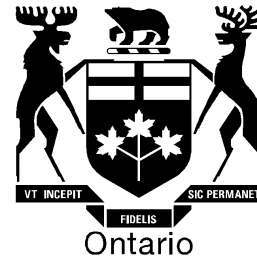


Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: November 10, 2014

CASE NO(S): PL140464

PROCEEDING COMMENCE UNDER subsection 45(12) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended

Appellant:	John Zoppas
Applicant:	Talal Issawi
Subject:	Minor Variance
Variance from By-law No.:	0225-2007
Property Address/Description:	844 Meadow Wood Road
Municipality:	City of Mississauga
Municipal File No.:	A 133/14
OMB Case No.:	PL140464
OMB File No.:	PL140464

Heard: October 14, 2014 in Mississauga, Ontario

APPEARANCES:

Parties

Counsel/Representative*

Talal Issawi

G. Swinkin

City of Mississauga

M. Taggart

John Zoppas

Self-represented*

**MEMORANDUM OF ORAL DECISION DELIVERED BY JASON CHEE-HING
AND ORDER OF THE BOARD**

[1] John Zoppas (“Appellant”) had appealed the decision of the City of Mississauga (“City”) Committee of Adjustment (“COA”) to grant multiple minor variances to Zoning By-law No. (“ZBL”) 0225-2007 to facilitate the construction of a new two storey dwelling at 844 Meadow Wood Road. Talal Issawi (“Applicant” and “Proponent”) proposed to demolish the existing dwelling and sought six minor variances to permit the construction

of the new two storey dwelling.

[2] At the onset of the hearing, the parties had advised that they had reached a settlement. The Board subsequently converted this hearing to a settlement hearing and on consent of the parties, David Brown, a qualified planner for the Applicant gave planning evidence in support of the minor variances and the settlement.

[3] The minor variances before the Board had been revised at the COA meeting and further revised as a result of the settlement agreement. Pursuant to s. 45(18.1), (18.1.1) the Board found the amendment to the variances to be minor and that no further notice was required. The amended minor variances now before the Board are as follows:

1. a dwelling height of 13.46 metres ("m") (44.16 feet ("ft.)) measured from average grade; whereas By-law No. 0225-2007, as amended, permits a maximum height of 9.50 m (31.16 ft.) in this instance;
2. a height to the underside of eaves of 9.58 m (31.43ft.) measured from average grade; whereas By-law No. 0225-2007, as amended, permits a maximum height to the underside of eaves of 6.40 m (20.99 ft.) in this instance;
3. a driveway width of 11.21 m (36.77 ft.); whereas By-law No. 0225-2007, as amended, permits a maximum driveway width of 8.50 m (27.88 ft.) and 10.50 m (34.44 ft.) within 6.00 m (19.68 ft.) of the front garage face;
4. to construct an interlock paver walkway attached to the driveway having a width of 4.90 m (16.07 ft.) where the walkway intersects with a driveway and being the second walkway that intersects with the driveway; whereas By-law No. 0225-2007, as amended, permits one walkway to intersect with a driveway having a maximum width of 1.50 m (4.92 ft.);

5. to permit the existing accessory structure (shed) located at the rear of the property to remain having a height of 5.24 m (17.19 ft.) measured from established grade and a floor area of 20.87 square metres ("sq m") (224.65 square feet ("sq. ft.)); whereas By-law No. 0225-2007, as amended, permits an accessory structure to have a maximum height of 3.00 m (9.84 ft.) and a maximum floor area of 10.00 sq m (107.64 sq. ft.); and,
6. to permit a second accessory structure (outdoor fireplace) having a height of 8.21 m (26.93 ft.); whereas By-law No. 0225-2007, as amended, permits one accessory structure having a maximum height of 3.00 m (9.84 ft.) in this instance.

[4] Mr. Brown testified that as a result of the settlement with the City and the Appellant, that variance No. 1 which dealt with dwelling height had been reduced from 14.15 m to 13.46 m, and variance No. 2, which dealt with the height to the underside of the eaves, has been reduced from 9.88 m to 9.58 m.

[5] He testified that the site is of significant size at 1.54 hectares and is the largest lot in the immediate area. A significant part of the site is located within a floodplain however the proposed dwelling will be located within the developable portion of the property. The Toronto Region Conservation Authority had no concerns with the proposed development as shown in the site plan that was submitted to the City (Exhibit 1, Tab 6). The proposal is subject to site plan review and approval and the City now had no concerns with the revised minor variances.

[6] Mr. Brown testified that due to the undulating topography of the site that the height measured from the average grade of the property as required by the ZBL does not properly reflect the height of the dwelling. It was his opinion that height measured from the established grade was a more accurate indicator of the relative height of the

proposed structure. Nonetheless, the variance to the proposed height to the top of the roof peak was reduced from 14.15 m to 13.46 m as part of the settlement agreement with the City and the Appellant.

[7] He described the surrounding area as one of large lots with an eclectic mix of homes. The proposed home is of significant size with a gross floor area of 6354 sq. ft. It is his opinion that the proposed two storey dwelling will be compatible with the existing physical character of the area.

[8] Mr. Brown gave the opinion that the six variances individually and cumulatively satisfied the four statutory tests found in s. 45(1) of the *Planning Act* ("Act") in that they maintained the general intent of the Official Plan and the ZBL, they were desirable for the appropriate development of the land and they were minor.

[9] Although the Appellant was part of the settlement agreement, he maintained that the interior space within the roof structure could in the future be converted to a third floor. He asked that the Board impose a condition that the attic space was not to be converted into habitable space. John Pegram, a participant in these proceedings was concerned about the height of the proposed home and it was his opinion that the home had the appearance of a three storey home and could be converted in the future as such. He wanted the dormers in the roof removed.

[10] Marcia Taggart, solicitor for the City submitted that the site plan application and the building elevation drawings clearly indicated that the proposal is for a two storey dwelling and the City had no concerns in this regard. Mr. Brown testified that the ZBL required a minimum side yard setback requirement of 3.0 m for a three storey dwelling. The proposed dwelling will have a side yard setback of 2.4 m. He testified that existing performance standards of the ZBL would not allow for a third storey to be retrofitted in the proposed two storey dwelling. He testified that the dormers in the roof were for aesthetic reasons and were sealed. The Board noted that the City did not share the

concern of the Appellant or the participant. The Board concluded that although it had the jurisdiction to impose conditions when considering a minor variance application it did not need to impose such a condition given the evidence of Mr. Brown and the submissions of the City.

ORDER

[11] Based on the uncontested evidence of the planner, the Board found the revised variances met the four statutory tests contained in s. 45.1 of the Act. The Board allowed the appeal in part and granted the revised variances as amended by the settlement.

“Jason Chee-Hing”

JASON CHEE-HING
MEMBER

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario

Website: www.elfto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248