

DECISION AND ORDER

Decision Issue Date. Monday, June 11, 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): VIPUL PATEL

Applicant: J.STREISFIELD

Property Address/Description: 1030 KIPLING AVE

Committee of Adjustment Case File Number: 16 254351 WET 05 CO
16 254355 WET 05 MV
16 254356 WET 05 MV

TLAB Case File Number: **17 249645 S53 05 TLAB**
17 249647 S45 05 TLAB
17 249649 S45 05 TLAB

Motion Hearing date: January 22, 2018

DECISION DELIVERED BY S. MAKUCH

INTRODUCTION AND BACKGROUND

The applicant in this matter has been caught in what appears as a legal catch 22. Conditions contained in a Memorandum of Development Engineering, dated December 16, 2016 were imposed as conditions of approval for the consent in this matter and have been cleared. However, virtually the same conditions were contained in a memo dated June 8, 2017. Those conditions were not imposed as a condition of approval, but are being required to be cleared.

MATTERS IN ISSUE

The only issue is how to resolve the need to have conditions in the Memorandum of Development Engineering dated June 8, 2017 imposed so they may be cleared.

JURISDICTION

TLAB has jurisdiction to impose conditions on the granting of consents *nunc pro tunc*.

EVIDENCE

There is a Memorandum of Development Engineering dated June 8, 2017 on file with TLAB.

ANALYSIS, FINDINGS, REASONS

It is appropriate to resolve the issue of clearing conditions by imposing additional conditions to the consent granted on January 22, 2018.

DECISION AND ORDER

The consent granted in the above matter by Decision and Order of the TLAB for 1030 Kipling Avenue and dated January 22, 2018 is also subject to the conditions set out in the Memorandum of Development Engineering dated June 8, 2017 and attached as Appendix 1 to this order.

X 

S. Makuch
Panel Chair, Toronto Local Appeal

Appendix 1



Ashraf Hanna, P.Eng.
Manager, Development Engineering
Etobicoke York District

Engineering and Construction Services
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MEMORANDUM

To: Susanne Pringle, Manager & Deputy Secretary Treasurer
Committee of Adjustment, Etobicoke York Panel
Attention: Annalisa Morra

From: Ashraf Hanna, P.Eng.
Manager, Development Engineering, Etobicoke York District

Date: June 8, 2017

Subject: Committee of Adjustment File: B0083/16EYK, A0900/16EYK, A0901/16EYK
Legal Description: Plan 1893 Lot 7
Address: 1030 Kipling Avenue
Applicant: Nick Saccone C/O Trademarked by Design Inc.

APPLICATION DESCRIPTION

Engineering and Construction Services Division and Transportation Services Division have reviewed the above-noted consent and minor variance applications made by Nick Saccone C/O Trademarked by Design Inc. on behalf of Vipul Patel.

The subject site is located on the west side of Kipling Avenue between Tyre Ave and Mattive Ave in the former City of Etobicoke (Ward 5). The site is zoned "Residential Detached Zone" (RD) and "Second Density Residential (R2) according to Citywide Zoning By-law 569-2013 and Etobicoke Zoning Code, respectively. The site is occupied by a single family detached dwelling and a wood garage in the rear yard with access being provided by an existing driveway off Kipling Avenue.

In the current submission, the applicant is proposing to demolish the existing single family detached dwelling and rear yard garage, sever the lot into two Parts and construct two new single family dwelling units (one on each lot) with an attached garage.

RECOMMENDATION

Engineering and Construction Services Division wish to advise that we have no objections to the subject consent and minor variance applications, subject to the following conditions being satisfied:

1. The applicant shall submit one revised site plan (shown to scale of 1:200 or 1:250) illustrating the requirements specified in the following points to the satisfaction of Development Engineering Services and Transportation Services, at no cost to the City;
 - a) The site plan drawing should illustrate a positive slope from the roadway to the garage and have a minimum driveway slope of 2% and maximum driveway slope of 8%. Driveway slopes should be identified on all proposed lots; and,
 - b) The site plan should show existing structures, i.e. house, garage, driveway; and,
 - c) Insert advisory notation on the site plan stating which existing structures to be removed, i.e. shed, driveway; and,
 - d) The applicant must revise all drawings to dimension and identify a 4.89m wide strip of land along the Kipling Avenue frontage of the subject property as being conveyed to the City for a nominal sum; and,
 - e) The site plan must be revised to show the provision of driveway widths and curb cuts within the Kipling Avenue municipal boulevard that match the proposed driveway widths on private property; and,
 - f) The site plan must be revised to include a notation stating: "All redundant portions of existing redundant driveways and associated curb cuts within the Kipling Avenue municipal boulevard that are no longer required shall be removed and restored to the satisfaction of the Transportation Services Division at no cost to the municipality." ; and,
 - g) The site plan must be revised to include a notation on the drawing stating: "The proposed new driveways shall be constructed to the applicable City of Toronto Design Standard(s)" ; and,
 - h) The site plan must be revised to include a notation on the drawing stating: "The applicant must provide a Municipal Road Damage Deposit (MRDD) for the proposed driveway construction within the municipal boulevard, as determined by the Transportation Services Division." The applicant must contact Ms. Joanne Vecchiarelli of our Right-of-Way Management Section at 416-338-1045 in this regard; and,
 - i) The site plan must be revised to include a notation on the drawing stating: "The applicant must obtain all required permits for work within the public road allowance from the Right-of-Way Management Section of Transportation Services"; and,
2. With the exception of utility poles, the applicant must ensure that the required conveyance(s) is free of all encumbrances and is subject to a right-of-way for access purposes in favour of the grantor until such time as the required land(s) are laid out and dedicated as public highway(s).

