

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: October 30, 2017

CASE NO(S): PL170689

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

Applicant and Appellant:	Brij Sharma and Reema Sharma
Subject:	Minor Variance
Variance from By-law No.:	0225-2007
Property Address/Description:	848 Ledbury Crescent
Municipality:	City of Mississauga
Municipal File No.:	A215/17
OMB Case No.:	PL170689
OMB File No.:	PL170689
OMB Case Name:	Sharma v. Mississauga (City)

Heard: October 5, 2017 in Mississauga, Ontario

APPEARANCES:

Parties

Counsel*/Representative

Brij and Reema Sharma

Matthew Thomas

City of Mississauga

Lia Magi*
Anastasia Toma (student-at-law)

**MEMORANDUM OF ORAL DECISION DELIVERED BY PAULA BOUTIS
OCTOBER 5, 2017 AND ORDER OF THE BOARD**

INTRODUCTION

[1] This was an appeal by the Applicants, Brij and Reema Sharma, of a decision of the Committee of Adjustment ("Committee") for the City of Mississauga ("City")

regarding the construction of a one-storey sunroom addition at 848 Ledbury Crescent ("Subject Property"). The home at the Subject Property is a semi-detached home. The Committee refused to authorize the requested variance to the rear yard condition.

[2] The Applicants sought a minor variance to allow for a rear yard of 3.32 metres ("m"), whereas By-law No. 0225-2007 ("ZBL") requires a minimum rear yard of 7.5 m.

[3] The City appeared in support of the appeal and presented planning evidence for this purpose through its planner, Robert Ruggiero. The Board qualified Mr. Ruggiero to provide opinion evidence in land use planning.

[4] The Applicant submitted a letter (Exhibit 2) from the immediately adjacent owner at 846 Ledbury Crescent indicating he had no objection to the requested minor variance.

[5] On the basis of the uncontested evidence of Mr. Ruggiero, the Board allowed the appeal and authorized the minor variance.

ANALYSIS AND EVIDENCE

[6] Mr. Ruggiero prepared the planning report for the Committee regarding this application. He confirmed that the Planning and Building Department had no objection to the application (Exhibit 1, Tab 7).

[7] Mr. Ruggiero advised that the Applicant had changed the overall height of the proposal, however this did not require a variance. He confirmed his opinion remained the same as that expressed in his original planning report.

[8] Mr. Ruggiero directed the Board to Exhibit 1, Tab 13, page 66, which illustrates that the Subject Property has a flanking condition. Unlike other properties along Ledbury Crescent, it has a generous side yard which flanks Terry Fox Way. A wooden noise wall fence is in place. In addition, there is mature landscaping that is taller than the noise

wall itself running parallel to Terry Fox Way (Exhibit 1, Tab 13, page 68).

[9] Mr. Ruggiero confirmed that accessories and porches are common in the rear yards (Exhibit 1, Tab 13, page 69).

[10] It was his opinion that the four-part test required under s. 45(1) of the *Planning Act* (“Act”) for minor variances was met in this case.

[11] First, it was Mr. Ruggiero’s opinion that the variance maintained the general intent and purpose of the official plan. The Subject Property is within the East Credit neighbourhood. Neighbourhoods are stable areas where limited growth is anticipated. Development is required to be context sensitive and respect the existing or planned character and scale of development (9.2.2, Preamble).

[12] Policy 9.2.2.3 sets out the criteria for new development. Mr. Ruggiero indicated that from the street, the character of the neighbourhood is consistent, but that from the rear, it is inconsistent, with porches and accessory structures, and varying sizes of rear yards. It was his opinion that due to the large lot size and unique context of the Subject Property, the general intent and purpose of official plan was maintained.

[13] Second, it was Mr. Ruggiero’s opinion that the variance maintained the general intent and purpose of the ZBL. This particular lot is twice the size of the required lot size, being 456.23 square metres (“m²”), while neighbouring lots are about half the size, more similar to the zoned regulation size of 200 m². It is permitted to have a 0 m setback from the attached side yard, though the proposal does have a setback nonetheless.

[14] Mr. Ruggiero indicated that part of the intent of the rear yard provision is to ensure adequate outdoor amenity space. Since the lot is so large, he was of the opinion that that purpose will be maintained.

[15] In addition, the ZBL regulation is intended to protect privacy, shadow and overlook for the attached neighbour. It was Mr. Ruggiero's opinion that this would be achieved given the design and location. In addition, the neighbour is satisfied that this will not adversely affect him. To the contrary, the neighbour has indicated it will assist with their particular privacy concerns (Exhibit 2).

[16] Third, Mr. Ruggiero was of the opinion that the requested variance is minor. It is surrounded on two sides by parkland or a road, Terry Fox Way. He anticipates no adverse impacts and as noted the neighbour is in favour of the construction of the sunroom.

[17] Fourth, and finally, Mr. Ruggiero was of the opinion that the development was desirable for the appropriate development or use of the land. He noted this was a question of public desirability. It is not visible from Ledbury Crescent, it is not visible due to the landscaping and noise walls, and it is only slightly visible from the park, with limited impact on the adjacent lot given the modest size. He opined it made good use of an irregular piece of land while still maintaining private amenity space for the neighbour.

[18] Mr. Ruggiero confirmed for the Board that provincial interests were sufficiently addressed and the proposal both was consistent with the Provincial Policy Statement, 2014, and the Growth Plan for the Greater Golden Horseshoe, 2017.

[19] Mr. Ruggiero confirmed his opinion that the proposed minor variance constituted good planning.

ORDER

[20] The Board orders the appeal is allowed, and the minor variance is authorized, as identified in paragraph 2.

"Paula Boutis"

PAULA BOUTIS
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248