



MOTION

96 RIVALDA ROAD – DIRECTION TO OPPOSE COMMITTEE OF ADJUSTMENT APPLICATION – A317/09EYK

Moved by: Councillor Mammoliti

SUMMARY:

The owner of 96 Rivalda Road applied under Application A317/09EYK for variances to By-law 7625 to permit the construction of a second storey addition over the existing industrial building. The second storey warehouse area is proposed to be used in conjunction with the existing automotive service station. The requested variances are for:

- (a) automotive service stations are not listed as a permitted use in an M1 zone; and
- (b) a total of 37 parking spaces are required for the site, 7 parking spaces are proposed.

The Committee of Adjustment approved the application as modified and on conditions. It granted a variance for one parking space. Both the public hearing notice and notice of decision are attached to this motion.

The owner has appealed its original application to the Ontario Municipal Board.

RECOMMENDATION:

That City Council direct the City Solicitor to attend at the Ontario Municipal Board to oppose Committee of Adjustment Application No. A317/09EYK with respect to 96 Rivalda Road and to retain such expert witnesses as necessary.



City Planning Division
Gary Wright, Chief Planner and Executive Director

Committee of Adjustment
Etobicoke York Panel
2 Civic Centre Crt
Toronto ON M9C 5A3
Tel 416 394-8060
Fax 416 394-6042



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Mailed on/before: Thursday, October 22, 2009

PUBLIC HEARING NOTICE
MINOR VARIANCE/PERMISSION
(Section 45 of the Planning Act)

MEETING DATE AND TIME: Thursday, November 5, 2009 at 2:00 p.m.

LOCATION: Council Chamber, York Civic Centre, 2700 Eglinton Av W, M6M 1V1

File Number:	A317/09EYK	Zoning	M1 (WAIVER)
Owner(s):	1203943 ONTARIO INC	Ward:	York West (07)
Agent:	MARIO/GABE FARRONE		
Property Address:	96 RIVALDA RD	Community:	
Legal Description:	PLAN M722 PT BLK G		

PURPOSE OF THE APPLICATION:

To construct a second storey addition over the existing industrial building. The second storey warehouse area will be used in conjunction with the existing automotive service station.

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

- 1. Section 30(2)(a), By-law 7625**
Automotive service stations are not listed as a permitted use in an M1 Zone.
- 2. Section 6A.(2)(a), By-law 7625**
A total of 37 parking spaces are required for the site.
A total of 7 parking spaces will be provided.

THE COMMITTEE OF ADJUSTMENT & MINOR VARIANCES

The role of the Committee of Adjustment is to provide flexibility in dealing with minor adjustments to zoning by-law requirements. To approve such variances, the Committee must be satisfied that:

- the variance requested is minor;
- the proposal is appropriate for the development of the land and/or building;
- the general intent and purpose of the City's Zoning Code and/or By-law are maintained; and
- the general intent and purpose of the Official Plan are maintained.

The Committee of Adjustment forms its opinion through its detailed review of all material filed with an application, letters received, deputations made at the public hearing and results of site inspections.

MAKING YOUR VIEWS KNOWN

The notice has been mailed to you, as required by the *Planning Act*, to ensure that, as an interested person, you may make your views known by:

- **Attending the Public Hearing.** Attendant Care Services can be made available with some advance notice.
- **Sending a letter by Mail or Fax.** Information you choose to disclose in your correspondence will be used to receive your views on the relevant issue(s) to enable the Committee to make its decision on this matter. This information will become part of the public record.

If you do not attend the public hearing, or express your views in writing, the Committee may make a decision in your absence, and may recommend changes to the proposal

TO VIEW THE MATERIALS IN THE APPLICATION FILE

Attend the Committee of Adjustment office at the above address Monday to Friday, 8:30 a.m. to 4:30 p.m. Plans filed with the application **will not be photocopied**.

RECEIVING A COPY OF THE COMMITTEE'S DECISION

- The Committee will announce its decision on the application at the Public Hearing.
- To receive a copy of the Decision, fill out the Decision Request Form at our office or at the Public Hearing or write a letter requesting a copy of the Decision and send it to our office.
- If you wish to appeal a Decision of the Committee to the Ontario Municipal Board, you must file your written request for a decision with the Deputy Secretary-Treasurer.

For more information please telephone our office. Call **Barbara Bartosik, (416) 394-8063**, Office of the Committee of Adjustment, Etobicoke Civic Centre, Toronto, Ontario, M9C 5A3.

