



STAFF REPORT
Committee of Adjustment
Application

Date:	April 4, 2012
To:	Chair and Members of the Committee of Adjustment North York District
From:	Allen Appleby, Director, Community Planning, North York District
Wards:	Ward 16 (Eglinton-Lawrence)
Reference:	File No. A037/12NY Address: 404 Briar Hill Avenue Application to be heard: April 11, 2012

RECOMMENDATION

Staff recommend that Committee refuse Variance Nos. 4 and 6 and reduce the Gross Floor Area (Variance No. 1).

APPLICATION

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

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

Toronto By-law 438-86

1. Proposed Gross Floor Area of 311.96m² (0.75 times the area of the lot)
WHEREAS a maximum Gross Floor Area of 145.58m² (0.35 times the area of the lot) is permitted;
2. East side yard setback of 0.9m for the rear 2.7m portion of the dwelling exceeding 17m in depth
WHEREAS a minimum setback of 7.5m is required for the portion of the building exceeding 17m in depth;
3. West side yard setback of 1.07m for the rear 2.7m portion of the dwelling exceeding 17m in depth
WHEREAS a minimum setback of 7.5m is required for the portion of the building exceeding 17m in depth;
4. The proposed garage is below grade
WHEREAS a below grade garage is not permitted;

5. Proposed front yard landscaped open space of 40%
WHEREAS a minimum front yard landscape open space of 50% is required; and

By-Law 1196-2009

6. The elevation of the lowest point of an opening to an area that may be used for parking or storage of a vehicle located inside or abutting the dwelling to be lower than the elevation of the street, arterial road or minor arterial which the lot abuts measured at its centerline directly across from the highway leading to the parking space.
WHEREAS the elevation of the lowest point of an opening to an area that may be used for parking or storage of a vehicle located inside or abutting the dwelling shall be higher than the elevation of the street, arterial road or minor arterial which the lot abuts measured at its centerline directly across from the highway leading to the parking space.

COMMENTS

The subject property is located north of Eglinton Avenue West and west of Avenue Road. The property is designated *Neighbourhoods* in the City of Toronto Official Plan, and is zoned R1 Z0.35 in the former City of Toronto Zoning By-law No. 438-86. The applicant is proposing a new two storey dwelling with a below grade garage.

On December 4, 2009, City Council enacted a Zoning By-law amendment intended to prohibit below grade garages. Specifically, Zoning By-law No. 1196-2009 restricts the elevation of the lowest point of an opening to an area that may be used for parking or storage of a vehicle located inside or abutting a dwelling, to be higher than the elevation of the street, regardless of any previous permissions for below grade garages. One of the reasons for the enactment of this amendment was to address issues regarding grade-related basement flooding.

In addition, former City of Toronto Zoning By-law No. 438-86 does not permit below grade garages due, in part, to preserve neighbourhood streetscapes (as outlined in a report to City Council dated May 7, 1996 from the Commissioner of Planning and Development and the Acting Commissioner of Public Works and the Environment).

There are very few existing below grade garages in the surrounding neighbourhood, and none on this portion of Briar Hill Avenue. Those that do exist were either permitted as-of-right, approved before the enactment of both By-laws or permitted by way of appeal to the Ontario Municipal Board. Staff are of the opinion that Council's intention to prohibit below grade garages is clear.

The character of the area is largely defined by dwellings with detached garages located in the rear yard and generous front yard landscaping. A below grade garage would not be in keeping with this character and would, therefore, not maintain the intent and purpose of the Official Plan.

In addition to the below grade garage, the applicant is proposing a Gross Floor Area of 0.75 times the lot area. Variances for increased Gross Floor Area have been approved in the surrounding neighbourhood, however, the majority of those approvals were for a

significantly lower GFA. For example, an application was submitted to the Committee for 412 Briar Hill Avenue seeking a variance for a GFA of 0.70 times the lot area and the Committee reduced the GFA to 0.67 times the lot area.

The proposed below grade garage does not meet the intent and purpose of the Official Plan and Zoning By-law and staff recommend the variances relating to the below grade garage be refused. Staff would also recommend the Committee reduce the Gross Floor Area to something more in keeping with the surrounding area.

Respectfully submitted,

CONTACT

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SIGNATURE

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