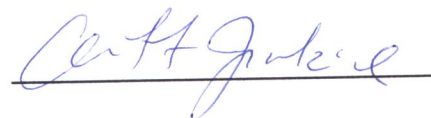


**MOTION****Appeal of Committee of Adjustment Decision and Request for City Legal Staff and Planning staff attendance at the OMB  
A0046/10NY – 55 OWEN BOULEVARD****Moved by: Councillor Jenkins****SUMMARY:**

An application to the Committee of Adjustment, North York Panel, to permit the construction of a two-storey detached dwelling, was **REFUSED** by the committee on April 14, 2010. The owner sought variances for lot area of 502m<sup>2</sup>, whereas a minimum lot area of 690m<sup>2</sup> is required; a front yard setback of 3.21m to the proposed roof overhand and 3.97m to the proposed dwelling, whereas a minimum setback of 5.25 m is required; and a rear yard setback of 4.8m to the proposed dwelling, whereas 9.5m is required.

**The Committee REFUSED this application.**

The lands on which the new dwelling was proposed were part of a park that was located along the rear property lines of the properties fronting onto Owen Boulevard and Gordon Road. These lands were re-zoned in 1955 from O1 to R3 and were later sold to the abutting homeowners for the enlargement of the lots. The owner of 58 Gordon Road did not wish to purchase the portion of the park land abutting the property and the whole portion was sold to the owners of 55 Owen Boulevard.

The lands have functioned historically as the rear yard of 55 Owen Boulevard. While the lot has been created by a change of title, it is **not** a lot on the original plan of subdivision.

The City's new Official Plan speaks directly to this issue in **Policy 4.1.5** which states:

*"Development in established Neighbourhoods will respect and reinforce the existing physical character of the neighbourhood."*

The lot is not in keeping with the character of the surrounding area. This section of the neighbourhood has a predominantly larger lot character. The lot is the smallest lot in the area. These variances are **NOT MINOR**.

As the Councillor representing this community I request Council authorize the City Solicitor and City Planning staff to attend the Ontario Municipal Board Hearing **to uphold the decision of the Committee of Adjustment and the wishes of the Community.**

**A Planning Staff report recommended REFUSAL of this application.**

**RECOMMENDATIONS:**

That Council authorize the City Solicitor and City Planning staff, and any other staff as required, to attend the Ontario Municipal Board Hearing to uphold the decision of the Committee of Adjustment.

Wednesday, April 14, 2010

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

File Number:	A0046/10NY	Zoning	R3 - Single Family Detached Dwelling (WAIVER)
Owner(s):	BENITA WASSENAAR CHRISTOPHER LOFTUS	Ward:	Don Valley West (25)
Agent:	WALKER, NOTT, DRAGICEVIC ASSOCIATES LIMITED		
Property Address:	<b>230 UPPER HIGHLAND CRES (REAR OF 55 OWEN BLVD)</b>	Community:	North York
Legal Description:	PLAN 3517 LOT 176		

Notice was given and a Public Hearing was held on Wednesday, April 14, 2010, 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.

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

1. Lot area of 502m<sup>2</sup>  
WHEREAS a minimum lot area of 690m<sup>2</sup> is required;
2. Front yard setback of 3.21m to the proposed roof overhang and 3.97m to the proposed dwelling  
WHEREAS a minimum setback of 5.25m is required
3. Rear yard setback of 4.8m to the proposed dwelling  
WHEREAS a minimum setback of 9.5m is required.

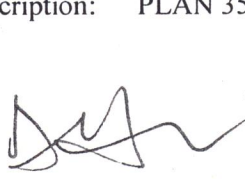
**IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:****The Minor Variance Application is Refused**

It is the decision of the Committee of Adjustment to **NOT** approve this variance application 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.

