

# DECISION AND ORDER

**Decision Issue Date**      Tuesday, February 05, 2019

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

Appellant(s): XHORXHI NICO

Applicant: ARC DESIGN GROUP

Property Address/Description: 157 MAYBOURNE AVE

Committee of Adjustment Case File Number: 18 165470 ESC 35 CO, 18 165540 ESC 35 MV, 18 165544 ESC 35 MV

TLAB Case File Number: **18 236214 S53 35 TLAB, 18 236225 S45 35 TLAB, 18 236226 S45 35 TLAB**

**Hearing date:**      Thursday, January 31, 2019

**DECISION DELIVERED BY Ian James Lord**

## APPEARANCES

Name	Role	Representative
ARC Design Group	Applicant	
Xhorxhi Nico	Owner/Appellant	Sarah Hahn
Genci Trajani	Primary Owner/Party	Sarah Hahn
Tae Ryuck	Expert Witness	
George Panagopoulos	Participant	
Deb Sarma	Participant	
Iffat Shams	Participant	
Olive Howden	Participant	

Name	Role	Representative
Reka Nicholas	Participant	
Satish Makol	Participant	
Hak Kim	Participant	
Irene Lee	Participant	
Luige Fuser	Participant	
Milli Babineau	Participant	
Mike Rostankooshi	Participant	
Evda Gushevski	Participant	

## **INTRODUCTION**

These are appeals to the Toronto Local Appeal Body (TLAB) from consent and minor variance refusals decided by the Scarborough Panel of the City of Toronto (City) Committee of Adjustment (COA) in respect of 157 Maybourne Avenue (subject property).

The subject property is located just south and east of the intersection of St. Clair Avenue East and Victoria Park Avenue, on the east side of Maybourne Avenue and being the first residential lot thereon south of St. Clair Avenue East. It is developed presently as a detached bungalow with no distinguishing lot features either in respect of topography or vegetation.

The Applicant/Appellant was represented by counsel, Ms. Hahn, and a Registered Professional Planner, Mr. T Ryuck, whom I qualified to give expert opinion evidence and who appeared as the sole witness on behalf of the Applicant/Appellant. Despite several Participants registered on the file, only two appeared to speak, both in opposition to the appeals: Mr. Satish Makol and Ms. Irene Lee. Several other persons were in attendance but, despite invitation, declined and did not address the matters under appeal.

The City did not appear or take any position on the appeals.

On appeal, there were no changes or alterations to the severance, requested variances or the conditions considered and refused by the COA.

## **BACKGROUND**

As is the TLAB's required practice, I had attended the site and reviewed the pre-filed materials but invited any spokesperson to identify any filing they wished admitted as evidence.

The applications involved the severance of the existing lot of record into two lots each with a frontage of 7.63 m and approximately 249.86 square metres of lot area. The lot division and subsequent intended construction of two 'mirror image' single detached dwellings would require minor variances from the performance standards of both Bylaw 569-2013 and Scarborough Community Bylaw 8978, all in respect of the variances identified in **Appendix A** attached hereto (Applications).

Despite the evolution of approvals of Bylaw 569-2013, the Applicant/Appellant continued to seek approval for the provision of Bylaw 8978 from the maximum permitted number of storeys (two) to three (3) – out of an abundance of caution. A similar variance is required for each of the proposed lots under By-law 569-2013.

Pre-filed by the Parties and frequent reference was made in the proceeding to two prior decisions of the TLAB:

a) *149 Westbourne Avenue*, immediately to the east of the subject property, a decision of Member S. Ruddock dated December 19, 2017, at which both Ms. Hahn and Mr. Ryuck held similar roles; and

b) *103 Westbourne Avenue*, a decision of Member T. Yao dated November 18, 2018.

Both matters involved severances to similarly sized lots. In the first, with reasons, the severance was granted; in the latter, it was refused.

The TLAB is not bound by the principle of *stare decisis*, or precedent. Each appeal before the TLAB is entitled to *de novo*, or first instance consideration. While I am to have regard to the decisions of the COA and the materials before it, a determination of the appeals is based on the applicable law, policy and evidence brought to bear on the Applications in the instance of the subject property.

## **MATTERS IN ISSUE**

The Applications, to consider the consent to sever the subject property into two (2) undersized residential lots with associated requested variances identified in **Attachment A**, were the subject matter under appeal.

## **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).

### **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 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 qualified professional land use planning evidence provided in the Hearing of this matter was supplied by Mr. Ryuck.

