

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



ISSUE DATE: April 21, 2021

CASE NO(S):

PL200524

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: 2372577 Ontario Ltd. and 2407184 Ontario Ltd.
Subject: Consent
Property Address/Description: 1074, 1080 and 1086 Serson Avenue
Municipality: City of Mississauga
Municipal File No.: B-27/20
LPAT Case No.: PL200524
LPAT File No.: PL200524
LPAT Case Name: 2372577 Ontario Ltd. v. Mississauga (City)

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

Applicant and Appellant: 2372577 Ontario Ltd. and 2407184 Ontario Ltd.
Subject: Consent
Property Address/Description: 1074, 1080 and 1086 Serson Avenue
Municipality: City of Mississauga
Municipal File No.: B-28/20
LPAT Case No.: PL200524
LPAT File No.: PL200525

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

Applicant and Appellant: 2372577 Ontario Ltd. and 2407184 Ontario Ltd.
Subject: Consent
Property Address/Description: 1074, 1080 and 1086 Serson Avenue
Municipality: City of Mississauga
Municipal File No.: B-29/20
LPAT Case No.: PL200524
LPAT File No.: PL200526

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

Applicant and Appellant: 2372577 Ontario Ltd. and 2407184 Ontario Ltd.
 Subject: Consent
 Property Address/Description: 1074, 1080 and 1086 Serson Avenue
 Municipality: City of Mississauga
 Municipal File No.: B-30/20
 LPAT Case No.: PL200524
 LPAT File No.: PL200527

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

Applicant and Appellant: 2372577 Ontario Ltd. and 2407184 Ontario Ltd.
 Subject: Minor Variance
 Variance from By-law No.: 0225-2007
 Property Address/Description: 1074, 1080 and 1086 Serson Avenue
 Municipality: City of Mississauga
 Municipal File No.: A-135/20
 LPAT Case No.: PL200524
 LPAT File No.: PL200528

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

Applicant and Appellant: 2372577 Ontario Ltd. and 2407184 Ontario Ltd.
 Subject: Minor Variance
 Variance from By-law No.: 0225-2007
 Property Address/Description: 1074, 1080 and 1086 Serson Avenue
 Municipality: City of Mississauga
 Municipal File No.: A-136/20
 LPAT Case No.: PL200524
 LPAT File No.: PL200529

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

Applicant and Appellant: 2372577 Ontario Ltd. and 2407184 Ontario Ltd.
 Subject: Minor Variance
 Variance from By-law No.: 0225-2007
 Property Address/Description: 1074, 1080 and 1086 Serson Avenue
 Municipality: City of Mississauga
 Municipal File No.: A-137/20
 LPAT Case No.: PL200524
 LPAT File No.: PL200530

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

Applicant and Appellant: 2372577 Ontario Ltd. and 2407184 Ontario Ltd.
 Subject: Minor Variance
 Variance from By-law No.: 0225-2007
 Property Address/Description: 1074, 1080 and 1086 Serson Avenue
 Municipality: City of Mississauga
 Municipal File No.: A-138/20
 LPAT Case No.: PL200524
 LPAT File No.: PL200531

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

Applicant and Appellant: 2372577 Ontario Ltd. and 2407184 Ontario Ltd.
 Subject: Minor Variance
 Variance from By-law No.: 0225-2007
 Property Address/Description: 1074, 1080 and 1086 Serson Avenue
 Municipality: City of Mississauga
 Municipal File No.: A-139/20
 LPAT Case No.: PL200524
 LPAT File No.: PL200532

Heard: March 22, 2021 by video hearing

APPEARANCES:

Parties

2372577 Ontario Ltd.
 2407184 Ontario Ltd.

City of Mississauga

Counsel

Jennifer Meader

No one appeared

DECISION DELIVERED BY T.F. NG AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] The matters before the Tribunal are four appeals under section 53(19) of the *Planning Act* (the "Act") and five appeals under section 45(12) of the Act from decisions of the City of Mississauga Committee of Adjustment ("COA").

[2] 2372577 Ontario Ltd. and 2407184 Ontario Ltd. (collectively the "Appellant") own the lands at 1074, 1080, 1086 Serson Avenue (the "subject properties") and are proposing to sever the subject properties to create five new residential building lots to be developed with five detached two-storey dwellings.

