

City of Mississauga Department Comments

Date Finalized: 2023-09-13	File(s): A176.23 Ward: 5
To: Committee of Adjustment	
From: Committee of Adjustment Coordinator	Meeting date:2023-09-21 1:00:00 PM

Consolidated Recommendation

The City recommends that the application be deferred in order to allow the applicant to redesign the proposed dwelling.

Application Details

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

1. A lot coverage of 38.54% (143.23sq m (approx. 1541.71sq ft)) whereas By-law 0225-2007, as amended, permits a maximum lot coverage of 30% (111.49sq m (approx. 1200.07sq ft)) in this instance;
2. A gross floor area of 269.58sq m (approx. 2901.73sq ft) whereas By-law 0225-2007, as amended, permits a maximum gross floor area of 174.33sq m (approx. 1876.47sq ft) in this instance;
3. An eaves height of 6.41m (approx. 21.03ft) whereas By-law 0225-2007, as amended, permits a maximum eaves height of 6.40m (approx. 21.00ft) in this instance;
4. A southern side yard setback to the first storey of 0.69m (approx. 2.26ft) whereas By-law 0225-2007, as amended, requires a minimum side yard setback of 1.20m (approx. 3.94ft) in this instance; and,
5. A southern side yard setback to the second storey of 1.39m (approx. 4.56ft) whereas By-law 0225-2007, as amended, requires a minimum side yard setback of 1.80m (approx. 5.91ft) in this instance.

Background

Property Address: 7174 Lancaster Ave

Mississauga Official Plan

Character Area: Malton Neighbourhood

Designation: Residential Low Density II

Zoning By-law 0225-2007

Zoning: R4-1 - Residential

Other Applications: None

Site and Area Context

The subject property is located north-east of the Derry Road East and Airport Road intersection in the Malton neighbourhood. The property currently contains a single detached dwelling with limited landscaping and vegetative elements in both of the front yard and rear yard. The front yard has the younger vegetation, the rear yard contains mature vegetation. The subject property has a lot area of +/- 371.53m² (3,999.11ft²). The built form of the surrounding neighbourhood consists of detached and semi-detached dwellings on similarly sized lots. Victory Park abuts the property to the west.

The applicant is proposing a new dwelling requiring variances for lot coverage, gross floor area, height of the eaves and side yard setback.



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 Malton Neighbourhood Character Area and is designated Residential Low Density II in Schedule 10 of the Mississauga Official Plan. The designation permits detached, semi-detached and duplex dwellings. Section 9 of the 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.

Arising from public input expressed through the 'My Malton' Community Visioning exercise undertaken in 2015, the City completed the Malton Infill Housing Study. This study resulted in Council's adoption of zoning regulations principally aimed at regulating the massing of dwellings in a manner that is sensitive to the surrounding context. The intent of the policies are to limit the overall massing of these dwellings and maintain compatibility between the existing and planned character of the neighbourhood. The application proposes increases in gross floor area and eave height that are not consistent with the neighbourhood and do not maintain the intent of the infill regulations. These variances will create a dwelling with significant massing and cumulative impacts that will negatively influence the neighbourhood's character. As such, staff are of the opinion that the design is not compatible with the existing and planned development of the neighbourhood and recommend that the application be deferred for redesign.

Comments Prepared by: Daniel Grdasic, 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 new dwelling will be addressed through the Building Permit Process.





Comments Prepared by: Tony Iacobucci, Development Engineering Technologist

Appendix 2 – Zoning Comments

We note that a Building Permit is required. In the absence of a Building Permit 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.

Comments Prepared by: Candice Williams, Zoning Examiner

Appendix 3 – Parks, Forestry & Environment

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

The lands to the rear of the property are owned by the City of Mississauga, identified as Victoria Park (P-001) and zoned OS1 – Open Space – Community Park.

Should the application be approved, Community Services provides the following notes:

1. Construction access from the adjacent park/greenlands is not permitted.
2. If access is required to City owned lands, a Consent to Enter Agreement/Park Access Permit will be required.
3. Stockpiling of construction materials and encroachment in the adjacent park/greenlands is not permitted.
4. 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 – Region of Peel

Minor Variance: A-23-176M / 7174 Lancaster Ave

Development Engineering: Brian Melnyk (905)-791-7800 x3602

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.
- 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.
- 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.

Planning: Ayooluwa Ayoola (905) 791-7800 x8787

Comments:

- The subject land is 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: Ayooluwa Ayoola, Junior Planner

Appendix 5 - TRCA Comments

Re: Minor Variance Application and City File No. A176.23

7174 Lancaster Avenue

City of Mississauga, Region of Peel

Owner: Nancy Nancy and Rajan Mittal

Agent: Aum Drafting & Consulting Inc. c/o Kaushik Suthar

This letter acknowledges receipt of the subject application, received on August 16, 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 **A176.23** is to permit the construction of a new dwelling proposing:

1. A lot coverage of 38.54% (143.23sq m (approx. 1541.71sq ft)) whereas By-law 0225-2007, as amended, permits a maximum lot coverage of 30% (111.49sq m (approx. 1200.07sq ft)) in this instance;
2. A gross floor area of 269.58sq m (approx. 2901.73sq ft) whereas By-law 0225-2007, as amended, permits a maximum gross floor area of 174.33sq m (approx. 1876.47sq ft) in this instance;
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5. A southern side yard setback to the second storey of 1.39m (approx. 4.56ft) whereas By-law 0225-2007, as amended, requires a minimum side yard setback of 1.80m (approx. 5.91ft) in this instance.

