

## DECISION AND ORDER

**Decision Issue Date** Monday, September 19, 2022

PROCEEDINGS COMMENCED UNDER Subsection 53(19) and Subsections 45(1) and 45(12) of the Planning Act, R.S.O. 1990, c. P.13, as amended

**Appellant:** SWANSEA AREA RATEPAYERS GROUP

**Applicant:** VERUS DESIGN INC.

**Subjects:** 53(19), 45(1)

**Property Address:** 34 MORNINGSIDE AVE

**Committee of Adjustment File Numbers:** 21 132714 STE 04 CO (B0033/21TEY), 21 132723 STE 04 MV (A0416/21TEY), 21 132724 STE 04 MV (A0415/21TEY)

**TLAB Case File Numbers:** 22 109965 S53 04 TLAB, 22 109966 S45 04 TLAB, 22 109968 S45 04

**Hearing dates:** July 28, 2022 and September 15, 2022

**DECISION DELIVERED BY TLAB MEMBER G. SWINKIN**

### REGISTERED PARTIES AND PARTICIPANTS

Appellant: SWANSEA AREA RATEPAYERS GROUP

Appellant's Legal Rep.: WILLIAM ROBERTS

Applicant: VERUS DESIGN INC.

Owner: HIGHCREST HOMES

Owner's Legal Rep.: ALEXANDRA WHYTE

Participant: ROBERT HOSKING

Participants: DENNIS and MARILYN RAYMOND

Expert Witness: T. J. CIECIURA

Expert Witness: JOHN MELIGRANA

## **INTRODUCTION**

Applications were made on behalf of the owner, Highcrest Homes (the “Applicant”), of the property municipally known as 34 Morningside Avenue (the “Property”) for consent to sever the Property in two and for zoning variance relief to enable construction and use on the Property of two semi-detached dwellings, each with a secondary suite.

The Committee of Adjustment (the “Committee”) approved the applications and granted the provisional consent and requested variances from Zoning By-law 569-2013, as amended.

That decision of the Committee was appealed by Swansea Area Ratepayers Group (the “Appellant”), an incorporated ratepayer association active in the Swansea neighbourhood of the City of Toronto.

That appeal was heard by the Toronto Local Appeal Body (the “Tribunal”). The Tribunal heard the matter over two hearing days. The Tribunal heard professional opinion evidence from two land use planners, T. J. Cieciora on behalf of the Applicant, and John Meligrana on behalf of the Appellant. The Tribunal also heard evidence from two Participants, John Hosking and Dennis Raymond, neighbour owners in the vicinity of the Property.

## **BACKGROUND**

The Property is located on the north side of Morningside Avenue, between Beresford Avenue to the east and Durie Street, to the west, which is south of Bloor Street West and east of Windermere Avenue. The Property is situated within the neighbourhood referred to as “High Park-Swansea” within the City of Toronto.

Morningside Avenue is identified as a two-lane collector road with on-street parking. Its elevation declines from west to east from 104m at Durie Street to about 85m at Beresford Avenue. This change in elevation results in a slope of about .095 m/m or 9.5%, which is generally considered to be moderately steep.

The Property is located approximately 50m from Rennie Park to the south-east and about 700m south (9 minute walk) of Bloor Street West.

The Property is rectangular in shape, the survey showing it to have a frontage of 11.53m, a depth of 27.41m and a lot area of 315.21 sq.m.

Immediately abutting the Property to the east, at 32 Morningside Avenue, which is the residence of the Raymonds, is a two-storey single-family detached dwelling with a one storey extension and an integral garage.

Immediately abutting the Property to the west is 36 and 38 Morningside Avenue, two-storey semi-detached dwellings with integral garages and elevated main entrances. These properties were created through a consent granted in 2007 (B11/07EYK). The present applications for the Property would result in similar built form and lot configuration to these properties.

Immediately across the street to the south of the Property are 43 and 45 Morningside Avenue, which were created through consent as approved in 2010 (B63/10EYK). Each lot contains a two-storey detached dwelling with integral garages located below the main two floors and elevated main entrances. The proposal for the Property would result in similar massing and design compared to these properties despite the fact that these buildings are detached.

The uses to the north, west, east and south consist primarily of closely spaced low-density ground-related residential dwellings, including single detached residential dwellings and semi-detached residential dwellings, with some apartment buildings along Morningside Avenue, east of the Property.

Dwellings in this neighbourhood are mostly 2-3 storeys in height, with most newer dwellings having integral garages and elevated main pedestrian entrances, while older homes appear to have front yard parking spaces or detached garages in the rear yards which are accessed through side yard driveways.

Lot sizes are generally consistent, however, due to the topographic variations of this neighbourhood, the design and height of dwellings varies throughout the entire neighbourhood. The properties located along streets that have more dramatically changing topography appear mostly as 3-storey dwellings with integral garages, elevated main pedestrian entrances, and dominant stairs along the front yard, while properties which are located along streets with less challenging topographic changes appear as two storey dwellings.

The Property is currently zoned R (f7.5; u2; d0.6) (x798) under the City of Toronto Zoning By-law 569-2013, as amended (the Zoning By-law"). This is a residential zone, with a minimum required lot frontage of 7.5 metres, a maximum of 2 dwelling units per lot, and a maximum density of 0.6 times the lot area. Exception 798 simply requires that a dwelling unit must be located in a detached house, a semi-detached house or a duplex dwelling. As such, semi-detached dwellings are expressly permitted on the Property.

According to Mr. Cieciora, the applications were reviewed by the Toronto Building Department, and each proposed dwelling received Zoning Notices dated November 12, 2020. He was informed by the original applicant (as Mr. Cieciora was only retained after the appeal) that through discussions thereafter with Planning Department Staff, revisions were made by the Applicant to the plans resulting in

adjustment to the height, landscape areas, and FSI variances. For the purpose of the Committee applications, a Zoning Waiver was submitted by the Applicant to reflect those changes.

