

City of Mississauga Department Comments

Date Finalized: 2023-08-09	File(s): A91.23 Ward: 3
To: Committee of Adjustment	
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

The applicant requests the Committee to approve a minor variance to allow the existing contractors yard proposing a contractors yard in an E2-132 Zone whereas By-law 0225-2007, as amended, does not permit the use on the subject property in this instance.

Background

Property Address: 3063 Southcreek Rd

Mississauga Official Plan

Character Area: Dixie Employment Area
Designation: Business Employment; Greenlands

Zoning By-law 0225-2007

Zoning: E2-132 - Employment

Other Applications: None

Site and Area Context

The subject property is located north of the Southcreek Road and Dundas Street East intersection in the Dixie Employment Area. It contains a one and a half storey building with some vegetation

in the front yard. The surrounding area context is a mix of employment and commercial uses with single and multi-unit structures, generally one storey in height.

The applicant is proposing to legalize an existing contractor's yard in an E2-132 Zone.



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 of the four tests to this minor variance request are as follows:

The subject property is located in the Dixie Employment Area Character Area and is designated Business Employment in Schedule 10 of the Mississauga Official Plan (MOP). The Business Employment designation permits a variety of uses, including commercial, entertainment, industrial and motor vehicle uses. This designation permits uses to operate mainly within enclosed buildings. The uses permitted in this designation do not include a contractor's yard. The property forms part of Special Site 1 within the Dixie Employment Area Character Area policies, which permits existing and expansion of industrial uses that require extensive outdoor processing and storage, except where adjacent to residentially designated lands. The intent of these policies is to contain the uses within a building with minimal outdoor storage and promote employment uses that are not noxious in nature thereby minimizing any potential impact. The special site policies do recognise legally existing uses, however do not encourage such uses in the future development of the subject area.

The site is zoned E2-132, which permits employment based uses that are sensitive to the surrounding uses. The proposed contractor's yard is not a permitted use. The intent and

purpose of the zoning by-law is to limit noxious and high intensity uses only to areas that are zoned E3. Recognizing that the proposed contractor's yard will require the outdoor storage of equipment, specifically in the front yard, the proposed use is not consistent with the by-law's intent.

Further, E2-132 zone regulates any future introduction of noxious uses in the established area by limiting those uses to those which legally exist. It is staff's opinion that the by-law regulations are actively prohibiting such uses from the subject property by not allowing new noxious uses to be introduced to the area, and as such, the proposal does not conform to the by-law.

Staff are of the opinion that the intent and purpose of the official plan and zoning by-law are not maintained by permitting a use not contemplated by the zone category, and that the four tests of a minor variance are not met in this instance.

Comments Prepared by: Shivani Chopra, Planner in Training

Appendices

Appendix 1 – Transportation and Works Comments

Enclosed for Committees easy reference are photos depicting the subject property.

Comments Prepared by: Joe Alava, Development Engineering



Appendix 2 – Zoning Comments

In the absence of a Development 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.

For scope of work that does not require Site Plan Approval/Building Permit/Zoning Certificate of Occupancy Permit, the applicant may consider applying for a Preliminary Zoning Review application. A detailed site plan drawing and architectural plans are required for a detailed

zoning review to be completed. A minimum of 6-8 weeks is required depending on the complexity of the proposal and the quality of information submitted.

Comments Prepared by: Brooke Herczeg, Zoning Examiner

Appendix 3 – TRCA

Re: Minor Variance Application and City File No. A91.23

3063 Southcreek Road

City of Mississauga, Region of Peel

Owner: Miodrag and Svetlana Grubac

Agent: W.E. Oughtred and Associates Inc.

This letter acknowledges receipt of the subject application, received on July 11, 2023. Toronto and Region Conservation Authority (TRCA) staff have reviewed the application and the circulated materials listed in Appendix A to this letter in accordance with Ontario Regulation 686/21 and Ontario Regulation 166/06.

TRCA staff have reviewed the submission in accordance with Section 21.1(1) of the *Conservation Authorities Act*, which requires TRCA to provide programs and services related to the risk of natural hazards within its jurisdiction. The standards and requirements of such mandatory programs and services are listed under Ontario Regulation 686/21. Specifically, the regulation requires that TRCA must, acting on behalf of the Ministry of Natural Resources and Forestry (MNRF) or in its capacity as a public body under the *Planning Act*, ensure that decisions under the *Planning Act* are consistent with the natural hazard policies of the Provincial Policy Statement (PPS) and conform to any natural hazard policies in a provincial plan.

We have also reviewed the application in accordance with Ontario Regulation 166/06. TRCA must ensure that where development and/or site alteration is proposed within an area regulated by the Authority under Ontario Regulation 166/06, that it conforms to the applicable tests and associated policies (Section 8 of TRCA's The Living City Policies) for implementation of the regulation.

Please also note that updates to the *Conservation Authorities Act* and Ontario Regulation 596/22, which came into effect on January 1, 2023, prevent TRCA from providing municipal programs and services related to reviewing and commenting on a proposal under the *Planning Act*, such as those services previously provided under plan review Memorandum of Understanding (MOU) with an upper or lower tier municipality. In conformity with Ontario Regulation 686/21 and Ontario Regulation 596/22, TRCA's review does not include comments pertaining to matters (e.g. natural heritage) outside of our core planning mandate and regulatory authority.

