

# City of Mississauga Department Comments

Date Finalized: 2023-08-09	File(s): B28.23
To: Committee of Adjustment	Ward: 5
From: Committee of Adjustment Coordinator	Meeting date:2023-08-17 1:00:00 PM

## Consolidated Recommendation

The City recommends that the application be refused.

## Application Details

### B28/23

The applicant requests the Consent 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 7.62m (approx. 25.00ft) and an area of approximately 279.29sq m (3006.25sq ft).

### A265/23

The applicant requests a minor variance for the severed lands of B28/23 proposing:

1. A semi-detached dwelling type whereas By-law 0225-2007, as amended, only permits a single detached dwelling type in this instance;
2. A lot area of 279.29sq m (approx. 3006.25sq ft) whereas By-law 0225-2007, as amended, requires a minimum lot area of 550.00sq m (approx. 5920.15sq ft) in this instance;
3. A lot frontage of 7.62m (approx. 25.00ft) 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 38.6% whereas By-law 0225-2007, as amended, permits a maximum lot coverage of 30.00% in this instance;
5. An interior side yard setback to the second storey of 1.20m (approx. 3.94ft) whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 1.81m (approx. 5.94ft) in this instance; and,
6. A height of 9.50m (approx. 31.17ft) whereas By-law 0225-2007, as amended, permits a maximum height of 9.00m (approx. 29.52ft) in this instance.

### A266/23

The applicant requests a minor variance for the retained lands of B28/23 proposing:

1. A semi-detached dwelling type whereas By-law 0225-2007, as amended, only permits a single detached dwelling type in this instance;
2. A lot area of 279.29sq m (approx. 3006.25sq ft) whereas By-law 0225-2007, as amended, requires a minimum lot area of 550.00sq m (approx. 5920.15sq ft) in this instance;
3. A lot frontage of 7.62m (approx. 25.00ft) 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 38.6% whereas By-law 0225-2007, as amended, permits a maximum lot coverage of 30.00% in this instance;

5. An interior side yard setback to the second storey of 1.20m (approx. 3.94ft) whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 1.81m (approx. 5.94ft) in this instance; and,

6. A height of 9.50m (approx. 31.17ft) whereas By-law 0225-2007, as amended, permits a maximum height of 9.00m (approx. 29.52ft) in this instance.

### **Amendments**

Based on the review of the information currently available for this application, we advise that:

#### **B28/23**

The applicant requests the Consent 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 7.62m (approx. 25.00ft) and an area of approximately 297.29sq m (3006.25sq ft).

#### **A265/23**

The applicant requests a minor variance for the severed lands of B28/23 proposing:

2. A lot area of 297.29sq m (approx. 3006.25sq ft) whereas By-law 0225-2007, as amended, requires a minimum lot area of 550.00sq m (approx. 5920.15sq ft) in this instance

#### **A266/23**

The applicant requests a minor variance for the retained lands of B28/23 proposing:

2. A lot area of 297.29sq m (approx. 3006.25sq ft) whereas By-law 0225-2007, as amended, requires a minimum lot area of 550.00sq m (approx. 5920.15sq ft) in this instance

### **Recommended Conditions and/or Terms of consent**

- Appendix A – Conditions of Provisional Consent
- The variance application approved under File(s) A265/23 & A266/23 must be finalized.

### **Recommended Conditions and/or Terms of minor variance**

- Variance(s) approved under file(s) A265/23 & A266/23 shall lapse if the consent application under file B28/23 is not finalized within the time prescribed by legislation.

## Background

**Property Address: 19 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 +/- 15.24m (50 ft) and a lot area of +/- 594.58m<sup>2</sup> (6400ft<sup>2</sup>). 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, side yard setback and height.



## 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 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: Daniel Grdasic, Committee of Adjustment Planner

## Appendices

### Appendix 1 – Transportation and Works Comments

We note that any Transportation and Works Department concerns/requirements for minor variance applications for this property will be addressed under Consent Application 'B' 28/23.