Subsequently, in May of 2022, the Applicant received a revised Zoning Notice from the Zoning Examination Section of the City Building Department which confirmed the identification of relief sought. However, this Notice identified a zoning deficiency which was overlooked in the first Notice. Although the zoning examiner did identify a deficiency in front yard soft landscaping on the proposed westerly parcel on the first Notice, he did not identify this deficiency for the proposed easterly parcel in that Notice, but did do so on the revised Notice. As such, as this particular head of relief for the easterly parcel was not dealt with by the Committee, the Applicant brought a motion before the Tribunal to allow for a modification of the application for variance relief for this front yard soft landscaping requirement and suggested that on the basis of all the circumstances the requested modification was minor and that it should be allowed without further notice, as provided for in Section 45 (18.1.1) of the *Planning Act*. This will be further dealt with below.

City Development Engineering and Transportation Services had no objections but did recommend standard conditions for consent to sever applications. Community Planning did not submit any materials to the Committee, which, by convention, indicates that they had no comments or concerns with the proposal.

Urban Forestry had no objections but did recommend imposing standard Urban Forestry conditions #2 and #3 with regard to any required permits to injure or destroy private trees and regarding payment in lieu of street tree planting.

The Committee heard the consent and minor variance applications on January 12, 2022, and approved the applications subject to conditions.

The Appellant appealed the Committee's decisions.

It is to be noted that the Notices of Appeal actually set out no specifically articulated grounds of appeal but merely indicate opposition and recite the particulars of the proposed severance and enumerate the requested heads of variance relief sought by the Applicant, which had been granted by the Committee. This is a significant defect in the Notices of Appeal from a body which is regularly active before the Committee and the Tribunal.

THE VARIANCES APPROVED BY THE COMMITTEE

Under Committee File 'A' 415/21TEY with respect to Part 2 (the conveyed lot)

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

1. Chapter 10.10.30.10.(1)(B), By-law 569-2013  
The minimum required lot area is 225 m<sup>2</sup>. In this case, the lot area will be 157.8 m<sup>2</sup>.
  
2. Chapter 10.10.30.20.(1)(A), By-law 569-2013  
The minimum required lot frontage is 7.5 m. In this case, the lot frontage will be 5.77 m.
  
3. Chapter 10.5.100.1.(1), By-law 569-2013  
If an individual private driveway leads directly to the dwelling unit, a driveway that is in the front yard or passes through the front yard may be a maximum of 2.6 m in width. In this case, the driveway will measure 3.06 m wide.
  
4. Chapter 10.10.40.70.(2), By-law 569-2013  
The minimum required rear yard setback is 7.5 m.  
The new dwelling will be located 6.54 m from the rear (north) lot line.
  
5. Chapter 10.10.40.30.(1)(B), By-law 569-2013  
The maximum permitted building depth is 14 m. The new dwelling will have a depth of 14.89 m.
  
6. Chapter 10.10.40.40.(1)(A), By-law 569-2013  
The maximum permitted floor space index is 0.6 times the area of the lot (94.68 m<sup>2</sup>).  
The new dwelling will have a floor space index equal to 1.14 times the area of the lot (179.88 m<sup>2</sup>).
  
7. Chapter 10.10.40.10.(1)(A), By-law 569-2013  
The maximum permitted height of a building or structure is 9 m. The new dwelling will have a height of 10.57 m.
  
8. Chapter 10.10.40.10.(2)(A)(i)(ii), By-law 569-2013  
The maximum permitted height of all front and rear exterior main walls is

7 m.

The new dwelling will have a front exterior main wall height of 8.95 m and a rear exterior main wall height of 9.24 m.

9. Chapter 10.5.40.60.(1)(C), By-law 569-2013

A platform without main walls, attached to or less than 0.3 m from a building, with a floor no higher than the first floor of the building above established grade may encroach into the required rear yard setback 2.5 m if it is no closer to a side lot line than 1.19 m. In this case, the platform will encroach into the required rear yard setback and will be located 0.71 m from the side (west) lot line.

10. Chapter 10.5.50.10.(1)(D), By-law 569-2013

A minimum of 75% of the front yard must be soft landscaping (11.49 m<sup>2</sup>). In this case, 72% (11.06 m<sup>2</sup>) of the front yard will be maintained as soft landscaping.

Under Committee File 'A' 416/21TEY with respect to Part 1 (the retained lot)

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

1. Chapter 10.10.30.10.(1)(B), By-law 569-2013

The minimum required lot area is 225 m<sup>2</sup>. In this case, the lot area will be 157.8 m<sup>2</sup>.

2. Chapter 10.10.30.20.(1)(A), By-law 569-2013

The minimum required lot frontage is 7.5 m. In this case, the lot frontage will be 5.77 m.

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

The minimum required front yard setback is 6.34 m.

The new dwelling will be located 5.7 m from the front (south) lot line.

4. Chapter 10.5.100.1.(1), By-law 569-2013

If an individual private driveway leads directly to the dwelling unit, a driveway that is in the front yard or passes through the front yard may be a maximum of 2.6 m in width. In this case, the driveway will measure 3.06 m wide.

5. Chapter 10.10.40.70.(2), By-law 569-2013

The minimum required rear yard setback is 7.5 m.

The new dwelling will be located 6.4 m from the rear (north) lot line.

6. Chapter 10.10.40.30.(1)(B), By-law 569-2013

The maximum permitted building depth is 14 m. The new dwelling will have a depth of 14.89 m.

7. Chapter 10.10.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index is 0.6 times the area of the lot (94.68 m<sup>2</sup>).

The new dwelling will have a floor space index equal to 1.15 times the area of the lot (180.93 m<sup>2</sup>).

8. Chapter 10.10.40.10.(1)(A), By-law 569-2013

The maximum permitted height of a building or structure is 9 m. The new dwelling will have a height of 10.57 m.

9. Chapter 10.10.40.10.(2)(A)(i)(ii), By-law 569-2013

The maximum permitted height of all front and rear exterior main walls is 7 m.

The new dwelling will have a front exterior main wall height of 8.95 m and a rear exterior main wall height of 9.24 m.

## **MATTERS IN ISSUE**

The Applicant takes the position that the severance and associated variances are appropriate and conform with applicable planning policy. The Appellant does not accept that view.