Mr. Ryuck's evidence supported the Applications on appeal and concluded that the consent, coupled with the variances when considered individually and cumulatively met the above tests and were meritorious, as a set of applications. He recommended their approval.

While I recite below, what I find to be essential components of his evidence, I am struck by its similarity as reported upon by Member Ruddock, perhaps even in greater detail, in her decision on *149 Westbourne Avenue*, to the east.

Mr. Ryuck was engaged after the COA decision on the subject property. He made the following points:

1. There was no adverse comment or Staff position to the Applications from City Planning, Engineering Services or Urban Forestry, apart from standard approval conditions. This was asserted to be indicia of no land use planning 'concerns'.

2. The Applications would reflect similar style, built form, size, lot layout, heights, building massing and parking solutions (integral garages) found scattered throughout the study area, defined (as previously) to extend from Victoria Park to Pharmacy Avenues in the east, St. Clair Avenue East to Dolphin Drive, to the south.

3. No variances were being sought for front or rear yard setback, overall height, external side yard setbacks, building length or depth.

4. An Area Context Map attached to his Witness Statement (Exhibit 1) and site area photos (Exhibit 2) showed for the study area the 'sporadic' location of properties 7.63 m or less in frontage that instructed his view of the Applications forming part of the neighbourhood character within which the proposal would 'generally fit without causing destabilization'.

5. His review of the Official Plan centred upon and concluded that the 'cornerstone' policy intent of respecting and reinforcing the physical character of the neighbourhood was met by the above study area realities and the characteristics of the Applications, including the manner and consistency of the deployment of proposed built form on the proposed lots. He was of the opinion that the proposed single detached dwellings, in size, height and site deployment would be without impact on stability and would respect and reinforce the existing scattered pattern of smaller lot areas and frontages, in a consistent and conforming manner.

6. The zoning by-laws were met by the proposal ensuring that the built form was compatible, and no unacceptable adverse impacts could be ascertained or demonstrated. He said that the coverage of 41% was 'similar' to the context map identification of smaller lot frontages and that the resultant GFA, at 2200 square feet, constituted a modest house size that did not constitute overdevelopment of the lots. He suggested that the pictures presented of new homes are reflective of 40% coverages and greater.

7. On my question for the concern expressed in the filings regarding the potential for repetitive applications, he stated that "the issue of 'precedent' is not a function of appropriateness". He distinguished the Yao Decision at *103 Westbourne* on the basis of the Member's expressed concern of creating an enclave of narrow row houses, out of character with the neighbourhood.

His further response was as follows:

'While there is no evidence of severance activity on Maybourne except to its south end (about one kilometer), the zoning is the same throughout. There is no special policy applicable to the subject site. A severance is a

natural progression of the neighbourhood demonstrated in the study area by scattered severances: a progression of natural regeneration. There is no reason here for severances not having happened. The pattern is a sporadic one of smaller lots with no real pattern of smaller lot frontages. A proposal for a sequence of smaller lot frontages would not be reflective of neighbourhood character. Small contiguous lots are rare; their character is sporadic. The proposal (Applications) would not create a precedent. One offs.' (paraphrased)

8. The Applications are desirable as they do not represent the introduction of an inappropriate built form. They are modern, energy efficient, single detached dwellings within the height and largely within their proposed zoning envelopes; 'compatible' does not mean the same.

9. The Applications are minor as they meet the test of no unacceptable adverse impacts. The effects on privacy and shadowing are anticipated within an urban setting. The elevation plans demonstrate (Exhibit 3) the buildings to be of an area characteristic built form that do not 'test' standards of height, massing or built form. They are with a setback that maintains the streetscape.

Mr. Ryuck reviewed in his evidence a similar import and application of the above findings in respect of the policy criteria in section 4.1.5 and 8 of the Official Plan, the four tests, above, and the listed criteria found in section 51(24) of the Planning Act. No material new conclusions were added.

He recommended the appeals be allowed.

Mr. Sattish Makol was brief and pointed in his presentation to the effect that there are no 25-foot-wide lots and no severances in the vicinity of the subject property on Maybourne, from St. Clair Avenue East south, for at least two blocks to the south, to Bolster Avenue.

Both he and Ms. Lee described their environment as a quiet, mature neighbourhood, characterized by wider lots, absent disparate character development that is out of keeping with 1-2 storey detached housing, stable and absent 'infill housing. Ms. Lee described the neighbourhood as 'quiet, clean and low density'.

