

Agenda Item #	Page #

A. 101/12
Alanna Riley

TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE
FROM:	GEORGE KOTSIFAS P.ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL
SUBJECT:	OMB APPEAL 19 WOODGATE COURT MEETING ON JANUARY 22, 2013

RECOMMENDATION

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 October 29, 2012, and submitted by Georgina Ann Wolfe Zaifman relating to the minor variance application 19 Woodgate Place, the Ontario Municipal Board **BE ADVISED** that the Municipal Council supports the Committee of Adjustment decision to refuse 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.

BACKGROUND

The Secretary of the Committee of Adjustment circulated notice of application on September 21, 2012 for permission to:

Allow a second driveway for a single detached dwelling with:

1. Two driveways within 30.0 m (98.4') of the street line whereas one driveway is permitted; and
2. A total driveway width of 9.0 m (29.5') whereas 6.0 m (19.6) maximum is permitted.

On October 29, 2012 the City of London Committee of Adjustment refused the minor variance application by Georgina Ann Wolfe Zaifman.

Planning and Development Services Staff provided comments to the Committee of Adjustment on October 9, 2012. The staff comments are attached to this report (attached Appendix A).

On October 29, 2012 Georgina Ann Wolfe Zaifman, the applicant submitted an appeal (attached Appendix B) to the Ontario Municipal Board opposing the Committee of Adjustments decision refusing the variance (attached Appendix C).


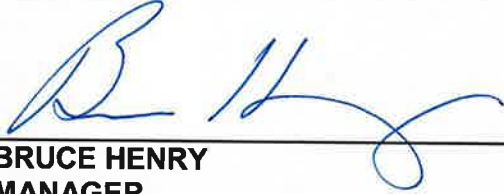


The basis of the appeal are:

1. *The variance meets the general intent and purpose of the the Official Plan.*
2. *The variance meets the general intent and purpose of the zoning By-Law.*
3. *The Second Driveway and the use of 9.0 m (29.5') in total driveway width is an appropriate use of the land.*
4. *The Variance is minor.*

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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A. 101/12
Alanna Riley

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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A. 101/12
Alanna Riley

Appendix "A"
Planning Comments

FROM:	DEPARTMENT OF PLANNING AND DEVELOPMENT
SUBJECT:	APPLICATION BY: GEORGINA ANN WOLFE 19 WOODGATE COURT PUBLIC PARTICIPATION MEETING ON OCTOBER 9, 2012 @ 1:40 PM

REQUESTED VARIANCES

1. To permit two driveways within 30.0 m (98.4') of the street line whereas one driveway is permitted; and
2. To permit a total driveway width of 9.0 m (29.5') whereas 6.0 m (19.6') maximum is permitted

PURPOSE OF VARIANCES

To allow a second driveway for a single detached dwelling.



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A. 101/12
Alanna Riley

Appendix "A" (Continued)

EVALUATION

In order for this application to be acceptable as a minor variance under the provisions of Section 45 of the Planning Act, the following requirements must be met:

- 1) Is the general intent and purpose of the Official Plan maintained?
- 2) Is the general intent and purpose of the Zoning By-law maintained?
- 3) Is the variance minor in nature? and
- 4) Is the variance desirable for the appropriate development or use of the land, building or structure?

Official Plan

The Official Plan designation is Low Density Residential which permits the use.

