



COMMITTEE OF ADJUSTMENT

IN THE MATTER OF SECTION 45(1) OR (2)
of The Planning Act R.S.O. 1990, c.P.13, as amended

- and -

IN THE MATTER OF ZONING BY-LAW 0225-2007
as amended

- and -

IN THE MATTER OF AN APPLICATION BY

ZIA KHAN

on Thursday June 14, 2012

Zia Khan is the owner of Part of Lot 19, Plan E-20, located and known as 2192 Parker Drive, zoned R1-6, Residential. The applicant requests the Committee to authorize a minor variance to permit a portion of the driveway to be setback 0.00 m (0.00 ft.) from the easterly side property line; whereas By-law 0225-2007, as amended, requires a minimum setback of 0.60 m (2.00 ft.) from the driveway to the side property line in this instance.

Mr. Z. Khan, the property owner, attended and presented the application to permit the construction of a new driveway. Mr. Khan advised the Committee that the driveway was to be enlarged beyond what was approved under a Site Plan Approval application and indicated that the enlarged driveway was required in order to allow for the safe ingress and egress of vehicles along the side of the dwelling. Mr. Khan confirmed that an exhaust vent projected 0.20 m (0.65 ft) from the side of the dwelling into the driveway.

The Committee reviewed the information and plans submitted with the application.

The City of Mississauga Planning and Building Department commented as follows (June 8, 2012):

1.0 RECOMMENDATION

The Planning and Building Department recommends that the application be refused.

2.0 BACKGROUND

Mississauga Plan

Planning District: Cooksville
Designation: Residential Low Density I, Special Site #11

New Mississauga Official Plan

Character Area: Cooksville Neighbourhood
Designation: Residential Low Density I, Special Site #4

Zoning By-law 0225-2007

Zoning: "R1-6", Residential

3.0 OTHER APPLICATIONS

Site Plan File: SP 08/053 W7 - Approved April 8, 2009
 Building Permit File: BP 09/4994 - Issued

4.0 COMMENTS

We note that the Committee previously approved a request for the existing detached garage to remain on the subject property having a 0.37 m (1.21 ft.) easterly side yard setback, under file 'A' 139/08. We advise that the Planning and Building Department did not support the retention of the detached garage in its current location as it would result in excessive paving. We also note that the Committee refused a request for the driveway to have a 0 m (0 ft.) setback to the easterly lot line, under subsequent file 'A' 381/08, as it would not provide for adequate snow storage and drainage. As a result, the applicant indicated the required driveway setback on the Site Plan application (SP 08/53 W7), which was approved by this Department.

We strongly recommend that the applicant construct the driveway in accordance with the approved Site Plan (SP 08/053 W7)."

The City of Mississauga Transportation and Works Department commented as follows (June 5, 2012):

"This department cannot support the applicant's request to permit a portion of the driveway to be setback 0.00m from the easterly side property line. It should be acknowledged that the Committee refused a similar request to have a 0.00m setback to the easterly lot line under the previous variance, Reference 'A' 381/08 as there were concerns expressed with both snow storage and drainage.

From our recent site inspection of this property we are advising that we have a couple of reasons why we cannot support the requested variance. First of all the Site Plan Application and previous Grading Plans previously approved for this property were approved with the minimum 0.60m setback. Secondly, from our recent site inspection of this property we note that the drainage along the common lot line in the area of the requested variance can be described as poor, and by not providing at least a minimum 0.60m required setback there will definitely be drainage related concerns for the abutting property to the south."

A letter was received from the Gordon Woods Homeowners' Association expressing their objection to the subject application.

A letter was received from A. & J. Hirsch, resident of 2199 Parker Drive, stating their objection to the subject application.

Mr. C. Nucci, a resident of 2180 Parker Drive, attended and spoke in objection to the subject application. Mr. Nucci advised the Committee that the existing driveway expansion would result in an inadequate side yard to accommodate vegetation and drainage. He displayed a photograph of the existing side yard conditions and noted that the existing driveway construction has lead to additional water and snow from Mr. Khan's property to drain and be shovelled onto his property resulting in the decline of several mature cedar trees along the common lot line. Mr. Nucci advised the Committee that the subject property had been before the Committee before to allow for the construction of the dwelling and rear yard accessory structure. He noted that Mr. Khan had suggested that the accessory structure was to be used for gardening equipment and storage and not as a garage for motor vehicles. It was Mr. Nucci's opinion that the oral submission given by Mr. Khan for the current application; the accessory structure has been and would continue to be used as a garage. He noted that the additional driveway width would facilitate this arrangement and suggested that a rear yard garage was inappropriate for the subject lands.

No other persons expressed any interest in the application.

The Committee after considering the submissions put forward by Mr. Khan and having reviewed the plans and comments received, is not satisfied that the request is desirable for the appropriate use of the subject property. The Committee indicated that they had refused to approve a previous variance application for a similar driveway configuration. They noted that the Zoning By-law preservations of landscaping adjacent to driveways sought to ensure that the engineered drainage patterns between properties were maintained. The Committee noted that additional vehicular traffic in the side yard was inappropriate for the

subject property and noted that the ventilation projection in question was not substantive to require an enlargement of the driveway.

The Committee is not satisfied that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained in this instance.

The Committee is of the opinion that the requested variance is not minor in nature in this instance.

Accordingly, the Committee resolves to deny the request as presented.

MOVED BY: S. Patrizio SECONDED BY: J. Thomas CARRIED

Application Refused.