Both anticipated that the proposal at the appearance of three storeys will serve to destabilize the characteristic physical built form they described. Namely, that two narrow, comparatively high three storey and distinguishable ('eyesore') and different house forms, in their view, did not reflect a similarity of appearance or serve to replicate the existing physical character of the area, consisting of 1 to 1 1/2 and 2 storey dwellings.

Both asserted an expectation that an approval would be followed with future impacts of similar applications: Ms. Lee spoke to the three immediate bungalows south

of and adjacent to the subject property. Mr. Makol provided individual photographs (Exhibit 3) of all housing on either side of Maybourne in the blocks described.

He said these emphasized a similarity of character traits.

Mr. Makol produced two Staff Reports dated in 2012 and 2013 for 152 and 158 Maybourne, respectively. The former, a refusal of severance and variances applicable to his property (located directly across the street from the subject property). These refusals, on his own applications, demonstrated to him that the City, for reasoning expressed therein by Planning Staff, had protected Maybourne Avenue from intensification.

He provided no explanation as to why Staff had not reported on the Applications.

He urged that the Decision in *103 Westbourne* be read and applied for its findings that severances, on all relevant considerations, was not consistent with and did not respect and reinforce the existing physical character of the area, its streetscape or meet the protectionist policy of the Official Plan or statutory tests.

Ms. Lee reiterated a desire to preserve the 'established pattern' of development, not start a new one.

In her summation, Ms. Hahn identified the existence of a roster before the COA of majority names in support and those opposed to the Applications.

She reiterated and commended the evidence of Mr. Ryuck: that a scattered pattern of undersized and lot frontage properties exists in the more appropriate, larger, study area. In the absence of any City concerns, she urged acceptance of the planning evidence of Mr. Ryuck as professional, credible and sensitive. She distinguished the *103 Westbourne* Decision based on the Member's expressed concern for creating 'a stripe of row homes'. She urged that, in a case of clear, professional opinion evidence of 'good planning' and no unacceptable impacts from a project that that conforms to the existing pattern of scattered lots, approval should follow.

## **ANALYSIS, FINDINGS, REASONS**

Based upon the submissions of counsel, this should be a textbook case of the application of the professional evidence to the subject property and the Applications. Namely, that there are really no complications or side trips warranting evaluation; even the presence of two nearby and recent decisions of the TLAB are not diversions as, in a manner of speaking, they cancel themselves as one resulted in supporting a severance, the latter a refusal.

Germane to this decision are a number of findings. I find that the subject property occupies a prominent location in that it is located as the first residential parcel at the north end of Maybourne Avenue, immediately south of St. Clair Avenue East. On its north is the open view plane parking lot of a church and an associated building fronting on St. Clair Avenue East. Neither of these are sensitive land uses, yet for the most part they reflect unobtrusive and compatible uses to single detached residential.

Opposite the subject property and, as well, proceeding south are single detached 1-2 storey original and replacement housing, all on original lots of 50+/- foot frontage. On both sides of Maybourne Avenue, as the photographic evidence revealed, this lot pattern extends southward almost uniformly for upwards of one kilometer. At 65 Maybourne, an existing lot of record demonstrates new construction on a 25-foot existing lot of record. The lower end of Maybourne, many blocks from the subject property, evidences some four properties said to have been created by severance in the past 10 years. It is instructive that throughout the reach of Maybourne Avenue, perhaps most notably on its west side, regeneration has taken the form of substantial new housing without any variation to the original lot pattern.

Maybourne Avenue has a substantial right-of-way evidenced by compliant, even generous and uniform setbacks. It comprises a gently rolling, descending vista north to south and demonstrates mature vegetation punctuated throughout. Housing, as described by Mr. Ryuck is generally modest in scale, often with side yard parking, garages, integral garages or pads accenting the appearance of spatial separation, with massing skewed to the north or south lot lines. Replacement housing appears to be generally filling in these separation gaps, of lower form improvements, with larger structures, often with integral garages, on original lots.

Adjacent streets, Pitt to the west and Westbourne to the east, replicate this description, but with a greater number of scattered, narrower lots, some of record and some created by severance. No statistical profiles were referenced but their descriptions are more fulsomely analyzed in the TLAB decisions above referenced. No references were made in the evidence to the cross streets.

I find that the rhythm in built form uniformity of the streetscape from north to south, particularly but not exclusively on Maybourne, is an important element of the physical character of the neighbourhood.

