

NOTICE OF MOTION**ONTARIO MUNICIPAL BOARD HEARING –
COMMITTEE OF ADJUSTMENT APPLICATION –
194 BURNETT AVENUE****Moved by: Councillor****JOHN FILION****Seconded by: Councillor****SUMMARY:**

The owner of 194 Burnett Avenue, submitted a consent application to the North York District Committee of Adjustment for the division of a parcel of residential lands into two (2) parts for the creation of a new residential building lot.

The owner of 194 Burnett Avenue, also submitted two (2) minor variance applications to permit the construction of a new two storey dwelling on each of the newly created lots.

Variances were requested with respect to lot frontage, lot area, lot coverage, finished first floor elevation, height, and east and west internal side yard setbacks, for each of the proposed dwellings.

The Committee of Adjustment for the City of Toronto (North District) approved the Consent application and the associated Minor Variance applications at the February 3, 2010 meeting.

Planning staff commented that the proposed lots would be the smallest lots within the study area and that the proposed dwellings would not be in keeping with the physical character of the area.

The last date to file an appeal against the decision of the Committee of Adjustment for the Consent decision is March 2, 2010.

The last date to file an appeal against the decision of the Committee of Adjustment for the Minor Variance decisions is February 23, 2010.

The Councillor is requesting the City of Toronto appeal the decisions of the Committee of Adjustment.

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

RECOMMENDATIONS:

1. That Council authorize the City Solicitor to appeal the Consent and Minor Variance decisions to the Ontario Municipal Board.

2. 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 Official Plan.

February 9, 2010

**EXTRACTS FROM THE MINUTES OF THE NORTH YORK PANEL
COMMITTEE OF ADJUSTMENT MEETING HELD ON FEBRUARY 3, 2010**

**B0006/09NY,
A0060/09NY &
A0061/09NY**

LOUISE FERRARI
Plan M407, Lot 518 E Part of Lot 519
194 Burnett Avenue
R4 – Single Family Dwelling Zone
Willowdale (23)

APPLICATION:

This application is for the consent of the Committee of Adjustment to the division of a parcel of residential lands into two parts for conveyance purposes for the creation of a new residential building lot. The lands concerned have 20.61m fronting onto the north side of Burnett Avenue, a depth of approximately 34.83 m and an area of 717.4 m². The lands are described as Lot 518 and Part of Lot 519, Registered Plan M-407, Former City of North York and are designated as Parts 1 and 2 on a Draft Reference Plan submitted by the applicant. It is proposed to divide the lands into two (2) parts for the creation of a new residential building lot. The existing dwelling would be demolished and a two-storey detached dwelling would be constructed on each lot. The lands to be retained, being Part 1 would have 10.3 m fronting onto the north side of Burnett Avenue and an area of 358.9 m². The lands to be conveyed, being Part 2 would have 10.3 m fronting onto the north side of Burnett Avenue and an area of 358.5 m².

A0060/09NY - PART 2, EASTERN HALF OF THE LOT

1. Proposed lot frontage and width of 10.3 m
WHEREAS a minimum lot frontage and width of 15 m is required;
2. Proposed lot area of 358.5 m²;
WHEREAS a minimum lot area of 550 m² is required;
3. Proposed lot coverage equal to 31.98% of the lot area (114.65 m²)
WHEREAS a maximum lot coverage of 30% is permitted (107.55 m²);
4. Proposed finished first floor height of 2.74 m
WHEREAS a maximum finished first floor height of 1.5 m is permitted;
5. Proposed dwelling height of 9.27m
WHEREAS a maximum dwelling height of 8.8 m is permitted;
6. Proposed east side yard setback of 1.23 m
WHEREAS a minimum side yard setback of 1.5 m is required; and
7. Proposed west side yard setback of 0.61 m
WHEREAS a minimum side yard setback of 1.5 m is required.

