which was completed to address the 10 strategies previously adopted was presented to council on June 18, 2012. Council adopted the Near Campus Neighbourhood policies and the proposed Official Plan and Zoning By-law

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Appendix "A" (Continued)

amendments. These policies however are not yet in full force and effect as they have been appealed to the OMB.

One of the main changes identified through the Near Campus Neighbourhood strategy is the proposed Zoning By-law amendment which includes the rewording of the existing definitions for semi-detached, duplex, triplex, fourplex, converted dwelling, stacked townhouse, street townhouse and apartment. The definitions have been reworded to ensure that these types of dwelling units, when located within the Near Campus Neighbourhood, shall contain no more than three bedrooms per unit. The applicant proposes three apartment buildings with a total 90 units.

Planning staff are recommending the current application be approved with a condition of three bedrooms per unit. This would meet Council's intent to manage residential intensity through the recently approved Near Campus Neighbourhood Strategy.

Conclusion

The proposed development provides for a strong streetscape presence while maintaining a pedestrian scale.

The proposal allows for the creation of a development that is transit supportive. The reduced setbacks and parking and increased height provide for a development that is congruent with the submitted draft Neighbourhood Character Statement and Compatibility Guidelines.

The Planning and Development Department recommends the variances be approved on the provided the following condition be applied:

1. A maximum of three bedrooms per unit.

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Appendix "B"
Appeal



Environment and Land Tribunals Ontario
Ontario Municipal Board
655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
FAX: (416) 326-5370
www.elfo.gov.on.ca

2:15 pm
RECEIVED
NOV 19 2012
DEVELOPMENT & COMPLIANCE DIVISION

APPELLANT FORM (A1)
PLANNING ACT

SUBMIT COMPLETED FORM
TO MUNICIPALITY/APPROVAL AUTHORITY

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

| SUBJECT OF APPEAL | TYPE OF APPEAL | PLANNING ACT REFERENCE (SECTION) |
|--|---|----------------------------------|
| Minor Variance | <input checked="" type="checkbox"/> Appeal a decision | 45(12) |
| | <input type="checkbox"/> Appeal a decision | 53(19) |
| Consent/Severance | <input type="checkbox"/> Appeal conditions imposed | 53(27) |
| | <input type="checkbox"/> Appeal changed conditions | 53(14) |
| | <input type="checkbox"/> Failed to make a decision on the application within 90 days | 34(19) |
| | <input type="checkbox"/> Appeal the passing of a Zoning By-law | 34(11) |
| Zoning By-law or Zoning By-law Amendment | <input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days | 38(4) |
| | <input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality | 17(24) or 17(36) |
| | <input type="checkbox"/> Failed to make a decision on the plan within 180 days | 17(40) |
| Official Plan or Official Plan Amendment | <input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days | 22(7) |
| | <input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality | 51(39) |
| | <input type="checkbox"/> Appeal a decision | 51(43) or 51(48) |
| Plan of Subdivision | <input type="checkbox"/> Appeal conditions imposed | 51(34) |
| | <input type="checkbox"/> Failed to make a decision on the application within 180 days | |
| | <input type="checkbox"/> Appeal a decision | |

Part 2: Location Information

124 ST. JAMES ST., PT LOTS 23-26 INCLUSIVE ELS TAUBOT W/S ST. GEORGE
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: LONDON

Appendix "B" (Continued)

Part 3: Appellant Information

First Name: AVASDAIR Last Name: BEATON

Company Name or Association Name (Association must be incorporated ~ include copy of letter of incorporation)

Professional Title (if applicable):

E-mail Address: beatonac@gmail.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 519-660-4675 Alternate Telephone #: Ø

Fax #: Ø

| | |
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| Mailing Address: <u>811 TAUBOT ST.</u> | <u>LONDON</u> |
| Street Address | City/Town |
| Province | Postal Code |
| <u>ONTARIO</u> | <u>N6A 2V7</u> |
| Country (if not Canada) | |

Signature of Appellant: Alasdair Beaton Date: Nov. 16, 2012
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: _____ Last Name: _____

Company Name: _____

Professional Title: _____

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

| | |
|-------------------------|-------------|
| Mailing Address: _____ | _____ |
| Street Address | City/Town |
| Province | Postal Code |
| _____ | _____ |
| Country (if not Canada) | |