I agree with the evidence of the planner, Mr. Ryuck that the Applications, in terms of front yard setbacks, building length and depth, building type, permitted height and measures of GFA, rear yards and integral parking are all elements that suggest the scattered pattern of built form is being replicated by the Applications.

However, I find that the Official Plan directs an approach to requested approvals in the *Neighbourhoods* designation that constitutes and requires a careful assessment as to whether existing attributes, described as 'the existing physical character of the neighbourhood', are being maintained, with reference to the objective of being

respected and reinforced. It emphasizes similarity in gradual change, compatibility and streetscape imaging, and a similarity that is not identical, but which is compatible and 'fits'. It does not encourage the parsed selection of an identifiable characteristic, regardless of scale, including one occurring 'sporadically', and supports its proactively projection and replication throughout. The implicit support for modest forms of intensification in Neighbourhoods is qualified by the criteria and tests, including the assessment of suitability and 'where appropriate'. Neighbourhoods are not universal candidates for active intensification through severance; while there may well be candidate sites of suitability, not every lot that can accommodate the physical built form of a new dwelling is necessarily eligible for successful division.

The assertion by the planner, above paraphrased, is important as it focuses on the policy direction of the Official Plan that new development requiring approvals, including severances and variances, are to 'respect and reinforce' the physical pattern of the neighborhood. No changes are to be allowed where these criteria, and the policy thrust of the Official Plan to maintain stability and fit with the existing neighbourhood, are 'cornerstone' elements of preservation and protection. Changes that are permitted are to be 'gradual' and 'sensitive' and are to 'fit' the pattern of development on the ground.

I agree that this assessment is independent, according to Mr. Ryuck, of the process by which those improvements and characteristics were derived, including scattered severances. Some descriptive measures are germane.

Opposing views of the application of these criteria in policy 4.1.5 and 8 were provided from both a professional planning and lay citizen perspective.

The Applications propose two new lots of distinction from the general pattern of lots on Maybourne Avenue that attract differences: they are narrower, at half the width and smaller in area than supported by zoning. They have proposed built form typologies that are tall, slender mirror image buildings labeled as 'three stories' that differ, or are clearly distinguishable, in appearance, from the neighbourhood norm of individualism.

The resident witnesses identified that they would constitute a dramatic and distinct departure from the physical character of the streetscape, in a prominent location and without proximate precedent.

There is no doubt that the building typology proposed is common across the City and that, as a matter of geometrics and example, the proposed buildings can 'fit' on the proposed lots and function. Indeed, the variances sought to reduce internal side yards, recognize an increased floor height, add to the number of technical 'storeys', permit higher side wall height, reduce building separation distance, lot size and frontage standards and the resultant higher lot coverage are distinctions that contribute to appearance. These distinctions require that the controversy and rationale of policy compliance, above recited, to be closely examined and resolved.

Mr. Ryuck provided an Area Context Map upon which he identified the location of lots 7.62 m in width within his defined study area. These lots were not distinguished as to whether they were lots of record or created by severance. The Context Map was supplemented by photographs and testimony demonstrating examples on Weybourne, Pitt and Maybourne Avenues of severed lots with similar appearance housing typology to the Applications. These were said to be derived from COA and tribunal decisions over the past period of at least 10 years.

In this research, there was no clear information referenced or provided on any of the following:

- a) the distinction between lots of record and those created by severance;
- b) the particulars of the severed parcels in terms of the variances sought to reduce internal side yards, recognize an increased floor height, add to the number of technical 'storeys', permit higher side wall height, reduced lot size and frontage standards and the resultant higher lot coverage.
- c) area specific averages or ranges in proximity and upon which comparisons with the Applications might be drawn, to the extent of their relevance.

I do not believe it to be an overstatement to suggest that Mr. Ryuck concluded from the Area Context Map that there is a scattered pattern of lots with frontages of 7.63 m or less within the study area. Indeed, that conclusion is warranted although any measure of significance is undefined.

At issue, is whether that conclusion creates the definitive descriptor of area context to support a finding of policy compliance on issues of 'fit', 'respect and reinforce', and 'gradual', 'sensitive' change to the 'physical character of the neighbourhood'.

