

DECISION AND ORDER

Decision Issue Date Monday, January 29, 2018

PROCEEDING COMMENCED UNDER section 53, subsection 53(19), and section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): MOHAMMAD REZA JAMNEJAD

Applicant: RUBINOFF DESIGN GROUP

Property Address/Description: 105-107 CHURCHILL AVE

Committee of Adjustment Case File Number:

16 202296 NNY 23 CO (B0051/16NY)
16 202298 NNY 23 MV (A0705/16NY)
16 202302 NNY 23 MV (A0706/16NY)
16 202305 NNY 23 CO (B0052/16NY)
16 202306 NNY 23 MV (A0707/16NY)

TLAB Case File Number:

17 196095 S53 23 TLAB
17 196096 S45 23 TLAB
17 196097 S45 23 TLAB
17 196098 S53 23 TLAB
17 196099 S45 23 TLAB

Hearing date: Wednesday, December 20, 2017

DECISION DELIVERED BY L. MCPHERSON

INTRODUCTION AND BACKGROUND

This is an appeal to the Toronto Local Appeal Body (the "TLAB") by the owner ("Applicant") of the refusal of the Committee of Adjustment for the City of Toronto ("Committee") of applications for consent to sever two lots to create three lots and

associated minor variances to construct three single detached dwellings (“the applications”).

The two properties are located at 105 and 107 Churchill Avenue (“the subject lands”).

The subject lands are designated Neighbourhoods in the City of Toronto Official Plan (“the Official Plan”) and are zoned RD (f15.0; a550)(x5) under Zoning By-law No. 569-2013 (“new City By-law”) and R4 under North York Zoning Bylaw No. 7625 (“By-law 7625”).

The proposed lots would have a frontage of 10.82 m and lot areas ranging between 464.71 m² and 465.81 m². The minor variance applications would permit the development of a single detached residential dwelling on each lot. There are a total of 51 minor variances requested which are set out in Attachment 1. The variances are in respect to the following matters:

- (a) reduced lot area;
- (b) reduced lot frontage;
- (c) reduced side yard setbacks;
- (d) reduced first floor area;
- (e) increased lot coverage;
- (f) increased building height;
- (g) increased height of exterior main walls; and
- (h) increased building length.

The requested variances are generally similar between the new By-law, and By-law 7625.

The City of Toronto (the “City”) was a Party to these proceedings as were two residents, Ms. I. M. Flude and Ms. A. Galilee. In addition, Mr. Gratsas did not disclose his interest in being a Party until late in November. He advised the TLAB that he was unaware of the TLAB process that the community was required to pre-file their intent to be a Party and other documents. He stated that he was very familiar with the OMB process and assumed it was the same process for residents. The TLAB allowed Mr. Gratsas to proceed as a Participant, speaking on behalf of himself and not the Association. There were an additional four residents who had elected Participant status, however, only two attended.

MATTERS IN ISSUE

The primary issue in this appeal is whether the creation of three undersized lots from two larger lots and the resultant three single detached dwellings respects and reinforces the existing physical character of the neighbourhood.

JURISDICTION

Provincial Policy – S. 3

A decision of TLAB must be consistent with the 2014 Provincial Policy Statement ('PPS') and conform to the Growth Plan of the Greater Golden Horseshoe for the subject area ('Growth Plan').

Consent – S. 53

TLAB must be satisfied that a plan of subdivision is not necessary for the orderly development of the municipality pursuant to s. 53(1) of the Act and that the application for consent to sever meets the criteria set out in s. 51(24) of the Act. These criteria require that:

"regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2 of the Planning Act;
- (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;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
 - (d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;
- (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided, or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- (h) conservation of natural resources and flood control;

- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
- (l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- (m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

Minor Variance – S. 45(1)

In considering any applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the Act. The tests are whether the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

EVIDENCE

The TLAB heard from the Applicant's professional land use planner, Mr. Peter Swinton, and the City's professional land use planner, Ms. Victoria Fusz. Both were qualified to give professional planning opinion evidence. It is noted that Ms. Fusz was not the original planner on the file. She had reviewed the file in October 2017; however, a different planner prepared the staff report to the Committee and provided the original document disclosure and Witness Statement to the TLAB. Ms. Fusz has reviewed the material submitted to the TLAB and substantially adopted the opinion of her colleague contained within the Witness Statement with the exception of a revised lot study to be discussed further in this decision.

The subject lands are located in the Willowdale West neighbourhood. The neighbourhood consists of single detached dwellings which are generally one or two storeys in height. Reinvestment has been occurring for the past 10 to 15 years to upgrade and, in some instances, replace the older housing stock.

The subject lands are located on the south side of Churchill Avenue and back onto

Decision of Toronto Local Appeal Body Panel Member: L. McPherson
TLAB Case File Number: 17 196095 S53 23 TLAB
17 196096 S45 23 TLAB
17 196097 S45 23 TLAB
17 196098 S53 23 TLAB
17 196099 S45 23 TLAB

Abbotsford Park. Each of the properties has a frontage of 16.22 m and a depth of approximately 42.98 m and is occupied by an older bungalow. In terms of adjacent properties, the house to the east at 103 Churchill Avenue has the same lot dimensions and is occupied by a similar bungalow. To the west, 107 Churchill Avenue abuts a house that fronts onto Abbotsford Drive (#11), with the garage facing and taking access from Churchill Avenue.

There are two variances associated with the consent applications; lot frontage, and lot area. The remaining variances are related to the proposed dwellings on the lots. The majority of the evidence of the planners was focused on the consent applications and the issue of lot frontage, and to a lesser degree, lot size.

Mr. Swinton stated that the applications were consistent with the Provincial Policy Statement (“PPS”) and conformed to the Growth Plan for the Greater Toronto Area 2017. Ms. Fusz stated that while the proposal does not conflict with the provincial documents, the PPS identifies the Official Plan as the most important vehicle for implementing provincial policy (Section 4.7). She further indicated that the 2017 Growth Plan similarly defers to municipal land use policies, which in this case would be the Neighbourhoods policies of the Official Plan.

Both planners defined a similar study area for the purposes of a lot study. There were 3 different lot studies filed with the TLAB; Mr. Swinton’s lot study, the lot study of the original City planner who wrote the report to the Committee, and the lot study later submitted by Ms. Fusz.

While they all have the same northern boundary, there were various differences generally based on the eastern and southern boundary, exclusion of certain lots that are community uses and the inclusion of certain lots that were the subject of recent approvals. While there was a significant amount of evidence over the difference in the study area boundaries and the number of lots, after further review, by the end of the hearing, it was generally agreed that the relevant study area contained 362 single detached lots. Of the total lots, it was determined that approximately 54 lots or 14.9% were considered “small lots” having a lot frontage of 10.8 m or less. Of the 54 small lots, 33 of the lots were original lots in the subdivision (“existing lots”) and the remaining lots were created through consent (“new lots”), generally in the past 10 years. Based on these numbers, approximately 30.3% have lot frontages that are less than the by-law standard of 15 m. This information is summarized above to provide context as the professional planners used somewhat different numbers in their evidence until reconciliation was later provided by the City’s witness.