**SIGNATURE PAGE**

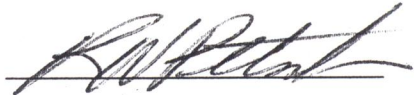
File Number: A0046/10NY Zoning R3 - Single Family Detached Dwelling (WAIVER)  
Owner: BENITA WASSENAAR Ward: Don Valley West (25)  
CHRISTOPHER LOFTUS  
Agent: WALKER, NOTT,  
DRAGICEVIC ASSOCIATES  
LIMITED  
Property Address: 230 UPPER HIGHLAND CRES Community: North York  
(REAR OF 55 OWEN BLVD)  
Legal Description: PLAN 3517 LOT 176



David Gurin (signed)



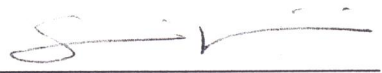
Donald Di Prospero (signed)



Robert Pletsch (signed)



Ronald Forbes (signed)



Shima Mirkarimi (signed)

DATE DECISION MAILED ON: Thursday, April 22, 2010

LAST DATE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD: Tuesday, May 4, 2010

CERTIFIED TRUE COPY

Denise Rundle (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](http://www.omb.gov.on.ca).

COMMITTEE OF ADJUSTMENT  
(North Civic Area)

File: A0046/10NY

TORONTO

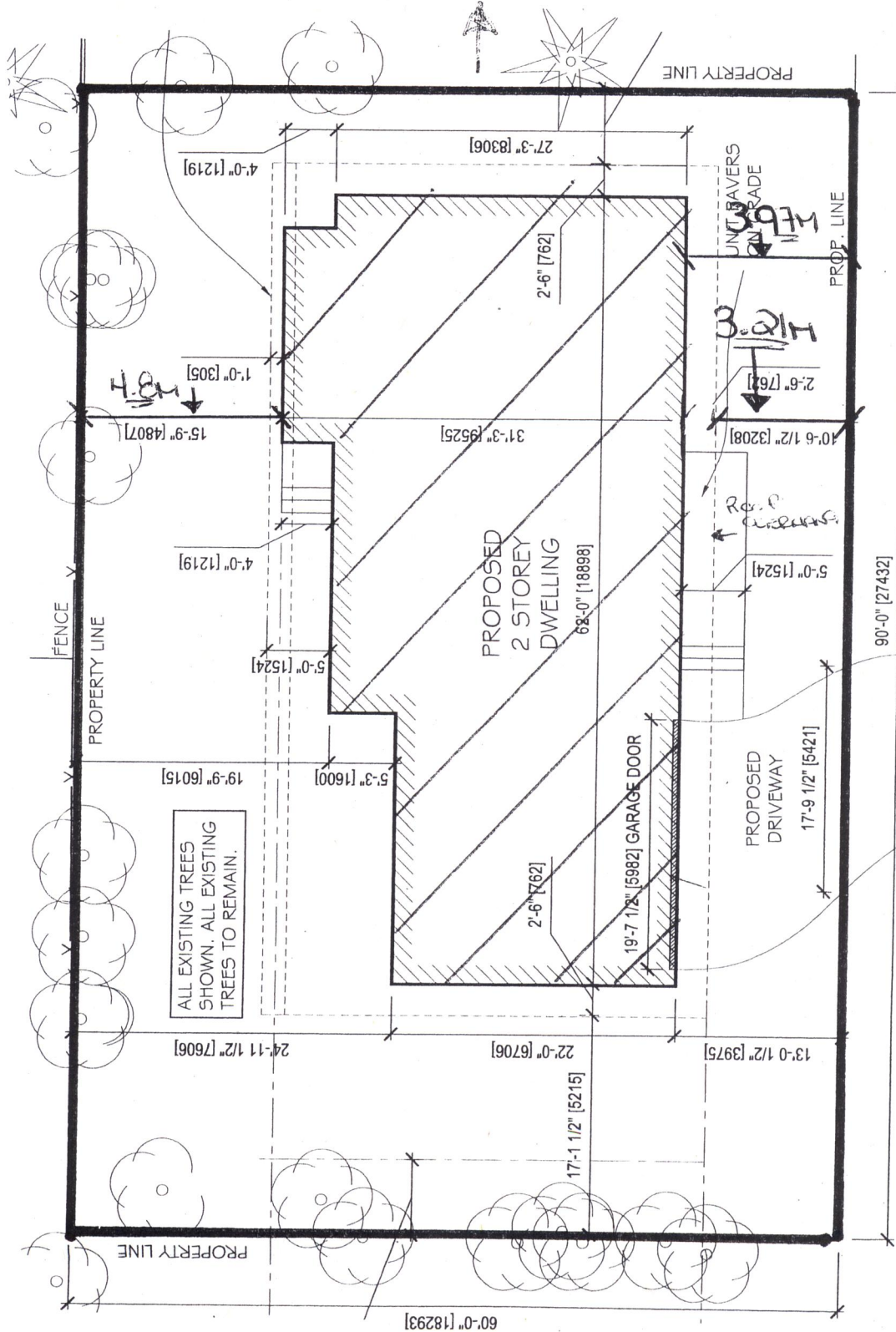
Address: 230 UPPER HIGHLAND CRESCENT  
(RÉAR OF 55 OWEN BOULEVARD)

