

STAFF REPORT Committee of Adjustment Application

Date:	May 4, 2016
To:	Chair and Committee Members of the Committee of Adjustment, Scarborough Panel
From:	Paul Zuliani, Acting Director, Community Planning, Scarborough District
Wards:	Scarborough Southwest (35)
Reference:	File No. B006/16SC, A020/16SC & A021/16SC Address: 123 Donside Drive Application to be heard: Thursday, May 12, 2016 at 9:30 a.m.

RECOMMENDATION

Community Planning staff recommend that the applications be **refused** to protect the neighbourhood's prevailing pattern of lot frontages and existing physical character.

APPLICATION

This application is for consent to sever the land into two lots. The proposed lots would each have a frontage of 7.62 m on Donside Drive and a lot area of approximately 328 m² each. The proposed lots are shown as Parts 1 and 2 on the Draft Reference Plan (see Attachment 1: Draft Reference Plan). The owner is proposing to demolish the existing house and build two new detached houses (see Attachment 2: Site Plan).

The applicant has requested the following variances:

File A020/16SC - Part 1

By-law No. 569-2013:

- 1) The proposed west side yard setback is 0.5 m, whereas the minimum required side yard setback is 0.9 m
- 2) A floor area of 4.4 m² on the first floor is proposed to be located within 4.0 m of the main front wall, whereas a minimum of 10 m² of the first floor must be within 4.0 m of the main front wall
- 3) The proposed roof overhang and eavestrough would be located 0.19 m from the west side lot line, whereas the eaves of a roof may encroach into a required minimum building setback a maximum of 0.9 m, if they are no closer to the lot line than 0.3 m

- 4) The proposed house would be a three storey dwelling, whereas the by-law permits a maximum of two stories
- 5) For the front main wall, 53% of the main wall is at or below 7 m in height and for the rear main wall, 51% of the main wall is at or below 7 m in height, whereas a minimum of 60% of the total width of the front and rear main walls must be below 7 m in height
- 6) The proposed height of the first floor above established grade is 1.5 m, whereas the maximum height of the first floor above established grade is 1.2 m
- 7) The proposed lot area is 328 m², whereas the minimum required lot area is 371 m²
- 8) The proposed lot frontage is 7.62 m, whereas the minimum required lot frontage is 12 m
- 9) The proposed building height is 9 m, whereas the maximum permitted building height is 7.2 m
- 10) The proposed building depth is 19.3 m, whereas the maximum permitted building depth, measured between the required front yard setback and the main rear wall of the dwelling, is 19 m
- 11) The proposed area of a platform at the rear of the second storey is 7.5 m², whereas the maximum permitted area of each platform at or above the second storey is 4 m²

By-law No. 8978:

- 12) The proposed lot frontage is 7.62 m and the proposed lot area is 328 m², whereas the bylaw requires a minimum frontage of 12 m and a minimum lot area of 371 m
- 13) The proposed west side yard setback is 0.5 m, whereas the minimum required side yard setback is 0.9 m
- 14) The proposed lot coverage is 33.7%, whereas the maximum permitted lot coverage is 33%
- 15) The proposed house would be a three storey dwelling, whereas the by-law permits a maximum of two stories

File A021/16SC - Part 2

By-law No. 569-2013:

- 1) The proposed west side yard setback is 0.5 m, whereas the minimum required side yard setback is 0.9 m
- 2) The proposed roof overhang and eaves trough would be located 0.19 m from the west side lot line, whereas the eaves of a roof may encroach into a required minimum building setback a maximum of 0.9 m, if they are no closer to the lot line than 0.3 m