The Evidence of Mr. Swinton

Mr. Swinton referred to his context map (Exhibit 1- Tab 4) which highlights applications for consent over the past 10 years based on City data. The map also identifies all lots that have a frontage of 10.8 m and less, differentiating between existing lots and new

Decision of Toronto Local Appeal Body Panel Member: L. McPherson
TLAB Case File Number: 17 196095 S53 23 TLAB
17 196096 S45 23 TLAB
17 196097 S45 23 TLAB
17 196098 S53 23 TLAB
17 196099 S45 23 TLAB

lots. His summary table indicated that there have been 9 groupings of consent applications of which 7 groupings of applications that have created 19 lots with lot frontages of 10.82 m or less.

Mr. Swinton also referred to photographs of the area and of the properties created through consent and identified on his context map. Referencing his summary table, Mr. Swinton referred to 185 Horsham Avenue, located north and west of the subject lands, which was an application to sever one lot into two lots. The applications were refused by the Committee, despite a positive staff report, but approved by the OMB. He referred to the planning staff report dated January 2012 (Tab 7, Exhibit 1) which supported 9.96 m lot frontages and 399.19 lot areas. He noted that staff does not generally recommend approval of Committee applications, but only highlight concerns or conditions. He highlighted the following paragraph in the staff report:

“The neighbourhood around the subject property is zoned exclusively R4. The prevailing lot pattern is one with lots ranging from 30’ to 50’ lots oriented in a north-south direction. Within the general area around the subject property, 19 lots have frontages of 35 feet (10.7 metres) or less, similar to the proposed severed lots. Almost directly across the street, there are five lots in a row of this size at 170, 172, 174 and 180 Horsham Ave. As such, staff is of the opinion that the proposed lots would not be out of keeping with the five lots on the north side of Horsham Avenue”.

Mr. Swinton noted that the staff report included a lot study area with 224 lots grouped into 6 lot frontage categories (as opposed to the 3 groupings in the staff report regarding the subject applications). Mr. Swinton noted that the average frontage was 14.6 m which is less than the zoning requirement of 15.0 m.

Mr. Swinton also referenced 57 Horsham Avenue, which was refused by the Committee and approved at OMB for a lot frontage of 9.15 m and a 377 m² lot area. Mr. Swinton referred to the OMB decision of July 2015, where the member accepted the opinion of the professional planner:

“ that the area is a stable neighbourhood which has been experiencing regeneration such as the proposal before me”.

Further the member stated:

“Frontages in the immediate area surrounding the subject property range from 12.2 m to 8.5 m. The proposal before me falls squarely within this range. While Mr. Gratsas is concerned about precedent and I understand that his concerns are genuinely held, with respect, the precedent has already been established. The reality is that for this City, a more compact urban form makes more efficient use of existing infrastructure and further, doing so is encouraged by Provincial Policy to which approval authorities, including this Board, must be consistent and conform”.

Mr. Swinton advised that in the area, only one application for consent has been refused in 10 years. The property at 189 Horsham Road had a proposed frontage of 8.84 m and an area of 354 m². He advised that it was the first proposal with a frontage below a 9.0 m.

Based on all of the approved consents in the study area over the past 10 years, it was Mr. Swinton's evidence that the average frontage was 10.14 m with the largest severed frontage at 11.18 m and the smallest frontage at 9.15 m. The average lot size was 444 m². Also, based on total applications in the study area (consent and variance applications), he advised that the average frontage was 11.43 m with the largest frontage at 14.78 m and the smallest frontage at 9.15 m. The average lot area was 474 m². In summary, he noted that this proposal has a greater lot area than the average and a greater lot frontage than the average based on the total consent and variance applications.

With regard to all lots within his study area (380 lots) using the City database (existing and new single lots), Mr. Swinton's analysis was that just over 61% of the properties comply with the frontage requirement of the By-law (15.0 m) and just over 38% do not comply. With respect to lot area, he advised that there 72.37% of all lots that comply with the By-law (550 m²) and 27.63% that do not comply.

Mr. Swinton concluded that there is a pattern of varied lot sizes in the area and reinvestment activity taking place over the last 10 years reflects the changing pattern of lot sizes.

The remaining variances (other than lot frontage and lot area) are grouped by by-law section as opposed to variance number for ease of reference.

Mr. Swinton noted that the new City By-law is under appeal and only portions are in force and effect. The hearing for all appealed provisions within Section 10 of the By-law was held in June and July of 2017. He attended the entire hearing and gave evidence in support of one appeal. While Mr. Swinton provided evidence regarding the anticipated changes by the OMB to the new City By-law which would affect the proposed variances, the TLAB is required to consider the variances before it, and in the absence of an OMB decision, the variances are still required. Mr. Swinton's evidence is relevant insofar as it assists the TLAB in understanding the intent and purpose of the appealed provisions, however, the panel must proceed on the basis of the By-law as adopted by Council and not on an assumption of a future OMB decision.

Section 10.5.40.10(5) – First Floor Area within 4.0 m of the Front Wall

Mr. Swinton advised that the City recommended to the OMB that this provision be deleted and, if approved by the OMB, Variance 3 would no longer be required. In addition, the proposal would comply with the proposed revised provision 10.20.40.10 (6) Height of Main Pedestrian Entrance.

Mr. Swinton advised that the intent and purpose of Provision 10.5.40.10 (5) related to the first floor location is to ensure that a front door be located in the front wall within a certain height. The proposed dwellings meet this intent: a front door facing the street will be provided. Therefore it was his opinion that the intent of the by-law is met, and

Variance 3 for each property should be approved.

Section 10.20.40.10 (2) Height of Side Exterior Main Walls

Mr. Swinton explained that the application triggered a variance because the dormers exceed the height limit for a limited portion of the side main wall. He noted the proposed variances don't accurately reflect the proposed buildings. If approved, the variances as determined through the Preliminary Plan Reviews and stated in the Notices of Decision, would allow the entire length of the wall to be raised to the new maximum side wall heights (8.51 m and 8.74 m for 105A Churchill, 8.61 m and 8.74 m for 105B Churchill and 8.60 m and 8.74 m for 107 Churchill) instead of just the dormers, as intended by the design of the buildings. He advised that the by-law's general intent of maintaining a sloped roof eave height is maintained, as a significant portion of the side wall conforms. He recommends that these variances be approved, and that the approval be tied to the elevations and site plan to ensure that the entire sidewall cannot be raised to the new height.

Provision 900.3.10(5) and Section 13.2.3(b) – Side Yard Setback

Mr. Swinton indicated that By-law 7625 requires a minimum setback of 1.5 m while the new City By-law requires a setback of 1.8 m. The general By-law standards require a minimum side yard setback of 0.9 m for lots with a minimum frontage between 6.0 m and 12.0 m. If the applications are approved, each lot would meet the 0.9 m side yard on one side and exceed it on the other. He referred to his variance table which indicated that the proposed side yards are within the range of approvals over the last 10 years in the area which average 1.05 m. The larger 1.2 m side yard is to the adjacent properties to lessen the impact on the existing buildings.