North  
(Plans Only)



# 55 OWEN BOULEVARD

LOT AREA = 502m<sup>2</sup>



UPPER HIGHLAND CRESCENT

UNGRAVELLED DRIVEWAY

3.0' H

Re. P. [unclear]

ALL EXISTING TREES SHOWN. ALL EXISTING TREES TO REMAIN.

**OWEN BOULEVARD**

12	16	18	19	20	32	33	34	35	39	41	43	45	47	51	53	55
186	185	184	183	182	181	180	179	178	177	176						
<b>R3</b>																
BL. 9692 PARK 193																
194	195	196	197	198	199	200	201	202	203							
RP 3517																

**CRESCENT**

**OWEN**

73	75	77	79	81	83	85	89	91	93	95	97	99	101	103
175	174	173	172	171	170	169	168	167	166	165	164	163	162	161
<b>R3</b>														
PARK														
BL. 9692														
205	206	207	208	209	210	211	212	213	214	215	216	217	218	219
RP 3517														
PARK														
204														
62	66	68	70	72	74	76	78	80	82	90	92	96	98	100

**GORDON**

**STREET**



**STAFF REPORT**  
**Committee of Adjustment**  
**Application**

<b>Date:</b>	April 7, 2010
<b>To:</b>	<b>Chair and Members of the Committee of Adjustment North York District</b>
<b>From:</b>	Thomas Keefe, Director, Community Planning, North York District
<b>Wards:</b>	Ward 25 (Don Valley West)
<b>Reference:</b>	File No. A0046/10NY Owner: Benita Wassenaar and Christopher Loftus Address: 230 Upper Highland Crescent (Rear of 55 Owen Boulevard) Application to be heard: April 14, 2010

**RECOMMENDATION**

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Staff recommend that the application be refused.

**APPLICATION**

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This is an application to permit the construction of a new two storey dwelling on the above noted property.

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

1. Lot area of 502m<sup>2</sup> (5,403.7sq.ft.)  
WHEREAS a minimum lot area of 690m<sup>2</sup> (7,427.34sq.ft.) is required;
2. Front yard setback of 3.21m (10.53') to the proposed roof overhang and 3.97m (13') to the proposed dwelling  
WHEREAS a minimum setback of 5.25m (17.22') is required
3. Rear yard setback of 4.8m (15.74') to the proposed dwelling  
WHEREAS a minimum setback of 9.5m (31.2') is required.

**COMMENTS**

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The applicant is proposing to construct a new two storey dwelling on the lands to the rear 55 Owen Boulevard, fronting onto Upper Highland Crescent.

The lands concerned were the subject of previous Committee of Adjustment applications B0064/08NY, A0533/08NY and A0534/08NY, which were submitted for the division of the property at 55 Owen Boulevard into two parts for the creation of anew building lot, the construction of a one storey attached garage on the north side of the existing dwelling at 55 Owen

Boulevard and for the construction of a new two storey dwelling on the newly created lot fronting onto Upper Highland Crescent. These applications were considered on September 10, 2008 where it was the decision of the Committee to refuse the applications. Attached are copies of the Committee's decisions.

The lands in question were part of a park that was located along the rear property lines of the properties fronting onto Owen Boulevard and Gordon Road east to Seneca Street. These lands were re-zoned in 1955 from O1 to R3 and were later sold to the abutting homeowners for the enlargement of the lots. The owner of 58 Gordon Road did not wish to purchase the portion of the park land abutting the property and the whole portion was sold to the owners of 55 Owen Boulevard.

The lands are described as Part of Lot 193, Registered Plan 3517. 55 Owen Boulevard is described as Lot 176, Registered Plan 3517. Due to 55 Owen Boulevard being a whole lot on a registered plan of subdivision, the part lot acquired at the rear, while functioning as part of the property, did not merge on title. The applicant has since acquired separate title to the rear portion that is the subject of this application.

