

ISSUE DATE:

**APR. 24, 2008**



PL071138

Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant/Appellant: Oscar Day Spa  
Subject: Minor Variance  
Property Address/Description: 3490 Mavis Rd.  
Variance from By-law: 5500  
Municipality: City of Mississauga  
Municipal File No.: A-235/07  
OMB Case No.: PL071138  
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**APPEARANCES:**

**Parties**

Oscar Day Spa

**Agent**

G. Dell

**MEMORANDUM OF ORAL DECISION DELIVERED BY G.C. O'CONNOR  
ON MARCH 25, 2008 AND ORDER OF THE BOARD**

**THE APPLICATION**

Oscar Day Spa (the applicant) operates a fitness facility at 3490 Mavis Road in the City of Mississauga. The subject property is zoned E2-16 "Employment". The owner applied to the Committee of Adjustment (the COA) for a minor variance to permit aesthetic services accessory to the fitness centre and medical office within the subject building. The COA refused the application since By-law 225-2007, as amended, has no provisions for these accessory uses and that the requested variance was not minor in nature.

**THE PLANNING EVIDENCE**

The City did not appear at the hearing and no one attended in opposition.

Mr. D. Blyleven provided expert and uncontraverted planning evidence in support of the proposal. The planner testified that the proposed use conforms to the land use policies of the Mississauga Official Plan pertaining to the “Business Employment” designation. He also was of the opinion that the application maintains the general intent and purpose of the Zoning By-law. He also explained that the present use of the Oscar Day Spa constitutes a very specific, hybrid type of recreational establishment/medical office and, therefore conforms to the general intent of the By-law.

Mr. Blyleven explained that the applicant/appellant is seeking relief from the provisions of the Zoning By-law in two respects:

1. Recognition that the use constitutes a “recreational establishment/medical office”.
2. Allocation of 6% of the gross floor area to “accessory, personal services” use (Exhibit 1, p.8). The Mississauga Official Plan and By-law permit up to 20%.

In his opinion the variances sought are minor in nature, desirable for the appropriate development of the property and meet the four tests set out in Section 45(1) of the *Planning Act*.

## **DECISION AND ORDER**

The Board is well satisfied that the requirements of the *Planning Act* have been met. The appeal is allowed and the requested variances to Zoning By-law 0225-2007 are authorized.

So Orders the Board.

“G. C. O’Connor”

G. C. O’CONNOR  
MEMBER