

City of Mississauga Department Comments

Date Finalized: 2022-11-09	File(s): A621.22
To: Committee of Adjustment	Ward: 2
From: Committee of Adjustment Coordinator	Meeting date:2022-11-17 1:00:00 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, as requested, meets the requirements of Section 45(1) of the Planning Act. The applicant may wish to defer the application to ensure that all required variances have been accurately identified.

Application Details

The applicant requests the Committee to approve a minor variance to allow the construction of stacked back to back townhouses proposing:

1. The definition of basement be changed to: "To permit the construction of back to back stacked townhouses having that portion of the building which is partially below established grade to be considered a basement when the underside of the floor structure of the floor immediately above established grade is more than 1.8 m above the established grade, whereas by-law 0225-2007, as amended requires the underside of the floor structure of the floor immediately above established grade is to be less than 1.8 m above the established grade" whereas By-law 0225-2007, as amended, states the definition of basement, "Means that portion of a building between two floor levels which is partially below established grade. Any portion of the building partly below grade shall be deemed to be a basement when the underside of the floor structure of the floor immediately above established grade is less than 1.8 m above the established grade" in this instance; and,
2. 3 accessible non-residential visitor parking spots whereas By-law 0225-2007, as amended, requires a minimum of 4 accessible non-residential visitor parking spots in this instance.

Amendments

While Planning staff is not in a position to provide an interpretation of the zoning bylaw; staff recommend that variance #1 be amended as follows and that variance #2 be deleted.

1. To permit the construction of Back to Back Stacked Townhouses proposing the portions of the residential buildings that are partly below grade to be basements when the underside of the floor structure of the floor immediately above established grade is more than 1.8m (5.91ft) above the established grade; whereas By-law 0225-2007, as amended, requires a basement to have the underside of the floor structure of the floor immediately above established grade to be less than 1.8m (5.91ft) above the established grade in this instance.

Background

Property Address: 1101, 1105, 1109 and 1115-1125 Clarkson Rd N

Mississauga Official Plan

Character Area: Clarkson – Lorne Park Neighbourhood
Designation: Mixed Use

Zoning By-law 0225-2007

Zoning: C4-72

Other Applications: OZ/OPA 15-3, PAM 18-7, H-OZ 19-7, SP 19-18, PAM 20-171,
BP 3NEW 21-9866

Site and Area Context

The subject site is located within the Clarkson-Lorne Park Neighbourhood Character Area, on the southeast quadrant of Clarkson Road North and the railway corridor. The surrounding neighbourhood contains a mix of commercial, office, institutional and residential uses. The low-density residential uses mainly consist of one and two-storey detached dwellings with mature vegetation in the front yards.

The proposed development consists of five blocks with 176 four-storey back-to-back stacked townhouses dwelling units and two commercial buildings that are three storeys in height.

The site was subject to a zoning by-law amendment application in 2015 (OZ-15/003), which was subsequently appealed by the applicant to the Ontario Land Tribunal (OLT) in 2016. In February of 2018, the applicant and the City reached a settlement that was approved by the OLT. The applicant submitted a site plan application (File No. SP 19-18W2) in December 2018, to facilitate the intended development of the subject site.

In 2020, the applicant received approval for a minor variance application (A212-20) to increase the number of stacked back-to-back townhouse units permitted from 136 to 176 and the residential gross floor area from 15,665 m² (168,616.66ft²) to 16,250 m² (174,913.54ft²). The owner also sought approval of four (4) additional technical variances relating to the distance between residential blocks and setbacks.

On April 21st, 2022, the applicant received approval for minor variance application (A191-22) for a reduced rear yard setback to an underground parking structure.

Zoning staff has identified an additional variance required for the construction of the back-to-back townhouses through the site plan application process. The variance pertains to basements.



Comments

Planning

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. Approval of applications must meet the requirements set out under 45(1) and/or 45(2) (a) or (b) in the *Planning Act*.

Staff comments concerning the application are as follows:

The subject site is designated Mixed Use in Schedule 10 of the Mississauga Official Plan (MOP) which permits residential, retail and secondary office, among other uses. The proposed uses are consistent with the official plan designation.