That analysis also requires a detailed consideration of the criteria listed in policy 4.1.5 of the Official Plan, including the scale, heights and massing or structures and, of course, section 51(24) of the Act, including the 'dimension and shapes of the proposed lots'. The planner spoke to each of these elements but with no more analysis reported than is above described; comparative statistics were absent. His response to questions on coverage, how the proposal reflected built form rhythm, reduced frontages and lot area were essentially answered by reference to the depicted existence of scattered narrower frontage lots in the study area, as demonstrated by colouration on the Area Context Map.

I find that the assessment of the physical character of a neighbourhood does not begin or end with 'examples' or 'ranges' of statistics within which similarities to a proposal can be drawn. While the presence of a scattered pattern of narrower frontage lots is relevant, the policy directive to respect and reinforce the neighbourhood is not a sword to advance examples; rather, it is a shield to protect the investment in the existing

lot pattern, built form and identifying characteristics that create the neighbourhood and demonstrate a sense of place.

Mr. Ryuck, as above paraphrased, stated there was no special designation or policy specific to Maybourne Avenue that would protect it from severance applications that reflect the 'pattern' of severance applications and activity in the neighbourhood. That 'pattern' reflects scattered activity.

Respectfully, I disagree. The designation is present: it is '*Neighbourhoods*'. I read the philosophy of the City OP (and OPA 320 which was not referenced and is not determinative), to emphasize the care and custody that the City wishes to be the approach to the preservation of Toronto neighbourhoods. Intensification is specifically directed and encouraged elsewhere in special designations throughout the City other than in its '*Neighbourhoods*'. The policy leaning is not to preclude change, but to test it on defined criteria to be considered holistically, without favour or apparent emphasis or priority. It is, to this Member, that policy (as above described) which is specific and relevant to these Applications as it forms the framework for analysis, consideration and decision.

I find that those policies, above referenced, do not support a proactive basis to advance change, by way of severance and variances, to reinforce scattered narrow frontage lot patterns, to advance a definition of conformity. Indeed, this Hearing lacked objective and detailed information sufficient for me to find Official Plan conformity with area character.

I cannot in good conscience base such a finding on the suggestion that the Applications 'mimic' existing scattered examples of reduced frontage lots. I find that the proper perspective to examine the applications is to examine whether the relief requested meets the policy directions of respecting and reinforcing the obvious and compelling physical character of the neighbourhood. I was provided no concrete basis or statistics that would help assess how adding further scattered reduced lot frontages contributes to assessing area character or respects and reinforces it, let alone how the proposed severances in the location of the subject property was reflective of that assessment.

It was suggested that the Applications constitute the first severances on this reach of Maybourne and would not be a precedent on the *de novo* principle. Counsel and the planner emphasized that the Applications could be distinguished from the TLAB decision on *103 Westbourne*, as they would not constitute adding to a 'strip' of undersized lots (zoning standards, frontage and area). In that case, I do not find that expressed finding in *103 Westbourne*. While I acknowledge the Member discussed that evidence, such strips were found not to be a built form characteristic anywhere of prevalence in the neighbourhood. In any event, the determinations in one case are instructive only.

In contrast, Mr. Makol and Ms. Lee pointed to the original bungalows adjacent the subject property and raised the prospect of precedent, following an approval. There was no reply to this speculation.

I find difficult the suggestion that 'precedent' should be avoided or ignored because of the principle of independent adjudication, but advanced as a rationale to describe the decision to refuse approvals at *103 Westbourne*. I find that the approach of advancing a severance application based on the existence of scattered severances (as one component of neighbourhood character) and supporting the Applications as 'one-off', but to recognize the potential for impact demonstrably rejected on the neighbouring street, respectfully, to be somewhat superficial and disingenuous.

An analogy is the line respecting short selling in a recent movie related to the Wall Street crash some years back: "Its' not a stampede if you are the first out the door."

I do not accept, just because the Applications are a first proposal for severance on this reach of Maybourne, that they are somehow sheltered from a fulsome consideration of the policy direction to ensure change is respectful and reinforces neighbourhood physical character.

I agree with the observation of Mr. Yao in the *103 Westbourne* Avenue decision where he stated, on page 6:

"Ms. Nicholas noted that previous severances are invariably used to justify each successive severance. There is an element of truth in this. However, it is also the case that any individual case will differ from another both in time and geographic location, even if it is in a similar study area. So, while "precedents", may be relevant, they are not determinative."

