



Corporate Report

PDC MAR 18 2013

Clerk's Files

Originator's
Files

'B' 5/13 W1,
'A' 9/13 & 'A' 10/13 W1

DATE: February 26, 2013

TO: Chair and Members of Planning and Development Committee
Meeting Date: March 18, 2013

FROM: Edward R. Sajecki
Commissioner of Planning and Building

SUBJECT: **Appeal to the Ontario Municipal Board
Committee of Adjustment Decision
Consent Application 'B' 5/13 W1 and
Minor Variance Applications 'A' 9/13 and 'A' 10/13
Freida and Emma Fischer
1238 Strathy Avenue
North of Lakeshore Road East,
east of Cawthra Road**

Ward 1

RECOMMENDATION: That the Report dated February 26, 2013, from the Commissioner of Planning and Building regarding the appeal filed by Legal Services by letter be adopted, and that Legal Services, together with other appropriate City staff attend the Ontario Municipal Board hearing in support of the appeal of the decisions of the Committee of Adjustment under files 'B' 5/13 W1, 'A' 9/13 and 'A' 10/13 W1, regarding the property at 1238 Strathy Avenue.

**REPORT
HIGHLIGHTS:**

- The subject consent application ('B' 5/13 W1) and minor variance applications ('A' 9/13 and 'A' 10/13 W1) were approved by the Committee of Adjustment on January 3, 2013.
- The Planning and Building Department recommended that the applications be refused since they did not maintain the intent of the Official Plan and Zoning By-law, and were not minor in nature.

- A "Placeholder" appeal has been filed by Legal Services as these decisions could set an undesirable precedent with respect to the interpretation of the Official Plan and Zoning By-law in the context of other Committee of Adjustment matters being considered by the City.

BACKGROUND:

On January 3, 2013, the Committee of Adjustment considered severance application 'B' 5/13 W1 to convey a parcel of land having a frontage of approximately 11.55 m (37.89 ft.) and a lot area of approximately 387.40 m² (4,170.07 sq. ft.), for the purpose of creating a new residential lot. Minor Variance applications, under files 'A' 9/13 and 'A' 10/13 W1 were also submitted to permit lot frontages of 11.55 m (37.89 ft.) in each instance, lot areas of 387.40 m² (4,170.07 sq. ft.), lot coverage of 40% for each lot, and side yard setbacks of 1.20 m (3.93 ft.) for each new proposed dwelling.

At the Committee of Adjustment meeting, the applicant indicated that the variances for lot coverage and side yard setbacks would no longer be required since the size of both dwellings would be reduced. The amended applications were approved on January 3, 2013 by the Committee of Adjustment with variances for lot frontage and lot area.

A "Placeholder" appeal was submitted on January 25, 2013 by Legal Services. The purpose of this report is to seek direction on this matter.

Background information is provided in Appendices 1 to 7.

COMMENTS:

The applicant's authorized agent attended the Committee of Adjustment meeting on January 3, 2013 to present the applications. The authorized agent expressed the opinion that the proposed frontages and lot areas were compatible with the existing lot pattern of the surrounding properties. He further stated that in his view the proposed dwellings were compatible with the size and scale of other dwellings on this portion of Strathy Avenue.

The Planning and Building Department recommended that the severance and minor variance applications be refused on the basis that they do not maintain the general intent and purpose of the Official Plan and are not desirable for the appropriate development of the land.

Official Plan

The subject property is designated "Residential Low Density II" in the Lakeview Neighbourhood which permits detached dwellings. The Neighbourhood policies of Mississauga Official Plan further outline specific requirements for consent applications.

Section 16.1.2.1 states:

"To preserve the character of lands designated Residential Low Density I and Residential Low Density II, the minimum frontage and area of new lots will generally represent the greater of:

- a. the average lot frontage and lot area of residential lots on both sides of the same street within 120 m (393.70 ft.) of the subject property. In the case of a corner lot, lots on both streets within 120 m (393.70 ft.) will be considered; or
- b. the requirements of the Zoning By-law."

The purpose of this policy is to ensure that the lot frontages and lot areas that define and characterize the streetscape in this neighbourhood are maintained.

