

City Council**Notice of Motion**

MM11.15	ACTION			Ward:29
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Appeal of Committee of Adjustment Variance Decision and Representation at the Ontario Municipal Board Hearing for 7 Chilton Road - by Councillor Mary Fragedakis, seconded by John Filion

** Notice of this Motion has been given.*

** This Motion is subject to referral to the Toronto and East York Community Council. A two-thirds vote is required to waive referral.*

** This Motion relates to an Ontario Municipal Board Hearing and has been deemed urgent.*

Recommendations

Councillor Mary Fragedakis, seconded by John Filion, recommends that:

1. City Council authorize the City Solicitor to continue the appeal of the Committee of Adjustment Decision in Application A0847/15TEY respecting 7 Chilton Road and bring any motions before the Ontario Municipal Board as appropriate in the City Solicitor's discretion to ensure that the Minutes of Settlement agreement pursuant to OMB File No. PL140794 is respected.
2. City Council authorize the City Solicitor to attend the Ontario Municipal Board Appeal of File No. A0847/15TEY to refuse the variances or reduce the impact of the requested variances for 7 Chilton Road, and to retain an outside land use planner, if necessary.

Summary

An application was submitted to the Committee of Adjustment for minor variances to alter the existing one-storey detached dwelling by constructing a complete second storey addition, a rear two-storey addition and new second-storey front and rear decks.

On November 18, 2015, the application was approved by the Committee of Adjustment (Application No. A0847/15TEY) (the "Decision"). The City has appealed the Decision to the Ontario Municipal Board in order to preserve its appeal rights before the December 8, 2015 appeal deadline. This Motion would give the City Solicitor authority to continue its appeal and bring any motions before the Ontario Municipal Board as appropriate in the City Solicitor's discretion.

The subject property is located on the east side of Chilton Road just south of O'Connor Drive. The property is designated "Neighbourhoods" in the Official Plan, and is zoned R1C Residential in Zoning By-law 6752 of the former Borough of East York RD (f6.0; a185; d0.75)

in Zoning By-law 569-2013 of the City of Toronto.

There is concern about the massing and siting of the proposed addition, particularly its impact to the side and rear yards of adjacent neighbours as well as the overall size of the dwelling.

The application follows a similar application at the same municipal address which was approved by the Committee of Adjustment in July 2014, appealed to the Ontario Municipal Board by the City, and approved by the Ontario Municipal Board on the basis of an executed Minutes of Settlement agreement between the applicant and City on February 3, 2015 (OMB File No. PL140794). Although building permits were issued pursuant to the Ontario Municipal Board settlement approval, the applicant has not built in accordance with the approved plans. Toronto Building has since issued a "Stop Work Order" and "Order to Comply" for the property which identify deviations from what was approved through settlement at the Ontario Municipal Board, and the applicant has submitted the current application in an attempt to legalize those identified deviations.

In addition to providing the City Solicitor with authority to continue the appeal of this matter to the Ontario Municipal Board, this Motion would also authorize the City Solicitor to bring a motion before the Ontario Municipal Board to dismiss the application as frivolous and vexatious. The issues in the present application are substantially similar to the previous application which was definitively settled before the Ontario Municipal Board through an executed Minutes of Settlement agreement between the applicant and City. Rearguing the same case would be redundant and constitute an abuse of process.

Background Information (City Council)

Member Motion MM11.15

(November 12, 2015) Report from the Director, Community Planning, Toronto and East York District to the Committee of Adjustment, Toronto and East York Panel on 7 Chilton Road (<http://www.toronto.ca/legdocs/mmis/2015/mm/bgrd/backgroundfile-86383.pdf>)

Committee of Adjustment, Toronto and East York District Public Hearing Notice, and Notice of Decision on application for Minor Variance for 7 Chilton Road (<http://www.toronto.ca/legdocs/mmis/2015/mm/bgrd/backgroundfile-86384.pdf>)