

HERITAGE VAUGHAN COMMITTEE MAY 22, 2013

4. 15 MILL STREET – PROPOSED VARIANCE APPLICATION FOR SEVERANCE AND ADDITIONAL COVERAGE – WARD 5

Recommendation

1. That Heritage Vaughan consider the proposed Committee of Adjustment Applications for the severance of the existing property at 15 Mill Street into two lots, resulting in a variance for additional coverage to the allowable for the lot retained with the existing structure, and if the committee sees merit in the application that the support of the application be subject to the following conditions:
 - i. That the lot coverage for the portion containing the existing structure at 15 Mill street not exceed the maximum variance for coverage usually granted as variance within the Heritage Conservation District of 23%;and,
 - ii. That in order to protect the rural and vegetation-rich streetscape of Mill Street, in the event that a structure is proposed on the newly created lot as a result of a severance of 15 Mill Street, that the future lot coverage should not exceed the allowable within the current zoning by-law; and,
 - iii. That the applicant work with Cultural Services in the design of a new structure for the newly created lot and the future owner/applicant return for approval of a Heritage Permit for the same at a later Heritage Vaughan Committee meeting, and;
 - iv. That any future new building be in accordance with the Heritage District Guidelines and the applicant return to Heritage Vaughan for final approval of the infill structure, and;
 - v. That for any period of time that the lot is vacant awaiting new construction, that it is maintained in compliance with the City Property Standards by-laws, including that the lot be maintained clean of debris, garbage, and grass be cut, and;
 - vi. That the owner obtain approval from all other City departments as required, and;
 - vii. That the applicant be advised that Heritage Vaughan Committee's approval does not constitute specific support for any variances, permits or requirements by other City reviewing bodies that may be sought by the applicant in relation to the property; and,
 - viii. The applicant is to be advised that if there are changes as a result of addressing issues from review by other departments, a new submittal for review for the Heritage Vaughan Committee may be required and any previous approval granted may be deemed invalid based on the new information provided.

Contribution to Sustainability

This report is consistent with the priorities previously set by Council in the Green Directions, Vaughan, Community Sustainability Environmental Master Plan, Goal 4, and Objective 4.1:

- To foster a city with strong social cohesion, an engaging arts scene, and a clear sense of its culture and heritage.

Economic Impact

N/A

Communications Plan

All agenda items and minutes relating to Heritage Vaughan committee meetings are circulated to relevant City departments, applicants and their representatives.

Purpose

To consider the background and analysis portions of this report in order to review the request for severance of the existing property at 15 Mill Street into two lots, resulting in a variance for additional coverage to the allowable for the lot retained with the existing structure.

Background - Analysis and Options

Background

Heritage Status of the property is that it is Designated Part V, as part of Thornhill Heritage Conservation District and Registered under Section 27, Part IV of the Ontario Heritage Act

The original portion of the existing house was constructed circa 1825 as one of four duplex mill worker's cottages for Thorn's mill, which was located at the bottom of the ravine across the Mill Street. The original 1825 portion is a 1 ½ storeys, cottage of Georgian saltbox design, clad in horizontal clapboard and modest proportions in a rectangular plan.

In 2011, the design for a new addition was approved by the Heritage Vaughan Committee, obtained a heritage permit and since has been constructed on site. The 2011 proposal included proposed professional landscaping in line with the vegetation of the area. The project received a 2013 Heritage Preservation Award.

Currently, there are two Committee of Adjustment applications concerning 15 Mill Street, application for consent B006/13 and Application for Minor Variance A121/13. Please see attachments.

