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By Committee of Adjustment at 10:09 am, Feb 24, 2022

## 59 R Hepbourne Street Committee of Adjustment Application

**Date:** February 22, 2022**To:** Chair and Committee Members of the Committee of Adjustment, Toronto and East York Panel**From:** Director, Community Planning, Toronto and East York District**Wards:** Davenport (09)**File Number:** B0094/21TEY, A1227/21TEY, A1228/21TEY**Hearing Date:** March 2, 2022

### RECOMMENDATIONS

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Community Planning recommends the Committee the Adjustment **refuse** the applications to sever the lot and construct two new detached dwellings.

### APPLICATION

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The applicant is proposing to sever the property into two undersized residential lots as follows:

**Part 1** would measure 10.134 m on Bill Cameron Lane and have an area of 121.56 m<sup>2</sup>. A new three-storey detached dwelling with an integral garage would be constructed.

**Part 2** would measure 11.202 m on Bill Cameron Lane and have an area of 121.56 m<sup>2</sup>. A new three-storey detached dwelling with an integral garage would be constructed.

#### **PART 1 - File A1227/21TEY**

Requested Variances to the Zoning By-law:

- 1. Chapter 10.10.30.10.(1)(A), By-law 569-2013**  
The minimum required lot area is 180 m<sup>2</sup>.  
The lot area will be 121.56 m<sup>2</sup>.
- 2. Chapter 10.10.30.20.(1)(B), By-law 569-2013**  
The minimum required lot frontage is 6 m.  
The lot will have no frontage as access to the lot is from a 'Lane'.

- 3. Chapter 10.5.30.20.(2)(A)&(B), By-law 569-2013**  
In the Residential Zone category, a residential building may not be erected on a lot that does not have a front lot line of at least 3.5 m, unless the lot abuts a lane with a minimum width of 6 m and has a minimum of 3.5 m of the rear lot line abutting the lane.  
The new dwelling will not have a minimum of 3.5 m of the rear lot line abutting the lane.
- 4. Chapter 10.10.40.10.(2)(B)(ii), By-law 569-2013**  
The maximum permitted height of all side exterior main walls facing a side lot line is 7.5 m.  
The new dwelling will have side exterior main wall heights equal to 8.97 m.
- 5. Chapter 10.10.40.40.(1)(A), By-law 569-2013**  
The maximum permitted floor space index is 0.6 times the lot area (72.9 m<sup>2</sup>).  
The new dwelling will have a floor space index equal to 1.66 times the lot area (201.5 m<sup>2</sup>).
- 6. Chapter 10.10.40.70.(3)(A)(i), By-law 569-2013**  
The minimum required side yard setback for a detached house is 0.9 m.  
The new dwelling will be located 0.46 m from the side (west) lot line, and 0 m from the north, south and east lot lines.
- 7. Chapter 10.5.40.60.(2)(A), By-law 569-2013**  
A canopy, awning or similar structure above a platform may encroach into a required building setback to the same extent as the platform it is covering.  
The first storey canopy will be located 0 m from the side (west and south) lot lines.
- 8. Chapter 10.5.40.60.(5)(A), By-law 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 first storey columns will be located 0.0 m from the south and west lot lines.
- 9. Chapter 5.10.30.1.(1)(A), By-law 569-2013**  
No land may be used and no building or structure may be erected or used on the land unless the land abuts an existing street, or is connected to an existing street by a street or streets, constructed to a minimum base curb and base asphalt or concrete.  
In this case, the use is on land that abuts a 'lane'.
- 10. Chapter 5.10.30.1.(1)(B), By-law 569-2013**  
No land may be used and no building or structure may be erected or used on the land unless all municipal water mains and municipal sewers, and their appurtenances, are installed to a lot line of the property and are operational.  
In this case, the use is on land that does not have service connections to a lot line.

**11. Chapter 5.10.30.1.(2), By-law 569-2013**

A building or structure may not be erected or used on any lot that does not abut a street.

The new dwelling will be located on land that does not abut a street.

**PART 2 - File A1228/21TEY**

Requested Variances to the Zoning By-law:

**1. Chapter 10.5.40.50.(2), By-law 569-2013**

In the Residential Zone category, a platform without main walls, such as a deck, porch, balcony or similar structure, attached to or within 0.3 m of a building, must comply with the minimum required building setbacks for the zone (0.45 m).

The third storey terrace will be located 0.3 m from the side (south) lot line.

The first storey porch will be located 0.0 m from the side (south) lot line.

**2. Chapter 10.10.30.10.(1)(A), By-law 569-2013**

The minimum required lot area is 180 m<sup>2</sup>.

The lot area will be 121.56 m<sup>2</sup>.

**3. Chapter 10.10.30.20.(1)(B), By-law 569-2013**

The minimum required lot frontage is 6 m.

The lot will have no lot frontage, as access to the lot is from a 'Lane'.

**4. Chapter 10.5.30.20.(2)(A)&(B), By-law 569-2013**

In the Residential Zone category, a residential building may not be erected on a lot that does not have a front lot line of at least 3.5 m, unless the lot abuts a lane with a minimum width of 6.0 m and has a minimum of 3.5 m of the rear lot line abutting the lane.

The new dwelling will not have a minimum of 3.5 m of the rear lot line abutting the lane.

**5. Chapter 10.10.40.10.(2)(B)(ii), By-law 569-2013**

The maximum permitted height of all side exterior main walls facing a side lot line is 7.5 m.

The new dwelling will have side exterior main wall heights equal to 9.03 m.

**6. Chapter 10.10.40.40.(1)(A), By-law 569-2013**

The maximum permitted floor space index is 0.6 times the lot area (72.9 m<sup>2</sup>).

