

# City of Mississauga Department Comments

Date Finalized: 2022-02-09 To: Committee of Adjustment From: Committee of Adjustment Coordinator	File(s): B38.21 A246.21 A247.21  Ward: 1
	Meeting date:2022-02-17 1:00:00 PM

## Consolidated Recommendation

The City recommends that the applications be refused.

## Application Details

The applicant requests the approval of the Committee to sever a parcel of land for the creation of a new lot. The parcel of land has a frontage of approximately 9.77m (32.05ft) and an area of approximately 384.37sq.m (4137.32sq.ft).

A minor variance is requested for the Severed lands (file A246/21) and the construction of a new house proposing:

1. A lot frontage of 9.77m (approx. 32.05ft) whereas By-law 0225-2007, as amended, requires minimum lot frontage of 12.00m (approx. 39.37ft) in this instance;
2. A lot area of 384.37sq.m (approx. 4137.32ft) whereas By-law 0225-2007, as amended, requires a minimum lot area of 460.00sq.m (approx. 4951.40sq.ft) in this instance;
3. A front yard of 5.94m (approx. 19.49ft) whereas By-law 0225-2007, as amended, requires a minimum front yard of 6.00m (approx. 19.68ft) in this instance;
4. An interior side yard of 0.58m (approx. 1.90ft) whereas By-law 0225-2007, as amended, requires a minimum interior side of 1.20m (approx. 3.93ft) in this instance;
5. A building height measured to a flat roof of 8.00m (approx. 26.23ft) whereas By-law 0225-2007, as amended, permits a maximum building height measured to a flat roof of 7.50m (approx. 24.60ft) in this instance; and
6. A setback measured to a railway right-of-way of 12.31m (approx. 40.39ft) whereas By-law 0225-2007, as amended, requires a minimum setback to a railway right-of-way of 30.00m (approx. 98.43ft) in this instance.

A minor variance is requested for the Retained lands (file A247/21) and the construction of a new house proposing:

1. A lot frontage of 9.77m (approx. 32.05ft) whereas By-law 0225-2007, as amended,

requires minimum lot frontage of 12.00m (approx. 39.37ft) in this instance;

2. A lot area of 326.44sq.m (approx. 35ft) whereas By-law 0225-2007, as amended, requires a minimum lot area of 460.00sq.m (approx. 4951.40sq.ft) in this instance;

3. A setback measured to a porch of 4.48m (approx. 14.70ft) whereas By-law 0225-2007, as amended, requires a minimum setback measured to a porch of 4.86m (approx. 15.94ft) in this instance;

4. A front yard of 5.75m (approx. 18.86ft) whereas By-law 0225-2007, as amended, requires a minimum front yard of 6.00m (approx. 19.68ft) in this instance;

5. An interior side yard of 0.58m (approx. 1.90ft) whereas By-law 0225-2007, as amended, requires a minimum interior side of 1.20m (approx. 3.93ft) in this instance;

6. A building height measured to a flat roof of 8.00m (approx. 26.23ft) whereas By-law 0225-2007, as amended, permits a maximum building height measured to a flat roof of 7.50m (approx. 24.60ft) in this instance; and

7. A setback measured to a railway right-of-way of 8.32m (approx. 27.30ft) whereas By-law 0225-2007, as amended, requires a minimum setback to a railway right-of-way of 30.00m (approx. 98.43ft) in this instance.

## Background

**Property Address:** 202 Queen Street West

### Mississauga Official Plan

Character Area: Port Credit Neighbourhood (West)