Analysis

Committee of Adjustment applications have been circulated for staff comment. The following is an extract of the points in the staff's comments to the Committee of Adjustment:

3. *The owner previously obtained a Heritage Permit to restore and add to the existing 1825 cottage taking into account the current lot size. Part of the permit included a landscape plan for the entire property that worked with the natural vegetation and streetscape of Mill Street, and;*
4. *Cultural Services does not have an objection to the variance required to maintain the front yard and rear yard setbacks as those were set by the pre-existing 1825 Cottage and garage, and;*
5. *A maximum of 23% coverage has been previously approved within the Thornhill Heritage Conservation District. The subject application proposes coverage of 25.4% for the retained lot containing the 1825 Mill cottage with the new addition. Given that this exceeds precedents in the Heritage Conservation District, Cultural Services cannot support the application, and;*
6. *Section 9.5.2. Residential Area of the Heritage Conservation District Guidelines state that characteristically "the original village scale has persisted. Building height, lot coverage, and density are all low. The streetscapes are unified by a canopy of trees, planted in front of, behind, and beside most houses. Elements that define the heritage character of the residential village include:*
 - *Generous lot sizes and modest house sizes, compared to historic urban development or recent suburban development;*
 - ☐ *A variety of front yard setbacks;*
 - ☐ *The generous presence of mature trees, in addition to decorative shrubbery, in the front, side and rear yards...."*

7. *The applicant and the Committee of Adjustment are to be advised that the subject application will require the review by the Heritage Vaughan Committee. The next upcoming meeting is scheduled for May 22nd, 2013.*

The applicant has provided a letter from their planning consultant containing their rationale for the proposal. Please refer to the attachments.

It is noted from the applicant's correspondence, that the covered porches of the existing addition portions of the structure at 15 Mill Street, contribute approximately 3% to 4.5% to the coverage calculation, depending on whether a thin portion of land to the east of the main lot belonging to 15 Mill Street is counted or not (please refer to consultant's letter and its attachments).

Although in this case, the impact of the covered areas in the streetscape is minimal, the precedent set by the proposed extra coverage percentage could create a negative precedent within the Heritage Conservation District. The current design as it stands was originally designed based on the present lot size.

There is a concern that any future proposed coverage on the new lot will result in a denser look to Mill Street that would greatly change its unique, vegetation- rich, rural village feel. It is recommended that if the creation of a new lot by severance of the subject property is supported, that this be so with the condition that coverage of the newly created, vacant lot, must not exceed the allowable under the current zoning by-law. Furthermore coverage of the lot containing the existing cottage, should not exceed the average traditional maximum coverage within the Heritage Conservation District. In the past, the maximum variance for coverage usually granted has been 23%.

The case of the property on Elizabeth Street cited on the consultant's letter, is a unique situation, as the extra coverage was the result of conditions long pre-existing the enactment of the Heritage Conservation District. A description of the situation was provided to the Committee of Adjustment at the time. An extract of the comments is provided below (please also see attachments for the C of A decision):

3. *Cultural Services supports the retention and use of existing structures at their original locations and therefore has no concerns regarding the proposed front yard setback, the rear yard setback and interior side yard setback. The structures have been part of the subject lot for a long time prior to the enactment of the Heritage Conservation District in 1988. The current Heritage District Inventory describes the main (front) structure at 25 Elizabeth Street as being built in the early 1900's at a prior location at Yonge and Centre Street and it was moved to the present location "...in 1929 and placed in front of a small cottage...which remains..." (THCDI p.42).*
4. *Heritage Permit HP.2011.013.00 has been approved and issued (dated September 30, 2011) for the proposed restoration work on the main dwelling as well as the replacement of the 1977 back addition with a new addition, as long as the existing coverage is maintained, and that this situation will not be considered "a precedent for other properties that may not have the same history of pre-existing conditions". This permit was issued upon review of the proposal by the Heritage Vaughan Committee on their meeting of September 21, 2011. Please see attachment.*
5. *Cultural Services has no concerns regarding the proposed Committee of Adjustment application as long as the coverage and setbacks do not exceed the pre-existing conditions unique to the subject property as they are not considered a precedent for other properties that may not have the same history of pre-existing conditions.*

Cultural Services will require the review of any proposed new structures on a newly created lot within the Heritage Conservation District, as the new lot will maintain the Part V Designation under the Ontario Heritage Act and the new design must comply with the Heritage District Guidelines.

Relationship to Vaughan Vision 2020/Strategic Plan

In consideration of the strategic priorities related to Vaughan Vision 2020, the report will provide:

- **STRATEGIC GOAL:**
Service Excellence - Providing service excellence to citizens.
- **STRATEGIC OBJECTIVES:**
Preserve our heritage and support diversity, arts and culture.

