

NOTICE OF MOTION**ONTARIO MUNICIPAL BOARD HEARING –
COMMITTEE OF ADJUSTMENT APPLICATION –
122 ANNDALE DRIVE****Moved by:** CouncillorJOHN FILION**Seconded by:** Councillor**SUMMARY:**

Pedro Miguel Viera and Angela Kosmatos, the owners of 122 Anndale Drive, submitted an application to the Committee of Adjustment, North York Panel, for the construction of a new two storey dwelling with an integral, at grade garage.

Variances were requested with respect to lot coverage of 36.9% (188.6m²), front yard setback of 5.79m, west side yard setback of 1.38m to the 6.3m long portion of the at grade garage, overall building length of 18.67m, building height of 9.0m, finished first floor elevation of 1.71m and front yard setback of 3.96m to the front stairs.

Planning staff commented that the proposed lot coverage was excessive for the area and would not respect and reinforce the existing physical character of the area. Staff further commented that the proposed height was also excessive. Staff recommended that the proposed lot coverage and height variances be refused.

The Committee of Adjustment for the City of Toronto (North District) APPROVED the variances requested for a front yard setback of 5.79m, a west side yard setback of 1.38m to the 6.3m long portion of the at grade garage, overall building length of 18.67m, a finished first floor elevation of 1.71m and a front yard setback of 3.96m to the front stairs. The Committee MODIFIED the variance requested for lot coverage to 32% (163.52m²). The Committee REFUSED the variance requested for a building height of 9.0m. The decision was subject to Forestry conditions

The applicant has appealed the decision of the Committee of Adjustment to the Ontario Municipal Board.

The Ontario Municipal Board has not set a hearing date for these applications.

The Councillor is requesting representation at the Ontario Municipal Board hearing.

RECOMMENDATIONS:

1. That Council authorize the City Solicitor and City Planning Staff to attend the Ontario Municipal Board Hearing to uphold the City's By-law and the Committee of Adjustment's decisions

October 13, 2009

**EXTRACT FROM THE MINUTES OF THE NORTH YORK DISTRICT
COMMITTEE OF ADJUSTMENT
MEETING HELD ON SEPTEMBER 2, 2009
(PANEL A)**

DRAFT

A0267/09NY

**PEDRO MIGUEL VIEIRA
ANGELA KOSMATOS**
Plan 3596 Lot 111
122 Anndale Drive
R4 (PAL)
Willowdale (23)

APPLICATION:

The applicant proposes to demolish the existing dwelling and construct a new two-storey dwelling with an integral, at-grade garage.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

1. Proposed lot coverage of 36.9% (188.6m²)
WHEREAS a maximum lot coverage of 30% (153.3m²) is permitted;
2. Proposed front yard setback of 5.79m
WHEREAS a minimum front yard setback of 6.5m is required;
3. West side yard setback of 1.38m to the 6.3m-long portion of the at-grade garage
WHEREAS a minimum side yard setback of 1.8m is permitted;
4. Proposed overall building length of 18.67m
WHEREAS a maximum overall building length of 16.8m is permitted;
5. Proposed building height of 9.0m
WHEREAS a maximum building height of 8.8m is permitted;
6. Proposed finished first floor elevation of 1.71m
WHEREAS a maximum finished first floor elevation of 1.5m is permitted; and
7. Front yard setback of 3.96m to the proposed front stairs
WHEREAS a minimum front yard setback of 4.4m is required.

The Committee had before them the following communications:

- A copy of the notice of hearing dated August 21, 2009.
- A staff report dated August 21, 2009, from Thomas C. Keefe, Director, Community Planning, North York District, commenting on this application.
- A petition containing 6 signatures in support to this application.

A0267/09NY cont'd:

The following person appeared before the Committee of Adjustment in connection with the foregoing matter.

- Mr. Frank Volpentesta, 24 Sanderstead Avenue, Toronto Ontario, M6E 4X7, who spoke on behalf of the applicant.

DECISION: It was moved by Mr. Pletsch, seconded by Mr. Di Prospero, and carried unanimously that the application be **APPROVE MODIFY AND**

1. Proposed lot coverage of **32% (163.52m²)**
2. Proposed front yard setback of 5.79m
3. West side yard setback of 1.38m to the 6.3m-long portion of the at-grade garage
4. Proposed overall building length of 18.67m
6. Proposed finished first floor elevation of 1.71m
7. Front yard setback of 3.96m to the proposed front stairs

It is the decision of the Committee of Adjustment to **REFUSE** the following variance(s):

5. Proposed building height of 9.0m
WHEREAS a maximum building height of 8.8m is permitted;

Subject to the following conditions:

1. The owner shall satisfy the City of Toronto Municipal Code Chapter 813, Article II, with respect to City owned trees, to the satisfaction of the Urban Forestry Division.
2. The owner shall satisfy the City of Toronto Municipal Code Chapter 813, Article III, with respect to privately owned trees, to the satisfaction of the Urban Forestry Division.
3. The owner shall submit a Tree Security Deposit (in the form of a certified cheque or letter of credit only) and sign a Tree Preservation Agreement to the satisfaction of the Urban Forestry Division.

