



STAFF REPORT
Committee of Adjustment
Application

Date: October 2, 2023

To: Chair and Committee Members of the Committee of Adjustment, North York District

From: David Sit, Director, Community Planning, North York District

Ward: York Centre

File Nos: B0013/23NY, A0249/23NY, and A0250/23NY

Address: 44 Exbury Road

Hearing Date: October 12, 2023

RECOMMENDATIONS

Staff recommend that Application Nos. B0013/23NY, A0249/23NY, and A0250/23NY be refused. The requested consent to sever fails to satisfy the consent criteria under Section 51(24) of the *Planning Act* and the requested minor variance applications do not meet the four tests for minor variance under Section 45(1) of the *Planning Act*.

APPLICATION

THE CONSENT REQUESTED

B0013/23NY – 44 Exbury Road

To obtain consent to sever the property into two undersized residential lots to construct new semi-detached homes.

Conveyed – Part 1

The proposed lot frontage is 13.0 metres.

The proposed lot area is 435.76 square metres.

The property will be redeveloped as the site of a new semi-detached dwelling, requiring variances to the Zoning By-law(s), as outlined in application #A0249/23NY.

Retained – Part 2

The proposed lot frontage is 10.71 metres.

The proposed lot area is 389.33 square metres.

The property will be redeveloped as the site of a new semi-detached dwelling, requiring variances to the Zoning By-law(s), as outlined in application #A0250/23NY.

File numbers B0013/23NY, A0249/23NY, and A0250/23NY will be jointly considered.

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

A0249/23NY – 44 Exbury Road – Part 1

To construct a new semi-dwelling. File numbers B0013/23NY, A0249/23NY, and A0250/23NY will be jointly considered.

- 1. Chapter 10.20.40.10.(4)A), By-law No. 569-2013**
The permitted maximum height is 7.2m.
The proposed height is 7.62m.
- 2. Chapter 10.20.40.70.(1), By-law No. 569-2013**
The required minimum front yard setback is 9.0 metres.
The proposed front yard setback is 8.75 metres.
- 3. Chapter 10.20.30.10.(1)A), By-law No. 569-2013**
The required minimum lot area is 550m².
The proposed lot area is 389.33m².
- 4. Chapter 10.20.30.20.(1)A), By-law No. 569-2013**
The required minimum lot frontage is 15m.
The proposed lot frontage is 11.27m.
- 5. Chapter 10.20.20.40.(1), By-law No. 569-2013**
A dwelling unit is only permitted in a detached house.
The proposed dwelling unit is located in a semi-detached dwelling.
- 6. Chapter 10.5.80.40.(3)C), By-law No. 569-2013**
In the Residential Zone category, vehicle access to a parking space on a lot must:
(C) in all other cases, may be from the street on which the lot fronts.
Proposed parking accessed from the rear.
- 7. Chapter 10.20.40.70.(2)A), By-law No. 569-2013**
The required minimum rear yard setback is 8.64m.
The proposed rear yard setback is 7.50m.
- 8. Chapter 10.20.40.10.(40)C), By-law No. 569-2013**
The permitted maximum number of stories is 2 (two).
The proposed number of stories is 3 (three).
- 9. Chapter 10.20.40.50.(1)B), By-law No. 569-2013**
The permitted maximum area of each platform at or above the second storey of a detached house is 4.0m².
The proposed rear area of each platform at or above the second storey is 14.87m².

A0250/23NY – 44 Exbury Road – Part 2

To construct a new semi-dwelling. File numbers B0013/23NY, A0249/23NY, and A0250/23NY will be jointly considered