#### 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 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 lot.

##### 3. Storm Sewer Outlet

The storm sewer outlet for this site is the existing 450 mm diameter storm sewer on Studley Street. The applicant is encouraged to design the basement elevation 1 metre above the obvert of the storm sewer on the street to eliminate the need for a sump pump.

Please note that in cases of a high groundwater table where a sump pump could run continuously if a sump pump was implemented, the applicants should consider raising the basement elevation to be at least 1.0 meter above the groundwater level. It is the owner's responsibility to satisfy themselves with these conditions as the City has no obligation to address any concerns with the operating conditions of private sump pump systems.

For further information please contact Samer Elhallak, EIT at (905) 615-3200 ext. 3192.

##### 4. 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.

#### 5. 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.

#### 6. 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 5.

#### 7. 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.

#### 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](mailto: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](mailto: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

## Appendix 2 – Zoning Comments

Zoning has no objection to the Consent application provided that the severed and retained lands comply with the provisions of Zoning By-law 0225-2007, as amended, with respect to, among other things, minimum lot frontage, minimum lot area, setbacks to the existing building(s), on site parking, etc., or alternatively, that any minor variance(s) is approved, final and binding and/or the demolition of any existing building(s) is complete.

We further advise that the proposed lot frontage is to be calculated in accordance with the

following definition:

- The applicant is advised that Lot Frontage means the horizontal distance between the side lot lines and where these lines are not parallel means the distance between the side lot lines measured on a line parallel to and 7.5 m back from the front lot line.

Comments Prepared by: Brooke Herczeg, 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 on Studley Street:

- Eastern Red Juniper (50 cm DBH) – Good Condition – \$4,300.00

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

1. The applicant shall provide tree protection securities in the amount of \$4,300.00 for the preservation of the municipal trees.

In addition, Community Services notes the following:

1. The applicant shall provide framed 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.
2. 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 Nicholas Rocchetti regarding the payment process.
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 Nicholas Rocchetti, Park Planning Assistant, Community Services Department at 905-615-3200 ext. 4659 or via email [Nicholas.Rocchetti@mississauga.ca](mailto:Nicholas.Rocchetti@mississauga.ca).

Comments Prepared by: Nicholas Rocchetti, Park Planning Assistant

### **Appendix 4 – Metrolinx**

### 19 Studley St

Metrolinx is in receipt of the consent and two minor variance applications for 19 Studley St to facilitate the severance of the lands for the purpose of a new lot and to facilitate the construction of a new two-storey semi-detached dwelling on both the subject lands retained and severed. Metrolinx's comments on the subject application are noted below:

- The subject property is located within 300m 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 [Farah.Faroque@metrolinx.com](mailto:Farah.Faroque@metrolinx.com) with questions and to initiate the registration process. (It should be noted that the registration process can take up to 6 weeks).
- 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:** The Applicant is advised that the subject land is located within Metrolinx's 300 metres railway corridor zone of influence and as such is advised that Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. The Applicant is further advised that there may be alterations to or expansions of the rail or other transit 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 or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.

Comments Prepared by: Farah Faroque, Project Analyst

### **Appendix 5- Region of Peel Comments**

**Minor Variance: A-23-265M, A-23-266M, B-23-028M - 19 Studley Street**

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

**Comments:**

- 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 905.791.7800 x7973 or by email at [siteplanservicing@peelregion.ca](mailto:siteplanservicing@peelregion.ca).
- 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).
- The applicant is advised that, arrangements satisfactory to the Region of Peel, Public Works, shall be made with respect to servicing the site, prior to obtaining the Building Permit.

Comments Prepared by: Ayoola Ayooluwa, Junior 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" 265-266/23)

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 August 9, 2023.
5. A letter shall be received from the City of Mississauga, Park Planning, Community Services Department, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated August 9, 2023.
6. A letter shall be received from Metrolinx indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated August 9, 2023.