This report is consistent with the priorities previously set by Council, however the necessary resources have not been allocated and approved.

Regional Implications

N/A

Conclusion

Given that the precedents in the area for new construction do not exceed 23% coverage in order to maintain a traditional balance between built and green space within the Heritage Conservation District, staff cannot support the variance for 25.4 % coverage. Please refer to the recommendation section of this report.

Attachments

1. Location Map
2. A121/13 Extract: Review by Building Standards Department
3. A006/13 Extract: Review by Building Standards Department
4. to 6. Proponent's letter form Planning Consultant – page 1 to 3
7. to 8. Proponent's letter from Lawyer – page 1 to 2
9. Proponent's letter from Planner/Lawyer – page 3
10. to 12. 15 Mill Street and streetscape photos, May 2013

Report prepared by:

Cecilia Nin Hernandez
Cultural Heritage Coordinator, Ext. 8115
Recreation and Culture Department

Angela Palermo
Manager of Cultural Services, Ext. 8139
Recreation and Culture Department

Location Map



A121/13 Extract: Review by Building Standards Department

Location: 15 Mill Street
PLAN RP328 Lot 5-8
File No.(s): A121/13

Zoning Classification:

The subject lands are zoned *R1V, Old Village Residential* and subject to the provisions of *Exception 9(662)* under By-law 1-88 as amended.

Proposal:

1. To maintain a front yard setback to the house of 3.92m.
2. To maintain a rear yard setback to the house of 4.5m.
3. To maintain house side yard setback sum of 30.5m.
4. To maintain a total lot coverage of 25.4% (505.8m²).
5. To maintain a rear yard setback to the detached garage of 0.44m.

By-Law Requirements:

1. Minimum 9m front yard setback to house.
2. Minimum 9m rear yard setback to house.
3. Sum of side yards calculated from the main building shall not exceed 15m.
4. Maximum lot coverage of 20%.
5. Minimum 9m rear yard setback to detached garage.

Staff Comments:

Stop Work Orders and Orders to Comply:

There are no outstanding Orders on file.

Building Permits Issued:

A building permit has not been issued. The Ontario Building Code requires a building permit for structures that exceed 10m².

Other Comments for C of A Staff and Applicant:

- 1) Items 1, 2 and 5 above were approved under a previous Minor Variance application for the original lot (A076/11). Due to consent application B006/13, we are including these variances again for the new retained lot.
- 2) Numbers for the lot coverage calculations were provided by the applicant with no dimensioned drawings accompanying the application, therefore percentage could not be verified by plans examiner.
- 3) The subject lands may be subject to Ontario Regulation 166/06 (TRCA – Toronto Region Conservation Authority).
- 4) This is a historical property and subject to Cultural Department review.

Conditions of Approval:

If the committee finds merit in the application, the following conditions of approval are recommended.

None

Location: 15 Mill Street
File No.(s): B006/13

Zoning Classification:

The subject lands are zoned R1V, *Old Village Residential* subject to *Exception 9(662)* under By-law 1-88 as amended.

Proposal:

Lot Frontage:

The minimum Lot Frontage requirement for the *severed* lands is 30 metres.

The minimum Lot Frontage requirement for the *retained* lands is 30 metres.

- The proposed lot frontage of 30 metres for the *severed* lands meets the minimum lot frontage requirement.
- The proposed lot frontage of 86.49 metres for the *retained* lands meets the minimum lot frontage requirement.

Lot Area:

The minimum Lot Area requirement for the *severed* lands is 845 m².

The minimum Lot Area requirement for the *retained* lands is 845 m².

- The proposed lot area of 1090.2 m² for the *severed* lands meets the minimum lot area requirement.
- The proposed lot area of 1991.7 m² for the *retained* lands meets the minimum lot area requirement.

Staff Comments:

Stop Work Orders and Orders to Comply:

There are no outstanding Orders on file.