A0061/09NY - PART 1, WESTERN HALF OF THE LOT

1. Proposed lot frontage and width of 10.3 m
WHEREAS a minimum lot frontage and width of 15 m is required;

2. Proposed lot area of 358.9 m²
WHEREAS a minimum lot area of 550 m² is required;
3. Proposed lot coverage equal to 30.78% of the lot area (114.78 m²)
WHEREAS a maximum lot coverage of 30% is permitted (107.67 m²);
4. Proposed finished first floor height of 2.74 m
WHEREAS a maximum finished first floor height of 1.5 m is permitted;
5. Proposed dwelling height of 9.27 m
WHEREAS a maximum dwelling height of 8.8 m is permitted;
6. Proposed east side yard setback of 0.61 m
WHEREAS a minimum side yard setback of 1.5 m is required; and

This application was deferred sine die at the Committee's hearing held on April 1, 2009, in order to allow the applicant an opportunity to meet with the neighbours and planning staff to discuss these applications.

The Committee had before it the following communications:

- A staff report dated January 27, 2010, from Thomas C. Keefe, Director, Community Planning, North York District, commenting on these applications.
- A memorandum dated February 3, 2010, from Harold Moffatt, Supervisor, Tree Protection and Plan Review, Parks, Forestry & Recreation, Urban Forestry, North York District, outlining their requirements.
- A request for a copy of the Committee's Decision from Rocco Basta, 258 Melrose Avenue, Toronto, Ontario, M5M 1Z1.
- A communication dated January 26, 2010, from David Rathgeber, President, Susan McKillen, Director, and Elaine Laprairie, Director, in opposition to these applications.
- A communication dated January 26, 2010, from David Wasserman, 197 Burnett Avenue, Toronto, Ontario, M2N 1V7, in opposition to these applications.
- A communication dated January 22, 2010, from Bruce Patterson, 198 Burnett Avenue, Toronto, Ontario, M2N 1V8, in opposition to these applications.
- A communication dated January 24, 2010, from Sergio Mateus, 199 Burnett Avenue, Toronto, Ontario, M2N 1V7, in opposition to these applications.

Absent: Mr. Peacock

Wednesday, February 3, 2010

NOTICE OF DECISION
CONSENT
(Section 53 of the Planning Act)

File Number:	B0006/09NY	Zoning	R4 (Waiver)
Owner(s):	LOUISE FERRARI	Ward:	Willowdale (23)
Agent:	TONY EVANGELISTA		
Property Address:	194 BURNETT AVE	Community:	North York
Legal Description:	PLAN M407 LOT 518 E PT LOT 519		

Notice was given and the application considered on Wednesday, April 1, 2009, as required by the Planning Act.

THE CONSENT REQUESTED:

This application is for the consent of the Committee of Adjustment to the division of a parcel of residential lands into two parts for conveyance purposes for the creation of a new residential building lot.

The lands concerned have 20.61m fronting onto the north side of Burnett Avenue, a depth of approximately 34.83 m and an area of 717.4 m². The lands are described as Lot 518 and Part of Lot 519, Registered Plan M-407, Former City of North York and are designated as Parts 1 and 2 on a Draft Reference Plan submitted by the applicant.

It is proposed to divide the lands into two (2) parts for the creation of a new residential building lot. The existing dwelling would be demolished and a two-storey detached dwelling would be constructed on each lot.

The lands to be retained, being Part 1 would have 10.3 m fronting onto the north side of Burnett Avenue and an area of 358.9 m².

The lands to be conveyed, being Part 2 would have 10.3 m fronting onto the north side of Burnett Avenue and an area of 358.5 m².