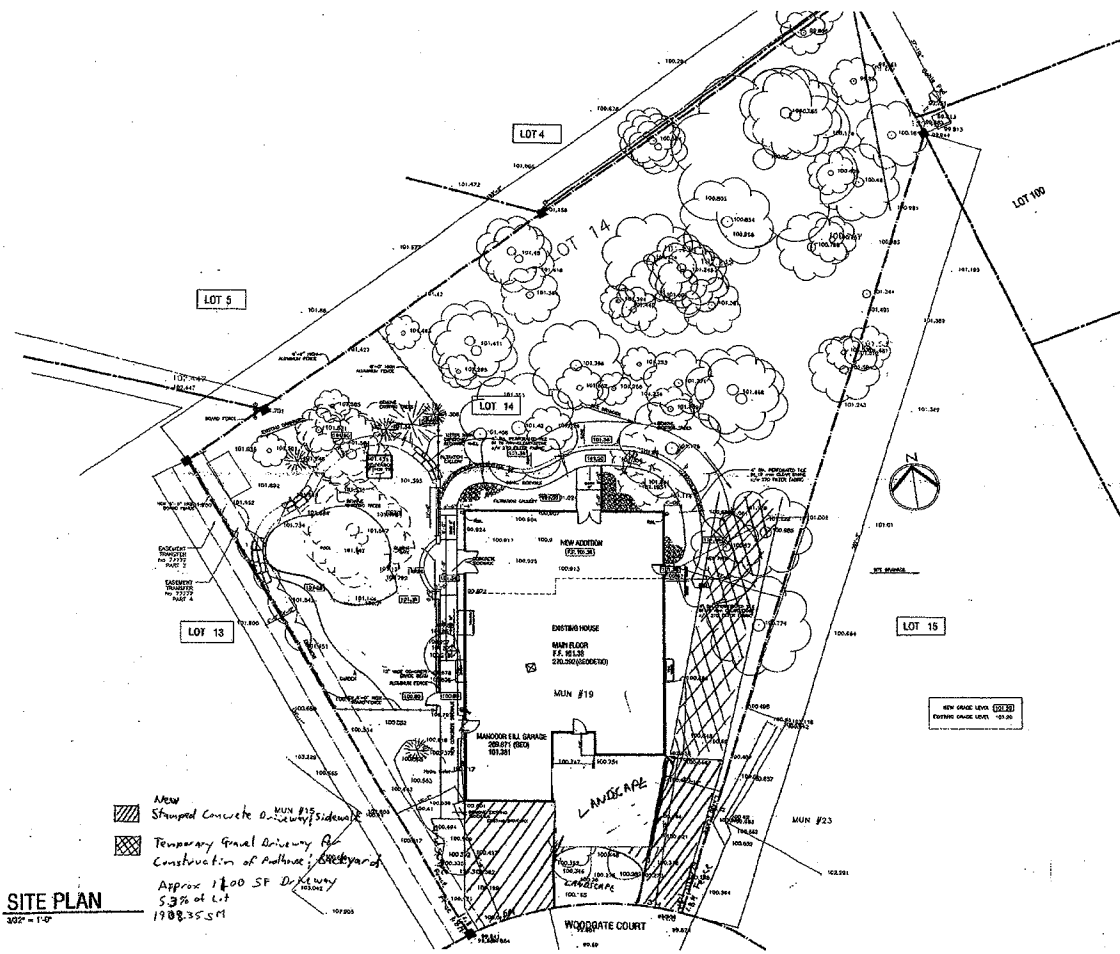
Zoning

The lands are zoned Residential R1 (R1-8) which permits the use.

Section 4.19 in the Zoning By-law states that the combined total of all driveways to parking areas may exceed 2.7 metres (8.8 feet) to a lot maximum of 6.0 metres (19.7 feet) in width or 40% of the front lot line of the lot whichever is less. The driveway width shall be measured parallel to the said street, at any point on the lot closer to the said street than the street setback required thereof. It shall be further provided that no lot shall have more than two driveways for the first 30.0 metres. (98.7 feet) of street line and no person shall use any land or cause or permit the use of any land situated in any zone for the purpose of parking or storage of a vehicle in any front yard or exterior side yard.

Analysis

The request is to permit two driveways with a total width of 9.0 metres.



Agenda Item #	Page #

A. 101/12
Alanna Riley

Appendix "A" (Continued)

The applicant is proposing to maintain an existing driveway and an offset driveway to accommodate parking and provide easy accessibility to the rear yard. The original driveway does lead to a double garage.

The creation of another driveway does not conform to the Zoning By-law. The expansion if allowed would create a negative precedent for surrounding lots to create future driveways that do not conform to the Z-1 Zoning Bylaw.

The request variance does not conform to the Zoning By-law, it will establish a negative precedent, and is not minor. The Planning and Development Department does not support this application and recommends it be refused.

Agenda Item # Page #

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A. 101/12
Alanna Riley

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.elt.o.gov.on.ca

MUNICIPAL SUBMISSION FORM (R3) PLANNING ACT MINOR VARIANCE

Reference Number (OMB Office Use Only):

Material and information is to be forwarded to the Ontario Municipal Board by the Secretary-Treasurer under the following subsection of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended. Please print clearly throughout the submission form.

Part 1: Appeal Type

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input checked="" type="checkbox"/> Appeal against a decision of the Committee of Adjustment to approve or refuse the application	45(12)

Municipality: _____ Municipal File Number: A- _____

Upper Tier: _____

Part 2: Municipal Contact Information

First Name: Peter Last Name: Sikic
 Professional Title Minor Variance Co-ordinator
 E-mail Address: psikic@london.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.
 Telephone #: 519 661-2500 ext. 4988 Fax #: 519 661-5184
 Mailing Address: 300 Dufferin Avenue P.O. Box 5035 London
Street Address City/Town
ON N6A 4L9
Province Postal Code

Part 3: Location Information

Address and/or Legal Description of property subject to the appeal: _____

Part 4: Related Matters

- (a) Is this variance appeal connected with a consent application? YES NO
- If yes, has a decision on the consent application been appealed to the Board? YES NO
- Consent submission: B- N/A O.M.B. File No.: N/A
- If the decision on the consent application has not been appealed to the Board, please enter the date on which the consent approval lapses: N/A
- (b) Other matters at municipality or Board or required to be filed?: N/A

Agenda Item #	Page #

A. 101/12
Alanna Riley

Appendix "B" (Continued)

Part 8: Required Documentation (Please check boxes to indicate document included in filing)

I confirm that I have attached the following items to this form.

