

# City of Mississauga

## Memorandum:

### City Department and Agency Comments

Date Finalized: 2021-05-05	File(s): A158.21 Ward: 9
To: Committee of Adjustment	
From: Committee of Adjustment Coordinator	Meeting date:2021-05-13 1:00 PM

## Consolidated Recommendation

The City has no objection to the variances, as requested. The Applicant may wish to defer the application to ensure that all required variances have been accurately identified.

## Application Details

The applicant requests the Committee to approve a minor variance to allow an accessory restaurant proposing:

1. A gross floor area of an accessory take-out restaurant of 71.00sq.m (approx. 764.24sq.ft) whereas By-law 0225-2007, as amended, permits a maximum gross floor area of an accessory take-out restaurant of 30.00sq.m (approx. 322.92sq.ft) in this instance; and
2. 6 indoor seats whereas By-law 0225-2007, as amended, does not permit indoor seating in this instance.

## Amendments

The Building Department is currently processing a Preliminary Zoning Review under file 19-9089. Based on review of the information currently available in this permit application, additional information has been requested in order to verify the accuracy of the proposal and that all variances have been identified. We note that based on the latest review cycle, the following variance is required:

3. A take out restaurant to be located within 60m of a Residential Zone; whereas By-law 0225-2007, as amended, required a minimum setback of 60m measured in a straight line from the nearest part of the building or structure or portion of the building or structure containing the use, to the closest lot line of a Residential Zone.

## Background

**Property Address:** 2990 Britannia Road West

### Mississauga Official Plan

Character Area: Central Erin Mills Neighbourhood

Designation: Motor Vehicle Commercial

### Zoning By-law 0225-2007

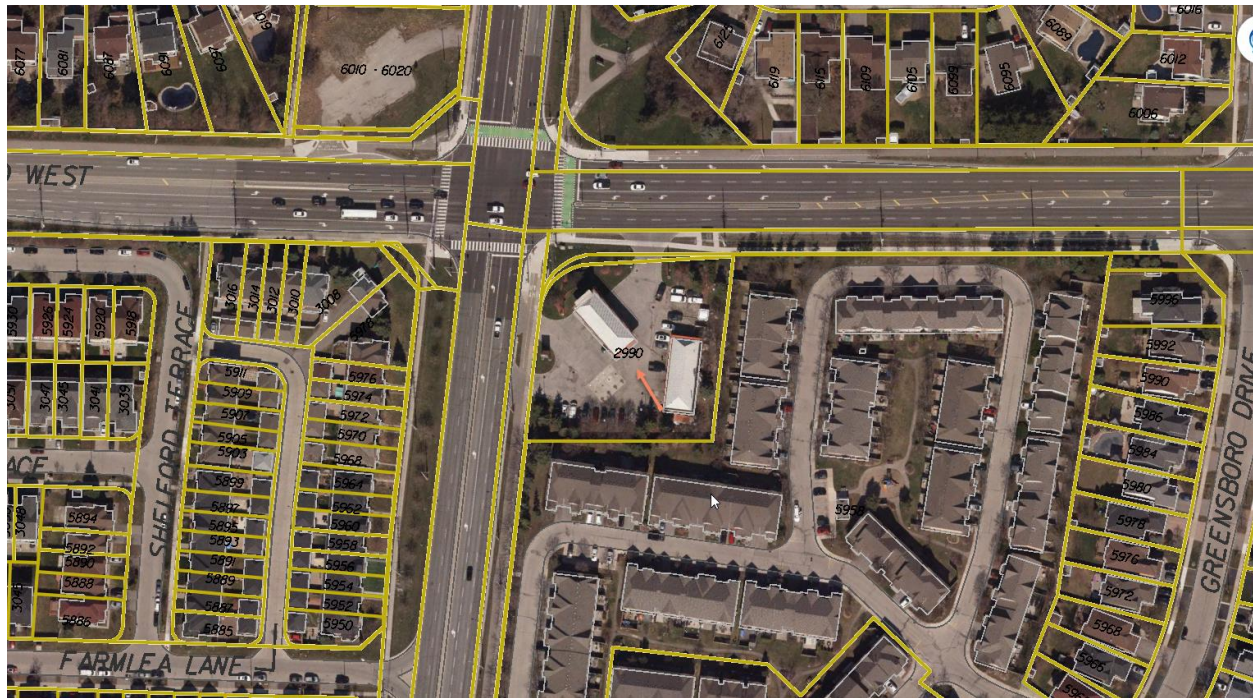
**Zoning:** C5-3 - Commercial

**Other Applications:** SP 17-59 W9  
PREAPP 19-9089

### Site and Area Context

The subject property is a gas station located upon the north-east corner of the Winston Churchill Blvd and Britannia Rd. intersection. The subject property is an exterior parcel, with a lot area of +/- 3,875.2m<sup>2</sup> and a lot frontage of +/- 64.01m, that possess minimal vegetation and landscape elements along the periphery of the lot. From a land-use perspective, the immediate neighbourhood is residential, consisting of townhouses and detached dwellings with moderate vegetation and landscape elements located in the front yards.

