

ISSUE DATE:

October 10, 2013



PL130711

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:	Nick Siliverdis
Subject:	Minor Variance
Variance from By-law No.:	438-86
Property Address/Description:	16 Glen Castle Street
Municipality:	City of Toronto
Municipal File No.:	A284/13NY
OMB Case No.:	PL130711
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APPEARANCES:

Parties

Nick Siliverdis
Jamie and Cathy Macdonald
Drew Clair and Jodi Hamilton

Counsel

C. Tanzola
M. Bull
M. Bull

**MEMORANDUM OF ORAL DECISION DELIVERED BY BLAIR S. TAYLOR AND
ORDER OF THE BOARD SEPTEMBER 20, 2013**

INTRODUCTION

[1] Nick Siliverdis (the "Owner") had filed a minor variance application for the property known municipally as 16 Glen Castle Street, in the City of Toronto (the "Subject Lands"). The minor variance application had requested relief from four provisions of the City of Toronto Zoning By-law: first, Floor Space Index ("FSI") of 0.76 times the lot area, whereas 0.35 is permitted; second, front yard soft landscaping of 54%, whereas 75% is required; third, a front yard setback of 3.45 m, whereas 4.06 m is required; and fourth, no parking space, whereas one parking space is required. The Committee of Adjustment approved variances two to four inclusive, and modified

variance one to 0.65. The Owner appealed to the Board, and the Board set the matter down for a hearing on September 20, 2013.

MINUTES OF SETTLEMENT

[2] At the commencement of the hearing, counsel advised the Board that Minutes of Settlement had been entered into with regard to the appeal. The parties to the Minutes of Settlement were the Owner and the neighbours on either side of the Subject Lands, and for whom Ms. Bull appeared.

[3] The Minutes of Settlement were filed with the Board as Exhibit 1, and they reflect a revision to the application and the plans for the addition to the dwelling on the Subject Lands.

[4] The revision to the minor variance application was that for the FSI relief, instead of seeking 0.76, the Owner now sought 0.732. The other variances remained the same.

[5] With regard to the revised plans, they were filed as Exhibit 4, and show a different roof line at the rear of the proposed addition.

[6] The Minutes of Settlement provide in paragraph 4 that the parties would request the Board to issue an Order allowing the appeal, confirming the Committee of Adjustment approval of the three approved variances and approving the (revised) variance for FSI at 0.732, subject to a condition that the proposed construction be substantially in accordance with the revised plans of Exhibit 4.

HEARING

[7] The Board then heard from Andrew Ferancik, who was qualified as a land use planner.

[8] Mr. Ferancik had prepared a document book including an aerial photograph of the Subject Lands, a house numbering map, and a series of colour photographs of the Subject Lands, and the immediate neighbourhood. That series of photographs included one of an adjacent property that was the inspiration for the proposed addition, and the fact that the Subject Lands backed onto a school site.

[9] As the Board was satisfied that the Provincial Policy Statement and the *Places to Grow Act* were not at issue, Mr. Ferancik took the Board through the relevant provisions of the City of Toronto Official Plan noting that the Subject Lands were designated as Neighbourhoods, and such designations were to be stable but not static. He noted that new development was to respect and reinforce the existing physical character, especially with regard to heights, massing, scale and dwelling type, setbacks and prevailing patterns of rear and side yard setbacks. He advised the Board that in his opinion the general intent and purpose of the Official Plan was met, as the proposal was for an addition to an existing single detached dwelling, that most of the addition was to the rear of the dwelling, and the size of the addition was in the range that existed already and had been approved for the neighbourhood, that soft front yard landscaping relief was sought to enable the walkway to match the front steps, that the front yard setback was only to allow a bay window at the front as the existing front façade was being retained, and that the variance for parking was a technical variance as parking would be provided in the front yard which was a common practice on the street. Thus, he opined that the variances met the general intent and purpose of the Official Plan.