Designation: Residential Low Density II

### Zoning By-law 0225-2007

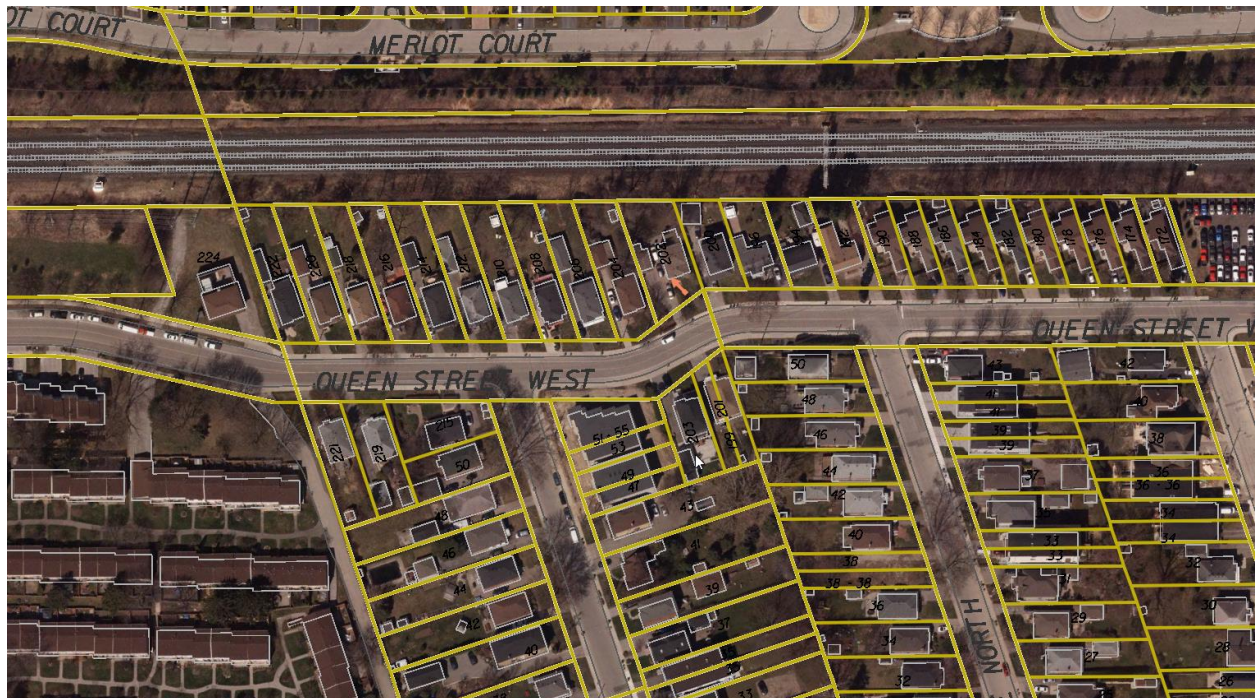
**Zoning:** RM7-5 - Residential

**Other Applications:** Pre-Application: 21-5043

### Site and Area Context

The subject property is located within the Port Credit Neighbourhood Character Area, northwest of Mississauga Road North and Lakeshore Road West. The immediate neighbourhood is primarily residential, consisting of a mix of townhouses, detached and semi-detached dwellings. The neighbourhood contains a diverse lot fabric with lot frontages ranging from approximately 6.80m (22.3ft) to 20m (65.7ft). The subject property contains an existing two-storey detached dwelling with mature vegetation in the front and rear yard.

The applicant is proposing to sever the lot, creating two new parcels for the purpose of constructing detached dwellings on each lot. The development proposal requires variances related to lot frontage, lot area, front and side yard setbacks and a rear yard setback measured to the railway.



## 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 applications are as follows:

The subject property is designated Residential Low Density II in Schedule 10 of the Mississauga Official Plan (MOP), which permits detached, semi-detached, duplex, triplex and other forms of low-rise dwellings with individual frontages.

The above applications were previously heard and deferred by the Committee of Adjustment on June 24<sup>th</sup>, 2021, to allow the applicant an opportunity to provide a noise and vibration impact study, to determine the feasibility of the proposed severance. The subject property abuts the Metrolinx railway corridor which has significant railway traffic volumes and noise levels.

