



OAKVILLE

REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: DECEMBER 4, 2017

FROM: Legal Department
DATE: October 27, 2017
SUBJECT: **OMB Appeal - CAV A/181/2017**
428 Samford Place
LOCATION: 428 Samford Place
WARD: 2

Page 1

RECOMMENDATION:

1. That the appeal to the Ontario Municipal Board of Committee of Adjustment Decision CAV A/181/2017, 428 Samford Place, be:
 - (i) confirmed;
 - OR**
 - (ii) withdrawn;
2. That if Council confirms the Appeal, then the Town Solicitor or his designate be authorized to pursue this appeal of COA Decision CAV A/181/2017 in accordance with the position set out in Appendix C attached to the report dated October 27, 2017 from the Legal department;
3. That if pursuant to clause 1 above this appeal is continued, then in consultation with the Director of Planning or his designate, the Town Solicitor or his designate be authorized to negotiate a proposed settlement of the Appeal either before or at the Board Hearing in a manner that addresses the issues and concerns identified in Appendix C attached to the report dated October 27, 2017 from the Legal department.

KEY FACTS:

The following are key points for consideration with respect to this report:

- The owners of 428 Samford Place wished to construct a new two-storey dwelling to replace the existing one-storey dwelling. The floor space they desired required a variance from the Town Zoning By-law 2014-014 in the RL3-0 Zone. The owners therefore applied to the Committee of Adjustment

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428 Samford Place

(C of A) and in the application they requested an increase in the Maximum Residential Floor Area Ratio (RFAR) from 41% to 44.94%.

- Planning Staff recommended to the Committee denial of the Applicant's variance request for increase in the RFAR because it would result in a dwelling with massing that did not protect or maintain the character of the neighbourhood thus presenting negative impacts along the streetscape and in the surrounding neighbourhood.
- The C of A approved the requested variance in RFAR despite the Town Planning advice to the contrary.
- The Town Solicitor appealed the decision to the OMB on behalf of the Town pending Council confirmation as per the "Standing Instructions" of Council.

BACKGROUND:

On September 15, 2017, the owners of 248 Samford Place, Oakville, being 2572876 Ontario Inc., applied to the Committee of Adjustment for a variance. The owner desired to build a new two-storey dwelling to replace the existing one-storey dwelling with an increase in the maximum residential floor area ratio from 41% to 44.94%. Staff advised against the approval of the application but the Committee of Adjustment approved the application. The Decision of the Committee is attached as Appendix B to this Report. The Location Map for the particular lands concerned is attached as Appendix A to this Report.

Planning staff (see Appendix C) had indicated that in its opinion the requested increases in maximum residential floor area ratio would not be in keeping with the four tests needed for approval of a minor variance:

1. Is it minor;
2. Is it desirable for the appropriate development of the lands or area;
3. Is it in keeping with the general intent and purpose of the Town Official Plan;
and
4. Is it in keeping with the general intent and purpose of the zoning by-law.

COMMENT/OPTIONS:

The subject site is located on the southern portion of Samford Place, on the west side of the street. The road allowance creates a bulb-like bend in the road which has an effect on the siting of the dwellings to the south of the subject property. This also results in the existing dwelling being sited in front of the dwelling to the south. The

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Subject: OMB Appeal - CAV A/181/2017
428 Samford Place

subject site is also abutting a newer two-storey dwelling to the north which was recently constructed in accordance with the Zoning By-law.

The applicant is seeking relief to permit a new two-storey dwelling with an increase in residential floor area ratio. The proposed dwelling has been moved forward 1m, consistent with the regulations of the Zoning By-law. However, as stated in the Planning Staff Report to the Committee, this further exacerbates the condition of the dwelling being in front of the one-storey dwelling to the south. Additionally, the Staff Report to the Committee further indicates that the proposed dwelling does not provide a sympathetic transition to the dwelling to the south and introduces a massing and scale that has negative impacts onto the abutting property and the streetscape.

CONSIDERATIONS:

(A) PUBLIC

- Litigation or potential litigation
- Solicitor and client privilege

(B) FINANCIAL

Staff time in preparing the appeal and this report. The additional cost to the Town would be further cost in the Legal and Planning Departments in processing the Appeal to the OMB.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

The Commissioner Community Development has reviewed this report.

(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- be accountable in everything we do

(E) COMMUNITY SUSTAINABILITY

The issue impacts the pillar of economic sustainability through the appropriate use of internal and external resources.

APPENDICES:

Appendix A – Location Map

Appendix B – Decision of the Committee of Adjustment CAV A/181/2017

Appendix C – Planning Staff Report to the Committee

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Submitted by:
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Town Solicitor