

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: January 03, 2020

CASE NO(S): PL190325

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Jaspreet Dhillon and Gurkirat Dhillon
Subject:	Minor Variance
Variance from By-law No.:	(1995)-14864
Property Address/Description:	622 College Avenue West
Municipality:	City of Guelph
Municipal File No.:	A-3/19
LPAT Case No.:	PL190325
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LPAT Case Name:	Dhillon v. Guelph (City)

Heard: December 9, 2019 at Guelph, Ontario

APPEARANCES:

Parties

Counsel*/Representative

Jaspreet and Gurkirat Dhillon

Lyle McNair

City of Guelph

Colin Léger *

MEMORANDUM OF ORAL DECISION DELIVERED BY M. ARPINO AND GERALD S. SWINKIN ON DECEMBER 9, 2019

[1] This hearing before the Local Planning Appeal Tribunal (the “Tribunal”) proceeded as a settlement hearing.

[2] The matter comes to the Tribunal as an appeal from a refusal decision of the City of Guelph (“City”) Committee of Adjustment (“CoA”).

[3] Jaspreet and Gurkirat Dhillon (the “Appellants”) are the owners of 622 College Avenue West (the “Property”). There is a semi-detached residential dwelling on the Property. The Appellants propose to convert the building into two (2) independent living units.

[4] The Appellants applied for relief from section 4.13.7.2.3 of the Zoning By-law, which provision limits maximum driveway width to 3.5 metres (“m”) for semi-detached dwellings.

[5] At the time of the application, the Appellants sought relief to construct a driveway having a width of 5.0 m. On June 27, 2019 the CoA denied the application. The Appellants appealed the decision.

[6] Prior to the scheduled hearing date before the Tribunal, the Appellants and the City worked together regarding the issues raised by this application and came to an agreeable solution.

[7] The solution will involve construction of a driveway having a maximum width of 4.5 m.

[8] The Tribunal has jurisdiction to deal with the amended application pursuant to section 45 (18.1) of the *Planning Act* (“Act”).

[9] Abby Watts, a planner employed by the City, who was called by the City, was qualified by the Tribunal to give expert opinion land use planning evidence in this

matter.

[10] Ms. Watts advised the Tribunal that in her professional opinion the amendment to the original application was minor.

[11] Having received the evidence of Ms. Watts and bearing in mind that the relief requested was less than originally requested at the CoA, the Tribunal determined that the amendment to the original application was minor, and pursuant to section 45 (18.1.1) of the Act, the Tribunal had jurisdiction to render a decision on the matter without further notice.

[12] Ms. Watts provided context evidence regarding the Property. She confirmed that the Property is designated Low Density Residential in the City Official Plan and is in the R.2 Zone under the operative zoning by-law.

[13] Ms. Watts gave evidence that both the Official Plan designation and the zoning for the Property permitted a semi-detached residential dwelling and an accessory apartment.

[14] Ms. Watts gave evidence that there is an attached garage on Property and a driveway which accommodates two tandem parking spaces. The driveway width of approximately 3.9 m, is legally non-conforming.

[15] Ms. Watts advised the Tribunal that the number of parking spaces at the Property are compliant with the parking by-law requirements for a semi-detached home and accessory residential dwelling unit.

[16] There is a mature tree in the front yard of the Property which may be impacted by the proposed driveway expansion. Ms. Watts provided evidence that the City would prefer that the tree be retained or replaced in a relocated position in the front yard.

[17] Lyle McNair made submissions on behalf of the Appellants. Mr. McNair advised

that the Appellants are agreeable to the amended variance. Mr. McNair also advised that the Appellants co-operate with the City to mitigate any impact the expanded driveway might have, including relocation and replacement of the tree.

[18] Mr. McNair advised the Tribunal that the Appellants are seeking relief to construct a driveway having a width of 4.5 m to improve the functionality of parking at the Property. The Appellants propose to construct off-set parking spaces. The widening of the driveway and accommodation of the parking spaces does not necessitate any further cutting of the curb.

[19] When considering a minor variance, the Tribunal must consider the four-part test set out in section 45(1) of the Act:

1. Does the variance maintain the general intent and purpose of the official plan?
2. Does the variance maintain the general intent and purpose of the zoning by-law?
3. Is the variance desirable for the appropriate development or use of the land?
4. Is the variance minor in nature?

[20] Ms. Watts testified that in her opinion, the proposed revised variance maintained the general intent and purpose of the City Official Plan and Zoning By-law.

[21] Regarding the variance of the maximum driveway width to permit off-set parking, Ms. Watts provided her opinion that the improved serviceability of the on-site parking was desirable and appropriate.

[22] In the context of the Property and its neighbourhood, Ms. Watts was of the

opinion that the variance could be treated as minor.

[23] The Tribunal accepts Ms. Watts' expert opinion regarding the tests prescribed by section 45(1) of the Act.

[24] Based upon the testimony of Ms. Watts, the submissions of Mr. McNair and the submissions of counsel for the City, the Tribunal will allow the appeal and approve the variance as modified. This approval is conditional on the following:

- i. the Tribunal receive written confirmation from the City that it has a satisfactory arrangement with the Appellants regarding the replacement/relocation of the front yard tree, and
- ii. the surface finish of the expanded driveway be done utilizing permeable material in conformity with the zoning by-law.

[25] So Orders the Tribunal.

"M. Arpino"

M. ARPINO
MEMBER

"Gerald S. Swinkin"

GERALD S. SWINKIN
MEMBER

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Local Planning Appeal Tribunal

A constituent tribunal of Tribunals Ontario - Environment and Land Division
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