TORONTO

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City Planning Division
Jennifer Keesmaat, MES MCIP RPP
Chief Planner and Executive Director

2013 APR 30 P 4: 10

Committee of Adjustment
Scarborough Civic Centre
150 Borough Drive
Toronto ON M1P 4N7

Tel 416-396-7019
Fax 416-396-7341

Friday, March 22, 2013

NOTICE OF DECISION

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

File Number:	A267/10SC	Zoning	Industrial District Commercial (MDC) Zone
Owners:	NIZAR FAKIRANI PROFESSIONAL CORPORATION	Ward:	Scarborough-Agincourt (39)
Agent:	ALATHENA INTERNATIONAL ACADEMY		
Property Address:	**1065 MCNICOLL AVE**	Employment District:	Steeles Employment District
Legal Description:	PLAN 9323 PT BLK Q NOW RP 64R10495 PART 21		

Notice was given and a Public Hearing was held on Friday, March 22, 2013, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To permit the existing private school to continue to provide full-time ESL and Grades 9 to 12 high school courses on the main floor of the building.

REQUESTED VARIANCE TO THE ZONING BY-LAW:

To permit a 140 m^2 private secondary school
WHEREAS the zoning by-law does not permit a school on the site.

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 refuse 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 is not considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance is not minor.

SIGNATURE PAGE

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Cynthia Lai (signed) Rolf Rogde (signed) S Gopikrishna (signed)

DATE DECISION MAILED ON: Tuesday, March 26, 2013

LAST DATE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD: Thursday, April 11, 2013

CERTIFIED TRUE COPY

Denise Rundle
Manager & Deputy Secretary Treasurer
Scarborough 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.

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TORONTO

STAFF REPORT
Committee of Adjustment Application

Date:	February 14, 2013
To:	Chair and Committee Members of the Committee of Adjustment, Scarborough District
From:	Director, Community Planning, Scarborough District
Wards:	Ward 39 – Scarborough-Agincourt
Reference:	File No. A267/10SC Address: 1065 McNicoll Avenue Application to be heard: February 21, 2013

RECOMMENDATION

Community Planning staff recommend that the Committee refuse the requested variance to permit a private secondary school use at 1065 McNicoll Avenue.

APPLICATION

The applicant is seeking relief from the provisions of the Zoning By-law to permit an approximately 140 square metre private school providing secondary school and English as a Second Language courses on the ground floor of the building.

The applicant has requested a variance to permit the private secondary school use.

COMMENTS

The subject property is located on the south side of McNicoll Avenue between Victoria Park Avenue and Pharmacy Avenue. A five-storey seniors residence, a one-storey commercial plaza, and industrial uses are located to the north of the subject property, a banquet facility and restaurants are located to the east, a hydro corridor is located to the south, and a five-storey office building that includes restaurant uses is located to the west. The applicant has indicated that the private school offers secondary school and English as a Second Language courses daily between the hours of 10 a.m. and 8 p.m. Approximately four people work at the school and 54 full- and part-time students attend the school.

The subject property is located within an *Employment District* and is designated *Employment Areas* in the Official Plan. *Employment Districts* are comprised exclusively of lands where the *Employment Areas* land use designation applies. The lands and

buildings in the *Employment Districts* are important economic assets for new and expanding businesses.

Employment Areas are places of business and economic activity. Uses that support this function consist of: offices, manufacturing, warehousing, distribution, research and development facilities, utilities, media facilities, parks, hotels, retail outlets ancillary to the preceding uses, and restaurants and small scale stores and services that serve area businesses and workers.

McNicoll Avenue is identified as a major street on Map 3 of the Official Plan. Within *Employment Areas*, places of worship, recreation and entertainment facilities, business and trade schools, and branches of community colleges or universities may locate only on major streets as shown on Map 3. All existing places of worship, recreation and entertainment facilities, business and trade schools, and branches of community colleges and universities legally established before the approval date of the Official Plan within *Employment Areas* are permitted. Large scale, stand-alone retail stores and "power centres" are only permitted in *Employment Areas* fronting onto major streets as shown on Map 3 that also form the boundary of the *Employment Areas* through the enactment of a Zoning By-law.

The proposed private school is not a permitted use within the Official Plan and as such would not maintain the intent of the Official Plan to restrict uses to those that support the function of the employment area. Approval of the requested variance could undermine the economic function of the employment area.

The Zoning By-law is intended to organize the location of specific business activities within the *Employment Districts* by recognizing the varying impacts that businesses can have on one another and on adjacent non-employment areas. The subject property is located in an Industrial District Commercial (MDC) Zone in the Employment Districts Zoning By-law Number 24982, as amended. Exception 114 of the Zoning By-law restricts the uses on the site to offices and places of worship. The Zoning By-law further stipulates that places of worship are only permitted as a sole use on a lot. As such, the intent of the Zoning By-law is to permit only offices on the subject property.

Schools are identified as a sensitive land use in the Ministry of Environment's Land Use Compatibility Guidelines. The Guidelines are intended to be applied in the land use planning process to prevent or minimize future land use problems due to the encroachment of sensitive land uses and industrial land uses on one another. The Guidelines state that the applicant is to evaluate the proposal and provide evidence to the approving authority that a compatibility problem will not exist. The applicant has not demonstrated that the proposed use is compatible with existing uses in the area.

Permitting the private school use on the subject property would not maintain the intent and purpose of either the Zoning By-law or the Official Plan and the requested variance should be refused.

CONTACT

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SIGNATURE

Raymond David, Director
Community Planning, Scarborough District

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City Planning Division
Jennifer Keesmaat, MES MCIP RPP
Chief Planner and Executive Director

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Tel 416-396-7019
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Mailed on/before: Tuesday, March 12, 2013

PUBLIC HEARING NOTICE

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

MEETING DATE AND TIME: Friday, March 22, 2013 at 9:30 a.m.

LOCATION: Council Chamber, Scarborough Civic Centre, 150 Borough Dr., M1P 4N7

File Number:	A267/10SC	Zoning	Industrial District Commercial (MDC) Zone
Owners:	NIZAR FAKIRANI PROFESSIONAL CORPORATION	Ward:	Scarborough-Agincourt (39)
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THE COMMITTEE OF ADJUSTMENT & MINOR VARIANCES

The role of the Committee of Adjustment is to provide flexibility in dealing with minor adjustments to zoning by-law requirements. To approve such variances, the Committee must be satisfied that:

- the variance requested is minor;
- the proposal is desirable for the appropriate development or use of the land and/or building;
- the general intent and purpose of the City's Zoning Code and/or By-law are maintained; and
- the general intent and purpose of the Official Plan are maintained.

The Committee of Adjustment forms its opinion through its detailed review of all material filed with an application, letters received, deputations made at the public hearing and results of site inspections.