



Councillor Cynthia Lai
Ward 23—Scarborough North

Toronto City Hall | 100 Queen Street West, 2nd Floor, Suite A8, Toronto ON M5H 2N2



February 13, 2019

Re: Appeal to Toronto Local Appeal Body (TLAB) of Committee of Adjustment Applications for 1972 Brimley Road

Dear Chair and Committee Members,

On January 30, 2019, the Committee of Adjustment (the "Committee") approved the consent application and its associated minor variance applications regarding the property municipally known as 1972 Brimley Road (the "subject Property"). The applicant sought relief from the City of Toronto Zoning By-law No. 569-2013 to permit the lot to be severed into two new lots each with a frontage of 11.61 metres and an area of 562.62 square metres. The applicant is proposing to demolish the existing house and build two new detached houses.

City Planning staff submitted a report to the Committee of Adjustment to recommend refusal of the consent and variances dated January 30, 2019. The proposed variances are not in keeping with the policies of the Official plan and do not maintain the general intent and purpose of the Zoning By-law. Copies of the Notice of Decision and the Staff Report are attached.

This matter is time sensitive and urgent as the deadline for appealing the decision of the Toronto Local Appeal Body is on February 25, 2019.

RECOMMENDATIONS:

1. That City Council direct the City Solicitor to appeal the January 30, 2019 Decision of the Scarborough Committee of Adjustment regarding 1972 Brimley Road (Municipal File B0056/18SC, A0321/18SC, and A0322/18SC) to the Toronto Local Appeal Body.
2. That City Council authorize the City Solicitor and appropriate staff to attend the Toronto Local Appeal Body to oppose the Committee of Adjustment's Decision to approve the consent and associated minor variances respecting 1972 Brimley Road.

ATTACHMENTS:

Attachment 1: Notice of Decision of the Committee of Adjustment respecting Application No. B0056/18SC, A0321/18SC, and A0322/18SC.

Attachment 2: Planning Staff Report to the Committee of Adjustment respecting Application No. B0056/18SC, A0321/18SC, and A0322/18SC.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Cynthia Lai', with a stylized flourish at the end.

Cynthia Lai
Councillor, Ward 23—Scarborough North

Wednesday, January 30, 2019

**NOTICE OF DECISION
CONSENT
(Section 53 of the Planning Act)**

File Number: B0056/18SC
Property Address: 1972 BRIMLEY RD
Legal Description: PLAN 3490 PT LOT 10
Agent: GRANT MORRIS
Owner(s): JAGWINDER SINGH JOHAL
Zoning: Residential Detached (RD) Zone [Waiver]
Ward: Scarborough North (23)
Community: Agincourt Community
Heritage: Not Applicable

Notice was given and the application considered on Wednesday, January 30, 2019, as required by the Planning Act.

THE CONSENT REQUESTED:

Proposal to sever the land into two lots for single family dwellings. The proposed lots are shown on the attached Lot Division Plan as PART 1 and PART 2. Each proposed lot would have a frontage of 11.5 metres on Brimley Road and an area of 562 square metres.

The Committee of Adjustment considered the written submissions relating to the application made to the Committee before its decision and oral submissions relating to the application made at the hearing. In so doing, **IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:**

The Consent Application is Approved on Condition

The Committee has considered the provisions of Section 51(24) of the Planning Act and is satisfied that a plan of subdivision is not necessary. The Committee therefore consents to the transaction as shown on the plan filed with the Committee of Adjustment on the condition that before a Certificate of Consent is issued, as required by Section 53(42) of the Planning Act, the applicant is to file the following with the Committee office:

- (1) Confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department.

- (2) Municipal numbers for the subject lots indicated on the applicable Registered Plan of Survey shall be assigned to the satisfaction of Survey and Mapping Services, Technical Services.
- (3) **Two copies of the registered reference plan of survey** integrated to NAD 83 CSRS (3 degree Modified Transverse Mercator projection), delineating by separate Parts the lands and their respective areas, shall be filed with City Surveyor, Survey & Mapping, Technical Services.
- (4) **Three copies of the registered reference plan of survey** satisfying the requirements of the City Surveyor, shall be filed with the Committee of Adjustment.
- (5) The Owner shall submit a complete application for a permit to injure or remove a privately owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees Article III Private Tree Protection. Contact: Supervisor Urban Forestry, Tree Protection & Plan Review, at 150 Borough Drive, 5th Floor, Toronto, Ontario, M1P 4N7, 416-338-5566 or by email at tppreast@toronto.ca
- (6) The Owner shall obtain Final and Binding Decisions on minor variance applications A0321/18SC and A0322/18SC, to the satisfaction of the Deputy Secretary-Treasurer, Committee of Adjustment, Scarborough Panel.
- (7) Within **ONE YEAR** of the date of the giving of this notice of decision, the applicant shall comply with the above-noted conditions and prepare for electronic submission to the Deputy Secretary-Treasurer, the Certificate of Official, Form 2 or 4, O. Reg. 197/96, referencing either subsection 50(3) or (5) or subsection 53(42) of the *Planning Act*, as it pertains to the conveyed land and/or consent transaction.