Dated at the City of Mississauga on June 21, 2012.

THIS DECISION IS SUBJECT TO APPEAL TO THE ONTARIO MUNICIPAL BOARD BY FILING WITH THE SECRETARY-TREASURER OF THE COMMITTEE OF ADJUSTMENT A WRITTEN NOTIFICATION, GIVING REASONS FOR THE APPEAL, ACCOMPANIED WITH THE PRESCRIBED FEE ON OR BEFORE **JULY 11, 2012**.

Date of mailing is June 25, 2012.



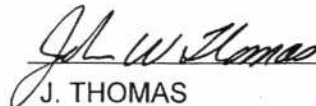
S. PATRIZIO



D. GEORGE (CHAIR)



R. BENNETT



J. THOMAS



D. KENNEDY



L. DAHONICK

ABSENT

J. ROBINSON

I certify this to be a true copy of the Committee's decision given on June 21, 2012.



DAVID L. MARTIN, SECRETARY-TREASURER

A copy of Section 45 of the Planning Act, as amended, is attached.

NOTES:

- A Development Charge may be payable prior to the issuance of a Building Permit.
- Further approvals from the City of Mississauga may be required i.e. a Building Permit, a Zoning Certificate, a License, etc.

Summary of Appeal Procedures Minor Variance Applications

(The Planning Act, as amended)

Committee of Adjustment
City of Mississauga
300 City Centre Drive
Mississauga, Ontario L5B 3C1
Telephone: 905-896-5000
Fax: 905-615-3950

Section 45 - (12) The applicant, the Minister or any other person or public body who has an interest in the matter may within 20 days of the making of the decision appeal to the Municipal Board against the decision of the committee by filing with the secretary-treasurer of the committee a notice of appeal setting out the objection to the decision and the reasons in support of the objection accompanied by payment to the secretary-treasurer of the fee prescribed by the Municipal Board under the Ontario Municipal Board Act as payable on an appeal from a committee of adjustment to the Board*.

(13) The secretary-treasurer of the committee, upon receipt of a notice of appeal filed under subsection (12) shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection (12) to the Municipal Board by registered mail together with all papers and documents filed with the committee of adjustment relating to the matter appealed from and such other documents and papers as may be required by the Board.

(14) If within such 20 days no notice of appeal is given, the decision of the committee is final and binding, and the secretary-treasurer shall notify the applicant and shall file a certified copy of the decision with the clerk of the municipality.

(15) Where all appeals to the Municipal Board are withdrawn, the decision of the committee is final and binding and the secretary of the Board shall notify the secretary-treasurer of the committee, who in turn shall notify the applicant and file a certified copy of the decision with the clerk of the municipality.

(16) On an appeal to the Municipal Board, the Board shall, except as provided in subsections (15) and (17), hold a hearing of which notice shall be given to the applicant, the appellant, the secretary-treasurer of the committee and to such other persons or public bodies and in such manner as the Board may determine.

(17) Despite the Statutory Powers Procedure Act and subsection (16), the Municipal Board may dismiss all or part of an appeal without holding a hearing, on its own motion or on the motion of any party if, (a) it is of the opinion that, (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Board could allow all or part of the appeal, (ii) the appeal is not made in good faith or is frivolous or vexatious, or (iii) the appeal is made only for the purpose of delay; (b) the appellant has not provided written reasons for the appeal; (c) the appellant has not paid the fee prescribed under the Ontario Municipal Board Act, or (d) the appellant has not responded to a request by the Municipal Board for further information within the time specified by the Board.

(17.1) Before dismissing an appeal, the Municipal Board shall notify the appellant and give the appellant an opportunity to make representation in respect of the appeal and the Board may dismiss an appeal after holding a hearing or without holding a hearing on the motion, as it considers appropriate.

(18) The Municipal Board may dismiss the appeal and may make any decision that the committee could have made on the original application.

(18.1) On an appeal, the Municipal Board may make a decision on an application which has been amended from the original application if, before issuing its order, written notice is given to the persons and public bodies who received notice of the original application under subsection (5) and to other persons and agencies prescribed under that subsection.

(18.2) Any person or public body who receives notice under subsection (18.1) may, not later than thirty days after the day that written notice was given, notify the Board of an intention to appear at the hearing or the resumption of the hearing, as the case may be.

(18.3) If, after the expiry of the time period in subsection (18.2), no notice of intent has been received, the Board may issue its order.

(18.4) If a notice of intent under subsection (18.2) is received, the Board may hold a hearing or resume the hearing on the amended application.

If you wish to appeal to the Ontario Municipal Board, a copy of an appeal form is available from the OMB website at www.omb.gov.on.ca

Appeal Form and Fees to be filed with: **Secretary-Treasurer
Committee of Adjustment**
City of Mississauga
300 City Centre Drive
Mississauga, Ontario
L5B 3C1

*The fee for an appeal to the Ontario Municipal Board is **\$125.00** for the primary appeal and **\$25.00** for each related appeal. A Certified Cheque or money order made payable to the **Minister of Finance**.

An additional separate administration fee of **\$150.00** for the primary appeal and **\$25.00** per appeal for any additional related files to the original appeal is to be submitted to be made payable to the **"Treasurer of City of Mississauga"** (By-law 0429-2008).

Web address for down loading
Committee of Adjustment Information and Forms
<http://www.mississauga.ca/committeeofadjustment>