TORONTO

STAFF REPORT
Committee of Adjustment Application

Date:	August 22, 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 16 (Eglinton-Lawrence)
Reference:	File No. A554/12NY Address: **451 OLD ORCHARD GRV** Application to be heard: Wednesday September 12, 2012 at 11:00 a.m.

APPLICATION

To permit the rear lower, middle and upper decks to maintained as constructed.

REQUESTED VARIANCES TO THE ZONING BY-LAW:

North York By-law 7625

1. Existing rear deck projection of 15.06m (for the lower, middle and upper deck)
   WHEREAS a maximum of 2.1m is permitted;

2. Existing rear deck width of 6.86m
   WHEREAS a maximum of 4.88m is permitted;

3. Existing east side yard setback of 0.15m (for the middle deck)
   WHEREAS a minimum of 1.2m is required;

4. Existing rear yard setback of 7.3m
   WHEREAS a minimum of 9.5m is required;

5. Existing covered upper deck projection of 5.33m from the rear wall
   WHEREAS a maximum of 2.1m is permitted;

6. Existing fence height of 4.27m
   WHEREAS a maximum of 2.15m is permitted; and

7. Existing rear deck area of 82.93m^2
   WHEREAS a maximum of 55.4m^2 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 R7 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 on side and rear yard setbacks, fence heights and rear deck dimensions are used, in part, to avoid potential losses of light and privacy, thereby contributing to a more predictable pattern of development.

On November 12, 2010, the Toronto Building Division issued an Order To Comply notice, which identified a large rear deck being constructed without a building permit. The lower, middle and upper decks exceed the maximum permitted width, overall area and projection from the rear wall. They also encroach into the minimum required side and rear yard setbacks. While there have been a couple of Committee of Adjustment approvals allowing slight encroachments of decks into the minimum required side yard setbacks, no other properties along Old Orchard Grove have requested or received minor variances permitting an increased deck width, area or projection.

As such, staff is of the opinion that the rear decks, as constructed, do not meet the intent of the Zoning By-law. The cumulative effect of the seven requested variances is an excessively large extension of living space into the rear yard.

Respectfully submitted,

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SIGNATURE

Allen Appleby
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