

DECISION AND ORDER

Decision Issue Date Monday, August 20, 2018

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

Appellant(s): MAURO PAMBIANCO

Applicant: MAURO PAMBIANCO

Property Address/Description: 273 WATERLOO AVE

Committee of Adjustment Case File Number: 18 102639 NNY 10 MV

TLAB Case File Number: **18 141147 S45 10 TLAB**

Hearing date: Tuesday, August 14, 2018

DECISION DELIVERED BY Ian James Lord

APPEARANCES

Name	Role	Representative
Mauro Pambianco	Appellant/Owner/Applicant	Amber Stewart
Franco Romano	Expert Witness	

INTRODUCTION

This matter is an appeal from the North York Panel of the City of Toronto (City) Committee of Adjustment (COA) refusing variances to 273 Waterloo Avenue (subject property).

As with many appeals both during and after the COA hearing, aspects of the plans for the subject property are altered. It is the purpose of the Rules of the Toronto Local Appeal Body (TLAB) that such revisions are disclosed early in the appeal process. Compliance occurred in this case.

Early disclosure can reveal adjustments that make the proposed project more palatable and can promote settlement discussions that advance revisions in the interests of the parties and participants.

The subject property is one such application. At the time of the appeal Hearing, the applicant/appellant had made a number of revisions, had reduced the variance 'ask', by reductions and eliminations and appeared alone with counsel and a planning witness, without opposition.

Some variances eliminated were the result of the partial approval of By-law 569-2013 (new Zoning by-law).

BACKGROUND

The subject property is improved with a modest bungalow built in the 1950's and said to nearing the end of its useful life. The subject property is unusual by virtue of its size despite a mid-block location: width: 20.88 m; depth: 63.3 m; area: 1193.27 sq m. Typical lot depths in the vicinity are 35 to 37 m, according to the planning evidence.

The Appellant proposes the demolition of the bungalow and the construction of a two storey single detached residence with the second storey space largely incorporated in a variety of roof structures. Parking is to be accommodated in a two bay internal garage attached to and in front of the residence parallel to the street.

MATTERS IN ISSUE

While there are no objectors on the appeal, an early staff report identified concerns expressed related to the siting and variances generated by the design scheme. Planning staff of the City were not at the appeal Hearing and consequently their current concerns, if any, remain unknown subsequent to the current list of variances.

Consequently, the matters in issue are the variances sought and their assessment on the criteria of the TLAB's jurisdiction, identified below.

The Appellant filed as Exhibit 1 to the Hearing a revised and updated Variance Request List. This is attached hereto and forms part of this decision as **Attachment 1**. At the same time, a list of proposed conditions to an approval was filed in Exhibit 1 and forms part of **Attachment 1**.

The variances and proposed conditions in **Attachment 1** relate to elevation drawings and a site plan, filed as Exhibits 2 and 3 respectively. These are attached hereto and form part of this decision as **Attachments 2 and 3**, respectively.

JURISDICTION

Provincial Policy – S. 3

A decision of the Toronto Local Appeal Body ('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').

Minor Variance – S. 45(1)

In considering the 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 only evidence called on the appeal was that provided by Mr. Franco Romano, a Registered Professional Planner, who was recognized as capable of providing expert opinion advice on land use planning matters. Mr. Romano had familiarity with the area from earlier employment. I accepted his characterization of the neighbourhood as consisting of older generation detached homes, central frontages, uniform spacing, modest landscaping, and demonstrating a variety of driveway and parking solutions.

He demonstrated through a photographic record in his Witness Statement, Exhibit 5, the diversity demonstrated in renewal that is occurring both by extensions/enlargements and new builds.

He provided a 'Decision Summary Sampling' of approved variances on adjacent and nearby streets demonstrating examples approved of variances analogous to those proposed for the subject property. These included side yard variances, building length and depth variances ('common'), height and other types of relief sought and granted.

In relation to the variances requested for the subject property, he noted from air photography the diversity of building depths and the areal distribution of variances which he said, with construction, contributed to area character in a manner consistent with the proposal, both in number and in scale.

On building length and depth, he asserted that there was no homogeneity and there were a variety of side yard setbacks granted in his 10 year decision sample.

The proposal includes incorporation of a second suite with a separate entrance, despite the redevelopment project being a new build while the by-law requires five years post construction, as a detached dwelling unit.

The existing driveway is to be closed, removed and replaced with landscaping and a walkway; a new driveway alignment is to enter at the northwest corner of the subject property.

