

City of Mississauga Department Comments

Date Finalized: 2024-02-22	File(s): A85.24
To: Committee of Adjustment	Ward: 5
From: Committee of Adjustment Coordinator	Meeting date:2024-02-29 1:00:00 PM

Consolidated Recommendation

The City recommends the application be deferred to submit the required documentation.

Application Details

The applicant requests the Committee to approve a minor variance to allow a change of use proposing:

1. A Motor Vehicle Repair Facility- Restricted Vehicle whereas By-law 0225-2007, as amended, does not permit this use in an E2-Employment Zone in this instance;
2. A Motor Vehicle Sales, Leasing and/or Rental Facility- Restricted whereas By-law 0225-2007, as amended, does not permit this use in an E2-Employment Zone in this instance;
3. 45 parking spaces whereas By-law 0225-2007, as amended, requires a minimum of 58 parking spaces in this instance; and,
4. 2 accessible parking spaces whereas By-law 0225-2007, as amended, requires a minimum of 3 accessible parking spaces in this instance.

Amendments

The Building Department is currently processing a Certificate of Occupancy permit under file C 23-7439. Based on review of the information currently available in this permit application, the variances, as requested are correct, however, variance one must be amended as

- A Motor Vehicle Repair Facility- **Commercial Vehicle** whereas By-law 0225-2007, as amended, does not permit this use in an E2-Employment Zone in this instance;

Background

Property Address: 5151 Everest Drive, Unit 8

Mississauga Official Plan

Character Area: Northeast Employment Area (West)
Designation: Business Employment

Zoning By-law 0225-2007

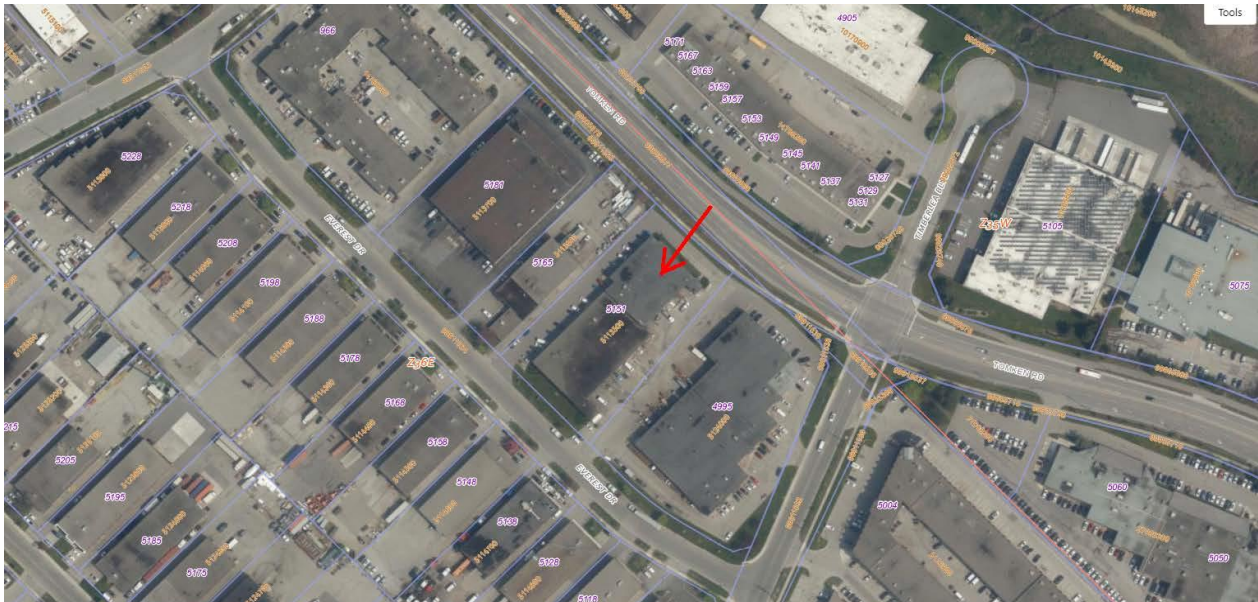
Zoning: E2- Employment

Other Applications: C 23-7439

Site and Area Context

The subject property is located north-west of the Tomken Road and Timberlea Boulevard intersection in the Northeast Employment Area (West) Character Area. The property contains a single storey industrial building containing multi-tenant industrial units with little vegetation and landscaping, which is mostly located along the property frontage. The context of the surrounding area consists of varied sizes of industrial buildings.

The applicant is proposing to change the use of the property, requiring variances for a motor vehicle repair and sales, leasing and/or rental facility and parking deficiencies.



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:

Through correspondence with the applicant and zoning staff, staff note variance 1 is incorrect. Staff note variance 1 requests a change of use variance for a 'Motor Vehicle Repair Facility – Restricted' use to be permitted on the subject property. While staff are not in a position to interpret the zoning by-law, staff note this use is permitted within an E2 zone, thus not requiring the variance.

However, in reviewing the application with the applicant, they stated the repair business seldom works on mechanical repairs of trades cargo vehicles, which are categorized as Commercial Motor Vehicles, as confirmed by zoning staff. Due to this function of the repair business, the applicant was advised to amend the change of use variance to permit a Motor Vehicle Repair Facility – Commercial Motor Vehicle use. Staff note the applicant has a corresponding Zoning Certificate of Occupancy application (C 23-7439) to legalize the Motor Vehicle Repair Facility – Commercial Motor Vehicle use and Motor Vehicle Sales, Leasing and/or Rental Facility – Restricted use. The applicant advised staff that they intend on amending the application at the Committee hearing to seek the Commercial Motor Vehicle Repair use, and to ensure the proposed variance corresponds with the Zoning Certificate of Occupancy application. Zoning has also confirmed the proposed use and associated amendments made in their comments.