## **JURISDICTION**

### **Provincial Policy – S. 3**

A decision of the Tribunal must be consistent with the 2020 Provincial Policy Statement ('PPS') and conform to the Growth Plan for the Greater Golden Horseshoe for the subject area ('Growth Plan').

### **Consent – S. 53**

The Tribunal 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).



### **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.

### **MOTION TO AMEND THE APPLICATION**

As was adverted to above, due to the omission of notice of a zoning deficiency with respect to front yard soft landscaping in the first Zoning Notice, counsel for the Applicant brought a motion requesting permission to amend the application relating to the easterly proposed parcel, referenced as Committee File 'A' 416/22 TEY, to add in a request for variance from this requirement. The Zoning By-law prescribes a minimum provision of soft landscaping of 75%. As it turned out, in addition, although the amount of soft landscaping to be provided was correctly set forth on the application, the computation of the percentage of that provision was incorrect with respect to the relief addressed regarding the westerly parcel.

Consequently, the requested amendments to the applications would read as follows:

Parcel 34A (File 'A' 416/22TEY) - A minimum of 75% of the front yard must be soft landscaping (24.45 m<sup>2</sup>). In this case, 34% (11.06 m<sup>2</sup>) of the front yard will be maintained as soft landscaping.

Parcel 34B (File 'A' 415/22TEY) - A minimum of 75% of the front yard must be soft landscaping (24.84 m<sup>2</sup>). In this case, 39% (13.05 m<sup>2</sup>) of the front yard will be maintained as soft landscaping.

Counsel for the Applicant, on the basis of the evidence of Mr. Cieciora, submitted that it was always clear from the applications that there was a deficiency of front yard soft landscaping (in that the variance applications were essentially mirror applications with necessary adjustments for the parcel specific details) and that the extent of soft landscaping was apparent from the plans filed. As such, interested parties, such as the Appellant, had effective notice of the circumstances and an opportunity to comment thereon. In keeping with this, she suggested that the amendments should be treated as

minor and, under Section 45 (18.1.1) of the *Planning Act*, should be permitted without further notice.

Counsel for the Appellant resisted the request for immediate authorization of the amendment on the basis that the Tribunal might then be prejudging the issue of the magnitude of the relief requested, i.e., is it minor, before hearing all of the evidence, as the Tribunal had not then heard from his expert witness.

The Tribunal disposed of the motion by standing down its disposition until the conclusion of the evidence and advised that its disposition would form part of the Final Decision, which prompted Mr. Roberts to withdraw his objection. For the reasons which follow, the Tribunal will allow the motion and authorize the amended relief as set forth above.

## **EVIDENCE**

As noted above, the Tribunal heard from two land use planners. Each planner did a comprehensive canvas of the relevant policy at both the Provincial level as well as at the City level.

### Provincial Policy

Mr. Cieciora canvassed the relevant policies of the Provincial Policy Statement, 2020 ("PPS") as well as the Growth Plan for the Greater Golden Horseshoe, 2020 ("Growth Plan") and gave a summary view that the proposed redevelopment here represented gentle intensification in an area that is well served by community facilities, transit and municipal infrastructure. It will provide additional needed housing. Consequently, the requested approvals can be treated as being consistent with the PPS and in conformity with the Growth Plan.

Mr. Meligrana also summarily canvassed the Provincial policy documents and expressed the view that the Swansea area was an established community which would be more sensitive to changes through variance. He ultimately took no firm position on Provincial policy consistency and conformity.

Based upon the evidence, the Tribunal accepts the opinion of Mr. Cieciora that the approvals requested here do not create any issue with respect to Provincial policy, can be treated as consistent with the PPS and conform with the Growth Plan.

### City Official Plan Policy

With the advent of the modifications brought about by Official Plan Amendment 320, as approved by the Provincial tribunal in 2018, the focus of the planning analysis was guided by Policy 4.1.5 of the City Official Plan (the “OP”). This section of the Neighbourhoods designation land use policy deals with development criteria.

For ease of reference, the text of that policy is here reproduced:

#### **Policy 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.

The geographic neighbourhood for the purposes of this policy will be delineated by considering the context within the Neighbourhood in proximity to a proposed development, including: zoning; prevailing dwelling type and scale; lot size and configuration; street pattern; pedestrian connectivity; and natural and human-made dividing features. Lots fronting onto a major street shown on Map 3 and designated Neighbourhoods are to be distinguished from lots in the interior of the block adjacent to that street in accordance with Policy 6 in order to recognize the potential for a more intense form of development along major streets to the extent permitted by this Plan.

The physical character of the geographic neighbourhood includes both the physical characteristics of the entire geographic area in proximity to the proposed development (the broader context) and the physical characteristics of the properties that face the same street as the proposed development in the same block and the block opposite the proposed development (the immediate context). Proposed development within a Neighbourhood will be materially consistent with the prevailing physical character of properties in both the broader and immediate contexts. In instances of significant difference between these two contexts, the immediate context will be considered to be of greater relevance. The determination of material consistency for the purposes of this policy will be limited to consideration of the physical characteristics listed in this policy.

In determining whether a proposed development in a Neighbourhood is materially consistent with the physical character of nearby properties, only the physical character of properties within the geographic neighbourhood in which the proposed development is to be located will be considered. Any impacts (such as overview, shadowing, traffic generation, etc.) of adjacent, more intensive development in another land use designation, but not merely its presence or physical characteristics, may also be considered when assessing the appropriateness of the proposed development.

[Text deleted as not relevant to this appeal]

The prevailing building type and physical character of a geographic neighbourhood will be determined by the most frequently occurring form of development in that neighbourhood. Some Neighbourhoods will have more than one prevailing building type or physical character. The prevailing building type or physical character in one geographic neighbourhood will not be considered when determining the prevailing building type or physical character in another geographic neighbourhood.

While prevailing will mean most frequently occurring for purposes of this policy, this Plan recognizes that some geographic neighbourhoods contain a mix of physical characters. In such cases, the direction to respect and reinforce the prevailing physical character will not preclude development whose physical characteristics are not the most frequently occurring but do exist in substantial numbers within the geographic neighbourhood, provided that the physical characteristics of the proposed development are materially consistent with the physical character of the geographic neighbourhood and already have a significant presence on properties located in the immediate context or abutting the same street in the immediately adjacent block(s) within the geographic neighbourhood.”