Mr. Romano provide the following factual and opinion advice on each variance requested in **Attachment 1**.

He prefaced his remarks by advising that the proposal met the general policy goals of the Province as a regeneration proposal that was consistent with the Provincial Policy Statements and conformed to the Growth Plan for built up settlement areas, including the City.

For Variance 1, he noted general conformity with side yard setbacks of 1.8 m in the new Zoning by-law, except for a portion abutting the garage structure, being a modest reduction there to 1.2 m for a length of 7.14 m. He said the purpose of the standard was met as the side yards proposed provided adequate separation distance for maintenance and for access to the rear yard.

For Variance 2 and 3, building length and depth are similar and are measured from the front of the garage fenestration to the main rear wall of the building. The garage is oriented parallel to the street and contributes to the measurement. He opined that the generous depth of the lot accommodated the variances without compromise to landscaping: a 33 m rear yard and a 'good' front wall alignment were a 'fit' common to the area. The parcel to the rear had received a building length variance.

The planner was of the view that the 1 ½ storey roof presentation and the architectural concept of façade fenestration and variety served to reduce the effect of massing and addressed proper street presentation. The low profile of the second storey, being built into the roof line, contributed to the preservation of adequate light and privacy, without significant shadowing.

Mr. Romano disagreed with planning staff if their comments were meant to seek a uniformity in building depth in the area; he was firmly of the view, referencing air photography, that there was no consistent pattern of building depth.

On these measures he felt the stability of the 'Neighbourhood ' designation was met with a built form that would respect and enhance the neighbourhood character by providing another example of the single detached housing typology prevalent in the neighbourhood.

He asserted conformity with the Neighbourhoods designation and s.2.3.1 as well as the Built Form goals of the Official Plan, section 3.1.2.

In addressing Variance 4, he noted a minimal decrease in the front yard setback due to fenestration on the front of the garage, at a single point. The plans note a minimal distinction for this feature.

For Variance 5, maximum building height, he noted the varied roof construction approach and the sole ridge-line element generated a variance. The exceedance over by-law standards is one-half a meter located towards the rear of the building at a central ridge- line, or modest peaking element. He stated that element would not be noticeable or even visible from the public realm.

For Variance 6, roof eaves, he noted the measurement was taken from the applicable side yard setback. Mr. Romano was of the opinion that sufficient roof separation distance from the property line existed, again of interest in the area of the garage building, to accommodate snow fall off the roof. Indeed, whereas .3 m is required, space greater than that is provided.

Finally, for Variance 7, he noted that a secondary suite with its separate entrance, while normally allowed only in a building aged five years or more, that the standard was really a design control, rather than a prohibition, to ensure a proliferation of dwelling units did not occur within one structure.

On the basis of all these observations, Mr. Romano was of the opinion that the proposal, while wider, longer, and taller, was in fact consistent with changes occurring across the City. He felt the proposal would successfully integrate as a single detached typology. And in addressing the design character assessment criteria of the Official Plan, section 4.1.5, he felt all relevant aspects were addressed by the low rise character of the proposal providing redevelopment in keeping with the physical character of the neighbourhood.

He noted that the detached residential use responded to the residential typology contemplated by zoning and maintained the orderly, compatible, detached standards established in the regulations with variations. There was no request to vary the coverage control under zoning.

He felt the project to be desirable as a reasonable and appropriate regeneration project that 'fits' as an appropriate use of land. He found no undue adverse impacts and noted several resident signatures in support. As such, he concluded the variance requests were minor in nature and in magnitude and constituted good and proper planning.

ANALYSIS, FINDINGS, REASONS

I have visited the site, walked the neighbourhood, reviewed the TLAB file materials and listened carefully to the detailed and thorough overview supplied by Mr. Romano.

During his testimony, I enquired of him challenges raised by staff in their preliminary assessment of the initial proposal as revised before the COA, but without plans, Ex. 2 and 3.

I am satisfied with the setbacks and prospect for a second suite. I find the extraordinary lot size can accommodate the building length and depth variances. No objections were raised that amounted to concerns let alone representations of undue adverse impact.

As a consequence, I am content with the evidence of Mr. Romano and accept it and its recommendations as to compliance with all policy and statutory tests.

It was agreed that the existing driveway is to be removed and replaced with landscaping and walkway, as required, and where not part of a proposed building or structure.

