

City of Mississauga Department Comments

Date Finalized: 2023-11-15	File(s): A353.23 Ward: 5
To: Committee of Adjustment	
From: Committee of Adjustment Coordinator	Meeting date:2023-11-23 1:00:00 PM

Consolidated Recommendation

The City has no objections to the application.

Application Details

The applicant requests the Committee to approve minor variances to construct a new dwelling proposing:

1. A rear yard setback of 1.52m (approx. 4.98ft) whereas By-law 0225-2007, as amended, requires a rear yard setback of 3.00m (approx. 9.84ft) in this instance;
2. An eaves height of 6.75m (approx. 22.14ft) whereas By-law 0225-2007, as amended, permits an eaves height of 6.49m (approx. 21.29ft) in this instance;
3. A front yard setback of 5.61m (approx. 18.40ft) whereas By-law 0225-2007, as amended, requires a front yard setback of 6.0m (approx. 19.68ft) in this instance;
4. An exterior side yard setback of 5.25m (approx. 17.22ft) whereas By-law 0225-2007, as amended, requires an exterior side yard setback of 6.9m (approx. 22.63ft) in this instance;
5. An exterior side yard setback of 4.80m (approx. 15.74ft) to the eaves whereas By-law 0225-2007, as amended, requires an exterior side yard setback of 5.55m (approx. 18.20ft) to the eaves in this instance;
6. A rear yard setback of 1.07m (approx. 3.51ft) to the eaves whereas By-law 0225-2007, as amended, requires a rear yard setback of 2.55m (approx. 8.36ft) to the eaves in this instance;
7. A front yard setback of 5.16m (approx. 16.92ft) to the eaves whereas By-law 0225-2007, as amended, requires a front yard setback of 5.55m (approx. 18.20ft) to the eaves in this instance; and,
8. A gross floor area (infill) of 378.94 sq.m (approx. 4078.87 sq.ft) whereas By-law 0225-2007, as amended, permits a gross floor area (infill) of 301.29 sq.m (approx. 3243.05 sq.ft) in this instance.

Background

Property Address: 7541 Homeside Gardens

Mississauga Official Plan

Character Area: Malton Neighbourhood
Designation: Residential Low Density I

Zoning By-law 0225-2007

Zoning: R3-69-Residential

Other Applications BP 9NEW 23-6383

Site and Area Context

The subject property is located south-east of the Airport Road and Thamesgate Drive intersection in the Malton Neighbourhood. It has a lot area of +/- 750.37m² (8,076.91ft²), a lot frontage of +/- 23.71m (77.78ft), and currently contains a single storey detached dwelling with minimal vegetation and landscaping elements in both the front and rear yards. The surrounding neighbourhood consists of a mix of both detached and semi-detached dwellings.

The applicant is proposing a new two-storey detached dwelling requiring variances for rear, front and exterior side yard setback, rear, front and exterior side yard eaves setbacks, eaves height and gross floor area.



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:

Does the proposal maintain the general intent and purpose of the Official Plan?

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. 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. Staff are satisfied that the proposal appropriately balances the existing and planned characters of the surrounding area and are of the opinion that the application maintains the general intent and purpose of the official plan.

Does the proposal maintain the general intent and purpose of the Zoning By-law?

Variances 1 and 6 request a reduced rear yard setback and setback of eaves to the rear lot line. The intent of the rear yard setback is to ensure that both an adequate buffer exists between the massing of primary structures on adjoining properties, as well as create an appropriate amenity area within the rear yard. Staff are satisfied that an appropriate amenity yard is maintained, as the subject property is a corner lot and in this instance, the technical rear yard functions as a side yard. Further the proposed dwelling provides an ample buffer between structures on abutting properties.

Variance 2 relates to the height of the eaves. The intent of restricting height to the eaves is to lessen the visual massing of the dwelling by bringing the edge of the roof closer to the ground. This keeps the height of the dwelling within human scale. The proposal requests a minor increase in eave height that does not have a significant impact on the massing or height of the dwelling. Furthermore staff note that an overall height variance has not been requested, which helps keep the massing within an appropriate scale.

Variances 3 and 7 request a reduction in the front yard setback and setback of eaves to the front lot line. Staff note that the front lot line of the subject property is not parallel to the proposed dwelling and note that the proposed setbacks are measured to a pinch point at one corner and increase from there. The intent of the front yard setback provision is to ensure that there is sufficient space in front of the property for landscaping and provided an appropriate setback from the street. Staff are satisfied that the proposal maintains an appropriate setback from the street which increases from the pinch point.

