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CITY CLERK  
SECRETARIAT

2012 JAN -b P b: 20

January 6, 2012

To: Toronto East York Community Council

**Recommendation**

1. That the City Solicitor and City Planning staff attend the Ontario Municipal Board (OMB) hearing, in support of the Committee of Adjustment decision to deny the Consent and Minor Variance applications regarding 17 – 19 Kippendavie Avenue (B0013/11TEY, A0162/11TEY, B0014/11TEY and A0163/11TEY).

**Summary**

The purpose of the Committee of Adjustment application heard on December 14, 2011, was to sever the rear portion of the lots at 17 and 19 Kippendavie Avenue to create a new lot with frontage on Kew Beach Avenue. The front portion of the lots would be consolidated to create one lot with frontage on Kippendavie Avenue. A new three-storey detached dwelling would be constructed on each lot. The existing semi-detached dwellings at 17 and 19 Kippendavie Avenue would be demolished.

The City Planning Division wrote to the Committee of Adjustment recommending refusal of the applications, as they do not meet the intent of the Official Plan, nor the Zoning By-law, and are considered overdevelopment of the site.

The Committee members denied the Consent and Minor Variance applications (please see attached).

The applicant has appealed the Committee's decision to the Ontario Municipal Board. A hearing date has yet to be scheduled.

Therefore, it is recommended that the City Solicitor and the Chief Planner attend the OMB hearing to support the Committee of Adjustment decision to deny the Consent and Minor Variance applications.

Councillor Mary-Margaret McMahon

(Attachments: C of A decisions and City Planning Report)

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

File Number:	A0162/11TEY	Zoning	R2 Z0.6 (WAIVER)
Owner:	1399550 ONTARIO LIMITED	Ward:	Beaches-East York (32)
Agent:	BRIAN LEE		
Property Address:	<b>17 KIPPENDAVIE AVE (PARTS 1, 4 &amp; 5)</b>	Community:	
Legal Description:	E 198 PT LOT 34		

Notice was given and a Public Hearing was held on **Wednesday, December 14, 2011**, as required by the Planning Act.

### PURPOSE OF THE APPLICATION:

To demolish the existing dwellings and to construct a new three-storey single family detached dwelling, with a parking space below a rear deck.

### REQUESTED VARIANCES TO THE ZONING BY-LAW:

- Section 6.(3), Part I.1, By-law 438-86**  
The maximum permitted gross floor area is 0.6 times the area of the lot (100.2 m<sup>2</sup>).  
The new dwelling will have a gross floor area equal to 1.22 times the area of the lot (203.51 m<sup>2</sup>).
- Section 6.(3), Part II.2.(III), By-law 438-86**  
The minimum required front yard setback is 6.94 m.  
The new dwelling will be located 1.83 m from the front lot line.
- Section 6.(3), Part II.3.(I), By-law 438-86**  
The minimum required setback from the side wall of an adjacent building that contains no openings is 0.9 m.  
The new dwelling will be located 0.48 m from the north adjacent building (21 Kippendavie Avenue).
- Section 6.(3), Part II.3.A.(II), By-law 438-86**  
The minimum required side yard setback flanking a street is 6 m.  
The new dwelling will be located 0.25 m from the flanking street (Kewbeach Avenue).
- Section 6.(3), Part II.4, By-law 438-86**  
The minimum required rear yard setback is 7.5 m.  
The new dwelling will be located 2.32 m from the rear lot line.

**6. Section 6.(3), Part III.1.(A), By-law 438-86**

Not less than 30% of the area of the lot shall be maintained as landscaped open space (50.1 m<sup>2</sup>).

A total of 27.28% of the lot area will be maintained as landscaped open space (45.6 m<sup>2</sup>).

