



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

20 Sandringham Drive – Consent and Minor Variance Applications – Request for Further Direction Regarding LPAT Appeals

Date: July 20, 2020

To: City Council

From: City Solicitor

Wards: Ward 8 - Eglinton-Lawrence

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City or one of its agencies or corporations.

This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

Janet and Victor Minas (the "Applicants") are the owners of the property municipally known as 20 Sandringham Drive (the "Subject Site"), which is located on the east side of Sandringham Drive, north of Wilson Avenue. The property is zoned R3 under the former North York Zoning By-law No. 7625 and RD (f18.0;a690) in the City of Toronto Zoning By-law No. 569-2013. A portion of the rear yard of the property is located in a ravine. The Subject Site currently contains a single detached residential dwelling and has a total lot frontage of 49 metres and a lot area of 4,971.08 square metres.

In 2016, the Applicants submitted a Consent to Sever application to the Committee of Adjustment, North York Panel, (the "Committee") proposing to sever the Subject Site to create a new residential building lot (municipal file no.: B0060/16NY) (the "Consent Application"). The existing dwelling was proposed to be maintained on the retained lot. The retained lot was proposed to have a lot frontage of 19.6 metres and a lot area of 3,990.12 square metres. The conveyed lot was proposed to have a frontage of 29.4 metres and a lot area of 980.96 square metres. Both the retained and conveyed lots

created by the proposed severance are in compliance with the minimum requirements for lot frontage and lot area under both applicable zoning by-laws.

City Planning staff submitted a report to the Committee dated March 13, 2017, expressing concern with the configuration of the proposed severance in the Consent Application (the "Staff Report"). Planning noted that the configuration of the two proposed lots would create a situation where the conveyed parcel would be situated substantially in front of the retained parcel, creating a 'house behind a house' condition. The Staff Report also noted that while no building plans for the conveyed lot were submitted with the Consent Application, any new house constructed on the conveyed parcel would likely require front and rear yard variances. As a result, the Staff Report recommended refusal of the Consent Application as configured at that time.

At its hearing on March 22, 2017, the Committee refused the Consent Application. The Committee's decision was appealed to the Ontario Municipal Board (the "OMB") (now the "Local Planning Appeal Tribunal" or "LPAT").

The original OMB hearing regarding the Consent Appeal was scheduled to be heard in September 2017, but was adjourned to allow the Applicants time to revise their proposal. A new hearing date in January 2018 was again adjourned to allow time for revisions.

In 2019, the Applicants submitted a related Minor Variance application to the Committee (municipal file no.: A0246/19NY) (the "Minor Variance Application"). The Minor Variance Application sought a rear yard setback variance for the existing dwelling on the retained lot from the minimum requirement of 20.74 metres (under the By-law 569-2013) to 8.66 metres. The variance was now required because of revisions to the proposed Consent Application, which included a dedication of a portion of the rear yard located in the ravine to the Toronto and Region Conservation Authority ("TRCA"). This would have the effect of moving up the rear property line, causing the rear of the existing dwelling to no longer meet the minimum rear yard setback distance and necessitating the variance requested.

At its hearing on June 5, 2019, the Committee decided to defer consideration of the Minor Variance Application. The Committee's decision was appealed to the LPAT. The minor variance appeal was consolidated with the existing consent appeal (the "Appeals"). The Appeals are known as LPAT Case No. PL170431.

A 3-day LPAT hearing for the consolidated Appeals was scheduled for May 27, 2020. However, as a result of the Covid-19 pandemic and the Province of Ontario's emergency order under Ontario Regulation 73/20, the LPAT hearing was cancelled and will be rescheduled in the future.

The purpose of this report is to request instructions regarding the LPAT Appeals.

City Planning has been involved in the preparation of this report.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1 to this report, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to remain confidential at the discretion of the City Solicitor, as it contains advice subject to solicitor-client privilege.
4. City Council authorize the public release of Confidential Attachment 2 to this report, if the confidential recommendations contained in Confidential Attachment 1 to this report are adopted by City Council.

FINANCIAL IMPACT

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

On July 4, 2017, City Council considered and adopted Member Motion MM31.28 authorizing the City Solicitor and City Staff to oppose the Consent Application appeal at the OMB. A copy of City Council's decision and the Member Motion can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.MM31.38>

On February 26, 2019, City Council considered and adopted Member Motion MM3.9 authorizing the City Solicitor and City Staff to oppose the Consent Application appeal at the LPAT and to retain outside consultants as necessary. City Council also authorized the City Solicitor to attempt to negotiate a resolution of the appeal, and, if a resolution is reached, to settle the appeal at the City Solicitor's discretion, in consultation with the Ward Councillor and the Chief Planner. A copy of City Council's decision and the Member Motion can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.MM3.9>

On July 16, 2019, City Council considered and adopted Member Motion MM9.16 authorizing the City Solicitor and City Staff to oppose the Minor Variance Application

appeal at the LPAT and to retain outside consultants as necessary. City Council also authorized the City Solicitor to attempt to negotiate a resolution of the appeal, and, if a resolution is reached, to settle the appeal at the City Solicitor's discretion, in consultation with the Ward Councillor and the Chief Planner. A copy of City Council's decision and the Member Motion can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.MM9.16>

COMMENTS

The City Solicitor requires further instructions regarding the LPAT Appeal. This report is about litigation before the LPAT and contains advice or communications that are subject to solicitor-client privilege. Confidential Attachment 1 to this report contains confidential information and should be considered by Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Recommendations and Confidential Information
2. Confidential Attachment 2 - Contains Confidential Information