



Councillor Adam Vaughan 魏德方

Toronto City Council
Trinity-Spadina, Ward 20

March 8, 2010

Chair and Members
Toronto and East York Community Council

Dear Chair and Members:

NOTICE OF MOTION

TEYCC: 19 Humewood Drive – Request for City Solicitor to attend OMB

SUMMARY:

On January 27, 2010, the Toronto and East York Panel of the Committee of Adjustment refused a number of minor variances with respect to legalizing habitable space with a sink, toilet and shower above a detached garage at 19 Humewood Drive, which was constructed without the proper approvals. The applicant has appealed to the Ontario Municipal Board, although no hearing date has been set.

Community Planning wrote a report to the Committee of Adjustment in opposition to this application because the proposed habitable use of the second storey in an accessory building is contrary to the zoning bylaw and Official Plan. Further, Community Planning believed allowing habitable space in an accessory building would set a negative precedent in the area.

Community Planning did provide the applicant with preliminary comments and recommended the sink, toilet and shower be removed, however, the applicant did not make the suggested changes.

This Motion is made to authorize the City Solicitor to attend the OMB hearing to oppose the appeal and uphold Community Planning's recommendation and the Committee of Adjustment's decision.



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Trinity-Spadina, Ward 20

RECOMMENDATIONS:

It is recommended that Toronto and East York Community Council:

1. Request that City Council authorize the City Solicitor to attend the OMB hearing in support of the refusal of the variances 1, 2, 4 and 5 regarding 19 Humewood Dr., Toronto.

Your consideration is appreciated.

Sincerely,

Adam Vaughan



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

File Number:	A0679/09TEY	Zoning	R2 (PPR)
Owner(s):	ROBERT SABATO	Ward:	St. Paul's (21)
Agent:	ADAM BROWN SHERMAN BROWN DRYER KAROL GOLD LEBOW		
Property Address:	19 HUMEWOOD DR	Community:	York
Legal Description:	PL 966 PT LTS 22 & 23		

Notice was given and a Public Hearing was held on **Wednesday, January 27, 2010**, as required by the Planning Act

PURPOSE OF THE APPLICATION:

In 2002, the applicant constructed a detached single-car garage in accordance with a building permit. Subsequently, the applicant incorporated usable space in the attic portion to facilitate a guest bedroom with a sink and toilet without a permit. The applicant is now seeking relief from the Zoning By-law to legalize and maintain the existing detached garage and second floor usable space as constructed.

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

- Section 2(1), By-law 1-83**
The definition of "accessory" means a use, building or structure that is naturally and normally incidental, subordinate and exclusively devoted to a principal use, building or structure and located on the same lot. The detached garage is not naturally or normally incidental to the principal use on the lot.
- Section 7.1(B), By-law 1-83**
Only one (1) building is permitted on any lot, other than permitted accessory buildings. There are two (2) buildings on the lot.
- Section 3.2.1(a)(i), By-law 1-83**
A parking space is required to be 5.6 m long.
The existing parking space is 5.41 m long.
- Section 3.4.11(c), By-law 1-83**
The maximum permitted height of an accessory building is one (1) storey.
The detached garage has a height of two (2) storeys.

5. **Section 3.4.11(b), By-law 1-83**

The maximum permitted gross floor area of an accessory structure is 46 m².

The gross floor area of the detached garage is 56.61 m².

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:

1. Variance Request Number 3 is **APPROVED**.
2. Variance Request Numbers 1, 2, 4 & 5 are **REFUSED**.

The **reasons** for the decision are:

In the opinion of the Committee of Adjustment, variance request 3, is minor in nature, is desirable for the appropriate development and use of the subject property and does maintain the general intent and purpose of the Zoning By-law and the Official Plan; and variance requests 1, 2, 4 and 5 are not minor in nature, are not desirable for the appropriate development and use of the subject property and do not maintain the general intent and purpose of the Zoning By-law and the Official Plan.

SIGNATURE PAGE

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Robert Brown (Signed)

Gillian Burton (Signed)

George Vasilopoulos
(Signed)

John Tassiopoulos (Signed)

David Pond (Signed)

DATE DECISION MAILED ON: **Tuesday, February 2, 2010**

LAST DATE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD: **Tuesday, February 16, 2010**

CERTIFIED TRUE COPY

Anita M. MacLeod
Manager & Deputy Secretary Treasurer
Toronto and East 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.



STAFF REPORT
Committee of Adjustment
Application

Date:	January 21, 2010
To:	Chair and Committee Members of the Committee of Adjustment
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 21, St. Paul's
Reference:	File No. A0679/09TEY Address: 19 Humewood Dr Application to be heard: January 27, 2010

RECOMMENDATION

Planning staff respectfully recommend that the Committee refuse variances No. 1, 2, 4 and 5.

APPLICATION

The applicant is seeking relief from the provisions of the Zoning By-law to legalize and maintain the existing detached garage and second floor usable space as constructed. In 2002 the applicant constructed a detached single-car garage in accordance with a building permit. The applicant incorporated usable space in the attic portion to facilitate a guest bedroom with a sink, toilet and shower without a permit.

The following variances are requested as part of this application:

- To permit the detached garage as an accessory use when it is not naturally or normally incidental to the principal use on the lot;
- To permit two (2) buildings on a lot;
- Deficiency in parking space length;
- Maximum permitted height of an accessory building; and
- Maximum permitted gross floor area of an accessory structure.

COMMENTS

Planning staff have reviewed the plans and documents submitted and have conducted a site visit including the inside of the second storey of the garage.

Planning staff cannot support this application in its current form. The proposed use of the second storey as a habitable space is contrary to both the Zoning By-law and the Official

Plan. As well, Planning staff believes that allowing an accessory building to include habitable space will set an unwanted precedent in the area.

The issue of allowing a second dwelling unit on a lot has been examined by the City of Toronto, and in 1999 Toronto City Council passed a bylaw permitting second suites city-wide. A second suite is defined in the By-law as a lawful, self-contained, second housing unit "located in a detached house or semi-detached house" (emphasis added). The unit proposed in the attic of the garage, an accessory dwelling, does not meet this definition.

Planning staff provided preliminary comments objecting to the use of the second storey as habitable space and recommending that all plumbing (sink, toilet and shower) be removed from the second storey. Revised plans, indicating the removal of the second floor plumbing, and the space indicated as "storage space", were requested.

Since no changes have been made to the application, Planning staff is of the opinion that variances 1, 2, 4, and 5, should be refused.

CONTACT

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SIGNATURE

Raymond David
Director, Community Planning, Toronto and East York District

Copy: Adam Brown, Agent
Councillor Mihevc (Ward 21)