

ISSUE DATE:

Jul. 24, 2008



PL080474

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 and Appellant: 2094404 Ontario Ltd.
Subject: Minor Variance
Property Address/Description: 1135 and 1137 Fewster Drive
Municipality: City of Mississauga
OMB Case No.: PL080474
OMB File No.: PL080474
Municipal File No.: A-015/08

APPEARANCES:

Parties

2094404 Ontario Ltd.

Counsel

Joseph Romero

ORAL DECISION BY R. ROSSI DELIVERED ON July 23, 2008 AND ORDER OF THE BOARD

The Applicant seeks two variances from City of Mississauga Zoning By-law 0225-2007 to permit the establishment of a motor vehicle repair facility at 1135 and 1137 Fewster Drive. The Applicant seeks the following variances:

1. A lot frontage of 30.57 metres whereas By-law 0225-2007, as amended, requires a minimum lot frontage of 48 metres in this instance; and
2. To provide a total of 28 parking spaces on site whereas By-law 0225-2007, as amended, requires a minimum of 40 parking spaces to be provided on site in this instance.

A third variance to permit motor vehicle sales was withdrawn some time ago. The City attended the hearing to confirm that the third variance was indeed withdrawn. As the Applicant's agent confirmed this was the case, the City said it would not oppose the two minor variances and withdrew from the hearing.

The Applicant has already received a building permit for the automotive body shop (1135 Fewster Drive) but the second permit is required for the repair shop (1137 Fewster Drive). The company has been operating on the site under this owner since mid-2006. The permit was refused because of the proposed reduced lot frontage and the provision of fewer parking spaces than called for in the By-law as well as opposition from an adjacent commercial neighbour.

Mr. Romero demonstrated persuasively to the Board that the four tests for a minor variance are met in this application. He also demonstrated the minor nature of the frontage reduction and the practical reality that although he has space for 28 cars, the supply exceeds the customer usage. Further, customers' vehicles are actually stored behind the building in a secure area, thereby creating more than enough free space for on-site parking.

Mr. Romero also explained that the reason for the opposition to the Applicant's request is that the adjacent owner has enjoyed unimpeded access over the Applicant's lands to manoeuvre his large 18-wheel tractor-trailer vehicles. The Applicant has suffered several losses with the theft of auto parts from his property, prompting him to install a security fence around the property's perimeter. That fence made it more difficult for the neighbour to bring the transport trucks across the Applicant's property, even though the Applicant, in an effort to appease his neighbour, offered to construct a gate to allow his neighbour continued use. The neighbour refused and objected at the Committee of Adjustment hearing, but the neighbour did not appear at today's hearing.

The only evidence before the Board is that of Mr. Romero; that the four tests for a minor variance are met and the related fact that the City is not opposing the Board's authorization of these minor variances.

Accordingly, having considered the evidence before it, the Board determines that the four tests for a minor variance are met as outlined in Section 45(1) of the Planning Act and the Board authorizes the minor variances.

The Board so Orders.

"R. Rossi"

R. ROSSI
MEMBER