

# City of Mississauga Department Comments

Date Finalized: 2023-04-26	File(s): A66.23
To: Committee of Adjustment	Ward: 1
From: Committee of Adjustment Coordinator	Meeting date:2023-05-04 1:00:00 PM

## Consolidated Recommendation

The City recommends that the application be deferred.

## Application Details

The applicant requests the Committee to approve a minor variance to allow the construction of a new dwelling proposing:

1. An encroachment of 1.14m (approx. 3.74ft) of a pilaster into a front yard whereas By-law 0225-2007, as amended, permits an encroachment of 0.61m (approx. 2.00ft) of a pilaster into a front yard in this instance;
2. A front yard setback of 6.28m (approx. 20.60ft) to the second floor whereas By-law 0225-2007, as amended, requires a front yard setback of 7.5m (approx. 24.60ft) to the second floor in this instance;
3. A front yard setback of 5.76m (approx. 18.89ft) to the second floor eaves whereas By-law 0225-2007, as amended, requires a front yard setback of 7.5m (approx. 24.60ft) to the second floor eaves in this instance;
4. A front yard setback of 5.35m (approx. 17.55ft) to the decorative porch roof whereas By-law 0225-2007, as amended, requires a front yard setback of 7.5m (approx. 24.60ft) to the decorative porch roof in this instance;
5. A setback of 6.06m (approx. 19.88ft) to the garage face whereas By-law 0225-2007, as amended, required a front yard setback of 7.5m (approx. 24.60ft) to the garage face in this instance;
6. A setback of 5.61m (approx. 18.40ft) to the garage roof overhang whereas By-law 0225-2007, as amended, requires a setback of 7.5m (approx. 24.60ft) to the garage roof overhang in this instance;
7. A minimum interior side yard setback of 1.22m (approx. 4.00ft) whereas By-law 0225-2007, as amended, requires a side yard setback of 2.41m (approx. 7.90ft) in this instance;
8. A side yard setback of 0.81m (approx. 2.65ft) to the eaves whereas By-law 0225-2007, as amended, does not permit a side yard setback to the eaves in this instance;
9. A maximum eaves height of 6.71m (approx. 22.01ft) whereas By-law 0225-2007, as amended, permits a maximum eaves height of 6.40m (approx. 20.99ft) in this instance;

10. A maximum garage projection of 0.61m (approx. 2.00ft) whereas By-law 0225-2007, as amended, permits a garage projection of 0m in this instance; and,

11. A setback of 16.71m (approx. 54.82ft) to the railway whereas By-law 0225-2007, as amended, requires a setback of 30.00m (approx. 98.42ft) to the railway in this instance.

## Amendments

The Building Department has processed a Site Plan Infill application under file SPI 22-116 W1. Based on review of the information currently available in this application, variance # 10, as requested is correct.

Furthermore, the following variance should be amended as follows:

7. An interior south easterly side yard setback of 1.22m (approx. 4.00ft) whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 2.41m (approx. 7.90ft) in this instance;

Lastly, the following additional variances should be added:

12. An interior south easterly side yard setback of 1.22m (approx. 4.00ft) to the attached garage, whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 2.41m (approx. 7.90ft) to the attached garage, in this instance;

13. An interior south easterly side yard setback of ? (approx. ?ft) to the second storey eaves overhang, whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 1.96 m (approx. 6.43ft) to the second storey eaves overhang, in this instance;

Should the applicant and committee wish to amend the application to include variance #13, the applicant must provide the appropriate value of the setback during the hearing.

## Background

**Property Address:** 430 Marf Avenue

### Mississauga Official Plan

Character Area: Mineola Neighbourhood

Designation: **Residential Low Density II**

### Zoning By-law 0225-2007

**Zoning:** R3-1-Residential

**Other Applications:** Site Plan Infill application under file SPI 22-116 W1

### Site and Area Context

The subject property is located within the Mineola Neighbourhood Character Area, southeast of the Atwater Avenue and Canterbury Road intersection. Directly abutting the property to the south is a Metrolinx Rail Corridor. The immediate area consists of a mix of older and newer one and two-storey detached dwellings with mature vegetation throughout the properties. The subject property contains an existing one-storey detached dwelling with mature vegetation in the front yard.

The applicant is proposing a new two-storey detached dwelling requiring variances related to setbacks, encroachments, eave height and garage projection.



## 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 applicant is proposing to demolish an existing one-storey detached dwelling located on the subject property to construct a new two-storey detached dwelling. The applicant's agent informed staff that the applicant intends on severing the subject property in the future.