As will be seen from the text of this policy section, the tests set forth therein are to be assessed against a background of properties representing what the section refers to as the geographic neighbourhood and the immediate context.

Mr. Cieciora delineated a geographic neighbourhood bounded by the properties fronting Deforest Road to the north, the properties fronting Kennedy Avenue to the east,

the properties fronting Windermere Avenue to the west and the properties north of Waller Avenue to the south.

His rationale for these boundaries is that the same zone category applies virtually throughout, save for some properties around the intersection of Morningside Avenue and Ellis Avenue, the form of buildings are generally consistent in being 2 or 3 storeys, the lot sizes are generally consistent and the properties are ranged along a grid street pattern. The Tribunal understands that this delineated neighbourhood comprises something over 500 properties.

For Mr. Cieciora, the immediate context is both sides of Morningside Avenue lying between Durie Street and Beresford Avenue, which comprises 14 lots.

Mr. Meligrana delineated a geographic neighbourhood much more extensive than that of Mr. Cieciora. Although its eastern and western boundaries are the same (save for a section along Kennedy Avenue which has unit restrictions and is excluded), he takes his northern boundary two blocks further north to run up to the rear lot lines of properties on the north side of Ostend Avenue. This comes up to the edge of the Mixed Use designation applying to properties fronting Bloor Street West. This northern boundary was apparently selected as it is the northern boundary of the Swansea Secondary Plan area. Mr. Meligrana says that his geographic neighbourhood contains 740 lots as against that of Mr. Cieciora's containing something over 500.

But more starkly, Mr. Meligrana interpreted the reference to "block" in the policy regarding immediate context as including all properties included in the four street bounded block containing the Property so that his immediate context includes all properties on both sides of Beresford Avenue and Durie Avenue all the way up to DeForest Road as well as properties to the south down to Waller Avenue. This represents considerably more properties (127 properties by Mr. Cieciora's count) than the 14 delineated by Mr. Cieciora and is a marked departure from how this policy direction is customarily treated by City staff and planning consultants who work with this OP. It sidesteps the qualification of facing the same street.

The Tribunal questioned Mr. Meligrana on his interpretation of the policy. He suggested that this was his understanding of the words used in the text, that a block could be properly understood as he treated it and that this would provide perhaps a different perspective. He advised the Tribunal, on the Tribunal's inquiry (as he is a university professor in Kingston), that he had not tested this approach with any other planners accustomed to working with the Toronto OP.

Mr. Meligrana provided an analysis of lot areas and lot frontages for semi-detached dwellings within the neighbourhood. The analysis demonstrates that there are 20 existing semi-detached dwellings located on lots that are smaller than what is proposed at 34 Morningside Avenue. Although semi-detached dwelling lots are not the predominant form of lot in the area, the building form is permitted by the Zoning By-law and there is a presence of such lots in the area. Most pointedly, there are four such lots right along the street to the west in the immediate context as follows: 22 and 22A

Morningside Avenue (6.71m frontage X 24.4m depth, for an area of 163.7m<sup>2</sup>), and 36 and 38 Morningside Avenue (5.58m frontage x 27.4m depth, for an area of 152m<sup>2</sup>)

Mr. Cieciora takes the position that the data provided by Mr. Meligrana further supports Mr. Cieciora's opinion that the applications are appropriate and do not represent overdevelopment, considering that there are smaller lots for semi-detached dwellings that fit in harmoniously with the existing neighbourhood and form part of the existing character. Thus, the redevelopment of 34 Morningside Avenue, as proposed, would not destabilize this neighbourhood as demonstrated by the other lots which have been redeveloped in a similar manner as proposed by the present applications.

Mr. Meligrana offers the opinion that the proposal does not follow the prevailing pattern of massing in the Study Area, and is therefore not in conformity with the provisions of Policy 4.1.5 of the OP. In coming to this conclusion, it appears to the Tribunal that Mr. Meligrana is using FSI as a proxy for massing.

Mr. Cieciora responds by acknowledging that while the prevailing pattern of existing FSI is difficult to identify, he disagrees with Mr. Meligrana's statement that the proposal at 34 Morningside Avenue does not meet the general intent and purpose of the City's Official Plan. His explanation of this disagreement is that lots which have challenging grading/elevation tend to have higher FSI due to the Zoning By-law's calculation which may include the basement GFA, as is the case here. Based upon his Committee decisions research, redevelopment consistently seeks higher FSIs than permitted. Even as such, Mr. Cieciora does point out that there are larger FSIs in the neighbourhood which collectively form the character of this area. Again, he declares that the proposed redevelopment of the Property will not destabilize this neighbourhood considering that there are existing larger dwellings with higher FSIs. He asserts that Mr. Meligrana fails to mention how the varying elevations play a key role in the FSI numbers. In addition, the proposed FSI is within what has already been approved in the neighbourhood and if he concludes this is a stable neighbourhood today, not one of those decisions has destabilized the neighbourhood.

There was discussion by both planners of the other features mentioned in Policy 4.1.5, such as building height, front yard setback, building type, driveway width and rear yard setback, which will be discussed in the Analysis section below.

It is worth noting here that both planners commented on the difficulty of securing reliable and comprehensive data with respect to the various criteria enumerated in Policy 4.1.5. The problem derives from the reference to 'prevailing' throughout the text. From the Tribunal's experience with evidence on the application of this policy, the planning profession seems driven to a mathematical exercise in order to respond to this direction to capture what is prevailing. In order to have integrity, such an exercise must be founded upon comprehensive and reliable data. Unfortunately, access to such data is not always readily available. Both planners advised that Committee decision data is readily available and essentially precise and reliable but, of course, is only representative of random properties. Other City sources of data are not necessarily as precise or comprehensive. In some cases, care must be taken because by-law

standards have changed over time (e.g. the method of calculation of established grade and height under the former Zoning By-law 438-86). Mr. Meligrana turned to the use of data from the Municipal Property Assessment Corporation as an additional source, which Mr. Cieciora criticized as being based on a somewhat different methodology than used by the City for zoning purposes. Survey information is particularly valuable but access to property surveys is not centralized or universally available.