The subject property is located in the Northeast Employment Area (West) Character Area and is designated Business Employment in Schedule 10 of the Mississauga Official Plan (MOP). This designation permits many different uses, including Motor Vehicle Commercial uses which includes motor vehicle repair. However, motor vehicle sales is not a permitted use within the Business Employment designation.

Variance 1 proposes to permit a Motor Vehicle Repair Facility – Commercial Motor Vehicle use on the subject property. The subject property is zoned E2 (Employment) in Zoning By-law 0225-2007, which does not permit the proposed use. When the by-law came into effect Motor Vehicle Repair Facilities were only permitted in E2 and E3 zones. A subsequent by-law was passed to further distinguish between facilities for personal vehicles and facilities for commercial vehicles. With this distinction made, Council passed by-law 0379-2009 which had the effect of limiting Motor Vehicle Repair Facility – Commercial Motor Vehicle uses to only E3 zones due to the intensity and noxiousness of the use.

Variance 2 proposes to permit a Motor Vehicle Sales/Leasing and/or Rental Facility – Restricted use in a zone where it is not permitted. The intent and purpose of the zoning by-law is to permit motor vehicle retail uses to Commercial zones with other retail uses and not in employment zones as of right. The use requested is limited solely to the C3 zone. Staff note that vehicle sales and rentals are permitted within the E2 zone, however it is limited to commercial vehicles and not regular vehicles. This is due to the use serving the surrounding businesses, their commercial vehicle needs and the intensity of the use when selling, renting and repairing those types of commercial motor vehicles.

Given the City's active decision to remove the proposed use from the permissions of the E2 zone and the fact that the uses are not intended or permitted in the zone category and are in accordance with an entirely different zoning framework, staff are of the opinion that the intent and purpose of the zoning by-law are not maintained.

Variations 3 and 4 propose a reduction in the required parking rate. The intent of the zoning by-law in quantifying the required number of parking spaces is to ensure that each lot is self-sufficient in providing adequate parking accommodations based on its intended use. Section 8.4 of the official plan contemplates potential reductions in parking requirements and alternative parking arrangements in appropriate situations. Municipal Parking staff have reviewed the variance request and note as follows:

With respect to Committee of Adjustment application 'A' 85.24, 5151 Everest Drive, Unit 8, the Applicant is requesting the Committee to approve a minor variance to allow reduced parking for the subject property and proposing:

A total of 45 parking spaces whereas By-law 0225-2007, as amended, requires a minimum of 58 parking spaces in this instance.

Per the materials provided by the Applicant, a Motor Vehicle Repair Facility for Restricted Motor Vehicles is being proposed at this location. The requested variance is triggered by the change of use. The subject property is located within E2 Zoning Area, Parking Precinct 4.

Zoning staff have advised that the proposed use should be amended to Motor Vehicle Repair Facility- Commercial Vehicle. Per Section 3.1.1.2 of Mississauga Zoning By-law, A Motor Vehicle Repair Facility- Commercial Vehicle uses located in Parking Precinct 4 require a minimum of 4.3 spaces per 100 square meters of non-residential GFA. Zoning staff confirmed the minimum required number of parking spaces to be 58. The Applicant proposes a total of 45 parking spaces. As such, 58 parking spaces are required whereas 45 parking spaces can be accommodated, which generates a parking deficiency of 13 spaces or 22.4%.

As the proposed parking deficiency exceeds 10%, a satisfactory Parking Utilization Study (PUS) is required as per the City's Parking Terms of Reference provision.

The Applicant did not provide a PUS as justification for the proposed parking deficiency. The Applicant should refer to the City's Parking [Terms of Reference](#) for parking justification requirements to be included with a formal submission. The Applicant should confirm the survey methodology with staff prior to conducting parking surveys.

Zoning staff have confirmed that the requested variance is correct.

Given the above, Municipal Parking staff recommend the application be deferred pending the submission of a satisfactory Parking Utilization Study (PUS).

Planning staff therefore recommend that the application be deferred to allow the applicant to submit the requested information.

Planning staff have concerns regarding the potential impacts of the proposed uses being considered in variances 1 and 2 on the abutting properties given its intentional removal from the property's zone. Staff are of the opinion the application should be deferred as the applicant did not submit sufficient parking justification, however are unable to support variances 1 and 2.

Comments Prepared by: Daniel Grdasic, Committee of Adjustment Planner

Appendices

Appendix 1 – Transportation and Works Comments

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





Comments Prepared by: Tony Iacobucci, Development Engineering Technologist

Appendix 2 – Zoning Comments

The Building Department is currently processing a Certificate of Occupancy permit under file C 23-7439. Based on review of the information currently available in this permit application, the variances, as requested are correct, however, variance one must be amended as

- A Motor Vehicle Repair Facility- **Commercial Vehicle** whereas By-law 0225-2007, as amended, does not permit this use in an E2-Employment Zone in this instance;

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: Zoning Examiner, Tage Crooks

Appendix 3- Region of Peel

We have no comments or objections.

Comments Prepared by: Ayooluwa Ayoola, Junior Planner