Dan Antonacci
Manager & Deputy Secretary Treasurer
Etobicoke York Panel



City Planning Division
Gary Wright, Chief Planner and Executive Director

Committee of Adjustment
Etobicoke York Panel
2 Civic Centre Crt
Toronto ON M9C 5A3
Tel 416 394-8060
Fax 416 394-6042

Thursday, November 5, 2009

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

File Number:	A317/09EYK	Zoning	M1 (WAIVER)
Owner(s):	1203943 ONTARIO INC	Ward:	York West (07)
Agent:	MARIO/GABE FARRONE		
Property Address:	96 RIVALDA RD	Community:	
Legal Description:	PLAN M722 PT BLK G		

Notice was given and a Public Hearing was held on Thursday, November 5, 2009, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To construct a second storey addition over the existing industrial building. The second storey warehouse area will be used in conjunction with the existing automotive service station.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:**Section 6A.(2)(a), By-law 7625**

A total of 37 parking spaces are required for the site.

A total of 36 parking spaces will be provided.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:**The Minor Variance Application is Approved As Modified on Condition**

It is the decision of the Committee of Adjustment to authorize this variance application 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.

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

1. The applicant shall apply for and obtain site plan approval, to the satisfaction of Community Planning.

The following conditions shall be fulfilled to the satisfaction of Urban Forestry, Tree Protection & Plan Review:

2. The applicant shall construct hoarding in accordance with City of Toronto Municipal Code Chapter 813-6, Article II, City-owned trees.

A317/09EYK

3. The applicant shall provide a security deposit for the protection of city-owned trees, covering all associated tree value, removal and replacement costs.

The following conditions shall be fulfilled to the satisfaction of Traffic Planning/R-O-W Management:

4. Approval of this application shall be granted for the term of the lease, or not more than five years, whichever is less.
5. The outdoor display of vehicles for sale or lease is prohibited.
6. The outdoor storage of derelict and unplated vehicles is prohibited.
7. The use of the boulevard area of Rivalda Road for vehicle parking is prohibited. The municipal boulevard adjoining the subject site shall be bordered with pre-cast concrete curbstones to prevent unauthorized vehicle parking, to the satisfaction of this Division.
8. The applicant shall introduce the front yard landscaping as shown along Rivalda Road in the site plan drawing submitted with this application.
9. Condition No. 7 shall be satisfied within one year of the Committee or OMB approval.

SIGNATURE PAGE

File Number:	A317/09EYK	Zoning	M1 (WAIVER)
Owner:	1203943 ONTARIO INC	Ward:	York West (07)
Agent:	MARIO/GABE FARRONE		
Property Address:	96 RIVALDA RD	Community:	
Legal Description:	PLAN M722 PT BLK G		

DATE DECISION MAILED ON: Friday, November 13, 2009

(signed)

(signed)

LAST DATE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD: Wednesday, November 25, 2009

CERTIFIED TRUE COPY

Susanne Pringle
 Manager & Deputy Secretary Treasurer
 Etobicoke 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.

ITEM 2**NOVEMBER 5, 2009**

File Number:	A317/09EYK	Zoning	M1 (WAIVER)
Owner(s):	1203943 ONTARIO INC	Ward:	York West (07)
Agent:	MARIO/GABE FARRONE		
Property Address:	96 RIVALDA RD	Community:	
Legal Description:	PLAN M722 PT BLK G		

PURPOSE OF THE APPLICATION:

To construct a second storey addition over the existing industrial building. The second storey warehouse area will be used in conjunction with the existing automotive service station.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:**REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:****Section 6A.(2)(a), By-law 7625**

A total of 37 parking spaces are required for the site.

A total of 36 parking spaces will be provided.

The Committee had before it the following communication:

- A copy of the plan of survey, site statistics, site, floor and elevation plans.
- A copy of previous decision, A089/03NY, dated June 19, 2003, affecting the subject property.
- A copy of OMB Decision No. 0885, dated May 13, 2004.
- The departmental report from the Supervisor, Tree Protection and Plan Review, dated October 27, 2009.
- The departmental memorandum from the Manager, Traffic Planning/R-O-W Management, Transportation Services, dated November 4, 2009.
- A letter in objection from Emery Village (BIA) 1885 Wilson Avenue, Suite 209, dated November 5, 2009.

The following persons appeared before the Committee of Adjustment in connection with the foregoing matter:

- Mario Farrone, agent, outlined the application, referring to the material on file.
- City Councillor, Giorgio Mammoliti, ward 7, spoke in concern.