[3] The subject properties are located within the Lakeview Neighbourhood Character Area southeast of Cawthra Road and Atwater Avenue. The immediate neighbourhood is primarily residential with parks, institutional uses and a library within the surroundings. The residential area consists of one and two-storey detached dwellings on lots with frontages ranging from approximately 12 metres ("m") to 22 m. The subject properties contain three one-storey detached dwellings with little vegetation. The applications propose lot additions and severances to create five residential lots, requiring variances for deficient lot frontages, lot areas, side yards and increased lot coverages and height.

[4] On October 15, 2020, the COA considered the applications and denied each of the nine applications.

PARTICIPANTS' CONCERNS

[5] Eduard and Anna Rejc; Carl and Lisa Gazdzinski, residents at nearby Pelham Avenue; as well as Matthew Cardillo and Serina Grover, residents of nearby Strathy Avenue were granted participant status without objections. The participants' concerns, as outlined in their statements are that the severances and variances are opposed for the reasons that the neighbourhood character is not maintained and is being destroyed. There will be crowding on the street presenting unsafe conditions, as the neighbourhood is not designed for the higher density. There is already affordable housing in the area and this proposal of building five dwellings on lots that are meant for three dwellings does not respect the current layout of the landscape leading to an abnormally dense street with no preservation of mature vegetation. The development will shatter the beauty and character of the neighbourhood with hulking imposing structures.

[6] 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 Applications for Consent and the Tribunal must be satisfied that Applications for Minor Variance meet the four tests of a minor variance as set out in s. 45(1) of the Act.

[7] The Appellant filed a Book of Documents with the Tribunal which was marked as Exhibit 1. The Visual Graphics was marked as Exhibit 2.

[8] The Tribunal heard uncontested planning opinion evidence from Mark Rogers, an expert in the area of land use planning matters qualified to provide expert opinion in matters of land use planning and the City planner, Lucas Petricca, also qualified as an expert in land use planning, in support of the applications.

[9] The Tribunal considered the submissions and the uncontested opinion evidence in support of the applications. Having regard for the criteria in s. 51(24) of the Act, the Tribunal will allow the appeals and grant the provisional consents subject to conditions. The Tribunal is satisfied the four tests of a minor variance have been met and will grant the five Applications for Minor Variance.

APPLICATIONS

[10] The Appellant filed four Applications for Consent with the COA. The first application, referenced as City File No. B 27/20 and LPAT File No. PL200524, requested to sever a parcel of land for the purposes of a lot addition. The parcel has a frontage of approximately 8.64 m (28.35 feet, "ft") and an area of approximately 289.26 square metres ("sq ft") (3,113.57 square feet). The parcel will be added to the property immediately to the east known as 1080 Serson Avenue.

[11] The second application, referenced as City File No. B 28/20 and LPAT File No. PL200525, requested to sever a parcel of land for the creation of a new lot. The parcel has a frontage of approximately 12.83 m (42.01 ft) and an area of approximately 427.1 sq m (4,597.27 sq ft).

[12] The third application, referenced as City File No. B 29/20 and LPAT File No. PL200526, requested to sever a parcel of land for the purposes of a lot addition. The parcel has a frontage of approximately 4.32 m (14.17 ft) and an area of approximately 144.63 sq m (1,556.78 sq ft). The parcel will be added to the property immediately to the east known as 1086 Serson Avenue.

[13] The fourth application, referenced as City File No. B 30/20 and LPAT File No. PL200527, requested to sever a parcel of land for the creation of a new lot. The parcel has a frontage of approximately 12.83 m (42.01 ft) and an area of approximately 427.1 sq m (4,597.27 sq ft).