Mr. Meligrana was driven to declare, in cross-examination, that the authors of this OP policy text didn't appreciate how hard it is to get data to determine the various prevailing conditions.

This exasperation is understandable but the Tribunal has a further concern with the formulation of the policy so as to compel a simple broad based arithmetic approach to ensuring the integrity of the Neighbourhoods. A too literal reading of Policy 4.1.5 can have the insidious effect of running at counter purposes with the Provincial policy goals of intensification and providing needed housing. Despite the policy in OPA 320 having been approved as being consistent with the PPS, it is critical to remember that the obligation to ensure consistency with Provincial policy is an ongoing and continuous obligation in every instance. As this panel articulated in the recent *251 Old Forest Hill Road* Tribunal appeal decision, context must always inform the decisionmaking even if it appears to create turbulence with what might antiseptically be referred to as prevailing norms.

### The Participants

The Tribunal heard from two persons who registered as Participants, Robert Hosking, who resides at 1 Beresford Avenue, and Dennis Raymond, who resides at 32 Morningside Avenue.

The Hosking residence is located at the northwest corner of Morningside Avenue and Beresford Avenue, which Mr. Hosking described as a geographic low point of the neighbourhood, given that all of Morningside Avenue, Beresford Avenue and Rennie Terrace slope down to it as the low point at the confluence of these streets. According to Mr. Hosking, the area around his house is subject to flooding during and after significant rainfall events, to the point that the storm sewers become surcharged and spout water and on one occasion at least, the outside water level was up to his knees.

Related to this, his concern was that the proposed redevelopment of the Property was likely to compound the problem of flooding due to the removal of permeable green space.

He spoke about a potential degradation of the liveability of the neighbourhood by the introduction of the additional density represented by the redevelopment proposal. In addition to the reduction of front yard soft landscaping this tied into a very practical matter, the availability of street parking. In his assessment, the proposal will give rise to four new dwelling units and that, as he perceived it, could translate into the need to park

eight vehicles, on the premise of two per dwelling unit. The proposal does not provide for this level of on-site parking, therefore in his view, there will be demand for on-street parking, which is already at a premium. Furthermore, the introduction of two driveways wider than the permitted 2.6m in width threatens to eliminate an existing street parking space in front of the Property now.

Finally, as he has a view from his property along the rear yards of the properties to the west, including the Property, he was concerned that the reduction in the rear yard setback will compromise that westerly open space view.

Mr. Raymond lives in the property immediately adjacent to the east of the Property. His house is a two storey dwelling with a one storey extension. Mr. Raymond described how his house has four windows on its west side, for which he provided photographic evidence, which windows provide light into the dwelling. His concern with the redevelopment proposal on the Property is twofold. Firstly, given its height and length, he is concerned that the light into his house will be seriously diminished. Secondly, as the plans for the proposed dwelling on the Property show five windows on the east elevation, he is concerned about invasion of privacy.

As with Mr. Hosking, he expressed concern about the removal of open space and the potential for increased flooding.

## **ANALYSIS, FINDINGS, REASONS**

Without going into the detail articulated by both planners, the Tribunal here observes that whereas Mr. Meligrana proceeded to conduct his assessment on a broader area and by taking a more numerical approach, meaning a quantification of instances and calculation of averages, Mr. Cieciora's focus was more on the immediate context and how the proposal would fit within its immediate setting. The Tribunal prefers the approach adopted by Mr. Cieciora and does so on its conclusion, having considered the entirety of the evidence, that the proposal will not differ dramatically from its built environment on Morningside Avenue.

The text in Policy 4.1.5 is explicit that although there is to be an examination of the broader neighbourhood in determining the prevailing character of the area, the characteristics of the immediate context are of greater relevance.

In this regard, it is very salient to the Tribunal that the developments at 36 and 38 Morningside Avenue and at 44 and 45 Morningside Avenue, which were approved in the very recent past and reflect the nature and character of redevelopment in this area, are very much akin to the proposal. The frontage at 36 and 38 Morningside Avenue is 5.58m as against the 5.77m proposed by these applications. All of these redevelopments have integral garages and elevated principal entrances.



It was the evidence of Mr. Cieciora that within the immediate context combined, 7 out of the 14 (excluding the Property) lots have less than the minimum required lot frontage of 7.5m for a semi-detached dwelling. This accounts for 50% of the immediate neighbourhood. Out of the 7 lots, 4 lots have similar or smaller lots frontages than proposed in this instance. He further advises that a large number of lots within the entire neighbourhood study area (243 lots or 42.5% of the lots within the study area) have a lot area that is at or less than the minimum required lot area for a semi-detached dwelling.

The Tribunal here revisits the approach advanced by Mr. Meligrana regarding the delineation of the immediate context. His approach is entirely out of step with that taken by planners who regularly deal with the Toronto OP. The Tribunal here observes that the clear purpose of this OP provision was to differentiate the experience of place at a pedestrian plane in the immediate vicinity of the property. A property is more directly affected by properties in its immediate vicinity, which in their collectivity create what the OP refers to as character. The immediate context, as defined, is to provide assistance in visualization of the microenvironment, being the environment which the OP treats as of more relevance and importance. The macroenvironment of the broader context provides secondary assistance in the analysis of character. Mr. Meligrana's approach bleeds the immediate context into the broader neighbourhood so that the differentiation becomes vague and essentially impossible.

The immediate context is also here particularly relevant on the issue of height of the structure. Not surprisingly, the planners have gleaned data regarding height variances in the study area and have come to different conclusions.

Mr. Cieciora advises that the new 2-storey semi-detached dwellings will have an overall height of 10.57m along a portion of Morningside Avenue where similar variances for building heights have been approved for: 10.8m at 24 Morningside Avenue, 10m at 36 Morningside Avenue, 10m at 38 Morningside Avenue, and 9.8m at 44 Morningside Avenue.

