

ISSUE DATE:

May 17, 2011



PL101389

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: Diane Avery
Subject: Minor Variance
Variance from By-law No.: 7693
Property Address/Description: 99 Burris Street
Municipality: City of Hamilton
Municipal File No.: A-249/10
OMB Case No.: PL101389
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APPEARANCES:

Parties ("Parties")

City of Hamilton ("City")

Counsel

R. Doumani and A. Skinner

**MEMORDUM OF ORAL DECISION DELIVERED BY STEVEN STEFANKO ON
MAY 02, 2011 AND ORDER OF THE BOARD**

[1] Ms. Avery, the current owner of 99 Burris Street in the City of Hamilton has appealed the decision of the Committee of Adjustment which denied her request for two variances for her property. The variances would permit a one-storey addition to the rear of the existing house at 99 Burris.

[2] Prior to the commencement of this hearing the City brought a motion seeking certain information from Ms. Avery. This information was specifically set out in paragraph 1(a) of the Notice of Motion ("Motion") dated April 27, 2011.

[3] Ms. Avery's only response to the relief sought was that it is irrelevant for purposes of the use she carries on at 99 Burris.

[4] Based on the affidavits of Eileen Costello, John Scarpelli and Glyn Wide, filed in support of the Motion, I am satisfied that the City's request is reasonable. Receipt of

the requested information will enable the City to make a more informed decision in relation to Ms. Avery's appeal.

[5] Accordingly, Ms. Avery shall provide the City, on or before May 16, 2011, with an affidavit ("Affidavit") that includes the following information:

- (i) a description of Ms. Avery's activities on and use of the property located at 99 Burris Street ("Property");
- (ii) a building permit for the second dwelling unit on the Property;
- (iii) any past agreements with the entity known as White Rabbit Treatment Homes and/or White Rabbit Child Care Centres Ltd.;
- (iv) the number of staff employed or otherwise retained by Ms. Avery;
- (v) the hours and duties of such staff;
- (vi) the average length of stay of the adolescents who inhabit the Property related to foster care and/or residential care; and
- (vii) any past or current service agreement or related documents between Ms. Avery and any supervisory agency or organization.

[6] Following receipt of the Affidavit an oral follow up examination of Ms. Avery may be conducted, if required by the City.

[7] Following receipt of the Affidavit and completion of any examination, the Parties shall contact the Board to arrange a new date and hearing time for Ms. Avery's appeal to be heard. Such new date and time shall be satisfactory to the Parties and the Board.

[8] I am not seized and no further notice is required.

[9] It is so Ordered.

"Steven Stefanko"

STEVEN STEFANKO
VICE-CHAIR