

**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** August 2, 2019

**CASE NO(S):** PL190105

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

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

Applicant and Appellant:	Kathryn Stewart
Subject:	Minor Variance
Variance from By-law No.:	0225-2007
Property Address/Description:	999 Indian Road
Municipality:	City of Mississauga
Municipal File No.:	A066/19
LPAT Case No.:	PL190105
LPAT File No.:	PL190105
LPAT Case Name:	Stewart v. Mississauga (City)

**Heard:** July 29, 2019 in Mississauga, Ontario

**APPEARANCES:**

**Parties**

**Counsel**

Kathryn Stewart

Jennifer Meader

City of Mississauga

Raj Kehar

**MEMORANDUM OF ORAL DECISION DELIVERED BY HUGH S. WILKINS ON  
JULY 29, 2019 AND ORDER OF THE TRIBUNAL**

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[1] On January 17, 2019, Kathryn Stewart (“Appellant”) applied for variances to City of Mississauga (“City”) Zoning By-law No. 0225-2007 in an effort to bring into zoning

compliance an existing gazebo accessory structure on the Appellant's property located at 999 Indian Road ("subject property").

[2] The Appellant seeks the following variances. They are to permit an accessory structure with:

- a. an area of 40 square metres ("m<sup>2</sup>"), whereas 10 m<sup>2</sup> is permitted;
- b. a height of 3.6 metres ("m"), whereas 3 m is permitted;
- c. a rear yard of 0 m, whereas 1.2 m is permitted; and
- d. an interior side yard of 0 m, whereas 1.2 m is permitted.

[3] On February 28, 2019, the City's Committee of Adjustment refused the Appellant's minor variance application.

[4] On March 26, 2019, the Appellant appealed the Committee of Adjustment's decision.

[5] On July 25, 2019, the Parties requested that the hearing be adjourned on consent. They were directed by the Tribunal to present the adjournment request at the commencement of the hearing on Monday, July 29, 2019.

### **ADJOURNMENT REQUEST**

[6] The Appellant stated that the City may require that additional variances be obtained regarding the gazebo and other accessory structures on the subject property and that the hearing should not commence until all the required variances and the issues to be adjudicated are identified. The Appellant stated that there will likely be a total of five witnesses called by the Parties at the hearing and three days of hearing time will likely be needed. The Appellant asked that the hearing be adjourned and requested that the Tribunal set out a schedule for the identification of issues and the exchange of documents between the Parties.

[7] The City supported the Appellant's requests. The City stated that additional variances regarding lot coverage, height, an additional accessory building on the subject property and other items may be required. The City stated that it does not yet have sufficient information from the Appellant to determine fully what variances are needed, but that they likely will raise planning, stormwater management, grading, and possibly other issues. The City also stated that its consolidated zoning by-law from which the proposed variances are requested has been amended and the new zoning regulations will come into force in the next couple of days, further adding to the need for an adjournment. The City stated that further public notice will likely be required. The City submitted that an adjournment would ensure a fair and efficient process and would conform with the adjournment provisions in Rule 17 of the Tribunal's *Rules of Practice and Procedure*. It agreed to the setting of due dates for the exchange of materials in preparation for the hearing.

[8] The Tribunal granted the adjournment and ordered new hearing dates. It also directed the exchange of materials as set out below.

#### **REQUESTS FOR PARTICIPANT STATUS**

[9] Jennifer Alexander and Nadine Majid each requested, and was granted, Participant status. They each live in the vicinity of the subject property and each raised concerns regarding the impacts of the accessory structure. Neither of the Parties objected to these requests for status.

#### **ORDER**

[10] The Tribunal ordered that the hearing will commence on **Wednesday, November 27, 2019 at 10 a.m.** Three days have been set aside. The hearing will be held at:

**Municipal Hearing Room  
City Hall  
300 City Centre Drive  
Mississauga, Ontario**

[11] The Tribunal further directs that by:

- **Friday, August 16, 2019**, the City identify additional information to be shown in the Appellant's plans and elevations for accessory buildings on the subject property.
- **Friday, September 13, 2019**, the Appellant provide its revised plans to the City.
- **Friday, October 4, 2019**, the City provide the Appellant with a revised list of the required variances for the subject property.
- **Friday, October 11, 2019**, the Appellant provide notice of the new hearing dates and of the revised variances to all persons who were entitled to notice of the Tribunal's initial hearing date in this proceeding.
- **Tuesday, October 15, 2019**, the Parties convene an experts meeting to address drainage, grading and other issues.
- **Friday, October 18, 2019**, the Parties file an Agreed Statement of Facts with the Tribunal.
- **Friday, October 25, 2019**, the Parties serve each other and file with the Tribunal all witness statements and visual evidence to be relied on at the hearing. The Participants are requested to also serve and file brief outlines of their presentations to be made the hearing.
- **Wednesday, November 13, 2019**, the Parties serve and file reply witness statements, if any.

[12] The Tribunal encourages the Parties to discuss opportunities to narrow or resolve the issues in dispute and requests that the Participants be apprised of the terms of any settlement that is reached.

[13] This Member of the Tribunal is not seized.

*“Hugh S. Wilkins”*

HUGH S. WILKINS  
MEMBER

If there is an attachment referred to in this document,  
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**Local Planning Appeal Tribunal**

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