I see the 'precedent' potential raised by the neighbours to be but one factor in the overall consideration of whether the Applications warrant approval. In this case, despite having none of the statistical information from which Member Yao had as a basis for his consideration, I am alert to the undifferentiated similarity of lots capable of severance application that are adjacent to the subject property and proceed along the whole of Maybourne Avenue. The potential for additional applications is a reality; planning is nothing if it turns a blind eye on expectations.

On the evidence before me, there is nothing to suggest that there would be any impedance to the encouragement of subsequent applications for all 50 foot 'candidate' lots on Maybourne, if stimulated by a 'first out the door' approval on the subject property.

I find the issue of precedent in this case to be a relevant but not determinant factor in assessing whether the policy support for 'stability', 'sensitive' and 'gradual' change in the neighbourhood is being respected and reinforced.

At the end of this consideration, I remain in doubt, despite the professional evidence, that essential policy considerations of the Official Plan are met. I find that the Applications entail a built form and lot pattern change that is inconsistent with the general pattern of development in the neighbourhood, however it is defined in scale. I find that the proposal would result in a presentation of lot sizes, frontages, height manifestations, coverage and building separation distances that are inconsistent with the physical characteristics of properties in the area. I find that the location of the subject property, while at the edge of the neighbourhood, is indistinguishable in policy language from the *Neighbourhoods* designation, and therefore not warranting separate consideration.

I find the subject property, almost adjacent a major arterial access to the neighbourhood, is in a prominent location, incapable of disguising the prevalence of the proposed built form which I have found to be of a typology and character different and distinct from the neighbourhood at large and, in some measures, not compatible with the streetscape.

Consequently, I find that the Applicant/Appellant has not met the onus of demonstrating satisfactorily that Official Plan conformity is present, applicable both to the severance and to the variances or that the variances in **Attachment A**, collectively, are warranted.

## **DECISION AND ORDER**

The appeals are dismissed; the severance is not granted, and the variances are not approved.

X 

---

Ian Lord

Panel Chair, Toronto Local Appeal Body

Signed by: Ian Lord

## **ATTACHMENT A**

### **PURPOSE OF THE APPLICATION:**

To construct a new three-storey detached dwelling on Part 1 (157 A).

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

#### By-law No 569-2013:

1. The proposed lot frontage is 7.63 m and the proposed lot area is 249.87 m<sup>2</sup>;  
Whereas the minimum required lot frontage is 12 m and the minimum required lot area is 371 m<sup>2</sup>.
2. The proposed dwelling will cover 41% of the lot area;  
Whereas the maximum permitted coverage is 33% of the lot area.
3. The proposed dwelling will be located 0.6 m from the south side lot line;  
Whereas the minimum required side yard setback is 0.9 m.
4. The proposed dwelling will be three (storeys);  
Whereas the maximum permitted storeys is two (2)
5. The proposed side main walls will have a height of 8.04 m;  
Whereas the maximum permitted height of a pair of side main walls is 7 m.
6. The proposed first floor will be 1.96 m above established grade;  
Whereas the maximum permitted height of the first floor is 1.2 m.
7. The proposed rear deck will be located 0.6 m from the south side lot line;  
Whereas the minimum required side yard setback for a deck or platform is 1.42 m.

#### By-law No. 8978:

8. The proposed dwelling will be three (storeys);  
Whereas the maximum permitted storeys is two (2)

### **PURPOSE OF THE APPLICATION:**

To construct a new three-storey detached dwelling on Part 2 (157 B).

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

By-law No 569-2013:

1. The proposed lot frontage is 7.63 m and the proposed lot area is 249.85 m<sup>2</sup>;  
Whereas the minimum required lot frontage is 12 m and the minimum required lot area is 371 m<sup>2</sup>.
2. The proposed dwelling will cover 41% of the lot area;  
Whereas the maximum permitted coverage is 33% of the lot area.
3. The proposed dwelling will be located 0.6 m from the north side lot line;  
Whereas the minimum required side yard setback is 0.9 m.
4. The proposed dwelling will be three (storeys);  
Whereas the maximum permitted storeys is two (2)
5. The proposed side main walls will have a height of 7.92 m;  
Whereas the maximum permitted height of a pair of side main walls is 7 m.
6. The proposed first floor will be 1.84 m above established grade;  
Whereas the maximum permitted height of the first floor is 1.2 m.
7. The proposed rear deck will be located 0.6 m from the north side lot line;  
Whereas the minimum required side yard setback for a deck or platform is 1.24 m.

By-law No. 8978:

7. The proposed dwelling will be three (storeys);  
Whereas the maximum permitted storeys is two (2)