



COMMITTEE OF ADJUSTMENT DECISION

City of Mississauga

'A' - 395 / 10

File: ?A? 395/10
WARD 1

COMMITTEE OF ADJUSTMENT

IN THE MATTER OF SECTION 45(1) OR (2)
of The Planning Act R.S.O. 1990, c.P.13, as amended
- and -
IN THE MATTER OF ZONING BY-LAW 0225-2007
as amended
- and -
IN THE MATTER OF AN APPLICATION BY

PIONEER PETROLEUMS MANAGEMENT INC.

on Thursday November 25, 2010

Pioneer Petroleum Management Inc. is the owner of Part of Block A, Registered Plan B-10, located and known as 150 Lakeshore Road East, zoned C4-4, Commercial. The applicant requests the Committee to authorize a minor variance to permit:

1. a convenience retail and service kiosk and take-out restaurant having a height of one storey to a flat roof; whereas By-law 0225-2007, as amended, requires a minimum height of 2 storeys in this instance;
2. a take-out restaurant to be located approximately 34.00 m (111.54 ft.) from a Residential Zone; whereas By-law 0225-2007, as amended, requires a minimum separation distance of 60.00 m (196.85 ft.) measured in a straight line from the nearest part of the building or structure or portion of the building or structure containing the take-out restaurant use, to the closest lot line of a Residential Zone in this instance;
3. an outdoor patio accessory to the take-out restaurant use; whereas By-law 0225-2007, as amended, does not permit an outdoor patio use in this instance; and,
4. a front yard of 18.60 m (61.02 ft.) to the proposed take-out restaurant addition; whereas By-law 0225-2007, as amended, permits a maximum setback of 3.00 m (9.84 ft.) in this instance.

On October 28, 2010, Ms. L. Townsend, a Solicitor representing the property owner, attended and requested a deferral of the application. She indicated that she has just received copies of letters from

neighbours and Resident Associations expressing their comments with respect to the application. Ms. Townsend advised that she wishes an opportunity to consult with the community prior to the application being considered and requested that the application be deferred to November 25, 2010.

The Committee reviewed the information and plans submitted with the application.

The City of Mississauga Planning and Building Department commented as follows (October 26, 2010):

?1.0 RECOMMENDATION

The Planning and Building Department has no objection to the requested variances, subject to the propane storage tanks being removed.

2.0 BACKGROUND

Mississauga Plan

Planning District: Port Credit

Designation: Mainstreet Commercial

Zoning By-law 0225-2007

Zoning: ?C4-4?, Mainstreet Commercial

3.0 OTHER APPLICATIONS

1 Site Plan File: SP 08/051 - Satisfactory

4.0 COMMENTS

The applicant submitted revised site plan drawings on October 23, 2010 which satisfactorily addressed many of the issues related to the redevelopment of the gas bar. We note that the applicant has indicated that the existing propane tanks will be removed as part of the redevelopment of the site. Given the location of the subject site, its proximity to residential development and a public park, as well as the introduction of a restaurant use, this Department is in strong agreement that the existing propane tanks should be removed. While this Department does not have a concern with the requested variances, it is suggested that any variances granted should be conditional upon the propane storage tanks being removed.

5.0 FOOTNOTES

For the Committees information, we advise that City Council adopted Planning and Development Committee (PDC) recommendation PDC-10-96 on February 1, 1996 that states the following: "That the report entitled "60 m (197 ft.)- Restaurant Setback" dated December 18, 1995 from the Commissioner of Planning and Building be received for information, it being noted that in Council's opinion, the 60.0 m (197 ft.) setback is appropriate and proper, given its successful application since its inception.""

The City of Mississauga Transportation and Works Department commented as follows (October 21, 2010):

?We note for Committee's information that the City is currently processing a Site Plan Application for this property, Reference SP 08/051. Transportation and Works Department concerns/requirements for

this property will be addressed through the Site Plan Process.?

A letter was received from C. and L. Barre, residents at 159 St. Lawrence Drive, expressing opposition and noting their comments and concerns.

A letter was received from Fram Building Group, located at 141 Lakeshore Road East, expressing support for the application.

A letter was received from D. Greenfield and J. Danahy, Co-Presidents of the Town of Port Credit Association (TOPCA) expressing their concerns with respect to the development of the property. They requested that the application be deferred to allow citizens to collectively discuss the impact of the development on the community.

A letter was received from M. Sparrow, Barrister & Solicitor, 167 Lakeshore Road East, expressing opposition to the application and noting her concerns. She indicated that she believes that the proposed variances do not meet the four tests of the Planning Act and the application should be denied and the variances refused.