Purpose of the Application

The purpose of Minor Variance Application assigned City File No. A91.23 is to allow the existing non-conforming use of a contractor's yard in an E2-132 Zone whereas By-law 0225-2007, as amended, does not permit the use on the subject property in this instance. It is our understanding that the requested variances are required to authorize the existing landscape contractor's yard.

Recommendation

TRCA's staff have **no objection** to support the approval of Minor Variance Application assigned City File No.A91.23 for the change of use zoned E2-132 – Employment. A TRCA permit pursuant to Ontario Regulation 166/06 is required for any future works on the subject property.

Site Context

Ontario Regulation 166/06: Under the provisions of Section 28 of the Conservation Authorities Act, TRCA administers a Development, Interference with Wetlands and Alterations to Shorelines and Watercourses regulation (Ontario Regulation 166/06). The subject property is located within TRCA's Regulated Area of the Etobicoke Creek Watershed. Specifically, the subject land is located entirely within the Regulatory Flood Plain associated with a tributary of the Etobicoke Creek.

Etobicoke Creek Special Policy Area:

The subject property is located within the provincially approved Etobicoke Creek Special Policy Area (SPA), which provides for limited development on the lands subject to policies approved by the Ministry of Municipal Affairs and Housing (MMAH), Ministry of Natural Resources and Forestry (MNRF), Toronto Region Conservation Authority (TRCA), and the City.

The Mississauga Official Plan (OP) Part 3 concerns development within the Regional Storm floodplain, and the provisions of the Mixed Use, Business Employment and Greenlands designations. The OP outlines the specific uses which are explicitly prohibited within hazardous lands such as the flood plain. Specifically, the Dixie Employment Area policies contain the specific SPA policies approved by the ministries, TRCA, and City. Policy 17.4.4.1., Special Site Policies states, for example that:

- New development is not permitted in the 100 year return storm floodplain
- Ideally, new buildings are protected from a Regional Storm event, but protection cannot be less than a 350 year return storm
- And, new development not be permitted to locate in the floodplain where the use is:
 - associated with the manufacture, storage, disposal and/or consumption of hazardous substances or the treatment, collection and disposal of sewage, which would pose an unacceptable threat to public safety if they were to escape their normal containment/use as a result of flooding or failure of flood proofing measures;
 - associated with uses, such as hospitals, nursing homes and schools, which would pose a significant threat to the safety of the inhabitants (e.g. the sick, the elderly, the

disabled or the young), if involved in an emergency evacuation situation as a result of flooding or failure of flood proofing measures; and

- associated with services such as those provided by fire, police and ambulance stations and electrical substations, which would be impaired during a flood emergency as a result of flooding or failure of flood proofing measures.

No new development is proposed with this application that requires permission under Ontario Regulation 166/06. We can also confirm that the property is located outside of the 100 year return storm floodplain and does not propose any of the sensitive uses note above. As such, this minor variance #A91.23 conforms to the SPA policies in the OP. As such, TRCA staff support the proposed use of the property. As noted above, a TRCA permit pursuant to Ontario Regulation 166/06 is required from this Authority prior to proposed development (including any additions to an existing building) and the placing or dumping of fill of any kind taking place on the property.

Application Specific Comments

Based on our review of the floor plan drawings submitted with this application, the existing structure appears to include 7 bedrooms in the house but it is not clear if they are being used for overnight stays. Please note that increasing the number of industrial and/or dwelling units in a building within the flood hazard is not permitted.

Based on our latest preliminary 2D modeling results, it appears that the entire subject property is located within the Regulatory Flood Plain. The regional water surface elevation and the average flow velocity at the subject property are **118.24 m** and **0.98 m/s** respectively. As a result, while TRCA staff have no concerns with the proposed variances as they are currently submitted, staff have concerns about overnight accommodation within the flood hazard and cannot permit an increase in the number of units.

Should the applicant disagree with this preliminary flood plain analysis, the applicant may hire a consultant to determine the flooding extent of the spill using two-dimensional hydraulic model, otherwise the applicant is required to apply the preliminary result of TRCA's flood modelling.

Fee

TRCA staff thank the applicant for their prompt payment of the required planning review fee of \$1,250.00 received on June 7, 2023.

We thank you for the opportunity to comment. Should you have any additional questions or comments, please contact the undersigned.

Comments Prepared by: Marina Janakovic, Planner I

Appendix 4- Region of Peel Comments**Minor Variance: A-23-091M – 3063 Southcreek Rd**

Planning: Ayooluwa Ayoola (905) 791-7800 x8787

Comments:

- The subject land is located in the regulated area of the Credit Valley Conservation Authority (CVC). We rely on the environmental expertise of the CVC for the review of development applications located within or adjacent to the regulated area in Peel and the impact of natural hazards on proposed development. We therefore request that the City staff consider comments from the CVC and incorporate their requirements appropriately. Final approval of this application requires all environmental concerns to be addressed to the satisfaction of the CVC.

Comments Prepared by: Ayoola Ayooluwa, Junior Planner