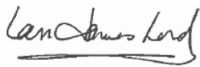
DECISION AND ORDER

The decision of the Committee of Adjustment is set aside and the appeal is allowed.

The variances identified in **Attachment 1** are approved subject to the conditions thereon listed. The Conditions are hereby completed by the incorporation and attachment thereto of the elevation plans and survey, **Attachments 2 and 3** hereto.

Construction shall be in substantial compliance with the plans, as indicated. If there are difficulties in the application of this decision, the TLAB may be spoken to.

X



Ian Lord

Panel Chair, Toronto Local Appeal Body

Signed by: Ian Lord

RECEIVED

By TLAB at 9:04 am, Aug 14, 2018

Toronto Local Appeal Body

EXHIBIT # 1

Case File Number: 18 141147 S45 10
Property Address: 273 Waterloo Ave
Date Marked: August 14, 2018

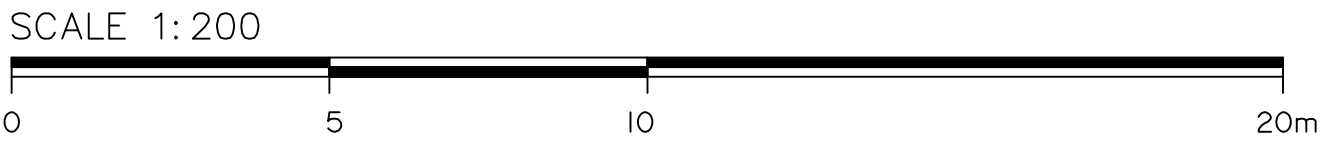
273 Waterloo Avenue – List of Variances

1. Chapter 900.3.10(5), By-law No. 569-2013
The minimum side yard setback required are 1.8 m each side.
The east side yard setback proposed is 1.2m for the first 7.14m portion of the dwelling only.
2. Chapter 10.20.40.20.(1), By-law No. 569-2013
The maximum building length permitted is 17.0 m.
The building length proposed is 23.37m.
3. Chapter 10.20.40.30.(1), By-law No. 569-2013
The maximum building depth permitted is 19.0 m.
The building depth proposed is 23.37m.
4. Chapter 10.20.40.70.(1), By-law No. 569-2013
The minimum front yard setback required is 7.745 m.
The front yard setback proposed is 7.38 m.
5. Chapter 10.20.40.10.(1), By-law No. 569-2013
The maximum height of a building permitted is 10 m.
The height of the building proposed is 10.5 m.
6. Chapter 10.5.40.60.(7), By-law No. 569-2013
The maximum roof eaves may project is 0.9 m provided that they are no closer than 0.30 m to a lot line. The eaves proposed project 1.0 m and are 0.8 m from the east side yard lot line.
7. Chapter 150.10.40.1.(1), By-law No. 569-2013
A secondary suite is permitted provided that the entire building was constructed more than 5 years prior. The entire building was not constructed more than 5 years prior to the proposed secondary suite.

Conditions of approval

1. The proposed dwelling shall be constructed substantially in accordance with the Site Plan and Elevations filed as Exhibit 2 and 3, attached.
2. The owner shall comply with the City of Toronto Municipal Code, Chapter 813 article II and III related to privately owned trees and city owned trees.

RECEIVED
By TLAB at 9:04 am, Aug 14, 2018



Toronto Local Appeal Body

EXHIBIT # 2

Case File Number: 18 141147 S45 10
Property Address: 273 Waterloo Ave
Date Marked: August 14, 2018

CONTRACTORS TO CHECK AND VERIFY ALL DIMENSIONS ON THE JOB AND REPORT ANY DISCREPANCIES TO THE DESIGNER BEFORE PROCEEDING WITH THE WORK.

ALL DRAWINGS, SPECIFICATIONS AND RELATED DOCUMENTS ARE INSTRUMENTS OF SERVICE THEREFORE ARE COPYRIGHT OF THE DESIGNER WHICH MUST BE RETURNED AT THE COMPLETION OF THE PROJECT.

REPRODUCTION OF DRAWING AND DOCUMENTS IN PART OR IN WHOLE IS FORBIDDEN WITHOUT THE DESIGNER'S WRITTEN PERMISSION.

DRAWINGS MUST NOT BE SCALED.



