

DECISION AND ORDER

Decision Issue Date Friday, January 14, 2022

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): ANTONIO CALVANO

Applicant(s): HUMPHRIES PLANNING GROUP INC

Property Address/Description: 8 EDGEHILL RD

Committee of Adjustment File

Number(s): 20 228387 WET 02 MV (A0492/20EYK)

TLAB Case File Number(s): 21 139168 S45 02 TLAB

Hearing date: **NOVEMBER 3, 2021**

OCTOBER 6, 2021

Deadline Date for Closing Submissions/Undertakings: N/A

DECISION DELIVERED BY *ANA BASSIOS*

REGISTERED PARTIES AND PARTICIPANT

Applicant	HUMPHRIES PLANNING GROUP INC
Appellant	ANTONIO CALVANO
Appellant's Legal Rep.	MARK JOBLIN
Owner/Party	PINO GAGLIARDI
Party's Legal Rep	MARY FLYNN-GUGLIETTI
Party's Legal Rep	KAILEY SUTTON

Expert Witness	JIM LEVAC
Expert Witness	TOM BRADLEY
Expert Witness	ALLAN RAMSAY

INTRODUCTION

This is an Appeal of the Etobicoke York panel of the City of Toronto (City) Committee of Adjustment's (COA) approval, with conditions, of an application for variances at 8 Edgehill Rd (subject property). The purpose of the application is to construct a new detached dwelling with an attached garage. The subject property is located north of Dundas St West and east of Royal York Rd in the Edenbridge/ Humber Valley neighbourhood of the former City of Etobicoke. It is designated *Neighbourhoods* in the City Official Plan (OP) and zoned RD (f15.0; a555; d0.45) (x28) under Zoning By-law 569-2013 (By-law) and R1 under the Etobicoke Zoning Code.

In attendance at the Hearing were:

- Mary Flynn-Guglietti and Kailey Sutton, legal counsel for the Owner, (Katerina Villa observing), and Expert Witnesses Jim Levac (Land Use Planning) and Tom Bradley (Arborist);
- Mark Joblin, legal counsel for the Appellant, and Expert Witness Allan Ramsay (Land Use Planning).

With consent of the Parties, Mr. Bradley was excused from the Hearing. Opposing counsel did not object to Mr. Levac covering the arborist subject matter.

I advised those present at the Hearing that I had attended at the site and the surrounding area and had reviewed the pre-filed materials in preparation of the hearing of their evidence.

BACKGROUND

The Applicant proposes to demolish the existing detached dwelling and construct a tree storey replacement dwelling with a walk-out basement, an integrated at-grade garage and a second level rear balcony.

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

1. Section 10.20.30.40.(1)(A), By-law 569-2013

The maximum permitted lot coverage is 33% of the lot area (259.1 m²).
The proposed dwelling will cover 34.4% of the lot area (285.1 m²).

2. Section 900.3.10.(28)(C), By-law 569-2013

The maximum permitted gross floor area is 165 m² plus 25% of the lot area (361.2

m²), up to a maximum floor space index of 0.5 (392.56 m²).
The proposed dwelling will have a gross floor area of 165 m² plus 43.9% of the lot area (509.9 m²), with a floor space index of 0.65 (509.9 m²).

3. Section 10.5.40.70.(1), By-law 569-2013

The minimum required front yard setback is 9.58 m.
The proposed dwelling will be located 8.61 m from the front lot line.

4. Section 10.20.40.20.(1), By-law 569-2013

The maximum permitted dwelling length is 17 m.
The proposed dwelling will have a length of 17.3 m.

5. Section 10.20.40.10.(2)(A)(i), By-law 569-2013

The maximum permitted height of all front exterior main walls is 7 m.
The proposed dwelling will have a front exterior main wall height of 7.5 m.

6. Section 10.20.40.10.(2)(A)(ii), By-law 569-2013

The maximum permitted height of all rear exterior main walls is 7 m.
The proposed dwelling will have a rear exterior main wall height of 9.4 m.

7. Section 10.20.40.10.(2)(B)(i), By-law 569-2013

The maximum permitted height of all side exterior main walls is 7 m, facing a side lot line.
The proposed dwelling will have a left (east) side exterior main wall height of 7.5 m, facing a side lot line and a right (west) side exterior main wall height of 9.4 m, facing a side lot line.