Provision 10.5.40.50(2) – Platform Height

This variance affects two lots as a result of the requirement that a platform must meet the same side yard setbacks as the house. As none of the rear decks or front porches extend into the side yards, it is his opinion that the intent of this provision is met. If the standard side yard setbacks of 0.9 m were applied, these variances would not be required.

Provision 10.20.40.20 (1) and Section 13.2.5A– Building Length

A permitted maximum building length of is 17.0 m in the new City By-law and 16.8 m in By-law 7625. The length of the proposed dwellings is 17.22 m¹. Mr. Swinton stated that the proposed building length was below the average length of variances approved over the last 10 years. He indicated that almost 50% of the variances approved over the last

¹ It was later clarified that the variance for 107 Churchill (the westerly lot) is identified as 19.58 m based on the definition in the By-law for a key lot, however the length is the same for all 3 dwellings.

10 years had an average length of 18.09 m. He referenced the homes on the Context Map, and indicated that there is not a consistent uniform rear wall location across all of the backyards in the area. He opined that allowing an increase in length of 0.22 m would not result in any change to the existing pattern of undulating rear wall locations and backyard depths within the study area and the neighbourhood, or have any noticeable impact. In addition, there will be significant screening from vegetation. In his opinion, the proposal is consistent with the character of the neighbourhood and represents good planning.

Section 13.2.6 – Maximum Building Height

The applications seek a variance for proposed building heights of 9.0 m and 9.01 m. The maximum building heights allowed for by By-law 7625 is 8.80 m. By-law 7625 measures height differently than the new City By-Law. The new City By-law measures height to the highest point of the roof from the established grade.

In Mr. Swinton's opinion, the new By-law more accurately reflects the height of the building. This difference in measurement represents the variances requested. It is his opinion that, as the buildings are in compliance with the height requirements under By-law 569-2013, and as the variances to By-law 7625 are generally consistent with the height as the yard slopes up, the proposed variances meet the intent of the by-law and represent good planning

Provision 10.20.30.40(1) – Lot Coverage

The applications propose a coverage of 32%, where 30% is permitted. Mr. Swinton advised that almost half of the minor variance applications approved over the last 10 years included a variance to coverage. The proposed 32% is just below the average of all variances approved. As coverage is a percentage of lot area, and a reduction to the minimum lot area requirement is also being sought, the resultant houses will have a footprint that is 10% smaller than would be permitted as-of-right on a lot that meets the minimum lot area requirement. It is therefore his opinion that approval of the coverage variances will result in houses that are in keeping with those allowed in the area, and would represent good planning.

Mr. Swinton referred to a number of policies of the Official Plan which he advises are applicable to and supportive of the applications. These include:

Section 2.3

1. Neighbourhoods and Apartment Neighbourhoods are considered to be physically stable areas. Development within Neighbourhoods and Apartment Neighbourhoods will be consistent with this objective and will respect and reinforce the existing physical character of buildings, streetscapes and open space patterns in these areas.

In Mr. Swinton's opinion, the physical character of the area is varied and includes a variety of lot frontages and sizes as outlined in his lot study.

Section 3.1.2 – Built Form

1. New development will be located and organized to fit with its existing and/or planned context. It will frame and support adjacent streets, parks and open spaces to improve the safety, pedestrian interest and casual views to these spaces from the development by:

- a) generally locating buildings parallel to the street or along the edge of a park or open space with a consistent front yard setback...;
- b) locating main building entrances so that they are clearly visible and directly accessible from the public sidewalk;
- c) providing ground floor uses that have views into and, where possible, access to, adjacent streets, parks and open spaces.

Mr. Swinton indicates that the applications support this policy. There is no front yard setback variance required. The main entrance is facing the street and the ground floor is above the garage so there are views to the street and the park.

3. New development will be massed and its exterior façade will be designed to fit harmoniously into its existing and/or planned context, and will limit its impact on neighbouring streets, parks and open spaces and properties by:

- a) massing new buildings to frame adjacent streets and open spaces in a way that respects the existing and/or planned street proportion;
- b) incorporating exterior design elements, their form, scale, proportion, pattern and materials, and their sustainable design, to influence the character, scale and appearance of the development;
- c) creating appropriate transitions in scale to neighbouring existing and/or planned buildings for the purpose of achieving the objectives of this Plan;
- d) providing for adequate light and privacy;
- e) adequately limiting any resulting shadowing of, and uncomfortable wind conditions on, neighbouring streets, properties and open spaces, having regard for the varied nature of such areas; and
- f) minimizing any additional shadowing and uncomfortable wind conditions on neighbouring parks as necessary to preserve...

Mr. Swinton advises that the applications fit within the existing and planned height limit. Therefore transition isn't an issue. In terms of shadowing, light and privacy, he advised that has been addressed with the pattern of houses in area. He advised that the increase in length would create no shadow impacts on neighbouring properties of any note.

Section 3.2.1 - Housing

2. The existing stock of housing will be maintained and replenished. New housing supply will be encouraged through intensification and infill that is consistent with this Plan.

Mr. Swinton noted that the applications replenish older houses through minor intensification and the consent from two to lots to three lots, in his opinion, is consistent with the Plan.

Section 4.1

1. Neighbourhoods are considered physically stable areas made up of houses, duplexes, triplexes and townhouses, as well as interspersed walk-up apartments that are no higher than four storeys. Parks, low scale local institutions, home occupations, cultural and recreational facilities and small-scale retail, service and office uses are also provided for in Neighbourhoods.

5. Development in established Neighbourhoods will respect and reinforce the existing physical character of the neighbourhood, including in particular

- a) patterns of streets, blocks and lanes, parks and public building sites;
- b) size and configuration of lots;
- c) heights, massing, scale and dwelling type of nearby residential properties;
- d) prevailing building type(s);
- e) setbacks of buildings from the street or streets;
- f) prevailing patterns of rear and side yard setbacks and landscaped open space; ...

Further it states:

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. The prevailing building type will be the predominant form of development in the neighbourhood. Some Neighbourhoods will have more than one prevailing building type. In such cases, a prevailing building type in one neighbourhood will not be considered when determining the prevailing building type in another neighbourhood.

8. Zoning By-laws will contain numerical site standards for matters such as

Decision of Toronto Local Appeal Body Panel Member: L. McPherson
TLAB Case File Number: 17 196095 S53 23 TLAB
17 196096 S45 23 TLAB
17 196097 S45 23 TLAB
17 196098 S53 23 TLAB
17 196099 S45 23 TLAB

building type and height, density, lot sizes, lot depths lot frontages parking, building setbacks for 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.