Transportation and Works (T&W) staff have reviewed the noise and vibration reports submitted and raise a number of concerns with the applicant's proposal. Due to significant railway noise emanating from the Metrolinx railway corridor, the proposed outdoor living area (OLA) for both proposed lots is the front yard. Under the MECP NPC-300 noise guidelines, an OLA is permitted in a front yard if it is 56m<sup>2</sup> (603ft<sup>2</sup>) or greater. The proposed front yards consist predominantly of hard surface driveways, making this unachievable. Furthermore, NPC-300 notes that where the OLA does not meet the 56m<sup>2</sup> (603ft<sup>2</sup>) threshold, the OLA must be protected and saved, except for the footprint of the dwelling. This cannot be achieved for the rear yard, unless extreme noise mitigation measures, such as fencing and berms, are provided. Planning staff are concerned that these mitigation measures would negatively impact abutting properties to the east and west.

T&W staff also note that the noise assessment submitted did not equally consider road and rail noise sources when evaluating the OLA in the front yard. Therefore, staff cannot accurately determine if additional mitigation measures are required for noise fencing between the proposed dwellings to reduce noise transmissions into the front yard OLA's.

Section 6.10.4.1 of the MOP, states that every effort should be made to achieve the sound level limits specified by the applicable Provincial Government environmental noise guideline for an outdoor living area (55 dBA or less). According to T&W staff, excess noise above the limit will not be acceptable if it exceeds 60 dBA. Since the applicant did not consider and or provided rail noise sources when evaluating the OLA in the front yards, staff are unable to accurately determine if noise in the OLA would exceed the provincial sound limits.

T&W staff note that this section of the Metrolinx railway corridor has significant railway traffic volumes and noise levels emanating from the railway traffic as has been exhibited in the submitted noise report and in other noise and vibration studies along this railway corridor.

Section 5.3.5.5 of the MOP, states intensification within neighbourhoods may be considered where the proposed development is compatible in built form and scale to surrounding development, enhances the existing or planned development and is consistent with the policies of this Plan. Planning staff are of the opinion that the proposed development is not compatible with the Metrolinx railway corridor located directly north of the subject property, as mitigation measures would be required to accommodate the proposal, which would negatively affect existing development along Kenmuir Avenue.

Planning staff is of the opinion that the creation of a lot at this location is not in the public interest and would not meet MOP policies as they relate to providing compatible development or adequate outdoor living area for the occupants of the proposed dwellings. In addition, the proposed location of the lot could result in significant restrictions on the lands relating to building acoustical design, site fencing and limited or no outdoor living area for the quiet enjoyment of the property.

Based on the preceding information, staff is of the opinion that the application does not conform to Section 51(24) of the Planning Act, more specifically that the application does not conform to the official plan.

As staff is not supportive of the consent application, the minor variance applications should also be refused.

Comments Prepared by: Connor DiPietro, Committee of Adjustment Planner

## Appendices

### Appendix 1 – Transportation and Works Comments

We note for Committee's information that noise and vibration reports were submitted with the revised submission and has been fully reviewed by this department. The following comments are a result of our review:

1. Due to high railway transportation noise emanating from the Metrolinx railway corridor located immediately to the rear of the subject lot, the proposed outdoor living area (OLA) for both proposed lots is the front yard. Under the MECP NPC-300 noise guidelines this would be permitted; however, would be required to be 56m<sup>2</sup> in area. As the proposed front yard is predominantly hard surface driveway, this is not being achieved. In that instance, NPC-300 then notes that where the OLA does not meet the 56m<sup>2</sup> threshold, all the OLA must be protected, save and except the footprint of the dwelling. This cannot be achieved for the rear yard as extreme mitigation measures in rear yard fencing and berms would be needed which is not in character with the surrounding homes.
2. In the report, the source used in analyzing the OLA area in the front yard was identified as the road transportation noise in table 2 which indicates Queen St. W.. The report should have considered both the road and rail transportation sources when evaluating the OLA in the front yard. This analysis would have been useful to determine if additional mitigation measures would be required for noise fencing between the proposed dwellings to reduce noise transmissions into the front yard OLA's.

