

Date: October 28, 2019

To: Chair and Committee Members of the Committee of Adjustment, Etobicoke York Panel

From: Neil Cresswell, Director, Community Planning, Etobicoke York District

Ward: 3 (Etobicoke-Lakeshore)

File No: A0484/19EYK & A0485/19EYK

Address: 36 Clissold – Parts 1 and 2

Application to be heard: Thursday, November 7, 2019

RECOMMENDATIONS

Planning Staff recommend the Minor Variance applications be refused.

APPLICATION

The applicant proposes to construct two new detached dwellings with an attached garage on each part. A previous Committee of Adjustment consent application (B00031/18EYK) for 36 Clissold Road is currently adjourned at TLAB (18 214914 S53 05) waiting for necessary variance appeals for joint consideration.

PART 1 (A0484/19EYK) - Part 1 is the proposed north lot. REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

1. **Section 10.20.30.20(1)(A), By-law 569-2013**
The minimum required lot frontage is 13.5 m.
The lot frontage will be 7.62 m.
2. **Section 10.20.30.10(1)(A), By-law 569-2013**
The minimum required lot area is 510 m².
The lot area will be 278.71 m².
3. **Section 10.20.30.40(1)(A), By-law 569-2013**
The maximum permitted lot coverage is 33% of the lot area (91.97 m²).
The proposed dwelling will cover 35% of the lot area (97.5 m²).
4. **Section 10.20.40.40.(1)(A), By-law 569-2013**
The maximum permitted gross floor area is 0.45 times the lot area (125.42 m²).
The proposed dwelling will have a gross floor area of 0.72 times the lot area (199.89 m²).
5. **Section 10.20.40.70(3)(C), By-law 569-2013**
The minimum required side yard setback is 1.2 m.
The proposed dwelling will be located 0.45 m from the south side lot line.

6. **Section 320-42.1(B)(2)**
The maximum permitted soffit height is 6.5 m.
The proposed dwelling will have a soffit height of 9.4 m.
7. **Section 10.20.40.10.(2)(A)(i), By-law 569-2013**
The maximum permitted height of all exterior main walls is 7 m.
The exterior main walls of the proposed dwelling will have a height of 8.12 m.
8. **Section 10.20.40.10.(1)(A), By-law 569-2013 & Section 320-42.1.B.(1)**
The maximum permitted dwelling height is 9.5 m.
The proposed dwelling will have a height of 9.98 m.

**PART 2 (A0485/19EYK) - Part 2 is the proposed south lot.
REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:**

1. **Section 10.20.30.20(1)(A), By-law 569-2013**
The minimum required lot frontage is 13.5 m.
The lot frontage will be 7.62 m.
2. **Section 10.20.30.10(1)(A), By-law 569-2013**
The minimum required lot area is 510 m².
The lot area will be 278.71 m².
3. **Section 10.20.30.40(1)(A), By-law 569-2013**
The maximum permitted lot coverage is 33% of the lot area (91.97 m²).
The proposed dwelling will cover 35% of the lot area (97.5 m²).
4. **Section 10.20.40.40.(1)(A), By-law 569-2013**
The maximum permitted gross floor area is 0.45 times the lot area (125.42 m²).
The proposed dwelling will have a gross floor area of 0.72 times the lot area (199.89 m²).
5. **Section 10.20.40.70(3)(C), By-law 569-2013**
The minimum required side yard setback is 1.2 m.
The proposed dwelling will be located 0.45 m from the north side lot line.
6. **Section 320-42.1(B)(2)**
The maximum permitted soffit height is 6.5 m.
The proposed dwelling will have a soffit height of 9.4 m.
7. **Section 10.20.40.10.(2)(A)(i), By-law 569-2013**
The maximum permitted height of all exterior main walls is 7 m.
The exterior main walls of the proposed dwelling will have a height of 8.12 m.
8. **Section 10.20.40.10.(1)(A), By-law 569-2013 & Section 320-42.1.B.(1)**
The maximum permitted dwelling height is 9.5 m.
The proposed dwelling will have a height of 9.98 m.