Signature of Secretary-Treasurer: *M. U.* Date: November 6, 2012

The following material must be attached to this form where applicable, in the order which it is listed:

- Original or true copy of each notice of appeal received and reasons for appeal with indication of the date on which each notice was filed. Attach a typed list of the names, addresses and telephone numbers of all appellants.
- Board fee paid by each appellant made payable to the Minister of Finance. The appeal will not be processed without this fee being paid by each appellant. Ensure that cheque/fee payment is affixed to each appeal.
- Original or certified copy of the application for Minor Variance.
- Decision of the Committee of Adjustment with reasons and the date the decision was made.
- Last date for filing notice of appeal to Secretary-Treasurer.
- Authorization, if application made by other than the owner.
- Minutes of Committee of Adjustment hearing (in written/printed format).
- Name and addresses of all legal counsel and all persons, officials and agencies who were sent a copy of the Committee's decision and of those who requested to receive notice from the Board.
- All plans and sketches considered by the Committee.
- A copy of any planning report considered by the Committee, if applicable.
- Original or a copy of all written submissions and comments received by the Committee from any persons, officials and agencies.
- Sworn declaration by the Secretary-Treasurer of compliance with the requirements for giving notice of the Committee's decision under subsection 45(10) of the *Planning Act*.
- Copy of relevant extracts from the Official Plan.
- Copy of relevant extracts from the Zoning By-law.

Agenda Item #	Page #

A. 101/12
Alanna Riley

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)

NOTICE OF DECISION
LONDON COMMITTEE OF ADJUSTMENT
SUBMISSION NO.: A.108/12

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)

I APPEAL THAT I SHOULD BE PERMITTED A VARIANCE. THE STRUCTURE IS ON MY SIDE OF THE LOT LINE. TO RELOCATE THIS GARAGE WOULD INVOLVE REQUIRING FOR CONCRETE FOOTINGS AND WOULD CAUSE HARDSHIP AND BE VERY EXPENSIVE. THE GARAGE IS IN KEEPING TO THE LOT LINE AS MANY MORE ON MY STREET.

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

Are there other planning matters related to this appeal? YES NO

(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)

Agenda Item #	Page #

A. 101/12
Alanna Riley

Appendix "B" (Continued)

Part 5: Minor Variance Information

1. Variance from Zoning By-law Number: Z-1

2. Does the by-law seeking to be varied have conditions? YES NO

3. DATE APPLICATION SUBMITTED TO MUNICIPALITY: September 5, 2012

4. Give a brief outline of the purpose of the minor variance and the nature of the issues raised in the appeal(s):

See attached -

Part 6: Scheduling Information

How many days do you estimate are needed for hearing this appeal? 1/2 Number of days

How many witnesses do you expect to have at the hearing? 1 Number of witnesses

Describe witness(es)' area of expertise. Planner

Do you believe this matter would benefit from mediation? YES NO

If yes, do you believe all parties would consent to participating in 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 7: Municipal Representative Information (Legal or Planning) *Person attending OMB hearing

First Name: Lou Last Name: Pompili

Company Name: City of London

Professional Title: Manager, Zoning & Public Property Compliance

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

Daytime Telephone #: 519 661-2500 ext. 4998 Alternate Telephone #: _____

Fax #: 519 661-5184

Mailing Address: 300 Dufferin Avenue P.O. Box 5035 London
Street Address Apt/Suite/Unit# City/Town
ON 26A 4L9
Province Country (if not Canada) Postal Code

Agenda Item # Page #

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A. 101/12
Alanna Riley

Appendix "B" (Continued)



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.eltb.gov.on.ca
FORM

**APPELLANT FORM (A1)
PLANNING ACT**

SUBMIT COMPLETED

**TO
MUNICIPALITY/APPROVAL
AUTHORITY**

* 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	
Consent/Severance	<input type="checkbox"/> Appeal conditions imposed	53(19)
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
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	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	
Interim Control By-law	<input type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<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	
	<input type="checkbox"/> Appeal a decision	
Plan of Subdivision	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

Address and/or Legal Description of property subject to the appeal: 19 Woodgate Court, Lot 14 Plan M-122

Agenda Item #	Page #

A. 101/12
Alanna Riley

Appendix "B" (Continued)

Municipality/Upper tier: London, Ont.