File Numbers B0006/09NY, A0060/09NY & A0061/09NY are considered jointly.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:

The Consent Application is Approved on Condition

The Committee has considered the provisions of Section 51(24) of the Planning Act and is satisfied that a plan of subdivision is not necessary. The Committee therefore consents to the creation of new lots as shown on the plan attached to this decision on the condition that before a Certificate of Consent is issued, as required by Section 53(42) of the Planning Act, the applicant is to file the following with the Committee office within ONE YEAR of the date of this Decision:

1. Confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division.
2. The requirements of the Technical Services Division.
3. Payment of Parks Fund Charges - \$1000.00
4. A draft Certificate of Official, as prescribed in O.Reg. 197/96 as Form 2 or 4 of an in a form satisfactory to the Deputy Secretary-Treasurer, that includes a completed and registerable description of the land that is the subject of the consent, shall be submitted to the Deputy Secretary-Treasurer within one year of the date of the giving of notice of this decision.
5. Copies of a deposited Reference Plan of Survey, integrated with the Ontario Co-ordinate System, and clearly delineating the parcels of land approved by the Committee of Adjustment. A listing of the PARTS and their respective areas is required.
6. A copy of a letter from the Executive Directory of Technical Services advising that the applicant has obtained the necessary adjustment to the municipal addressing of the land. Contact Survey and Mapping Services, Technical Services at (416) 392-7755. The application for municipal addressing must be accompanied by a copy of the deposited Reference Plan of Survey, integrated with the Ontario Co-ordinate System, and specify the PART numbers that will comprise each of the new parcels.
7. This Decision shall become null and void within 12 months unless the Certificate of the Committee of Adjustment is affixed to the relevant documents.

Wednesday, February 3, 2010

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

File Number:	A0060/09NY	Zoning	R4 (Waiver)
Owner(s):	LOUISE FERRARI	Ward:	Willowdale (23)
Agent:	TONY EVANGELISTA		
Property Address:	194 BURNETT AVE – PART 2	Community:	North York
Legal Description:	PLAN M407 PT LOT 518		

Notice was given and a Public Hearing was held on Wednesday, April 1, 2009, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To permit the construction of a two-storey detached dwelling with an integral, two-car garage at grade.

1. Proposed lot frontage and width of 10.3 m
WHEREAS a minimum lot frontage and width of 15 m is required;
2. Proposed lot area of 358.5 m²;
WHEREAS a minimum lot area of 550 m² is required;
3. Proposed lot coverage equal to 31.98% of the lot area (114.65 m²)
WHEREAS a maximum lot coverage of 30% is permitted (107.55 m²);
4. Proposed finished first floor height of 2.74 m
WHEREAS a maximum finished first floor height of 1.5 m is permitted;
5. Proposed dwelling height of 9.27m
WHEREAS a maximum dwelling height of 8.8 m is permitted;
6. Proposed east side yard setback of 1.23 m
WHEREAS a minimum side yard setback of 1.5 m is required; and
7. Proposed west side yard setback of 0.75m
WHEREAS a minimum side yard setback of 1.5 m 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 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 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.
2. Where no street tree exists, the owner shall provide payment in an amount to cover the cost of planting a street tree abutting the site to the satisfaction of the General Manager of Parks, Forestry and Recreation.

Wednesday, February 3, 2010

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

File Number:	A0061/09NY	Zoning	R4 (Waiver)
Owner(s):	LOUISE FERRARI	Ward:	Willowdale (23)
Agent:	TONY EVANGELISTA		
Property Address:	194 BURNETT AVE – PART 1	Community:	North York
Legal Description:	PLAN M407 PT LOT 518 E PT LOT 519		

Notice was given and a Public Hearing was held on Wednesday, April 1, 2009, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To permit the construction of a two-storey detached dwelling with an integral, two-car garage at grade.

1. Proposed lot frontage and width of 10.3 m
WHEREAS a minimum lot frontage and width of 15 m is required;
2. Proposed lot area of 358.9 m²
WHEREAS a minimum lot area of 550 m² is required;
3. Proposed lot coverage equal to 30.78% of the lot area (110.46m²)
WHEREAS a maximum lot coverage of 30% is permitted (107.67 m²);
4. Proposed finished first floor height of 2.74 m
WHEREAS a maximum finished first floor height of 1.5 m is permitted;
5. Proposed dwelling height of 9.27 m
WHEREAS a maximum dwelling height of 8.8 m is permitted;
6. Proposed east side yard setback of **0.75 m**
WHEREAS a minimum side yard setback of 1.5 m is required; and

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 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 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.
2. Where no street tree exists, the owner shall provide payment in an amount to cover the cost of planting a street tree abutting the site to the satisfaction of the General Manager of Parks, Forestry and Recreation.