It is our understanding that the requested variances are required to facilitate the replacement of a (59.78 sq.m.) one storey single family dwelling with a (269.58 sq.m.) two storey house with a covered front porch, front yard driveway and walkway paving and a rear yard deck.

The proposed works also include a proposed second unit dwelling in the basement of the proposed two storey house.

Recommendation

TRCA staff recommend **A176.23** to provide an opportunity for the applicant to revise the proposed works and address TRCA's staff concerns. Should the Committee not grant deferral of the application at the September 21, 2023 hearing, TRCA staff recommend denial of the application at this time. deferral of Minor Variance Application assigned City File no.

A TRCA permit pursuant to Ontario Regulation 166/06 may be required for any future works on the subject property. Given the comments below, TRCA staff would not support the approval of the development proposed with this application as currently submitted.

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 Mimico Creek Watershed. Specifically, the subject land is located entirely within the Regulatory Flood Plain associated with a tributary of Mimico Creek. As such, a TRCA permit pursuant to Ontario Regulation 166/06 is required from this Authority prior to the proposed development, site alteration or other development taking place on the property.

Based on our review, the proposed development is located entirely within TRCA's regulated area and will require prior permission from the TRCA. TRCA staff do not support the development proposal associated with this application as currently submitted. There are several comments below that must be addressed prior to TRCA providing staff support to both this application and the required TRCA permit application.

Application Specific Comments

Based on current TRCA flood modelling, it appears that the entire property is located within the Regulatory Floodplain. The Floodplain elevation and water velocity expected during a regulatory event (i.e., greater of the 100-year design storm or Hurricane Hazel storm) are 168.33 m (Back of the property) and 0.13 m/s (Front) at the subject property respectively. As such, the existing house and the proposed replacement dwelling are located within the Regulatory Floodplain.

The drawings submitted with this application appear to propose a replacement dwelling that includes a basement with one bedroom and an at grade separate entrance. It also appears that openings are proposed below the floodplain elevation of 168.33m. The drawings do not demonstrate that the existing dwelling contains a basement. Also, the existing dwelling's habitable ground floor area and the proposed habitable ground floor area (excluding garage, porch, rear yard deck) in the replacement dwelling is unclear.

In accordance with TRCA's Living City Policies (LCP) utilized to implement Ontario Regulation 166/06, TRCA does not support an increase in the size and footprint of a replacement or reconstruction of an existing building or structure within the flood hazards where the addition is more than 50% of the original habitable ground floor area, plus an additional storey. Additionally, TRCA's LCP does not support new basements if the existing dwelling does not contain a basement and if one exists, the basement can be replaced but no larger than the original.

At this time, it has not been demonstrated that an existing basement is present through the submitted documents. Therefore, it is premature to comment on the appropriateness of a basement as part of this development. Any replacement dwelling with an addition that meets the above criteria must also meet the dry-passive floodproofing requirements of TRCA, including having no openings below the floodplain elevation. Please also note that increasing the number of dwelling units in a building within the flood hazard is not permitted.

At this time, it has not been demonstrated that TRCA's policies concerning replacement dwellings have been achieved. In order to demonstrate that the proposal could meet TRCA's permitting policies, the drawings must be revised to show the following:

1. Drawings showing the existing habitable ground floor areas and statistics.
2. Drawings showing the existing basement and statistics.
3. Drawings and statistics for the basement, proposed habitable ground floor area, and proposed additional storey that demonstrate that the proposed basement is no larger than the

existing and that the proposed ground floor area is no larger than 50% of the original ground floor area.

4. Drawings that show that there are no openings below the regulatory floodplain elevation of 172.54. Note that a structural engineer will need to certify that the replacement dwelling can withstand flood velocities and depths during a regulatory storm event, which may involve reinforcement to basement foundations or other changes to the proposal.

Given the above, TRCA has concerns with the size of the replacement dwelling and floodproofing of the proposed works as currently submitted. TRCA requests that the applicant contacts the undersigned to resolve TRCA's concerns.

Please advise the applicant to submit a TRCA permit application for the proposed replacement dwelling (Application for Development, Interference with Wetlands & Alterations to Shorelines and Watercourses – Ontario Regulation 166/06) and the associated review fee of \$995.00 (Works on Private Residential Property – Standard).

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 \$660.00 received on April 24, 2023.

Comments Prepared by: Marina Janakovic, Planner I