

ISSUE DATE:

July 14, 2010



PL100375

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Khavari Khashayar
Subject: Minor Variance
Variance from By-law No.: 438-86
Property Address/Description: 183 Forest Hill Road
Municipality: City of Toronto
OMB Case No.: PL100375
Municipal No.: A0166/10TEY

APPEARANCES:

Parties

Khavari Khashayar

Harold Corrigan

Counsel

A. Brown

S. Mahadevan

DECISION DELIVERED BY K. J. HUSSEY AND ORDER OF THE BOARD

Khavari Khashayar (Applicant) has appealed the decision of the Committee of Adjustment for the City of Toronto, which dismissed an application for variance from By-law 438-86 regarding property located at 183 Forest Hill Road. The Applicant proposes to demolish the existing building and to construct a new dwelling that would include an integral below-grade two-car garage. To achieve this the Applicant seeks the following:

Requested Variances to the Zoning By-law

1. Section 6 (3) Part 11, By-law 438-86

The maximum permitted residential gross floor area is 0.35 times the area of the lot (169.08 m²).

The new dwelling will have gross floor area of 0.69 times the size of the lot (332.02 m²).

2. Section 6 (3) Part 1V 3(11), By-law 438-86

The floor level of an integral garage with vehicle access facing the front lot line is not permitted to be located below-grade.

The new dwelling will have an integral garage below-grade

3. Section 6 (3) Part 11, 3.B(11), By-law 438-86

The minimum required side lot line setback is 7.5 m for that portion of the dwelling exceeding 17.0 m in depth.

The new dwelling will have a north side lot line setback of 1.2 m and a south side lot line setback of 1.24 m for the 4.01 m portion of the dwelling exceeding 17.0 m in depth.

4. Section 6 (3) Part 11, 8 D(1), By-law 438-86

The maximum permitted height of an uncovered platform that projects into a required setback is 1.2 m above grade.

The front porch will be 1.51 m above grade.

5. Section 6 (3) Part 11 2(11), By-law 438-86

The minimum required front lot line setback is the average front lot line setback of the two adjacent dwellings (6.67 m).

The new dwelling will have a front lot line setback of 6.13 m.

At the start of the hearing Counsel for the Applicant informed the Board that a settlement had been reached with Harold Corrigan, owner of 185 Forest Hill Road, which is adjacent to the subject property. Minutes of Settlement were filed with the Board. The settlement is subject to the condition (Exhibit "2"), that the construction takes place substantially in accordance with revised plans prepared by Architect Lorne Rose, dated March 24, 2010, presented as Exhibits "3A" and "3C".

On Consent, the Board heard opinion evidence on the merits of the settlement from Land Use Planner, Michael Goldberg, who was retained by the Applicant.

Mr. Goldberg's conclusion is that the application meets the requirements under subsection 45(1) of the *Planning Act* for the variances to be authorized. Mr. Goldberg provided an overview of the proposal, the area in which the subject site is located, and a review of the applicable planning documents.

The subject site is on the east side of Forest Hill Road in the neighbourhood of Forest Hill Village, a stable neighbourhood in which there has been considerable reinvestment. Mr. Goldberg's evidence is that the requested variances are not uncharacteristic as several residences in the immediate vicinity of the subject site have been built or have undergone renovations incorporating features that are similar to those proposed, for which similar variances have been approved by the Committee of Adjustment. Mr. Goldberg provided photographs and context maps to substantiate his evidence.

Mr. Goldberg examined each of the requested variances and concluded that individually and cumulatively, they meet all the requirements of Section 45 of the *Planning Act*. Mr. Goldberg's conclusions are as follows:

- The requested gross floor area of 0.69 will result in a house size that is similar in scale to that of the dwellings on the Street;
- The design of the garage is similar to the parking solutions found in the immediate area;
- The homes in the area have varied building lengths and in this case the remaining rear yard amenity will be in excess of the by-law requirement;
- The height of the uncovered platform results from the rise in the grade from the Street and a variance of 0.31 metres is imperceptible;
- The variance with respect to front yard setback is a result of the angled lot line running adjacent to the Street. The house will be in alignment with all the homes on the Street and the variance will result in a more practical placement of the building.

On the basis of Mr. Goldberg's opinion evidence, the Board is satisfied that the variances will not result in a development that is out of character with the neighbourhood or that will cause adverse effects. The Board finds that the variances, individually and collectively, are minor; they are desirable for the appropriate use and development of the land, and they maintain the general intent and purpose of both the By-law and the Official Plan.

Accordingly, the Board allows the appeal and the variances requested to By-Law 438-86 are hereby authorized subject to the condition set out in Exhibit "2", that the construction takes place substantially in accordance with the revised plans prepared by Architect Lorne Rose, dated March 24, 2010.

This is the Order of the Board.

"K. J. Hussey"

K. J. HUSSEY
MEMBER