Other Comments:

- 1) *****It appears that variances may be required for the retained lands.*****

Applicant must provide the following information:

- a) Lot coverage calculations for the retained lands.

By-law 1-88 a.a. defines lot coverage as follows:

LOT COVERAGE – Means the percentage of the lot area covered by all buildings and structures above ground level, including accessory buildings, provided that the area of buildings shall be measured to the exterior of the outside walls, and shall not include projections such as eaves or decks which are not covered and not enclosed.

- b) Clearly indicate all setbacks to house and garage.
- c) Please provide architectural elevation indicating the height of the house.

- 2) This is a Historically Significant Property, Cultural Department review may be required.

- 3) The subject lands may be subject to Ontario Regulation 166/06 (TRCA – Toronto Region Conservation Authority). TRCA approval may be required.

Dear Madam:

**RE: Committee of Adjustment Applications A 121/13 and B 006/13
Roy and Monica Murad
15 Mill Street**

We are in receipt of your memorandum addressed to Mr. Coles dated April 29, 2013, regarding the above consent and minor variance applications.

We note in particular that Cultural Services has indicated that it cannot support the requested lot coverage variance for the existing buildings, and has indicated that Heritage Vaughan will consider the applications on May 22.

As a result of these comments, we understand that the Committee of Adjustment's consideration of this matter will be deferred from May 9 until after Heritage Vaughan has formulated its position on the matter.

To avoid the above delay and resolve the matter, we would request that staff review its concern regarding the lot coverage variance with reference to the following points.

1. As indicated on the survey sketch submitted with the application the lot coverage within the area of the retained lot will be 25.4%. This is calculated as follows:

(a) Dwelling	18.3%
(b) Garage	2.5%
(c) Overhangs	<u>4.6%</u>

Total	25.4%
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2. But for the overhangs, the lot coverage would have been 20.8% based on the footprint of the dwelling and the garage.
3. The maximum coverage in the zone is 10% for two-storey dwellings and 23% for 1.5 storey dwellings with lofts and with a height of up to 7 metres. The existing dwelling falls within the two height stipulations but because the loft is larger than 70 metres, it does not qualify for the 23% maximum coverage.
4. I am attaching a letter dated April 8, 2013, from Mr. Barry Polisuk, Mr. Murad's lawyer. In this letter, Mr. Polisuk confirms that Mr. Murad's adverse possession claim in relation to the adjoining Lot 8 has been initiated and that he is fully confident that it will be successful. As indicated on the survey sketch, Lot 8 has an area of 105 square metres. Once Lot 8 is added to the retained lot, the lot coverage of the existing buildings and overhangs will be reduced from 25.4 % to 24.2%. The buildings alone will have a combined coverage of only 19.7%.
5. In my opinion, because the building overhang areas are unenclosed, they have very limited visual impact.
6. The overhangs provide for weather-protected access from house to the garage, which is located behind the house consistent with HCD guidelines.
7. Mr. Murad intends to ensure that the house constructed on the lot to be severed will be designed in a manner sympathetic to his residence at 15 Mill Street and the HCD generally.
8. Section 9.5.2 of the HCD Guidelines states that existing lot coverages in the area are low, but we are unable to find any Guideline that addresses lot coverage for new dwellings. Similarly, there is no Guideline which states that lot coverage should not exceed 23%.
9. The HCD plan indicates that lot coverages in the area are low but there is at least one example of a high lot coverage, for the dwelling and coach house at 25 Elizabeth Street, where the Committee of Adjustment approved a maximum lot coverage of 35.3% recognizing the existing conditions, thereby facilitating the reconstruction of a part of the second storey (File A192./11).

In conclusion we would ask that Cultural Services staff withdraw its concern regarding the lot coverage variance considering the above points, in particular (1) the lack of policy direction on this topic in the HCD Plan, (2) the low visual impact of the overhangs; and (3) the minor quantum of the variance.

As a result of staff withdrawing its concern, I understand that there would be no need for Heritage Vaughan to consider the matter, and the hearing of the Committee of Adjustment may proceed on May 9.

