

**City Council****Motion without Notice**

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| MM8.44 | ACTION |  |  | Ward: 3 |
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**90 Ash Crescent - Request for City Solicitor to Attend at the Toronto Local Appeal Body - by Councillor Mark Grimes, seconded by Councillor Michael Thompson**

*\* This Motion has been deemed urgent by the Chair.*

*\* This Motion is not subject to a vote to waive referral. This Motion has been added to the agenda and is before Council for debate.*

**Recommendations**

Councillor Mark Grimes, seconded by Councillor Michael Thompson, recommends that:

1. City Council authorize the City Solicitor's appeal of May 29, 2019 and direct the City Solicitor and appropriate City Staff to attend at the Toronto Local Appeal Body hearing to oppose the consent and variances requested in Applications B0063/17EYK, A0585/17EYK, and A0586/17EYK respecting 90 Ash Crescent.
2. City Council authorize the City Solicitor to negotiate a settlement of the appeal of the decision in Applications B0063/17EYK, A0585/17EYK, and A0586/17EYK respecting 90 Ash Crescent and authorize the City Solicitor to settle the matter on behalf of the City at the City Solicitor's discretion after consultation with the Ward Councillor and with the Director of Community Planning, Etobicoke York District.

**Summary**

On May 9, 2019, the Etobicoke York Panel of the Committee of Adjustment (the "Committee") approved an application brought by the owner of 90 Ash Crescent for a consent and related minor variances to sever the property into two undersized residential lots and to permit the construction of two new detached dwellings with garages on the newly created lots. On May 9, 2019, the Committee heard and approved the Consent and Variance Applications, subject to conditions. A copy of the Committee's decisions are attached.

On May 1, 2019, Urban Forestry staff submitted a report recommending that the Applications be refused because the construction of the dwellings and driveway may require the removal of a healthy City owned multi-stemmed silver maple tree measuring 94cm in diameter. There has not been any information provided by the owner on how it would preserve the tree. The tree is a protected tree by Chapter 813, Article II Street Tree By-law.

The Consent Application to sever the land into two undersized residential lots does not meet

the provisions of Section 51(24) of the Planning Act, including, but not limited to, paragraph (c): whether the proposed severance conforms to the Official Plan. The removal of the Tree, as a result of the Consent Application, is contradictory to the natural environment policies of the Official Plan.

The requested variances do not maintain the general intent and purpose of the Official Plan. The requested variances would result in the construction of two new detached dwellings that may require the removal of a mature City owned healthy tree which would not respect and reinforce the existing physical character of the established neighbourhood.

At the request of the local Councillor, the City Solicitor has appealed the Decisions to the Toronto Local Appeal Body to preserve the City's appeal rights. This Motion will give the City Solicitor authority to continue the appeal of the Committee's Decisions to the Toronto Local Appeal Body with appropriate City Staff. This Motion will also give the City Solicitor authority to attempt to negotiate, with the applicant, a resolution of the appeal in consultation with the Ward Councillor and the Director of Community Planning. In the event that a resolution is not reached, this Motion authorizes the City Solicitor, and appropriate City Staff, to attend the Toronto Local Appeal Body in order to oppose the variances approved by the Committee in its Decision.

### **Background Information (City Council)**

Member Motion MM8.44

Committee of Adjustment Etobicoke York Panel Notices of Decision on applications for Minor Variance/Permission/Consent for 90 Ash Crescent

(<http://www.toronto.ca/legdocs/mmis/2019/mm/bgrd/backgroundfile-134902.pdf>)

(May 8, 2019) Report from the Director, Community Planning, Etobicoke York District on 90 Ash Crescent

(<http://www.toronto.ca/legdocs/mmis/2019/mm/bgrd/backgroundfile-134903.pdf>)

(May 1, 2019) Memo from Urban Forestry, Etobicoke York District on 90 Ash Crescent

(<http://www.toronto.ca/legdocs/mmis/2019/mm/bgrd/backgroundfile-134932.pdf>)