Therefore, the applicant is proposing that the new detached dwelling be located disproportionately on the western portion of the subject property. Staff note that the subject property abuts a Metrolinx rail corridor. As such, severance of the subject property will require a satisfactory noise report that ensures that an outdoor living area would be able to meet the environmental noise guidelines (NPC-300) for the new lot. Staff are of the opinion that severing the subject property may not be feasible, as lot severances abutting the Metrolinx rail corridor are not typically supported.

As such, staff are of the opinion that the proposed dwelling can be more appropriately positioned on the subject property if severing the property is not feasible. Therefore, staff recommend that the application be deferred to allow the applicant an opportunity to explore the feasibility of severing the subject property and to consider repositioning the proposed dwelling should the severance not be feasible.

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 addition will be addressed by our Development Construction Section through the future Building Permit process.



Comments Prepared by: John Salvino, Development Engineering Technologist

### Appendix 2 – Zoning Comments

The Building Department has processed a Site Plan Infill application under file SPI 22-116 W1. Based on review of the information currently available in this application, variance # 10, as requested is correct.

Furthermore, the following variance should be amended as follows:



7. An interior south easterly side yard setback of 1.22m (approx. 4.00ft) whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 2.41m (approx. 7.90ft) in this instance;

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It should be noted that the comments provided are in regard to a Site Plan Infill application, which is no longer being reviewed and may not be consistent with the most recent drawings.

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: Brandon Eidner, Zoning Examiner

### **Appendix 3 – CVC Comments**

**Re: CVC File No. A 23/066**

**Municipality File No. A 66/23**

**Santosh Sanka**

**430 Marf Ave**

**City of Mississauga**

Credit Valley Conservation (CVC) staff have reviewed the subject application and offer comments based on the following roles and responsibilities:

1. Delegated Responsibilities – providing comments representing the provincial interest regarding natural hazards (except forest fires) as identified in Section 3.1 of the *Provincial Policy Statement (2020)*;
2. Regulatory Responsibilities – providing comments to ensure the coordination of requirements under the *Conservation Authorities Act Section 28 regulation*, to eliminate unnecessary delay or duplication in process;
3. Source Protection Agency – providing advisory comments to assist with the implementation of the *CTC Source Protection Plan* under the *Clean Water Act*, as applicable.

**SITE CHARACTERISTICS:**

Based on our mapping, the subject property is regulated for floodplain associated with Cooksville Creek. It is the policy of CVC and the Province of Ontario to conserve and protect the significant physical, hydrological and biological features associated with the functions of the above noted characteristics and to recommend that no development be permitted which would adversely affect the natural features or ecological functions of these areas.

**ONTARIO REGULATION 160/06:**

The property is subject to the Development, Interference with Wetlands, and Alterations to Shorelines & Watercourses Regulation (Ontario Regulation 160/06). This regulation prohibits altering a watercourse, wetland or shoreline and prohibits development in areas adjacent to the Lake Ontario shoreline, river and stream valleys, hazardous lands and wetlands, without the prior written approval of CVC (i.e. the issuance of a permit).

**Proposal:**

It is our understanding that the property owner of 430 Marf Avenue, zoned R3-1-Residential, has applied for a minor variance under Section 45 of the Planning Act. The applicant requests the Committee to approve a minor variance to allow the construction of a new dwelling proposing:

1. An encroachment of 1.14m (approx. 3.74ft) of a pilaster into a front yard whereas By-law 0225-2007, as amended, permits an encroachment of 0.61m (approx. 2.00ft) of a pilaster into a front yard in this instance;
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10. A maximum garage projection of 0.61m (approx. 2.00ft) whereas By-law 0225-2007, as amended, permits a garage projection of 0m in this instance; and,

11. A setback of 16.71m (approx. 54.82ft) to the railway whereas By-law 0225-2007, as amended, requires a setback of 30.00m (approx. 98.42ft) to the railway in this instance.

**Comments:**

Based on the review of the information, CVC staff have **no concerns** and **no objection** to the approval of the requested minor variance application by the Committee at this time. CVC staff have reviewed the proposed development through pre-consultation (PD 22/074) and a Site Plan Approval application (SP 22/116).

A CVC permit is required for the development as proposed. CVC is currently reviewing a permit application for the subject property (FF 23/027).

Please circulate CVC any future correspondence regarding this application.

I trust that these comments are sufficient. Please do not hesitate to contact the undersigned at 905-670-1615 (ext. 268) should you have any further questions or concerns.