Grounds for approval are that the variances are considered to be of a minor nature, within the general intent of the Zoning By-law and Official Plan and an appropriate development of the property.



STAFF REPORT

Committee of Adjustment

Application

Date:	Friday August 21, 2009
To:	Chair and Committee Members of the Committee of Adjustment North York District
From:	Thomas C. Keefe, Director, Community Planning, North York District
Wards:	Ward 23 (Willowdale)
Reference:	File No. A0267/09NY Address: 122 ANNDAL DRIVE Application to be heard: Wednesday, September 2, 2009 at 1:00 p.m.

RECOMMENDATION

Staff recommend that variances #1 and #5 **be refused** in order to maintain the existing physical character of the neighbourhood and to prevent an overdevelopment of the site.

APPLICATION

The applicant proposes to demolish the existing dwelling and construct a new two-storey dwelling with an integral, at-grade garage.

REQUESTED VARIANCES TO THE ZONING BY-LAW:

1. Proposed lot coverage of 36.9% (188.6m²)
WHEREAS a maximum lot coverage of 30% (153.3m²) is permitted;
2. Proposed front yard setback of 5.79m
WHEREAS a minimum front yard setback of 6.5m is required;
3. West side yard setback of 1.38m to the 6.3m-long portion of the at-grade garage
WHEREAS a minimum side yard setback of 1.8m is permitted;
4. Proposed overall building length of 18.67m
WHEREAS a maximum overall building length of 16.8m is permitted;
5. Proposed building height of 9.0m
WHEREAS a maximum building height of 8.8m is permitted;
6. Proposed finished first floor elevation of 1.71m
WHEREAS a maximum finished first floor elevation of 1.5m is permitted; and

7. Front yard setback of 3.96m to the proposed front stairs
WHEREAS a minimum front yard setback of 4.4m is required.

COMMENTS

The subject lands are zoned R4 – One-Family Detached Dwelling Fourth Density Zone, in the former City of North York Zoning By-law No. 7625, as amended. This zoning designation permits a maximum lot coverage of 30% of the lot area. The intent of the Zoning By-law is to establish precise standards as to how land is developed. Restrictions on side yard setbacks, finished first-floor heights, building heights, building lengths and lot coverage are used, in part, to achieve more uniform and consistent built form streetscapes, thereby contributing to a more predictable pattern of development.

Attached for their consideration are several decisions previously rendered by the Committee of Adjustment for properties near 122 Anndale Drive. The highest approved lot coverage in the area is 31.9%, and the prevailing lot coverage granted for minor variance applications elsewhere in the Willowdale neighbourhood is around 32%. Staff also note that there have been no minor variances granted in the area surrounding the subject property for an increase in building height.

The property is designated *Neighbourhoods* in the Toronto Official Plan. Policy 4.1.5 states 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

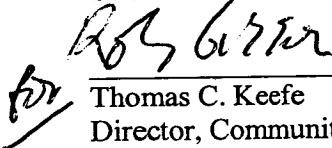
Staff is of the opinion that the proposed lot coverage (variance #1) is excessive for the area and would not respect and reinforce the existing physical character of the neighbourhood. The proposed building height (variance #5) is also excessive, as no minor variances for building height have been granted in the vicinity of the subject property. For these reasons, staff are of the opinion that the proposal would not meet the intent of the Zoning By-law or the Official Plan, would not be minor in nature and would not be an appropriate development of the property.

Through discussions with the applicant, staff suggested that the minor variance with respect to lot coverage be reduced and that the minor variance with respect to building height be eliminated to be more in keeping with the prevailing lot coverages and building heights in the area. As a result, some of the other minor variances requested could have been reduced or eliminated, but these discussions were unsuccessful. As such, staff recommend that variances #1 and #5 **be refused** in order to maintain the existing physical character of the neighbourhood and to prevent an overdevelopment of the site.