Date:	March 24, 2009
To:	Chair and Committee Members of the Committee of Adjustment North York District
From:	Director, Community Planning, North York District
Ward:	23
Reference:	File Nos: B0006/09NY, A0060/09NY & A0061/09NY Address: 194 Burnett Avenue Applicant: Louise Ferrari Application to be heard: April 1, 2009

RECOMMENDATION

It is recommended that the application for severance and the related minor variances be refused.

APPLICATION

This application is for the consent of the Committee of Adjustment to the division of a parcel of residential lands into two parts for conveyance purposes for the creation of a new residential building lot.

The lands concerned have 20.61m fronting onto the north side of Burnett Avenue, a depth of approximately 34.83 m and an area of 717.4 m². The lands are described as Lot 518 and Part of Lot 519, Registered Plan M-407, Former City of North York and are designated as Parts 1 and 2 on a Draft Reference Plan submitted by the applicant.

It is proposed to divide the lands into two (2) parts for the creation of a new residential building lot. The existing dwelling would be demolished and a two-storey detached dwelling would be constructed on each lot.

The lands to be retained, being Part 1 would have 10.3 m fronting onto the north side of Burnett Avenue and an area of 358.9 m².

The lands to be conveyed, being Part 2 would have 10.3 m fronting onto the north side of Burnett Avenue and an area of 358.5 m².

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

A0060/09NY - PART 2, EASTERN HALF OF THE LOT

1. Proposed lot frontage and width of 10.3 m
WHEREAS a minimum lot frontage and width of 15 m is required;
2. Proposed lot area of 358.5 m²;
WHEREAS a minimum lot area of 550 m² is required;
3. Proposed lot coverage equal to 31.98% of the lot area (114.65 m²)
WHEREAS a maximum lot coverage of 30% is permitted (107.55 m²);
4. Proposed finished first floor height of 2.74 m
WHEREAS a maximum finished first floor height of 1.5 m is permitted;
5. Proposed dwelling height of 9.54 m
WHEREAS a maximum dwelling height of 8.8 m is permitted;
6. Proposed east side yard setback of 1.23 m
WHEREAS a minimum side yard setback of 1.5 m is required; and
7. Proposed west side yard setback of 0.61 m
WHEREAS a minimum side yard setback of 1.5 m is required.

A0061/09NY - PART 1, WESTERN HALF OF THE LOT

1. Proposed lot frontage and width of 10.3 m
WHEREAS a minimum lot frontage and width of 15 m is required;
2. Proposed lot area of 358.9 m²
WHEREAS a minimum lot area of 550 m² is required;
3. Proposed lot coverage equal to 31.98% of the lot area (114.78 m²)
WHEREAS a maximum lot coverage of 30% is permitted (107.67 m²);
4. Proposed finished first floor height of 2.74 m
WHEREAS a maximum finished first floor height of 1.5 m is permitted;
5. Proposed dwelling height of 9.54 m
WHEREAS a maximum dwelling height of 8.8 m is permitted;
6. Proposed east side yard setback of 0.61 m
WHEREAS a minimum side yard setback of 1.5 m is required; and
7. Proposed west side yard setback of 1.23 m
WHEREAS a minimum side yard setback of 1.5 m is required.

COMMENTS

The subject property has a lot frontage of 20.6 m (67.6 ft) and is the largest lot on the block. The applicant is proposing to sever the lot and create 2 lots, each with a frontage of 10.3 m (33.8 ft). Staff completed a lot study analysis of all the lots located within 120 metres of the subject lands. The results of the study are shown in the table below.