8. Section 10.20.40.10.(1)(A), By-law 569-2013 & Section 30-42.1.B.(1)

The maximum permitted dwelling height is 9.5 m.
The proposed dwelling will have a height of 10.56 m.

9. Section 30-42.1.B.(1)

The maximum permitted soffit height is 6.5 m.
The proposed dwelling will have a soffit height of 7.3 m.

10. Section 10.5.40.60.(3)(A)(ii), By-law 569-2013

Exterior stairs providing access to a building or structure may encroach into a required minimum building setback if exterior stairs are no wider than 2 m.
The proposed stairs will be 3 m wide.

11. Section 10.20.40.50.(1)(B), By-law 569-2013

The maximum permitted area of a platform at or above the second storey is 4 m².
The proposed second storey rear platform will have an area of 9 m².

12. Section 10.5.60.20.(2)(B), By-law 569-2013

The minimum required rear yard setback for the ancillary building is 1.87 m.
The proposed ancillary (shed) will be located 0.98 m from the rear lot line.

The COA approval was granted subject to the following conditions:

1. Submission of a complete application for a permit to injure or remove a privately owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees Article III Private Tree Protection.
2. The following conditions shall be fulfilled to the satisfaction of the Director, Community Planning, Etobicoke York District:
 - 2.1 The proposed development shall be constructed as illustrated on the revised Elevation Plans submitted February 26, 2021, and held on file by the Committee of Adjustment as it relates to rear and right (East) side exterior main wall heights; and
 - 2.2 Windows on the right (East) side wall of third storey contain frosted glass.

MATTERS IN ISSUE

The crux of the objection to the application is that the proposal would constitute an overdevelopment of the property and that the combination of the variances requested for lot coverage, gross floor area/ floor space index, building height and building length, second storey platform and setbacks should not be approved as they do not respect and reinforce the character of the area.

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 for the Greater Golden Horseshoe for the subject area ('Growth Plan').

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

A summary of evidence is presented here for the purpose of providing some context for the following section of this Decision. All of the evidence and testimony in this matter has been carefully reviewed and the omission of any point of evidence in this summary

should not be interpreted to mean that it was not fully considered, but rather that the recitation of it is not material to the threads of reasoning that will be outlined in the *Analysis, Findings and Reasonings* section below.

LEVAC

Mr. Levac delineated a Neighbourhood Study Area in accordance with the guidance of the Toronto Official Plan (OP), as below.



Figure 1: Levac Neighbourhood Study Area

Mr. Levac described the neighbourhood context as follows:

- The neighbourhood consists of one, two and “two-and-a-half” storey detached dwellings.
- Edgehill Rd curves and therefore the front face of the houses are not perfectly perpendicular to the street and the front yard setbacks vary.
- The zoning requirements to the west and north of Edgehill Rd (where the subject property is located) differ from those which prevail on the east and south side of Edgehill Rd. Notably, the minimum frontage which applies to the property is 15m, whereas the minimum frontage on the other side of Edgehill Rd is 30m. The minimum lot area which applies to the subject property is 555m², whereas the minimum lot area on the other side of Edgehill Rd is 2,700m².

It was Mr. Levac’s opinion that the the ravine lots (those on the east side of Edgehill Rd) have a much different character as a result of the different zoning requirements.

Mr. Levac described the proposal as follows:

- The proposal is to demolish the existing detached dwelling and construct a three storey replacement dwelling with a walk-out basement, an integrated at-grade garage and a second level rear balcony.

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- The site plan has been modified from that which was before the Committee of Adjustment on the basis of Mr. Bradley's (Arborist) advice that the existing driveway should be retained as it is to protect an existing Magnolia tree.
- From the street, the proposed house appears as a two-storey structure. From the rear of the property, windows and habitable space within the roof line are discernable.

In reference to the shadow study prepared by Alec Ring Architect (EX1 Tab 34), Mr. Levac advised that it was his opinion that the proposal would not have an adverse impact to sunlight and shadowing.

Mr. Levac detailed the variances which had previously been granted for the Appellant's property, which abuts the subject property to the rear.

RAMSAY

Mr. Ramsay defined a different neighbourhood study area than Mr. Levac's.