[14] The Appellant filed five Applications for Minor Variance with the COA. The first application, referenced as City File No. A 135/20 and LPAT File No. PL200528 requested a minor variance from the Zoning By-law No. 0225-2007 ("ZBL") to allow the creation of a new lot and construction of a new house proposing:

1. A lot area of 427.10 sq m (approximately 4,597.27 sq ft) whereas the ZBL as amended requires a minimum lot area of 550 sq m (approximately 5,920.15 sq ft) in this instance.
2. A lot frontage of 12.83 m (approximately 42.01 ft) whereas the ZBL as amended requires a minimum lot frontage of 15 m (approximately 49.21 ft) in this instance.
3. A lot coverage of 35.7% of the lot area whereas the ZBL as amended permits a maximum lot coverage of 35.0% of the lot area in this instance.
4. A northerly side yard of 1.23 m (approximately 4.04 ft) measured to the second storey whereas the ZBL as amended requires a minimum side yard of 1.81m (approximately 5.93 ft) measured to the second storey in this instance.

5. A height of 9.61m (approximately 31.53ft) measured to the highest ridge whereas the ZBL as amended permits a maximum height of 9.50m (approximately 31.16ft) measured to the highest ridge in this instance.

[15] The second application, referenced as City File No. A 136/20 and LPAT File No. PL200529 requested a minor variance from the ZBL to allow the creation of a new lot and construction of a new house proposing:

1. A lot area of 427.10 sq m (approximately 4,597.27 sq ft) whereas the ZBL as amended requires a minimum lot area of 550 sq m (approximately 5,920.15 sq ft) in this instance.
2. A lot frontage of 12.83 m (approximately 42.01 ft) whereas the ZBL as amended requires a minimum lot frontage of 15 m (approximately 49.21 ft) in this instance.
3. A lot coverage of 35.8% of the lot area whereas the ZBL as amended permits a maximum lot coverage of 35.0% of the lot area in this instance.
4. A northerly side yard of 1.23 m (approximately 4.04 ft) measured to the second storey whereas the ZBL as amended requires a minimum side yard of 1.81 m (approximately 5.93 ft) measured to the second storey in this instance.
5. A southerly side yard of 1.21 m (approximately 3.97 ft) measured to the second storey whereas the ZBL as amended requires a minimum side yard of 1.81 m (approximately 5.93 ft) measured to the second storey in this instance.
6. A height of 9.65 m (approximately 31.66 ft) measured to the highest

ridge whereas the ZBL as amended permits a maximum height of 9.50 m (approximately 31.16 ft) measured to the highest ridge in this instance.

[16] The third application, referenced as City File No. A 137/20 and LPAT File No. PL200530 requested a minor variance from the ZBL to allow the creation of a new lot and construction of a new house proposing:

1. A lot area of 427.10 sq m (approximately 4,597.27 sq ft) whereas the ZBL as amended requires a minimum lot area of 550 sq m (approximately 5,920.15 sq ft) in this instance.
2. A lot frontage of 12.83 m (approximately 42.01 ft) whereas the ZBL as amended requires a minimum lot frontage of 15 m (approximately 49.21 ft) in this instance.
3. A lot coverage of 35.8% of the lot area whereas the ZBL as amended permits a maximum lot coverage of 35.0% of the lot area in this instance.
4. A northerly side yard of 1.23 m (approximately 4.04 ft) measured to the second storey whereas the ZBL as amended requires a minimum side yard of 1.81 m (approximately 5.93 ft) measured to the second storey in this instance.
5. A southerly side yard of 1.21 m (approximately 3.97 ft) measured to the second storey whereas the ZBL as amended requires a minimum side yard of 1.81 m (approximately 5.93 ft) measured to the second storey in this instance.

[17] The fourth application, referenced as City File No. A 138/20 and LPAT File No. PL200531 requested a minor variance from the ZBL to allow the creation of a new lot and construction of a new house proposing:

1. A lot area of 427.10sq m (approximately 4,597.27 sq ft) whereas the ZBL as amended requires a minimum lot area of 550 sq m (approximately 5,920.15 sq ft) in this instance.
2. A lot frontage of 12.83 m (approximately 42.01 ft) whereas the ZBL as amended requires a minimum lot frontage of 15 m (approximately 49.21 ft) in this instance.
3. A lot coverage of 35.8% of the lot area whereas the ZBL as amended permits a maximum lot coverage of 35.0% of the lot area in this instance.
4. A northerly side yard of 1.22 m (approximately 4 ft) measured to the second storey whereas the ZBL as amended requires a minimum side yard of 1.81 m (approximately 5.93 ft) measured to the second storey in this instance.
5. A southerly side yard of 1.21 m (approximately 3.97 ft) measured to the second storey whereas the ZBL as amended requires a minimum side yard of 1.81 m (approximately 5.93 ft) measured to the second storey in this instance.
6. A height of 9.65 m (approximately 31.66 ft) measured to the highest ridge whereas the ZBL as amended permits a maximum height of 9.50 m (approximately 31.16 ft) measured to the highest ridge in this instance.

