

# City of Mississauga

## Memorandum:

### City Department and Agency Comments

Date Finalized: 2021-08-18	File(s): B50.21 Ward: 2
To: Committee of Adjustment	
From: Committee of Adjustment Coordinator	Meeting date: 2021-08-26 1:00 PM

## Consolidated Recommendation

The City recommends that the Committee have regard for all comments and evidence provided by the Applicant and area residents when assessing if the application meets the requirements of Section 50(3) of the Planning Act.

## Application Details

The applicant requests the Consent of the Committee for the purpose of creating an easement for the servicing and right of way over a private driveway.

### Recommended Conditions and/or Terms of consent

- Appendix A – Conditions of Provisional Consent

## Background

**Property Address:** 1260 Kane Road

### Mississauga Official Plan

Character Area: Clarkson – Lorne Park Neighbourhood  
Designation: Residential Low Density I

### Zoning By-law 0225-2007

**Zoning:** R3-80 - Residential

**Other Applications:** OZ 16 7 and 21T-M 16002 (Draft Approved)

## Site and Area Context

The subject property is located within the Clarkson-Lorne Park Neighbourhood Character Area, southwest of Indian Road and Kane Road. A private driveway from Kane Road leads to the subject property. The driveway is the only portion of the property with frontage on Kane Road. The immediate neighbourhood is entirely residential consisting of older one storey and newer large two storey detached dwellings on lots with significant mature vegetation in both the front and rear yards. The subject property contains an existing two storey dwelling with mature vegetation along its perimeter.

The applicant requests the Consent of the Committee for the purpose of creating an easement for the servicing and right of way over a private driveway.



## Comments

### Planning

#### Planning Act

Section 51 (24) of the *Planning Act* sets out the criteria for land division in the Province of Ontario. In evaluating such requests, the Committee needs to be satisfied that the proposal meets not only the criteria set out under Section 51(24), but also municipal requirements identify in local legislation.

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. In evaluating such requests, the Committee needs to be satisfied that the proposal meets the four tests set out in the *Planning Act*.

#### Provincial Matters

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 application are as follows:

The subject proposal first commenced with the filing of Rezoning and Plan of Subdivision applications to permit 4 detached dwellings on a condominium road in 2016 under files OZ 16/007 W2 and T-M 16/002 W2. At the conclusion of the process, staff recommended refusal of the proposal and Planning and Development Committee adopted the staff recommendation.

The applicant then appealed the decision of Planning and Development Committee to the Ontario Land Tribunal (OLT). The applicant and staff engaged in settlement discussions resulting in an OLT order approving minutes of settlement; including a site specific Zoning By-law Amendment and Draft Plan of Subdivision reflective of an alternative proposal - two detached dwellings with access through a main driveway onto Kane Road. Among other Draft Plan of Subdivision Conditions, the applicant is required to register an easement in favour of Lot 2 that permits vehicular access over the driveway that access Kane Road.

The City is currently processing submissions from the applicant to address the outstanding Draft Plan of Subdivision Conditions issued by the OLT. The applicant has yet to satisfy the remaining conditions and as such, the subdivision has yet to be registered at the Land Registry Office.

In addition, staff are currently processing Site Plan and Building Permit applications for the subject site however, these applications have not been approved nor issued as there are outstanding conditions required to be satisfied by the applicant.

We further advise to the Committee that it appears there has been construction activity on site to date. City inspection staff have been out on site on a number of occasions to issue stop work orders and orders to comply.

Notwithstanding the above, the consent application facilitates the accommodation of an easement as required in the OLT order regarding the Draft Plan of Subdivision Conditions and staff do not have any concerns in this instance. However, we note for the Committee that support for this consent application does not preclude any staff concerns that may be had for future potential minor variance applications for the subject site.

Through a detailed review, Staff is of the opinion that the application is appropriate to be handled through the consent process. Further, the application raises no concerns of a planning nature.

## **Conclusion**

The Planning and Building Department recommends that the Committee have regard for all comments and evidence provided by the Applicant and area residents when assessing if the application meets the requirements of Section 50(3) of the Planning Act.