Lot Frontage Sizes	Number of Lots in Study Area
Less than 25 ft(7.62m)	0
25ft(7.62m) - 29.9ft(9.1m)	0
30ft(9.1m) - 39.9ft(12.2m)	4
40ft(12.2m) - 49.9ft(15.2m)	6
50ft(15.2m) - 59.9ft(18.3m)	47
60ft(18.3m) or larger	3
Total Lots in Study Area	60

The proposed lots would be smaller than any other lot in within the study area with the next smallest having lot frontages of 11.4 m. While the subject property is the largest on the street, creating two lots which are smaller than the other lots on the street would be inappropriate. The Official Plan requires that new development "respect and reinforce" the existing size and configuration of lots within the Neighbourhood, which this proposal does not. The lot study clearly indicates that the majority of lots in the immediate area have lots with frontages of 15.2 m or greater.

The applicant is proposing a two-storey detached dwelling for each of the new lots. These dwellings would require variances from the former City of North York by-law 7625. The dwellings on Burnett Avenue are large and few variances have been granted for finished first floor height or overall dwelling height. Due to the size of the proposed lots, the applicant is trying to construct dwellings which would not fit in with the physical character of the other dwellings on the street. The internal side yard setbacks of 0.61 m are also not characteristic of the neighbourhood and are not appropriate. The applicant is attempting to maximize the proposed lot by constructing a dwelling which requires too many variances from the by-law. This indicates that the proposed lot sizes are not appropriate for the area and that the proposed dwellings would not be characteristic of the other dwellings on the street.

The applicant is proposing to create two lots which would be the smallest with the lot study area. Further, the dwellings that are proposed for the new lots would not be in keeping with the physical character of the other dwellings on the street and would alter the existing streetscape. As a result of this, the applications for severance and minor variance do not pass the required tests under the Planning Act.

CONTACT

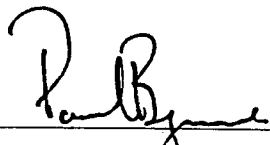
Guy Matthew, Assistant Planner

Tel: 416 395-7402

Fax: 416-395-7200

E-mail: gmatthe2@toronto.ca

SIGNATURE



for Thomas C. Keefe

Director, Community Planning, North York District

Attachment: Lot study analysis



STAFF REPORT

Committee of Adjustment
Application

Date:	January 27, 2010
To:	Chair and Committee Members of the Committee of Adjustment North York District
From:	Director, Community Planning, North York District
Ward:	23 - Willowdale
Reference:	File Nos: B0006/09NY, A0060/09NY & A0061/09NY Address: 194 Burnett Avenue Applicant: Louise Ferrari Application to be heard: February 3, 2010

RECOMMENDATION

It is recommended that the application for severance and the related minor variances be refused.

APPLICATION

The Committee of Adjustment deferred the consent and minor variance applications at its hearing of April 1, 2009, to allow the owners further opportunity to discuss the applications with planning staff. Since that time, revised minor variance requests to the zoning by-law with respect to the proposed single family dwellings have been submitted for additional staff review. The previous consent application was not modified. Public notification contained the following information:

Consent:

This application is for the consent of the Committee of Adjustment to the division of a parcel of residential lands into two parts for conveyance purposes for the creation of a new residential building lot.

The lands concerned have 20.61m fronting onto the north side of Burnett Avenue, a depth of approximately 34.83 m and an area of 717.4 m². The lands are described as Lot 518 and Part of Lot 519, Registered Plan M-407, former City of North York and are designated as Parts 1 and 2 on a Draft Reference Plan submitted by the applicant.

It is proposed to divide the lands into two (2) parts for the creation of a new residential building lot. The existing dwelling would be demolished and a new two-storey detached dwelling would be constructed on each lot.

The lands to be retained, being Part 1 would have 10.3 m fronting onto the north side of Burnett Avenue and an area of 358.9 m².

The lands to be conveyed, being Part 2 would have 10.3 m fronting onto the north side of Burnett Avenue and an area of 358.5 m².