[18] The fifth application, referenced as City File No. A 139/20 and LPAT File No. PL200532 requested a minor variance from the ZBL to allow the creation of a new lot and construction of a new house proposing:

1. A lot area of 427.10 sq m (approximately 4,597.27 sq ft) whereas the ZBL as amended requires a minimum lot area of 550 sq m (approximately 5,920.15 sq ft) in this instance.
2. A lot frontage of 12.83 m (approximately 42.01 ft) whereas the ZBL as amended requires a minimum lot frontage of 15 m (approximately 49.21 ft) in this instance.
3. A lot coverage of 35.7% of the lot area whereas the ZBL as amended permits a maximum lot coverage of 35.0% of the lot area in this instance.
4. A southerly side yard of 1.21 m (approximately 3.97 ft) measured to the second storey whereas the ZBL as amended requires a minimum side yard of 1.81 m (approximately 5.93 ft) measured to the second storey in this instance.
5. A height of 9.61 m (approximately 31.53 ft) measured to the highest ridge whereas the ZBL as amended permits a maximum height of 9.50 m (approximately 31.16 ft) measured to the highest ridge in this instance.

PLANNING EVIDENCE

[19] The Tribunal heard evidence from Mr. Rogers. He advised the Tribunal that the subject properties are generally located on the east side of Strathy Avenue, south of Atwater Avenue, north of Pelham Avenue and west of the Hydro Corridor. The subject properties are three lots of record and the neighbourhood is a mix of bungalows and

single detached dwellings. The proposal is to create five new residential lots from the three existing lots.

[20] Mr. Rogers described the proposal explaining that the subject properties are designated Residential Low Density II under the City Official Plan and zoned R3 Residential R3-75 which is a special site provision. The development is to construct five detached dwellings on five lots of equal frontages of 12.83 m and areas of 427.1 sq m. With respect to the creation of the lots, minor variances are sought in the reduction of minimum lot frontage, and minimum lot area for the R3-75 zone. Additional variances are required for the construction of dwellings relating to the maximum lot coverage, minimum interior side yard setbacks and maximum height to highest ridge.

[21] He then went on to the specific policies to give an overview of the proposed development as it relates to the policies of the Provincial Policy Statement 2020 (“PPS”); the Growth Plan for the Greater Golden Horseshoe 2020 (“GP”); the Regional Municipality of Peel Official Plan (“RP”); the City’s Official Plan (“OP”); the Lakeview Local Area Plan (“LP”); the ZBL, the legislation and the four statutory tests.

PROVINCIAL POLICY STATEMENT 2020 (“PPS”)

[22] Mr. Rogers reviewed the PPS and testified that the proposed development will result in an efficient use of land and the existing infrastructure. The proposed development creating five lots out of three lots will also result in cost effective development accommodating an appropriate range and mix of residential dwellings, in line with policies 1.1.1(b) and 1.1.1(e). The proposed development makes the best use of available land providing an increase of new housing to the neighbourhood. He explained that the redevelopment results in intensification and redevelopment within the urban area recognizing that settlement areas are to be the focus of growth. Mr. Rogers concluded that the proposed applications are consistent with the policies of the PPS.

GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE 2020 (“GP”)

[23] Mr. Rogers testified that the GP builds upon the PPS in a scaled version with the same guiding principles. He stressed section 2.1, where and how to grow which reiterates complete communities to better coordinate growth and planning for growth across the region. The proposed development prioritizes intensification and makes an efficient use of land and infrastructure while supporting transit viability. Further, the proposal supports complete communities and provides a diverse range of housing option, including increasing a range of residential dwellings to the neighbourhood. The built form is compatible to and contributes positively to the character of the area. Mr. Rogers stated his opinion that the proposal conforms with the policies of the GP.

