

ISSUE DATE:

DEC. 17, 2010



PL100906

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: George Ploder
Applicants: Kap and Romelia Dilawri
Subject: Minor Variance
Variance from By-law No.: 0225-2007
Property Address/Description: 2333 Doulton Drive
Municipality: City of Mississauga
Municipal File No.: A-286/10
OMB Case No.: PL100906
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APPEARANCES:

Parties

Counsel*/Agent

George Ploder

Kap and Romelia Dilawri

City of Mississauga

J. Jelic

M. Sparrow*

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. CHEE-HING
ON DECEMBER 10, 2010 AND ORDER OF THE BOARD**

This matter concerns a minor variance application by Kap and Romelia Dilawri (the "Applicants") to permit the construction of a pool cabana (accessory structure) in the rear of the subject property located at 2333 Doulton Drive in the City of Mississauga (the "City"). Minor variances to Zoning By-law 0225-2007 (ZBL) for floor area and height of the accessory structure were required. The application was reviewed and approved by the City's Committee of Adjustment and was subsequently appealed to this Board by Mr. George Ploder who is the abutting neighbour at 2373 Doulton Drive.

The Board was advised that a settlement had been reached among the Parties. This settlement hearing was held by way of telephone conferencing ("TCC").

Professional planner Mr. Mark Rogers, filed a sworn Affidavit with the Board on the Minutes of Settlement and requested variances. He provided oral testimony at the TCC giving his planning opinion on the requested variances and settlement. Mr. Rogers was retained by the Appellant and his sworn Affidavit is found in Exhibit 1 and the executed Minutes of Settlement are found in Exhibit 2. The Board notes that the City is a signatory to the Minutes of Settlement.

The Amended Variances:

The variances sought were amended to reflect the settlement reached between the Applicants and Appellant. The proposed height of the cabana was reduced to 4.72 metres. The amended variances are as follows:

- 1, A floor area of 74.32m² whereas ZBL 0225-2007 permits a maximum floor area of 10.0m² for an accessory structure; and
2. A height of 4.72m whereas ZBL 0225-2007 permits a maximum height of 3.00m for an accessory structure.

Pursuant to subsections 45(18.1) and (18.1.1) of the *Planning Act (Act)*, the Board determined that the amendment to Variance No. 2 is minor and no further notice is required.

Mr. Rogers testified orally that the neighbourhood consists of large prestige homes on large lots. The lot area of the subject property is 3063m² (32970ft²). The proposed pool cabana in his opinion would not be out of scale with the Applicant's home and would be consistent with similar accessory structures located within this neighbourhood. He testified that his client's concern was only with the height of the cabana and his view of it. His concern has been addressed by the Applicant agreeing to reduce the height of the structure and planting three, fifteen foot spruce trees to provide appropriate screening. The Board was advised that the ZBL height and floor area performance standards for accessory structures applied to all lots regardless of lot size. It was his opinion that given the large lots and homes in this neighbourhood, an accessory structure meeting the dimensions prescribed in the ZBL would be out of scale with the sizes of the homes and lots. It is his professional planning opinion that the two variances meet the four statutory tests found in subsection 45(1) of the *Act* in that they

maintain the general intent of the Official Plan and the ZBL, they are appropriate for the development of the land, they are minor and present no adverse impacts to the immediate area.

The Board accepts the planning evidence of Mr. Rogers and finds that the amended variances as modified by the Minutes of Settlement, meet the four statutory tests found in subsection 45(1) of *Act*, both individually and cumulatively. Specifically, the variances maintain the general intent of the Official Plan and the ZBL, they are appropriate for the development of the land, they are minor and present no adverse impacts to the immediate area. The Board also finds the Minutes of Settlement to be acceptable.

Therefore, the BOARD ORDERS that the appeal is allowed and the amended variances to ZBL 0225-2007 are authorized subject to:

1. The executed Minutes of Settlement found in Exhibit 1; and
2. The plans and specifications reviewed and approved by the City's Committee of Adjustment.

So Orders the Board.

"J. Chee-Hing"

J. CHEE-HING
MEMBER