



Staff Report for Committee of the Whole Meeting

Date of Meeting: July 3, 2018
Report Number: SRPRS.18.167

Department: Planning and Regulatory Services
Division: Development Planning

Subject: Request for Approval – Permission to Apply to the Committee of Adjustment pursuant to Subsection 45 (1.4) of the Planning Act -1857481 Ontario Inc. – Town File D02-18017

Owner:

1857481 Ontario Inc.
3985 Highway 7 East, Suite 202
Markham, Ontario
L3R 2A2

Agent:

Malone Given Parsons Ltd.
140 Renfrew Drive, Suite 201
Markham, Ontario
L3R 6B3

Location:

Legal Description: Part of Lot 11, Concession 2, E.Y.S.
Municipal Addresses: 386, 396 and 400 Highway 7 East

Purpose:

A request for approval concerning a request to submit a Minor Variance application to the Committee of Adjustment pursuant to Subsection 45(1.4) of the *Planning Act*.

Recommendation:

- a) That in accordance with the provisions of Subsection 45(1.4) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, 1857481 Ontario Inc. be and hereby is permitted to submit a Minor Variance application to the Committee of Adjustment in order to seek relief from the provisions of Zoning By-law 12-17 prior to the second anniversary of the day on which said by-law was adopted.

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Contact Person:

Deborah Giannetta, Manager of Development – Site Plans, phone number 905-771-5542

Report Approval:

Submitted by: Kelvin Kwan, Commissioner of Planning and Regulatory Services

Approved by: Neil Garbe, Chief Administrative Officer

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), Town Solicitor (as required), Commissioner, and Chief Administrative Officer. Details of the reports approval are attached.

Location Map:

Below is a map displaying the property location. Should you require an alternative format call person listed under “Contact Person” above.



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Background:

On July 1, 2016, Bill 73, *Smart Growth for Our Communities Act, 2015* came into effect and made numerous changes to the *Planning Act* (“Act”). Amongst others, changes were made to Section 45 of the Act that deals specifically with the Committee of Adjustment.

In this regard, Bill 73 amended Section 45 to prohibit the submission of a Minor Variance Application to the Committee of Adjustment for a property that was subject of an owner initiated site specific Zoning By-law Amendment application within two years of the enactment of the Zoning By-law. The change was intended to eliminate circumvention of the zoning process in situations where an original zoning decision is revisited through a simplified Minor Variance process. Notwithstanding this amendment, Subsection 45(1.4) of the Act also provides municipalities with the discretion to exempt **“a specific application, a class of applications or in respect of such applications generally”** by way of Council resolution.

The purpose of this report is to seek Council’s approval to allow the applicant to submit a Minor Variance application to the Committee of Adjustment within the two year time frame since the adoption of the site specific Zoning By-law applicable to the subject lands.

Summary Analysis:

Site Location and Adjacent Uses

The subject lands are located on the north side of Highway 7 East, west of Valleysmede Drive (refer to Map 1). A high density, mixed use residential/commercial development consisting of two condominium apartment buildings (10 and 15 storeys respectively) and 45 condominium townhouses along the rear of the property (Town Files D01-12012, D02-12041, D06-16028 and D06-17064) is currently under construction on the lands (refer to Map 2). The lands abut a high density, mixed-use residential/commercial development to the west, low density residential uses to the north, an automobile service station to the east and Highway 7 East to the south (refer to Map 1).

Applicant’s Request

The applicant is seeking Council’s approval for permission to submit a Minor Variance application to the Town’s Committee of Adjustment in order to address a zoning deficiency relating to Building B which is currently under construction on its land holdings (see Appendix A). It should be noted that the site specific Zoning By-law applicable to the lands (Zoning By-law 12-17) was approved as part of an OMB Order dated February 10, 2017. Subsequent to the Building Permit issuance for Building B, an updated boundary survey was provided that identified an adjustment to the eastern lot line. As a result, the eastern side yard setback for Building B is 5.87 metres (19.2 feet) whereas the Zoning By-law requires a minimum side yard setback of 6 metres (19.68 feet).

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Discussion:

As outlined in the applicant's letter, the proposed Minor Variance application is to address a zoning deficiency that arose as a result of a surveying error related to the approved development of the subject lands. Subsection 45 (1.4) of the Act is intended to provide flexibility in the development process when relatively minor zoning issues arise in the later part of the planning process (which is common as development proposals often undergo numerous iterations as they proceed through the development approval process) or in this instance, as a result of a surveying error that was not anticipated.

Staff has carefully reviewed the applicant's request to submit a Minor Variance application to the Town's Committee of Adjustment and has no objections to same for the following reasons:

- the requested variance being sought is considered to be minor nature;
- the request, if approved, will not result in any modifications to the approved development;
- the integrity of the planning process will be maintained in so far as the applicant is required to proceed through a review process which requires notification to the public and review by Town departments; and,
- the decision of the Committee of Adjustment will be subject to appeal to the Local Planning Approval Tribunal.

On the basis of the preceding, staff finds the applicant's request to be appropriate and accordingly recommends Council approve its request to make a submission to the Town's Committee of Adjustment.

Financial/Staffing/Other Implications:

This recommendation does not have any financial, staffing or other implications.

Relationship to the Strategic Plan:

The recommendation of this report will facilitate a development that is aligned with the Strategic Plan. In this regard, the approved development proposal is aligned with **Goal One - Stronger Connections in Richmond Hill** by strengthening connections to transit, **Goal Two - Better Choices in Richmond Hill** by providing a for a range of housing options and providing better quality options to achieve the community vision for the Town and lastly with **Goal Four - Wise Management of Resources in Richmond Hill** by creating opportunities for reducing commute times, increasing access and incorporating energy efficient design.

Conclusion:

The applicant is seeking Council's approval of its request for permission to submit an Minor Variance application to the Town's Committee of Adjustment within the two year time frame since the adoption of the site specific zoning by-law applicable to the subject

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lands. Based on the reasons outlined in Staff Report SRPRS.18.167, staff have no objection to the applicant's request and accordingly recommends Council approve said request.

Attachments:

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call contact person listed in this document.

- Appendix A, Applicant Letter of Request dated June 6, 2018
- Figure 1 – Location map
- Figure 2 – Approved Site Plan

Report Approval Details

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| Document Title: | SRPRS.18.167.docx |
| Attachments: | - MAP_1_AERIAL_PHOTOGRAPH.pdf - MAP_2_APPROVED_SITE_PLAN.pdf - Appendix A SRPRS.18.167.pdf |
| Final Approval Date: | Jun 26, 2018 |

This report and all of its attachments were approved and signed as outlined below:

Gus Galanis - Jun 22, 2018 - 3:05 PM

Kelvin Kwan - Jun 22, 2018 - 3:22 PM

Neil Garbe - Jun 26, 2018 - 2:42 PM