REGIONAL MUNICIPALITY OF PEEL OFFICIAL PLAN (“RP”)

[24] Mr. Rogers reviewed the growth management objectives of the RP which: directs the majority of growth to existing urban system (section 5.3), where section 5.3.1.4 directs future growth to built-up areas through intensification, directs the compact form and a mix of land uses in appropriate areas that efficiently use land, services, infrastructure and public finances while taking into account the characteristics of existing communities and services. He also reviewed the Intensification Policy for the Region set out in section 5.5.3.2.2 and 5.5.3.2.3 of the RP facilitating and promoting intensification; and accommodating intensification within the urban growth centres, intensification corridors, nodes and major transit station areas and any other appropriate areas within the built up area. Section 5.8.1.1 speaks to the provision of an appropriate range and mix of housing types, densities, sizes and tenure to meet projected requirements. Mr. Rogers opined that the proposed applications meet the growth management objectives of the RP by supporting growth through intensification of existing urban area. The applications are also consistent in addressing the policies by being transit supportive and helping the City achieve the density targets.

CITY OF MISSISSAUGA OFFICIAL PLAN (“OP”)

[25] Mr. Rogers reviewed the OP and emphasized that new growth will take place primarily through infilling and redevelopment in appropriate areas (section 1.1). He noted that the word “compatible” is defined in the OP to mean development, which may not necessarily be the same as, or similar to, the existing or desired development, but nonetheless enhances an established community and coexists with existing development without unacceptable adverse impact on the surrounding area. Section 5.1.7 of the OP sets out that the City will protect and conserve the character of stable residential Neighbourhoods. In the City, Neighbourhoods will experience little change (section 5.3.5), however the City acknowledges that they are not static, and residential intensification within neighbourhoods will generally occur through infilling (section 5.3.5.2) and intensification may be considered where the proposed development is compatible in built form and scale to the surrounding development, enhances the existing or planned development and is consistent with the OP (section 5.3.5.5). The proposal achieves these goals and a compact form that utilizes an underutilized property. The OP established targets as required by the GP and the RP. The OP also directs the new development through infill development while encouraging a range of housing types. Mr. Rogers opined that the subject property designation Residential Low Density II, (RLD-II) permits the proposed development. Section 16.1.2, Residential, (RLD-II), to preserve the character of lands designated RLD-II, the minimum frontage and area of new lots will be evaluated in the context of the existing lot pattern in the surrounding area. The proposal achieves these policies with the introduction of five detached dwellings.

LAKEVIEW LOCAL AREA PLAN (“LP”)

[26] In reviewing the policies of LP in relation to the OP, Mr. Rogers explained the vision policy for lakeview is a connection of neighbourhoods with views to the lake and public access to the shores and waters. Neighbourhoods in Lakeview are stable and offer a variety of housing choices. It is recognized that some change will occur, and

development should provide appropriate transition to the existing stable areas and protect the existing character. Vision policies of the Strategic Plan include directing growth to support transit, providing a range of housing options and developing walkable connected neighbourhood etc. (section 5.0). Infill and redevelopment in Neighbourhoods will be facilitated and be encouraged in a manner consistent with existing land uses in the surrounding area (section 5.2.2).

[27] Mr. Rogers stated that some growth is to be directed to Neighbourhoods areas (section 6.0) through infilling and intensification along corridors that traverse them (section 6.1) and will be sensitive to the existing character of the residential areas and the planned context (section 6.1.3). Under section 10.0 and section 10.1.1, development will be guided by the built form standards and should reflect one to two storey residential heights and will not exceed three stories. As for the built form types, they should maintain the existing character of the area and fit the scale of the surrounding area and take advantage of the features of a particular site, such as topography, contours and mature vegetation.

[28] On the transit corridor component, Mr. Rogers reiterated the north-south transit of Ogden Avenue to Lakeshore Road West and the east-west go-transit corridor. Serson Avenue is about 800 m from the corridors.

[29] The proposal is compatible with the established area, is compact and contributes to the neighbourhood character. The proposed detached dwellings have been designed in a manner that was sensitive to: the building height and scale, spacing of buildings, ground floor level and second floor height and roof lines to ensure compatibility with the area.