To bolster this, Mr. Cieciora advises that the proposed new two-storey semi-detached house includes a sloped hip roof design, which was designed in a manner to respect and reinforce the existing character of the neighbourhood, consisting mostly of sloped roof designs.

From the data, Mr. Meligrana has deduced that the proposal here, as regards height, will not be in keeping with the prevailing norm, especially as he identifies the granted variance as being the third highest in the past ten years.

However, a pure quantitative analysis fails to account for the very significant slope of Morningside Avenue between Durie Avenue and Beresford Avenue. The Property is at the 'bottom end' of this slope and this suggests that the perception of the height of this structure will accordingly be blunted and will diminish any impact as a result. That is, the at-grade elevation of the structure will be lower than the at-grade elevation of its neighbour to the west and so on up the street westerly. The Tribunal

believes that this geographic fact is very relevant to the question of the character of this immediate area and how the proposal will fit into its immediate context.

Finally, on the point of height, Mr. Cieciora brought to the Tribunal's attention that in October, 2021, the Ontario Land Tribunal rendered a decision on certain appeals against Zoning By-law 569-2013 dealing with the matter of permitted height of buildings in the Residential zone districts. It was the determination of the Ontario Land Tribunal that the maximum permitted height in the Residential zone districts, including the R district involved here, should be raised by 1m to 10m., and has directed amendment of the Zoning By-law accordingly. As such, Mr. Cieciora points out that the effective excess on these applications is now reduced to 0.57m, which he treats, in all of the circumstances as clearly minor. The Tribunal is inclined to agree with this assessment in all of the circumstances.

Mr. Meligrana has calculated that the average front yard setback on the north side of Morningside Avenue works out to 6.7m and concludes that the proposed setback here is therefore deficient and not in keeping with the prevailing setbacks. Although the front yard setback for the proposal is sought to be varied from the required 6.74m to 5.7m, this relates only to the intended parcel to be conveyed as the retained parcel will conform. There are two associated critical factors here that must be considered. Firstly, the property immediately to the east, 32 Morningside Ave., presently has a front yard setback of 4.28m. Secondly, the Property presently has a front yard setback of 5.42m. Consequently, the proposal will actually bring the front yard setback on the Property closer to the by-law standard than it is at present. And the result will better integrate the streetscape in that the transition from the Property to the property to the east will be less disharmonious.

Mr. Cieciora explained it best in his witness statement when discussing the intent of the Zoning By-law and I will transcribe those paragraphs here:

“15.9.10.1 The intent of the minimum front yard setback, in part, is to keep a consistent and pleasant streetscape while mitigating any shadowing issues on the adjacent dwellings. It also provides for an amenity area, open space, and “green” area within the Subject Property.

15.9.10.2. This variance only pertains to 34B Morningside Avenue (Part 1). The calculation takes the average between the two abutting lots in the Residential Zone category to determine the required front yard setback. Considering that 34B Morningside Avenue is labelled as the retained lot, the front yard calculation uses the existing front yard setback of 36 Morningside Avenue and the proposed front yard of 34A Morningside Avenue. Consequently, the required front yard setback for Part 1 is 6.32 metres, whereas 5.7 metres is proposed.

15.9.10.3. However, if this application was for a single-detached dwelling, the calculation of the front yard requirement would include the existing front yard setbacks of 32 and 36 Morningside Avenue. If so, the required front yard setback would be 5.63 metres, which the semi-detached house complies with on both dwellings.

15.9.10.4. Thus, considering that a proposed semi-detached house would comply with this requirement if it was considered as a single detached dwelling, the proposed front yard for 34B Morningside Avenue does meet the general intent of the by-law as it is in a location that provides a decent transition between 32 and 36 Morningside Avenue, as well as maintains a consistent and pleasant streetscape.”

It was explained by Mr. Cieciora that the reduction in front yard soft landscaping was largely due to the provision of an integral garage and the necessity to accommodate the elevated principal entrance. It was Mr. Cieciora’s opinion that the reduction in soft landscaping was modest in the circumstances and consistent with other properties in the neighbourhood.

In his view, the higher main wall heights were affected by the identification of established grade on this site, which will translate to a value which is not perceived as great from the street as the figure would suggest, and that this was a condition which is found throughout the neighbourhood. Furthermore, in his opinion, any visual effect would be mitigated by architectural details which are to be employed on the front elevation.

Concern had been expressed by the Participant neighbours with respect to the request for reduction of the rear yard depth. Mr. Cieciora explained that as the proposal includes an integral garage, whereas many properties in the neighbourhood have side yard driveways and rear yard garages, this will allow for the rear yard to remain as open space and function as amenity area and area for stormwater infiltration. The proposal is compliant with the rear yard soft landscaping requirements, which, he asserts, demonstrates that the proposed open space in the rear yard is in-keeping with the existing character of the neighbourhood.

The matter of lot area, massing and FSI was discussed above. These parameters generate different quantitative outcomes as between detached and semi-detached dwellings. Here again the Tribunal considers it important to recognize that semi-detached dwellings are an authorized form of development in this neighbourhood both by policy and by zoning permission. The Tribunal recognizes that semi-detached dwellings are not the predominant form of development in this area but they are intended to be part of the neighbourhood by policy and law.

Mr. Meligrana advanced an opinion that the proposal here represented a novel dwelling type which was not present in the area or contemplated by policy. This opinion rested upon his view that the proposal was a semi-detached duplex dwelling. As such, he was driven to the conclusion that the proposal does not follow any prevailing dwelling type and therefore does not conform with clause (c) of Policy 4.1.5.

Mr. Cieciora was at pains to dispel this characterization by clarifying that these were semi-detached dwellings with secondary suites. This is a recognized structure under the Zoning By-law and does not remove the buildings from characterization as semi-detached dwellings. The Tribunal finds this to be the accurate characterization and does not accept that this is a novel form of development.

In fact, in this regard, the proposal satisfies the housing objectives of the OP by providing opportunities for additional residential occupation within a fully serviced, transit accessible, community.

