

ISSUE DATE:

Jan. 09, 2013



PL120620

Ontario
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: Joe Carneiro
Subject: Minor Variance
Variance from By-law No.: 0225-2007
Property Address/Description: 35 Eaglewood Blvd.
Municipality: City of Mississauga
Municipal File No.: A-123/12
OMB Case No.: PL120620
OMB File No.: PL120620

IN THE MATTER OF subsection 53(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Joe Carneiro
Subject: Severance
Property Address/Description: 35 Eaglewood Blvd.
Municipality: City of Mississauga
Municipal File No.: B-019/12
OMB Case No.: PL120620
OMB File No.: PL120621

APPEARANCES:

Parties

Joe Carneiro

DECISION DELIVERED BY SUSAN de AVELLAR SCHILLER AND ORDER OF THE BOARD

[1] Joe Carneiro ("Applicant") wishes to sever the property at 35 Eaglewood Boulevard in the City of Mississauga. His intention is to build a house on the proposed new lot. He has brought an application for consent to convey and an application for a minor variance for the proposed new lot. The retained lot will maintain the existing dwelling and requires no variance to the zoning by-law. The proposed new lot requires

a single variance and that is to the permitted lot area. The proposed new lot will have a lot area of 457.35 sq. m. where the by-law requires a minimum of lot area of 550 sq m.

[2] The subject site is located north of the rail way, within walking distance of the Port Credit GO station. Eaglewood Boulevard runs east from Hurontario Street. The subject site is on the northwest corner of Eaglewood Boulevard and Argreen Road. Argreen Road meets Eaglewood Boulevard as a T intersection and runs north from Eaglewood Boulevard.

[3] The proposed new lot is on the north side of the existing dwelling and would front on to Argreen Road. A condominium development is located four lots north of the subject site on Argreen Road.

[4] The City of Mississauga did not appear in these proceedings.

[5] The Credit Valley Conservation Authority was circulated on the applications and did not appear in these proceedings.

[6] Mr. Carneiro was unrepresented in these proceedings. He called Michael Manett, a full member of the Canadian Institute of Planners and a Registered Professional Planner in Ontario qualified to give the Board expert opinion evidence on the two applications. Mr. Carneiro did not otherwise address the Board.

[7] Some area residents were in attendance but none wished to become parties to these proceedings. Instead, three area residents addressed the Board as participants: Eddie Stoncius, resident on the south side of Eaglewood Boulevard; Paul Schmidt, resident just north of the subject site on the east side of Argreen Road; and Mike Goral, resident on the west side of Argreen Road immediately adjacent to the subject site on the north side.

[8] The existing dwelling now has a generous front yard facing Eaglewood Boulevard. The new lot would be created out of what is now the rear yard of the existing dwelling, adjacent to the Mr. Goral's house.

[9] Mr. Stoncius is concerned that the current, unfenced front yard will become the principal amenity space for the existing dwelling. He suggested that residents will want to fence this area for privacy and that such fencing may impact sight lines at this T

intersection. Mr. Stoncius also noted that Eaglewood Boulevard is a main route for school buses and carries what he described as significant pedestrian and vehicular traffic. Vehicular sight lines and the safety of children and other pedestrians were at the core of Mr. Stoncius's opposition to these applications.

[10] Mr. Schmidt lives diagonally across from the subject site. He testified that the proposed new lot and house would be in plain view from his living room. Mr. Schmidt spoke of the importance of the existing dwelling and grounds as helping to define the character of the neighbourhood. In his view, the existing dwelling represents part of the heritage of the area although he acknowledges it has no formal heritage designation. Placing a new house between the existing dwelling and that of Mr. Goral would, to Mr. Schmidt, negatively alter the character of the area.

[11] The area of the proposed new lot is nicely treed. Mr. Schmidt is also concerned some of the large, mature trees may be removed to accommodate construction of the new dwelling.

