

M#**MOTION****REQUEST FOR CITY REPRESENTATION AT THE ONTARIO MUNICIPAL BOARD – A0432/09NY – 233 ST. LEONARD'S AVENUE****Moved by: Councillor Jenkins**

_____**SUMMARY:**

On October 28, 2009, the Committee of Adjustment (COA) – North Panel – issued a decision approving modified variances for a new two-storey dwelling at 233 St. Leonard's Avenue while refusing a variance request for a below-grade garage.

The Committee **refused** the variance after hearing planning arguments that below grade garages are not the prevalent building pattern in the Lawrence Park neighbourhood where large homes are featured with narrower side yard setbacks and shorter building lengths.

Furthermore, Council has clearly stated their concern with the construction of below grade garages and has enacted a prohibition in North York on all reverse slope driveways effective December 1st, 2009. The same prohibition is recommended for city-wide application in the draft Harmonized Zoning By-law which is expected to come before Council in the new year.

The applicant has appealed the COA decision to the Ontario Municipal Board. The OMB has scheduled a hearing on this appeal for February 11, 2010. Staff did not comment on this application.

The recommendation seeks to uphold the decision of the Committee of Adjustment.

RECOMMENDATION:

1. That Council authorize the City Solicitor to attend the Ontario Municipal Board Hearing and retain outside planning consultants, if necessary, to uphold the decision of the Committee of Adjustment in the matter of A0432/09NY – 233 St. Leonard's Avenue.

November 28, 2009

CITY OF TORONTO
CLIFF JENKINS
5100 YONGE ST
TORONTO ON M2N 5V7Phone (416) 395-7000
Fax (416) 395-7200

Wednesday, October 28, 2009

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

File Number:	A0432/09NY	Zoning	R3 - Single Family Detached Dwelling Zone (WAIVER)
Owner(s):	TAYLOR BROOKE & LEONARDS LTD	Ward:	Don Valley West (25)
Agent:	PETER HIGGINS		
Property Address:	233 ST LEONARDS AVE	Community:	North York
Legal Description:	PLAN 1534 LOT 440		

Notice was given and a Public Hearing was held on Wednesday, October 28, 2009, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

This is an application to permit the construction of a new two storey dwelling on the above noted property. The existing dwelling and detached garage would be demolished.

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

1. Existing lot frontage and width of 15.24m
WHEREAS a minimum lot frontage and width of 18m is required;
2. East side yard setback of 1.2m to the front 11.27m of the proposed dwelling
WHEREAS a minimum setback of 1.8m is required;
3. West side yard setback of 1.2m to the proposed dwelling
WHEREAS a minimum setback of 1.8m is required;
4. Length of dwelling of 20.11m
WHEREAS a maximum length of dwelling of 16.8m is permitted; and
5. The elevation of the floor of the entrance of the garage to be located below the established grade (centre line of the road) on a lot having a frontage of 15.24m
WHEREAS the elevation of the floor of the entrance of the garage shall be located at or above the established grade (centre line of the road) on lots having frontages greater than 13.7m.

***NOTE** - the variances requested for the east and west side yard setbacks and length of dwelling were previously approved under application A0300/08NY.

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):

1. Existing lot frontage and width of 15.24m
WHEREAS a minimum lot frontage and width of 18m is required;
2. East side yard setback of 1.2m to the front 11.27m of the proposed dwelling
WHEREAS a minimum setback of 1.8m is required;
3. West side yard setback of 1.2m to the proposed dwelling
WHEREAS a minimum setback of 1.8m is required;
4. Length of dwelling of 20.11m
WHEREAS a maximum length of dwelling of 16.8m 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. The elevation of the floor of the entrance of the garage to be located below the established grade (centre line of the road) on a lot having a frontage of 15.24m
WHEREAS the elevation of the floor of the entrance of the garage shall be located at or above the established grade (centre line of the road) on lots having frontages greater than 13.7m.

For the following reasons:

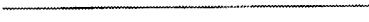
- The general intent and purpose of the Official Plan is not maintained.
- The general intent and purpose of the Zoning By-law is not maintained.
- The variance(s) is not considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance(s) is not minor.

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.

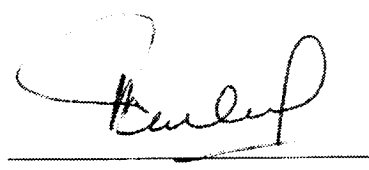
SIGNATURE PAGE

File Number:	A0432/09NY	Zoning	R3 - Single Family Detached Dwelling Zone (WAIVER)
Owner:	TAYLOR BROOKE & LEONARDS LTD	Ward:	Don Valley West (25)
Agent:	PETER HIGGINS		
Property Address:	233 ST LEONARDS AVE	Community:	North York
Legal Description:	PLAN 1534 LOT 440		


Ronald Forbes (signed)


Shima Mirkarimi (signed)


Robert Pletsch (signed)


Ronald Forbes (signed)

DATE DECISION MAILED ON: Thursday, November 5, 2009

LAST DATE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD: Tuesday, November 17, 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.

Ontario
Municipal
Board
655 Bay St Suite 1500
Toronto, ON M5G 1E5
Tel (416) 326-6800
Toll Free: 1-866-887-8820
Fax (416) 326-5370
www.omb.gov.on.ca

Commission des
affaires municipales
de l'Ontario
655 rue Bay Bureau 1500
Toronto, ON M5G 1E5
Tél (416) 326-6800
Sans Frais: 1-866-887-8820
Télé (416) 326-5370
www.omb.gov.on.ca



IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant/Appellant:	Taylor Brooks St. Leonards Ltd.
Subject:	Minor Variance
Variance from By-law No.:	7625
Property Address/Description:	233 St. Leonards Avenue (North York)
Municipality:	City of Toronto
OMB Case No.:	PL091077
OMB File No.:	PL091077
Municipal No.	A0432/09NY

APPOINTMENT FOR HEARING

The Ontario Municipal Board hereby appoints:

at: 10:00 AM

on: Thursday February 11, 2010

**at: Ontario Municipal Board
655 Bay St., Suite 1600
Toronto, ON M5G 1E5**

for the commencement of the hearing of this appeal.

The Board has set aside **2 days** for this hearing.

All parties and participants should attend at the start of the hearing at the time and date indicated, irrespective of the number of days scheduled. Hearing dates are firm - adjournments will not be granted except in the most serious circumstances, and only in accordance with the Board's Rules on Adjournments.

If you do not attend and are not represented at this hearing, the Board may proceed in your absence and you will not be entitled to any further notice of the proceedings.

In the event the decision is reserved, persons taking part in the hearing and wishing a copy of the decision may request a copy from the presiding Board member or, in writing, from the Board. Such decision will be mailed to you when available.

Pour recevoir des services en français, veuillez communiquer avec la Division des audiences au (416) 326-6800, au moins 20 jours civils avant la date fixée pour l'audience.

DATED at Toronto, this 30TH day of December, 2009.

PATRICK HENNESSY
SECRETARY