Comments Prepared by: Beata Pakulski, Junior Planner

**Appendix 4 – Metrolinx Comments**430 Marf Avenue

Metrolinx is in receipt of the minor variance application for 430 Marf Ave to facilitate the construction of a new dwelling. Metrolinx's comments on the subject application are noted below:

- The subject property is located adjacent to Metrolinx's Oakville Subdivision which carries Metrolinx's Lakeshore West GO Train service.
- Please note that Metrolinx is a stakeholder that has provided comments on the related Site Plan application of this site (SPI 22 - 116 W1). We have re-iterated the comments from that application below as they will apply to the current Minor Variance application as well:
  - a. Metrolinx's Adjacent Development Guidelines requires residential development to be set back a minimum of 30 metres from railway corridors. In instances where this is not feasible or practical, often the case with infill development, the development footprint of the new residential building should not be closer to the railway corridor than the existing development footprint. I note that the proposed two-storey development is located 16.71 metres from the railway corridor, and is closer to the rail corridor than the existing structure. Metrolinx will require the Owner enter into an Infill Adjacent Development Agreement with Metrolinx to acknowledge that the development setback does not meet the required distance, and that the Owner absolves Metrolinx of all liability in the event of a train derailment. More information on the Agreement below.
  - b. Metrolinx's Adjacent Development Guidelines requires residential development include a safety barrier (e.g. earthen berm) to protect the development in the event of a train derailment. In instances where a safety barrier is not feasible or practical, often the case with infill development, Metrolinx requires the Owner enter into an Infill Adjacent Development Agreement with



Metrolinx to acknowledge that the development does not include the requisite safety barrier, and that the Owner absolves Metrolinx of all liability in the event of a train derailment. More information on the Agreement below.

- c. While not required, it is recommended the Applicant obtain a noise and vibration assessment, prepared by a Qualified Professional, to determine any impacts to the proposed development from the neighbouring rail operations. Should the Applicant choose to undertake the noise and vibration assessment, they may obtain the most up to date GO Transit rail data forecast by submitting a request to [raildatarequests@metrolinx.com](mailto:raildatarequests@metrolinx.com).
- d. We request the Applicant provide confirmation that site alterations to the subject property will not result in additional storm drainage being directed to Metrolinx property (railway corridor). A note should be included on all relevant drawings.
- e. We note that a 2.43 metre high security fence along the mutual (southern) property line to prevent unauthorized access to the rail corridor is proposed as per Metrolinx requirement. We have no further comment in this regard.
- f. The Owner will be required to enter into an Infill Adjacent Development Agreement with Metrolinx to satisfy Metrolinx's concerns. The Owner may contact [Nick.Xanthos@metrolinx.com](mailto:Nick.Xanthos@metrolinx.com) and [Farah.Faroque@metrolinx.com](mailto:Farah.Faroque@metrolinx.com) to obtain a copy of the draft agreement for review and signature.
- g. 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, which is to be registered on title for all residential uses within 300 metres of the rail right-of-way. A copy of the form of easement is attached for the applicant's information. The applicant may contact [Nick.Xanthos@metrolinx.com](mailto:Nick.Xanthos@metrolinx.com) and [Farah.Faroque@metrolinx.com](mailto:Farah.Faroque@metrolinx.com) to begin the registration process, or with any questions. (It should be noted that the registration process can take up to 6 weeks).

Comments Prepared by: Farah Faroque, Intern

## Appendix 5- Region of Peel Comments

### Minor Variance Application: A-66/23 – 430 Marf Avenue

Development Engineering: Camila Marczuk (905) 791-7800 x8230

#### Comments:

- Please be advised that service connection sizes shall be in compliance with Ontario Building Code and Region of Peel Design Criteria. 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 905.791.7800 x7973 or by email at [siteplanservicing@peelregion.ca](mailto:siteplanservicing@peelregion.ca).

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- All unutilized water and sanitary services shall be abandoned in accordance with Region of Peel design specifications. For more information, please contact Servicing Connections at 905.791.7800 x7973 or by email at [siteplanservicing@peelregion.ca](mailto:siteplanservicing@peelregion.ca).
  - Any changes to the underground water or sanitary sewer will require review by the Region of Peel. Site Servicing approvals are required prior to the local municipality issuing building permit. For more information, please contact Servicing Connections at 905.791.7800 x7973 or by email at [siteplanservicing@peelregion.ca](mailto:siteplanservicing@peelregion.ca).

Development Planning: Patrycia Menko (905) 791-7800 x3114

**Comment:**

- The subject land is located within the Credit Valley Conservation Authority (CVC) floodplain. The Regional Official Plan (ROP) designates floodplains as a natural hazard under Policy 2.16.11. Within this designation, ROP policies seek to ensure that development and site alterations do not create new or aggravate existing flood plain management problems along flood susceptible riverine environments. We rely on the environmental expertise of the CVC for the review of development applications located within or adjacent to natural hazards in Peel. We, therefore, request that City staff consider comments from the CVC and incorporate their conditions of approval appropriately. Final approval of this application requires all environmental concerns to be addressed to the satisfaction of the CVC.

Comments Prepared by: Patrycia Menko, Junior Planner