### The Participant Issues

Given the topography in this location, and the Tribunal's knowledge of wet weather flow and stormwater management issues in the City, the Tribunal does not doubt the testimony of the Participants that during and after heavy rainfall events, they experience stormwater issues that are irritating and which may even cause damage. However, the Property is already a developed property with zoning entitlements that will permit redevelopment. As was noted by Mr. Cieciora, the City's Engineering Division did comment on this application and had no objection. It is to be expected that the Applicant's plans will be scrutinized for compliance with proper grading and drainage requirements and approved accordingly. Furthermore in this regard, there was no evidence before the Tribunal that there will be any greater runoff from the Property after redevelopment than before.

With respect to Mr. Raymond's concern regarding his windows, the Tribunal recognizes that the Applicant is respecting the minimum easterly side yard setback requirement and that a two storey dwelling is permitted on the Property. There may indeed be some solar access impact but the Tribunal does not see this as a situation where the Raymond dwelling will be plunged into total darkness. This is an urban setting and there can be no expectation of open views or unqualified privacy given the standards and entitlements under the Zoning By-law.

Regarding the matter of loss of street parking, it is to be noted that the redevelopment proposal will be providing on-site parking in compliance with the Zoning By-law and as such, no variance relief is being requested in this regard.

The Tribunal does not accept Mr. Hosking's forecast of parking demand of two spaces per dwelling unit. This is inconsistent with the research findings of the City itself in its published data and reports and the revisitation of parking standards most recently in the Zoning By-law.

However, street parking is a valuable commodity, as particularly evidenced by the photographic evidence provided by Mr. Hosking. In this regard, the Tribunal will merely say that it understood the explanation provided by Mr. Cieciora that the driveway width relief requested, to permit a 3.2m wide driveway rather than the maximum width of 2.6m, was to have the driveway match the width of the garage. This width permission will only relate to the portion of the driveway on the Property. The segment of driveway from the south lot limit to the paved street is within the City right-of-way and it is up to the City to determine the width of curb cut which it will authorize. The Tribunal expects that in this exercise, the City will have regard for preserving as much on-street parking as possible and will act accordingly in authorizing the curb cut.

### The Tribunal's Conclusions Based Upon The Evidence

Mr. Cieciora provides a summary overview opinion that the established neighbourhoods of the City of Toronto are experiencing transition and redevelopment, and this neighbourhood has been experiencing reinvestment and revitalization. This proposal is an example of where the new semi-detached dwellings fit within the immediate, adjacent and broader context and will add to the functionality of the Property for the families/occupants therein. The Tribunal concurs in this view.

For the reasons expressed above, the Tribunal prefers the evidence of Mr. Cieciora and accepts his express opinion that the requested consent to sever and associated variances have regard for matters of provincial interest listed in Section 2 of the *Planning Act*, are consistent with the PPS, conform to the Growth Plan, do not create any undue impacts from a planning perspective, are in keeping with the existing and planned character of the neighbourhood, and fulfill the criteria within s.51(24) of the *Planning Act* as well as the four tests within s.45 of the *Planning Act*, individually and collectively.

## **DECISION AND ORDER**

In light of the foregoing conclusion and the Tribunal's decision to allow the motion to amend the applications, as a technical matter, the Tribunal will be allowing the appeals in part simply for the purpose of effecting the modification of the relief requests concerning front yard soft landscaping. In all other respects, the Tribunal endorses the decisions of approval of the Committee as are referenced below in the formal Order. Those decisions will be subject to the two conditions requested by the Urban Forestry Division, as accepted by the Applicant.

Similarly with the consent appeal, it will be allowed in part simply to amend Condition 9 so as to accord with the recent amendment to the *Planning Act* and allow the Applicant two years, instead of one, to satisfy the other imposed conditions. In all other respects, the Tribunal endorses the Committee decision to grant provisional consent on the conditions imposed by the Committee, as now amended by the Tribunal in the Order below.

The Tribunal therefore hereby **ORDERS** as follows:

### The Variance Decisions

Under Committee File 'A' 415/21TEY with respect to Part 2 (the conveyed lot)

**THE FOLLOWING REQUESTED VARIANCES TO THE ZONING BY-LAW ARE APPROVED:**

1. Chapter 10.10.30.10.(1)(B), By-law 569-2013  
The minimum required lot area is 225 m<sup>2</sup>. In this case, the lot area will be 157.8 m<sup>2</sup>.
  
2. Chapter 10.10.30.20.(1)(A), By-law 569-2013  
The minimum required lot frontage is 7.5 m. In this case, the lot frontage will be 5.77 m.
  
3. Chapter 10.5.100.1.(1), By-law 569-2013  
If an individual private driveway leads directly to the dwelling unit, a driveway that is in the front yard or passes through the front yard may be a maximum of 2.6 m in width. In this case, the driveway will measure 3.06 m wide.
  
4. Chapter 10.10.40.70.(2), By-law 569-2013  
The minimum required rear yard setback is 7.5 m.  
The new dwelling will be located 6.54 m from the rear (north) lot line.
  
5. Chapter 10.10.40.30.(1)(B), By-law 569-2013  
The maximum permitted building depth is 14 m. The new dwelling will have a depth of 14.89 m.
  
6. Chapter 10.10.40.40.(1)(A), By-law 569-2013  
The maximum permitted floor space index is 0.6 times the area of the lot (94.68 m<sup>2</sup>).  
The new dwelling will have a floor space index equal to 1.14 times the area of the lot (179.88 m<sup>2</sup>).
  
7. Chapter 10.10.40.10.(1)(A), By-law 569-2013  
The maximum permitted height of a building or structure is 9 m. The new dwelling will have a height of 10.57 m.
  
8. Chapter 10.10.40.10.(2)(A)(i)(ii), By-law 569-2013  
The maximum permitted height of all front and rear exterior main walls is 7 m.  
The new dwelling will have a front exterior main wall height of 8.95 m and a rear exterior main wall height of 9.24 m.

9. Chapter 10.5.40.60.(1)(C), By-law 569-2013

A platform without main walls, attached to or less than 0.3 m from a building, with a floor no higher than the first floor of the building above established grade may encroach into the required rear yard setback 2.5 m if it is no closer to a side lot line than 1.19 m. In this case, the platform will encroach into the required rear yard setback and will be located 0.71 m from the side (west) lot line.

