

City of Mississauga Department Comments

Date Finalized: 2022-07-20	File(s): B39.22 A308.22 A309.22 Ward: 5
To: Committee of Adjustment	
From: Committee of Adjustment Coordinator	Meeting date:2022-07-28 1:00:00 PM

Consolidated Recommendation

The City recommends that the application 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 7.65m (approx. 25.10ft) and an area of approximately 298.57sq.m (approx. 3,213.78sq.ft).

A308/22:

The applicant requests the Committee to approve a minor variance to allow the construction of a new dwelling on the subject property, being the retained lands of application B39/22, proposing:

1. To permit a semi-detached dwelling on the property; whereas By-law 0225-2007, as amended, only permits a detached dwelling on the property in this instance;
2. A lot area of 298.57sq.m (approx. 3,213.78sq.ft) whereas By-law 0225-2007, as amended, requires a minimum lot area of 550.00sq.m (approx. 5,920.15sq.ft) in this instance;
3. A lot frontage of 7.65m (approx. 25.10ft) whereas By-law 0225-2007, as amended, requires a minimum lot frontage of 15.00m (approx. 49.21ft) in this instance;
4. A lot coverage of 39.3% whereas By-law 0225-2007, as amended, permits a maximum lot coverage of 30.0% in this instance;
5. A minimum interior side yard setback of 0.0m whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 1.81m (approx. 5.94ft) in this instance;
6. A minimum interior side yard setback of 1.25m (approx. 4.10ft) whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 1.81m (approx. 5.94ft) in this instance; and,
7. A dwelling height of 9.5m (approx. 31.2ft) whereas By-law 0225-2007, as amended, permits a maximum dwelling height of 9.0m (approx. 29.5ft) in this instance.

A309/22:

The applicant requests the Committee to approve a minor variance to allow the construction of a

new dwelling on the subject property, being the severed lands of application B39/22, proposing:

1. To permit a semi-detached dwelling on the property; whereas By-law 0225-2007, as amended, only permits a detached dwelling on the property in this instance;
2. A lot area of 298.57sq.m (approx. 3,213.78sq.ft) whereas By-law 0225-2007, as amended, requires a minimum lot area of 550.00sq.m (approx. 5,920.15sq.ft) in this instance;
3. A lot frontage of 7.65m (approx. 25.10ft) whereas By-law 0225-2007, as amended, requires a minimum lot frontage of 15.00m (approx. 49.21ft) in this instance;
4. A lot coverage of 39.3% whereas By-law 0225-2007, as amended, permits a maximum lot coverage of 30.0% in this instance;
5. A minimum interior side yard setback of 0.0m whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 1.81m (approx. 5.94ft) in this instance;
6. A minimum interior side yard setback of 1.25m (approx. 4.10ft) whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 1.81m (approx. 5.94ft) in this instance; and,
7. A dwelling height of 9.5m (approx. 31.2ft) whereas By-law 0225-2007, as amended, permits a maximum dwelling height of 9.0m (approx. 29.5ft) in this instance.

Recommended Conditions and/or Terms of consent

- Appendix A – Conditions of Provisional Consent
- The variance application approved under File(s) A308/22 & A309/22 must be finalized

Recommended Conditions and/or Terms of minor variance

- Variance(s) approved under file(s) A308/22 & A309/22 shall lapse if the consent application under file B39/22 is not finalized within the time prescribed by legislation.

