

City of Mississauga

Memorandum:

City Department and Agency Comments

Date Finalized: 2021-05-27	File(s): B37.21 Ward: 7
To: Committee of Adjustment	
From: Committee of Adjustment Coordinator	Meeting date: 2021-06-03 3:00 PM

Consolidated Recommendation

The City has no objection to the validation, as requested.

Application Details

The applicant requests a Certificate of Validation for 2407 Rosemary Drive, described as Parts 1 & 3, 43R-3974.

Background

Property Address: 2407 Rosemary Drive

Mississauga Official Plan

Character Area: Erindale Neighbourhood
Designation: Residential Low Density I

Zoning By-law 0225-2007

Zoning: R2 - Residential

Other Applications: None

Site and Area Context

The property is located south-east of the Dundas St W and Glengarry Rd intersection. It is an interior parcel, with a lot area of approximately +/- 1,078.14m² and a lot frontage of approximately +/- 15.18m. Currently the property houses a two-storey detached dwelling with minimal vegetation and landscaping elements within the front and rear yards. Contextually, the surrounding neighbourhood consists of single and two-storey detached homes. Within the

The applicant requests that the committee validate the title of lands known as 2407 Rosemary Drive in order to rectify a past conveyance that contravened the Planning Act.



The Provincial Policy Statement 2014 (PPS 2014) and Growth Plan for the Greater Golden Horseshoe promote efficient development and land use, directing the focus towards intensification and redevelopment. The proposal is consistent with the general directive in provincial policy.

Staff comments concerning the applications for a certificate of validation are as follows:

Background

Elisabeta Di Tella owns Part 1 of lot 13 on reference plan 43R-3974 and is entitled to Part 3 on lot 13 on reference plan 43R-3974. However when the transfer of VS391013 was drafted on May 11, 1976 it appears the law firm incorrectly used reference plan 43R-3374 to transfer Part 1 instead of using plan 43R-3974 to transfer Parts 1 and 3. The conveyance caused parts 3 of lot 13 to remain in the name of the Cavasinni brothers.

An attempt has been made to correct the error through instrument R01185347 but the applicant has been advised by the Land Registry Office that this is in contravention of the planning act. A certificate of validation must be registered on title via deposit and be inclusive of both parts to rectify the planning act contraventions in VS391013 and RO1185347.

Chain of Events

- Transfer VS360945 registered July 30, 1975 to Nazzareno and Antonio Cavasinni, purchased the property comprising lot 13, plan 383
 - By deposit of reference plan 43R-3974 the property was described a parts 1-4 thereon
- Transfer VS391012 registered May 11, 1976, the Cavasinni brothers transfers part 2 of plan 43R-3974 with planning act approval endorsed. The transfer registered for 2405 Reosemary (VS391012) was stamped by the Land Division Committee, certifying that consent was given with respect to the planning act.
 - The Cavasinni brothers own Parts 1, 3, and 4 of Plan 43R-3974
- Transfer VS391013 registered May 11, 1976 the Cavasinni brothers transferred Part 1 of Plan 43R-3974 with no planning act approval endorsed. The transfer registered for 2407 Rosemary that was registered immediately after (VS391013) did not have the same stamp from the Land Division Committee.
 - The Cavasinni brothers own Parts 3 and 4 of Plan 43R-3974
 - Transfer VS391013 contravenes the planning act
- By Grant of Easement VS403059 registered August 24, 1976 the Cavasinni brothers conveyed an easement over parts 3 and 4 of Plan 43R-3974 in favour of the City of Mississauga
- The Cavasinni brothers retained ownership of parts 3 and 4 of Plan 43R-3974
- Transfer RO1185347 registered October 1, 2020 the Cavasinni brothers transferred part 3 of Plan 43R-3974 with no planning act approval endorsed

- The Cavasinni brothers retain ownership of part 4 of plan 43R-3974

Certificates of Validation

Section 57 of the Planning Act provides a process to correct past land transactions that contravened the Act and thereby validate title. Section 57 allows the Committee of Adjustment to authorize the secretary-treasurer to issue a certificate of validation. A certificate of validation is not the same as a severance and does not have the same effect as a severance. It does not create a new parcel. Validation only gives good title to the new owner of a parcel that was created or transferred improperly.

A certificate of validation is used to cure a prior Planning Act contravention and thereby validate the ownership of property and the validity of the mortgage registered against title.

Comments

2407 Rosemary Drive is located within the Erindale Neighbourhood Character Area and designated Low Density Residential II under the Mississauga Official Plan (MOP). As such, the existing use is permitted in this designation and maintains the intent and purpose of the MOP.

The property was developed in the late 1970s and there is no new development being proposed on the subject property. No development is contemplated and as a result there is no intended construction or other improvements being considered. The validation is required to correct the title and validate the ownership of the applicant currently residing at the subject property. Staff has no objection to the Committee authorizing the Secretary-Treasurer to issue the requested Certificate of Validation in the form included in Schedule A.

Planning considerations:

There is no planning considerations for this application since the only issue is the retroactive validation of title.

Conclusion

The application for a certificate of validation for the land legally described as part lot 1 and 3 of Plan 43R-3974, in the City of Mississauga and being all of PIN 10738100, be granted subject to the following condition:

That a minor variance is required for relief from the minimum lot frontage of 18.0 and side yard setback 1.8m + 0.61m for each storey above the first.

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

Appendices

Appendix 1 – Transportation and Works Comments

This department has no objections or requirements for this application where the intent is to rectify a Planning Act Contravention and establish Parts 1 and 3, Plan 43R-3974 as a legal lot.

Comments Prepared by: Tony Iacobucci, Development Engineering Technologist

Appendix 2 – Zoning Comments

We have no objection to the consent application provided that the severed and retained lands comply with the provisions of Zoning By-law 0225-2007, as amended, with respect to, among other things, minimum lot frontage, minimum lot area, setbacks to the existing building(s), on site parking, etc., or alternatively, that any minor variance(s) is approved, final and binding and/or the demolition of any existing building(s) is complete.

We further advise that the proposed lot frontage is to be calculated in accordance with the following definition;

The applicant is advised that Lot Frontage means the horizontal distance between the side lot lines and where these lines are not parallel means the distance between the side lot lines measured on a line parallel to and 7.5 m back from the front lot line.

Comments Prepared by: Brandon Eidner, Zoning Examiner

Schedule A**Certificate of Validation****Section 57 of the *Planning Act***

A contravention of Section 50 or a predecessor of it, or of a by-law passed under a predecessor of Section 50, or an order made under clause 27 (1) (b) of the *Planning Act*, as it read on the 25th day of June, 1970, being chapter 296 of the Revised Statutes of Ontario, 1960 or a predecessor of it, does not have and shall be deemed never to have had, the effect of preventing the conveyance of, or creation of any interest in the parcel of land described as follows:

Lot 13 Plan 43R-3974, City of Mississauga

Known municipally as 2407 Rosemary Drive

Being all of PIN 10738100

This certificate of validation is issued in accordance with Section 57 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, and the decision of the Committee of Adjustment of the City of Mississauga dated the _____ of _____, 2021.

Dated the ____ day of _____, 2021

Diana Rusnov, Director of Legislative Services & City Clerk