

NOTICE OF MOTION**Appeal of Committee of Adjustment Decision &
Request for Legal Staff and Appropriate City Staff to Attend the OMB Hearing
A0428/08NY – 96 JOHNSTON AVENUE****MOVED BY: Councillor FILION** _____**SUMMARY:**

A Committee of Adjustment hearing was held on July 30, 2008 in regards to File No. A0428/08NY, an application for variances from the provisions of the North York Zoning By-law 7625, as amended, for the property at 96 Johnston Avenue. The application sought variances to permit an east side yard setback of 1.2 metres to the existing dwelling whereas a minimum of 1.8 metres is required, a west side yard setback of 1.5 metres to the existing dwelling whereas a minimum of 1.8 metres is required, a proposed lot coverage of 32% (193.2 m²) whereas a maximum of 30% (181.1 m²) is permitted, a proposed finished first floor height of 2.89 metres whereas a maximum of 1.5 metres is permitted, and a proposed building height of 9.5 metres whereas a maximum of 8.8 metres is permitted. The variances are to permit the construction of a new two-storey dwelling. The Committee approved the application for the variances at this hearing.

A third party has appealed the Committee decision to the Ontario Municipal Board. An OMB hearing date has not yet been scheduled for this application.

A staff report dated July 23, 2008 noted that there have been no variances requested or granted in the vicinity of the subject property for building height or finished first floor height. Staff also noted that the two-storey dwelling immediately adjacent to the subject property, which was built in 2004, did not require such variances to the Zoning By-law. Staff's recommendation to the Committee was to refuse the application.

The proposed two-storey dwelling represents an overdevelopment of the lot and does not meet intent of Official Plan that requires compatibility with the physical character of the neighbourhood. City Planning staff does not support the decision of the Committee of Adjustment in approving the application.

RECOMMENDATION

1. The City Solicitor and appropriate City staff be instructed to attend the Ontario Municipal Board hearing in opposition of the approval of the finished first floor height and overall building height variances relating to Committee of Adjustment application A0428/08NY.

October 3, 2008



Toronto

STAFF REPORT

July 23, 2008

To: Chairman and Members of the Committee of Adjustment
North York Panel

From: Director, Community Planning, North York District

Subject: File Number A0428/08NY
Bill Ross
96 Johnston Avenue
Ward 23 – Willowdale

Application:

The subject property is located south of Sheppard Avenue West and west of Yonge Street, on the north side of Johnston Avenue. The property has a frontage of 15.24 metres (50 feet), a depth of 39.62 metres (130 feet) and an area of 603.8 square metres (6,500 square feet).

The applicant proposes to construct a new two-storey dwelling with an integral, at-grade garage, and will demolish the existing dwelling. The following minor variances have been requested to facilitate the construction of the proposed development:

1. East side yard setback of 1.2m to the proposed dwelling
WHEREAS a minimum of 1.8m is required;
2. West side yard setback of 1.5m to the proposed dwelling
WHEREAS a minimum of 1.8m is required;
3. Proposed finished first floor height of 2.89m
WHEREAS a maximum of 1.5m is permitted;
4. Proposed building height of **9.1m**
WHEREAS a maximum of 8.8m is permitted;
5. Proposed lot coverage of 32% (193.2m²)
WHEREAS a maximum of 30% (181.1m²) is permitted.

Comments:

Land Development

The applicant proposes to demolish the existing one-storey dwelling and construct a two-storey dwelling with a two-car, integral at-grade garage. Since below-grade garages are not permitted on lots with frontages exceeding 12.7 metres, an at-grade garage is the only way to incorporate integral parking on the property. The applicant has indicated to City staff that it would be undesirable to lose valuable first-floor space to a garage, and therefore proposes to have the basement level at the same grade as the street with two storeys of livable space above. This proposal results in the finished first-floor height and overall building height being higher than what the Zoning By-law allows.

Official Plan

The subject property is designated '*Neighbourhoods*' in the Toronto Official Plan. One of the development criteria in this designation requires that "physical changes to our established Neighbourhoods must be sensitive, gradual and generally "fit" the existing physical character. A key objective of this Plan is that new development respect and reinforce the general physical patterns in a Neighbourhood."

In addition, *Neighbourhoods* Policy No. 4.1.5 of the Official Plan stipulates that "development in established Neighbourhoods will respect and reinforce the existing physical character of the neighbourhood, including in particular:

- c) Heights, massing, scale and dwelling type of nearby residential properties

Zoning By-law

The property is zoned One Family Detached Dwelling Fourth Density Zone (R4). The intent of the Zoning By-law is to establish precise standards as to how land is developed. Restrictions on lot coverage, side yard setbacks, finished first-floor height and overall building height are used, in part, to achieve more uniform and consistent built form streetscapes, thereby contributing to a more predictable pattern of development.

There have been no minor variances requested or granted for building height in the immediate neighbourhood. Staff is of the opinion that the request to permit increased building height (Variance 4.) is not in character with the surrounding area and might set a precedent in the neighbourhood for oversized homes.

The applicant is also requesting a minor variance to permit a higher finished first-floor height than the Zoning By-law permits (Variance 3.). There have been no minor variances requested or granted for an increased finished first floor height in the immediate neighbourhood. According to the site plan submitted in support of the application (see Attachment 1), the neighbouring dwellings at 94 and 100 Johnston Avenue have finished first floor heights of 102.9 and 101.14 metres above geodetic datum, respectively. The first floor height of the proposed dwelling would be 103.3 metres above geodetic datum, which represents a height difference of 0.4 metres and 2.16 metres above the two neighbouring dwellings. While the terrain in the area slopes gradually upward from southwest to northeast, and can affect the measurement of the finished first floor height and overall building height, it should be noted that the construction of the neighbouring dwelling at 100 Johnston Avenue in 2004 did not require such variances to the Zoning By-law. Therefore, staff is of the opinion that the proposed finished first-floor height of 2.89 metres is excessive, and would not be in keeping with the built form of the neighbourhood.

Recommendation:

Staff recommend that Variances 3 and 4 **be refused** to maintain the character of the neighbourhood. The proposal does not meet the intent of the Official Plan and the Zoning By-law. Variances 3 and 4 are not considered to be minor in nature and would not result in the appropriate development of the property.

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Attachment 1: Site Plan – 96 Johnston-C1