Background

Property Address: 5 Studley St

Mississauga Official Plan

Character Area: Malton Neighbourhood
Designation: Residential Low Density I

Zoning By-law 0225-2007

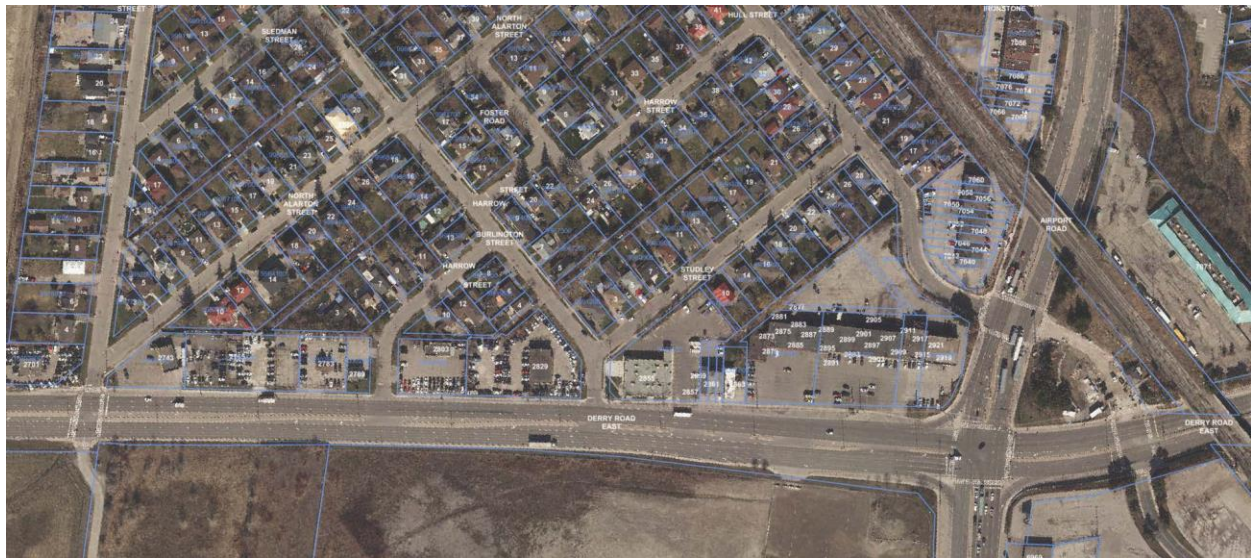
Zoning: R3-69 - Residential

Other Applications: None

Site and Area Context

The subject property is located on the west side of Studley Street, north of the intersection with Burlington Street in Old Malton Village. It currently contains a single storey detached dwelling with a lot frontage of +/- 15.3m (50.2ft) and a lot area of +/- 593.8m² (6,391.6ft²). Limited landscaping and vegetative elements are present in both the front and rear yards of the subject property. The surrounding area context includes residential uses, consisting of detached dwellings on similarly sized lots, as well as commercial uses along Derry Road East.

The applicant is proposing to sever the property into two in order to facilitate the construction of two semi-detached dwellings. Variances are requested for the use, lot area, lot frontage, lot coverage, setbacks, and height.



Comments

Planning

Provincial Matters

The Provincial Policy Statement 2020 (PPS 2020) 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.

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*.

Staff comments concerning the applications for consent and the four tests to the minor variance request are as follows:

The subject property is located in the Malton Neighbourhood Character Area and is designated Residential Low Density I in Schedule 10 of the Mississauga Official Plan (MOP). The Residential Low Density I designation permits detached, semi-detached, and duplex dwellings. Section 9 of MOP promotes development with appropriate urban form and site design, regulating that such development is compatible with the existing site conditions, the surrounding context, and the landscape of the character area.

The proposed variances represent significant variations to the by-law in regards to both lot fabric and built form. Upon review of the application staff note that the proposed dwellings and lots would appropriately fit under the RM2 zoning designation as opposed to the current R3-69 designation, which only permits detached dwellings on larger lots. Planning staff are of the opinion that such a change would be more appropriately handled through a rezoning process as opposed to a minor variance process. Staff note that Council has endorsed a minor rezoning process to be implemented, which would be appropriate for this application.

Given the above, Planning staff are of the opinion that the consent applications are premature and should be considered after a rezoning application, and that the associated minor variance applications do not meet the four tests of a minor variance.