Mr. Swinton advises that the applications reinforce the pattern of streets. The size and configuration of lots is within the range and variation of other lots in the area. The height, massing scale and dwelling type of nearby properties are that of single detached dwellings, which is also the prevailing building type. Setbacks are respected for the front and rear yard. In his opinion, the side yard is appropriate for the scale of the lot.

In his opinion, the applications are in keeping with the physical character of the Neighbourhood. He stated that the purpose of the zoning standards referred to in Section 4.1.8 of the Official Plan is to categorize the character of the neighbourhood. He advised that the character is quite varied in terms of the lot sizes and the zoning by-law does reflect this character. In his opinion, the variances meet this intent as outlined in the Official Plan.

In terms of the four tests, it is Mr. Swinton's opinion that the creation of three lots from two responds to the Official Plan provision to make better use of the City's existing infrastructure and services.

It is his opinion that the applications create lots and homes that respect and reinforce the physical character of the area, and fit within the Official Plan's understanding of "stable but not static" neighbourhoods.

With respect the zoning by-law, Mr. Swinton's opinion is the purpose and intent of the zoning by-law is maintained for each of the variances. They present the same built form. The intent of the lot frontage provision is to allow for some consistency within an area while allowing for a range. In this regard, his evidence was that the proposal falls within the range of other approvals in the area over the last 10 years. Similarly, the other variances are within the ranges approved in the area.

In Mr. Swinton's opinion, the variances are desirable, as the applications would help replenish the City's older housing stock by replacing two older bungalows with three new homes that are desirable and reflect the current market demand. Further, the Applications and its variances are consistent with the PPS, are in keeping within the intent of the Growth Plan and comply with Section 51(24) of the Planning Act. In his opinion, the approval of numerous similar consents in the area show the application is not premature. The dimensions and shape of the proposed lots are consistent with the area. Full utilities and municipal services are available on Churchill Avenue and two schools are in close proximity to the site.

The impact of the applications is minor in Mr. Swinton's opinion. He relies on his evidence to demonstrate that the building and lot characteristics are more varied than

reflected in the zoning by-laws and the applications fall within the range of variances that have been approved over the past 10 years. It is his opinion that the change in shadow and privacy impacts from the as-of-right development would be negligible. He considers the variance appropriate for the lands.

In conclusion, it was Mr. Swinton's opinion that the applications satisfy the requirements of Section 51(24) of the Planning Act and the proposed variances collectively and individually meet the four tests under Section 45(1) of the Planning Act. He opined that the applications represent good planning and recommended that they be approved.

The Evidence of Ms. Fusz

Ms. Fusz's evidence focused on the issue of lot frontage. She did not independently assess the other variances proposed. In Ms. Fusz's opinion, the proposed consent applications do not meet two criteria of Section 51(24): (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any; and (f) the dimensions and shapes of the proposed lots.

With respect to the Official Plan, Ms. Fusz referred to Official Plan Sections 2.3.1, 4.1.1, 4.1.5, and 4.1.8 as previously outlined.

The Official Plan directs development to certain land use designations such as Downtowns, Avenues and Mixed Use Area where the majority of growth and intensification is anticipated. Ms. Fusz acknowledged that Neighbourhoods are not expected to be frozen in time and that some change is expected. The policies of the Plan are intended to ensure that such change is in keeping with the character of the neighbourhood. She emphasized Section 4.1 which outlines that physical change in Neighbourhoods must be sensitive, gradual, and fit the existing physical character.

Policy 4.1.5 sets out tools to assess development within neighbourhoods. Any development is to respect and reinforce the existing physical character of the neighbourhood. Her concern is focused on part b) of the Policy relating to the size and configuration of lots. Her opinion is that proposed frontage of 10.82 m would introduce substandard lots on this block on Churchill Avenue where all of the lots are 15 m or greater. In her view, large lot frontages are consistent within the block and the neighbourhood and reinforce the physical character of the neighbourhood as set out in the zoning. The applications would introduce a lot size and lot pattern that does not exist within the block. She pointed out that while there are such lots sizes elsewhere in the neighbourhood, this pattern and size is not seen on this section of Churchill Avenue.

The lot study data reconciliation indicated that only 14.9% of the lots are of comparable size and in her opinion, that percentage does not justify approval of the applications as it does not represent the character of the area. She is concerned that, if approved, the applications could be replicated throughout the neighbourhood as the lot area map she prepared (Exhibit 3) shows that there are a number of contiguous lots that have a

frontage of 15.0 m or greater. She recognized that there would be limitations to acquiring two such lots and a number of factors would need to be taken into consideration including availability and age of the house, however, in her opinion, any pair of lots would have the potential. Ms. Fusz is concerned that such activity could destabilize the area. She opined that this would not maintain the intent and purpose of the Official Plan to respect and reinforce the physical character of the Neighbourhood.

Ms. Fusz advised TLAB that in 2015, the City of Toronto City Council adopted Official Plan Amendment No. 320 (OPA 320), which strengthens and refines the Healthy Neighbourhoods and Neighbourhoods and Apartment Neighbourhoods policies to support Council's goals to protect and enhance existing neighbourhoods. Although OPA 320 has been appealed in its entirety, she has taken it into consideration for this application because of its intention to strengthen the development criteria under Policy 4.1.5. She further advised that while relevant, her opinion remains unchanged without the consideration of OPA 320.

In Ms. Fusz's opinion, the applications do not meet the general intent and purpose of the Zoning by-laws. The general intent and purpose of the zoning by-law standard for lot frontage is to ensure that there is consistency and compatibility in the zone. This relates back to the physical character of the area since the entire area is subject to the same zoning. In her view, the proposed 10.82 m frontage does not meet the purpose and intent of the zoning by-law as the lots she designated "small lots" are equal to or less than 10.82 m. She further stated that there are 51 variances requested. Each lot has two variances for lot frontage and two variances for lot area which triggers other variances such as the side yard setbacks which are proposed to be smaller than the requirement. In Ms. Fusz's opinion, the applications are not desirable or appropriate for the development of the site.

The Provincial Policy Statement states that the Official Plan shall direct growth to appropriate designations. Neighbourhoods are not meant to change significantly but remain stable. The subject lands are not within an intensification area.

In Ms. Fusz's opinion, that the variances associated with the applications are not minor. The applications, cumulatively, seek to permit lot sizes that differ from the majority of lots in the neighbourhood. As a result of reducing the existing lot sizes, specifically for lot frontage and lot area, the applications require relief from other Zoning By-law performance standards. In her opinion, the lots as they currently exist could have suitable replacement construction dwellings with variances such as the variance previously approved for 107 Churchill Avenue.

In summary, it is Ms. Fusz's opinion that the applications do not satisfy the statutory criteria under Section 51(24) of the Planning Act and the Variance Applications do not satisfy each of the four tests for minor variance under Section 45(1) of the Planning Act. Accordingly, she recommends that TLAB dismiss the appeal of the Committee of Adjustment decision. If the TLAB were to approve the applications, she would

recommend that the approval be subject to the conditions set out in Exhibit 11.