COMMENTS

The subject property is designated *Neighbourhoods* in the Toronto Official Plan. The Official Plan acknowledges that *Neighbourhoods*, while stable, will be subject to physical change in the form of enhancements, additions and infill housing. The key objective of the Plan is to ensure that new development will respect and reinforce the existing physical character of the neighbourhood. Section 4.1 of the Plan outlines the development policies for *Neighbourhoods*.

Policy 4.1.5 of the Official Plan outlines development criteria for established *Neighbourhoods*. Development in established *Neighbourhoods* will respect and reinforce the existing physical character of the area, including in particular:

- b) prevailing size and configuration of lots; and
- c) prevailing heights, massing, scale, density and dwelling type of nearby residential properties.

According to Policy 4.1.8 of the Toronto Official Plan, Zoning By-laws will contain numerical site standards for matters such as building type and height, density, lot sizes, lot depths, lot frontages, parking, building setbacks from lot lines, landscaped open space and any other performance standards to ensure that new development will be compatible with the physical character of established residential *Neighbourhoods*.

The Official Plan further states 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*".

Zoning By-law

The property is zoned Residential Detached (RD) under Zoning By-law No. 569-2013, as amended, and Second Density Residential (R2) under the former municipality of Etobicoke Zoning Code.

Comments

The site was previously subject to Consent and Minor Variance applications (B0031/18EYK, A0255/18EYK & A0256/18EYK), which proposed two undersized lots with a new detached dwelling with an integral garage on each new lot. Planning staff submitted a report, dated July 26, 2018, which recommended refusal of the applications. The applications were refused by the Committee of Adjustment at the August 2, 2018 hearing. On August 9, 2019, the applicant appealed the decision to refuse the Consent application to the Toronto Local Appeal Body (TLAB), however did not appeal the decisions on the two associated Minor Variance applications.

The TLAB Member issued a Decision and Order for the appeal (TLAB Case File No. 18 214914 S53 05 TLAB) which notes that the TLAB was not in possession of any materials on the variance applications and "that only on consolidation of the appeal files and the exhaustion of evidence thereon, would the TLAB be in a position to render a Decision and Order." Further, the TLAB states that final decisions on requested variances or their appeals must be submitted on or before December 30, 2019,

otherwise the consent appeal would be deemed abandoned and the consent appeal would be dismissed.

The applicant submitted two new Minor Variance applications for the two proposed lots, on September 27, 2019. The proposed north lot (Part 1) is subject to Minor Variance Application File No. A0484/19EYK and the proposed south lot (Part 2) is subject to Minor Variance Application File No. A0485/19EYK. Both applications are to be considered by the Committee of Adjustment on November 7, 2019.

Planning staff have reviewed the two Minor Variance applications and note that the requested variances differ from the original variances as follows:

- A lot coverage variance has been added;
- The proposed floor space variance has increased from 0.69 times the area of the lot to 0.72 times the area of the lot;
- The proposed side yard setback variance has been decreased from 0.92 metres to 0.45 metres;
- The soffit height variance has increased from 8.06 metres to 9.4 metres;
- The exterior main wall height variance has been increased from 8.06 metres to 8.12 metres; and
- The dwelling height variance has been reduced from 10 metres to 9.98 metres.

As noted above, Planning staff wrote a Staff Report recommending refusal of the previous Consent and Minor Variance applications. Planning staff continue to be of the opinion that the proposed lots and variances would result in a development that does not respect and reinforce the existing physical character of the neighbourhood and thus, is not in keeping with the general intent and purpose of the Official Plan and the Zoning By-laws.

It is recommended that the Minor Variance applications be refused as the proposals fail to satisfy the four tests for a Minor Variance under the *Planning Act*.

CONTACT

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SIGNATURE



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