Comments Prepared by: Connor DiPietro, Committee of Adjustment Planner

## Appendices

### Appendix 1 – Transportation and Works Comments

We note that The City is currently processing a Draft Plan of Subdivision Application on the subject lands, reference T-16/002 for the proposal of two residential dwellings that will require a private easement over the existing driveway. As per the LPAT decision, the private easement shall be a minimum 5.3m vehicular and pedestrian right-of-way easement over the internal driveway and shall provide interconnections (including infrastructure) to lot 1.

In view of the above, and should Committee see merit in the subject application we ask that the applicant be required to provide a 'Draft' 43R-Plan prepared by an O.L.S. and a letter/schedule be prepared by the applicant's Solicitor which would specifically describe the new private easement to be established. It should also be noted that any documentation received will be forwarded as an attachment with our clearance memo to the Committee of Adjustment Office in order that any new proposed private easement can be identified and also be incorporated into the Certificate of Secretary-Treasurer.

Comments Prepared by: John Salvino, Development Engineering Technologist

### Appendix 2 – Zoning Comments

BP RECEIVED, MORE INFO

The Building Department is currently processing a building permit application under file BP 9NEW 20-3729. Based on review of the information currently available for this building permit, we advise that more information is required to verify the accuracy of the requested variance(s) or determine whether additional variance(s) will be required.

While additional information is required to the accuracy of the requested variance(s) or determine whether additional variance(s) will be required, it should be noted that the Zoning section has no comment or concern related to the requested easement.

Our comments are based on the plans received by Zoning staff on 01/14/2021 for the above captioned building permit application. Please note that should there be any changes contained within this Committee of Adjustment application that have not been identified and submitted through the site plan approval process, these comments may no longer be valid. Any changes and/or updates to information and/or drawings must be submitted, as per standard resubmission procedure, separately through the site plan approval process in order to receive updated comments.

Comments Prepared by: A. McCormack

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**Appendix 3 – Parks, Forestry & Environment**

N/A

**Appendix 4 – Heritage**

There is a registered archaeological site on the property and requires a Stage 3 site-specific assessment as well as Stage 4 mitigation. The site has been registered in the Ontario Archaeological Sites Database and requires further archaeological assessment. Impacting or removing any part of the archaeological site outside of the archaeological assessment process is contrary to the Ontario Heritage Act. The Province of Ontario requires that the property owner retain a consultant archaeological licensed in good standing, who is able to conduct Stage 3 and Stage 4 assessment and mitigation. Both Stages of archaeological work must be completed prior to any development, grading, excavation or any other form or type of land alteration within the property.

Comments Prepared by: Andrew Douglas, Heritage Analyst

**Appendix 5 – Region of Peel Comments**

**Condition:** Arrangements satisfactory to the Region of Peel, Public Works shall be made with respect to required private service easements.

Comments Prepared by: Diana Guida, Junior Planner

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**SHOULD THE COMMITTEE GRANT A PROVISIONAL CONSENT, THE FOLLOWING IS A LIST OF THE RECOMMENDED CONDITIONS TO BE ATTACHED TO THE DECISION AND THESE CONDITIONS MAY BE REVISED BY THE COMMITTEE AT THE PUBLIC MEETING.**

1. Approval of the draft reference plan(s), as applicable, shall be obtained at the Committee of Adjustment office, and; the required number of prints of the resultant deposited reference plan(s) shall be received.
2. An application amendment letter shall be received from the applicant or authorized agent confirming that the conveyed land shall be together with and/or subject to services easement(s) and/or right(s)-of-way, if necessary, in a location and width as determined by the Secretary-Treasurer based on written advice from the agencies having jurisdiction for any service or right for which the easement or right-of-way is required; alternatively, a letter shall be received from the applicant or authorized agent confirming that no services easement(s) and/or right(s)-of-way, are necessary.
3. A letter shall be received from the City of Mississauga, Manager of Zoning Plan Examination, indicating that the conveyed land and retained lands comply with the provisions of the Zoning By-law, or alternatively; that any variances are approved by the appropriate authorities and that such approval is final and binding.
4. A letter shall be received from the City of Mississauga, Transportation and Works Department, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated August 18, 2021.
5. A letter shall be received from the City of Mississauga, Community Services Department, Culture Division, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated August 18, 2021.
6. A letter shall be received from the Region of Peel, Development Services/Public Works, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated August 18, 2021.