The applicant is requesting a variance for a lot area of 502m<sup>2</sup> (5,403.7sq.ft.). The By-law requires a minimum lot area of 690m<sup>2</sup> (7,427.34sq.ft.). There are no lots in the area that have a lot area in the range the applicant is requesting.

The proposed dwelling would have a front yard setback of 3.21m (10.53') to the proposed roof overhang and 3.97m (13') to the proposed dwelling. The lot is considered to be a "key" lot, and requires a minimum setback of 5.25m (17.22'). A search of departmental records indicates that there have been no reductions in the front yard setbacks for the construction of new dwellings.

As a result of the lot configuration, the proposed dwelling would require a rear yard setback of 4.8m (15.74'). The By-law requires a minimum setback of 9.5m (31.2'). Due to the large lot depths in the area, there have been no variances granted with respect to a reduction in the rear yard setback.

The subject property and the surrounding area is designated as *Neighbourhoods* in the Official Plan and are considered physically stable areas. Development within *Neighbourhoods* will be consistent with this objective and will respect and reinforce the existing physical character of buildings, lot sizes, streetscapes and open space patterns in these areas.

The Plan recognizes that neighbourhoods are stable not static meaning that there will be changes made. *Neighbourhoods* will not stay frozen in time. Some physical change will occur in the form of enhancements, additions and infill housing. A cornerstone policy is to ensure that new development respects the existing physical character of the area, reinforcing the stability of the neighbourhood.

Section 4.1 of the Official Plan establishes the development policies for *Neighbourhoods*. The preamble to the development criteria states "The stability of our *Neighbourhoods*' physical character is one of the keys to Toronto's success. Physical changes to our established *Neighbourhoods* must be sensitive, gradual and generally "fit" the existing physical character. A key objective of this Plan is that new development respect and reinforce the general physical patterns in a *Neighbourhood*".

Policy 4.1.5 establishes the criteria for development within *Neighbourhoods*. Development will respect and reinforce the existing physical character of the neighbourhood,\*with particular regard to:

- b) Size and configuration of lots;
- e) Setbacks of buildings from the street or streets;
- f) Prevailing patterns of rear and side yard setbacks and landscaped open space

No changes will be made through rezoning, minor variance, consent or other public action that are out of keeping with the physical character of the neighbourhood.

Policy 4.1.8 states that “*Zoning By-laws will contain numerical site standards for matters such as building type and height, density, lot sizes, lot depths, lot frontages, parking, building setbacks from lot lines, landscaped open space and any other performance standards to ensure that new development will be compatible with the physical character of established residential Neighbourhoods*”.

The lot is not in keeping with the character of the surrounding area. This section of the neighbourhood has a predominantly larger lot character. The lot is the smallest lot in the area and the proposed construction does re-enforce the existing character of the surrounding neighbourhood. The requested variances are not minor in nature and do not result in an appropriate development of the property. The performance standards for the R3 zoning category cannot be maintained and the variances requested are not representative of the surrounding neighbourhood.


There are four (4) City trees located in the boulevard along the frontage of this lot. Forestry staff have indicated that the proposed driveway access is in conflict with these trees and a permit for removal or damage may not be issued. Technical Services staff have indicated that there are no sanitary sewers along Highland Crescent and the applicant will be required to extend these services. In light of the above, staff are further convinced that construction here is not appropriate.

The lands have functioned historically as the rear yard area of 55 Owen Boulevard. The applicant submits that the subject lands are a “lot of record”. While the lot has been created by a change of title, it is **not** a lot on the original plan of subdivision. The lot is not in keeping with the character of the surrounding neighbourhood. These lands were sold for the extension of the rear yard open space for the abutting properties and it is staff’s opinion that they were never intended to be used for a building lot.

This lot was created for a purpose other than residential development. The lot was separated from 55 Owen Boulevard with full knowledge of that fact and the By-law standards for the area. It is staff opinion that the mere existence of a vacant lot is not a compelling enough reason to allow variances to the By-law to facilitate the construction of a dwelling.

It is staff’s opinion that the application should be **refused**.

**SIGNATURE**

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



**CONTACT**

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E-mail: [jcstark@toronto.ca](mailto:jcstark@toronto.ca)