

City of Mississauga Department Comments

Date Finalized: 2022-08-17	File(s): B44.22 A390.22 A391.22
To: Committee of Adjustment	Ward: 1
From: Committee of Adjustment Coordinator	Meeting date:2022-08-17 1:00:00 PM

Consolidated Recommendation

The City recommends that the applications be deferred.

Application Details

B44.22

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 9.74m (approx. 31.96 ft) and an area of 379.86sq m (approx. 4088.78sq ft).

A390.22

The applicant requests the Committee to approve a minor variance on the subject property, being the retained lands of application B44/22, proposing:

1. A lot area of 358.78sq m (approx. 3861.88sq ft) whereas By-law 0225-2007, as amended, requires a minimum lot area of 460sq m (approx. 4951.40sq ft) in this instance;
2. A lot frontage of 9.74m (approx. 31.96ft) whereas By-law 0225-2007, as amended, requires a minimum lot frontage of 12m (approx. 39.37ft) in this instance;
3. A flat roof height of 10.49m (approx. 34.42ft) whereas By-law 0225-2007, as amended, permits a maximum flat roof height of 7.5m (approx. 24.6ft) in this instance;
4. An interior side yard setback of 0.6m (approx. 1.97ft) whereas By-law 0225-2007, as amended, requires an interior side yard setback of 1.2m (approx. 3.93ft) in this instance;
5. An interior side yard setback to the roof overhang of 0.3m (approx. 0.98ft) whereas By-law 0225-2007, as amended, requires an interior side yard setback to the roof overhang of 0.75m (approx. 2.46ft) in this instance;
6. A driveway width of 5.38m (approx. 17.65ft) whereas By-law 0225-2007, as amended, permits a maximum driveway width of 4.88m (approx. 16.01ft) in this instance; and,
7. A front yard setback of 4.48m (approx. 14.70ft) whereas By-law 0225-2007, as amended, requires a minimum front yard setback of 6m (approx. 19.69ft) in this instance.

A391.22

The applicant requests the Committee to approve a minor variance on the subject property, being the severed lands of application B44/22, proposing:

1. A lot area of 379.86sq m (approx. 4088.78sq ft) whereas By-law 0225-2007, as amended, requires a minimum lot area of 460sq m (approx. 4951.40sq ft) in this instance;
2. A lot frontage of 9.74m (approx. 31.96ft) whereas By-law 0225-2007, as amended, requires a minimum lot frontage of 12m (approx. 39.37ft) in this instance;
3. A flat roof height of 10.49m (approx. 34.42ft) whereas By-law 0225-2007, as amended, permits a maximum flat roof height of 7.5m (approx. 24.6ft) in this instance;
4. An interior side yard setback of 0.6m (approx. 1.97ft) whereas By-law 0225-2007, as amended, requires an interior side yard setback of 1.2m (approx. 3.93ft) in this instance;
5. An interior side yard setback to the roof overhang of 0.3m (approx. 0.98ft) whereas By-law 0225-2007, as amended, requires an interior side yard setback to the roof overhang of 0.75m (approx. 2.46ft) in this instance;
6. A driveway width of 5.38m (approx. 17.65ft) whereas By-law 0225-2007, as amended, permits a maximum driveway width of 4.88m (approx. 16.01ft) in this instance; and,
7. A front yard setback of 4.48m (approx. 14.70ft) whereas By-law 0225-2007, as amended, requires a minimum front yard setback of 6m (approx. 19.69ft) in this instance.

Amendments

The Building Department is currently processing a Preliminary Zoning Review application under file PREAPP 22-1466. Based on review of the information currently available in this application, variances # 1, 2 and 6 for the retained lands, as requested, are correct. In addition, variances # 1, 2, 3 and 6 for the severed lands, as requested, are correct.

Furthermore, we advise that the following variances should be amended as follows:

Retained Lands:

3. A flat roof height of 10.50m (approx. 34.45ft) whereas By-law 0225-2007, as amended, permits a maximum flat roof height of 7.5m (approx. 24.6ft) in this instance;
4. An interior side yard setback of 0.65m (approx. 2.13ft) whereas By-law 0225-2007, as amended, requires an interior side yard setback of 1.2m (approx. 3.93ft) in this instance;
5. An interior side yard setback to the roof overhang of 0.34m (approx. 1.12ft) whereas By-law 0225-2007, as amended, requires an interior side yard setback to the roof overhang of 0.75m (approx. 2.46ft) in this instance;

Severed Lands:

4. An interior side yard setback of 0.65m (approx. 2.13ft) whereas By-law 0225-2007, as amended, requires an interior side yard setback of 1.2m (approx. 3.93ft) in this instance;
5. An interior side yard setback to the roof overhang of 0.34m (approx. 1.12ft) whereas By-law 0225-2007, as amended, requires an interior side yard setback to the roof overhang of 0.75m (approx. 2.46ft) in this instance;

Recommended Conditions and/or Terms of consent

- Appendix A – Conditions of Provisional Consent
- The variance application approved under File(s) A390.22 and A391.22 must be finalized

Recommended Conditions and/or Terms of minor variance

- Variance(s) approved under file(s) A390.22 and A391.22 shall lapse if the consent application under file B44.22 A390.22 A391.22 is not finalized within the time prescribed by legislation.