Comments Prepared by: Alexander Davies, Committee of Adjustment Planner

Appendices

Appendix 1 – Transportation and Works Comments

Should Committee see merit in the applicant's request we are providing the following conditions/requirements for Committee's consideration:

A. Items Required Prior to the Issuance of Final Consent

1. Overall Grading and Drainage Plan

The applicant's consulting engineer will be required to prepare an Overall Grading and Drainage Plan which contains sufficient details to ensure grading compatibility with the adjacent lands and submit the grading and drainage proposal to this department for review/approval.

Upon the review of an Overall Grading and Drainage Plan it may be determined that a catch basin(s) may be required and satisfactory arrangements will have to be made for the construction of any required catch basin(s).

2. Functional Servicing Proposal/Servicing Plan

We request that the applicant submit a Functional Servicing Proposal and Servicing Plan prepared by a Consulting Engineer for this department's review/approval to confirm that all the necessary municipal services can be provided for the proposed lots. Upon the review of the Functional Servicing Proposal it will be determined if any servicing easements will have to be established in order to support this severance proposal.

We do note that there is a 450mm storm sewer on Studley Street which outlets into the Mimico Creek.

3. Acoustical Report

The owner will be required to retain the services of an Acoustical Consultant to prepare a detailed Acoustical Report for the subject lands and make comments/recommendations in support of this severance application. This report is to determine the need for the implementation of any noise attenuation measures that are to be incorporated into the construction of the site works to achieve the City's and the M.O.E.'s current noise level objectives. The scope of this report is to define the minimum noise attenuation requirements for the control of outdoor and indoor environmental sound levels.

We are also noting for the owner's information that securities may be required to ensure that any noise attenuation measures such as air conditioning units or acoustical attenuation

walls are installed for the dwellings to be constructed. These securities, if required will be secured through the Development Agreement.

4. Development Agreement for Warning Clauses and Notice Provisions

The applicant/owner will be required to enter into a Development Agreement for Warning Clauses and Notice Provisions with the City which is to be registered against title and is to address the following items:

a) The Development Agreement is to advise prospective purchasers that despite the inclusion of noise control features within this development area and within the building units, sound levels from increasing aircraft traffic may continue to be of concern, occasionally interfering with some of the activities of the dwelling occupants, as the noise exposure level exceeds the City's and M.E.C.P's noise criteria.

This agreement is also to advise purchasers that this development is in close proximity to the Lester B. Pearson International Airport and is subject to potential noise impact from aircraft using the airport. Noise from the aircraft will continue to exist, potentially interfering with normal activities of the occupants, particularly outdoors. In the future, the airport and the operations related thereto may be altered or expanded and the noise levels may be affected or increased.

b) The applicant is to contact this department with regards to obtaining information regarding other warning clauses which would be applicable. This department will advise of any additional required warning clauses upon the review of the Acoustical Report, Grading and Drainage Plans and Servicing Plan as requested in items A 1 and 2.

5. City Owned Laneway

It should be acknowledged that there is a city owned laneway abutting and to the rear of the subject properties. The applicant is advised that no encroachment will be permitted into the laneway and a warning clause to this effect will have to be included in the Development Agreement requirement in item A 4.

6. Fee Requirements as Per Fees and Charges By-Law

As per the City of Mississauga's Fees and Charges By-law there will be a fee required to be paid to the Legal Services Department for their services, in particular for the preparation of documents required for items pertaining to a Development Agreement. The fee amount payable will be in accordance with the current Fees and Charges Bylaw and be submitted to the Transportation and Works Department in the form of a certified cheque.

7. Conceptual Site Plan Depicting Access Locations

A conceptual Site Plan depicting the proposed driveway locations for the proposed lots is to be provided for our review/approval. We are specifically concerned for application 'B' 37/22 (1 Studley Street) with regards to ensuring that the proposed access will provide sufficient corner clearance and adequate sight lines such that views are not obstructed at the intersection.

We are also noting that upon the review of the Conceptual Plan depicting the access locations, it may be determined that the residual lands from 'B'37/22 will have to have the access from Burlington Street. For further information, please contact Kate Vassilyev at (905) 615-3200 ext. 8171 or kate.vallilyev@mississauga.ca.