An e-mail was received from J. Atchison, property owner at 17 Rosewood Avenue, indicating that they agree with a number of the points raised in TOPCA's submission and requested a deferral of the application so that additional information can be provided to the residents and allow them an opportunity to discuss their concerns.

An e-mail was received from D. McVie, Vice-President of the Port Credit Village Residents Association, requesting that the matter be deferred to allow discussion with community representatives concerning the development.

Mr. R. Male, a representative of the Port Credit Village Residents Association, attended and advised that they believe that additional time will be required to allow for a review of the request. He requested that the application be deferred to a later date.

Ms. D. Tomiuk, a representative of the Town of Port Credit Association, attended and advised that they believe that additional time will be required to co-ordinate a meeting with the three ratepayer groups and requested a later deferral date.

No other persons expressed any interest in the application.

Ms. Townsend indicated that she is in the midst of an Ontario Municipal Board hearing and the selected date is the only date she is available until next year.

The Committee consented to the request and deferred the application until November 25, 2010.

On November 25, 2010, Ms. L. Townsend, a Solicitor representing the property owner, and Mr. J. Levac, authorized agent, attended and presented the application to facilitate the redevelopment of the existing gas station on the subject lands. Ms. Townsend advised the Committee that the previous deferral allowed her and her client to meet with the community to address and resolve some of the issues pertaining to the redevelopment of the gas station. Ms. Townsend characterized the existing gas station as being in a state of disrepair. She indicated that the redevelopment would upgrade the gas bar by refurbishing the existing car wash station and by renovating the convenience retail and service kiosk (the ?kiosk?) by including a take-out restaurant and ancilliary patio. Ms. Townsend stated that the existing propane storage tank located at the rear of the property would be removed.

Ms. Townsend advised the Committee that when the current Official Plan and Zoning By-law were enacted, both precluded the subject lands from being redeveloped for a gas station use. She explained that these policy documents were appeal to the Ontario Municipal Board, which subsequently recognized the existing gas bar use and allowed for its redevelopment.

Ms. Townsend advised the Committee that careful consideration was given with respect to the design of the kiosk. She noted that a fascia would be constructed to match the height of the abutting Thai restaurant. Ms. Townsend stated that at the request of Planning staff, the patio would be located adjacent to the sidewalk to enhance activity along the street. It was Ms. Townsend?s opinion that these design features allowed for appropriate framing of the street and met the policy objectives for ?Avenues?. Ms. Townsend advised the Committee that the take-out restaurant would be located approximately 30.00 m (98.42 ft) away from a residential condominium. She noted that this separation distance was appropriate in this instance. Ms. Townsend stated that mixed uses along Avenues were appropriate and that the proposed take-out restaurant would be a small operation. She noted that the operation would not contain a drive-thru, fixed indoor seating, or a liquor license. Ms. Townsend explained that all food would be prepared off-site and only retailed at the subject location. She noted that the garbage from the restaurant would be stored in an innovative below grade storage chute. Ms. Townsend opined that the operation of the take-out restaurant would have no impact on the residential condominium.

Mr. Levac advised the Committee that the subject lands fronted onto a major arterial road. He stated that the kiosk was designed to have the appearance of a two storey building to maintain the character of other buildings on the street. Mr. Levac noted that the building would not have a functional second floor. He explained that such second storey retail establishments were not typically successful in similar kiosks and were unable to handle the quick turnover required for such an operation. He indicated that the refurbishment of the site would include materials and design elements that would maintain the character of the area.

The Committee reviewed the information and plans submitted with the application.

The City of Mississauga Planning and Building Department commented as follows (November 19, 2010):

2.1.0 RECOMMENDATION

The Planning and Building Department has no objection to the requested variances, subject to the propane storage tanks being removed.

2.0 BACKGROUND

Mississauga Plan

Planning District: Port Credit

Designation: Mainstreet Commercial, Special Site #10

Zoning By-law 0225-2007

Zoning: ?C4-4?, Mainstreet Commercial

3.0 OTHER APPLICATIONS

1 Site Plan File: SP 08/051 - Satisfactory

4.0 COMMENTS

We advise that Pioneer Petroleums Management Inc. appealed Zoning By-law 0225-2007 and a settlement was reached between the City and the appellant to allow the gas bar and motor vehicle wash facility-restricted to continue on this site as additional permitted uses. Further, flexibility in the location of these facilities on the site was also granted in support of the settlement. The settlement was imposed by the Ontario Municipal Board on May 8, 2008, under Case Number PL070625.