- 3) A floor area of 4.4 m² on the first floor is proposed to be located within 4.0 m of the main front wall, whereas a minimum of 10 m² of the first floor must be within 4.0 m of the main front wall
- 4) The proposed house would be a three storey dwelling, whereas the by-law permits a maximum of two stories
- 5) For the front main wall, 53% of the main wall is at or below 7 m in height and for the rear main wall, 51% of the main wall is at or below 7 m in height, whereas a minimum of 60% of the total width of the front and rear main walls must be below 7 m in height
- 6) The proposed height of the first floor above established grade is 1.4 m, whereas the maximum height of the first floor above established grade is 1.2 m
- 7) The proposed lot area is 329 m², whereas the minimum required lot area is 371 m²
- 8) The proposed lot frontage is 7.62 m, whereas the minimum required lot frontage is 12 m
- 9) The proposed building height is 9 m, whereas the maximum permitted building height is 7.2 m
- 10) The proposed building depth is 19.3m, whereas the maximum permitted building depth, measured between the required front yard setback and the main rear wall of the dwelling, is 19 m
- 11) The proposed area of a platform at the rear of the second storey is 7.5 m², whereas the maximum permitted area of each platform at or above the second storey is 4 m²

By-law No. 8978:

- 12) The proposed lot frontage is 7.62 m and the proposed lot area is 329 m², whereas the by-law requires a minimum frontage of 12 m and a minimum lot area of 371 m²
- 13) The proposed west side yard setback is 0.5 m, whereas the minimum required side yard setback is 0.9 m
- 14) The proposed lot coverage is 33.7%, whereas the maximum permitted lot coverage is 33%
- 15) The proposed house would be a three storey dwelling, whereas the by-law permits a maximum of two stories

COMMENTS

The subject property is located east of Pharmacy Avenue and south of St. Clair Avenue East, and currently contains a one-storey detached dwelling. It is within an area designated *Neighbourhoods* in the Official Plan. The property is zoned Single Family Residential (S)

under the Clairlea Community Zoning By-law Number 8978, as amended and Residential Detached (RD) under the new City-Wide Zoning By-law Number 569-2013, as amended.

The surrounding established neighbourhood is stable and defined by its consistently wide lots, mature trees and abundant landscaped open space. The housing pattern on the street and in the wider immediate area comprises one-storey dwellings interspersed with two-storey homes.

The Official Plan policies for *Neighhourhoods* require that new development respect and reinforce the existing physical character of established neighbourhoods. Policy 4.1.5 states that "Development in established neighbourhoods will respect and reinforce the existing physical character of the neighbourhood, including in particular:

- b) Size and configuration of lots;
- c) Heights, massing, scale and dwelling type of nearby residential properties;
- f) Prevailing patterns of rear and side yard setbacks and landscaped open space;

No changes will be made though rezoning, minor variance, consent or other public action that are out of keeping with the physical character of the neighbourhood."

As part of the City's ongoing Official Plan Five Year Review, City Council adopted Official Plan Amendment No. 320 on December 10, 2015. OPA 320 strengthens and refines the Healthy Neighbourhood, Neighbourhoods and Apartment Neighbourhoods policies to support Council's goals in the Official Plan to protect and enhance existing neighbourhoods and to allow limited infill on underutilized apartment sites in Apartment Neighbourhoods. In December 2015, the City submitted OPA 320 to the Minister of Municipal Affairs and Housing for approval. While OPA 320 is City Council's adopted policy, it is not yet in force.

To evaluate the proposal, Planning staff examined residential lot frontages within the surrounding neighbourhood bounded by Nancy Avenue to the north, Heron Avenue and Presley Avenue to the east, Donside Drive to the south, and Pharmacy Avenue to the west (lots on the east side only). The results of this review are attached to this report for the Committee's consideration (see Attachment 3: Lot Frontages and Lot Areas in the Study Area).

Of the 251 lots studied within the surrounding neighbourhood, 96.81% have a lot frontage greater than the proposed lots, with the average lot frontage being 12.72 metres. The subject property is located on a block of Donside Drive (between Pharmacy Avenue and Presley Avenue) that has a median lot frontage of 12.19 metres. There are six lots which existed prior to the enactment of the Clairlea Community Zoning By-law Number 8978, as amended, with frontages equal to or less than the proposed lots. A previous consent application at 125 Donside Drive (File B004/14SC, A015/14SC, A016/14SC) to sever the property into two lots with frontage of 7.62 m each was approved by the Committee of Adjustment on March 20, 2014. Community Planning recommended refusal of those applications to protect the neighbourhood's consistent pattern of lot frontages and existing

physical built form character. The decision was appealed to the Ontario Municipal Board by the City but subsequently reaffirmed by the Board.