Background

Property Address: 29 Harrison Ave

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: PREAPP 22-1466

Site and Area Context

The subject property is located within the Port Credit Neighbourhood West Character Area, northeast of the Benson Avenue and Lakeshore Road West intersection. The immediate neighbourhood contains residential, commercial and employment uses. The residential uses consist of a mix of detached and semi-detached dwellings. The immediate neighbourhood contains a mix lot sizes and frontages. Frontages in the area range from 6.92m (22.70ft) to 20.45m (67.09ft). The subject property contains an existing one-storey detached dwelling with little vegetation in the front and rear yards.

The applicant is proposing to sever the lot, creating two new parcels for the purpose of developing detached dwellings. The development proposal requires variances related to lot frontage, lot area, front and side yard setbacks and driveway width.



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 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.

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, which permits detached, semi-detached, duplex, triplex and other forms of low rise dwellings with individual frontages. The official plan policies for lands within the Port Credit Neighbourhood Character Area are contained within the Port Credit Local Area Plan, in the North Residential Neighbourhood precinct (Shawnmarr/Indian Heights). Lands within the North

Residential Neighbourhoods are predominately stable residential areas allowing for infill development that is compatible with and enhances the existing character of the area. The zoning by-law allows for a mix of residential uses and lot sizes, creating an eclectic lot fabric within the immediate and broader neighbourhood. The surrounding area contains a mix of lot areas and frontages that range from 6.80m (22.31ft) to 20m (65.62ft). Staff note that the area contains a mix of housing forms, which further contributed to the eclectic nature of the neighbourhood.

Since 1961, the Village of Port Credit Zoning By-law No. 1227 has permitted a variety of housing types for the subject lands including detached, duplex, triplex, double duplex, double triplex, fiveplex, converted dwelling and boarding or lodging house. In 1997, City Plan (the Official Plan) was adopted, permitting detached, semi-detached, duplex and other forms of dwellings with individual frontages on a public street. In 2007, the City undertook a zoning bylaw conformity and consolidation exercise which included public consultation. This led to the adoption of the current RM7 zone provisions.

The retained and severed parcels propose lot frontages of 9.74m (31.96ft) for each with a lot area of 358.78m² (3861.88ft²) for the retained lands and 379.86m² (4088.78ft²) for the severed lands. The zoning by-law requires lot frontages of 12m (39.37ft) and lot areas of 460m² (4951.40ft²).

While staff has no immediate concerns with the proposed severance scheme; staff note that the development of detached dwellings on the severed and retained lands would be precedent setting as staff were unable to locate any lots on Harrison Avenue containing detached dwellings with similar lot areas and frontages. Staff is of the opinion that the proposed lots would be more suitable for the development of semi-detached dwellings. This revision may result in a greater reduction of variance requests for both the severed and retained lands.

Zoning staff have identified a number of revisions to be considered for the requested variances and have noted that variance #7 for both the severed and retained lands is incorrect.

Furthermore, staff request a noise/vibration study in accordance with Transportation and Works staff comments (Appendix 1) to determine the feasibility of the proposed severance. As such, staff recommends that the applications be deferred to address concerns raised above.

Comments Prepared by: Connor DiPietro, Committee of Adjustment Planner

Appendices

Appendix 1 – Transportation and Works Comments

Through our initial review of this application, we anticipate some issues/concerns which may have a significant impact on the feasibility of proposed severance. Further review and analysis needs to be undertaken to ensure that the proposed outdoor living area (OLA) and building design for the 2 lots can be adequately mitigated to Ministry of the Environment, Conservation and Parks (MECP) requirements for noise and vibration emanating from railway activities adjacent to the site and also the neighbouring commercial plaza. Until a detailed noise and vibration study is submitted for review, this Department **cannot support** the application in its current form. 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 other noise and vibration studies along this railway corridor.

For the applicant's information, an OLA is identified in the Environmental Noise Guidelines (Publication NPC-300) of the MECP. A minimum area of 56.00m² (602.79sq.ft.) is required for single family dwellings to be protected.

In addition, 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, we strongly request that this application be deferred to provide the applicant an opportunity to provide the required noise and vibration impact study to determine the feasibility of the proposed severance.