In the event that concerns remain Mr. and Mrs. Murad are prepared, if no alternative options are available, to remove portions of the overhang to bring the lot coverage down to 23%. This would entail removal of the overhang areas shown on the attached drawing.

I would be pleased to discuss further at your convenience and look forward to your reply at your earliest convenience.

Yours truly,
Weston Consulting
Per:



Alan Young, BES, MSc, MCIP, RPP
Senior Associate

- c. Roy and Monica Murad
Todd Coles, Secretary-Treasurer of the Committee of Adjustment
Mark Antoine, Planner, Development Planning Department



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April 8, 2013

The Committee of Adjustments
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario

Re: Monica Murad claim for adverse possession
Lot 8, Range B, Plan 328 Vaughan, City of Vaughan

And Re: File No. B006-13, 15 Mill Street, Vaughan

We are the solicitors for Monica Murad, the registered owner of the lands legally described as Lot 6, Range B Plan 328 Vaughan; Part of Lot 5, Range B, Pan 328 Vaughan; and Part of Lot 7, Range B, Plan 328 Vaughan as in VA58556, City of Vaughan (being the whole of PIN 03259-1497(LT) and municipally known as 15 Mill Street, Vaughan, Ontario (hereinafter described as the "15 Mill Street Lands"), and can confirm that we have initiated an Application for Absolute Title with respect to the above noted lands together with the lands legally described as Lot 8, Range B, Plan 328 Vaughan, City of Vaughan (being the whole of PIN 03259-0748(LT)) (hereinafter described as the "Secondly Lands").

Mrs. Murad purchased the 15 Mill Street Lands on January 25, 2011 as evidenced by a Transfer registered as instrument number YR1603004 (the "Transfer Date") at which time we obtained a Declaration of Possession (the "Declaration") from the vendors, Edward Robert Stitt and Norma Sue Stitt (collectively the "Stitts"). In said Declaration the Stitts declared that they had been in actual, peaceable, continuous, exclusive, open and undisturbed and undisputed possession of the 15 Mill Street Lands together with the houses and other buildings used in connection therewith since they acquired the 15 Mill Street Lands by a Transfer dated the 7th day of July, 2000, and registered in the Land Registry Office for the Land Titles Division of York (No. 65) at Newmarket, on the 14th day of July, 2000, as instrument number LT1501845, which Transfer was subsequently conveyed to Edward Robert Stitt and Norma Sue Stitt, as joint tenants, by a Transfer dated the 2nd day of August, 2000, registered in the Land Registry Office for the Land Titles Division of York (No. 65) at Newmarket, as instrument number LT1511320.

The Declaration further states that there are no physical barriers, fences, or other like markers dividing the Secondly Lands from the 15 Mill Street Lands and that they had used, possessed, occupied and operated the 15 Mills Street Lands together with the Secondly Lands as if same were a complete and indivisible portion of the 15 Mill Street Lands since July 14, 2000. The

Proponent's Letter from Lawyer – page 2

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BARRISTERS & SOLICITORS

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Declaration additionally states that they were not aware of any person or persons or corporations having any claim or interest in either the 15 Mill Street Lands or the Secondly Lands.

Mrs. Murad has advised that possession and occupation of both the 15 Mill Street Lands and the Secondly Lands has been undisturbed since the Transfer Date and that she is not aware of any action, suit or other proceedings or adverse possession or otherwise on the part of any person whomsoever (including, but not limited to: (i) Margaret May Jackson, or her heirs, successors and assigns; nor (ii) D. McDougall, or his/her heirs, successors and assigns), and no payment has ever been made or acknowledgment of title given by anyone to any person in respect of any right, title, interest or claim upon either the 15 Mill Street Lands or the Secondly Lands.

Accordingly, upon completion of the land titles application, and by virtue thereof Monica Murad will become the absolute legal and beneficial owner of the 15 Mill Street Lands and the Secondly Lands as if she had obtained title to the Secondly Lands by adverse possession. We are fully confident that the application will be successful.

