

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



ISSUE DATE: February 05, 2020

CASE NO(S):

PL190415

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 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: 2702532 Ontario Limited
Subject: Consent
Property Address/Description: 1048 Roosevelt Road
Municipality: City of Mississauga
Municipal File No.: B045/19
LPAT Case No.: PL190415
LPAT File No.: PL190415
LPAT Case Name: 2702532 Ontario Limited v. Mississauga

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

Applicant and Appellant: 2702532 Ontario Limited
Subject: Minor Variance
Variance from By-law No.: 0225-2017
Property Address/Description: 1048 Roosevelt Road
Municipality: City of Mississauga
Municipal File No.: A315/19
LPAT Case No.: PL190415
LPAT File No.: PL190416

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

Applicant and Appellant: 2702532 Ontario Limited
Subject: Minor Variance
Variance from By-law No.: 0225-2017
Property Address/Description: 1048 Roosevelt Road
Municipality: City of Mississauga

Municipal File No.: A316/19
LPAT Case No.: PL190415
LPAT File No.: PL190417

Heard: January 28, 2020, in Mississauga, Ontario

APPEARANCES:

Parties

Counsel

2702532 Ontario Limited

Manmeet Thind and Ashley Gellar

City of Mississauga

Raj Kehar

**MEMORANDUM OF ORAL DECISION DELIVERED BY DAVID BROWN ON
JANUARY 28, 2020 AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] The matters before the Tribunal are an appeal under s. 53(19) of the *Planning Act* (the “Act”) and two appeals under s. 45(12) of the Act from decisions of the City of Mississauga (“City”) Committee of Adjustment (“COA”).

[2] 2702532 Ontario Limited (the “Appellant”) owns the lands at 1048 Roosevelt Road (the “subject property”) and is proposing to sever the subject property to create two new residential building lots to be developed with a semi-detached dwelling.

[3] The subject property is located on the westerly side of Roosevelt Road north of Lakeshore Road East. The subject property has a frontage of approximately 15.24 metres (“m”) and lot area of approximately 772 square metres (“m²”). The subject property is currently occupied by a one storey detached residential dwelling. The subject property is located in an area characterized by a mix of single detached, semi-detached, duplex, triplex, row dwellings and apartment buildings.

[4] On August 15, 2019, the COA considered the applications and denied each of the three applications.

[5] Mr. Kehar advised that the City has reached a settlement with the Appellant and he filed a copy of the Minutes of Settlement with the Tribunal as Exhibit 1. Also filed with the Tribunal as Exhibit 2 was a set of the Settlement Plans. Mr. Kehar explained that the height of the proposed dwelling has been reduced to 9.5 m and there have been some other minor revisions to the floor plans that do not impact the variances being sought. The result of the revised plans is that the originally requested variance for dwelling height is no longer required.

[6] The Minutes of Settlement also include consent to the imposition of a condition for the two Applications for Minor Variances which would require that any building be constructed substantially in accordance with the Settlement Plans filed. Further, the Minutes of Settlement included Schedule "A" which sets out the requested conditions of Provisional Consent and Schedule "B" includes the variances that are the subject of the settlement.

[7] Mr. Kehar filed a copy of City Council Resolution 270-2019 which was marked as Exhibit 4. He explained that the subject modified applications are acceptable in the context of the current policy regime; however, City Council has directed that a review of the current zoning provisions applying to the subject and surrounding streets be undertaken to address the infill redevelopment pressures being experienced. It was noted that the City's support for the current proposal may not be available for future similar applications.

[8] The Appellant filed a Book of Documents with the Tribunal as Exhibit 3. Ms. Thind advised the Tribunal that the Appellant supports the Minutes of Settlement.

[9] The Tribunal heard uncontested planning opinion evidence from David Sajecki, a qualified expert in the area of land use planning matters, in support of the proposal.

[10] In considering the appeals, the Tribunal is to have regard for the criteria as set out in s. 51(24) of the Act when considering whether to grant the Application for Consent. When considering an Application for Minor Variance, the Tribunal must be satisfied that the request meets the four tests of a minor variance as set out in s. 45(1) of the Act.