[30] The LP objectives support residential use intensification and the protection of stable neighbourhoods. Mr. Rogers opined that the proposed development meets the objectives of the LP by supporting intensification of the existing urban area in support of the transit corridor. The proposal also protects the existing stable residential neighbourhood by maintaining the permitted use and enhancing the walkability of the

neighbourhood.

[31] Mr. Rogers concluded that it is his opinion that the proposed development applications conform with the OP policies by intensifying underutilized lots in the urban area with available residential units. The applications support the City's intensification targets and provide a mix of housing, including affordable housing offerings. It is his opinion that the proposed dwellings support the neighbourhood character policies of the OP.

APPLICATIONS FOR CONSENT

[32] Mr. Rogers testified that the City's OP Policies provide for lot creation. The proposal is appropriate for the creation of five new lots as, the proposal is infill in a substantially developed area, and the size of the subject properties is appropriate for the use proposed. The proposal addresses the matters of provincial interest with a well-designed development that promotes public transit and a range of housing options.

[33] It is Mr. Rogers' opinion that a plan of subdivision is not required as all municipal services and infrastructure are in place, no requirement from the City for any land dedications is required and the proposal has regard for the criteria set out in section 51(24) of the Act. He recommended approval of the applications subject to the conditions set out in the Staff Report and supported by Mr. Petricca's testimony.

APPLICATIONS FOR MINOR VARIANCE

[34] Mr. Rogers reviewed the individual Applications for Minor Variance. It is his opinion that the variances are appropriate to accommodate an appropriate size dwelling for each lot.

[35] He stated the R3-75 zoning requirements of minimum and maximum interior side yards, height and lot coverage as mentioned. Mr. Rogers provided a neighbourhood analysis of 107 properties in the neighbourhood area of the subject properties:

1. The tables (TAB 28 of Exhibit 1) illustrate the established development pattern and character of the neighbourhood; where the character of a neighbourhood can be distinguished by lot sizes, frontages, and the style and size of dwelling.
2. The lot frontages being proposed, 12.83m are 2.17m less than the by-law requirement of 15.0m. Approximately 14% deficient. There were 6 lots identified within the study area which have frontages of less than 12.83m. The existing lots have a frontage of 21.47m which exceeds the minimum by-law requirement by 6.47m or 43%. (Exhibit 2 – Map 1)
3. The lot areas being proposed, 427.1 m² are 122.9 m² less than the by-law requirement of 550 m². Approximately 33% deficient; however, it is important to note that 51 of the 89 interior lots within the study area, 57%, do not conform to the by-law with respect to minimum lot area. (Exhibit 2 – Map 2 and 3) 42% of the existing lots have an area of between 507-509 m². (Exhibit 2 – Map 4) Therefore, the proposed lots are only 16% smaller than the typical lots throughout the neighbourhood which range in size from 387 m² to 825 m². There were 8 lots identified within the study area which have an area of less than 427 m². (Exhibit 2 – Map 5)
4. With respect to massing and crowding, the proposed 5 lot configuration would result in 52.05 m of linear buildable area across the entire frontage (81%) with linear open space between the dwellings totalling 9.6 m (15%) (TAB 27 of Exhibit 1); compared to the existing as of right 3 lot configuration which would result in 56.87 m of buildable area (88%) and only 4.8m of open space between the dwellings (8%) (TAB 26 of Exhibit 1).
5. With respect to dwelling style, 30 of the 107 lots analyzed have a two storey dwelling currently constructed (28%). (Exhibit 2 – Map 6)
6. With respect to dwelling size (coverage), it was determined that 59% (63 of 107) of the existing dwellings in the neighbourhood would be smaller than what is being proposed (Exhibit 2 – Map 7) 41% (44 of 107) would have larger dwellings (Exhibit 2 – Map 8). Conversely, only 5 of the 107 lots currently have a dwelling that is larger than the dwelling unit that could be constructed as of right on the existing 3 lots. (Exhibit 2 – Map 9)
7. The proposed dwelling sizes of approximately 150m² represents 17% of the lots that have a similar sized dwelling (+/- 10%, 135 – 165m²) constructed (18 of 107). (Exhibit 2 – Map 10)
8. 1226 – 1238 Strathy Avenue were subject to consent and variance applications in 2010 resulting in the creation of 4 lots with frontages of 11.55, 11.55, 13.5 and 13.7m; areas of 387, 387, 413, and 413m²; and coverages of 148, 149, 153 and 156m². Very much the same as the proposal before the Tribunal. (TAB 20 of Exhibit 1).

