

ISSUE DATE:

August 29, 2013



PL130569

Ontario
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:	David Taylor
Subject:	Minor Variance
Variance from By-law No.:	6752
Property Address/Description:	2 Dilworth Crescent
Municipality:	City of Toronto
Municipal File No.:	A0055/13TEY
OMB Case No.:	PL130569
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APPEARANCES:

Parties

Counsel

David Taylor

Sharmini Mahadevan

City of Toronto

Christina Achkarian

**MEMORANDUM OF ORAL DECISION DELIVERED BY R. ROSSI ON
AUGUST 20, 2013 AND ORDER OF THE BOARD**

[1] David Taylor, the Applicant/Appellant ("Applicant") has appealed to the Ontario Municipal Board ("Board") the decision of the Committee of Adjustment ("Committee") of the City of Toronto ("City") that refused the requested variances to permit the alteration of the existing two-storey detached dwelling by adding a full third-floor addition and a two-storey rear additions.

[2] The Applicant seeks the following three variances:

1. The minimum required side yard setback is 0.45 metres whereas the altered dwelling will have a side yard setback of 0.38 metres to the east lot line.

2. The maximum permitted floor space index (“FSI”) is 0.75 times the area of the lot (153.90 square metres) whereas the altered dwelling will have FSI of 0.90 times the area of the lot (183.35 square metres).
3. The maximum permitted building height is 8.5 metres whereas the altered dwelling will have a height of 9.1 metres.

[3] The second variance for FSI was reduced downward as the Applicant is no longer seeking a two-storey addition at the rear of the existing dwelling. The Board finds that the amendment to the original application to be a minor one and in accordance with s. 45(18)1.1 of the *Planning Act* (“Act”), no further notice is required to be given.

[4] Christina Achkarian, Counsel for the City, advised the Board that the City was not opposing the proposed variances; rather, her attendance was to ensure that the Applicant did not seek additional variances. Sharmini Mahadevan, Counsel for the Applicant, provided this assurance to the City’s solicitor. No one appeared in opposition.

[5] Planner Franco Romano was qualified to provide professional land use planning evidence and expert opinion in this case. The subject property is located on the south side of Dilworth Crescent in East York. The property is designated “*Neighbourhoods*” in the Official Plan, which requires new development in the established residential areas to have regard for existing physical character of the surrounding neighbourhood, including scale and massing of the buildings. It was the uncontradicted evidence of Mr. Romano that the proposed development achieves the Official Plan’s *Neighbourhoods* policies and in particular the Development Criteria in *Neighbourhoods*. Mr. Romano opined that the proposed variances maintain the general intent and purpose of the Official Plan.

[6] The property is zoned R2A Residential in Zoning By-law No. 6752 of the former Borough of East York. The purpose of the Zoning By-law is to respect and reinforce a stable built form and to limit the impact of new development on adjacent residential properties. What the Applicant proposes to build atop the second floor is no different from other similar built form development occurring in the immediate and broader neighbourhoods. Visually, the resulting built form will reflect generally the established

performance standards for houses on the street and throughout the area. The marginal increase in FSI will not be readily perceived from the street. The variance for a side yard setback is technical in nature as it recognizes an existing side yard condition. The increased height of approximately two feet is determined by the Board to be a modest increase above the performance standard. Mr. Romano opined that the variances maintain the general intent and purpose of the Zoning By-law.

[7] As for the last two variances, Mr. Romano's evidence supports his opinion that the proposed development and its implementing variances are desirable for the appropriate development of the subject property and they are minor in nature as they create no adverse impacts on the neighbouring properties or on the broader neighbourhood. The addition to the house will permit the family to grow in its existing home, providing additional living space and in particular a bedroom for the children. The Applicant proposes to build a contemporary addition that complements the existing built form and is deemed to be sensitive to its immediate context.

[8] Having considered the uncontradicted evidence of Mr. Romano, the Board determines that the proposed development represents good planning and the three variances both individually and cumulatively meet all four tests for a minor variance as enunciated in s. 45(1) of the *Act*.

ORDER

[9] The Board orders that the appeal is allowed and the minor variances are authorized on condition that the site be developed substantially in accordance with the front elevation drawing attached to this decision as Attachment 1.

"R. Rossi"

R. ROSSI
MEMBER

ATTACHMENT 1

EX 9

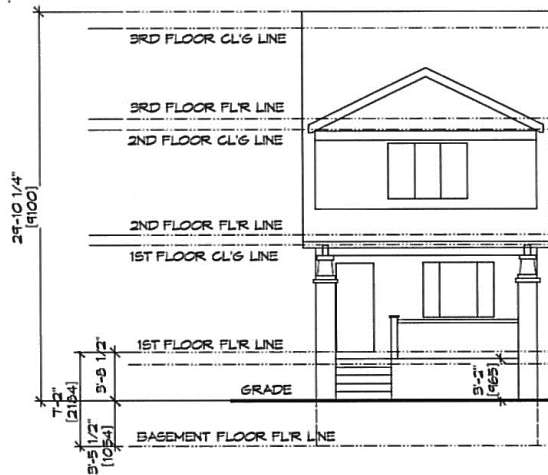
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List of Variances – 2 Dilworth Crescent

1. Section 7.2.3, By-law 6752
The minimum required side yard setback is 0.45m.
The altered dwelling will have a side yard setback of 0.38m to the east lot line.
2. Section 7.2.3, By-law 6752
The maximum permitted floor space index is 0.75 times the area of the lot (153.90m²).
The altered dwelling will have a floor space index of 0.87 times the area of the lot (178.4m²).
3. Section 7.2.3, By-law 6752
The maximum permitted building height is 8.5m.
The altered dwelling will have a height of 9.1m.

Condition

1. The site shall be developed substantially in accordance with the following front elevation drawing.



1 North Elevation
A-7 Scale: 1/8" = 1'-0"