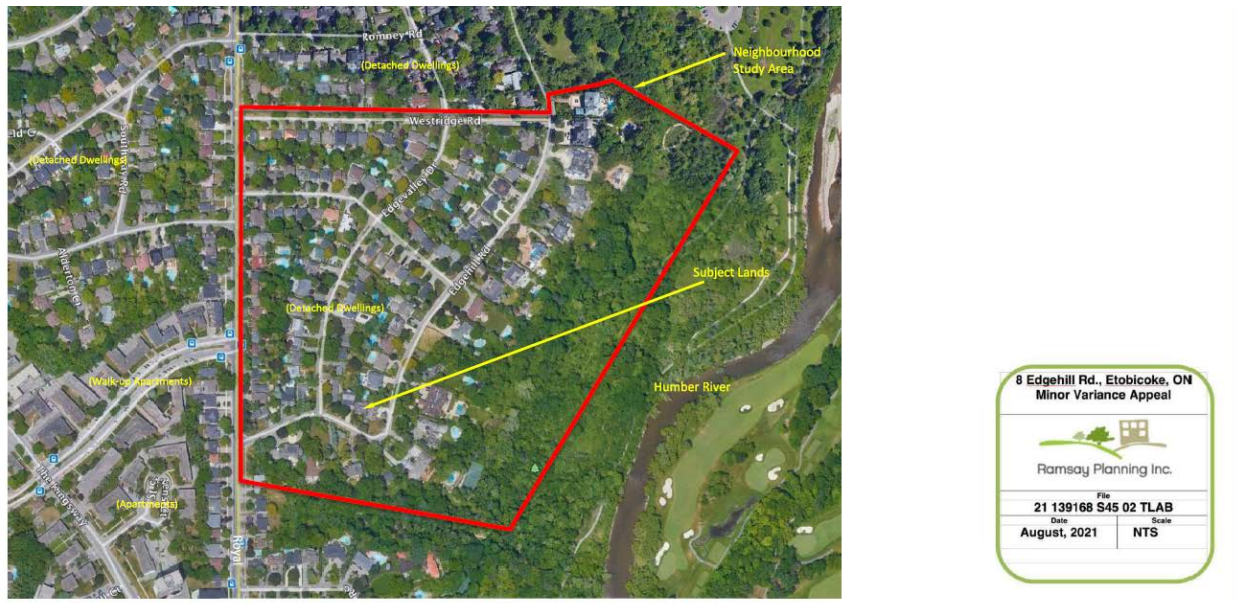


Figure 2: Ramsay Neighbourhood Context Map

Consistent with the guidance of the OP, Mr. Ramsay identified an Immediate Context Area. Mr. Ramsay's Immediate Context Area included the lots on both sides of Edgehill Rd from the intersection with Royal York Rd to the intersection with Colwood Rd. In Mr. Ramsay's opinion, there is not a significant difference in character between the geographic and immediate context areas – both areas comprise large lots and large dwellings.

Unlike Mr. Levac's Neighbourhood Study Area, Mr. Ramsay's Neighbourhood Study Area included the lots on the east side of Edgehill Rd.

Mr. Ramsay described the neighbourhood context as follows:

- It is a quiet, suburban neighbourhood with tree-lined streets, few sidewalks, and large homes on lots with extensive landscaping and large mature trees.
- There are two distinct parts to the area he identified as the geographic neighbourhood, ravine lots (lots on the south and east sides of Edgehill Rd which back onto the Humber River) and non-ravine lots.
- Ravine lots are large, deep lots with wide frontages, but development on them is limited to the tableland portions of the lots.
- The neighbourhood is characterized by a mix of 1, 1½ and 2½ storey houses. There are no “true” three storey houses in the neighbourhood, rather there are houses with a “half storey” in the roofline of the house and/or in the form of dormers or projections.

ANALYSIS, FINDINGS, REASONS

Counsel for the Parties agreed that compliance with the requirements of the PPS and the Growth Plan would not be contested. I accept the evidence contained in Mr. Levac’s Witness Statement that the application is consistent with the PPS and that it conforms to the Growth Plan.

THE GENERAL INTENT AND PURPOSE OF THE OFFICIAL PLAN

Mr. Levac referred to the Built Form policies of the OP and identified what he said was a recurring theme of the OP, that neighbourhoods are stable but not static and that development must respect and reinforce the character of neighbourhoods.