Variances 4 and 5 requests a reduced exterior side yard setback and setback of eaves to the exterior side lot line. The general intent of this portion of the by-law is to ensure an adequate

buffer exists between a structure's massing and the public realm. The proposed dwelling requests minimal setback relief that will have negligible massing impact to the streetscape. Staff have no concerns regarding the additional massing at the reduced setback's impact on the public realm. Additionally, staff note the setback of the eaves variance is caused due to the reduced setbacks and are satisfied that the eaves are appropriately setback from the exterior side lot line.

Variance 8 requests an increase in gross floor area. The intent in restricting gross floor area is to maintain compatibility between existing and new dwellings in order to ensure the existing and planned character of a neighbourhood is preserved. While the proposal represents an increase to the permissions of the by-law and is generally larger than staff support in Malton, the subject property is slightly larger than the average for the area and is able to accommodate a larger house. Furthermore staff note the presence of several larger dwellings along Homeside Gardens contribute to the overall character of the street. The design of the proposed dwelling also utilizes a broken up front wall which limits the impact of the visual massing. Staff are satisfied that the proposed dwelling appropriately balances the overall development with the existing built form and character of the neighbourhood.

Is the proposal desirable for the appropriate development of the subject lands and minor in nature?

Staff are satisfied that the proposal represents appropriate development of the subject land. The variances, both individually and cumulatively, are minor in nature and will not create any undue impacts to adjoining properties or the planned or existing character of the area.

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

The Building Department is currently processing a building permit under file BP 9NEW 23-6383. Based on review of the information currently available in this permit application, the variances, as requested are correct.

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: Tage Crooks, Zoning Examiner

Appendix 3 – TRCA

**Re: Minor Variance Application and City File No. A353.23
7541 Homeside Gardens City of Mississauga, Region of Peel**

Owner: Imtiaz Kazi and Sufiya Kazi

Agent: Lasonne Engineering Ltd. c/o Daniel Falzon

This letter acknowledges receipt of the subject application, received on October 23, 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. A353.23 is to construct a new dwelling proposing:

1. A rear yard setback of 1.52m (approx. 4.98ft) whereas By-law 0225-2007, as amended, requires a rear yard setback of 3.00m (approx. 9.84ft) in this instance;
2. An eaves height of 6.75m (approx. 22.14ft) whereas By-law 0225-2007, as amended, permits an eaves height of 6.49m (approx. 21.29ft) in this instance;
3. A front yard setback of 5.61m (approx. 18.40ft) whereas By-law 0225-2007, as amended, requires a front yard setback of 6.0m (approx. 19.68ft) in this instance;
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It is our understanding that the requested variances are required to facilitate the replacement of an existing 127.52 sq.m. (GFA) one storey single family dwelling with a 378.94 sq.m. (GFA) two storey single family dwelling with an unfinished basement. The proposed works also include the development of a side yard below grade entrance in the basement, driveway and walkway paving and front yard covered porch.

Recommendation

TRCA staff recommend **deferral** of Minor Variance Application assigned City File no. A353.23 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 November 23, 2023 hearing, TRCA staff recommend denial of the application at this time.

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 the 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.

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 minor variance application and the required TRCA permit application.

Application Specific Comments

Based on our review, it appears that the existing house and the proposed replacement dwelling are located within the Regulatory Flood Plain.

The drawings submitted with this application appear to propose a replacement dwelling that includes a basement with a separate entrance. The drawings do not demonstrate that the existing dwelling contains a basement. 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. Therefore, it is premature to comment on the appropriateness of a basement as part of this development. Please note that increasing the number of dwelling units in a building within the flood hazard is not permitted.

It also appears that openings are proposed below the floodplain elevation of 172.09masl. Also, the existing dwelling's habitable ground floor area and the proposed habitable ground floor area (excluding garage) in the replacement dwelling is unclear.

Additionally, it appears that the proposed replacement dwelling has a GFA of 378.94 sq.m. 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.

Any replacement dwelling with an addition that meets the above criteria must also be 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. 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 proposed 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 (including any potential basement windows) below the regulatory floodplain elevation of 172.09masl. Note that a structural engineer will need to certify that the replacement dwelling can withstand flood velocities of 0.54 m/s and flood depths of 172.09masl 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.

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 September 19, 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 1

Appendix 4 – Region of Peel

Minor Variance: A-23-353M / 7541 Homeside Gardens

Development Engineering: Wendy Jawdek (905)-791-7800 x6019

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 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 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 by email at siteplanservicing@peelregion.ca
- The applicant shall verify the location of the existing service connections to the subject site and the contractor shall locate all existing utilities in the field. Requests for underground locates can be made at <https://www.ontarioonecall.ca/portal/>
- For location of existing water and sanitary sewer infrastructure please contact Records by e-mail at PWServiceRequests@peelregion.ca

Comments Prepared by: Ayooluwa Ayoola, Junior Planner