



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

8 Yorkleigh Avenue – Committee of Adjustment Decision

Date: March 7, 2024

To: City Council

From: City Solicitor

Wards: Ward 2 – Etobicoke Centre

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

SUMMARY

On February 8, 2024, the Committee of Adjustment (the "Committee") considered applications made by the owner of 8 Yorkleigh Avenue for a consent to sever the lot and construct a new dwelling on each of the two new lots, and for three minor variances from City-wide Zoning By-law 569-2013 in respect of one of the new lots. Two of the minor variances were for relief from Zoning by-law provisions regulating lot frontage and lot area. The Committee of Adjustment gave its provisional consent and authorized the requested variances. Copies of the Committee's decisions are attached as Public Attachment 1.

In accordance with the motion adopted by Etobicoke York Community Council on February 28, 2024 (Item EY11.14), the City Solicitor appealed the Committee's decision in order to preserve the City's rights, in the event that City Council directs the City to attend the Toronto Local Appeal Body ("TLAB") in opposition to the Committee's decision.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council receive this report for information.
2. City Council direct that all information contained in Confidential Attachment 1 to this report from the City Solicitor is to remain confidential as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

There is no financial impact arising from the adoption of the Confidential Recommendations beyond what has already been approved in the current year's budget.

DECISION HISTORY

On June 4, 2021, the Etobicoke York Community Council considered a report in item 2021.EY25.10 titled "Estate Lots in Etobicoke Neighbourhoods". This report described measures put in place by other municipalities to protect "Estate Lots" from being severed, and recommended that the City's current Official Plan policies provide the needed protection for estate lot areas in Toronto, and that additional Site and Area Specific policies are not required for that needed protection. The report specifically identifies 8 Yorkleigh Avenue on page 26, and the map on page 23 illustrates Estate Lot Zone 1a, Yorkleigh Avenue. The report can be found here:

[Estate Lots in Etobicoke Neighbourhoods \(toronto.ca\)](#)

On February 28, 2024, through Item EY11.14, Etobicoke York Community Council adopted a motion recommending that City Council authorize the City Solicitor to preserve the City's right of appeal to the TLAB in respect of the Committee's February 8, 2024 decision on the 8 Yorkleigh Avenue applications. Through the same motion, Etobicoke York Community Council directed the City Solicitor to report directly to the March 20, 2024 meeting of City Council regarding the history, information, circumstances, analysis, and options to City Council on the same decision. The motion can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.EY11.14>

COMMENTS

Applications for a proposal similar to the ones that the Committee just approved were made by the owner on two previous occasions in 2020 and 2021.

The 2020 proposal was refused by the Committee. A copy of the Committee's decision in respect of the 2020 proposal can be found here:

<https://www.toronto.ca/legdocs/mmis/2024/ey/bgrd/backgroundfile-243296.pdf>

The 2021 proposal was approved by the Committee. A copy of the Committee's decision in respect of the 2021 proposal can be found here:

<https://www.toronto.ca/city-government/planning-development/application-details/?id=4878554&pid=516964&title=8-YORKLEIGH-AVE>

A neighbourhood resident appealed the Committee's decision to TLAB and the TLAB allowed the appeal in a decision issued on August 19, 2022. A copy of the TLAB decision can be found here:

<https://www.toronto.ca/legdocs/mmis/2024/ey/bgrd/backgroundfile-243297.pdf>

The owner subsequently appealed the TLAB's decision to the Ontario Divisional Court. In a decision issued on February 16, 2023, the Divisional Court dismissed a motion for leave to appeal the TLAB decision. The Divisional Court's decision can be found here: <https://www.toronto.ca/legdocs/mmis/2024/ey/bgrd/backgroundfile-243298.pdf>

City Planning has not opposed any iteration of the proposal. A copy of City Planning's report dated January 29, 2024 in respect of the most recent 8 Yorkleigh Avenue development proposal is attached as Public Attachment 2.

The City Solicitor is responding to Etobicoke York Community Council's direction to report directly to the March 20, 2024 meeting of City Council regarding the history, information, circumstances, analysis, and options to City Council in respect of the Committee's February 8, 2024 decision on the 8 Yorkleigh Avenue applications. This report is about potential litigation and contains advice or communications that are subject to solicitor-client privilege.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 – Notices of Decisions of the Committee regarding Applications B0043/23EYK and A0423/23EYK, dated February 8, 2024
2. Public Attachment 2 – City Planning Staff Report dated January 29, 2024
3. Confidential Attachment 1 – Confidential Information