Mr. Levac cited OP policies he considered relevant, including OP Policy 4.1.5 which sets out criteria for development in *Neighbourhoods*. He summarized the intent and purpose of these policies as being to ensure new development appropriately fits into the surrounding context while respecting and reinforcing the established character of the neighbourhood. He also noted that the OP goes to great lengths to describe how the prevailing character is to be evaluated.

- **Official Plan Policy 4.1.5**

Study Areas

The Neighbourhood Study areas defined by Mr. Ramsay and Mr. Levac differ in that Mr. Levac did not include the lots on the south and east sides of Edgehill Rd. The OP contains guidance for the identification of an Immediate context in addition to the broader study area. An immediate context is defined as the properties that face the same street as the proposed development in the same block and the block opposite the proposed development, i.e., the properties facing the street for the length of a block. In this case, Mr. Ramsay included the area defined as Immediate Context within the Neighbourhood Study Area and Mr. Levac did not.

The practical reality is that the immediately opposite side of the street is unavoidably part of a person's experience of the neighbourhood, and the neighbourhood character, surrounding 8 Edgehill Rd. However, a primary purpose for identifying a Neighbourhood Study Area in the context of OP Policy 4.1.5 is to frame the evaluation of prevailing character with respect, in particular, to prevailing size and configuration of lots, prevailing heights, massing, scale, and density and prevailing setbacks.

The properties on the south and east sides of Edgehill Rd have uniquely different conditions which are reinforced by some different zoning standards than those which apply to the remainder of the neighbourhood. These ravine lots are substantially larger, the minimum frontage is 30m (approximately 100ft), and the minimum front yard setback is 15m. These generous parameters do not prevail in the rest of the study area and taking reference from characteristics of houses on these lots in order to apply them as prevailing features to the rest of the neighbourhood would not fulfil the intent of OP Policy 4.1.5 which is to require that development "fit".

For the purposes of considering "prevailing" characteristics described in OP Policy 4.1.5, the ravine lots on the south and east side of Edgehill Rd should not be included in the analysis.

Development Criteria

Having noted that the OP specifically describes how prevailing character is to be evaluated, Mr. Levac did not proceed to systematically analyze the criteria set out therein. He provided his professional opinion that the proposal respects and reinforces the character of the Neighbourhood by introducing a built form that is complementary to and consistent with those found in the Neighbourhood.

4.1.5 Development in established Neighbourhoods will respect and reinforce the existing physical character of each geographic neighbourhood, including in particular:

- a) patterns of streets, blocks and lanes, parks and public building sites;*
- b) prevailing size and configuration of lots;*
- c) prevailing heights, massing, scale, density and dwelling type of nearby residential properties;*
- d) prevailing building type(s);*
- e) prevailing location, design and elevations relative to the grade of driveways and garages;*
- f) prevailing setbacks of buildings from the street or streets;*
- g) prevailing patterns of rear and side yard setbacks and landscaped open space;*
- h) continuation of special landscape or built-form features that contribute to the unique physical character of the geographic neighbourhood; and*
- i) conservation of heritage buildings, structures and landscapes.*

Mr. Ramsay's opinion was that the application proposes increases in the height, massing and scale, and reductions in setbacks that do not respect and reinforce the physical character of the neighbourhood (and the immediate context). I agree with Mr. Ramsay that criteria c), f) and g) of OP Policy 4.1.5 are worthy of further discussion in this decision.

Data Analysis

Policy 4.1.5 says that the prevailing building type and physical character will be determined by the most frequently occurring form of development in the neighbourhood. Mr. Ramsay asserted that the use of the term means that a quantitative assessment of physical characteristics is required as well as a qualitative one.

Both the Applicant and the Appellant have provided data from the City of Toronto on variances that have been granted in the vicinity (generally for a 12 year period). This data does not fully describe the features of the neighbourhood, but it is the best information available and has been referenced by both Parties.

In his Expert Witness Statement, Mr. Ramsay provided a useful statistical analysis of this data.

Policy 4.1.5 c) Prevailing Heights, Massing, Scale and Density

Massing

Mr. Levac asserted that the massing of the proposal is "not inconsistent" with the neighbourhood.

There was discussion at the Hearing regarding the validity of describing a house in terms of "half storeys". The By-law does not recognize half storeys, if any part of a house has a third level, it would be recognized as a three-storey structure, not a two-and-a-half storey.

Mr. Ramsay clarified that he used the half-storey descriptor as an architectural term, and not a zoning term. He used this term as a means of characterizing the difference in the massing of some of the other examples in the neighbourhood and the massing of the proposal, which he described as a three-storey house.



