

City of Mississauga

Memorandum:

City Department and Agency Comments

Date Finalized: 2024-11-21	File(s): A522.24
To: Committee of Adjustment	
From: Committee of Adjustment Coordinator	Meeting date: 11/28/2024 1:00:00 PM

Consolidated Recommendation

The City recommends the application be refused.

Application Details

The applicant requests the Committee to approve a minor variance to allow:

1. A Medical Office - Restricted use within a detached dwelling in an R3 - Residential zone whereas By-law 0225-2007, as amended, does not permit such a use in this instance;
2. 2 tandem parking spaces whereas By-law 0225-2007, as amended, does not permit tandem parking spaces in this instance.
3. The provision of no parking spaces for persons with disabilities whereas By-law 0225-2007, as amended, requires on parking space for persons with disabilities in this instance. This variance is required but was not included in the 2024 application.
4. A front yard landscaped area of 34.1% whereas By-law 0225-2007, as amended, requires a minimum 40% front soft landscape area in this instance. This variance is required but was not included in the 2024 application.
5. A front yard measured to the parking area of 2.13 metres whereas By-law 0225-2007, as amended, requires a minimum front yard to the parking area of 4.50 metres. This variance is required but was not included in the 2024 application.
6. A driveway width of 16.00 metres whereas By-law 0225-2007, as amended, permits a maximum driveway width of 6.0 metres.

Background

Property Address: 4159 Tomken Rd

Mississauga Official Plan

Character Area: Rathwood Neighbourhood

Designation: Residential Low Density I

Zoning By-law 0225-2007

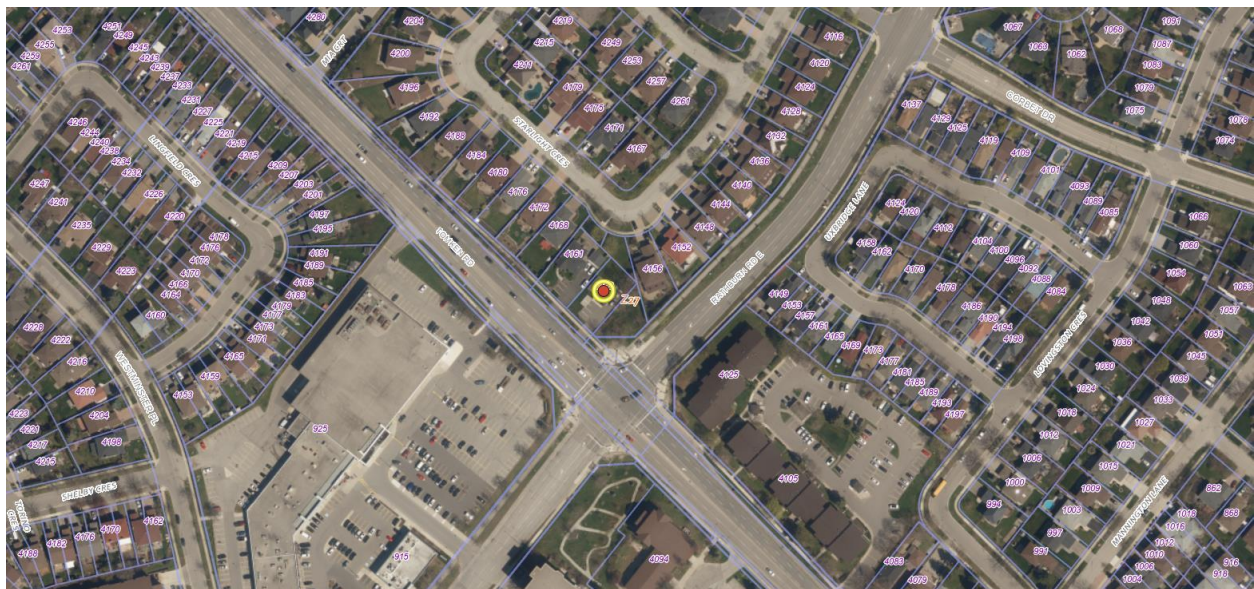
Zoning: R3 - Residential

Other Applications: None

Site and Area Context

The subject property is located on the north-east corner of the Rathburn Road East and Tomken Road intersection in the Rathwood Neighbourhood Character Area. It contains a one-storey detached dwelling with limited landscaping and vegetative elements throughout the subject property. The surrounding area is mostly residential, consisting of detached and apartment dwellings to the north, east, south-east and south-west of the subject property. The Westminster United Church is located directly across from the site, on the south-west corner of Rathburn Road East and Tomken Road. Finally, Tomken Plaza, a multi-tenant commercial plaza, is situated on the north-west corner.