**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:	A0162/11TEY	Zoning	R2 Z0.6 (WAIVER)
Owner:	1399550 ONTARIO LIMITED	Ward:	Beaches-East York (32)
Agent:	BRIAN LEE		
Property Address:	<b>17 KIPPENDAVIE AVE</b>	Community:	
	<b>(PARTS 1, 4 &amp; 5)</b>		
Legal Description:	E 198 PT LOT 34		

**DISSENTED**

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Barbara Leonhardt (signed)

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Donna McCormick (signed)

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Mary Pitsitikas

**DISSENTED**

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Christian Chan

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Robert Brown (signed)

DATE DECISION MAILED ON: **Tuesday, December 20, 2011**

LAST DATE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD: **Tuesday, January 3, 2012**

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





City Planning Division  
Gary Wright, Acting, Chief Planner and Executive Director

Committee of Adjustment  
100 Queen Street West  
Toronto ON M5H 2N2  
Tel: 416-392-7565  
Fax: 416-392-0580

***NOTICE OF DECISION***  
**CONSENT**  
**(Section 53 of the Planning Act)**

File Number:	B0013/11TEY	Zoning	R2 Z0.6 (WAIVER)
Owner:	1399550 ONTARIO LIMITED	Ward:	Beaches-East York (32)
Agent:	BRIAN LEE		
Property Address:	<b>17KIPPENDAVIE AVE</b>	Community:	
Legal Description:	PLAN E198 PT LOT 34		

Notice was given and a Public Hearing was held on **Wednesday, December 14, 2011**, as required by the Planning Act.

**THE CONSENT REQUESTED:**

To obtain consent to sever the rear portion of the lot, to be added to the holdings of the rear portion of 19 Kippendavie Avenue. These parcels of land will form a new lot with frontage on Kewbeach Avenue.

**Retained - Parts 1 & 5**

**Easement - Part 5**

**Address to be assigned (Kippendavie Avenue)**

Parts 1 and 5 have a width of 4.62 m, an area of 83.7 m<sup>2</sup> and will be added to the holdings of the front portion of 19 Kippendavie Avenue (Part 4). Parts 1, 4 and 5 will have a frontage of 9.14 m and an area of 167.3 m<sup>2</sup>. The existing dwellings will be demolished and a new three-storey single family detached dwelling, with a parking space below a rear deck, will be constructed.

Part 5 will be subject to a sewer easement in favour of the east abutting property, Parts 2 and 3.

**Conveyed - Part 2**

**Address to be assigned (Kew Beach Avenue)**

Part 2 has a width of 18.29 m, an area of 83 m<sup>2</sup> and will be added to the holdings of the rear portion of 19 Kippendavie Avenue (Part 3). Parts 2 and 3 will have a frontage of 18.29 m and an area of 167.1 m<sup>2</sup>. The existing detached garage will be demolished and a new three-storey single family detached dwelling, with an integral garage in the basement level of the building, will be constructed.

**File Numbers B0013/11TEY, A0162/11TEY, B0014/11TEY & A0163/11TEY were considered jointly.**

**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.





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Gary Wright, Acting, Chief Planner and Executive Director

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Fax: 416-392-0580

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

File Number:	A0163/11TEY	Zoning	R2 Z0.6 (WAIVER)
Owner:	1399550 ONTARIO LTD	Ward:	Beaches-East York (32)
Agent:	BRIAN LEE		
Property Address:	<b>19 KIPPENDAVIE AVE (PARTS 2 &amp; 3)</b>	Community:	
Legal Description:	PLAN E198 PT LOT 34		

Notice was given and a Public Hearing was held on **Wednesday, December 14, 2011**, as required by the Planning Act.

**PURPOSE OF THE APPLICATION:**

To demolish the existing detached garage and to construct a new three-storey single family detached dwelling with an integral garage in the basement level of the building.

**REQUESTED VARIANCES TO THE ZONING BY-LAW:**

- Section 6.(3), Part I.1, By-law 438-86**  
The maximum permitted gross floor area/floor space index is 0.6 times the area of the lot (100.2 m<sup>2</sup>).  
The new dwelling will have a gross floor area/floor space index equal to 1.27 times the area of the lot (212.02 m<sup>2</sup>).
- Section 6.(3), Part II.2.(III), By-law 438-86**  
The minimum required front yard setback is 6 m.  
The new dwelling will be located 0.46 m from the front lot line.
- Section 6.(3), Part II.4, By-law 438-86**  
The minimum required rear yard setback is 7.5 m.  
The new dwelling will be located 0.45 m from the rear lot line.