Figure 3: EX1, Tab 2. Addresses added.

Figure 3 shows the subject property and its abutting properties. Figure 4 shows the front (street) elevation of the proposal.

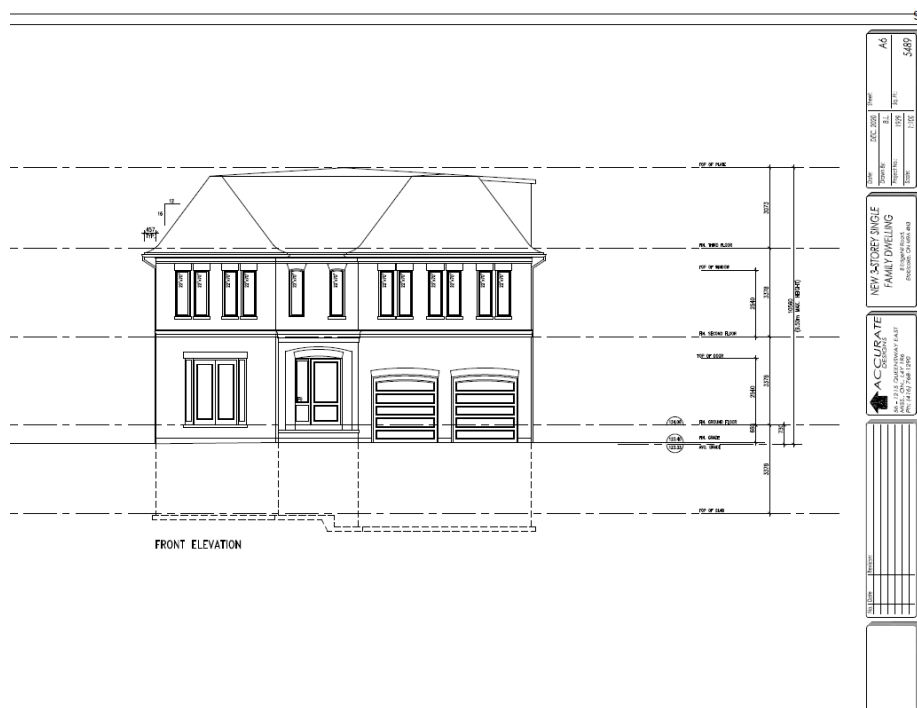


Figure 4: Ex 1, Tab 8



View of 12 Edgehill Rd. looking west from Edgehill Rd.

Figure 5: Ex 5, Tab 7 - 12 Edgehill Rd



View of 6 Edgehill Rd. looking north from Edgehill Rd.

Figure 6: Ex 5, Tab 7 - 6 Edgehill Rd

In the figures above, I have shown two of the closest examples of houses where the massing is similar, while not as tall, as that of the proposal. There are other examples in the photographic evidence in both the Applicant's and Appellant's submissions of similar architectural massing.

While I concur that the massing of the proposal can be described as similar to examples in the neighbourhood, “prevailing” massing is challenging to establish in a neighbourhood with such a wide variety of unique designs and styles.

Beyond the street perspective, the distribution of mass across the site is relevant. Detailed evidence was provided describing the massing on the adjacent property at 6 Edgehill Rd, which is similar to that which is proposed for the subject property.



Figure 7: Ex 1, Tab 2, View from backyard of subject property, looking at 6 Edgehill Rd

I do not find that the massing of the proposal is inconsistent with that of the neighbourhood, and in this regard, I accept the opinion of Mr. Levac.

Prevailing Scale and Density

I note that the scale of the proposal in relation to the lot area is different than many of the examples where similar massing can be seen. In relation to the adjacent house at 10 Edgehill Rd, the proposal is of a markedly different scale.

The Applicant provided a list of variance approvals over the last 12 or so years that have exceeded the FSI (floor space index) permitted in the By-law. (FSI is a ratio calculated by dividing the floor area of a building by the area of the lot). Of the examples located within the Neighbourhood Study Area, four had a density of 0.6 FSI or greater. Of the four examples provided, only one has an FSI as high as the proposal, at 0.65 (4 Edgevalley Dr).