- 1. Chapter 10.20.40.10.(4)A, By-law No. 569-2013**
The permitted maximum height is 7.2m.
The proposed height is 7.62m.
- 2. Chapter 10.20.40.70.(1), By-law No. 569-2013**
The required minimum front yard setback is 9.0m.
The proposed front yard setback is 6.07m.
- 3. Chapter 10.20.40.70.(2)A, By-law No. 569-2013**
The required minimum rear yard setback is 6.17m.
The proposed rear yard setback is 3.16m.
- 4. Chapter 10.20.30.10.(1)A, By-law No. 569-2013**
The required minimum lot area is 550m².
The proposed lot area is 435.76m².
- 5. Chapter 10.20.30.20.(1)A, By-law No. 569-2013**
The required minimum lot frontage is 15m.
The proposed lot frontage is 13.0m.
- 6. Chapter 10.20.20.40.(1), By-law No. 569-2013**
A dwelling unit is only permitted in a detached house.
The proposed dwelling unit is located in a semi-detached dwelling.
- 7. Chapter 10.5.40.60.(6)A, By-law No. 569-2013**
A bay window, or other window projection from a main wall of a building, which increases floor area or enclosed space and does not touch the ground, may encroach into a required front yard setback or rear yard setback a maximum of 0.75m, if the window projections in total do not occupy more than 65% of the width of the front main wall or rear main wall at each storey.
The proposed window encroaches 0.86m from the wall into the required front yard setback.
- 8. Chapter 10.20.40.50.(1)B, By-law No. 569-2013**
The permitted maximum area of each platform at or above the second storey of a detached house is 4.0m².
The proposed rear area of each platform at or above the second storey is 11.43m².
- 9. Chapter 10.5.80.40.(3)B, By-law No. 569-2013**
Vehicle access to a parking space on a corner lot must be from a flanking street that is not a major street.
The proposed vehicle access to a parking space is from the rear.
- 10. Chapter 10.20.40.10.(4)C, By-law No. 569-2013**

The permitted maximum number of stories is 2 (two).
The proposed number of stories is 3 (three).

COMMENTS

The subject property is located on the south side of Exbury Road, at the corner of Tavistock Road and Exbury Road. The property is northwest of the Keele Street and Wilson Avenue intersection and is zoned *RD (f15.0; a550) (x5)* under City of Toronto Zoning By-law No. 569-2013. Application No. B0013/23NY is requesting consent to sever the property municipally known as 44 Exbury Road into two lots. Application Nos. A0479/23NY and A0250/23NY propose to construct a new semi-dwelling, with one unit on each of the proposed lots.

The proposed Consent Application fails to satisfy the criteria laid out in Section 51(24) of the *Planning Act*, most significantly subsections (c) and (f):

(c) "Whether the proposed consent conforms to the Official Plan and adjacent plans of subdivision, if any; and

(f) The dimensions and shapes of the proposed lots".

The application's proposed lot frontages and lot areas do not maintain the intent and purpose of the Official Plan as it fails to respect and reinforce the existing physical character of the geographic neighbourhood. Staff conducted a lot study of the neighbourhood which shows that the majority of lots in the immediate context and the broader neighbourhood area meet or exceed the minimum Zoning By-Law frontage and area requirements of 15.0 metres and 550 square metres respectively. The proposed frontages and areas for the proposed lots do not conform with the Official Plan and adjacent plans of subdivision. The lot study and Official Plan are discussed further below.

The proposed dimensions of the lots do not comply with the minimum zoning requirements and would not be in keeping with the existing lot dimensions found on the street and neighbourhood.

The subject property is designated *Neighbourhoods* in the City of Toronto Official Plan. The Official Plan defines *Neighbourhoods* as physically stable areas where new development will respect and reinforce the existing physical character of the neighbourhood. Section 4.1 outlines the development policies in *Neighbourhoods*. The preamble to the development criteria states that "physical changes to our established *Neighbourhoods* must be sensitive, gradual and 'fit' the existing physical character".

Policy 4.1.5 of the development criteria for *Neighbourhoods* requires that "development in established *Neighbourhoods* will respect and reinforce the existing physical character of each geographic neighbourhood, including in particular:

- b) prevailing size and configuration of lots;
- d) prevailing building type(s)

Policy 4.1.5 of the Official Plan goes on to state that the "prevailing building type and physical character of a geographic neighbourhood will be determined by the most frequently occurring form of development in that neighbourhood".

Zoning By-law No. 569-2013 requires a minimum lot frontage of 15.0 metres and a minimum lot area of 550 square metres. Lot frontage and area provisions are established to achieve a consistent streetscape and pattern of development. Application No. A0249/23NY proposes a frontage of 11.27 metres and lot area of approximately 389.33 square metres. Application A0250/23NY proposes a frontage of 13.0 metres and a lot area of approximately 435.76 square metres.