**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:	A0163/11TEY	Zoning	R2 Z0.6 (WAIVER)
Owner:	1399550 ONTARIO LTD	Ward:	Beaches-East York (32)
Agent:	BRIAN LEE		
Property Address:	<b>19 KIPPENDAVIE AVE</b>	Community:	
	<b>(PARTS 2 &amp; 3)</b>		
Legal Description:	PLAN E198 PT LOT 34		

**DISSENTED**

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Barbara Leonhardt (signed)

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Donna McCormick (signed)

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Mary Pitsitikas

**DISSENTED**

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Christian Chan

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Robert Brown (signed)

DATE DECISION MAILED ON: **Tuesday, December 20, 2011**

LAST DATE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD: **Tuesday, January 3, 2012**

CERTIFIED TRUE COPY

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

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Fax: 416-392-0580

**NOTICE OF DECISION**  
**CONSENT**  
**(Section 53 of the Planning Act)**

File Number:	B0014/11TEY	Zoning:	R2 Z0.6 (WAIVER)
Owner:	1399550 ONTARIO LTD	Ward:	Beaches-East York (32)
Agent:	BRIAN LEE		
Property Address:	<b>19 KIPPENDAVIE AVE</b>	Community:	
Legal Description:	PLAN E198 PT LOT 34		

Notice was given and a Public Hearing was held on **Wednesday, December 14, 2011**, as required by the Planning Act.

**THE CONSENT REQUESTED:**

To obtain consent to sever the front portion of the lot, to be added to the holdings of the front portion of 17 Kippendavie Avenue. These parcels of land will form a new lot with frontage on Kippendavie Avenue.

**Retained - Part 4**

**Address to be assigned (Kippendavie Avenue)**

Part 4 has a width of 4.52 m, an area of 83.6 m<sup>2</sup> and will be added to the holdings of the front portion of 17 Kippendavie Avenue (Parts 1 and 5). Parts 1, 4 and 5 will have a frontage of 9.14 m and an area of 167.3 m<sup>2</sup>. The existing dwellings will be demolished and a new three-storey single family detached dwelling, with a parking space below a rear deck, will be constructed.

**Conveyed - Part 3**

**Address to be assigned (Kew Beach Avenue)**

Part 3 has a width of 18.29 m, an area of 84.1 m<sup>2</sup> and will be added to the holdings of the rear portion of 17 Kippendavie Avenue (Part 2). Parts 2 and 3 will have a frontage of 18.29 m and an area of 167.1 m<sup>2</sup>. The existing detached garage will be demolished and a new three-storey single family detached dwelling, with an integral garage in the basement level of the building, will be constructed.

**File Numbers B0013/11TEY, A0162/11TEY, B0014/11TEY & A0163/11TEY were considered jointly.**

**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:	B0014/11TEY	Zoning	R2 Z0.6 (WAIVER)
Owner:	1399550 ONTARIO LTD	Ward:	Beaches-East York (32)
Agent:	BRIAN LEE		
Property Address:	<b>19 KIPPENDAVIE AVE</b>	Community:	
Legal Description:	PLAN E198 PT LOT 34		

**DISSENTED**

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Barbara Leonhardt (signed)

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Donna McCormick (signed)

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Mary Pitsitikas

**DISSENTED**

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Christian Chan

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Robert Brown (signed)

DATE DECISION MAILED ON: **Tuesday, December 20, 2011**

LAST DATE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD: **Monday, January 9, 2012**

CERTIFIED TRUE COPY

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

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**NOTE:** Only individuals, corporations and public agencies may appeal a decision to the Ontario Municipal Board. The appeal may not be filed by an unincorporated association or group. However, the appeal may be filed in the name of an individual who is a member of the association or group on its behalf.





**SUPPLEMENTAL  
STAFF REPORT**  
Committee of Adjustment  
Application

<b>Date:</b>	December 8, 2011
<b>To:</b>	<b>Chair and Committee Members of the Committee of Adjustment Toronto and East York District</b>
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 32, Beaches – East York
<b>Reference:</b>	File Nos. B0013/11TEY, A0162/11TEY, B0014/11TEY and A0163/11TEY Address: 17 & 19 Kippendavie Avenue Application to be heard: December 14, 2011, 3:30 p.m.

## **RECOMMENDATION**

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Planning staff respectfully recommend that Application Nos. B0013/11TEY, A0162/11TEY, B0014/11TEY and A0163/11TEY be refused.