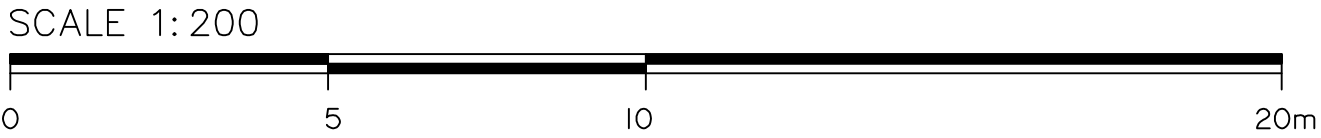
PROJECT PROPOSED:
PRIVATE
ONE & HALF STOREY DWELLING

FOR:
MR. & MRS. MAURO P
AT:
273 WATERLOO AVE.

DRAWING TITLE:

FLOOR PLANS

SCALE: 3/16" = 1'-0"	PROJECT No. 17019
DATE: AUGUST 2017	PAGE No. A4
DRAWN BY: SS	
CHECKED BY:	



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SIDE ELEVATION

PROJECT:
PROPOSED:
PRIVATE
ONE & HALF STOREY DWELLING

FOR:
MR. & MRS. MAURO P
AT:
213 WATERLOO AVE.

DRAWING TITLE:

FLOOR PLANS

SCALE
3/16" = 1'-0"

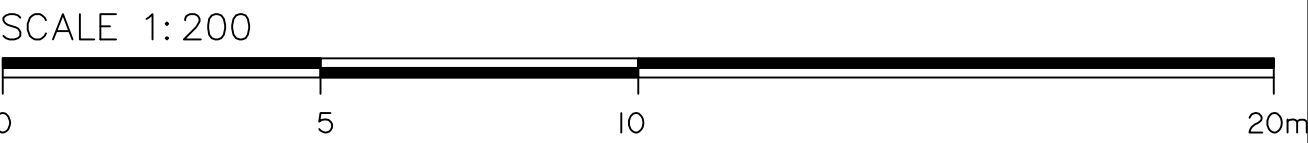
DATE:
AUGUST 2017

DRAWN BY:
SS

CHECKED BY:

PROJECT No.
17019

PAGE No.
A4

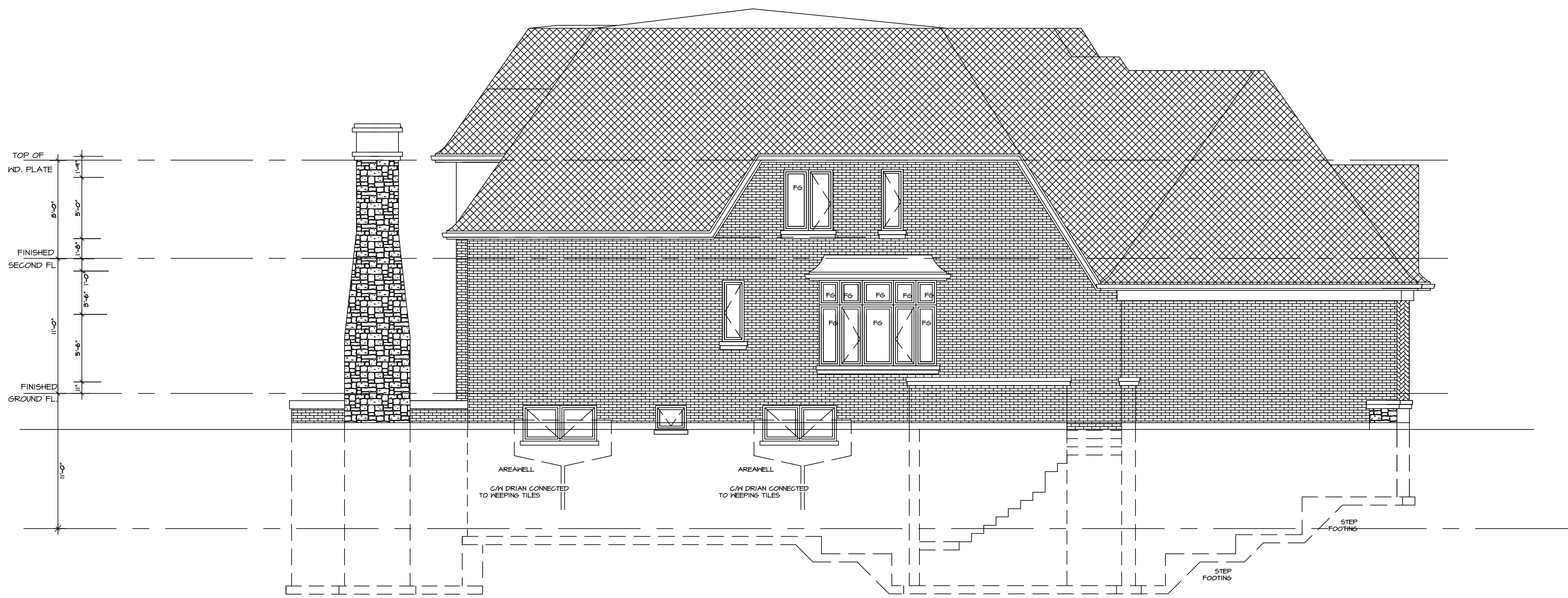


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FOR:
MR. & MRS. MAURO P
AT:
213 WATERLOO AVE.

DRAWING TITLE:

FLOOR PLANS

SCALE:
3/16" = 1'-0"

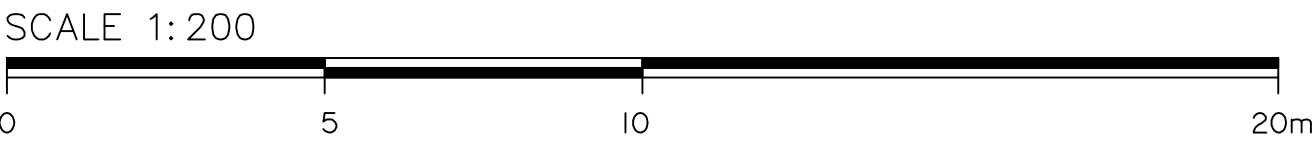
DATE:
AUGUST 2017

DRAWN BY:
SS

CHECKED BY:

PROJECT No.
17019

PAGE No.
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REAR ELEVATION

PROJECT PROPOSED:
PRIVATE
ONE & HALF STOREY DWELLING

FOR:
MR. & MRS. MAURO P
AT:
273 WATERLOO AVE.

DRAWING TITLE:

FLOOR PLANS

SCALE: 3/16" = 1'-0"	PROJECT No: 17019
DATE: AUGUST 2017	
DRAWN BY: SS	PAGE No: A4
CHECKED BY:	



Applicant's Disclosure Form 3

The information collected on this form is considered to be a public record. The legal authority to make the information public is section 1.0.1. of the Planning Act. As stated at Section 27 of the Municipal Freedom of Information and Protection of Privacy Act, the privacy provisions of Part 2 of the Act would not apply to any information collected on the form. Questions about this form can be directed to the Manager of Planning & Liaison, Court Services, 137 Edward Street, 2nd Floor, Toronto, Ontario M5G 2P1 or by telephone at 416-338-7320.

First Name Mauro		Last Name Pambianco	
Corporation Name or Association Name (Association must be incorporated)			
Position Title (if applicable) Owner		Email Mpambianco@rogers.com	
Street Number 273	Street Name Waterloo Avenue		Suite/Unit Number
City/Town Toronto	Province Ontario		Postal Code M3H 3Z6
Telephone Number (416) 436-8355		Mobile Number	

TLAB Case File Number 18 141147 S45 10 TLAB	Scheduled Hearing Date (yyyy-mm-dd) 2018-08-14
Required Applicant's Disclosure Date (yyyy-mm-dd) 2018-05-16	

Provide all the intended alterations, changes, revisions or modifications to the application that was made to the Committee of Adjustment together with a brief explanation. Applicants are responsible for identifying variances correctly and fully.

The purpose of this disclosure is to identify changes that may be relevant to a party or participant in assessing their position.

Note: Materials in support must be served and filed electronically in accordance with TLAB Rules and Practice Directions.

At the hearing before the Committee of Adjustment, the Applicant revised several of the variances on the Committee floor, including the following:

(A) The west side yard setback variance, originally proposed to be 1.2 m, was eliminated. As such, the proposed west side yard setback is 1.8 m, in compliance with the zoning.

(B) The east side yard setback variance, originally proposed at 1.34 m, was revised to relate only to
(Continued on Page 2)

Applicant's Disclosure Form 3

(Continued from Page 1)

the front 7.14 m portion of the dwelling. This facilitates the additional width for the garage portion only. Behind the garage the side yard has been increased to a minimum of 1.8 m.

(C) The building length and depth was reduced from 27.61 m to 23.37 m, under By-law 569-2013 only.

