

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: September 22, 2015

CASE NO(S): PL150412

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

Appellant:	Helen & Lou Cozzarin
Applicant:	Rosina Lau
Subject:	Minor Variance
Variance from By-law No.:	6593
Property Address/Description:	42 Tisdale Street South
Municipality:	City of Hamilton
Municipal File No.:	A-44/15
OMB Case No.:	PL150412
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OMB Case Name:	Cozzarin v. Hamilton (City)

Heard: September 16, 2015 in Hamilton, Ontario

APPEARANCES:

Parties

Representative

Helen and Lou Cozzarin

Richard Michal

Rosina Lau

Self-represented

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. de P. SEABORN ON
SEPTEMBER 16, 2015 AND ORDER OF THE BOARD**

[1] The matter before the Board is an appeal by Helen and Lou Cozzarin ("Appellants") from a decision made by the Committee of Adjustment for the City of Hamilton ("Committee"). The Committee authorized four variances requested by Rosina Lau ("Applicant"). At the commencement of the hearing, the parties confirmed that the

appeal is resolved on the basis that one of the previously authorized variances is withdrawn by the Applicant. The Appellants have no objection to the authorization of the remaining three variances.

[2] The Applicant is proposing to convert an existing residential dwelling into a two family dwelling. In order to convert the use, four variances were requested. The second variance, which sought a minimum 3 metre maneuvering space for one of the required parking spaces, is withdrawn. The Applicant has been able to amend her plans such that she can now comply with the maneuvering requirement as set out in the applicable zoning. On this basis, the remaining three variances (identified as variances 1, 3 and 4 in the decision of the Committee) are no longer opposed by the Appellants.

[3] In light of the agreement reached between the parties and based on their respective submissions, I find that the variances sought meet the four tests set out in s. 45(1) of the *Planning Act*. Individually and collectively they are minor, desirable for the appropriate development of the land and building, and they maintain the purpose and general intent of both the zoning by-law and the official plan. In arriving at this conclusion there has been regard to the provincial interest and the decision of the Committee, which authorized the variances. The variances are consistent with the Provincial Policy Statement 2014 and also have regard to all applicable provincial plans.

[4] The decision and order of the Board is to allow the appeal in part and authorize three variances from Hamilton Zoning By-law No. 6593, as follows:

One(1) of the dwelling units shall be partially located within the area of the cellar notwithstanding a dwelling unit is not permitted to be located within the area of the cellar;

A minimum clear height of 1.9 m shall be permitted within the cellar area instead of the minimum 2.1 m clear height required; and

An access driveway having a minimum width of 2.7 m shall be permitted instead of the minimum 2.8 m width required.

The variances are authorized subject to condition 1, imposed by the Committee, which requires a warning clause that:

“Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some

activities of the dwelling occupants as the sound levels may exceed the Municipality's and Ministry of Environment's noise criteria".

"J. de P. Seaborn"

J. de P. SEABORN
VICE CHAIR

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Ontario Municipal Board

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