It should be noted that the applicant is proposing to renovate the existing one-storey car wash building as opposed to demolishing it. Staff have worked closely with the applicant over the last two years to enhance the appearance of the site given its prominent location and the need to provide an interface with Lakeshore Road. The considerable discussions and negotiations with the applicant have resulted in significant improvements to the applicant's original submission. The applicant submitted revised site plan drawings on October 23, 2010, which satisfactorily addressed many of the issues related to the redevelopment of the gas bar. Further, we note that the applicant has indicated that the existing propane tanks will be removed as part of the redevelopment of the site. Given the location of the subject site, its proximity to residential development and a public park, as well as the introduction of a restaurant use, this Department is in agreement that the existing propane tanks should be removed.

This Department has no concerns with the requested variances associated with the adaptive reuse of the existing car wash building by converting it into a convenience retail and service building. We also have no concerns with the relocation of the car wash and gas bar. Staff are satisfied that the proposed improvements to the site, such as upgraded design and materials for both the car wash and convenience buildings, the provision of new landscaping and on-site bicycle racks, removal of the existing propane tanks, and the introduction of a take-out restaurant and associated outdoor patio to animate the streetscape, are appropriate given the nature of the use in a Mainstreet Commercial zone.

5.0 FOOTNOTES

For the Committees information, we advise that City Council adopted Planning and Development Committee (PDC) recommendation PDC-10-96 on February 1, 1996 that states the following: "That the report entitled "60 m (197 ft.)- Restaurant Setback" dated December 18, 1995 from the Commissioner of

Planning and Building be received for information, it being noted that in Council's opinion, the 60 m (197 ft.) setback is appropriate and proper, given its successful application since its inception."

The City of Mississauga Transportation and Works Department commented as follows (November 18, 2010):

?Please refer to our comments submitted for the October 28, 2010 hearing of this application as those comments are still applicable.?

Mr. R. Male, a representative of the Port Credit Village Residents Association, attended and expressed his association's support for the subject application. Mr. Male advised the Committee that he was able to resolve his association's concerns at a meeting with the applicant and Planning staff. Mr. Male suggested that a traffic impact study be prepared and reviewed if a ?Tim Horton?s? was to be the operator of the take-out restaurant.

Mr. C. Mackie, a representative of the Cranberry Cover Ratepayers Association, attended and expressed his association's support for the subject application. Mr. Mackie noted that the subject land was in a state of disrepair and indicated his association's desire to see the site redeveloped in a timely manner. He expressed support for the removal of the propane storage tank and stated that the proposed landscaping would enhance the appearance of the subject lands. Mr. Mackie noted that a patio was not an appropriate use at a gas station and suggested that additional pedestrian safety features and a bicycle lane be included in the redevelopment of the land.

No other persons expressed any interest in the application.

The Committee after considering the submissions put forward by Ms. Townsend and Mr. Levac and having reviewed the plans and comments received, is satisfied that the request is desirable for the appropriate further development of the subject property. The Committee determined in its review that the redeveloped gas station and its proposed ancillary uses were appropriate for the subject land. It explained that the subject property had historically contained a gas station and was appropriately located along a major arterial road. It was the Committee's opinion that the proposed redevelopment of the site brought about appropriate design changes compatible with the character of the area. The Committee indicated support for the design of the gas station and that the proposed construction materials were sensitive to other buildings adjacent to the subject property. The Committee indicated that the patio abutting the front lot line enhanced street activity and contributed to the main street appearance along this portion of Lakeshore Road East. The Committee supported the voluntary removal of the propane storage tank.

The Committee is satisfied that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained in this instance.

The Committee is of the opinion that the requested variance is minor in nature in this instance.

Accordingly, the Committee resolves to authorize and grant the request as presented subject to the following condition:

1. The applicant is to proceed in accordance with the plans reviewed by the Committee.

MOVED BY:

S. Patrizio SECONDED BY: J. Thomas CARRIED

Application Approved on condition as stated.

Dated at the City of Mississauga on December 2, 2010.

THIS DECISION IS SUBJECT TO APPEAL TO THE ONTARIO MUNICIPAL BOARD BY FILING WITH THE SECRETARY-TREASURER OF THE COMMITTEE OF ADJUSTMENT A WRITTEN NOTIFICATION, GIVING REASONS FOR THE APPEAL, ACCOMPANIED WITH THE PRESCRIBED FEE ON OR BEFORE DECEMBER 22, 2010.

Date of mailing is December 6, 2010.

S. PATRIZIO
D. GEORGE (CHAIR)

R. BENNETT
B. BUTT
ABSENT

G. MALONEY
C.L. VUN

J. THOMAS

I certify this to be a true copy of the Committee's decision given on December 2, 2010.

DINA MELFI, ACTING SECRETARY-TREASURER

A copy of Section 45 of the Planning Act, as amended, is attached.

NOTES:

- A Development Charge may be payable prior to the issuance of a Building Permit.
- Further approvals from the City of Mississauga may be required i.e. a Building Permit, a Zoning Certificate, a License, etc.