Given the average lot size in the surrounding neighbourhood, the proposed consent, which would create lots with frontages that are 4.38 metres below the zoning standard and 5.1 metres below the average, is not consistent or comparable with the predominant existing lot sizes in the neighbourhood. The variances for lot frontage and lot area do not maintain the general intent and purpose of the Official Plan and the variances therefore fail the Official Plan test of s.45(1) of the *Planning Act*.

Further, the application for consent to sever fails the criteria of s.51(24) of the *Planning Act*, which requires regard be had to dimensions and shapes of the proposed lots and whether the plan conforms to the Official Plan, among other criteria. Approval of this consent and associated variances would destabilize the neighbourhood as it would indicate an opportunity to sever and redevelop surrounding lots with similar frontage and area as proposed for 123 Donside Drive. The subject property is typical of the neighbourhood, having a 15.24 metre frontage currently occupied with a one-storey dwelling.

The lot frontage and lot area variances do not maintain the general intent and purpose of the Zoning By-law, which is to require lot sizes that are consistent and compatible with prevailing lot sizes in the neighbourhood. The requested variances fail the Zoning By-law intent test of s.45(1) of the *Planning Act*. The variances are not minor and not desirable for the appropriate development of the land. Therefore, Community Planning recommends that the variances be refused.

CONTACT

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SIGNATURE

Paul Zuliani, Acting Director

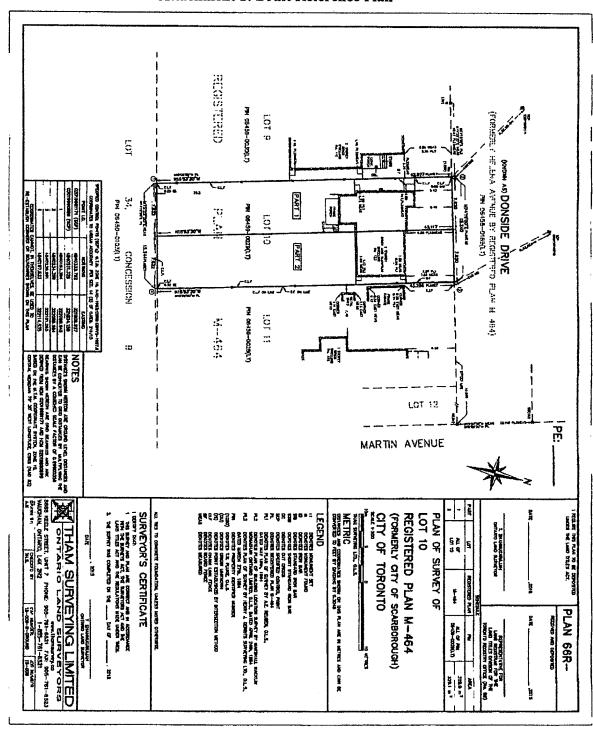
Community Planning, Scarborough District

