



STAFF REPORT
Committee of Adjustment
Application

Date: January 29, 2019

To: Chair and Committee Members of the Committee of Adjustment, North York District

From: Joe Nanos, Director, Community Planning, North York District

Ward: Ward 18, Willowdale

File No: A0611/17NY

Address: 48 Gwendolen Crescent

Application to be heard: Thursday, February 7, 2019 at 2:00 p.m.

RECOMMENDATIONS

Staff recommend that Application No. A0611/17NY be refused as it fails to satisfy all of the four tests for minor variance under Section 45(1) of the *Planning Act*.

APPLICATION

To construct a new dwelling. This file was previously deferred on August 31st, 2017 in order to allow the applicant an opportunity to meet with Staff to discuss the proposal.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

- 1. Chapter 10.20.40.10.(4), By-law No. 569-2013**
The permitted maximum height is 7.2 m.
The proposed height is 9.89 m.
- 2. Chapter 10.20.40.10.(4), By-law No. 569-2013**
The permitted maximum number of storeys is 2.
The proposed number of storeys is 3.
- 3. Chapter 10.5.40.60.(5), By-law No. 569-2013**
An architectural feature on a building may encroach into a required building setback a maximum of 0.6 m, if it is no closer to a lot line than 0.3 m.
The proposed architectural feature encroaches 4.20 m.
- 4. Chapter 5.10.40.70.(6), By-law No. 569-2013**
If the Toronto and Region Conservation Authority determines that a shoreline hazard limit or a stable top-of-bank crosses a lot, a building or structure on that lot must be set back a minimum of 10 m from that shoreline hazard limit or stable top-of-bank.
The proposed building is set back 7.65 m from that shoreline hazard limit or stable top-of-bank.

5. Section 14-A(8), By-law No. 7625

The maximum permitted building height is 8 m.

The proposed building height is 9.89 m.

6. Section 14-A(8), By-law No. 7625

The maximum permitted number of storeys is 2.

The proposed number of storeys is 3.

COMMENTS

The subject property is located on the west side of Gwendolen Crescent, east of Bathurst Street and south of Sheppard Avenue West. The property is zoned *RD(f15.0; a550)(x5)* in the City of Toronto Zoning By-law No. 569-2013 and *R6* in the former City of North York Zoning By-law No. 7625. The application proposes to construct a new dwelling.

The previous applicant was granted a deferral on August 31, 2017 in order to allow for additional time to review and address City Planning's concerns. Since then, a new applicant has been assigned to the application and has been in contact with City Planning to discuss Staff's concerns with the proposal.

In the Staff Report dated August 21, 2017, Staff recommended a deferral be granted to allow the applicant to revise their application, otherwise the recommendation was that the application be refused. Staff conducted an analysis of previous minor variance decisions within the surrounding neighbourhood and found that the variances proposing an increased flat roof building height and number of storeys failed to meet the general intent and purpose of the Official Plan and Zoning By-laws. Although policies within the Official Plan relating to *Neighbourhoods* have been amended since the August 21, 2017 Staff Report, Staff are of the opinion that the analysis previously conducted remains relevant and the character of the neighbourhood has not changed since the application was last considered in 2017. The Staff Report dated August 21, 2017 has been attached as Attachment 1 to this report.

While Staff acknowledge that the new applicant has made efforts to discuss their application with City Planning, no substantial changes were made to the application and Staff's concerns related to the proposed dwelling have not been addressed. Staff maintain their position that the proposed height and number of storeys are excessive and do not respect and reinforce the existing character of the neighbourhood.

Staff are of the opinion that the variances, as currently proposed, do not satisfy each of the four tests under Section 45(1) of the *Planning Act*. As such, planning staff recommend that Application No. A0611/17NY be refused.

CONTACT

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SIGNATURE



for

Joe Nanos, Director, Community Planning, North York District

ATTACHMENTS

Attachment 1: Staff Report to the Committee of Adjustment dated August 21, 2017

Attachment 1: Staff Report to the Committee of Adjustment dated August 21, 2017



STAFF REPORT Committee of Adjustment Application

Date:	August 21, 2017
To:	Chair and Committee Members of the Committee of Adjustment North York District
From:	Joe Nanos, Director, Community Planning, North York District
Ward:	Ward 23 (Willowdale)
Reference:	File No: A0611/17NY Address: 48 GWENDOLEN CRES Application to be heard: Thursday, August 31, 2017

RECOMMENDATION

Staff recommend that the Committee of Adjustment:

1. Defer Application No. A0611/17NY; however
2. Should a deferral not be granted, staff recommend the application be refused.

APPLICATION

To construct a new three storey dwelling with integral garage. The existing dwelling will be demolished.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

1. **Chapter 10.20.40.10.(4), By-law No. 569-2013**
The permitted maximum height is 7.2 m.
The proposed height is 9.98 m.
2. **Chapter 10.20.40.10.(4), By-law No. 569-2013**
The permitted maximum number of storeys is two.
The proposed number of storeys is three.
3. **Chapter 10.5.40.60.(5), By-law No. 569-2013**
An architectural feature on a building may encroach into a required building setback a maximum of 0.6 m, if it is no closer to a lot line than 0.3 m.
The proposed architectural feature encroaches 1.68 m into the required front yard setback.

