

Application B19-017 and A19-121 (67 Main Street South)

Submission by Paul Snape

E-mail dated September 25, 2020 with attached Briefing Note

Myers, Jeanie

From: Paul Snape
Sent: 2020/09/25 1:12 PM
To: Myers, Jeanie
Cc: Chris Helik
Subject: [EXTERNAL]Submission re: 67 Main St S applications B19-017 and A19-121

Dear Ms Myers,

Here is my written submission with respect to the above referenced applications.

Sincerely,

Paul Snape

To the Chairman and Members of the Committee of Adjustment of the City of Brampton

Re: Applications B19-017 and A19-121
67 Main St. South

Dear Mr. Chairman and Members of the City of Brampton Committee of Adjustment, and the Secretary Treasurer,

My name is Paul Snape and I am a land use planner with 30 years experience in municipal planning. I have worked at the City of Etobicoke (1987 to 1989), the City of North York (1989 to 1995) and the City of Brampton (1995 to 2015). Preparing reports and providing planning opinion on Committee of Adjustment matters was a significant part of my portfolio in each municipality that I worked. I have also attended and given planning evidence at more than 50 Ontario Municipal Board Hearings, many of which involved severance and minor variance applications.

This submission to you is concerning the above-referenced property and applications and it is my opinion, as detailed below, that these applications are not supportable and should be refused.

I have conducted a site visit and viewed the subject property and location of the proposed severance from the neighbouring property (71 Main St S). I have also reviewed all relevant planning documents and submission materials to form my opinion.

The purpose of this submission is to provide reasons as to why I do not support this proposal and it is my intention to speak at the Committee of Adjustment to elaborate upon the points I am raising here.

The Proposed Severance

The real issue here is the creation of a lot where, in my opinion, a lot should not be. The criteria by which severances are to be evaluated are found in Section 53(12) and 51(24) of the Planning Act of Ontario - these are set out in the table (Schedule A of the City Staff Report dated June 12, 2020). Any failure to meet any of these criteria would mean the severance is not supportable.

Note: If, as in my opinion, a lot should not be created, there is then no need for the minor variances to the zoning by-law, and, hence, no relevance of the “4 test” because these “4 tests”, as the Committee is well aware, apply to variances to the zoning by-law.

1. Premature - *Criterion 51(24) b) Whether the proposal is premature or in the public interest*

This application is premature. 67 Main Street S is located in an area of the City that is currently subject to a Heritage Conservation District (HCD) Study. The study is assessing the area for its heritage attributes and includes lands on the west side of Main Street to Elizabeth Street. The study is looking at the buildings and the land. The parklike setting and openness of the area is identified as significant to the area’s heritage characteristics and value.

Part of the study is also to look at potential for severance, if any, and to come up with possible locations, minimum lot size and even restrictions on the size of new houses. This HCD study is ongoing and is not finished.

A fundamental part of planning is to plan ahead for the future by way of a comprehensive review, a selection of possible land use policies and controls and then to have these fully vetted through a public process, culminating in a decision by City Council. While this HCD study is still outstanding, any application or proposal to change and develop lands within the study area would, most certainly, be premature and not within the public interest. An approval of this 67 Main application would jeopardize the study, create undue pressure for more and similar severances and, in so doing, change the character of the area that is sought to be conserved.

This application for severance does not meet criterion 51(24) b) of the Planning Act.

An illustration of the concern about severances in this area and the need to finish the study for the area is an a briefing note from staff to the Brampton Heritage Board at the meeting of April 16, 2019. This note will be provided for the Committee’s reference.

2. The Real, Physical and Visual Impact. Section 51(24) c) asks *whether the proposed severance conforms to the Official Plan and Adjacent Plans of subdivisions, if any.*

There are many Official Plan policies that can be referred to for guidance as to the conformity question of this proposed severance. The Official Plan has general severance policies (Section 5.17) that seek to ensure that a functional lot would be created, at an appropriate size and configuration. These policies are general, in my opinion, and do not provide sufficient guidance, in this case, to make a conclusive determination about the conformity of this proposed severance.

There is the Secondary Plan policy (5.6.1.1 iii)) that states that subdivision of lots which front onto Main Street South shall be discouraged. Although this policy airs on the negative side for any support of this proposed severance, it is not conclusive. This aspect further demonstrates the need to complete the HCD study and properly establish strong policies about the District and severance potential.

There are other policies in the Official Plan such as the the Older, Mature Neighbourhoods section (4.2.1.20) and Unique Communities (3.2.10), which includes the Main Street South area and the subject property. These policies have stronger wording about the “unique cultural, historical, natural and landscape qualities which are valued. Their conservation forms an important part of the City Structure and contributes to the sense of place and identity.” These policies, in my opinion, give credence to maintaining the existing character of these areas and do more than just discouraging severances. Again, there is a real need to properly go through a land use planning process and provide the certainty for this Main Street South area that it clearly deserves.

The second part of 51(24) c) pertains to conformity with adjacent plans of subdivision. This means, how does this proposed lot fit into and impact the lots within which it is to be located.

In my view, it is the real physical, visual impact that has to be considered. In other words, what real impact will the proposed lot and a house upon it have on neighbouring lots. To analyze this, I look to the draft HCD study that has come up with some possible severance potential.

The draft heritage study document cites possible severance scenarios and these are at corner lots and on lots where there is vehicular access to Elizabeth Street. The subject property is identified as one such lot. In my opinion, this potential scenario is arbitrary and does not take into the consideration the real impact of a new lot and house built upon it in, essentially, the backyard area. The common or conventional juxtaposition of houses is such that they are side by side and the side yards are the areas where there is a given mutual or shared impact; impact from shadowing, overview and loss of privacy. The rear yard areas are areas where a certain amount of privacy should be expected, and this privacy and reduced impact is enjoyed on all properties.

