

ISSUE DATE:

Feb. 18, 2011



PL101308

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/ Applicant: Julia DiMichele
Subject: Minor Variance
Variance from By-law No.: 0225-2007
Property Address/Description: 2246 Camilla Road
Municipality: City of Mississauga
Municipal File No.: A-405/10
OMB Case No.: PL101308
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APPEARANCES:

Parties

Counsel

Shepherd Montessori P.C.S. (Julia DiMichele) Michael Weir

**MEMORANDUM OF ORAL DECISION DELIVERED BY A. CHRISTOU
ON FEBRUARY 10, 2011 AND ORDER OF THE BOARD**

Julia DiMichele appealed under section 45(12) of the *Planning Act*, the decision of the City of Mississauga Committee of Adjustment (Committee) that refused the application of F & F Construction Ltd. for relief from the provisions of Zoning By-law No. 0225-2007, at 2246 Camilla Road.

The proponent requested the following Variance:

- To allow a setback of 0.00 m from the parking area to a residential lot; whereas a minimum setback of 4.5 m is required from a parking area to a residential lot.

The Board had previously varied the side yard on the south side of this property from 4.5 m to 3.0 m (PL100401) in August 2010. However, this was in error as the City had revised the variance to 0.00 m, but inadvertently the drawing that was presented to

the Board and was attached to the decision, had not been changed to the revised set back. Regrettably, this has lead to an unfortunate delay for the operator, as the Ministry did not issue the licence for the day care.

This hearing was to correct this error.

Dirk Blyleven, a qualified land use planner provided uncontradicted land use planning evidence. The City did not appear. Roger Cootes, President of the Cooksville Mundon Park Homeowners Organization spoke in opposition. Their concerns relate to traffic on Camilla Road; and questioned the variance process and the lack of clarity in the City's documents regarding the proposed day care use.

Mr. Blyleven testified that as part of her lease, Ms DiMichele also leases the adjoining property to the south, which is vacant undeveloped. Although it is possible to use this property for parking or for cars to turn around, there is sufficient space on the subject property containing the parking for four cars and a turning area. However, the abutting land may be used from time to time for overflow parking, as parking on Camilla Road is restricted.

Mr. Blyleven situated the property on the west side of Camilla Road, west of Highway 10 and south of the Queensway East, with Camilla Road connecting it to the North service Road. Camilla Drive is generally a residential street, with commercial uses in the vicinity of the Queensway, a public school across the subject property and a large park/conservation area/open space immediately behind. There is a crosswalk to the public school immediately abutting the property.

Mr. Blyleven testified that the Official Plan (OP) designates the area *Residential Low Density 1* and permits detached, semi-detached and duplex dwelling at a density of 17 units per hectare. The OP also permits *Community Uses, schools and day care centres*.

The site is zoned Residential R-3, which permits detached dwellings with 15 m frontage, private schools and day care operation as per definition on page 16 of Exhibit 1, Document Book. Mr. Blyleven is satisfied that the property and the use comply with the By-law, except for the setback regulation that is before the Board.

In addressing the criteria for variances in the *Planning Act*, Mr. Blyleven opined that the proposal conforms to the Official Plan, since schools and day nurseries are permitted uses and would maintain the general intent and purpose of the By-law. However, the variance is required since the parking space would be closer to the south side property line. In his opinion the variance meets the four criteria in the *Planning Act* and is minor and appropriate development and would be of benefit to the community.

Mr. Cootes commented that the City has refused this application several times and in his view, using the site and the dwelling structure for school or day care is not appropriate. He would like the Board to refuse this application, as it has insufficient space for the drop-off and pick-up of children. However, if the Board were to approve it, he requested that when the school is to have parent meetings in the evening, they should notify the neighbours.

Mr. Weir advised the Board that the neighbour to the north has spoken with Ms DiMichele and they no longer want to have the two trees referred to in the Board's previous decision. He asked that the Board amend the decision accordingly.

Disposition

The Board having carefully considered the evidence presented in support and in opposition, is satisfied that the proposed variance for 0.00 m setback for the one parking space, as originally identified by the City, represents a correction to a previous variance that was inadvertently misstated.

The property can accommodate four cars, one of which would meet the Handicapped space dimensions, plus a clear turning space, so that cars do not have to back out of the property. There is also sufficient turning space on an abutting vacant property the school proprietor is also renting, which can technically alleviate any community concerns.

The Board is satisfied the variance meets the criteria in the *Planning Act* and will allow the appeal subject to removing the previous condition on tree planting in the front yard, as it is not required by the neighbour.

THE BOARD ORDERS that the appeal is allowed and the variance to By-law 0225-2007 of the City of Mississauga to allow a setback of 0.00 m from the parking area to a residential lot, is authorised subject to the following condition:

- No trees are to be planted in the front yard north of the parking area.

The Board may be spoken to if any difficulties arise.

The Board so Orders.

“A. Christou”

A. CHRISTOU
MEMBER