Comments Prepared by: John Salvino, Development Engineering Technologist

Appendix 2 – Zoning Comments

The Building Department is currently processing a Preliminary Zoning Review application under file PREAPP 22-1466. Based on review of the information currently available in this application, variances # 1, 2 and 6 for the retained lands, as requested, are correct. In addition, variances # 1, 2, 3 and 6 for the severed lands, as requested, are correct.

Furthermore, we advise that the following variances should be amended as follows:

Retained Lands:

3. A flat roof height of 10.50m (approx. 34.45ft) whereas By-law 0225-2007, as amended, permits a maximum flat roof height of 7.5m (approx. 24.6ft) in this instance;
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Severed Lands:

4. An interior side yard setback of 0.65m (approx. 2.13ft) whereas By-law 0225-2007, as amended, requires an interior side yard setback of 1.2m (approx. 3.93ft) in this instance;
5. An interior side yard setback to the roof overhang of 0.34m (approx. 1.12ft) whereas By-law 0225-2007, as amended, requires an interior side yard setback to the roof overhang of 0.75m (approx. 2.46ft) in this instance;

Lastly, variance # 7 for both the retained and severed lands is incorrect.

Please note that comments reflect those provided through the above permit application submitted on 04/05/2022 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: Jeanine Benitez, 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:

City of Mississauga Forestry Staff have attended the site and identified the three (3) of the following City owned trees within the municipal boulevard:

- Eastern White Cedar – Good Condition

1. The applicant shall ensure that future driveways do not impact or require the removal of the above noted tree.

2. The applicant shall provide tree protection securities in the amount of \$3,100.00 for the preservation of the municipal tree.
3. The applicant shall provide frame tree hoarding at the dripline of the above noted trees 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.
4. The applicant shall provide a cash contribution of \$625.33 for planting of one (1) street tree on Harrison Avenue. 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 – Region of Peel

Conditions: Arrangements satisfactory to the Region of Peel, Public Works shall be made with respect to the location of existing and installation of new services and/or possible required private service easements.

Comments: There is a Regional easement on the subject property. Please be advised that unauthorized encroachments on Regional easements will not be permitted. Certain restrictions apply with respect to Regional easements as per the documents registered on title.

Please note that severing the lands may adversely affect the existing location of the water and sanitary sewer services, if any exist. The result of this may require the applicant to install new water / sanitary servicing connections to either the severed or retained lands in compliance with the Ontario Building Code. The applicant may require the creation of private water / sanitary sewer servicing easements. An upgrade of your existing service may be required. All works associated with the servicing of this site will be at the applicant's expense. For more information, please contact Servicing Connections at siteplanservicing@peelregion.ca

Any changes to the underground water or sanitary sewer will require review by the Region of Peel. Region of Peel Site Servicing connection approvals are required prior to the local

municipality issuing building permit. For more information, please contact Servicing Connections at siteplanservicing@peelregion.ca

Comments Prepared by: Joseph Filice, Junior Planner

Appendix 5 – Bell Canada

Subsequent to review of the Severance Application by our local Engineering Department, it has been identified that Bell Canada will require a transfer of easement over these lands to protect existing aerial facilities, supply service to the properties, and to maintain service in the area. According to our records, Bell's aerial cable runs along the northeast property boundary as identified in the sketch provided.

Bell Canada would like to confirm that a blanket easement over the lands or a 3.0m wide corridor to be measured 1.5m on either side of the aerial cable, then to extend from the pole to a minimum of 1.0m past any anchor installation to be measured 0.5m on either side of the guy, as can be accommodated, would satisfy our needs.

Since the easement is necessary in order to provide and maintain service to this area, all costs associated with this transaction are the responsibility of the landowner. Compensation should be set to the nominal amount of \$2.00 for the acquisition of these rights. Additionally, Bell Canada requires separate, registered postponements for any mortgages and certification of title.

We hope this proposal meets with your approval and request a copy of the Committee of Adjustments decision. We look forward to the owners' Solicitor contacting us with a draft reference plan and accompanying draft TTS documents for our approval prior to registration, along with an acknowledgement and direction for our execution.

Comments Prepared by: Carrie Gordon, Right of Way Associate

Appendix 6 – Metrolinx

Metrolinx is in receipt of one (1) consent and two (2) minor variance applications for 29 Harrison Ave to facilitate the severance of the land into two residential lots and to facilitate the construction of a new three-storey detached dwelling on the subject property being severed and further to facilitate the construction of a new three-storey detached dwelling on the subject property being retained. Metrolinx's comments on the subject application are noted below:

- The subject property is located within 300 meters of Metrolinx's Oakville Subdivision which carries Metrolinx's Lakeshore West 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.

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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" 390-391 /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 2022-08-17 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 2022-08-17 1:00:00 PM.
 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 10, 2022.
 7. A letter shall be received from the Bell Canada, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated July 21, 2022.