

ISSUE DATE:

**Apr. 09, 2010**



PL090957

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:	Jinnia Batista
Subject:	Minor Variance
Variance from By-law No.:	0225-2007
Property Address/Description:	7166 Tottington Drive
Municipality:	City of Mississauga
OMB Case No.:	PL090957
OMB File No.:	PL090957
Municipal No.:	A310/09

**APPEARANCES:**

**Parties**

Jinnia Batista

No Appearance

**DECISION DELIVERED BY J.P. ATCHESON AND ORDER OF THE BOARD**

Jinnia Batista sought a minor variance from Zoning By-law No. 0225-2007 of the City of Mississauga to permit an existing basement entrance stairwell to remain within an existing side yard of 0.86 metres for a property known municipally as 7166 Tottington Drive. The minimum side yard required by the By-law is 1.2 metres. In addition, the By-law does not permit stairs, stairwells or retaining walls to facilitate an entrance located below grade or to facilitate a direct entrance only to the basement in the front, interior side, exterior side, or rear yards.

The Committee of Adjustment for the City of Mississauga (file A310/09) did not authorize the requested variances. Ms Batista appealed the matter to this Board. The Board, in a decision dated February 24, 2010, adjourned the matter to this hearing date. The date was peremptory.

The Board waited 30 minutes from the commencement time for this hearing. Neither the Appellant, nor her Counsel/Agent, or any other individuals were present. The Board noted that the hearing room scheduled for this hearing, being Classroom No. Four, Mississauga Central Library was somewhat different than the venue established in the Board's decision dated February 24, 2010, being the Municipal Hearing Room, City Hall, Mississauga. The Board on its own initiative went to the Municipal Hearing Room and determined that no one was or had been present at this location for the purpose of this hearing.

Board hearings are expensive and important matters and there is an obligation on Appellant(s) to appear and to be ready to have their case heard when scheduled or, in the alternative, to seek an adjournment in a timely manner as prescribed the *Board's Rules of Practice and Procedure*. This was not done.

The Board concludes from the actions of the Appellant that she has abandoned her appeal of this matter.

The Board Orders that the appeal is dismissed, the variances are not authorized, and the file is to be closed.

So Orders the Board.

“J.P. Atcheson”

J. P. ATCHESON  
MEMBER