



Mark Grimes
Toronto City Councillor
Ward 3, Etobicoke-Lakeshore

Toronto City Hall
100 Queen Street West
Suite C48 Toronto
Ontario M5H 2N

Date: October 5, 2020
To: Members of Etobicoke York Community Council
From: Councillor Mark Grimes
Subject: **75 Thirty Eighth Street – Request for City Solicitor to Attend TLAB, Ward 3**

SUMMARY

On August 27, 2020, the Committee of Adjustment (the "Committee") refused a Consent to Sever and two Minor Variance applications brought by the owner of 75 Thirty Eighth Street for the following variances: lot frontage, lot area, floor space index, and side yard setback on each lot (the "Applications"). A copy of the Committee's decisions are attached. The Applications proposed to construct two new detached dwellings on undersized lots with an attached garage on each lot.

On September 16, 2020, the owner appealed the Committee's decision to refuse the Applications to the Toronto Local Appeal Body (the "TLAB").

In a report from the Supervisor, Tree Protection and Plan Review, dated May 27, 2020, Urban Forestry Staff opposed the Applications and recommended its refusal. A copy of the Urban Forestry report is attached. Urban Forestry Staff opined that the approval of the requested Consent to Sever application may result in construction that requires the permanent loss of viable planting space and the cancellation of a planned City tree. Urban Forestry staff also stated that the Official Plan contains policies specifically to the protection, preservation and enhancement of trees.

RECOMMENDATION

That Etobicoke York Community Council:

1. City Council authorize the City Solicitor and appropriate City Staff to attend at the Toronto Local Appeal Body hearing to support the Committee of Adjustment's decision to refuse the Consent and Minor Variances applications requested in Application Nos. B0073/19EYK, A0647/19EYK, and A0648/19EYK, respecting 75 Thirty Eighth Street.

Sincerely,

Mark Grimes

Toronto City Councillor
Ward 3, Etobicoke-Lakeshore



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Toronto City Councillor
Ward 3, Etobicoke-Lakeshore

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Ontario M5H 2N

-
2. City Council authorize the City Solicitor to negotiate a settlement of the appeal of the decisions in Application Nos. B0073/19EYK, A0647/19EYK, and A0648/19EYK respecting 75 Thirty Eighth Street and authorize the City Solicitor to settle the matter on behalf of the City at her discretion after consultation with the Ward Councillor, and with the Director of Community Planning, Etobicoke York District.

BACKGROUND:

Attachment 1: Notice of Decisions of the Committee of Adjustment (Consent and Minor Variances)

Attachment 2: Urban Forestry Staff Report to the Committee of Adjustment

Sincerely,

Mark Grimes

Toronto City Councillor
Ward 3, Etobicoke-Lakeshore

Michael Mizzi
Director, Zoning and Secretary-Treasurer
Committee of Adjustment
City Planning Division

Committee of Adjustment
2 Civic Centre Crt, 4th Fl
Toronto, ON M9C 5A3
T: 416-394-8060
F: 416-394-6042

416-394-8060
coa.ey@toronto.ca

Thursday, August 27, 2020

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

File Number: B0073/19EYK
Property Address: 75 THIRTY EIGHTH ST
Legal Description: PLAN 2155 LOT 142
Agent: CULTIVATE GROUP
Owner(s): REZA SEDIGHFAR
Zoning: RD & RS
Ward: Etobicoke-Lakeshore (03)
Community:
Heritage: Not Applicable

Notice was given and the application considered on Thursday, August 27, 2020, as required by the Planning Act.

THE CONSENT REQUESTED:

To obtain consent to sever the lot into two undersized residential lots.

Conveyed- Part 1

Address to be assigned

The lot frontage will be 7.62 m and the lot area will be 319.55 m². The existing dwelling will be demolished and the property will be redeveloped as the site of a new detached dwelling with an attached garage, requiring variances to the Zoning By-law, as outlined in Application A0647/19EYK.

Retained- Part 2

Address to be assigned

The lot frontage will be 7.62 m and the lot area will be 320.32 m². The existing dwelling will be demolished and the property will be redeveloped as the site of a new detached dwelling with an attached garage, requiring variances to the Zoning By-law, as outlined in Application A0648/19EYK.

File numbers B0073/19EYK, A0647/19EYK & A0648/19EYK will be considered jointly.

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 Refused

In the opinion of the Committee, the application does not satisfy the requirements of Section 51(24) of the Planning Act and is **NOT** approved for the following reason(s):

- The proposed land division is premature.
- The proposed land division does not conform to the policies of the official plan.
- The suitability of the land for the purposes for which it is to be subdivided has not been demonstrated.
- The suitability of the dimensions and shapes of the proposed lots has not been demonstrated.