This proposed severance creates a situation where there is physically a 24m (80ft) protrusion (even with the staff recommended setbacks) of a building placed next to the rear yards of the neighbouring lots. Regardless of how large the rear yards are, there is still an uncommon situation created here with loss of privacy on abutting properties, especially with a 2 storey house and upper floor windows. This is a real impact and it is not logical to say that this impact would be any less for properties adjacent to those properties that just happen to have vehicular access to Elizabeth Street.

Again, in my view, the HCD study needs to be completed and the real impacts properly assessed. From what I can see so far this has not occurred and, as a result, this current severance application will cause a real impact and create a dangerous precedent for other such severances.

For the forgoing reasons, it is my opinion that the severance application not be approved. Without an approved severance, there is not a need for variances to the zoning by-law to facilitate the lot. Therefore, the variance application should also not be approved.

I will be elaborating on the points and opinion I have provided in this submission at the Committee of Adjustment hearing, and would be glad to answer any questions the Committee may have.

Respectfully submitted,

Paul Snape

April 5, 2019

MAIN STREET SOUTH HERITAGE CONSERVATION DISTRICT

TO: MAYOR AND COUNCILLORS
COPY TO: SENIOR LEADERSHIP TEAM

SUBJECT:

The Brampton Heritage Board and Council have raised concerns related to potential severances within the area of the proposed Main Street South Heritage Conservation District. They have expressed interest in potentially passing an Interim Control By-law (ICBL) to prevent future severances until the District is finalized and Council has approved the District Plan, By-law and associated planning amendments.

Staff has prepared this briefing memo as a response to these concerns and to provide clarification on next steps.

BACKGROUND:

The residential neighbourhood of Main Street South, generally bounded by Wellington Street to the north and the Etobicoke Creek to the south, is 'listed' on the City of Brampton's Municipal Register of Cultural Heritage Resources, meaning that Council believes the corridor to be of cultural heritage value/interest. The area is characterized by single detached dwellings on large estate lots.

In 2009, Council directed staff to focus on the creation of the Main Street South Heritage Conservation District. This is a two-stage process. Stage 1, undertaking the Main Street South HCD Study, was completed in 2014. Heritage staff and the City's heritage consultants are working on Stage 2, which involves the preparation and approval of the District Plan, By-law, and associated planning amendments, including policies pertaining to severances within the District.

CURRENT STATUS:

On February 7, 2017, severance and minor variance applications to construct a new detached dwelling were submitted for 76 Main Street South, which is located within the area of the proposed HCD. The Committee of Adjustment approved the application on November 14, 2017, and Council appealed the decision by to the Local Planning Appeal Tribunal (LPAT). On January 18, 2019, LPAT dismissed the Appeals subject to conditions.

At the Brampton Heritage Board meeting of March 19, 2019, Heritage staff provided a verbal update on the LPAT decision regarding the severance. There was discussion about passing an ICBL as a way of preventing future severances for properties in the area, and staff was requested

to report back to the Board on this potential measure. The matter was further discussed at the Planning & Development Services Committee meeting on March 25, 2019.

ICBLs put a temporary freeze for a maximum period of two years on any type of development while the municipality is studying or reviewing its policies.

With only one lot severance application submitted within the area of the proposed HCD since the project's initiation in 2009, it is evident that the area is not subject to urgent or increasing pressures related to applications for lot severances. A member of the Brampton Heritage Board also noted that putting a temporary freeze on development within the area could negatively impact property owners' support for the proposed HCD. For these reasons, staff does not recommend an Interim Control By-law.

NEXT STEPS:

Heritage staff, the heritage consultants and City Legal staff have been working together to develop policy language in the draft Main Street South HCD Plan and associated planning amendments to ensure that future severances will be appropriately managed within the District.

Should any additional lot severance applications be submitted within the area before the final planning amendments are forwarded to Council for adoption, staff has the ability to recommend refusal of the application to the Committee of Adjustment if it fails to meet the consent criteria outlined in the *Planning Act*.

Heritage staff continues to work on finalizing the District Plan, incorporating some of the most recently received public feedback from the September 2018 Update Meeting, and preparing the Recommendation Report, Main Street South HCD By-law and planning amendments. Staff anticipates bringing this to Council for approval by Q3 2019.

Should it be the will of Council to pass an Interim Control By-law for the area of the proposed Main Street South HCD, staff will be required to prepare a Recommendation Report and accompanying Interim Control By-law for Council's enactment.

KEY MESSAGES:

The following key messages are provided for your use in response to questions from your constituents. Please refer all media calls to the below media contact.

- At the direction of Planning & Development Services Committee and the Brampton Heritage Board, staff looked into potentially passing an Interim Control By-law (ICBL) for the Main Street South Heritage Conservation District (HCD).
- Since there has been only one severance application submitted to the City since the HCD project began in 2009, it is evident that the area is not subject to urgent or increasing pressures related to applications for lot severances. Staff does not recommend an ICBL for this area.

- The HCD Plan and associated planning amendments will include policy language to ensure that future lot severances will be appropriately managed within the District.
- If a severance application is submitted prior to Council approving the final District Plan, By-law and associated planning amendments, staff have the ability to recommend refusal if it fails to meet the consent criteria outlined in the *Planning Act*.
- Staff and heritage consultants are working on forwarding the final District Plan, By-law and associated planning amendments to Council for consideration in Q3 of 2019.

INFORMATION CONTACTS

Subject contacts: Bob Bjerke, Policy Director, Planning and Development Services
 Cassandra Jasinski, Heritage Planner, Planning and Development Services

Media Contact: Natalie Stogdill, Senior Advisor, Public Relations
 natalie.stogdill@brampton.ca