9. Similarly, the properties at 1066 – 1070 Halliday Avenue also were subject to consent and variance applications in 2010 that were approved resulting in 2 lots with frontages of 11.38m, areas of 412 - 414m² and coverages of 154 – 164 m². (TAB 19 of Exhibit 1).
10. The analysis of the 107 lots exemplifies that the proposed lots;
 - Are sensitive to the Neighbourhood's existing and planned character.
 - Are compatible in built form and scale to surrounding developments.
 - Are consistent with the policies of the City of Mississauga Official Plan and Lakeview Neighbourhood Local Area Plan.
 - Will not create undue impact on adjacent properties.
 - Will respect the existing and planned character of the Neighbourhood.
 - Are consistent with existing land uses in the surrounding area.
 - Are consistent with the planned function for the area as reflected by the City Structure and urban hierarchy of the Official Plan.

[36] Mr. Rogers testified that it is his opinion that the items of relief sought in each of the variance applications are minor in nature. There is no negative impact on adjacent properties such as massing or shadowing. The proposed development is compatible with the neighbourhood character. Mr. Rogers testified that the requested variances are desirable for the appropriate development and use of the land. The development creates infill lots and will support the objectives of creating affordable forms of housing. The proposed development represents good urban design in a built-up area.

[37] Mr. Rogers testified that it is his opinion that the variances sought maintained the general intent and purpose of the RP, the OP and the ZBL. The proposed lot sizes and configurations will create an appropriate streetscape and represent good infill development and meet the intensification policies. He opined that the four statutory tests are met and the proposed development represents good land use planning.

[38] Mr. Petricca was the Planner at the City responsible for the review of the subject applications and the preparation of the Staff Report that was provided to the COA recommending approval of the proposal. Mr. Petricca explained to the Tribunal that the

proposal was reviewed by planning staff and after that review, recommendations were made on the applications including proposals before the COA. He advised the Tribunal that the staff supported the proposal as presented to the COA and which is now before the Tribunal.

[39] Mr. Petricca testified that it is his opinion that the proposal is consistent with the PPS, conforms to the policies of the GP, and complies with the policies of and maintains the purpose and intent of the RP and OP. The proposal addresses the criteria set out in section 51(24) of the Act, and addresses the matters of provincial interest.

[40] Mr. Petricca testified that the conditions requested in the Staff Report are appropriate. His view is that the built form conforms to the existing character of the area; the lot areas and frontages are appropriately sized, in keeping with the scale and reflect the planned area and general lot fabric of the neighbourhood. He is of the opinion that the variances meet the tests as set out in section 45(1) of the Act, maintain the intent and purpose of the OP, ZBL and that the proposal represents good land use planning. He recommended approval of consents subject to conditions imposed and approval of the minor variances.

DECISION

[41] The Tribunal, after considering the uncontroverted testimony of Mr. Rogers and Mr. Petricca, is satisfied that the proposed development has regard for the matters of provincial interest as set out in section 2 of the Act. In particular 2(h) the orderly development of safe and healthy communities; 2(j) the adequate provision of a full range of housing; and 2(r) the promotion of a built form that is (i) well-designed.

[42] The Tribunal finds that the proposal is consistent with the policies of the PPS, 1.1: managing and directing land use to achieve efficient and resilient development and land use patterns, in particular 1.1.1(b) accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing; 1.1.1(e) promoting the integration of land use

planning, growth management, transit-supportive development, intensification and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs. This proposal represents an efficient use of land and the existing infrastructure.