10. Chapter 10.5.50.10.(1)(D), By-law 569-2013

A minimum of 75% of the front yard must be soft landscaping (24.84 m<sup>2</sup>). In this case, 39% (13.05 m<sup>2</sup>) of the front yard will be maintained as soft landscaping.

Under Committee File 'A' 416/21TEY with respect to Part 1 (the retained lot)

**THE FOLLOWING REQUESTED VARIANCES TO THE ZONING BY-LAW ARE APPROVED:**

1. Chapter 10.10.30.10.(1)(B), By-law 569-2013

The minimum required lot area is 225 m<sup>2</sup>. In this case, the lot area will be 157.8 m<sup>2</sup>.

2. Chapter 10.10.30.20.(1)(A), By-law 569-2013

The minimum required lot frontage is 7.5 m. In this case, the lot frontage will be 5.77 m.

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

The minimum required front yard setback is 6.34 m.  
The new dwelling will be located 5.7 m from the front (south) lot line.

4. Chapter 10.5.100.1.(1), By-law 569-2013

If an individual private driveway leads directly to the dwelling unit, a driveway that is in the front yard or passes through the front yard may be a maximum of 2.6 m in width. In this case, the driveway will measure 3.06 m wide.

5. Chapter 10.10.40.70.(2), By-law 569-2013

The minimum required rear yard setback is 7.5 m.  
The new dwelling will be located 6.4 m from the rear (north) lot line.

6. Chapter 10.10.40.30.(1)(B), By-law 569-2013

The maximum permitted building depth is 14 m. The new dwelling will have a depth of

14.89 m.

7. Chapter 10.10.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index is 0.6 times the area of the lot (94.68 m<sup>2</sup>).

The new dwelling will have a floor space index equal to 1.15 times the area of the lot (180.93 m<sup>2</sup>).

8. Chapter 10.10.40.10.(1)(A), By-law 569-2013

The maximum permitted height of a building or structure is 9 m. The new dwelling will have a height of 10.57 m.

9. Chapter 10.10.40.10.(2)(A)(i)(ii), By-law 569-2013

The maximum permitted height of all front and rear exterior main walls is 7 m.

The new dwelling will have a front exterior main wall height of 8.95 m and a rear exterior main wall height of 9.24 m.

10. Chapter 10.5.50.10.(1)(D), By-law 569-2013

A minimum of 75% of the front yard must be soft landscaping (24.45 m<sup>2</sup>). In this case, 34% (11.06 m<sup>2</sup>) of the front yard will be maintained as soft landscaping.

Both of these variance decisions are subject to the following condition(s):

(1) Prior to the issuance of a building permit, the applicant/owner shall submit a complete application for permit to injure or remove privately owned tree(s) under Municipal Code Chapter 813, Trees Article III, Private Tree Protection, to the satisfaction of the Supervisor, Urban Forestry, Tree Protection and Plan Review, Toronto and East York District.

(2) Prior to the issuance of a building permit, the owner shall submit a payment in lieu of planting one street tree on the City road allowance abutting the subject site or elsewhere in the community if there is no space, to the satisfaction of the Supervisor, Urban Forestry, Tree Protection and Plan Review, Toronto and East York District.

The Consent Decision



The Tribunal has considered the provisions of Section 51(24) of the *Planning Act* and is satisfied that a plan of subdivision is not necessary. The Tribunal therefore consents to the transaction as shown on the plan filed with the Committee on the condition that before a Certificate of Official is issued, as required by Section 53(42) of the *Planning Act*, the Applicant is to fulfill the following conditions to the satisfaction of the Deputy Secretary-Treasurer of the Committee of Adjustment:

(1) Confirmation of payment of outstanding taxes to the satisfaction of the Revenue Services Division, in the form of a statement of tax account current to within 30 days of an applicant's request to the Deputy Secretary-Treasurer of the Committee of Adjustment to issue the Certificate of Official.

(2) Municipal numbers for the subject lots indicated on the applicable registered reference plan of survey shall be assigned to the satisfaction of the Supervisor, Surveys, Engineering Support Services, Engineering and Construction Services.

(3) Confirmation that the owner has submitted a revised draft Reference Plan of Survey, prior to it being deposited in the Land Registry Office, complying with the City's integration requirement (3 degree MTM, Zone 10, NAD 83 CSRS) and showing the coordinate values on the face of the plan at the main corners of the properties, to the satisfaction of Manager, Development Engineering, Engineering and Construction Services.

(4) Confirmation that the applicant/owner has submitted revised site plan drawings to show a 2%-4% positive slope between the back of the sidewalk and the entrance to the garage for each of the newly created properties, to the satisfaction of the Manager, Development Engineering, Engineering and Construction Services.

(5) One electronic copy of the registered reference plan of survey integrated to NAD 83 CSRS (3 degree Modified Transverse Mercator projection), delineating by separate Parts the lands and their respective areas, shall be filed with, and to the satisfaction of, the Manager, Land and Property Surveys, Engineering Support Services, Engineering and Construction Services.

(6) One electronic copy of the registered reference plan of survey satisfying the requirements of the Manager, Land and Property Surveys, Engineering Support Services, Engineering and Construction Services shall be filed with the Deputy Secretary-Treasurer of the Committee of Adjustment.

(7) Prepare and submit a digital draft of the Certificate of Official, Form 2 or 4, O. Reg. 197/96, referencing either subsection 50(3) or (5) of the *Planning Act* if applicable as it pertains to the conveyed land and/or consent transaction to the satisfaction of the

Deputy Secretary-Treasurer of the Committee of Adjustment.

(8) Once all of the other conditions have been satisfied, the applicant shall request, in writing, that the Deputy Secretary-Treasurer of the Committee of Adjustment, issue the Certificate of Official.

(9) Within TWO YEARS of the date of the issue of this Notice of Decision, the Applicant shall comply with the above-noted conditions.

A rectangular box containing a handwritten signature in black ink. The signature is cursive and appears to read 'G. Swinkin'.

X

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G. Swinkin  
Panel Chair, Toronto Local Appeal Body