The Evidence of Other Parties

Mr. Paul Flude is a Party representing Ms. I. Flude, the owner of 103 Churchill Avenue. Both reside at the address. Mr. Flude noted that there is a considerable amount of community opposition to the proposal to sever the two lots into three. He, as well as neighbours in the immediate area, consider the proposal to be out of character with the neighbourhood. In his opinion, the 4 tests of the Planning Act have not been satisfied. Mr. Flude referenced Section 4.1.5 of the Official Plan that states that development in established neighbourhoods will respect and reinforce the general physical character of the neighbourhood and specifically Policy 4.1.5 b), f,) and g). He noted that these provisions outline important details of the physical character of the neighbourhood which must be respected and reinforced. Mr. Flude also referenced Section 4.1.8 which directs that zoning by-law will contain numeric standards to ensure that new development will be compatible with the physical character of established residential neighbourhoods. In his view this means that the zoning by-laws are a prescriptive set of provisions that define the physical character of the neighbourhoods and implement the policies of the Official Plan. He noted that in this particular neighbourhood, there is an exception to the new City By-law requiring a side yard setback of 1.8 m.

He opined that this is a higher standard than other areas and a lower standard in another area would define the character of that area and is not relevant in this application. What is relevant and important is the specific exception made for this area. It is an indication that wider side yard setbacks are important to and contribute to the physical character of this neighbourhood. In his view, any successful proposal must respect and reinforce this context.

In Mr. Flude's opinion, the applications fail the tests for minor variance by not meeting the intent and purpose of the Official Plan or the Zoning By-law. While other lots may need minor variances to accommodate the quirks of the lot, this proposal seeks to create those circumstances before requesting for the variances to fix them. In his opinion, the proposal is not minor and the scale of variances proposed would be better suited to a zoning by-law amendment which would require working with the community. He does not think the proposal is appropriate for the development of the land.

Ms. Anne Galilee lives at 130 Park Home Road, three blocks south of the subject lands. She has observed the area for at least 30 years and has seen a lot of change. In her opinion, another new house in the area would add to some problems that she has seen develop. There are a lot of cars in the area and new houses generally have more cars than the older houses. It is her opinion that the public school on Senlac is close to capacity and the parks and recreation programs have waiting lists. As more people move in to the area it becomes more crowded. As new houses are built, some of the tree canopy is removed during the construction phase. She is concerned with water

runoff and opines that three houses will have more runoff than two houses. In her opinion, a third house will have a significant impact on the community. She concluded that because it is possible does not mean its desirable.

Evidence of the Participants

The TLAB heard from Mr. Jim Gratsas. Mr. Gratsas has been a resident of the neighbourhood for 15 years and engaged and invested in the development of the community. It is his opinion that the proposal is not desirable or appropriate development as it does not respect and reinforce the prevailing character of the neighbourhood as, based on his calculations, 87% of lots in the City Study Area are wider lots. His analysis indicated that 53 lots out of 408 lots are equal to or less than the Applications and he characterized this as uncommon. Based on his data, the average lot frontage of the 50 homes surrounding the subject lands on Churchill Avenue is 15.53 m, which is 44% wider than the proposed 10.8 m lots of the Applications. He advised that the surrounding lots are very much in character with the prevailing lot frontages of the area. In the immediate area, the proposed lot frontages are almost 50% smaller than those of the other lots.

It is his opinion that the proposal would have a de-stabilizing impact on future development in the neighbourhood. He has observed that consent approvals lead to more consent approvals. He noted that almost all of the consent approvals in the area have been the result of one lot being divided into two lots. Large lots with such potential are relatively rare. Lots that could be divided from 2 lots to 3 lots are extremely common. He referred to the consent activity on Hounslow Avenue at the edge of the neighbourhood where one lot (#293) was severed into two lots, and then the adjacent two lots (#289 and #291) were severed into three lots. He is concerned that the neighbourhood character is at stake because of the prevalence of 50 ft. lots which could replicate this pattern.

He advised that there has never been a lot split from 2 to 3 lots in the heart of the community. He referred to the OMB decision for 289 and 291 Hounslow Avenue which specifically stated "the deciding factor in this case is that the lot frontages of two adjacent properties to the west are 9.9 m, slightly less than what the Applicants are seeking. This is an application that should be approved as it is in a unique location on Hounslow and the circumstances are unlikely to be duplicated throughout the neighbourhood". He noted that the OMB member emphasized that there was a distinction because of unique circumstances of the application. In his opinion this distinction does not apply to the applications. He advised that most of the examples presented by the Applicant related to consent applications that created two lots from one lot. Using the City database he advised that lots with frontages between 14.6 m and 16.8 m represent 50% of the lots in the lot study.

Mr. Gratsas referred to 3 recent consent applications in the area: 194, 284 and 318 Hounslow Avenue, 145 Ellerslie Avenue, the subject applications and 210 Horsham

Avenue, all of which were denied at the Committee. The OMB refused the appeals of 194 and 284 Hounslow Avenue and 318 Hounslow Avenue did not appeal. The other three applications were in the appeal process with TLAB (since the hearing a decision has been issued for 145 Eglinton Avenue to be discussed later).

Mr. Gratsas referenced photographs of the area showing large lots in the area that could be paired to create three lots. Mr. Gratsas estimated that on the block of Churchill Avenue there is a possibility of 12 homes that could be paired to create 19 lots which would affect the neighbourhood character. In his opinion, homes on the periphery of the neighbourhood, adjacent to higher density development and major roads are less destructive. The subject lands are in the heart of the community.

In conclusion, Mr. Gratsas is concerned that the applications could set a precedent that could dramatically change the mix of lot sizes in the area which is not consistent with the character of neighbourhood and does not respect and reinforce the physical character of the area. He indicated that the subject lands are different than other approvals in the area. The applications propose to create three lots from two lots. There is no distinction in terms of being adjacent to smaller lots or being proximate to denser uses such as townhouses.

Under cross examination, Mr. Gratsas confirmed his house at 206 Eglinton Avenue is on a lot with a frontage of 11.4 m which was one of the original consents in the area in 2001.

Ms. Jane Borromeo is the owner of 101 Churchill Avenue, 2 houses east of the proposed development. She requested that the proposal be denied. She has been in the community for 15 years and was attracted to the character of large lots, ample side yards and trees. They built a home which did not require any variances. She stated that regulations exist to ensure the prevailing character of the neighbourhood is maintained. In her opinion, the variances are not minor and do not generally fit the existing character of the neighbourhood. The proposed houses are tall and narrow, which is a contrast to the existing homes on wider lots. She is concerned with the precedent of the proposal which could change the streetscape of the neighbourhood. She is also concerned with the cumulative effects of development on traffic in the neighbourhood as this is already a problem on Churchill Avenue.

Mr. Scott Wedge lives at 110 Churchill Avenue, across the street from the subject lands. He has been in the area for a year and a half. He has reviewed the plans and in his opinion the proposed buildings are out of character with the neighbourhood. He has no issue with two new houses but does not support creating three lots which would be an "eyesore" in his opinion.