Decision Notice - CO.doc



SIGNATURE PAGE

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Zoning: Residential Detached (RD) Zone [Waiver]
Ward: Scarborough North(23)
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Heritage: Not Applicable

Table 1, Panel Member Digital Signatures

		
Dominic Gulli	Eden Gajraj	Hena Kabir

DATE DECISION MAILED ON: Tuesday, February 5, 2019

LAST DATE OF APPEAL: Monday, February 25, 2019

CERTIFIED TRUE COPY



Andre Robichaud
Manager & Deputy Secretary Treasurer
Scarborough Panel

Appeal Information

All appeals must be filed with the Deputy Secretary Treasurer, Committee of Adjustment by the last date of appeal as shown on the signature page.

Your appeal to the **Toronto Local Appeal Body (TLAB)** should be submitted in accordance with the instructions below unless there is a related appeal* to the Local Planning Appeal Tribunal (LPAT) for the same matter.

TORONTO LOCAL APPEAL BODY (TLAB) APPEAL INSTRUCTIONS

To appeal this decision to the TLAB you need the following:

- a completed TLAB Notice of Appeal (Form 1) in **digital format** on a CD/DVD
- \$300 for each appeal filed regardless if related and submitted by the same appellant
- Fees are payable to the **City of Toronto** by cash, certified cheque or money order (Canadian funds)

To obtain a copy of the Notice of Appeal Form (Form 1) and other information about the appeal process please visit the TLAB web site at www.toronto.ca/tlab.

LOCAL PLANNING APPEAL TRIBUNAL (LPAT) INSTRUCTIONS

To appeal this decision to the LPAT you need the following:

- a completed LPAT Appellant Form (A1) in **paper format**
- \$300.00 with an additional reduced fee of \$25.00 for each connected appeal filed by the same appellant
- Fees are payable to the **Minister of Finance** by certified cheque or money order (Canadian funds).

To obtain a copy of Appellant Form (A1) and other information about the appeal process please visit the Environmental & Lands Tribunals Ontario (ELTO) website at <http://elto.gov.on.ca/tribunals/lpat/forms/>

*A **related appeal** is another planning application appeal affecting the same property. To learn if there is a related appeal, search community planning applications status in the Application Information Centre and contact the assigned planner if necessary. If there is a related appeal, your appeal to the **Local Planning Appeal Tribunal (LPAT)** should be submitted in accordance with the instructions above.

NOTE: Only individuals, corporations and public agencies may appeal a decision. The appeal may not be filed by an unincorporated association or group. However, the appeal may be filed in the name of an individual who is a member of the association or group on its behalf.



REPORT FOR ACTION

1972 Brimley Road, Committee of Adjustment Application

Date: January 9, 2019

To: Chair and Committee Members of the Committee of Adjustment, Scarborough Panel

From: Director, Community Planning, Scarborough District

Wards: 23

File Number: B0056/18SC, A0321/18SC, A0322/18SC

Hearing Date: January 30, 2019

SUMMARY

The application is for consent to sever the lands to create two residential lots. The proposed lots would each have a frontage of 11.61 metres on Brimley Road and a lot area of 562.62 square metres. *The applicant is proposing to demolish the existing dwelling and build two new detached dwellings.* The following variances are being requested:

A0321/18SC (PART 1) and A0322/18SC (PART 2)

By-law No. 569-2013:

- 1) The proposed lot area is 562.62 square metres
Whereas the required minimum lot area is 696 square metres
- 2) The proposed lot frontage is 11.61 metres
Whereas the required minimum lot frontage is 15.0 metres

RECOMMENDATIONS

Community Planning recommends that the Committee refuse this application as it does not reinforce and respect the neighbourhood's prevailing pattern of lot frontages and lot sizes.

COMMENTS

The subject property is located on the west side of Brimley Road, south of Sheppard Avenue East, and north of Pitfield Road. The property is designated *Neighbourhoods* in the Official Plan. The property is zoned Single Family Residential (S) under the Agincourt Community Zoning By-law No. 10076, as amended, and Residential Detached (RD) under the City-Wide Zoning By-law 569-2013, as amended.

