

OMB Decision on 342 Lee Avenue

Date:	June 6, 2007
To:	Toronto and East York Community Council
From:	City Solicitor
Wards:	Ward 32
Reference Number:	Lee Ave., no. 342

SUMMARY

The Ontario Municipal Board in a Decision released on April 10, 2007 allowed minor variances and consents to sever to permit the construction of three new houses behind a house at 342 Lee Ave.

In order to preserve the City's appeal rights within the time frame set by the Board's Rules of Practice and Procedure legal staff prepared and filed with the OMB an application under Section 43 of the Ontario Municipal Board Act asking for a review and rehearing of the Decision. This report seeks City Council's direction and authority to continue the Section 43 application before the OMB to seek a rehearing of this matter.

RECOMMENDATIONS

The City Solicitor recommends that:

1. Council authorize the filing and pursuing of a Section 43 application requesting that the OMB review and rehear the matter of the variances and severances for the property at 342 Lee Ave.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

On Motion by Councillor Bussin, the Toronto and East York Community Council recommended to City Council that the City Solicitor and appropriate staff attend the Ontario Municipal Board to support the committee of adjustment decision to refuse the requested consents and minor variances applications.

<http://www.toronto.ca/legdocs/2006/minutes/committees/te/te060613.pdf>

City Council adopted this recommendation at its meeting of June 26, 27 and June 28, 2006.

ISSUE BACKGROUND

These new houses will be accessed and served by a narrow laneway which is only 3.0 m in width. The City and a Residents group known as the Wheeler Lee Ravine Association opposed the owner's appeal to the Board. After reviewing the Board's Decision legal staff are of the opinion that there are errors of facts and law in the Decision. In particular, we disagree with the way the Board calculated density for the new three residential buildings. The Board also received what City staff considered incorrect evidence concerning the width of narrow laneways serving comparative properties put forward by the land-use planner for the property owner.

In order to preserve the City's right to make an application to the OMB to have the matter reviewed and re-heard, it was necessary to prepare and file a Section 43 application within 30 days of the Board's decision.

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