The applicant is seeking approval for a minor variance to allow the construction of back-to-back townhouses. The variance being sought is technical in nature and is required as a result of the

zoning by-law's definitions for "basement" and "established grade". Section 6.2.5.72.7 of the City's Zoning By-law contains a site-specific by-law that was approved by the OLT and permits a maximum height of 14.5m (47.57ft) and four storeys on the subject property. The variance is being sought to seek relief from the zoning by-law's definition for "basement". A basement is defined in the zoning by-law as being the underside of the floor structure of the floor immediately above established grade to less than 1.8m (5.91ft). Basements contained in the applicant's proposal have a height of 1.96m when measured from established grade. Therefore, Zoning staff are of the opinion that the basements should be considered the "First Floor" and would therefore not comply with the site-specific zoning by-law's height requirements. The applicant is seeking for the area from the underside of the floor structure of the floor immediately above established grade to be considered as a basement, despite that it does not meet the height requirements contained in the definition of basement. Staff discussed this application with the Planner assigned to the associated Site Plan application (SP 19-18) and have no planning concerns with the applicant's proposal. Staff note that the overall height and massing of the buildings will remain the same since the OLT's approval of the site-specific by-law in 2018.

The Planner reviewing the associated site plan application has informed staff that a satisfactory revised parking plan has been prepared and submitted through the site plan process and that variance #2 and #3 (recommended by Zoning staff) are no longer required.

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

Comments Prepared by: Connor DiPietro, Committee of Adjustment Planner

Appendices

Appendix 1 – Transportation and Works Comments

We are noting for Committee's information that any Transportation and Works Department concerns/requirements for the proposed project are being addressed through the current Site Plan Application process File SP-19/018, and also through the previously approved Rezoning Application File OZ-15/003.

Comments Prepared by: John Salvino, Development Engineering Technologist

Appendix 2 – Zoning Comments

The Building Department is currently processing a Site Plan Application under file SP 19-18. Based on review of the information currently available in this application, we advise that the variances should be amended as follows:

The applicant requests the Committee to approve a minor variance to allow the construction of stacked **Back to Back Stacked Townhouses** proposing:

2. To permit the construction of Back to Back Stacked Townhouses proposing **the portions of the residential buildings that are partly below grade** to be basements when the underside of the floor structure of the floor immediately above established grade is more than 1.8 m above the established grade; whereas By-law 0225-2007, as amended, requires a basement to have the underside of the floor structure of the floor immediately above established grade to be less than 1.8m above the established grade in this instance.
3. A total of 3 accessible parking spaces (1 Type A and 2 Type B) for all non-residential uses on site; whereas By-law 0225-2007, as amended, requires a total of 4 parking spaces (2 Type A and 2 Type B) in this instance.

The applicant has indicated via email that a revised parking plan has been prepared that will provide sufficient accessible parking spaces for residential visitors. Staff have not received a formal resubmission of this plan and based on the information currently submitted with the Site Plan Application, the following variance is required:

4. A total of 1 accessible parking spaces (1 Type B) for residential visitors; whereas By-law 0225-2007, as amended, requires a total of 2 parking spaces (1 Type A and 1 Type B) in this instance.

Additional information has been requested with respect to the measurement of the narrowest point between residential Building A and the curbing of the CEC Road. A minimum of 1.5m is 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: Brian Bonner, Supervisor

Appendix 3 – Parks, Forestry & Environment

The Park Planning Section of the Community Services Department has no objections to the minor variance application and advises as follows:

Given that the property is subject to site plan control, should the application be approved, Community Services provides the following notes:

1. The lands adjacent of the subject property are owned by the City of Mississauga, known as Birchwood Park (P-137).
2. Tree preservation hoarding and securities may be required as part of the site plan control process – SP 19-18.
3. Construction access from the adjacent park/greenlands is not permitted.
4. If access is required to City owned lands, a Consent to Enter Agreement/Park Access Permit will be required.
5. Stockpiling of construction materials and encroachment in the adjacent park/greenlands is not permitted.
6. 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 Nicholas Rocchetti, Park Planning Assistant, Community Services Department at 905-615-3200 ext. 4659 or via email Nicholas.Rocchetti@mississauga.ca.

Comments Prepared by: Nicholas Rocchetti, Park Planning Assistant

Appendix 4 – Metrolinx

Metrolinx is in receipt of the minor variance applications for 1101, 1105, 1109 & 1115-1125 Clarkson Rd N to facilitate the construction of stacked back-to-back townhouses and to permit the portion of the buildings which are below grade to be considered as "basement use" when the underside of the floor structure of the floor immediately above established grade is more than 1.8 m above the established grade as well as to allow reduced parking. Metrolinx's comments on the subject application are noted below:

- The subject property is located within 300 meters, adjacent to Metrolinx's Oakville Subdivision which carries Metrolinx's Lakeshore West GO Train service.
- As the requested variance does not have implication on Metrolinx Property (i.e. Oakville Subdivision), Metrolinx does not have objection to the minor variance should the committee grant approval.
- Please note that Metrolinx is a stakeholder providing comments on the Site Plan.

Comments Prepared by: Farah Faroque, Intern, Third Party Projects Review

Appendix 5 – Region of Peel

We have no comments or objections.

Comments Prepared by: Patrycia Menko, Junior Planner