Date: June 21, 2012

To: Chair and Committee Members of the Committee of Adjustment
North York District

From: Allen Appleby, Director, Community Planning, North York District

Wards: Ward 23 (Willowdale)

Reference: File No. A321/12NY
Address: 401 KINGSDALE AVE
Application to be heard: Wednesday July 4, 2012 at 11:00 a.m.

APPLICATION

To permit the dwelling under construction to maintained and completed as constructed.

REQUESTED VARIANCES TO THE ZONING BY-LAW:

North York By-law 7625 and Site Specific By-law 253-2008 (OMB)

1. Existing west side yard setback of 1.43m to the dwelling
   WHEREAS a minimum setback of 1.8m is required;

2. Existing building height of 9.25m
   WHEREAS a maximum building height of 8.8m is permitted; and

3. Existing finished first floor height of 2.68m
   WHEREAS a maximum finished first floor height of 2.21m is permitted.

COMMENTS

The subject property is designated Neighbourhoods in the Toronto Official Plan. Neighbourhoods are considered to be stable areas, however the Official Plan recognizes that Neighbourhoods are not static, meaning there will be change in these areas. It is expected that some physical change will occur in the form of enhancements, additions and infill housing. Development within Neighbourhoods will respect and reinforce the existing physical character of buildings, lot sizes, streetscapes and open space patterns in these areas.

Section 4.1 establishes the development policies for Neighbourhoods. The preamble to the development criteria states “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 outlines the criteria for development within Neighbourhoods. Development will respect and reinforce the existing physical character of the neighbourhood, with particular regard to:

  c) heights, massing, scale and dwelling type of nearby residential properties;
  f) prevailing patterns of rear and side yard setbacks and landscaped open space

The Plan goes on to assert that 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.

The subject lands are zoned RM1(74) in the former City of North York Zoning By-law No. 7625, as amended. The intent of the Zoning By-law is to establish precise standards as to how land is developed. Restrictions side yard setbacks, building heights and finished first floor heights are used, in part, to achieve more uniform and consistent built form streetscapes, thereby contributing to a more predictable pattern of development.

This site-specific zoning, approved by the Ontario Municipal Board on January 4, 2008, applies to a rezoning application to permit fourteen townhouse units fronting Bayview Avenue and two detached dwellings behind, one fronting Kingsdale Avenue and one fronting Empress Avenue. These two dwellings are meant to act as a transition between the three-storey townhouses fronting Bayview Ave and the single-family detached residential lots to the west.

As it applies to the two detached dwellings, the RM1(74) zoning designation requires a minimum west side yard setback of 1.8m and permits a maximum building height and finished first floor height of 8.8m and 2.21m, respectively.

On February 28, 2012, as construction of the subject dwelling neared completion, the Toronto Building Division issued an Order To Comply notice, which identified the west side yard setback, building height and first floor height as having been constructed in excess of the site-specific zoning by-law.

Staff is of the opinion that the dwelling, as constructed, does not meet the intent of the Zoning By-law. In particular, the finished first floor height is 0.47m higher than that which was amended by the Board, which is 0.71m higher than the underlying R4 requirement.

Respectfully submitted,

Christopher May, Assistant Planner
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Fax: 416-395-7200
E-mail: cmay@toronto.ca

SIGNATURE

Allen Appleby
Director, Community Planning, North York District

Staff Report Committee of Adjustment Application
Mailed on/before: Friday, June 22, 2012

PUBLIC HEARING NOTICE
MINOR VARIANCE/PERMISSION
(Section 45 of the Planning Act)

MEETING DATE AND TIME: Wednesday, July 4, 2012 at 11:00 a.m.

LOCATION: Council Chamber, North York Civic Centre, 5100 Yonge St., M2N 5V7

File Number: A321/12NY  Zoning: RM1(74) - Exception to Multiple Family Dwelling Zone (BLD)

Owner(s): SAUL BESHARAT  Ward: Willowdale (23)

Agent: HOSSEIN EFKEKHARI

Property Address: 401 KINGSDALE AVE  Community: North York

Legal Description: PLAN 1790 PT LOTS 393 TO 395 PT LANE RP 66R24854 PART 18

PURPOSE OF THE APPLICATION:

This is an application to permit the dwelling under construction to maintained and completed as constructed. The dwelling is under construction by Permit 2011 198509

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

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   WHEREAS a maximum building height of 8.8m is permitted; and

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   WHEREAS a maximum finished first floor height of 2.21m is permitted.

Denise Rundle (signed)
Manager & Deputy Secretary Treasurer
North York Panel