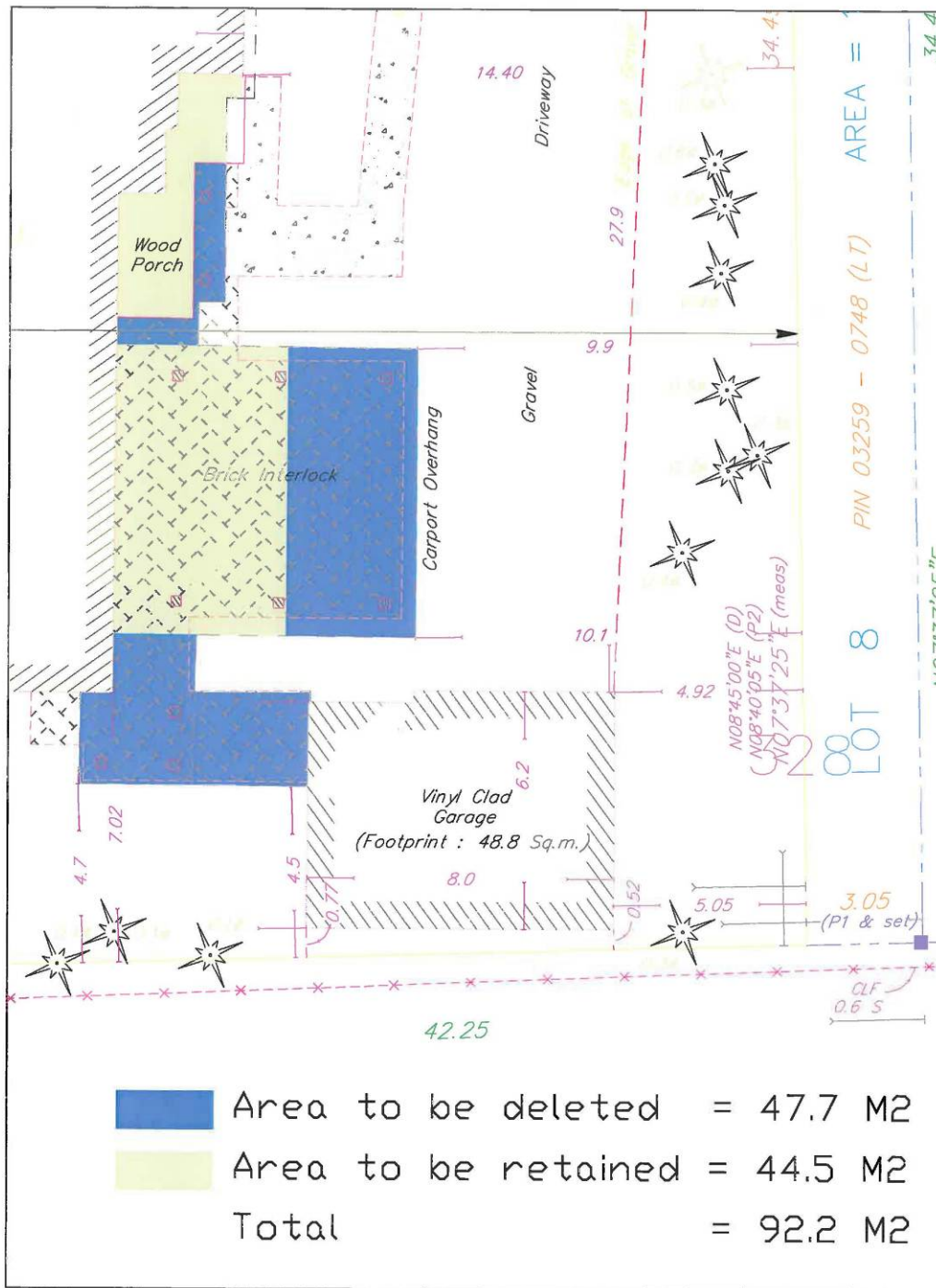
Yours very truly,

Garfinkle Biderman LLP

Barry M. Polisuk

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Attachment 10

15 Mill Street and streetscape photos, May 2013



15 Mill Street and streetscape photos, May 2013



Attachment 12

15 Mill Street and streetscape photos, May 2013