The new dwelling will have a floor space index equal to 1.71 times the lot area (207.4 m<sup>2</sup>)

**7. Chapter 10.10.40.70.(3)(A)(i), By-law 569-2013**

The minimum required side yard setback for a detached house is 0.9 m.

The new dwelling will be located 0.46 m from the side (west) lot line and 0 m from the north, south and east lot lines.

- 8. Chapter 10.5.40.60.(2)(A), By-law 569-2013**  
A canopy, awning or similar structure above a platform may encroach into a required building setback to the same extent as the platform it is covering. The first storey canopy will be located 0 m from the side (west and south) lot lines.
- 9. Chapter 10.5.40.60.(5)(A), By-law 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 first storey columns will be located 0.0 m from the south and west lot lines.
- 10. Chapter 5.10.30.1.(1)(A), By-law 569-2013**  
No land may be used and no building or structure may be erected or used on the land unless the land abuts an existing street, or is connected to an existing street by a street or streets, constructed to a minimum base curb and base asphalt or concrete. The use will be on land that abuts a 'lane'.
- 11. Chapter 5.10.30.1.(1)(B), By-law 569-2013**  
No land may be used and no building or structure may be erected or used on the land unless all municipal water mains and municipal sewers, and their appurtenances, are installed to a lot line of the property and are operational. The use will be on land that does not have service connections to a lot line.
- 12. Chapter 5.10.30.1.(2), By-law 569-2013**  
A building or structure may not be erected or used on any lot that does not abut a street. The new dwelling will be located on land that does not abut a street.

## COMMENTS

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The site is located south of Bloor Street West and west of Dovercourt Road. The property is irregular shaped with no street frontage. The lot abuts a lane on three sides and a residential property to the north. The length of the lot is 21.34 m along Bill Cameron Lane, 9.43 m along the south lot line, and 12.68 m along the north lot line. The lot area is 243.12 m<sup>2</sup> and is currently vacant and used for parking. Bill Cameron Lane is 4.27 m wide and is characterized by one-storey garages. There are a few taller garages/ancillary buildings along the lane, however, these are historic anomalies and/or located on the same lot as the principal building. This proposal is not a laneway suite as it is not an ancillary building located on the same lot as a principal dwelling.

Community Planning reviewed the application during the pre-circulation review process and had concerns with the proposal. The applicant was contacted in November 2021 and was asked to provide a Planning Rationale for further staff review to demonstrate how the consent satisfies the criteria of Section 51(24) of the *Planning Act*, and how the requested variances meet the 4 tests. However, the applicant decided not to provide a planning rationale to staff and waived the pre-circulation review process, proceeding to a hearing with the current proposal.

Section 51 (24) of the *Planning Act* outlines the criteria that is to be considered for the division of land. The requested consent fails to satisfy these criteria, particularly in regards to:

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

The property is within an area designated *Neighbourhoods* in the 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. Physical changes to our established *Neighbourhoods* must be sensitive, gradual and “fit” the existing physical character. Policy 4.1.5 of the Official Plan states that development in established neighbourhoods will respect and reinforce the existing physical character of the neighbourhood, including in particular:

- b) prevailing size and configuration of lots;

The proposal would not respect and reinforce the existing physical character of the neighbourhood. The proposal would create undersized lots compared to surrounding properties and would further deviate from the surrounding lot pattern. Approval of the requested consent and variances would create lots that do not respect or reinforce the prevailing lots sizes and configuration, and could potentially destabilize the area by indicating an opportunity to sever other lots that have access to a lane.

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.

Policy 4.1.9 of the Official Plan states: In established Neighbourhoods, infill development on properties that vary from the local pattern in terms of lot size, configuration and/or orientation will:

- a) have heights, massing and scale that are respectful of those permitted by zoning for nearby residential properties, while taking into account the existing form of development on the infill property;

The proposed dwellings would not be respectful of development permitted on a laneway and would not be in keeping with the existing and planned context. Although the proposal is not a laneway suite, and therefore not subject to the zoning regulations for a laneway suite, approval of the consent and variances could set a negative precedent for future development of lots located on a laneway or for laneway suite proposals.

Policy 4.1.8 of the Official Plan states that 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. Under Zoning By-law 569-2013, the property is zoned (d0.6)(x735). The general intent of the Zoning By-law is to maintain a stable built form and to limit the impacts of new development on adjacent properties.

Community Planning notes that Engineering and Construction Services (ECS) is also recommending the applications be refused. In a memo date stamped received by Committee of Adjustment staff on February 16, 2022, ECS indicates that there is no existing municipal infrastructure (water, sanitary) in the public lane, and none will be permitted to be installed to service the proposed severed lots.

Furthermore, in correspondence with staff, the applicant makes reference to a previous Toronto Local Appeal Body (TLAB) decision at 1 Croft Street (TLAB Case File Number: 18 125238 S53 20 TLAB, 18 125239 S45 20 TLAB, 18 125240 S45 20 TLAB, 18 125241 S45 20 TLAB). It is important to note that Croft Street has municipal water and sewer services, has a width of 6.1 m, and has a very unique context making it noticeably different from the subject property and its surrounding context.

In the opinion of Community Planning, the requested consent fails to satisfy the criteria outlined in Section 51 (24) of the *Planning Act*. The requested variances do not maintain the general intent and purpose of the Official Plan and Zoning By-law, and are not minor or desirable. Community Planning objects to the proposal and recommends the applications be refused.

## **CONTACT**

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## **SIGNATURE**

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Signed by Dan Nicholson, Manager, Community Planning on behalf of  
Lynda H. Macdonald, MCIP, RPP, OALA, FCSLA  
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