SIGNATURE PAGE

File Number: B0073/19EYK
Property Address: 75 THIRTY EIGHTH ST
Legal Description: PLAN 2155 LOT 142
Applicant: CULTIVATE GROUP
Owner(s): REZA SEDIGHFAR
Zoning: RD & RS
Ward: Etobicoke-Lakeshore(03)
Community:
Heritage: Not Applicable



Laura Alderson (signed)



Neil Palmer (signed)

DATE DECISION MAILED ON: Friday, September 4, 2020

LAST DATE OF APPEAL: Thursday, September 24, 2020

CERTIFIED TRUE COPY

Barbara Bartosik
Manager and Deputy Secretary-Treasurer

Appeal Information

All appeals must be filed by email with the Deputy Secretary-Treasurer, Committee of Adjustment to coa.ey@toronto.ca and Barbara.Bartosik@toronto.ca 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).
- \$300 for each appeal filed regardless if related and submitted by the same appellant.
- Fees are payable to the **City of Toronto**. Once your appeal has been received by e-mail by the Deputy Secretary –Treasurer you will receive payment instructions.
- Due to the Covid-19 Emergency please contact the Deputy Secretary-Treasurer to make arrangements in submitting the appeal.

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LOCAL PLANNING APPEAL TRIBUNAL (LPAT) INSTRUCTIONS

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

- A completed LPAT Appellant Form (A1) in digital format on a USB stick and in paper format.
- \$400 with an additional reduced fee of \$25 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).
- Due to the Covid-19 Emergency please contact the Deputy Secretary-Treasurer to make arrangements in submitting the appeal.

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.

Michael Mizzi
Director, Zoning and Secretary-Treasurer
Committee of Adjustment
City Planning Division

Committee of Adjustment
2 Civic Centre Crt, 4th Fl
Toronto, ON M9C 5A3
T: 416-394-8060
F: 416-394-6042

416-394-8060
coa.ey@toronto.ca

Thursday, August 27, 2020

**NOTICE OF DECISION
MINOR VARIANCE/PERMISSION
(Section 45 of the Planning Act)**

File Number: A0647/19EYK
Property Address: 75 THIRTY EIGHTH ST – PART 1
Legal Description: PLAN 2155 LOT 142
Agent: CULTIVATE GROUP
Owner(s): REZA SEDIGHFAR
Zoning: RD & RS
Ward: Etobicoke-Lakeshore (03)
Community:
Heritage: Not Applicable

Notice was given and a Public Hearing was held on Thursday, August 27, 2020, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To construct a new detached dwelling with an attached garage.

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

- 1. Section 10.20.30.20.(1), By-law 569-2013**
The minimum required lot frontage is 12 m.
The lot will have a frontage of 7.62 m.
- 2. Section 10.20.30.10.(1), By-law 569-2013**
The minimum required lot area is 370 m².
The lot will have a lot area of 319.55 m².
- 3. Section 10.20.40.40.(1), By-law 569-2013**
The maximum permitted floor space index is 0.35 times the area of the lot (111.72 m²).
The new dwelling will have a floor space index of 0.56 times the area of the lot (178.4 m²).

4. Section 10.20.4.70.(3), By-law 569-2013

The minimum required side yard setback is 1.2 m.

The new dwelling will be located 0.6 m from the south side lot line.

File numbers B0073/19EYK, A0647/19EYK & A0648/19EYK will be considered jointly.

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 Minor Variance Application is Refused

It is the decision of the Committee of Adjustment to **NOT** approve this variance application for the following reasons:

- The general intent and purpose of the Official Plan is not maintained.
- The general intent and purpose of the Zoning By-law is not maintained.
- The variance(s) is not considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance(s) is not minor.

SIGNATURE PAGE

File Number: A0647/19EYK
Property Address: 75 THIRTY EIGHTH ST – PART 1
Legal Description: PLAN 2155 LOT 142
Agent: CULTIVATE GROUP
Owner(s): REZA SEDIGHFAR
Zoning: RD & RS
Ward: Etobicoke-Lakeshore (03)
Community:
Heritage: Not Applicable



Laura Alderson (signed)



Neil Palmer (signed)

DATE DECISION MAILED ON: Friday, September 4, 2020

LAST DATE OF APPEAL: Wednesday, September 16, 2020

CERTIFIED TRUE COPY

Barbara Bartosik
Manager and Deputy Secretary-Treasurer

Appeal Information

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Michael Mizzi
Director, Zoning and Secretary-Treasurer
Committee of Adjustment
City Planning Division

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2 Civic Centre Crt, 4th Fl
Toronto, ON M9C 5A3
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Thursday, August 27, 2020

**NOTICE OF DECISION
MINOR VARIANCE/PERMISSION
(Section 45 of the Planning Act)**

File Number: A0648/19EYK
Property Address: 75 THIRTY EIGHTH ST – PART 2
Legal Description: PLAN 2155 LOT 142
Agent: CULTIVATE GROUP
Owner(s): REZA SEDIGHFAR
Zoning: RD & RS
Ward: Etobicoke-Lakeshore (03)
Community:
Heritage: Not Applicable

Notice was given and a Public Hearing was held on Thursday, August 27, 2020, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To construct a new detached dwelling with an attached garage.