In Mr. Levac’s opinion, the requested variance for FSI is not significantly different than what has been approved in other cases. This opinion does not greatly assist me in

understanding what the *prevailing* density in the neighbourhood is, which the OP Policy 4.1.5 defines as the *most frequently occurring*. It is the *prevailing* density that OP Policy 4.1.5. says development must respect and reinforce. By identifying only one other example in the neighbourhood with an FSI as high as the proposal, Mr. Levac has not established that the proposal respects the prevailing density of the neighbourhood.

Through an Exception to the By-law which applies to the subject property, (900.3.10.(28)(C)), maximum gross floor area (GFA) is regulated in combination with the FSI. The By-law permits a maximum GFA of 165 m² plus 25% of the lot area, which in this case would be 392.56 m². The proposed GFA is 509.9 m².

The Applicant's Disclosure (Exhibit 1) contains a summary of surrounding decisions regarding variances to the "165 m² plus 25% of the lot area" measure. The highest percentage of lot area, in addition to the base 165 m², is at 12 Edgehill Rd, which was approved for a density of 165 m² plus 44%. The requested variance for the subject property is to allow a GFA of 165 m² plus 43.7%. All other examples provided show a lesser density according to this measure.

Mr. Levac has relied upon a qualitative evaluation of the prevailing character of the neighbourhood to come to his opinion regarding the compatibility of the proposed density. In Mr. Levac's opinion, the proposal is not overdevelopment of the site; it is not "boxing in" the other houses.

Mr. Ramsay has provided a thorough analysis of density variance approvals in the neighbourhood over the past decade (or so) to underscore his professional opinion that the proposal constitutes overdevelopment of the property.

The neighbourhood, and the immediate context, are characterized by much larger lots and houses than is typical for Toronto. The larger lots can mitigate the impact of a large-scale development proposal and I understand Mr. Levac's proposition that the proposal will not "box in" the other houses. However, undue adverse impact is only one dimension of the tests which must be applied to an application for variance. The first test, that the proposal maintains the general intent and purpose of the OP, must also be met in order for the proposal to gain approval. OP Policy 4.1.5 c) directs that the proposal respect and reinforce the prevailing density of the neighbourhood. In this regard, I prefer the evidence of Mr. Ramsay and I find that the proposal does not respect and reinforce the prevailing density of the neighbourhood.

Prevailing Height

In addition to a variance for the overall height of the proposal, variances have been requested for front, rear and side wall heights as well as for soffit height.

Mr. Levac's opinion is that the proposed height is compatible with the character of the neighbourhood. The specific expectation of OP Policy 4.1.5 c) is that development will respect and reinforce the *prevailing* heights of the neighbourhood. It is the Applicant's burden to show that this test is met.

The Applicant's Disclosure (Exhibit 1, Tab 29) identified four examples of variance approvals for height in their defined Neighbourhood Study Area. Of the four identified, only one was approved for an overall height taller than the proposal, and in that example, I was advised, the variance related to a cupola rather than a roofline.

Mr. Ramsay asserted that in the most recent history for which data is available, there has been little activity with respect to increases in building height in the area. Mr. Ramsay included in his analysis examples where height variances have been approved for the ravine lots on the east side of Edgehill Rd. I have excluded the ravine lot examples from consideration of prevailing heights for the reasons I outlined above under the heading *Study Areas*. Even if those examples were to be included into consideration, the Applicant has not met the burden of establishing that their proposed height falls into a category of "most frequently occurring" or even that the proposed height exists in substantial numbers.

Mention was made in the Hearing of a recent TLAB decision for the property at 30 Westridge Rd, which is located immediately outside the limits of the study areas defined by both experts. I was provided this decision in books of authority from both Parties to the Hearing.

I found the decision for 30 Westridge Rd instructive in that the matter at issue was a height variance in the context of prevailing heights in a context that partially overlapped with the Study Areas defined for the application before me. Member Yao, in that case, found that the proposed height, at 10.35m did not respect and reinforce the existing physical character and therefore that the intent of section 4.1.5 of the Official Plan was not met.

For the reasons outlined above, I find that the proposed height variance for the application before me, at 8 Edgehill Rd, does not respect and reinforce the existing physical character and that the proposal does not, in respect of height, meet the intent of OP Policy 4.1.5 c).

Conclusion: Policy 4.1.5 c)

For the reasons outlined above, I find that the proposal does not respect and reinforce the existing physical character of the neighbourhood with respect to OP Policy 4.1.5 c).