ANALYSIS, FINDINGS, REASONS

The proposed consent applications seek to create three lots from two larger lots, which

is quite unique in this area. The majority of consent applications in this area have been for the creation of two lots from one lot. There are a number of issues associated with this distinction including the size of the lot frontages, the resulting pattern of smaller lots, and concern with precedent.

I agree that the policy framework at both the provincial and municipal levels encourages intensification in built up areas which are well served by infrastructure and services. Policy 4.7 of the PPS states that the Official Plan is the most important vehicle for implementation of the PPS and that comprehensive long-term planning is best achieved through official plans. Similarly, the Growth Plan requires municipalities to implement intensification strategies and policies through their Official Plans and supporting documents.

In addition, with respect to the applications for consent, the TLAB must consider Section 51(24) of the Planning Act and particularly have regard to (c) whether the plan conforms to the official plan and adjacent plans of subdivision; and (f) the dimensions and shapes of the proposed lots. In terms of the subject applications, these two criteria are interrelated, as an understanding of the dimensions and shape of the proposed lots within the neighbourhood context is required in order to determine whether the proposal conforms to the official plan. Further, one of the four tests for variances under Section 45 (1) whether the applications maintain the intent and purpose of the Official Plan.

Taken together, while supporting intensification, the legislative framework directs that the Official Plan is the primary policy document to provide direction for the consideration of new development. I base my decision within this context.

As previously stated, the subject lands are located within a Neighbourhoods designation in the Official Plan.

The relevant policies of the Official Plan are summarized as follows:

- a) "Neighbourhoods ...are considered to be physically stable areas. Development...will respect and reinforce the existing physical character of buildings, streetscapes and open space patterns in these areas" (2.3.1.1);
- b) "New development will be located and organized to fit with its and/or planned context" (3.1.2.1);
- c) "Physical changes to our established Neighbourhoods must be sensitive, gradual and generally fit the existing physical character. A key objective of this Plan is that new development respect and reinforce the general physical patterns in a Neighbourhood" (4.1);
- d) "Development in established Neighbourhoods will respect and reinforce the existing physical character of the neighbourhood, including in particular:

- b) size and configuration of lots (4.1.5)
- e) No changes will be made through... minor variance, consent.. that are out of keeping with the physical character of the neighbourhood” (4.1.5)
- f) “Zoning by-laws will contain numerical site standards for matters such as...density, lot sizes, lot depths ... parking, building setbacks from lot lines ...to ensure that new development will be compatible with the physical character of established residential Neighbourhoods.” (4.1.8).

Ms. Fusz provided evidence on Official Plan Amendment 320, which is currently under appeal at the OMB. While I have had consideration to the policy direction contained therein, I have not relied on it as part of this analysis. However, this decision does not conflict with its intent and purpose.

It was agreed by both planners that Neighbourhoods are stable but not static and that some change is anticipated; however, new development must respect and reinforce the existing physical character of the neighbourhood. It was also agreed that the prevailing building type is a single detached dwelling. There was an acknowledgement that there is some variety of lot sizes in the area.

The issue was whether the proposed applications are out of keeping with the physical character of the neighbourhood. A significant amount of the evidence of both of the planners (and Mr. Gratsas) was based on the conclusions of the various lot area studies in terms of lot frontage and lot size and how these conclusions were applied to define the existing character of the area.

From the lot study analysis, I accept the analysis that just under 15% of the lots in the study area have a frontage of 10.8 m or less. Of the 15%, just over 60% were original lots and the remainder created through consent.

It was Mr. Swinton’s opinion that the lot frontages fall within the range of recent approvals and are in keeping with the existing and emerging physical character of the area, based on his analysis of the study area. Recent consent approvals have an average lot frontage of 10.14 m and total applications (both consent and variance) had an average lot frontage of 11.43 m.

On a strictly quantitative basis, the results would support a conclusion that there are a variety of lot frontages in the area. However, I recognize that there are limitations in a strictly numeric analysis of a lot study to determine neighbourhood character as it does not differentiate between the immediate area and the broader context and does not take into account the site specific or application specific circumstances. Within any given study area, there may be a pattern of development that varies from one street to the

next which is not obvious in a summary. The averaging the statistics over the study area does not necessarily provide a meaningful comparison for determining the merits of an application. I find that a finer level of analysis is required to assess the criteria of the Official Plan in relation to this proposal.

The lot study context maps prepared by the City and Applicant provided more detailed information on the character of the lots in the area and the pattern of development. Relevant points include:

- Within the immediate context of the subject lands, between Abbotsford Road and Tamworth Road, all of the lots fronting Churchill Avenue have a frontage of 15.0 m or greater.
- There is only one grouping of three or more small lots in the study area created through consent, located between Basswood Road and Beecroft Road, diagonal to a townhouse complex.
- The only other example of two lots being divided into three lots is at the western edge of the study area, for lots greater than 10.82 m and in proximity to other small lots.
- All other consents for small lots have been for two lots from one lot and, with one exception near the western edge of the study area, all have been in proximity to other small lots.
- There have been no consents within the immediate area of the subject lands, the closest being 185 Horsham Avenue.

Mr. Swinton referred to 185 Horsham Avenue, as an example of where staff supported a consent application for lots with a smaller frontage than the applications. He noted that the staff report specifically stated: “almost directly across the street, there are five lots in a row of this size at 170, 172, 174 and 180 Horsham Ave. As such, staff is of the opinion that the proposed lots would not be out of keeping with the five lots on the north side of Horsham Avenue”.

Although Mr. Alati referenced an OMB review of another OMB decision in the area that commented on the 185 Horsham Avenue decision, it is clear that City staff were considering the immediate context when making their comments. The implication that small lots were acceptable to staff in this case does not mean that their concern with the subject applications is inconsistent since staff specifically referred to other small lots almost directly across the road.

Mr. Swinton also referred to the OMB decision for 57 Horsham Avenue which states “frontages in the immediate area surrounding the subject property range for 12.2 m to 8.5 m”. The decision specifically refers to the immediate area surrounding the application.

The Official Plan directs that development will respect and reinforce the general physical character of the neighbourhood, and in particular the size and configuration of lots. This consideration has two components. The size relates to the lot frontage, depth

and area. The configuration relates to how the lots are arranged or grouped.

The TLAB agrees with Ms. Fusz that introducing three 10.8 m lots on a block of Churchill Avenue, where all lots have a frontage of 15 m or greater, does not respect and reinforce the existing physical character of the neighbourhood. The frontages of the proposed lots are not common in the study area with only 15% having frontages of 10.8 m or smaller. On Churchill Avenue, west of Basswood Road, there are no contiguous groupings of three small lots (other than the townhouses). In addition, approval of the applications would be the first severance of two lots into three within the interior of the neighbourhood as defined by the lot study.