The applicant is proposing to utilize the entirety of the dwelling to operate a medical office requiring variances for use, tandem parking, accessible parking, front yard landscape area, setback to the parking area and driveway width.



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:

On November 28th, 2019, a minor variance application (A273.19) to permit the same variances noted above, was approved by the Committee of Adjustment for a temporary period of 5 years. The applicant is seeking an extension of previous approvals and no changes are proposed in the site conditions and operations.

The subject property is located in the Rathwood 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 dwellings, semi-detached dwellings and duplex dwellings. The designation only permits residential, and accessory uses only. The proposed office use is not permitted under the designation and is not consistent with the intent of the land use designation.

As per Zoning By-law 0225-2007, the subject property is zoned R3 (Residential). In accordance with Table 4.2.4.58 (R3 Exception Zones), this zone only permits a detached dwelling. The intent of the by-law is to clearly limit the uses permitted in the zone to low density residential uses only. Further, in 2019, Council passed an amending by-law that removed the as of right permissions for resident physician/dentist uses in residential zones in order to maintain the residential component of neighbourhoods. Permitting the medical office use in the residential zone does not maintain the intent and purpose of the zoning by-law.

Section 9 of MOP promotes development (including its features such as driveways and landscaping) 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 note the increased driveway width is required to accommodate additional customer parking for the medical office. The planned character of the area are dwellings accessed by appropriately sized driveways with the remainder of the front yard being soft landscaping. The subject property represents one of the largest driveways in the area and is not compatible with the existing or planned character of the area.

Pursuant to Table 4.2.1(12.3) (R1 to R5 Permitted Uses and Zone Regulations), the maximum driveway width for a detached dwelling is 6.0m; whereas, the applicant is proposing 16.0m. Additionally, pursuant to Table 4.2.1(12.4), this zone requires a minimum soft landscaped area within the front yard of 40.0%; whereas, the applicant is proposing 34.1%. The intent of both of

these regulations of the zoning by-law is to permit a driveway wide enough to accommodate two vehicles parked side-by-side, with the remainder of lands being soft landscaping (front yard), typical of the neighbourhood. The zoning by-law does not contemplate a commercial use in a residential zone, nor the provision of a parking area to support that use. The applicant's proposal for a driveway large enough to serve the proposed medical office use as a parking lot would be at the expense of the residential character of the detached dwelling, the residential neighbourhood, as well as the minimum soft-landscaped area. Variances 4 and 6, as requested, inherently do not meet the purpose or general intent of the zoning by-law.

The reduced setback to the front yard parking area required for the medical office use creates a significant amount of hardscaping in the front yard. This results in the driveway / parking lot area becoming the predominant feature from a streetscape perspective. Planning Staff note that the proposed front yard parking area is not consistent with the residential neighbourhood but rather a commercial use which is not permitted in this zone. Further, the proposed medical office creates a significant amount of on-site traffic that is not compatible with a residential neighbourhood and further erodes residential context of the neighbourhood. Staff's position is that the application as proposed is not minor in nature and represents an undesirable development of the land.

Staff are of the opinion that the proposal does not maintain the general intent and purpose of the official plan and zoning by-law, is not minor in nature and does not contribute to orderly development of the subject property.

Comments Prepared by: Daniel Grdasic, Committee of Adjustment Planner

Appendices

Appendix 1 – Transportation and Works Comments

Enclosed for Committee's ease of reference are photos depicting the subject property. We note that this department's concerns/requirements were addressed via the previously approved Site Plan Application (SPM 20-45 W3).

It should also be noted that through the previous Site Plan Application, the applicant was required to prepare a Site Plan and Grading Plan (DWG No: C101) to address the proposed parking addition for the dental office which this department finds acceptable.

Comments Prepared by: Tony Iacobucci, 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: Crystal Abainza, Zoning Examiner

Appendix 3 – Region of Peel Comments

We have no comments or objections.

Comments Prepared by: Petrele Francois, Junior Planner