Signature of Appellant: _____ Date: _____

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Appendix "B" (Continued)

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)
LONDON COMMITTEE OF ADJUSTMENT
SUBMISSION NO.: A. 106/12

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)
1. 14.0 m. HEIGHT; APPLICANT REQUESTED TO KNOW 9 FT. CEILING AND STATED THEY HAD BUILT TO THAT HEIGHT BEFORE.
- 9 FT. CEILING UNNECESSARY FOR THESE BASIC RENTAL UNITS
- OTHER 3-STORY BUILDINGS CONFORM TO 13.0 M. STANDARD
2. PLEASE SEE PART 9.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO DON'T KNOW

Are there other planning matters related to this appeal? YES NO DON'T KNOW
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)

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Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
NONE

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? _____

Part 9: Other Applicable Information Attach a separate page if more space is required.

2. SETBACK REDUCTIONS
 SIDE YARD SETBACK REDUCED FROM 6.0 M. TO 1.8 M. A 70% REDUCTION DOES NOT CONSTITUTE A MINOR VARIANCE.
 OTHER BUILDINGS IN THE AREA GENERALLY HAVE GOOD SPACE BETWEEN THEM EITHER AT THE SIDES OR BACK. THESE PROPOSED BUILDINGS WILL HAVE NEITHER MAKING THEM INCONSISTENT WITH THE NEIGHBOURHOOD.

Part 10: Required Fee

Total Fee Submitted: \$ 125

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.

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**Appendix "C"
Decision**



City of London

Note: The last day for appealing this Decision is at 4:30 p.m. on November 19, 2012

DECISION
THE COMMITTEE OF ADJUSTMENT FOR THE CITY OF LONDON
WITH REASONS REGARDING APPLICATION FOR MINOR VARIANCE
The Planning Act R.S.O. 1990, Section 45(8) & (10)

REGARDING AN APPLICATION BY: **London Property Corporation – A.106/12**

ADDRESS: **124 St. James Street, Pt Lots 23-26 inclusive E/S Talbot W/S St. George Pt Talbot St Closed Plan Nil, on the northwest corner of St. James Street and St. George Street.**

PURPOSE: **To construct 3 apartment buildings.**

VARIANCES REQUESTED:

1. **R8-4 Zone: Permission to construct two apartment buildings with a building height of 14.0m (45.9') whereas 13.0m (42.6') is the maximum height;**
2. **R9-7.H45 Zone: Permission to construct one apartment building with a rear yard setback of 5.0m (16.4') whereas 7.0m (22.9') is required; and**
3. **Permission to permit a south interior side yard setback of 1.8m (5.9') for the said building whereas 6.0m (19.6') is required.**

WE, the undersigned, in making the Decision regarding this Application, have considered whether or not the Variance requested was minor and desirable for the appropriate development and use of the land, and that the general intent and purpose of Zoning By-Law Z- and the Official Plan will be maintained, or in the case of a change, in a use of property which is lawfully non-conforming under the By-Law as to whether or not this Application has met the requirements of Section 45 (2) of The Planning Act R.S.O. 1990.

CONCUR in the following Decision and Reasons for the Decision made on the **October 29, 2012.**

DECISION: GRANTED DENIED APPROVED WITH CONDITIONS

For Reasons & Conditions see Schedule "A" on reverse.

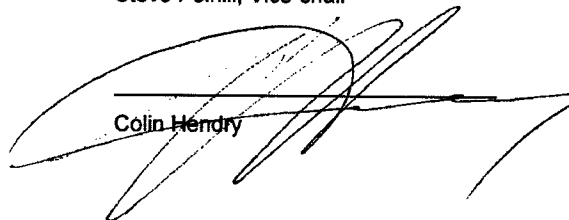


Jeff Preston, Chair



Steve Polhill, Vice-chair

Gina Barber




Colin Hendry



Maria Mendes

CERTIFICATION
THE PLANNING ACT, R.S.O. 1990, SECTION 45 (10)

I, **PETER SIKIC**, Secretary/Treasurer of the Committee of Adjustment for the City of London, County of Middlesex, certify that the above is a true copy of the Decision of the Committee with respect to the Application recorded therein.



PETER SIKIC, Secretary Treasurer

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Appendix "C" (Continued)

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.