

ISSUE DATE:

March 24, 2010



PL091033

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

Appellant: Jose Tavares
Applicant: Tony Checchia & Cettina Zotti
Subject: Minor Variance
Variance from By-law No.: 0225-2007
Property Address/Description: 2342 Camilla Road
Municipality: City of Mississauga
OMB Case No.: PL091033
OMB File No.: PL091033
Municipal No.: A-347/09

APPEARANCES:

Parties

Agent

Jose Tavares

Tony Checchia and Cettina Zotti

A. Zotti

**MEMORANDUM OF ORAL DECISION DELIVERED BY S. J. SUTHERLAND
ON FEBRUARY 16, 2010 AND ORDER OF THE BOARD**

Tony Checchia and Cettina Zotti (Applicants) applied to the City of Mississauga (City) under s.45 of the *Planning Act* to permit an existing driveway to remain at their residence, 2342 Camilla Road (Subject Property). The Committee of Adjustment (COA) approved an application for two minor variances for this purpose:

1. A setback of 0m to the northerly property line, where a minimum setback of 0.61m is required.
2. A driveway width of 7.82m, where a maximum width of 7.08m is required.

Jose Tavares (Appellant), who lives next door to the Applicants, appealed the COA decision under s. 45(12) of the *Planning Act*. His reasons included:

1. Hinders ability to develop.
2. Does not allow for clearance for fence between properties.
3. Property does not have 2ft setback.

Neither Party was represented by counsel. A. Zotti acted as agent for the Applicants, and Margaret Taggart and Maria Chartrand gave evidence on behalf of their father, the Appellant, Mr. Tavares. No expert witnesses were called, and no land use planning evidence presented.

In order to be granted a minor variance must meet the four “tests” of s. 45(1) of the *Planning Act*. It must:

1. be desirable for the appropriate development or use of the land;
2. maintain the general intent and purpose of the by-law (ZBL);
3. maintain the general intent and purpose of the official plan (OP);
4. be minor.

In this instance, and in the absence of any land use planning evidence, the Board finds that the driveway is desirable for the appropriate development or use of the land. The Subject Property is designated Residential Low Density in the OP and R3 in ZBL 0225-2007, both of which allow for driveways. The existing driveway is .74m, or 2.43ft, wider than what is allowed by the ZBL. The Appellant maintains that this hinders his ability to develop his property should he wish to sever his lot in order to allow one of his daughters to build a residence. He does not show how the driveway does that. He also maintains that the .74m difference hinders snow clearance, but, again, does not demonstrate how. He says the driveway drains onto his property, but has no evidence to substantiate this claim. He says the .74m difference does not allow for clearance for a fence between the properties, yet Exhibits 1-4 (photos) show an existing fence.

Mr. Zotti says there are no drainage issues because the driveway slopes to the street and not onto the Appellant's property. Exhibits 1-4 would appear to indicate that this is the case. The general intent and purpose of the ZBL with regard to maximum driveway width is to, among other things, maximize opportunities for front yard landscaping. These are large, wide lots reportedly well-landscaped. The Board finds that the general intent of both the ZBL and the OP has been met. The requested variances would, in the Board's view, have minimal, if any impact on the Appellant's property, or on the neighbourhood generally. The Board finds that the variances are minor.

The Board Orders that the appeal is dismissed and the variances are authorized.

So Orders the Board.

"S. J. Sutherland"

S. J. SUTHERLAND
MEMBER