Respectfully submitted,

Christopher May, Assistant Planner
Tel: 416-395-7124
Fax: 416-395-7200
E-mail: cmay@toronto.ca

SIGNATURE



for Thomas C. Keefe
Director, Community Planning, North York District

Wednesday, September 2, 2009

**NOTICE OF DECISION
MINOR VARIANCE/PERMISSION
(Section 45 of the Planning Act)**

File Number:	A0267/09NY	Zoning	R4 (PAL)
Owner(s):	PEDRO MIGUEL VIEIRA	Ward:	Willowdale (23)
	ANGELA KOSMATOS		
Agent:	SLOBODAN VLAHOVICH		
Property Address:	122 ANNDAL DR	Community:	North York
Legal Description:	PLAN 3596 LOT 111		

Notice was given and a Public Hearing was held on Wednesday, September 2, 2009, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

The applicant proposes to demolish the existing dwelling and construct a new two-storey dwelling with an integral, at-grade garage.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

1. Proposed lot coverage of 36.9% (188.6m²)
WHEREAS a maximum lot coverage of 30% (153.3m²) is permitted;
2. Proposed front yard setback of 5.79m
WHEREAS a minimum front yard setback of 6.5m is required;
3. West side yard setback of 1.38m to the 6.3m-long portion of the at-grade garage
WHEREAS a minimum side yard setback of 1.8m is permitted;
4. Proposed overall building length of 18.67m
WHEREAS a maximum overall building length of 16.8m is permitted;
5. Proposed building height of 9.0m
WHEREAS a maximum building height of 8.8m is permitted;
6. Proposed finished first floor elevation of 1.71m
WHEREAS a maximum finished first floor elevation of 1.5m is permitted; and
7. Front yard setback of 3.96m to the proposed front stairs
WHEREAS a minimum front yard setback of 4.4m is required.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:

The Minor Variance Application is Approved on Condition

It is the decision of the Committee of Adjustment to **APPROVE** the following variance(s):

2. Proposed front yard setback of 5.79m
WHEREAS a minimum front yard setback of 6.5m is required;
3. West side yard setback of 1.38m to the 6.3m-long portion of the at-grade garage
WHEREAS a minimum side yard setback of 1.8m is permitted;
4. Proposed overall building length of 18.67m
WHEREAS a maximum overall building length of 16.8m is permitted;
6. Proposed finished first floor elevation of 1.71m
WHEREAS a maximum finished first floor elevation of 1.5m is permitted; and
7. Front yard setback of 3.96m to the proposed front stairs
WHEREAS a minimum front yard setback of 4.4m is required.

It is the decision of the Committee of Adjustment to **MODIFY AND APPROVE** the following variance(s):

1. Proposed lot coverage of **32% (163.52m²)**
WHEREAS a maximum lot coverage of 30% (153.3m²) is permitted;

For the following reasons:

- The general intent and purpose of the Official Plan is maintained.
- The general intent and purpose of the Zoning By-law is maintained.
- The variance(s) is considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance(s) is minor.

It is the decision of the Committee of Adjustment to **REFUSE** the following variance(s):

5. Proposed building height of 9.0m
WHEREAS a maximum building height of 8.8m is permitted;

For the following reasons:

- The general intent and purpose of the Official Plan is not maintained.
- The general intent and purpose of the Zoning By-law is not maintained.
- The variance(s) is not considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance(s) is not minor.

This decision is subject to the following condition(s):

1. The owner shall satisfy the City of Toronto Municipal Code Chapter 813, Article II, with respect to City owned trees, to the satisfaction of the Urban Forestry Division.
2. The owner shall satisfy the City of Toronto Municipal Code Chapter 813, Article III, with respect to privately owned trees, to the satisfaction of the Urban Forestry Division.
3. The owner shall submit a Tree Security Deposit (in the form of a certified cheque or letter of credit only) and sign a Tree Preservation Agreement to the satisfaction of the Urban Forestry Division.

SIGNATURE PAGE

File Number:	A0267/09NY	Zoning	R4 (PAL)
Owner:	PEDRO MIGUEL VIEIRA	Ward:	Willowdale (23)
	ANGELA KOSMATOS		
Agent:	SLOBODAN VLAHOVICH		
Property Address:	122 ANNDAL DR	Community:	North York
Legal Description:	PLAN 3596 LOT 111		

Ronald Forbes (signed)

Donald Di Prospero
(signed)

Robert Pletsch (signed)

DATE DECISION MAILED ON: Thursday, September 10, 2009

LAST DATE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD: Tuesday, September 22, 2009

CERTIFIED TRUE COPY

Daniel Antonacci (signed)
Manager & Deputy Secretary Treasurer
North York Panel

To appeal this decision to the Ontario Municipal Board, send a completed OMB Appellant Form (A1) to the Manager & Deputy Secretary-Treasurer, Committee of Adjustment. You must pay a filing fee of \$125.00, by certified cheque or money order, in Canadian funds, payable to the Minister of Finance. An additional reduced fee of \$25.00 is required for each connected appeal filed by the same appellant. To obtain a copy of Appellant Form (A1) and other information about the appeal process please visit the Ontario Municipal Board web site at www.omb.gov.on.ca.