DECISION:

It was moved by Mary-Anne Popescu, seconded by Paul Valenti and carried unanimously that the application be **approved, as modified**, subject to the following conditions:

1. The applicant shall apply for and obtain site plan approval, to the satisfaction of Community Planning.

The following conditions shall be fulfilled to the satisfaction of Urban Forestry, Tree Protection & Plan Review:

4. The applicant shall construct hoarding in accordance with City of Toronto Municipal Code Chapter 813-6, Article II, City-owned trees.
5. The applicant shall provide a security deposit for the protection of city-owned trees, covering all associated tree value, removal and replacement costs.

The following conditions shall be fulfilled to the satisfaction of Traffic Planning/R-O-W Management:

4. Approval of this application shall be granted for the term of the lease, or not more than five years, whichever is less.
5. The outdoor display of vehicles for sale or lease is prohibited.
6. The outdoor storage of derelict and unplated vehicles is prohibited.
7. The use of the boulevard area of Rivalda Road for vehicle parking is prohibited. The municipal boulevard adjoining the subject site shall be bordered with pre-cast concrete curbstones to prevent unauthorized vehicle parking, to the satisfaction of this Division.
8. The applicant shall introduce the front yard landscaping as shown along Rivalda Road in the site plan drawing submitted with this application.
9. Condition No. 7 shall be satisfied within one year of the Committee or OMB approval.

The **reason** for the decision is that, in the opinion of the Committee of Adjustment, the variance requested, **subject to the above-noted conditions**, is minor in nature, is desirable for the appropriate development and use of the subject property and maintains the general intent and purpose of the Zoning By-law and the Official Plan.



Memorandum

Transportation Services

Item # 2

To: Ms Susanne Pringle, Manager and Deputy Secretary Treasurer, Etobicoke York Panel, Committee of Adjustment

From: Allan Smithies, Manager, Traffic Planning/R-O-W Management

Date: November 4, 2009

Subject: **1203943 ONTARIO INC.**
96 RIVALDA ROAD
A317/09EYK

The Transportation Services Division reviewed the above-noted minor variance application from a traffic planning perspective and has the following comments.

The subject site is zoned 'Industrial One' (M1) and is currently occupied by an industrial building containing several independent auto service shops. The applicant proposes to construct a second storey warehouse addition to be used in conjunction with the existing auto service shops, which are to be maintained. The auto service shop is not listed as a permitted use in an M1 zone.

According to North York Zoning Bylaw No. 7625, the applicant is required to provide parking at a ratio of one stall per 28m² for the auto service shops and one stall per 42m² for the proposed warehouse. Based on the information provided, the gross floor area of the building is 1,225m², consisting of 682m² for the auto service shops and 543m² for the proposed warehouse. On this basis, the site requires a total of 37 on-site parking spaces. The applicant is providing just 5 parking spaces, which equates to a ratio of 0.41 spaces per 100m². The site drawing on file with your Committee shows a total of 5 spaces at the rear of the site.

Our site inspection reveals that at least 40 vehicles parking on-site. In addition, both plated and unplated vehicles park in the front yard, including unauthorized parking in the municipal boulevard. The parking layout shown in the applicant's site drawing is observed more in the breach than in the following, and for all intents and purposes, there is no organized on-site parking layout.

It is the experience of this Division that auto services shops generate a substantial demand for parking well in excess of minimum North York Zoning Bylaw parking requirements, resulting in parking spillover into the boulevard, front yard and parking stall access aisles. Furthermore, auto service shops, body shops in particular, often store derelict and unlicensed vehicles on-site and in the municipal boulevard.

This being the case, we recommend that your Committee refuse the subject application. If your Committee or the Ontario Municipal Board should find merit in this proposal, we recommend approval subject to the following conditions:

1. Approval of this application is granted for the term of the lease, or not more than five years, whichever is less.
2. The outdoor display of vehicles for sale or lease is prohibited.
3. The outdoor storage of derelict and unplatd vehicles is prohibited.
4. The use of the boulevard area of Rivalda Road for vehicle parking is prohibited. The municipal boulevard adjoining the subject site shall be bordered with pre-cast concrete curbstones to prevent unauthorized vehicle parking, to the satisfaction of this Division.
5. The applicant shall introduce the front yard landscaping as shown along Rivalda Road in the site plan drawing submitted with this application.
6. Condition No. 4 shall be satisfied within one year of the Committee or OMB approval.



Allan Smithies
Manager
Traffic Planning/R-O-W Management

MS

c. C of A
Street File "Rivalda Road"