Variances:

Two minor variance applications were submitted in association with the consent application to permit the development of a new two-storey detached single family dwelling on each lot. Some changes were made to the previous variance requests and a revised list is provided below.

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

A0060/09NY - PART 2, EASTERN HALF OF THE LOT

1. Proposed lot frontage and width of 10.3 m
WHEREAS a minimum lot frontage and width of 15 m is required;
2. Proposed lot area of 358.5 m²;
WHEREAS a minimum lot area of 550 m² is required;
3. Proposed lot coverage equal to 31.98% of the lot area (114.65 m²)
WHEREAS a maximum lot coverage of 30% is permitted (107.55 m²);
4. Proposed finished first floor height of 2.74 m
WHEREAS a maximum finished first floor height of 1.5 m is permitted;
5. Proposed dwelling height of 9.27m
WHEREAS a maximum dwelling height of 8.8 m is permitted;
6. Proposed east side yard setback of 1.23 m
WHEREAS a minimum side yard setback of 1.5 m is required; and
7. Proposed west side yard setback of 0.61 m
WHEREAS a minimum side yard setback of 1.5 m is required.

A0061/09NY - PART 1, WESTERN HALF OF THE LOT

1. Proposed lot frontage and width of 10.3 m

WHEREAS a minimum lot frontage and width of 15 m is required;

2. Proposed lot area of 358.9 m²
WHEREAS a minimum lot area of 550 m² is required;
3. Proposed lot coverage equal to 30.78% of the lot area (114.78 m²)
WHEREAS a maximum lot coverage of 30% is permitted (107.67 m²);
4. Proposed finished first floor height of 2.74 m
WHEREAS a maximum finished first floor height of 1.5 m is permitted;
5. Proposed dwelling height of 9.27 m
WHEREAS a maximum dwelling height of 8.8 m is permitted;
6. Proposed east side yard setback of 0.61 m
WHEREAS a minimum side yard setback of 1.5 m is required; and

COMMENTS

Staff previously completed a lot study analysis of all the lots located within 120 metres of the subject lands and the findings were presented in the staff report dated March 24, 2009. Because the details of the consent are unchanged from the initial application, the findings and conclusions from the previous lot study can be summarized again:

- the proposed lots would have frontages smaller than any other lot in the study area,
- only 7% of the lots in the study area have frontages between 9.1 -12.2 m, and
- the lot frontage most occurring within the study area is 15.2 metres (77%), whereas the applicant is proposing lot frontages of 10.3 m.

The lot study concluded that creating two lots which are smaller than the other lots on the street would be inappropriate and contrary to the Official Plan. The Official Plan requires that new development respect and reinforce the existing size and configuration of lots within the Neighbourhood. In addition, the Official Plan states that it is the general lot size that is to be considered when determining whether a lot created by severance is substantially smaller than what is in the area. This direction to consider the general lot size during a severance review should remove comparison attempts with exceptionally larger lots and uniquely smaller lots which may occur in any given area.

The applicant has submitted a list of revised variance requests from the former City of North York by-law 7625 related to the proposed dwellings. However, staff continue to have concerns with the proposed lot frontages, lot sizes, and finished first floor heights. In addition, the internal side yard setbacks of 0.61 m are not characteristic of the neighbourhood and is not reflective of the general streetscape. The applications

collectively demonstrate that the proposed dwellings would provide new massing where development of this form was not previously contemplated.

Staff continue to be of the opinion that despite the revised variance requests, the consent proposal remains unchanged from the earlier submission, and as such the applications continue to not maintain the general intent of the Official Plan and zoning by-law.

CONTACT

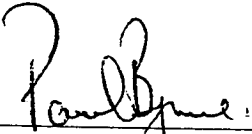
Sai-Man Lam, Senior Planner


Tel: 416 395-7402

Fax: 416-395-7200

E-mail: slam@toronto.ca

SIGNATURE

A handwritten signature in dark ink, appearing to read "Paul Byrne", is written over a horizontal line.

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