Attachment 1: Draft Reference Plan

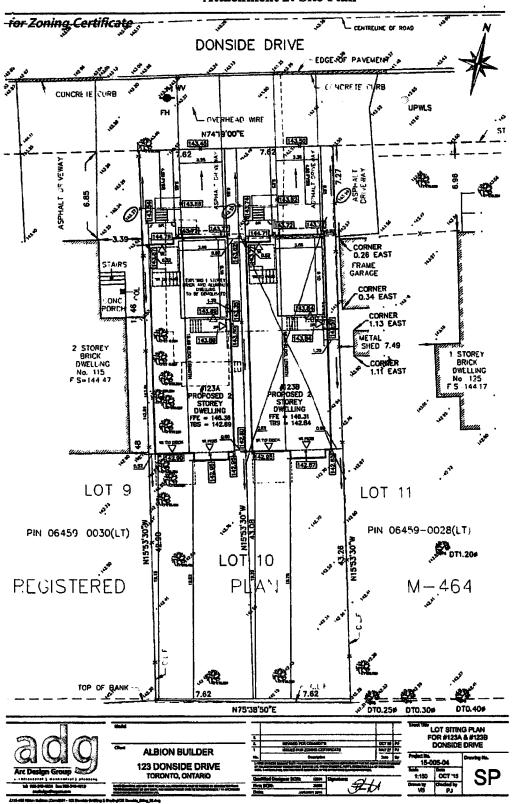
Attachment 2: Site Plan

Attachment 3: Lot Frontages and Lot Areas in the Study Area

Attachment 1: Draft Reference Plan



Attachment 2: Site Plan



Attachment 3: Lot Frontages and Lot Areas in the Study Area

Municipal Address	Street Name	Lot Frontage (m)	Lot Area (m²)
1	Bertha Ave	17.06	572.06
2	Bertha Ave	15.24	608.62
4	Bertha Ave	15.24	608.62
6	Bertha Ave	12.19	486.91
8	Bertha Ave	9.91	395.61
9	Bertha Ave	12.19	382.17
10	Bertha Ave	9.91	395.63
12	Bertha Ave	12.19	486.94
14	Bertha Ave	12.19	486.95
15	Bertha Ave	15.24	608.36
16	Bertha Ave	12.19	486.95
17	Bertha Ave	10.67	428.18
18	Bertha Ave	12.19	486.98
20	Bertha Ave	10.67	426.11
21	Bertha Ave	10.67	425.87
22	Bertha Ave	15.24	609.25
23	Bertha Ave	9.15	362.71
25	Bertha Ave	15.24	608.40
31	Bertha Ave	15.24	608.45
33	Bertha Ave	9.14	367.34
35	Bertha Ave	6.10	241.10
36	Bertha Ave	12.19	486.47
38	Bertha Ave	12.19	486.47
40	Bertha Ave	12.19	486.42
42	Bertha Ave	12.19	486.50
43	Bertha Ave	12.70	506.82
44	Bertha Ave	12.19	486.48
45	Bertha Ave	12.70	506.90
46	Bertha Ave	12.19	486.50
47	Bertha Ave	12.69	506.76
48	Bertha Ave	12.19	486.50
49	Bertha Ave	12.70	506.87
50	Bertha Ave	12.19	486.45
51	Bertha Ave	12.70	506.88
52	Bertha Ave	12.19	486.54
53	Bertha Ave	12.70	506.88
54	Bertha Ave	12.19	486.53
55	Bertha Ave	12.70	506.91
56	Bertha Ave	12.21	497.94
57	Bertha Ave	12.70	506.85
58	Bertha Ave	11.96	487.61
59	Bertha Ave	12.69	506.68
60	Bertha Ave	12.21	497.91
61	Bertha Ave	12.21	498.23

Municipal Address	Street Name	Lot Frontage (m)	Lot Area (m²)
62	Bertha Ave	12.21	497.92
63	Bertha Ave	11.96	487.85
64	Bertha Ave	12.21	497.89
65	Bertha Ave	12.21	498.16
66	Bertha Ave	12.21	497.89
67	Bertha Ave	12.21	498.12
68	Bertha Ave	12.21	497.88
69	Bertha Ave	12.21	498.08
70	Bertha Ave	12.21	497.88
71	Bertha Ave	12.21	498.03
72	Bertha Ave	12.21	497.86
73	Bertha Ave	12.21	497.99
74	Bertha Ave	12.21	497.82
75	Bertha Ave	12.21	497.96
76	Bertha Ave	12.21	497.83
77	Bertha Ave	12.21	497.92
78	Bertha Ave	12.19	496.90
79	Bertha Ave	12.21	497.88
80	Bertha Ave	12.13	494.49
81	Bertha Ave	12.21	497.85
82	Bertha Ave	12.13	494.48
83	Bertha Ave	12.19	496.85
84	Bertha Ave	10.51	428.57
85	Bertha Ave	12.13	494.44
87	Bertha Ave	12.13	494.38
89	Bertha Ave	10.51	428.50
91	Donside Dr	15.24	464.31
93	Donside Dr	15.24	464.39
95	Donside Dr	15.24	654.96
96	Donside Dr	7.62	116.15
97	Donside Dr	7.62	328.15
99	Donside Dr	13.71	592.25
101	Donside Dr	12.19	526.18
103	Donside Dr	12.19	526.34
109	Donside Dr	15.24	658.05
111	Donside Dr	7.62	328.54
112	Donside Dr	15.23	580.44
113	Donside Dr	12.19	524.16
114	Donside Dr	15.23	580.43
115	Donside Dr	10.67	458.34
	Donside Dr	12.19	464.39
116	Donside Dr	10.97	417.86
118		9.56	364.36
120	Donside Dr		656.88
123	Donside Dr	15.24 12.61	551.80
127 125A	Donside Dr Donside Dr	7.62	330.10