While the proposed lot frontages for the Applications fall within the range of other approvals in the area for lot frontages, lot areas and other variances, I do not consider the other approvals comparable to the specific context of the subject lands. The other small lots were part of the original lot fabric of the area which existed prior to the current Official Plan or were created through consents which can be differentiated from the subject lands because of their geographic location or proximity to other small lots. The staff report and the OMB decisions submitted regarding other consent approvals specifically refer to the existence of other small lots in the immediate area to support their position. This distinction supports the position that the immediate context is an important consideration in determining fit.

In the immediate context of the subject lands, there are no distinguishing factors that would support the approval of the applications.

Mr. Alati referred to a recent TLAB decision which approved a consent application for 145 Ellerslie Avenue. I have reviewed the decision by Mr. Yao which states that “145 Ellerslie has existing zoning that already permits it to have two lots”. This circumstance sets it apart from other consent applications.

The size and configuration of the lots is part of the physical character of a neighbourhood which is set out in the zoning by-laws. The Official Plan directs that no changes will be made through minor variance or consent that are out of keeping with the physical character of the neighbourhood.

The City’s context map demonstrated that there are a number of contiguous large lots within overall in the study area. The City and the residents raised the issue of the precedent that could be established by creating three lots from two lots, particularly in the interior of the area. As acknowledged by the planners, there are a number of constraints associated with assembling two properties. In addition, as noted, the specific merits of each application would have to be considered. Based on these limitations, while I agree that the opportunity exists to replicate the applications, I do not base my decision on a concern over precedent.

I have had regard to Section 51(23) of the Planning Act and find that the consent

applications do not conform to the Official Plan, specifically the Neighbourhoods policies.

The project envisaged by the applications requires zoning by-law variances necessitated by the lot division application. The matters are interdependent; it is not possible or appropriate to separate out and consider individually or collectively the individual merits of each variance for which approval is applied in this circumstance.

I have found that aspects of the assessment criteria of s. 51(23) are not met. There are parallel and relevant considerations under s.45 of the Planning Act that also warrant application of my findings on the consent applications.

Similarly, I find that the variance applications related to lot frontage do not meet the intent and purpose of the Official Plan or Zoning, are not desirable for the appropriate development of the lands and are not minor and therefore do not meet four tests of the Planning Act. The remaining minor variances have not been specifically addressed as they are based on the proposed lot sizes which are not supported. As a result they are refused, without prejudice should future applications come forward involving similar subject matter.

DECISION AND ORDER

The appeal is denied and the decision of the Committee is confirmed.



L. McPherson
Panel Chair, Toronto Local Appeal Body

Attachment 1

17 196095 S53 23 TLAB – 105 CHURCHILL AVE – PARTS 3 AND 4

THE CONSENT REQUESTED:

To obtain consent to sever a portion of land for the purpose of a lot addition.

RETAINED - Part 4

Part 4 has a lot frontage of 10.82m and a lot area of 465.81m². The lot will be redeveloped with a new detached residential dwelling.

CONVEYED - Part 3

Part 3 has a lot frontage of 5.41m and a lot area of 232.45m². Part 3 will be added to Part 2 (severed from B0052/16NY) to create a new building lot with a frontage of 10.82m and a lot area of 464.99m². Parts 3 and 2 will be redeveloped with a new detached residential dwelling.

Applications B0051/16NY, B0052/16NY, A0705/16NY, A0706/16NY, A0707/16NY will be considered jointly.

17 196096 S45 23 TLAB – 105A CHURCHILL AVE – PART 4 (EAST LOT)

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

1. Chapter 900.3.10(5) - Exceptions for RD Zone, Zoning By-law No. 569-2013

The required minimum side yard setbacks are 1.80m each side.

The proposed east side yard setback is 1.20m, and 1.70m to the rear deck.

2. Chapter 900.3.10(5) - Exceptions for RD Zone, Zoning By-law No. 569-2013

The required minimum side yard setbacks are 1.80m each side.

The proposed west side yard setback is 0.90m.

3. Chapter 10.5.40.10.(5), Zoning By-law No. 569-2013

A minimum of 10.00m² of the First Floor area must be within 4.00m of the front wall.

There is 6.20m² proposed within 4.00m of the front wall.

4. Chapter 10.20.40.10.(2), Zoning By-law No. 569-2013

The permitted maximum height of all side exterior main walls facing a side lot line is 7.50m.

The proposed height of the side exterior main wall facing the west side lot line is 8.74m.

5. Chapter 10.20.40.10.(2), Zoning By-law No. 569-2013

The permitted maximum height of all side exterior main walls facing a side lot line is 7.50m.

The proposed height of the side exterior main wall facing the east side lot line is 8.51m.

6. Chapter 10.20.40.20.(1), Zoning By-law No. 569-2013

In the RD zone with a minimum required lot frontage of 18.00m or less, the permitted maximum building length for a detached house is 17.00m.

The proposed building length is 17.22m.

7. Chapter 10.20.30.10.(1A), Zoning By-law No. 569-2013

The required minimum lot area is 550.00m².

The proposed lot area is 465.81 m².

8. Chapter 10.20.30.20.(1), Zoning By-law No. 569-2013

The required minimum lot frontage is 15.00m.

The proposed lot frontage is 10.82m.

9. Chapter 10.20.30.40.(1), Zoning By-law No. 569-2013

The permitted maximum lot coverage is 30.00% of the lot area.

The proposed lot coverage is 32.00% of the lot area.

10. Chapter 10.5.40.50(2), By-Law No. 569-2013

A platform without main walls must comply with the require minimum building setbacks for the zone:
1.80m.

11. Section 13.2.1, Zoning By-law No. 7625

The minimum required lot frontage is 15.00m .

The proposed lot frontage is 10.82m.

12. Section 13.2.2, Zoning By-law No. 7625

The minimum required lot area is 550m².

The proposed lot area is 465.81m².

13. Section 13.2.3(b), Zoning By-law No. 7625

The minimum required side yard setback is 1.50m.

The proposed east side yard setback is 1.20m.

14. Section 13.2.3(b), Zoning By-law No. 7625

The minimum required side yard setback is 1.50m.

The proposed west side yard setback is 0.90m.

15. Section 13.2.5A, Zoning By-law No. 7625

The maximum permitted building length is 16.80m.

The proposed building length is 17.22m.

16. Section 13.2.6, Zoning By-law No. 7625

The maximum permitted building height is 8.80m.

The proposed building height is 9.04m.

17. Section 6(8), Zoning By-law No. 7625

The minimum lot width is not to be less than the lot frontage for the zone in which the building is to be constructed. The required minimum lot width is 15.00m.

The proposed lot width is 10.82m.

17 196097 S45 23 TLAB – 105B CHURCHILL AVE – PARTS 2 AND 3

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

1. Chapter 900.3.10(5) - Exceptions for RD Zone, Zoning By-law No. 569-2013

The required minimum side yard setbacks are 1.80m each side.

The proposed east side yard setback is 0.90m.

