
City Council

MOTION WITHOUT NOTICE

MM31.14	ACTION			Ward: 32
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Request for a Section 43 Review - Ontario Municipal Board Decision - 14 and 16 Wineva Avenue - Councillor Bussin, seconded by Councillor Rae

•This Motion relates to an Ontario Municipal Board Decision and has been deemed urgent. Council has added this Motion to the agenda for debate.

Recommendations

Councillor Bussin, seconded by Councillor Rae, recommends:

1. That City Council direct the City Solicitor to request a review of the Ontario Municipal Board's February 20, 2009 decision in relation to 14 and 16 Wineva Avenue, pursuant to Section 43 of the Ontario Municipal Board Act.

Summary

On February 20, 2009, the Ontario Municipal Board issued a decision allowing an appeal against the decision of the Committee of Adjustment. The City appeared at the hearing as a party as did the Toronto East Beach Residents Association. A substantial number of other Beach residents attended the hearing as participants.

The Board's decision authorizes the severance of the two lots at 14 and 16 Wineva Avenue (the "Subject Property") into three lots, and variances for density, front yard setback, rear yard setback, side yard setback and landscaped open space to permit one single detached house on each lot.

The Board's decision contains a number of errors. For example:

The decision lists a number of Committee of Adjustment approvals in the area and indicates that these approvals erode the credibility of the City's position. Four of five of these approvals are for proposals that bear no similarity to the proposal that was before the Board, including decisions where consent and variances are sought to authorize the conveyance of part of an existing semi-detached house.

The Board states that Board decisions do not have value as precedent but then relies on earlier Committee of Adjustment decisions in its own reasoning.

The Board also bases its decision on the fact that there are no lot area or depth restrictions in the area. In drawing its conclusion, the Board failed to note that other performance standards in the zoning by-law assist in controlling lot area and depth. In this case, the requested rear yard set back variance would not have been necessary if the lot had a greater depth and if the lot had been larger, none of the variances for setbacks, landscaped open space or density would have been required.

In its density analysis, the Board notes that there are properties in the neighbourhood with variances over 1 times coverage, but it does not distinguish these densities from the requested densities of almost 1.4 times coverage nor does it point to the fact that the vast majority of lots have lower densities than the proposal. The Board also failed to consider the City's evidence that high densities on large lots are distinguishable from what was proposed: high densities on smaller lots.

The decision does not give appropriate weight to the City's evidence that the proposal would produce the most shallow rear yards in the area.

Attachments (4)

(Submitted to City Council on February 23 and 24, 2009, as MM31.14)

Background Information

February 20, 2009 Ontario Municipal Board Decision related to 14 and 16 Wineva Avenue (<http://www.toronto.ca/legdocs/mmis/2009/mm/bgrd/backgroundfile-19343.pdf>)

Notice of Decision, Consent, File No. B0131/08TEY (October 22, 2008) for 14 and 16 Wineva Avenue, from the Manager and Deputy Secretary Treasurer, Toronto and East York Panel, Committee of Adjustment

(<http://www.toronto.ca/legdocs/mmis/2009/mm/bgrd/backgroundfile-19344.pdf>)

Notice of Decision, Minor Variance/Permission (October 22, 2008) for 14 and 16 Wineva Avenue, from the Manager and Deputy Secretary Treasurer, Toronto and East York Panel, Committee of Adjustment

(<http://www.toronto.ca/legdocs/mmis/2009/mm/bgrd/backgroundfile-19345.pdf>)

Notice of Decision, Consent, File No. B0133/08TEY (October 24, 2008) for 18 Wineva Avenue, from the Manager and Deputy Secretary Treasurer, Toronto and East York Panel, Committee of Adjustment

(<http://www.toronto.ca/legdocs/mmis/2009/mm/bgrd/backgroundfile-19346.pdf>)