



STAFF REPORT
Committee of Adjustment
Application

Date:	February 27, 2014
To:	Chair and Committee Members of the Committee of Adjustment Toronto and East York District c/o Anita MacLeod, Manager & Deputy Secretary-Treasurer, Toronto and East York District
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 29 Toronto-Danforth
Reference:	File No. A0925/13TEY Address: 476 Cosburn Avenue Application to be heard: March 5, 2014 at 1:00 pm

RECOMMENDATION

Planning staff recommend that should the Committee of Adjustment approve Application No. A0925/13TEY, the following variances should be refused:

1. Variance 1 related to rear yard setback; and,
2. Variance 3 related to a commercial building with the ground floor containing a habitable room and is the lowest storey that is above grade.

APPLICATION

The applicant is seeking relief from the provisions of the Zoning By-law to convert the existing mixed-use building by constructing a rear second-storey addition with a deck. The restaurant use on the ground floor will be replaced by an office in the front and a residential unit in the back. The second-storey will be used as two residential units.

Variances are requested with respect to rear yard setback, parking, and dwelling unit location.

COMMENTS

The subject property is located on the north side of Cosburn Avenue. The property is designated "Neighbourhoods" in the Official Plan, which requires new development in the established residential areas to respect and reinforce the existing physical character of the surrounding neighbourhood, including scale and massing of the buildings. The property is zoned C

Commercial in Zoning By-law 6752 of the former Borough of East York. Zoning By-law 569-2013 of the City of Toronto does not apply to this site.

Planning staff note that the application had been pre-circulated and staff had been in contact with the applicant.

Planning staff identified concerns about residential uses on the first floor. The Zoning By-law is clear that in a commercial building in a Commercial zone, the building shall not contain dwelling units unless each storey that contains a habitable room or habitable rooms is above the lowest storey that is above grade. The applicant had originally proposed two residential units on the ground floor. In response to Planning staff's concerns, the applicant has revised the application so that the office use is in the front of the building fronting Cosburn Avenue and a residential unit is in the back. This is the proposal that is before the Committee.

Planning staff are still of the opinion that residential use on the ground floor is not appropriate for this site. There are no other residential uses on the ground floor in this block of mixed use buildings on Cosburn Avenue between Linsmore Crescent and Derwyn Road. There is one building at the corner of Linsmore Crescent and Cosburn Avenue that has the appearance of residential uses on the first floor. However, a search of historical building records and Committee of Adjustment applications, with the most recent Committee application in 2002, show that the use on the first floor is not residential, nor have approvals ever been granted for the first floor to be residential uses. The building records show that only the second floor of that building has been approved for residential uses.

Planning staff also have concerns about allowing the residential units on the ground floor due to viability of the commercial at the ground level. There is potential for modification of the ground floor layout to increase the residential area on the ground floor in lieu of the commercial area. Monitoring and enforcement to ensure this kind of change does not happen would be difficult. Should such a change occur, it would potentially create a situation where the commercial space is not viable. As the Zoning By-law is clear in not allowing dwelling units in the lowest storey that is above grade, Planning staff do not support the granting of this variance.

Planning staff also have concerns with the rear yard setback that is requested by the applicant. There has only been one approval for rear yard setback in this block of mixed-use buildings and that was for a fire route escape at the rear of 466 Cosburn Avenue. The relief granted in that case was for a 5.73 metre rear setback when 7.5 metres is required. Planning staff have concern that the encroachment of a building into this rear yard setback, coupled with the balcony proposed on the second floor will have adverse impacts in terms of privacy and overlook for the residential neighbours to the north.

As such, Planning staff recommend that should the Committee of Adjustment approve Application No. A0009/14TEY, the following variances should be refused:

1. Variance 1 related to rear yard setback; and,
2. Variance 3 related to a commercial building with the ground floor containing a habitable room and is the lowest storey that is above grade.

CONTACT

Jason Tsang, Assistant Planner

Tel: 416-392-4237

Fax: 416-392-1330

E-mail: jtsang2@toronto.ca

SIGNATURE



for

Gregg Lintern, MCIP, RPP

Director, Community Planning, Toronto and East York District

Copy: Councillor Mary Fragedakis, Ward 29 Toronto-Danforth
Eddie Peres, Agent for the Applicant