[43] The Tribunal finds that the proposal conforms to the policies of the GP as it is supporting intensification, contributing to complete communities and providing a range of housing options. The Guiding Principles in section 1.2.1: support the achievement of complete communities; prioritize intensification and higher densities in strategic growth areas to make efficient use of land and infrastructure and support transit viability; support a range and mix of housing options, including additional residential units and affordable housing to serve all sizes, incomes and ages of households are met. These principles hold true in the proposed development.

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

[45] The Tribunal considered the evidence and submissions received in respect to the requirements on the interior side yard setbacks, lot coverages and on height of the proposed dwellings as set out in the Staff Report and accepts the evidence of Mr. Petricca to support the proposed reliefs in the context of the urban system policies of the OP. This position was further reinforced by the testimony of Mr. Rogers.

[46] The Tribunal accepts the evidence of the two planners that the five Applications for Minor Variance as requested before the Tribunal satisfy the four tests of a minor variance.

[47] The Tribunal finds that the requested variances maintain the general intent and purpose of the RP and OP. The proposal represents intensification that is consistent with the policies of the OP that encourage residential development in built up areas and along transit corridors. The evidence presented shows that the proposed development is located in an area where transit and the infrastructure are available. The proposal

implements appropriate neighbourhood character policies under the LP, in a built-up area to create a compatible development that maintains the existing neighbourhood character and enhances the streetscape in the area.

[48] The Tribunal finds that the requested variances maintain the general intent and purpose of the ZBL. The reliefs requested arise in large measure as a result of the infill lot sizes and configurations. There are a number of variances that result from division of the three lots as regard the lot frontages and lot coverages which are technical in nature that are generated by the lot configuration. The setbacks in the interior side yards contribute to a compatible development for the area with lot areas and frontages that are appropriately sized.

[49] The Tribunal is of the opinion that the requested variances are desirable for the appropriate development and use of the subject properties. The introduction of five lots through the severance for construction of five detached dwellings on three underutilized lots while preserving the existing character of the neighbourhood dwellings, maintain the established character of the area and permit the introduction of additional housing into the area. Residential units introduced, that are appropriately sized where Mr. Rogers opined that five dwellings on five lots as proposed will result in less massing than three dwellings on the three original lots.

[50] The Tribunal is satisfied that the requested variances are minor in nature, both individually and cumulatively. The proposed development will introduce five new residential units into this established area. Mr. Rogers had analyzed the built form and dwellings nature and character of 107 properties in this neighbourhood and his uncontradicted opinion is that the built form, height, size, style and character of the proposed development is consistent with and matches those in the surroundings. The design built-form and location of the proposed dwellings are compatible with and contribute to the neighbourhood character and streetscape along Serson Avenue. The requested variances will not create any adverse impact such as massing or shadowing on the adjacent properties. No evidence of any traffic issues or evidence of negative

impact were presented to the Tribunal.

[51] The Tribunal is satisfied that the conditions imposed for the consents are reasonable pursuant to section 51(25) of the Act and will impose the conditions stipulated.

ORDER

[52] **The Tribunal Orders** that the appeals under s. 53(19) of the *Planning Act* are allowed and the provisional consents are to be given, subject to conditions set out in Attachment 1 to this Order.

[53] **The Tribunal Orders** that the appeals under s. 45(12) of the *Planning Act* are allowed and the variances to Zoning By-law No. 0225-2007 are authorized.

“T.F. Ng”

T.F. NG
MEMBER

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

Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

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

City Department and Agency Comments

Files: B27-30/20,
A135-139/20

2020/10/02

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Appendix A – Conditions of Provisional Consent

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. An application amendment letter shall be received from the applicant or authorized agent confirming that the conveyed land shall be together with and/or subject to services easement(s) and/or right(s)-of-way, if necessary, in a location and width as determined by the Secretary-Treasurer based on written advice from the agencies having jurisdiction for any service or right for which the easement or right-of-way is required; alternatively, a letter shall be received from the applicant or authorized agent confirming that no services easement(s) and/or right(s)-of-way, are necessary.
3. 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" 135/20 to "A" 139/20)
4. 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 addressed in their comments dated October 2, 2020.
5. A letter shall be received from the City of Mississauga, Community Services Department, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated October 2, 2020.

Lot Creation

- a. The variance application approved under File(s) A135/20 to A139/20 must be finalized.