The applicant has proposed an accessory take-out restaurant requiring variances for the size of the restaurant and number of seats.



## Comments

### Planning

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to grant relief from the requirements of a municipal zoning by-law. Approval of applications must meet the requirements set out under 45(1) and/or 45(2) (a) or (b) in the *Planning Act*.

Staff comments concerning the application of the four tests to this minor variance request are as follows:

#### **Does the proposal maintain the general intent and purpose of the Official Plan?**

The site is located within the Central Erin Mills Neighbourhood Character Area, and is designated Motor Vehicle Commercial by the Mississauga Official Plan (MOP). Section 11.2.10 (Motor Vehicle Commercial) permits a gas bar within this designation. Retail stores and take-out restaurants, including drive-through facilities, are permitted as an accessory use to Motor Vehicle Commercial uses. The Applicant's proposal of an accessory take-out restaurant meets the purpose and general intent of the Official Plan.

#### **Does the proposal maintain the general intent and purpose of the Zoning By-law?**

This portion of the by-law is intended to dedicate only motor vehicle commercial uses to the C5-3 (Commercial) zone. In accordance with Table 6.2.1 (C1 to C5 Permitted Uses and Zone Regulations), the proposed convenience retail and service kiosk accessory to a gas bar is permitted under the by-law. To be considered an accessory use, the proposed take-out restaurant must be subordinate to the parent use and not exceed a gross floor area of 30m<sup>2</sup>. Although the proposed 71.00m<sup>2</sup> is considerably larger than what is permitted under the by-law, it remains about a third of the maximum size permitted for a convenience retail and service kiosk. Additionally the purpose of permitting an accessory take-out restaurant in a convenience retail and service kiosk use, provides an additional customer services to the public. While the proposed seating is excluded from the definition of an accessory convenience retail and service kiosk, the proposed 6 seats is inline with the definition of a take-out restaurant and can be supported by Staff. Variances #1 and #2 generally maintain the intent and purpose of the by-law.

The Building Department is currently processing a Preliminary Zoning Review under file 19-9089. Based on review of the information currently available in this permit application, additional information has been requested in order to verify the accuracy of the proposal and that all variances have been identified. We note that based on the latest review cycle, the following variance is required:

3. A take out restaurant to be located within 60m of a Residential Zone; whereas By-law 0225-2007, as amended, required a minimum setback of 60m measured in a straight line from the nearest part of the building or structure or portion of the building or structure containing the use, to the closest lot line of a Residential Zone.

This department has no objection to the additional variance should the applicant wish to proceed with it. As such, through a review of the surrounding area the additional variance will not undermine the character of the neighbourhood. The variance, as amended, results in both the orderly development of the lands, and whose impacts are minor in nature. Staff is of the opinion that the application is appropriate to be handled through the minor variance process. Further, the application raises no concerns of a planning nature.

**Is the proposal desirable for the appropriate development of the subject lands and minor in nature?**

The proposed maintains approximately a third of the parent use and is therefore accessory, as such the proposed accessory take-out restaurant with 6 seats is minor in nature resulting in the orderly development of the lands.

## Conclusion

The Planning and Building Department has no objection to the variances, as requested. The Applicant may wish to defer the application to ensure that all required variances have been accurately identified.

Comments Prepared by: Brooke Herczeg RPP, Committee of Adjustment Planner

## Appendices

### Appendix 1 – Transportation and Works Comments

We are noting for Committee's information that any Transportation and Works Department concerns/requirements for the subject property will be addressed through the Site Plan Approval/Building Permit process.







Comments Prepared by: Tony Iacobucci, Development Engineering Technologist

## Appendix 2 – Zoning Comments

The Building Department is currently processing a Preliminary Zoning Review under file 19-9089. Based on review of the information currently available in this permit application, additional information has been requested in order to verify the accuracy of the proposal and that all variances have been identified. We note that based on the latest review cycle, the following variance is required:

A take out restaurant to be located within 60m of a Residential Zone; whereas By-law 0225-2007, as amended, required a minimum setback of 60m measured in a straight line from the nearest part of the building or structure or portion of the building or structure containing the use, to the closest lot line of a Residential Zone.

Please note that comments reflect those provided through the above permit application and should there be any changes contained within this Committee of Adjustment application that have not been identified and submitted through the application file noted above, these comments may no longer be valid. Any changes and/or updates to information and/or drawings must be

submitted, as per standard resubmission procedures, separately through the application process in order to receive updated comments.

Comments Prepared by: Brandon Eidner, Zoning Examiner

## **Appendix 5 – Region of Peel Comments**

Development Engineering: Camila Marczuk (905) 791-7800 x8230

Any changes to the water or sanitary sewer, grading and drainage will require review by the Region of Peel. Site Servicing approvals by Region of Peel, are required prior to the local municipality issuing building permit. For more information, please call our Site Servicing Technicians at 905.791.7800 x7973 or by email at [siteplanservicing@peelregion.ca](mailto:siteplanservicing@peelregion.ca)

Comments Prepared by: Diana Guida, Junior Planner