4. Chapter 5.10.40.70.(6), By-law No. 569-2013

If the Toronto and Region Conservation Authority determines that a shoreline hazard limit or a stable top-of-bank crosses a lot, a building or structure on that lot must be set back a minimum of 10 m from that shoreline hazard limit or stable top-of-bank. The proposed building is set back 7.65 m from that shoreline hazard limit or stable top-of-bank.

5. Section 14-A(8), By-law No. 7625

The maximum permitted building height is 8 m.
The proposed building height is 9.95 m.

6. Section 14-A(8), By-law No. 7625

The maximum permitted number of storeys is two.
The proposed number of storeys is three.

COMMENTS

The subject property is located on the west side of Gwendolen Crescent. The property is zoned R6/G under former North York Zoning By-law No. 7625 and zoned RD (f12.0; a370) in the new City of Toronto Zoning By-law No. 569-2013. The application proposes to construct a new three-storey dwelling with an integral garage.

The applicant, MHBC, has indicated to staff that they would like to request deferral of the subject application to allow for additional time to review the proposal and address the City's concerns. Should a deferral not be granted, staff recommend the subject application be refused for reasons that follow.

The subject property is located west of Yonge Street and south of Sheppard Avenue West and is designated *Neighbourhoods* in the City of Toronto Official Plan. The key policy of the Plan is to ensure that new development within *Neighbourhoods* will respect and reinforce the existing physical character of the neighbourhood. Section 4.1 outlines 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." Policy 4.1.5 of the development criteria for *Neighbourhoods* requires that "development in established *Neighbourhoods* will respect and reinforce the existing physical character of the neighbourhood, including in particular:

c) heights, massing, scale and dwelling type of nearby residential properties."

The Plan affirms 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.

Furthermore, Section 3.1.2 of the Plan directs new development to fit harmoniously within the existing and/or the planned context of the neighbourhood.

The application requests a variance to permit a building height of 9.95 metres as measured under Zoning By-law No. 7625, whereas a maximum building height of 8.0 metres is permitted for a flat roof dwelling. The application also requests a variance to permit a building height of 9.98 metres as measured under Zoning By-law No. 569-2013, whereas a maximum building height of 7.2 metres is permitted for a flat roof dwelling. Building height provisions for flat roof dwellings are more restrictive than those provisions for peaked roof dwellings in order to, in part, regulate the roof line and size of these structures. Flat roof dwellings constructed to the same height as a dwelling with a peaked roof results in greater massing carried through to the top of the dwelling.

In a letter dated June 5, 2017 to the Committee of Adjustment the applicant states that "the proposed height of 9.98 metres exceeds the permitted maximum height of 8.8 metres under By-law No. 7625 by 1.18 metres; however, it meets the permitted maximum height of 10 metres under By-law 569-2013 for a peaked roof." As previously identified, the dwelling is considered to have a flat roof under both Zoning By-law Nos. 7625 and 569-2013. Therefore, the provisions for peaked roof dwellings are not applicable to the subject application, in its current design. Variance No. 5 as measured under Zoning By-law No. 7625 requests additional height of 1.95 metres, not 1.18 metres as referenced by the applicant. Further, Variance No. 1 as measured under Zoning By-law No. 569-2013 requests additional height of 2.78 metres.

Staff reviewed the decisions of 100 minor variance applications within the neighbourhood and note only two variances for additional building height for flat roof dwellings were granted. A variance at 52 Gwendolen Crescent was granted in 2011 to allow a building height of 7.75 metres, whereas the repealed Zoning By-law No. 1156-2010 permitted a maximum building height of 7.2 metres and a variance at 220 Cameron Avenue was granted in 2014 to allow a building height of 9.03 metres, whereas Zoning By-law No. 7625 permits a maximum building height of 8.0 metres. Staff are of the opinion that the variances related to building height fail to meet the general intent and purpose of the Official Plan and Zoning By-laws.

Staff are also concerned with Variance Nos. 2 and 6 for the proposed number of storeys. Both Zoning By-law Nos. 7625 and 569-2013 permit a maximum of two-storeys, whereas the subject application proposes a three-storey dwelling. The applicant states that "the variances requested for the number of storeys does not result in non-compliance with the actual height of the built form in the approved/appealed By-law 569-2013." Variance No. 1 requests an increased building height of 9.98 metres, whereas a maximum building height of 7.2 metres is permitted under Zoning By-law No. 569-2013.

Further, the applicant has indicated that the variances related to the additional storey are technical in nature. Staff are of the opinion that the proposed variances are not technical in nature as the drawings submitted as part of the subject application, dated May 26, 2017, show a basement floor, ground floor, second floor, and third floor. As previously identified, significant height variances are required in order to accommodate the third-storey.

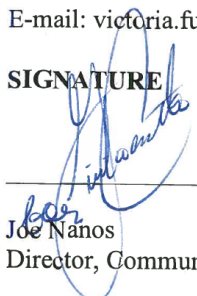
Of the 100 minor variance applications reviewed within the neighbourhood, staff note that there have been no approvals granting three-storey variances under either zoning by-law. Staff are of the opinion that the variances related to the number of storeys fails to meet the general intent and purpose of the Official Plan and Zoning By-laws.

Staff recommend that the Committee defer the application, however, should a deferral not be granted, staff recommend the application be refused.

CONTACT

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SIGNATURE



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