



**STAFF REPORT**  
Committee of Adjustment  
Application

**Date:** September 28, 2023

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

**From:** Michael Mizzi, Director, Community Planning, Etobicoke York District

**Ward:** 2 (Etobicoke-Centre)

**File No:** A0328/23EYK

**Address:** 413 The Kingsway

**Application to be heard:** October 26, 2023

## **RECOMMENDATIONS**

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City Planning staff recommend that the Minor Variance application be refused.

## **APPLICATION**

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To legalize and to maintain an addition at the top of an existing cabana in the rear yard.

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

**1. Section 10.5.60.40.(2)(B), By-law 569-2013**

The maximum height of an ancillary building or structure is 4.0 metres.

The proposed height of the ancillary structure is 7.55 metres.

## **COMMENTS**

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### Official Plan

The subject property is designated *Neighbourhoods* on Map 14 in the Toronto Official Plan. Policy 4.1.5 of the Official Plan states that development in established *Neighbourhoods* will respect and reinforce the existing physical character of each geographic neighbourhood, including in particular:

- c) prevailing heights, massing, scale, density and dwelling type of nearby residential properties.

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 overall physical character of the entire *Neighbourhood*."

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*."

### Zoning

The subject property is zoned Residential Detached (RD) under the City-wide Zoning By-law 569-2013. The objective of the Zoning By-law is to establish specific standards as to how land is to be developed.

### Application Review

The subject property is located east of Islington Avenue and is on the north side of The Kingsway. The applicant proposes to legalize and maintain an addition at the top of an existing cabana in the rear yard.

A previous Committee of Adjustment decision (A0251/21EYK) from July 13, 2021, approved variances related to gross floor area, stable top of bank, dwelling length, dwelling depth, flat roof height, number of storeys, rear platform area and canopy encroachment for the existing building. The approved Committee of Adjustment plans included a rear yard cabana with an as-of-right height of 4 metres. On July 27, 2023, the owner was issued an Order to Comply with respect to an additional 3.55 metres of height for which they are now seeking approval.

City Planning staff have reviewed the application, supporting materials and researched previous Committee of Adjustment decisions in the area. City Planning staff have also reviewed the photos taken by the building inspector prior to the issuance of the Order to Comply. Upon review, City Planning staff take issue with the additional height of the cabana that was constructed without the necessary City approvals. The intent of the ancillary structure height provision is, in part, to avoid undue adverse shadowing on neighbouring properties. The constructed cabana is located approximately 1.42 metres from the neighbouring property to the east and could produce adverse shadow impacts on the neighbouring property. Furthermore, no approvals for the requested variance have been granted by the Committee of Adjustment on the street or in the surrounding neighbourhood. As such, the prevailing height of ancillary structures in the neighbourhood is the as-of-right zoning condition which this application fails to respect and reinforce. City Planning Staff have determined that the approval of this height variance could set a negative precedent for future applicants seeking to build ancillary structure with heights that are greater than the as-of-right condition.

As such, City Planning staff recommend that the Minor Variance application be refused.

### **CONTACT**

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## SIGNATURE

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*Ohi Izirein*

Signed by Ohi Izirein, MURP, MCIP, RPP, Manager, Community Planning, on behalf of  
Michael Mizzi, MCIP, RPP  
Director of Community Planning  
Etobicoke York District