- Policy 4.1.5 f) Prevailing setbacks from the street

Front lot lines on a street which curves, such as Edgehill, are seldom perpendicular to the side lot lines. This condition often results in buildings which are staggered in a way that exhibits shorter front yard setbacks on one side than the other.

Mr. Levac advised that the front yard setback that triggers the variance is a "pinchpoint" and that the rest of the frontage exceeds the By-law minimum. A diagram showing the

extent of the intrusion into the minimum setback line would have been helpful, but I have not been able to find such a depiction in the materials submitted.

Mr. Ramsay's opinion was that the proposed front yard setback variance will bring the new dwelling closer to the street by reducing the front yard setback from 9.58m to 8.61m, and that this would permit development that is not in keeping with the prevailing pattern of front yard setbacks within the immediate area.

Summaries of approved variances in the neighbourhood have been provided by both experts. I note, in context of Mr. Ramsay's opinion regarding compliance with the prevailing pattern of front yard setbacks, that his analysis concluded that on non-ravine lots a consistent front yard setback of 7.5 to 8.5m exists. (Exhibit Tab 10 paragraph 30).

I have not been able to find a depiction of the proposed building in relation to the front yard setback line in any of the materials submitted. In the understanding of prevailing front yard setbacks, appropriate context diagrams or visual evidence are necessary to understand the prevailing patterns. I do not find that the evidence submitted is sufficient for me to make a determination that the proposal respects the prevailing setbacks from the street

- Policy 4.1.5 g) Prevailing patterns of rear and side yard setbacks

Mr. Levac advised that the rear yard setback of the proposed house is almost double the minimum required under the by-law. The minimum required rear yard setback for an ancillary building, however, is 1.87m and variance 12 seeks to locate a shed/ cabana 0.98m from the rear lot line.

In Mr. Ramsay's opinion, the proposed setback for the ancillary building would not be in keeping with prevailing patterns of accessory building setbacks within the immediate context area and that other buildings in the area are much smaller and subject to lesser setbacks than what is applicable to the subject property.

Mr. Levac noted that the shed on the Appellant's property is closer to the lot line than the proposed shed on the subject property. (I observe that there is a side lot line to rear lot line condition in this instance).

I have been provided opposing opinions from the land use planning experts as to whether the proposed ancillary building respects the prevailing pattern of rear and side yard setbacks. Opinions, however, are not evidence and I find that there is little in the way of substantiation as to the prevailing rear yard setbacks in the neighbourhood.

The high-level purpose of the Official Plan is to outline a vision for growth and general policies for future land use. The high-level purpose of the Zoning By-law is to implement Official Plan policy and contains numerical site standards for matters such as setbacks. A variance of 89cm to a rear yard setback for an ancillary building is, in my opinion, a consideration for the Zoning By-law and is not distinguishable at the level of analysis appropriate to Official Plan policy. On this basis, and in consideration of my

comments above, I do not find that the proposed variance for an ancillary building setback from the rear lot line offends OP Policy 4.1.5 g).

CONCLUSION

I have found that the proposal does not respect and reinforce the existing physical character of the neighbourhood with respect to OP Policy 4.1.5 c). Therefore, I find that the proposal does not maintain the general intent and purpose of the Official Plan.

The overall purpose of the Zoning By-law is to implement the policies of the OP. Having found that the proposal does not meet the general intent and purpose of the OP, I find that the proposal does not therefore meet the overall intent and purpose of the Zoning By-law.

My finding that the proposal does not meet the first test for approval of a variance, regarding the general intent and purpose of the OP, is sufficient for the application for variances to be denied.

It is established jurisprudence that to be approved an application for variances must meet all four tests as outlined in the *Planning Act* s. 45(1). As I have found that the proposal does not meet the general intent and purpose of the Official Plan, I have concluded that the proposal therefore does not meet the overall intent and purpose of the implementing Zoning By-law(s). I shall not proceed with a detailed analysis of the proposal in relation to the general intent and purpose of the Zoning By-law, or the final two tests set out under s. 45(1) as the proposal is rendered unviable by my finding on the first test.

DECISION AND ORDER

The Appeal is allowed. The decision of the Committee of Adjustment regarding the application for variances, dated March 23, 2021, is set aside.

X



Ana Bassios
Panel Chair, Toronto Local Appeal Body