2. Chapter 900.3.10(5) - Exceptions for RD Zone, Zoning By-law No. 569-2013

The required minimum side yard setbacks are 1.80m each side.

The proposed west side yard setback is 1.20m and 1.70m for the rear deck.

3. Chapter 10.5.40.10.(5), Zoning By-law No. 569-2013

A minimum of 10.00m² of the First Floor area must be within 4.00m of the front wall.

There is 6.20m² proposed within 4.00m of the front wall.

4. Chapter 10.5.40.50(2), By-law No. 569-2013

In the residential zone, a platform without main walls must comply with the required minimum setbacks: 1.80m.

5. Chapter 10.20.40.10.(2), Zoning By-law No. 569-2013

The permitted maximum height of all side exterior main walls facing a side lot line is 7.50m.

The proposed height of the side exterior main wall facing the west side lot line is 8.61m

6. Chapter 10.20.40.10.(2), Zoning By-law No. 569-2013

The permitted maximum height of all side exterior main walls facing a side lot line is 7.50m.

The proposed height of the side exterior main wall facing the east side lot line is 8.74 m.

7. Chapter 10.20.40.20.(1), Zoning By-law No. 569-2013

In the RD zone with a minimum required lot frontage of 18.0 m or less, the permitted maximum building length for a detached house is 17.0 m.

The proposed building length is 17.22 m.

8. Chapter 10.20.30.40.(1), Zoning By-law No. 569-2013

The permitted maximum lot coverage is 30.00% of the lot area.

The proposed lot coverage is 32.00% of the lot area.

9. Chapter 10.20.30.20.(1), Zoning By-law No. 569-2013

The required minimum lot frontage is 15.00m.

The proposed lot frontage is 10.82 m.

10. Chapter 10.20.30.10.(1), Zoning By-law No. 569-2013

The required minimum lot area is 550.00m².

The proposed lot area is 464.99m².

11. Section 13.2.2, Zoning By-law No. 7625

The minimum required lot area is 550m².

The proposed lot area is 464.994m².

12. Section 13.2.1, Zoning By-law No. 7625

The minimum required lot frontage is 15.00m .

The proposed lot frontage is 10.82m.

13. Section 13.2.3(b), Zoning By-law No. 7625

The minimum required side yard setback is 1.50m.

The proposed east side yard setback is 0.90m.

14. Section 13.2.3(b), Zoning By-law No. 7625

The minimum required side yard setback is 1.50m.

The proposed west side yard setback is 1.20m.

15. Section 13.2.5A, Zoning By-law No. 7625

The maximum permitted building length is 16.80m.

The proposed building length is 17.22m.

16. Section 13.2.6, Zoning By-law No. 7625

The maximum permitted building height is 8.80m.

The proposed building height is 9.00m.

17. Section 6(8), Zoning By-law No. 7625

The minimum lot width is not to be less than the lot frontage for the zone in which the building is to be constructed. The minimum required lot width is 15m.

The proposed lot width is 10.82m.

17 196098 S53 23 TLAB – 107 CHURCHILL AVE

THE CONSENT REQUESTED:

To obtain consent to sever a portion of land for the purpose of a lot addition.

RETAINED - Part 1

Part 1 has a lot frontage of 10.82m and a lot area of 464.71m². The lot will be redeveloped with a new detached residential dwelling.

CONVEYED - Part 2

Part 2 has a lot frontage of 5.41m and a lot area of 232.54m². Part 2 will be added to Part 3 (severed from B0051/16NY) to create a new building lot with a frontage of 10.82m and a lot area of 464.99m². Parts 2 and 3 will be redeveloped with a new detached residential dwelling.

Applications B0051/16NY, B0052/16NY, A0705/16NY, A0706/16NY, A0707/16NY will be considered jointly.

17 196099 S45 23 TLAB – 107 CHURCHILL AVE – PART 1

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

1. Chapter 900.3.10(5) - Exceptions for RD Zone, Zoning By-law No. 569-2013

The required minimum side yard setbacks are 1.80m each side.

The proposed East side yard setback is 0.90m.

2. Chapter 900.3.10(5) - Exceptions for RD Zone, Zoning By-law No. 569-2013

The required minimum side yard setbacks are 1.80m each side.

The proposed west side yard setback is 1.20m, and 1.70m to the rear deck.

3. Chapter 10.5.40.10.(5), Zoning By-law No. 569-2013

A minimum of 10.00m² of the First Floor area must be within 4.00m of the front wall.

There is 6.20m² proposed within 4.00m of the front wall.

4. Chapter 10.5.40.50(2), By-law No. 569-2013

A platform without main walls must comply with the required minimum building setbacks for the zone:
1.80m.

5. Chapter 10.20.40.10.(2), Zoning By-law No. 569-2013

The permitted maximum height of all side exterior main walls facing a side lot line is 7.50m.
The proposed height of the side exterior main wall facing the west side lot line is 8.6m

6. Chapter 10.20.40.10.(2), Zoning By-law No. 569-2013

The permitted maximum height of all side exterior main walls facing a side lot line is 7.50m. The proposed height of the side exterior main wall facing the east side lot line is 8.74m.

7. Chapter 10.20.40.20.(1), Zoning By-law No. 569-2013

In the RD zone with a minimum required lot frontage of 18.00m or less, the permitted maximum building length for a detached house is 17.00m.

The proposed building length is 17.22m.

8. Chapter 10.20.30.10.(1), Zoning By-law No. 569-2013

The required minimum lot area is 550.00m².

The proposed lot area is 464.71m².

9. Chapter 10.20.30.20.(1), Zoning By-law No. 569-2013

The required minimum lot frontage is 15.00m.

The proposed lot frontage is 10.82m.

10. Chapter 10.20.30.40.(1), Zoning By-law No. 569-2013

The permitted maximum lot coverage is 30.00% of the lot area.

The proposed lot coverage is 32.00% of the lot area.

11. Section 13.2.1, Zoning By-law No. 7625

The minimum required lot frontage is 15.00m .

The proposed lot frontage is 10.82m.

12. Section 13.2.2, Zoning By-law No. 7625

The minimum required lot area is 550.00m².

The proposed lot area is 464.71.04m² .

13. Section 6(8), Zoning By-law No. 7625

The minimum lot width is not to be less than the lot frontage for the zone in which the building is to be constructed. The minimum required lot width is 15.00m.

The proposed lot width is 10.82m.

14. Section 13.2.3(b), Zoning By-law No. 7625

The minimum required side yard setback is 1.50m.

The proposed east side yard setback is 0.90m.

15. Section 13.2.3(b), Zoning By-law No. 7625

The minimum required side yard setback is 1.50m.

The proposed west side yard setback is 1.20m.

16. Section 13.2.6, Zoning By-law No. 7625

The maximum permitted building height is 8.80m.

The proposed building height is 9.01m

17. Section 13.2.5A, Zoning By-law No. 7625

The maximum permitted building length is 16.80m.

The proposed building length is 19.58m.