[11] The Tribunal considered the submissions, the Minutes of Settlement, and the uncontested opinion evidence in support of the applications. Having regard for the criteria in s. 51(24) of the Act, the Tribunal allowed the appeals and granted provisional consent subject to conditions. The Tribunal is satisfied the four tests of a minor variance have been met and granted the Applications for Minor Variance, as amended, on condition.

APPLICATIONS

[12] The Appellant filed an Application for Consent with the COA referenced as City File No. B045/19 and Local Planning Appeal Tribunal ("LPAT") File No. PL190415. The application requested a severance to create a new building lot having a lot frontage of 7.64 m and a lot area of 386.27 m², being Part 2 on the severance sketch plan (the "Sketch") filed with the COA (Page 38, Tab 3, Exhibit 1).

[13] The retained lands are described as Part 1 on the Sketch and propose a lot frontage of 7.64 m and a lot area of 386.04 m².

[14] The Appellant filed two Applications for Minor Variance with the COA. The first application, referenced as City File No. A315/19 and LPAT File No. PL190416, requests a minor variance from Zoning By-law No. 0225-2007 ("ZB") to permit the construction of a semi-detached dwelling on the retained lot (Part 1 on the Sketch) proposing:

- a. A semi-detached dwelling whereas By-law 0225-2007, as amended, does not permit semi-detached dwellings in this instance;

- b. A lot area of 386.04 m² whereas By-law 0225-2007, as amended, requires a minimum lot area of 550.00 m² in this instance;
- c. A lot frontage of 7.64 m whereas By-law 0225-2007, as amended, requires a minimum lot frontage of 15.00 m in this instance;
- d. An exterior side yard setback of 1.18 m whereas By-law 0225-2007, as amended, requires a minimum exterior side yard setback of 6.00 m in this instance;
- e. An interior side yard setback of 0.00 m whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 2.42 m in this instance; and
- f. A height of 9.88 m whereas By-law 0225-2007, as amended, permits a maximum height of 9.50 m in this instance.

[15] The second application, referenced as City File No. A316/19 and LPAT File No. PL190417, requests a minor variance from the ZB to permit the construction of a semi-detached dwelling on the severed lot (Parts 2 on the Sketch) proposing:

- a. A semi-detached dwelling whereas By-law 0225-2007, as amended, does not permit semi-detached dwellings in this instance;
- b. A lot area of 386.27 m² whereas By-law 0225-2007, as amended, requires a minimum lot area of 550.00 m² in this instance;
- c. A lot frontage of 7.64 m whereas By-law 0225-2007, as amended, requires a minimum lot frontage of 15.00m in this instance;
- d. An exterior side yard setback of 1.18 m whereas By-law 0225-2007, as amended, requires a minimum exterior side yard setback of 6.00 m, in this instance;
- e. An interior side yard setback of 0.00 m whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 2.42 m in this instance; and
- f. A height of 10.02 m whereas By-law 0225-2007, as amended, permits a maximum height of 9.50 m in this instance.

[16] The Minutes of Settlement include a Schedule B which outlines the revised list of variances that are being proposed as a result the settlement. The variance in respect to height has been eliminated and the side yard setback relief has been corrected to reflect interior side yard relief only for both applications.

PLANNING EVIDENCE

[17] The Tribunal heard evidence from Mr. Sajecki in support of the settlement and in support of the proposal. He advised the Tribunal that he has reviewed the Provincial Policy Statement, 2014 (“PPS”) and it is his opinion that the proposal is consistent with the PPS. Further, he advised that he has reviewed the A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (the “Growth Plan”) and in his opinion the proposal conforms to the Growth Plan.

[18] Mr. Sajecki testified that the subject property is designated Low Density 2 Residential in the City's Official Plan (“OP”) which permits single detached and semi-detached dwellings. He confirmed that the subject property is located within the Lakeview Local Area Plan (“LAP”) in the South Residential Neighbourhood Precinct, Lakeview West sub-area. This sub-area is characterized as containing a mix of different forms of housing including detached, semi-detached, duplexes, triplexes, quadruplexes, and townhouses. There are also apartment clusters in this area and he noted that the subject property is abutted by an apartment building to the rear.