The matters the Committee of Adjustment must have regard to in considering severance applications are found in Subsection 51(24) of the *Planning Act* and include, but are not limited to:

- (b) whether the proposed subdivision is premature or in public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any; and
- (f) the dimensions and shapes of the proposed lots.

As part of the City's ongoing Official Plan Five Year Review, City Council adopted Official Plan Amendment No. 320 (OPA 320) on December 10, 2015 to strengthen and refine the Healthy Neighbourhoods, *Neighbourhoods* and *Apartment Neighbourhoods* policies. The goal of OPA 320 is to protect and enhance existing neighbourhoods, allow limited infill on underutilized *Apartment Neighbourhood* sites and implement the City's Tower Renewal Program.

The Minister of Municipal Affairs approved and modified OPA 320 on July 4, 2016, and this decision was appealed in part. The Local Planning Appeal Tribunal (LPAT) approved OPA 320 on December 7, 2018 bringing the policies in force for all lands except for properties that remain subject to site-specific appeals. The subject applications were made prior to OPA 320 being in force and thus it is not applicable. However, staff had regard to these policies in evaluating the proposal.

Official Plan Policy 4.1.5 states that "development in established neighbourhoods will respect and reinforce the existing physical character of each geographic neighbourhood," in particular, the "b) size and configuration of lots."

Zoning by-law No. 10076 and Zoning by-law 569-2013 both require a minimum lot frontage of 15.0 metres and a minimum lot area of 696 m². The applicant is proposing to create two new lots, each with a lot frontage of 11.61 metres and a lot area of 562.62 square metres.

To evaluate this proposal, Community Planning staff conducted a site visit, researched past Committee of Adjustment decisions and completed a study of lot frontages and lot areas within the surrounding neighbourhood. The lot study area is bounded by Garden Park Avenue to the north, lots immediate south of Pitfield Road to the south, Brimley Road to the east and lots immediately west of Garden Park Avenue to the west.

There were a total of 139 lots within the study area. The neighbourhood is characterized by large lot areas and wide frontages. The median lot size in the study area is 787.76 square metres and the median lot frontage is 16.76 metres. The study area only had 2 properties with lot area equal to or less than the proposed lot area of 562.62 square metres. The only smaller lots are located at 47 and 49 McDairmid Road. The McDairmid Road lots differ from the subject property as they front onto a neighbourhood interior street whereas the subject lot fronts onto Brimley Road which is a neighbourhood exterior street defined by even larger lots. Additionally, there were no residential lots with a frontage equal or less than the proposed 11.61 metres.

The subject property is located within an established neighbourhood that is stable and defined by consistently wide lots and wide frontages. The proposed undersized residential lots will result in a zoning deficiency of 3.39 metres for lot frontage and 133.38 square metres for lot area. Approval of the requested severance application would establish lots that are out of keeping with the physical character of the neighbourhood. The neighbourhood includes a significant number of lots with frontages greater than 15 metres. Approval of the severance could also disrupt the stability of the neighbourhood by indicating an opportunity to sever other lots of similar sizes to the subject property. There are 33 other lots (23% of the lots in the study area) with a lot area equal or above 1124 square metres, and of which 22 lots (18% of the lots in the study area) have frontages equal or above 23.22 metres.

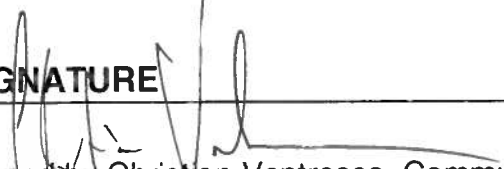
The dimensions of the proposed lots do not conform with the policies of the Official Plan, and Community Planning staff have concluded that the proposed severance does not meet the criteria of Section 51(24) of the *Planning Act*. The requested minor variances for lot frontages do not meet the general intent of the Official Plan, Agincourt Community Zoning By-law No. 10076, as amended, and City-wide Zoning By-law No. 569-2013, as amended, and thus fail to meet the tests of Section 45(1) of the *Planning Act*.

Based on this analysis, Community Planning staff recommend the proposed severance and associated minor variances be refused as they do not reinforce and respect the physical character of the neighbourhood.

CONTACT

Desiree Liu, Assistant Planner
Tel: 416-396-5004
Email: Desiree.Liu@toronto.ca

SIGNATURE


Signed by Christian Ventresca, Community Planning Manager on behalf of Paul Zuliani, Director, Community Planning, Scarborough District.