[12] Mr. Goral owns the bungalow adjacent to the subject site to the north. Mr. Carneiro intends to build a new two-storey dwelling. Mr. Goral has a chimney at the side of his home that is adjacent to the subject site. He is concerned that a new two-storey house will result in his chimney being considered non-compliant with the Ontario Building Code.

[13] Argreen Road curves to the northeast as it moves north from Eaglewood Boulevard. This results in some staggering of the placement of houses as one moves up Argreen Road. Mr. Goral is concerned that the placement of the houses on their respective lots produces additional space and privacy for neighbours which he fears will be lost with the proposed new dwelling.

[14] Mr. Manett testified that the design of the proposed new house is subject to site plan control. The concerns of Mr. Goral and Mr. Schmidt appear to relate to questions of the design of the proposed new dwelling, the manner in which it is to be sited on the proposed new lot, and the buffering and landscaping particularly the question of the retention of large, mature trees.

[15] There is no site plan before the Board. Although site plan matters are between a proponent and the municipality, there is always room for informal discussion and consultation between neighbours to see if a mutually acceptable proposal can be identified. The Board finds that the concerns of Messrs. Goral and Schmidt are matters that may be addressed by the municipality in the course of its site plan review and are not matters that address the specific questions of the creation of a new lot and the single variance sought to the permitted lot area.

[16] On the question of vehicular sight lines and pedestrian safety, the Board finds that these are questions of compliance with municipal requirements. Any proposed fencing would have to meet municipal requirements regardless of whether the fencing was proposed as a result of a proposed new lot and dwelling or simply sought by the current owners of the existing lot as now configured.

[17] The subject site is in a smaller neighbourhood within the Mineola district. The neighbourhood is characterized by a variety of dwellings that are a mix of age and type. Although the lot area of the proposed new lot is slightly smaller than the by-law requirement, there is no variance being sought to the by-law requirement for frontage. The proposed new dwelling is for a single family home within an immediate area of single family homes.

[18] The Board considered the matters set out in s. 51(24) of the *Planning Act*, R.S.O. 1990, c. P.13, which are criteria the Board must consider in applications for consent to convey. The Board also considered both applications in the context of the requirements of the Provincial Policy Statement ("PPS") and the provincial Growth Plan for the Greater Horseshoe ("GGH").

[19] The proposed new lot is regular in shape, will be integrated into existing municipal services and facilities, fronts on an existing municipal road and presents no issues related to flood control or the use of resources.

[20] The proposed new lot with its proposed new dwelling is within an existing, fully serviced settlement area and represents modest intensification and infilling. The site is well served by transit on Hurontario Street and is within walking distance of the Port Credit GO station.

[21] The Board finds that the proposed new lot satisfies the applicable criteria in the Act.

[22] Mr. Manett noted the five conditions for the proposed consent which were recommended by the City of Mississauga Planning Department in the event that provisional consent was given. These conditions are set out in Appendix 1 to Exhibit 3 as filed in these proceedings. Having regard to s. 51(25) of the Act the Board is of the opinion that the proposed conditions for consent are reasonable and appropriate.

[23] The Board further finds that the proposed new lot and the requested variance are intended to facilitate the development of a new dwelling that is consistent with the PPS and conforms to the GGH.

[24] The City of Mississauga Official Plan ("OP") contains policies for the Mineola district. These policies contemplate infill development and intensification that is compatible with the existing residential area and maintains the character of the neighbourhood. The Board finds that introducing a new single family home in an immediate area of single family homes and on a lot that meets the by-law requirement for frontage is compatible with the character of the existing residential area.

[25] Having regard to the requirements of s. 45(1) of the Act, the Board finds that the single proposed variance maintains the general intent and purpose of the OP and of the zoning by-law, is desirable for the appropriate use of the land and is minor.

ORDER

[26] The Board orders that:

1. The variance sought for a new lot area of 457.35 sq m is authorized;
2. Provisional consent for the creation of a new lot measuring 30.48 m by 15 m is given subject to the conditions found in Appendix 1 of Exhibit 3 as filed in these proceedings.

"Susan de Avellar Schiller"

SUSAN de AVELLAR SCHILLER
VICE CHAIR