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Municipal Address	Street Name	Lot Frontage (m)	
125B	Donside Dr	7.62	331.50
10	Florens Ave	14.29	431.10
11	Florens Ave	13.86	422.42
12	Florens Ave	14.29	431.12
14	Florens Ave	12.20	368.12
15	Florens Ave	13.86	422.49
16	Florens Ave	12.21	368.41
17	Florens Ave	12.19	371.40
18	Florens Ave	14.30	431.38
20	Florens Ave	14.30	431.39
. 22	Florens Ave	14.30	431.38
24	Florens Ave	14.30	431.38
26	Florens Ave	12.21	368.38
28	Florens Ave	12.19	364.23
30	Florens Ave	14.27	426.22
32	Florens Ave	14.27	426.20
34	Florens Ave	14.27	426.16
35	Florens Ave	12.19	1077.50
36	Florens Ave	14.27	426.16
37	Florens Ave	12.19	1022.21
38	Florens Ave	12.19	364.06
39	Florens Ave	12.19	910.35
40	Florens Ave	12.22	364.95
41	Florens Ave	12.19	798.87
42	Florens Ave	14.27	426.29
43	Florens Ave	12.19	687.37
44	Florens Ave	14.27	426.27
45	Florens Ave	12.19	575.93
	Florens Ave	14.27	426.27
46	Florens Ave	12.19	520.17
47	Florens Ave	14.27	426.24
48	Florens Ave	12.19	520.17
49			365.30
50	Florens Ave	12.22	
51	Florens Ave	12.19	520.20
53	Florens Ave	18.29	780.27
57	Florens Ave	18.29	780.27
59	Florens Ave	15.85	675.82
2	Herron Ave	12.19	497.54
4	Herron Ave	12.19	497.67
6	Herron Ave	12.19	497.94
8	Herron Ave	12.19	497.92
10	Herron Ave	12.19	498.09
12	Herron Ave	12.19	498.20
14	Herron Ave	12.19	498.34
16	Herron Ave	12.19	498.53
18	Herron Ave	12.19	498.57

Municipal Address	Street Name	Lot Frontage (m)	Lot Area (m²)
20	Herron Ave	12.19	498.70
22	Herron Ave	12.19	498.83
24	Herron Ave	12.19	498.97
26	Herron Ave	12.19	499.16
28	Herron Ave	12.19	499.23
30	Herron Ave	10.68	437.02
1	Highvale Rd	12.19	496.82
2	Highvale Rd	12.19	496.51
3	Highvale Rd	12.19	496.71
4	Highvale Rd	12.19	496.54
5	Highvale Rd	12.19	496.77
6	Highvale Rd	12.19	496.49
7	Highvale Rd	12.19	496.74
8	Highvale Rd	12.19	496.57
9	Highvale Rd	12.19	496.78
10	Highvale Rd	12.19	496.57
11	Highvale Rd	12.19	496.79
12	Highvale Rd	12.19	496.61
14	Highvale Rd	12.19	496.58
15	Highvale Rd	12.19	496.82
16	Highvale Rd	12.19	496.58
17	Highvale Rd	12.19	496.85
18	Highvale Rd	12.19	496.62
19	Highvale Rd	12.19	496.84
20	Highvale Rd	12.19	496.62
21	Highvale Rd	12.19	496.85
22	Highvale Rd	12.19	496.65
23	Highvale Rd	12.19	496.89
23 24	Highvale Rd	12.19	496.66
25	Highvale Rd	12.19	496.89
25 26	Highvale Rd	12.19	496.65
27	Highvale Rd	12.19	496.95
28	Highvale Rd	12.19	496.67
29	Highvale Rd	12.19	496.94
30	Highvale Rd	10.64	433.33
31	Highvale Rd	10.64	434.21
6	Penaire St	17.07	650.00
8	Penaire St	15.24	580.30
10	Penaire St	15.24	580.26
12	Penaire St	15.24	580.24
14	Penaire St	17.48	665.78
1	Pharmacy Ave		382.06
315	Pharmacy Ave		492.42
359	•	18.39	1896.23
1	Presley Ave Presley Ave	12.19	1214.42
3	_	12.19	1214.15
3A	Presley Ave	12.18	1214.10