[19] Mr. Sajecki advised the Tribunal that he conducted a lot study which included the properties on Roosevelt Road, Shaw Drive and Revus Road, south of the railway tracks. The area included 113 properties and is shown on the map located at Tab 5 of Exhibit 1. Mr. Sajecki reviewed photographs of a sampling of the properties within the area identifying the different types of housing, including semi-detached dwellings on similar sized lots and concluded that the proposal is in keeping with the character of the area. It was noted that the study area is very similar to that area identified in the Council resolution submitted as Exhibit 4. Mr. Sajecki referred to s. 10.3.1 of the LAP which states that new housing should maintain the existing character of the area and development will fit the scale of the surrounding area. It is Mr. Sajecki's opinion that the proposal complies with this policy.

[20] Mr. Sajecki opined that the proposal supports s.8.0 of the LAP entitled Complete Communities where it states that Lakeview contains many attributes associated with

complete communities including a range of housing options and a mixture of housing forms and densities, including rental housing.

[21] Mr. Sajecki reviewed the Built Form Standards for Lakeview Character Areas. He directed the Tribunal to s. 2.2.1 of the standards and opined that proposed development will comply with the criteria as the height is less than the maximum permissible 10.7 m and will fit the scale and character of the surrounding area.

[22] In response to questions from Mr. Kehar, Mr. Sajecki confirmed that the lands are within the Lakeview West character area. Mr. Sajecki advised that it is his opinion that the requested Application for Consent has regard for criteria set out in s. 51(24) of the Act specifically as it conforms to the OP and the lot dimensions and shapes are consistent with the area. Mr. Sajecki confirmed his opinion that the imposition of the conditions included in the Minutes of Settlement are appropriate. Mr. Sajecki also confirmed that as a result of the revisions incorporated in the Settlement Plans, the variance for height is no longer required and the amendments to the proposed side yard setback relief are minor. He supports the recommended condition requiring that the building be constructed substantially in accordance with the Settlement Plans (Exhibit 2).

APPLICATION FOR CONSENT

[23] It is Mr. Sajecki's opinion that the proposal has regard for the criteria set out in s. 51(24) of the Act and he recommended approval of the applications subject to the conditions set out in Schedule "A" of Exhibit 1. Mr. Sajecki opined that there are numerous similar sized and shaped lots within the study area. The subject property is in close proximity to transit and the area is in transition. The proposal represents modest intensification and will provide additional housing in the area.

APPLICATIONS FOR MINOR VARIANCE

[24] Mr. Sajecki reviewed the four tests of a minor variance as they apply to the two revised applications. It is his opinion that the proposal represents modest intensification, is comparable to other development in the area, and is compatible with the character of the area. The proposal maintains the low rise built form of the area and provides a range and mix of housing types and options as encouraged in the PPS and the Growth Plan. Mr. Sajecki opined that the proposal represents development that is desirable for the appropriate development and use of the subject lands.

[25] Mr. Sajecki testified that the revised variances are not out of character with the built form and are comparable to other recent renewal development that is occurring in the area. The use of a semi-detached dwelling maintains a consistent built form and use exists in the area. The variances requested are minor in nature in his opinion.

[26] In respect to the intent and purpose of the OP, Mr. Sajecki opined that the OP recognizes that residential neighbourhood areas are not static and encourages modest intensification through infill development. The OP permits the proposed use and the LAP supports redevelopment that is sensitive to the low rise context of the area. Mr. Sajecki stated that it is his opinion the requested variances maintains the general intent and purpose of the OP.

[27] Mr. Sajecki opined that the intent and purpose of the ZB is maintained as the massing and lot patterns respect the character of the area and implement the OP. The semi-detached dwelling use maintains the built form. The lot frontage and lot area are appropriate to support the proposed dwelling, storm-water management requirements, and front yard parking. The side yard setback relief creates an appropriate dwelling separation and access around the structure.