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

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Owner(s): REZA SEDIGHFAR
Zoning: RD & RS
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Community:
Heritage: Not Applicable



Laura Alderson (signed)



Neil Palmer (signed)

DATE DECISION MAILED ON: Friday, September 4, 2020

LAST DATE OF APPEAL: Wednesday, September 16, 2020

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Barbara Bartosik
Manager and Deputy Secretary-Treasurer

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Max Dida
Supervisor, Tree Protection and Plan Review

Etobicoke Civic Centre
399 The West Mall, Main
Floor
Toronto, Ontario M9C 2Y2

Tel: 416-394-8551
Fax: 416-394-8935
Max.Dida@toronto.ca

May 27, 2020

To: Barbara Bartosik, Manager & Deputy Secretary-Treasurer City Planning, Community Planning – Etobicoke York District
From: Max Dida, Supervisor, Tree Protection and Plan Review – West District
Re: **File No. B0073/19EYK, A0647/19EYK, A0648/19EYK, 75 Thirty Eighth St- Minor Variance or Consent to Sever Application**

Urban Forestry staff have reviewed the application and provide the following recommendation:

- Urban Forestry requests that the Committee of Adjustment panel deny the consent due to impacts to cancelation of planned City tree and the permanent loss of viable planting space.

If despite Urban Forestry's recommendation, the Committee of Adjustment panel approves the requested consent, Urban Forestry requests the consent be subject to the following conditions:

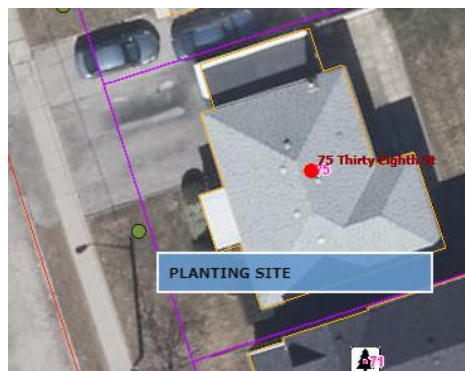
- 1) Submission of a complete application for a permit to injure or remove a City owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees Article II Trees on City Streets.

Additional Information

As outlined, approval of the requested consent may result in construction that requires the permanent loss of viable planting space:



(Google maps photo taken July 2019)



(iView, City of Toronto)

City-owned
planned planting
site protected by
MCC 813, Article
II Street Tree
Bylaw

Urban Forestry understands that the Committee panel considers in its deliberations the application's adherence to the City of Toronto's Official Plan (OP). The policies within the OP strive to balance economic, social and environmental factors. The OP contains policies relating specifically to the protection, preservation and enhancement of trees, including the following:

Section 3.4: The Natural Environment – Policy 1.d)

To support strong communities, a competitive economy and a high quality of life, public and private city-building activities and changes to the built environment, including public works, will be environmentally friendly, based on:

d) preserving and enhancing the urban forest by:

- i) providing suitable growing environments for trees;
- ii) increasing tree canopy coverage and diversity, especially of long-lived native and large shade trees; and
- iii) regulating the injury and destruction of trees;

Advisory Comments

1. Any application to injure and/or remove a City owned tree may be denied by Urban Forestry regardless of Committee of Adjustment approval. Should the applicant wish to appeal a denial by Urban Forestry, the matter may be referred to City Council through Community Council for consideration.
2. Approval of the consent/minor variances listed in the subject Committee of Adjustment application does not preclude the applicant from obtaining the necessary tree removal/injury permits from Urban Forestry.
3. All bylaw protected trees located on site and within 6 m of the site (12 m within the ravine protected area) must be protected in accordance with the City's *Tree Protection Policy and Specifications for Construction near Trees*. No excavation, grade changes, cutting of tree roots, extensive pruning to the tree's canopy or movement or storage of equipment/construction material/excavated soil is permitted within the minimum tree protection zones of trees unless prior authorization has been obtained from Urban Forestry.

If approved, applicants must provide Urban Forestry with a copy of the Committee of Adjustment Final & Binding Letter or the Toronto Local Appeal Body decision. A clearance letter will be issued once the required conditions are fulfilled. For additional information please forward inquiries to tpprwest@toronto.ca or call 416-338-6596.

(Original signed by)

Max Dida

Supervisor, Tree Protection and Plan Review - West District

cc: Forestry File

Committee of Adjustment