Staff conducted a review of lot frontages and lot patterns for residential lots in the neighbourhood generally bounded by Monclova Road to the west, Keele Street to the east, Downsview Dells Park to the north and Calvington Drive to the south. The area includes a total of 952 lots. The lot study concluded that, although there are a few comparable frontages to the proposed frontage within the neighbourhood, the overwhelming majority have frontages at 15.0 metres or greater. Of the 952 lots, only 12 have frontages that are comparable to the proposed and only 3 of those 12 have both undersized lot frontage and area like the proposal does. As such, Staff have concerns with the lot frontages of both proposed lots as they do not meet the existing lot frontages in the neighbourhood.

Staff also conducted a review of lot area for residential lots in the same lot study mentioned above. The lot study concluded that there are few comparable lot areas to the proposed area within the neighbourhood, the overwhelming majority of lots have areas of 550 square metres or greater. Of the 952 lots, only 7 have areas that are comparable to the proposed and only 3 of those 7 have both undersized lot frontage and area like the proposed. As such, Staff have concerns with the lot area of both proposed lots as they do not meet the existing lot areas in the neighbourhood

Application No. A0249/23NY Variance No. 5 and No. A0250/23NY Variance No. 6 propose a semi-detached dwelling. The property is zoned *RD (f15.0; a550) (x5)* under City of Toronto Zoning By-law 569-2013 and does not permit semi-detached housing in areas zoned Residential Detached (RD). Zoning By-law 569-2013 was amended with By-Law 474-2023 and came into effect on May 12, 2023. This amendment updated the permitted building types in the RD zoned area. This amendment changed to allow duplexes, triplexes and fourplexes, but intentionally did not include semi-detached or townhouses in the updated RD zone. This was done so any additional housing units created in RD zones are built within the footprint of what a detached home would be. This was done to maintain neighbourhood character of stable residential detached neighborhoods, such as the one 44 Exbury Road is in. To see if semi-detached housing is an existing building type in the area, regardless of the zoning, Staff conducted a review of built form and building types in the neighbourhood as well as doing a site visit. In this research Staff found little to no semi-detached housing in the neighbourhood, illustrating this is not an existing building type pattern. As a result, Staff are of the opinion that the proposed semi-detached building

type, Variance No. 5 in A0249/23NY and No. 6 in A0250/23NY, fails to satisfy the general intent and purpose of the Official Plan and Zoning By-law.

Application No. A0249/23NY and A0250/23NY Variance No. 1 proposes a 7.62 metre building height for a flat roof dwelling, whereas only 7.2 metres is permitted under Zoning By-law No. 569-2013. Building height regulations are intended, in part, to maintain a consistent scale of development, ensure the roof eaves of dwellings are relatively aligned and to help mitigate massing, privacy and shadow impacts on adjacent neighbours. Staff conducted a review of flat roof dwelling heights and found the proposed to be larger than recent approvals. As such, Staff are of the opinion that the proposed building height is not in keeping with the neighbourhood character or Zoning By-law.

Application No. A0249/23NY Variance No. 8 and A0250/23NY Variance No. 10 proposes a third storey, whereas only two stories are permitted under Zoning By-law No. 569-2013. Staff conducted a review of third storey variances approved in the area and conducted a site visit. The review resulted in no evidence of a third storey variance being approved when the building height was greater than the permitted height in Zoning By-law No. 569-2013. As such, Staff are of the opinion that the proposed building height is not in keeping with the neighbourhood character or Zoning By-law.

Staff recommend that the application for consent be refused as it fails to satisfy the consent criteria listed in Section 51(24) of the *Planning Act* and the applications for minor variance be refused as they fail to satisfy the four tests under Section 45(1) of the *Planning Act*.

CONTACT

Julia Covelli, Assistant Planner, Community Planning, North York District, 416-338-9070, Julia.Covelli@toronto.ca

SIGNATURE



Signed by Guy Matthew, MCIP, RPP, Manager, Community Planning, North York District on behalf of David Sit, MCIP, RPP, Director, Community Planning, North York District