DECISION

[28] The Tribunal, after considering the uncontested testimony of Mr. Sajecki and the Minutes of Settlement, is satisfied that the proposed development has regard for the matters of provincial interest as set out in s. 2 of the Act.

[29] The Tribunal finds that the proposal is consistent with the policies of the PPS and represents an efficient use of land and the existing infrastructure.

[30] The Tribunal finds that the proposal conforms to the policies of the Growth Plan as it is supporting intensification, contributing to complete communities and providing a range of housing options.

[31] The Tribunal is satisfied that the Applications for Consent have had regard for the criteria set out in s. 51(24) of the Act.

[32] The Tribunal accepts the evidence of Mr. Sajecki that the revised Applications for Minor Variance satisfy the four tests of a minor variance.

[33] The Tribunal finds that the revised variances maintain the general intent and purpose of the OP. The proposal represents modest intensification that is consistent with the policies of the OP and the LAP.

[34] The Tribunal finds that the request maintains the general intent and purpose of the ZB. The relief requested will result in a development that maintains a consistent built form and a use that is contemplated in the OP and exists in the area.

[35] The Tribunal is satisfied that the request is desirable for the appropriate development and use of the subject lands. The introduction of a semi-detached dwelling is consistent with the character of the area and the renewal being experienced. The proposal will result in a built form that maintains the character of the area and permits the introduction of additional housing into the area.

[36] The Tribunal finds that the revised applications for minor variance are minor in nature. The proposal will introduce two new residential units into this established area. The design and location of the proposed dwelling creates a compatible development that contributes to the streetscape and the character of the area. The request will not create an adverse impact on the adjoining properties and will complement the area.

[37] Section 45(18.1) of the Act permits the Tribunal to make a decision on an application that has been amended and s. 45 (18.1.1) does not require notice to be given where the Tribunal is of the opinion that the amendment is minor. The Tribunal grants the requested amendment to the applications as set out in Schedule "B" of the Minutes of Settlement. The Tribunal concludes the revisions to the two Applications for Minor Variance are minor and no further notice is required.

[38] The Tribunal allows the appeals in part and grants the minor variances as set out in Schedule "B" of Exhibit 1 appended to this decision as Attachment 2 and subject to the condition:

- The City of Mississauga is satisfied that the structures be constructed substantially in accordance with the Settlement Plans filed as Exhibit 2 to the hearing.

[39] Further, the Tribunal allows the appeal in part and grants the Provisional Consent requested subject to the conditions as set out in Schedule "A" of Exhibit 1 appended to this order as Attachment 1.

[40] This is the Order of the Tribunal.

"David Brown"

DAVID BROWN
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.

Local Planning Appeal Tribunal

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

ATTACHMENT 1

SCHEDULE "A"

CONSENT CONDITIONS

Committee of Adjustment office

1. Approval of the draft reference plan(s), as applicable, shall be obtained at the Committee of Adjustment office, and; the required number of prints of the resultant deposited reference plan(s) shall be received.
2. If any City department or external agency (e.g. Region of Peel, Conservation Authority, etc.) determines that an easement or right-of-way is required that was not included in the provisional approval it may be added prior to the final approval of the application. To clear this condition please send an email indicating no easement/right-of-way is required or, if required, provide details of the easement/right-of-way and who requested it to Committee of Adjustment staff (email address committee.adjustment@mississauga.ca).

Planning and Building Department – Zoning Division

1. A letter shall be received from the City of Mississauga, Manager of Zoning Plan Examination, indicating that the conveyed land and retained lands comply with the provisions of the Zoning By-law, or alternatively; that any variances are approved by the appropriate authorities and that such approval is final and binding. ("A" 315/19 & "A" 316/19)

Transportation and Works Department

A letter shall be received from the City of Mississauga, Transportation and Works Department, indicating that satisfactory arrangements have been made with respect to the matters below:

1. The applicant's consulting engineer will be required to prepare an Overall Grading and Drainage Plan which contains sufficient details to ensure grading compatibility with the adjacent lands and submit the grading and drainage proposal to this department for review/approval.
2. Prior to the issuance of final consent, satisfactory arrangements are to be made with Corporate Services Department, Information Technology Division, Digital Services & Mobility Section, Geospatial Solutions Group for the creation of new municipal addresses for the severed and retained lands. For further information, please contact Susie Tasca at (905) 615-3200 ext. 3088 or susie.tasca@mississauga.ca
3. We advise the applicant that issuance of any building permits for the new dwelling(s) will be subject to the owner submitting a certified lot grading and drainage plan to this Department for review/approval. The grading and drainage plan is to contain sufficient detail to ensure grading compatibility with the adjacent properties. In addition, the owner will be required to submit the applicable lot grading and municipal services protection deposits.
4. All costs incurred in providing any service laterals will be the responsibility of the owner. The owner will also be responsible for all costs incurred for the required road reinstatement (if required). If the service connections are to be installed by a private contractor retained by the owner, issuance of an open cut permit will be subject to the owner depositing adequate securities with the City to guarantee proper road reinstatement.
5. We advise the applicant that all costs incurred in providing any new driveway entrance(s) to the subject lands or any modifications/reinstatement required, would be at cost to the owner. We are also noting that should any utilities need to be relocated, all costs incurred will also be to the owner.

6. The applicant is advised that there is no storm sewer system available in front of the proposed lot on Roosevelt Road. In this regard, we advise that the dwelling to be constructed on the subject lands will require a sump pump to discharge the weeping tile to grade. It is the full responsibility of the applicant to advise any prospective purchasers of the properties of this requirement.

Community Services Department – Parks Planning Section

1. The applicant shall provide a cash contribution of \$574.50 for the planting of one (1) street tree on Roosevelt Road. This figure is subject to the most recent Fees and Charges By-law at the time of payment and is therefore subject to change.
2. Payment for street tree contributions can be made at the Parks and Forestry customer service counter located at 950 Burnhamthorpe Road West in the form of a certified cheque, bank draft, or money order payable to the City of Mississauga.
3. Prior to the issuance of building permits, cash-in-lieu for park or other public recreational purposes may be required pursuant to Section 42 of the Planning Act (R.S.O. 1990, C.P. 13, as amended) and in accordance with the City's policies and bylaws.

ATTACHMENT 2

SCHEDULE "B"

SETTLEMENT VARIANCES

Severed Lot

1. A semi-detached dwelling whereas By-law 0225-2007, as amended, does not permit semi-detached dwellings in this instance;
2. A lot area of 386.04 sq. m (approx. 4,155.30 sq. ft.) whereas By-law 0225-2007, as amended, requires a minimum lot area of 550.00 sq. m. (5,920.15 sq. ft.) in this instance;
3. A lot frontage of 7.64m (approx. 25.06 ft.) whereas By-law 0225-2007, as amended, requires a minimum lot frontage of 15.00m (49.21 ft.) in this instance;
4. An interior south side yard setback of 1.18m (approx. 3.87 ft.) whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 2.42m (approx. 7.94 ft.) in this instance; and
5. An interior north side yard setback of 0.00 m (approx. 0.00 ft.) whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 2.42m (approx. 7.94 ft.) in this instance.

Retained Lot

1. A semi-detached dwelling whereas By-law 0225-2007, as amended, does not permit semi-detached dwellings in this instance;
2. A lot area of 386.04 sq. m (approx. 4,155.30 sq. ft.) whereas By-law 0225-2007, as amended, requires a minimum lot area of 550.00 sq. m. (5,920.15 sq. ft.) in this instance;
3. A lot frontage of 7.64m (approx. 25.06 ft.) whereas By-law 0225-2007, as amended, requires a minimum lot frontage of 15.00m (49.21 ft.) in this instance;
4. An interior north side yard setback of 1.18m (approx. 3.87 ft.) whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 2.42m (approx. 7.94 ft.) in this instance; and

5. An interior south side yard setback of 0.00 m (approx. 0.00 ft.) whereas By-law 0225-2007, as amended, requires a minimum interior side yard setback of 2.42m (approx. 7.94 ft.) in this instance.