3. The applicant shall submit a draft Reference Plan of Survey to the Executive Director of Technical Services, for review and approval, prior to depositing it in the Land Registry Office. The plan shall:
 - be drawn in metric units and integrated to the 1983 North American Datum (Canadian Spatial Reference System) and the 3 degree Modified Transverse Mercator Projection;
 - delineate by separate PARTS the lands to be conveyed to the City, the remainder of the site, and any appurtenant rights-of-way and easements; and,
 - show the co-ordinate values of the main corners of the subject lands in a schedule on the face of the plan.
4. The applicant is financially responsible for all costs associated with preparing and registering the reference plans. We advise the applicant to contact Mr. J. House, Supervisor of Property Records, at (416) 392-8338 to obtain an exact description of the required conveyance(s).

ADVISORY COMMENTS

Should this application be approved the applicant is to be advised of the following requirements in writing:

1. Site Servicing Connections

There is a 200mmø municipal watermain, a 200mmø sanitary sewer and a 450 mmø sanitary sewer available on Kipling Avenue to serve the subject lands.

It is the responsibility of the applicant to ensure that the elevations of the sewers are compatible with the intended use of the property. Separate water and sanitary sewer connections will be required for each dwelling or parcel of land.

The owner will be required to make an application to Toronto Water Division, North York Civic Centre, 5100 Yonge Street, 2nd Floor, for the installation of any proposed services within the City right-of-way. For further information, please contact Toronto Water at 416-395-6082.

2. Road Allowance Permits

The applicant must obtain the necessary authorizations and permits from the City's Right-of-Way Management Unit before excavating within or encroaching into the municipal road allowance. Chapter 743-4 of the Toronto Municipal Code requires that any person who requests a building permit, (except Fast track applications) pay a Municipal Road Damage Deposit. The applicant is advised to contact Joanne Vecchiarelli at 416-338-1045 of our Right-of-Way Management Unit regarding site-specific permit requirements.

3. Storm Sewer Connections

The City Sewer Use By-Law prohibits connections to a storm sewer from single family residential dwellings. Foundation drains for new dwellings are to be pumped to grade and roof drains are to discharge onto a landscaped area.

4. Site Grading

In conjunction with a building permit application, to ensure that the development of the subject land does not create a drainage problem to this or abutting lands, the applicant must submit a lot grading plan to the Buildings Division in accordance with the Building Division's Policy on Building and Drainage for Infill Housing.

5. Driveways

Toronto Water and Engineering and Construction oppose reverse slope driveways. The proposed driveways should be designed and constructed with a positive slope from the roadway to the garage and the portion of the driveway within the public road allowance must maintain a minimum 2% slope.

6. Utilities

The applicant will be financially responsible for all work proposed within the road allowance including any costs arising from the relocation or removal of existing services and utilities which may become necessary through the development or use of this land.

BACKGROUND

The October 5, 2016 Zoning Notice that was received from Toronto Building does not identify any transportation-related variances for the proposal. However, the site plan must be revised to illustrate the proposed driveway widths and curb cuts within the Kipling Avenue right-of-way. The proposed driveway widths within the Kipling Avenue right-of-way must match the widths on private property.

According to our Surveys and mapping section, a 4.89m widening is required along the Kipling Avenue frontage of this property to satisfy the requirement of a 36m wide right-of-way as identified in the Official Plan. All applicable drawings must be revised accordingly.

If you have any questions regarding these comments, please contact Tatiana Chiesa at 416-394-8081.



Ashraf Hanna, P.Eng.
Manager, Development Engineering
Engineering and Construction Services, Etobicoke York District

TC/

copy: 1030 Kipling Avenue, B0083/16EYK, A0900/16EYK, A0901/16EYK
Transportation Services (Attn: Luigi Nicolucci/Michael Bat)