## **APPLICATION**

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The applicant seeks to sever the rear portion of the lots at 17 and 19 Kippendavie Avenue to create a new lot with frontage on Kew Beach Avenue. The front portion of the lots would be consolidated to create one lot with frontage on Kippendavie Avenue. A new three-storey detached dwelling would be constructed on each lot. The existing semi-detached dwellings at 17 and 19 Kippendavie Avenue would be demolished.

Variations for the proposed lot and dwelling that would front on Kippendavie Avenue are requested with respect to density, front yard setback, setback from an adjacent dwelling, setback from the flanking street (Kew Beach Avenue), rear yard setback, and landscaped open space.

Variations for the proposed lot and dwelling that would front on Kew Beach Avenue are requested with respect to density, front yard setback, and rear yard setback.

## **BACKGROUND**

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On March 3, 2011, the applicant submitted the subject proposal to sever the rear portion of the lots at 17 and 19 Kippendavie Avenue to create a new (eastern)lot with frontage on Kew Beach Avenue. The front portion of the lots would be consolidated to create one (western) lot with

frontage on Kippendavie Avenue. A new three-storey detached dwelling would be constructed on each lot.

During the Preliminary Circulation stage, Planning staff identified concerns with the size of the proposed lots, and the scale and massing of the proposed dwellings.

The subject site is located at the northeast corner of Kippendavie and Kew Beach Avenues. Martin Goodman Trail and Lake Ontario are located to the south, and Kew Gardens is located to the east. The property is designated "Neighbourhoods" in the Official Plan, which requires new development to have regard for existing physical character of the surrounding neighbourhood, including prevailing lot patterns, and scale and massing of dwellings. The intent of the Zoning By-law is to maintain a stable built form, and to limit negative impacts of new development on adjacent properties.

The subject properties are zoned R2 Z0.6 under Zoning By-law 438-86 of the former City of Toronto, which permits a maximum density of 0.6 times the area of the lot. In this case, the density for each of the proposed dwellings would be twice what is permitted under the By-law (1.22 for the dwelling fronting on Kippendavie Avenue, and 1.27 for the dwelling fronting on Kew Beach Avenue).

The applicant is proposing front yard setbacks of 1.83 m and 0.46 m for the western and eastern lots, respectively. The western dwelling would be inconsistent with the prevailing front yard setbacks along Kippendavie Avenue. Although there are a few dwellings west of Kippendavie Avenue with frontage on Kew Beach Avenue, said dwellings are located on lots that are deeper than what the applicant is proposing.

With respect to the rear yard setbacks, the applicant is proposing 2.32 m and 0.45 m for the Kippendavie Avenue and Kew Beach Avenue dwellings, respectively. These setbacks are inconsistent with the minimum 7.5 m required by the Zoning By-law, and do not represent the prevailing pattern of rear yard open space in the surrounding area.

On April 5, 2011, staff advised the applicant that new development should reinforce the existing neighbourhood character. The subject proposal would be inconsistent with the prevailing lot pattern and building footprints in the surrounding neighbourhood. The proposed lots would be too shallow to accommodate new dwellings that comply with the Zoning By-law. Staff indicated that the proposal was considered inappropriate, and overdevelopment of the site.

## **COMMENTS**

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Planning staff have reviewed the proposal, conducted a site visit, and advised the applicant of their concerns.

Planning staff are of the opinion that the proposed development, including the proposed lots and dwellings, does not meet the intent of the Official Plan, nor the Zoning By-law. The development is considered inappropriate for the site as it is inconsistent with the prevailing lot patterns, building footprints, and massing in the surrounding neighbourhood. A proposal that requires variances for twice the permitted density, and front and rear yard setbacks, is not considered minor. The proposal fails to meet the four tests under Section 45 of the Planning Act. Thus, staff recommend the consent and minor variance applications be refused.

**CONTACT**

Emily Caldwell, Assistant Planner

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

**SIGNATURE**

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Gregg Lintern, MCIP, RPP

Director, Community Planning, Toronto and East York District

Copy: Councillor Mary-Margaret McMahon, Ward 32 Beaches – East York

Brian Lee

Michael Goldberg