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**City Council**

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**Motion without Notice**

MM40.8	ACTION			Ward: 31
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**Ontario Municipal Board Hearing – 40 Fairside Avenue - by Councillor Davis, seconded by Councillor Perks**

- This Motion has been deemed urgent by the Chair.*
- Council has added this Motion to the agenda for debate.*

**Recommendations**

Councillor Davis, seconded by Councillor Perks, recommends that:

1. City Council authorize the City Solicitor and the appropriate City staff to appear at the Ontario Municipal Board to support the Committee of Adjustment's refusal of the variances associated with this application, A0423/09TEY.

**Summary**

On June 25, 2008, the Committee of Adjustment refused an application to construct a second storey addition over the existing one storey detached dwelling at 40 Fairside Ave. Also proposed was a rear two-storey addition and a new detached garage. The requested variances would have resulted in a house that is 36% larger than the permitted and much higher than allowed. City Council authorized City staff to appear at the Ontario Municipal Board to support the Committee of Adjustment refusal. In November, 2008, the OMB allowed some of the variances related to the application, but refused the Floor Space Index variance.

On August 26, 2009, the Committee of Adjustment refused yet another application at this address. This time, the owner submitted another application for a variance to enclose a proposed balcony on the south side of the dwelling. This proposal would result in almost exactly the same dwelling that the OMB and Committee of Adjustment previously refused, aside from a very small reduction of the upper floor of the rear addition, which was constructed as a balcony and then subsequently enclosed. This minor reduction in the Floor Space Index does not result in any reduction of impact this development has on the adjacent properties, and does not result in a dwelling that is appropriate for this property.

(Submitted to City Council on September 30, 2009 as MM40.8)

**Background Information**

Notice of Decision (September 1, 2009) Committee of Adjustment, Toronto and East York  
Panel, 40 Fairside Avenue

(<http://www.toronto.ca/legdocs/mmis/2009/mm/bgrd/backgroundfile-23974.pdf>)