(D) The variances for front yard landscaping and driveway width were eliminated.

(E) The variance for the exterior stair width was eliminated.

The attached revised Site Plan generally reflects the changes that were agreed to at the Committee of Adjustment. We note that the building length has been slightly increased from the Committee's Decision to 23.66 m to permit articulation in the front of the garage wall, facing the street.

The Applicant is in the process of submitting the revised plans to the City for an updated zoning review. We anticipate that a number of additional variances will no longer be required as a result of the recent Decision approving and amending portions of By-law 569-2013, as noted below. Our expectation is that the following revised variances will be required to permit the proposal:

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

1. Chapter 900.3.10(5), By-law No. 569-2013

The minimum side yard setback required are 1.8 m each side.

The east side yard setback proposed is 1.2m for the first 7.14m portion of the dwelling only.

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

The minimum of 10 m² of the first floor area must be within 4 m of the front wall.

The proposed is zero m² within 4 m of the front wall. [**Note: expected to be deleted]

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

The maximum building length permitted is 17.0 m.

The building length proposed is 23.66m.

4. Chapter 10.20.40.30.(1), By-law No. 569-2013

The maximum building depth permitted is 19.0 m.

The building depth proposed is 23.66m.

5. Chapter 10.20.40.70.(1), By-law No. 569-2013

The minimum front yard setback required is 7.745 m.

The front yard setback proposed is 7.38 m.

These are the only revisions proposed.

Applicant Signature



Date (yyyy-mm-dd)

2018-05-16

(DEDICATED BY REGISTERED PLAN 1899)



AVENUE

ZONING

07

AREA=1044.7 Sq m

LOT AR

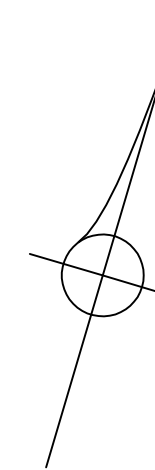
LOT AREA = 12844.28 SQ.FT (1193.27 SQ.M.)

TOTAL G.F.A.

FIRST FLOOR = 3055 SQ. FT (283.82 SQ.M.).
LOFT FLOOR = 1680 SQ. FT. (156.07 SQ.M.)

TOTAL = 4735 SQ.FT [439.90 SQ.M.]

COVERAGE= 3497.88 SQ.FT. (27.23 %)





THIS SITE PLAN IS BASED ON
SURVEY OF LOT 112
REGISTERED PLAN M-681
CITY OF VAUGHAN
REGIONAL MUNICIPALITY OF YORK
SCALE : 1"= 20'-0"

PREPARED BY: erli surveyors 2013
Ontario Land Surveyors
DATED: MAY 23, 2013

NOTES

Bearings shown hereon are astronomic and are referred to the limit between Lots 7 & 8 Registered Plan 4632, having a bearing of N 31°41'15" W.

Survey Monuments Found	shown thus	_____
Survey Monuments Planted	shown thus	_____
SS/B	- denotes	Short Standard Iron Bar
SB/B	- denotes	Standard Iron Bar
IB	- denotes	Iron Bar
IP	- denotes	Iron Pipe
O/U	- denotes	Open Unknown
DER	- denotes	D.E.Roberts L.L. O.L.S. & Plan of Survey, dated March 23, 1998
BM	- denotes	Baird & Muckelstone O.L.S.
PI	- denotes	Registered Plan 4632
CLF	- denotes	Chain Link Fence
EA	- denotes	Edge of Asphalt
OW	- denotes	Overhead Wires
Stu	- denotes	Stucco
Brk	- denotes	Brick
Al	- denotes	Aluminum
Fr	- denotes	Frame
#	- denotes	Diameter
	- denotes	Deciduous Tree
	- denotes	Coniferous Tree

All Curb Elevations were taken to Top of Curb.

ELEVATION DATUM

Elevations are geodetic and are referred to the City of Vaughan elevation datum
 Benchmark: 44-28 Elevation: 146.014 m
 Willis bridge carrying Willis Road over Humber River just east of Islington Avenue
 Top northwest corner of bridge abutment 0.20 m east of northwest corner,
 0.20 m south of north face.



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PROJECT:
PROPOSED:
PRIVATE
ONE & HALF STOREY DWELLING
FOR:
MR. & MRS. TONY SALERNO
AT:
7 VISTAVEN BLVD.

SITE PLAN

SCALE
1" = 20'-0"

DATE: _____