8. Municipal Address Requirement

Prior to the issuance of final consent, satisfactory arrangements are to be made with Corporate Services Department, Information Technology Division, Digital Services & Mobility Section, Geospatial Solutions Group for the creation of new municipal addresses for the severed and retained lands. For further information, please contact Susie Tasca at (905) 615-3200 ext. 3088 or susie.tasca@mississauga.ca

For further information regarding the above noted comments, please contact Tony Iacobucci at (905) 615-3200 ext. 5129 or tony.iacobucci@mississauga.ca

B. GENERAL INFORMATION

1. Lot Grading and Drainage

We advise the applicant that issuance of any building permits for the new semi-detached dwelling(s) will be subject to the owner submitting a certified lot grading and drainage plan to this Department for review/approval. The grading and drainage plan is to contain sufficient detail to ensure grading compatibility with the adjacent properties. In addition, the owner will be required to submit the applicable lot grading and municipal services protection deposits.

2. Servicing

All costs incurred in providing any service laterals will be the responsibility of the owner. The owner will also be responsible for all costs incurred for the required road reinstatement (if required). If the service connections are to be installed by a private contractor retained by the owner, issuance of an open cut permit will be subject to the owner depositing adequate securities with the City to guarantee proper road reinstatement.

3. Access

We advise the applicant that all costs incurred in providing any new driveway entrance(s) to the subject lands or any modifications/reinstatement required, would be at cost to the owner. We are also noting that should any utilities need to be relocated, all costs incurred will also be to the owner. The driveway accesses shall maintain a 1.5M setback from aboveground features such as utilities and trees.

In addition we advise that the applicant will be required to apply for Access Modification Permits prior to Building Permit Issuance.

Comments Prepared by: Tony Iacobucci, Development Engineering Technologist

Appendix 2 – Zoning Comments

We note that a building permit application is required. In the absence of a building permit application we are unable to confirm the accuracy of the information provided, or determine whether additional variance(s) may be required. It should be noted that a zoning review has NOT been completed.

The applicant is advised that should they choose to proceed without zoning verification, a full zoning review may result in further variances being required in the future. Alternatively, the applicant may wish to apply for a pre-zoning review application and submit working drawings in order for a full zoning review to be completed. Depending on the complexity of the proposal, a minimum of 6-8 weeks will be required to process a pre-zoning review application.

Comments Prepared by: Andrew Wemekamp, 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:

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

1. The applicant shall provide a cash contribution of \$625.33 for planting of one (1) street tree, on Studley Street. This figure is subject to the most recent Fees and Charges By-law at the time of payment and is therefore subject to change.

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. 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

Comments Prepared by: Jim Greenfield, Park Planner

Appendix 4 – Metrolinx

Metrolinx is in receipt of the one (1) consent and two (2) minor variance applications for 5 Studley Street to facilitate the severance of the land to create a new lot and to further facilitate the construction of a new semi-detached dwelling on the subject property being retained and to facilitate the construction of a new semi-detached dwelling on the subject property being severed. Metrolinx's comments on the subject application are noted below:

- The subject property is located within 300 meters of Metrolinx's Weston Subdivision which carries Metrolinx's Kitchener GO Train service.
- As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. A copy of the form of easement is included for the Owner's information. The applicant may contact Harrison.Rong@Metrolinx.com with questions and to initiate the registration process.
- The Proponent shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor
 - **Warning:** Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the rail facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand their operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual

dwelling(s). Metrolinx will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid right-of-way.

Comments Prepared by: Harrison Rong, Project Coordinator

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" /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 2022-07-28 1:00:00 PM.
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 2022-07-28 1:00:00 PM.
6. A letter shall be received from the City of Mississauga, Culture Division, Community Services Department, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated 2022-07-28 1:00:00 PM.

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7. 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 _____, 2020.
 8. A letter shall be received from the Credit Valley Conservation indicating that satisfactory arrangements have been made with respect to payment of the "Review Fee", and their comments dated _____, 2020.