[10] With regard to the Zoning By-law, he stated that the addition met all other requirements of the Zoning By-law in terms of height, rear yard setback and side yard setbacks. He advised that the lot is shallower in depth than those lots across the street from the Subject Lands, and that the addition would be in character with other dwellings on the street, but the FSI higher. With regard to the front yard setback, it was only for the bay window. The soft landscaping was attractive in nature and design and similar to other properties on the street. With regard to parking the By-law sought one parking space (to be located behind the front façade) and in this case no parking would be provided behind the front façade but rather in front of the front façade. He indicated that the general intent and purpose of the Zoning By-law was met.

[11] Concerning the third test of desirable for the appropriate development of the lands, he noted that the existing home was being retained, but enlarged and modernized. This he indicated was a positive feature as reinvestment added to the continued vitality of the neighbourhood, and also reinforced the existing character of the area. Thus, this test was met.

[12] Finally with regard to the fourth test of minor in nature, he stated that there were no unacceptable adverse impacts arising out of the revised variance request. Indicative of this was Exhibit 1 being the Minutes of Settlement entered into with the two adjoining property owners. The request for relief for the FSI had been revised to the satisfaction of the neighbours and that most of the addition was at the rear and there was no rear neighbour. With regard to the front yard setback, that relief was only to reflect a bay window and did not otherwise affect the front façade. The front landscaping relief was complementary to others on the street and there was adequate other soft landscaping in the front yard. Finally with regard to parking, it was a technical matter as one parking space was being provided in a form and fashion already in use on the street.

[13] Thus, Mr. Ferancik concluded that in his opinion the revised variance request with the revised plans met the four tests of s. 45(1) of the *Planning Act*, represented good planning and warranted approval subject to the conditions of approval that the Committee of Adjustment had attached and a new condition that the proposed development be constructed in substantially compliance with the plans in Exhibit 4 (except for the deck which design is still outstanding).

FINDINGS

[14] The Board first finds that the revised variance request for the FSI at 0.732 times the lot area is minor in nature with regard to the language of s. 45 (18.1.1).

[15] Secondly the Board finds that there is no issue with either the Provincial Policy Statement or the *Places to Grow Act* and this revised application.

[16] Thirdly the Board finds that the revised application does meet the four tests of s. 45(1) of the *Planning Act* based on the evidence outlined above by Mr. Ferancik.

ORDER

[17] Thus, the Board allows the appeal in part, and authorizes the revised variances as set out in Exhibit 5 and appended to this decision as Attachment 1, and subject to the conditions of approval set out in Exhibit 5 and attached to this decision.

[18] This is the Order of the Board.

“Blair S. Taylor”

BLAIR S. TAYLOR
MEMBER

ATTACHMENT 1

REQUESTED VARIANCES AND CONDITIONS

VARIANCES

1. Proposed residential gross floor area of 0.732 times the lot area,
WHEREAS a maximum residential gross floor area of 0.35 times the lot area is permitted.
2. Proposed front yard soft landscaping of 54.00%,
WHEREAS a minimum front yard soft landscaping of 75.00% is required.
3. Proposed front yard setback of 3.45 m,
WHEREAS a minimum front yard setback of 4.06 m is required.
4. Proposed number of parking spaces provided is zero (0),
WHEREAS a minimum of one (1) parking space is required.

CONDITIONS

1. The owner shall satisfy the City of Toronto Municipal Code Chapter 813, Article II, with respect to City owned trees, to the satisfaction of the Urban Forestry Division.
2. The owner shall satisfy the City of Toronto Municipal Code Chapter 81, Article III, with respect to privately owned trees, to the satisfaction of the Urban Forestry Division.
3. The owner shall submit a Tree Security Deposit (in the form of a certified cheque or letter of credit only) and sign a Tree Preservation Agreement to the satisfaction of the Urban Forestry Division.
4. The proposed development on the lands (but not including the proposed rear yard deck) shall be constructed substantially in accordance with the plans prepared by Sagittarius Designs and Drafting dated January 15, 2013 and revised July 14, 2013 and filed as Exhibit 4 to the Ontario Municipal Board Hearing (PL130711) (a copy of which shall be placed on file with the Committee of Adjustment in File No. A284/13NY)