

ISSUE DATE:

May 21, 2009



PL090285

Ontario
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:	Muhammad Shakeel
Subject:	Minor Variance
Variance from By-law No.:	0225-2007
Property Address/Description:	1159 Charminster Crescent
Municipality:	City of Mississauga
OMB Case No.:	PL090285
OMB File No.:	PL090285
Municipal No.	A-041/09

APPEARANCES:

Parties

Muhammad Shakeel

Participant

Dorothy Fernando

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. de P. SEABORN
ON MAY 19, 2009 AND ORDER OF THE BOARD**

Mr. Shakeel, the Applicant and the Appellant, is the owner of a single-family dwelling situated at 1159 Charminster Crescent in the City of Mississauga.

Shortly after purchasing his home Mr. Shakeel installed a basement entrance stairwell in the west side yard of the dwelling. The contractor who undertook the work did not advise Mr. Shakeel that a building permit was required. After the work was finished the City issued a notice indicating that the entrance fails to comply with the applicable Zoning By-law. Mr. Shakeel made an application to the Committee of Adjustment, as follows:

To permit the construction of a basement entrance stairwell in the westerly side yard whereas By-law 0225-2007 states that stairs,

stairwells or retaining walls, to facilitate an entrance located below grade at any point, or to facilitate a direct entrance to the basement, shall not be permitted in interior side yards.

The Committee of Adjustment denied the application, indicating that it was concerned that the purpose of the side entrance is really to provide access to a separate apartment.

In support of the appeal, Mr. Shakeel provided evidence, which included a letter from the City confirming there was no accessory dwelling unit located on the property (Exhibit 1, Attachment 4). In addition, Mr. Shakeel provided pictures of the entrance, and a detailed argument as to why the variance sought is in fact minor. Mr. Shakeel also provided a letter of support signed by many of his neighbours. One of those neighbours, Ms. Fernando, attended the hearing as a Participant and indicated her support for the application.

No one appeared from the City. There was no evidence provided to the Board suggesting that there is impact from the relief sought. Accordingly, based on the evidence provided and the submissions of Mr. Shakeel, including his well-organized presentation (Exhibit 2), the decision of the Board is to authorize a variance from By-law 0225-2007 to permit the basement entrance stairwell in the westerly side yard. In arriving at this decision, the Board has considered the requirements of section 45(1) of the *Planning Act* and finds that the variance sought meet the four tests. The appeal is accordingly allowed.

This is the order of the Board.

“J. de P. Seaborn”

J. de P. SEABORN
VICE CHAIR