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Municipal Address	Street Name	Lot Frontage (m)	Lot Area (m²)
5	Presley Ave	12.19	1216.86
7	Presley Ave	12.19	1217.64
11 ,	Presley Ave	16.76	575.88
15	Presley Ave	7.62	761.42
17	Presley Ave	7.62	760.37
18	Presley Ave	12.19	491.76
19	Presley Ave	15.24	1517.80
20	Presley Ave	13.72	553.28
21	Presiey Ave	15.24	1514.15
22	Presley Ave	21.34	860.68
23	Presley Ave	15.24	1516.82
25	Presley Ave	9.75	594.64
26	Presley Ave	12.19	491.84
27	Presley Ave	12.19	1218.34
28	Presley Ave	12.19	491.84
29	Presley Ave	14.02	1401.92
30	Presley Ave	12.19	491.84
31	Presley Ave	18.28	1829.54
32	Presley Ave	15.24	614.82
37	Presley Ave	21.94	2196.33
39	Presley Ave	15.24	967.54
43	Presley Ave	15.24	966.26
45	Presley Ave	15.24	964.88
47	Presley Ave	15.24	961.45
48	Presley Ave	21.32	860.25
49	Presley Ave	15.24	580.47
50	Presley Ave	16.75	675.92
51	Presley Ave	12.19	
52	•		464.38
53	Presley Ave	12.69	512.08
53 54	Presley Ave	12.19	464.39
55 55	Presley Ave	12.69	512.11
56	Presley Ave	12.19	464.41
	Presley Ave	12.18	491.62
57 50	Presley Ave	12.19	464.40
58 50	Presley Ave	12.19	491.56
59	Presley Ave	12.19	464.42
60	Presley Ave	12.18	491.58
61	Presley Ave	12.19	464.42
62	Presley Ave	14.21	573.46
63	Presley Ave	12.19	496.56
64	Presley Ave	12.21	498.23
65	Presley Ave	12.20	496.59
66	Presley Ave	11.96	487.86
67	Presley Ave	12.19	496.51
68	Presley Ave	12.21	498.17
69	Presley Ave	12.20	496.64

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Municipal Address	Street Name	Lot Frontage (m)	Lot Area (m²)
70	Presley Ave	12.21	498.10
71	Presley Ave	12.20	496.63
72	Presley Ave	12.21	498.09
73	Presley Ave	12.20	496.68
74	Presley Ave	12.21	498.05
75	Presiey Ave	12.20	496.66
76	Presley Ave	12.21	497.99
77	Presley Ave	12.19	496.56
78	Presley Ave	12.21	497.95
79	Presiey Ave	12.20	496.69
80	Presley Ave	12.21	497.92
81	Presley Ave	12.20	496.69
82	Presley Ave	12.21	497.88
83	Presley Ave	12.20	496.72
84	Presley Ave	12.21	497.84
85	Presley Ave	12.20	496.72
86	Presley Ave	12.19	496.83
87	Presley Ave	12.19	496.64
88	Presley Ave	12.13	494.43
89	Presley Ave	12.20	496.76
90	Presley Ave	12.13	494.41
91	Presley Ave	10.62	432.84
92	Presley Ave	10.52	428.49