Part 3: Appellant Information

First Name: Georgina Ann Last Name: Wolfe-Zaifman

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

Professional Title (if applicable):

E-mail Address: ann-irwin@zaifman.ca

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

Daytime Telephone #: 519-617-6600 Alternate Telephone #: 519-808-6600

Fax #: 519-680-2127

Mailing Address: 19 Woodgate Court
Street Address

Apt/Suite/Unit#

London
City/Town

Ontario
Province

Country (if not Canada)

N6K 4A4
Postal Code

Signature of Appellant:

Ann Zaifman

Date:

Oct. 29/12

(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: Alan Last Name: Patton

Company Name: Patton Cormier & Associates

Professional Title: Lawyer

E-mail Address: apatton@pattoncormier.ca

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

Daytime Telephone #: 519-432-8282 ext. 24 Alternate Telephone #:

Fax #: 519-432-7285

Mailing Address: 140 Fullerton St.
Street Address

1512
Apt/Suite/Unit#

London
City/Town

Ontario
Province

Country (if not Canada)

N6A 5P2
Postal Code

Signature of Appellant:

Ann Zaifman

Date:

Oct. 29/12

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

Agenda Item #	Page #

A. 101/12
Alanna Riley

Appendix "B" (Continued)

behalf and I understand that I may be asked to produce this authorization at any time.

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.101/12

Location: 19 Woodgate Court, Lot 14 Plan M-122, on the north side of Woodgate Court, east of Timber Drive

At its meeting on October 9, 2012, the London Committee of Adjustment Refused the requested Minor Variance

Purpose: To allow a second driveway for a single detached dwelling.

Variations Requested:

1. To permit two driveways within 30.0 m (98.4') of the street line whereas one driveway is permitted; and
2. To permit a total driveway width of 9.0 m (29.5') whereas 6.0m (19.6') maximum is permitted.

Reason: In all the circumstances, the Committee is of the opinion that the variance requested is not minor and it is not desirable for the appropriate development of the land and is not in keeping with the general intent and purpose of the By-Law and Official Plan.

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)

The variance meets the general intent and purpose of the the Official Plan.
The variance meets the general intent and purpose of the zoning By-Law
The Second Driveway and the use of 9.0 m (29.5') in total driveway width is an appropriate use of the land
The Variance is minor

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: Sept 2012
(If application submitted before January 1, 2007 please use the 01 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.

Location: 19 Woodgate Court, Lot 14 Plan M-122, on the north side of Woodgate Court, east of Timber Drive
Purpose: To allow a second driveway for a single detached dwelling.

Agenda Item #	Page #

A. 101/12
Alanna Riley

Appendix "B" (Continued)

Variations Requested: 1. To permit two driveways within 30.0 m (98.4') of the street line whereas one driveway is permitted; and 2. To permit a total driveway width of 9.0 m (29.5') whereas 6.0m (19.6') maximum is permitted
Official Plan: Low Density Residential Zoning: By-law No. Z-1 Residential (R1-8)

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO
(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)

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?
 3 Witnesses _____

Describe expert witness(es)' area of expertise *(For example: land use planner, architect, engineer, etc.):*
 Land Use Planner, Traffic Engineer, Appellant _____

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.

Agenda Item #	Page #

A. 101/12
Alanna Riley

**Appendix "C"
Decision**



300 Dufferin Avenue
P.O. Box 5035
London, ON
N6A 4L9

City of London

Note: The last day for appealing this Decision is at 4:30 p.m. on October 29, 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)

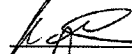
<p>REGARDING AN APPLICATION BY: Georgina Ann Wolfe – A.101/12</p> <p>ADDRESS: 19 Woodgate Court</p> <p>PURPOSE OF APPLICATION: To permit allow a second driveway for a single detached dwelling.</p> <p>VARIANCES REQUESTED:</p> <ol style="list-style-type: none"> To permit two driveways within 30.0m (98.4') of the street line whereas one driveway is permitted; and To permit a total driveway width of 9.0m (29.5') whereas 6.0m (19.6') maximum is permitted.
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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 9, 2012.

DECISION: GRANTED DENIED APPROVED WITH CONDITIONS

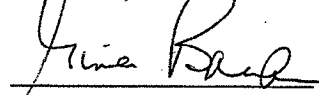
For Reasons & Conditions see Schedule "A" on reverse.



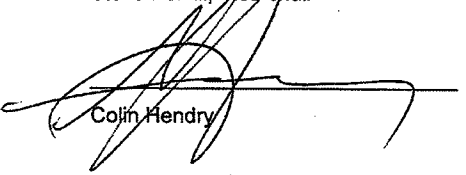
Jeff Preston, Chair



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

DEVELOPMENT SERVICES
SCANNED