The above noted comments raise significant concerns which will have a significant impact on the feasibility of proposed severance. We note that this section of the Metrolinx railway corridor has significant railway traffic volumes and noise levels emanating from the railway traffic as has been exhibited in the submitted noise report and in other noise and vibration studies along this railway corridor.

Under Section 6.10.4.1 of Mississauga Official Plan, states that every effort should be made to achieve the sound level limits specified by the applicable Provincial Government environmental noise guideline for an outdoor living area (55dBA or less). Only in cases where the required noise attenuation measures are not feasible for technical, economic, aesthetic or administrative reasons would excess noise above the limit (55 dBA) be acceptable, with a warning clause to prospective purchasers, consistent with the applicable Provincial Government environmental noise guideline. In these situations, any excess noise above the limit will not be acceptable if it exceeds 60 dBA.

In view of the above noted concerns, this department cannot support the request to create an additional new lot at this specific location and we strongly request that this application **be**

**refused**. The proposed creation of a new lot at this location is not in the public interest and would not meet the Official Plan policies as it relates to providing an adequate outdoor living area for the occupants of the proposed dwellings. In addition, the proposed location of the new lot would result in significant potential restrictions on the lands relating to building acoustical design, site fencing and limited or no outdoor living area for the quiet enjoyment of the property is not appropriate.

As this department does not support the proposed consent application, we note that the proposed minor variance requests facilitate the development of the lands with an approved consent application. As such, this department would request the proposed minor variance requests be refused as they are not appropriate development of the subject lands and are not minor in nature in this instance.

Comments Prepared by: Dave Martin, Supervisor Development Engineering

## **Appendix 2 – Zoning Comments**

The Building Department is currently processing a Preliminary Zoning Review application under file PREAPP 21-5043. Based on review of the information currently available in this permit application, we advise that more information is required in order to verify the accuracy of the requested variance(s) or determine whether additional variance(s) will be required.

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: Alana Zheng, Zoning Examiner

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

The Park Planning Section of the Community Services Department has reviewed the consent application and advises as follows.

City of Mississauga Forestry Staff have attended the site and identified the following City owned trees within the municipal boulevard:

- Black Walnut – Good Condition
- Crab Apple – Good Condition

Should the application be approved, Community Services wishes to impose the following conditions:

1. The applicant shall ensure that future driveways do not impact or require the removal of the above noted trees.
2. The applicant shall provide a cash contribution of \$625.33 for planting of one (1) street trees on Queen Street West. This figure is subject to the most recent Fees and Charges By-law at the time of payment and is therefore subject to change.
3. The applicant shall provide tree protection securities in the amount of \$2,407.12 for the preservation of the municipal tree.

In addition, Community Services notes the following:

1. Payment for street tree fees and charges can be made at the Parks and Forestry customer service counter located at 950 Burnhamthorpe Road West in the form of a certified cheque, bank draft, or money order payable to the City of Mississauga. Please contact Jim Greenfield regarding the Covid-19 interim payment process.
2. The applicant shall provide frame tree hoarding at the dripline of the above noted tree prior to any construction to the satisfaction of City of Mississauga Forestry Staff. Please call Ryan Cormier at 905-615-3200 ext. 4580 to arrange a hoarding inspection.
3. Prior to the issuance of building permits, cash-in-lieu for park or other public recreational purposes is required pursuant to Section 42 of the Planning Act (R.S.O. 1990, C.P. 13, as amended) and in accordance with the City's policies and by-laws.

Should further information be required, please contact Jim Greenfield, Park Planner, Community Services Department at 905-615-3200 ext. 8538 or via email [jim.greenfield@mississauga.ca](mailto:jim.greenfield@mississauga.ca).

Comments Prepared by: Jim Greenfield, Park Planner



**Appendix A – CONDITIONS OF PROVISIONAL CONSENT**

**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. ("A" 246-247/21)
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 2022-02-09.
5. A letter shall be received from the City of Mississauga, Community Services Department, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated 2022-02-09.