The Planning and Building Department reviewed the applications and calculated the average of the lot frontages and lot areas within 120 m (393.70 ft.) of the subject lands as per the Mississauga Official Plan policy, and the results are as follows:

Average Lot Frontage = approximately 23.30 m (76.44 ft.)

Average Lot Area = approximately 820.01 m² (8,826.80 sq. ft.)

In this particular instance, the Official Plan policy would be applicable to the consent application, as the proposal does not maintain the average lot frontage or lot area within 120 m (393.70 ft.) of the subject property.

Based on the information provided in the severance application, the retained and severed lots would both have lot frontages of approximately 11.55 m (37.89 ft.) and lot areas of approximately 387.40 m² (4,170.07 sq. ft.).

Therefore, the proposed severance would result in the creation of two lots that do not represent the greater of the average lot frontage and area, and consequently, do not maintain the general intent and purpose of the Official Plan.

Zoning By-law

The subject property is zoned "R3" (Residential), which permits detached dwellings. Subsection 4.2.1 of Zoning By-law 0225-2007, as amended, specifies that the minimum required lot area for an interior lot is 550 m² (5,920.34 sq. ft.) and the minimum required lot area for a corner lot is 720 m² (7,750.26 sq. ft.). The minimum lot frontage for the subject property is 15.00 m (49.21 ft.) and 19.50 m (63.97 ft.) for corner lots. The retained and severed lots do not comply with the minimum required lot area and lot frontage requirements in the Zoning By-law.

Criteria for Consents

An application for consent must meet the criteria set out under subsection 51(24) of the *Planning Act*. One of the criteria for evaluating the proposal is whether or not the proposal conforms to the Official Plan. As discussed previously, the proposed severance does not conform to Section 16.1.2.1 of Mississauga Official Plan with respect to lot frontage and lot area.

While there are some lots located along Strathy Avenue that have similar lot areas to those proposed, these were not created by way of consent (Appendix 7). The intent of the Official Plan policy is to prevent the gradual division of lots which are not consistent with the character of the area. As the proposed severance does not conform to the Official Plan policies of Mississauga Official Plan, it does not meet this criterion.

Further criteria under the *Planning Act* are to have regard to the dimensions and shapes of the proposed lots. When taking into consideration the context of the surrounding area, the proposed severance would result in lots that are smaller in area than the average size of the lots along Strathy Avenue (Appendix 7). In this respect, the requested consent does not maintain the character of the neighbourhood and does not lend itself to the suitable development of lots that are appropriate in terms of size and configuration. Therefore, the proposed severance does not meet these criteria.

Notwithstanding the above, the Committee granted provisional consent, subject to conditions.

With respect to the requested minor variances, the Committee was satisfied that the request was desirable for the appropriate development of the subject property; that the general intent and purpose of the Zoning By-law and the Official Plan would be maintained; and that the requested variances were minor in nature. Accordingly, the Committee granted the requests, as presented.

Ontario Municipal Board Appeal

The Committee of Adjustment's decision to approve the consent was to be final and binding on February 5, 2013, and January 31, 2013 for the minor variances. Based on Council endorsed protocol, the Planning and Building Department prepares a Corporate Report to the Planning and Development Committee recommending that the City appeal a decision of the Committee of Adjustment, when in the Department's opinion, the decision does not maintain the general intent and purpose of the Official Plan. Accordingly, the Planning and Building Department requested that Legal Services prepare the appropriate Notice of Appeal to the Ontario Municipal Board (OMB) and file a "Placeholder" appeal prior to the appeal period expiring pending further instruction from Council.

CONCLUSION:

The consent approved by the Committee of Adjustment under file 'B' 5/13 W1 does not meet the general intent of Mississauga Official Plan.

The variances approved under files 'A' 9/13 and 'A' 10/13 W1 do not meet the requirements of the Zoning By-law for lot frontage or lot area, and do not conform to Section 16.1.2.1 of Mississauga Official Plan with respect to lot frontage and lot area.

These approvals by the Committee have broad implications and may have significant impacts on future development in the City, resulting in undesirable development patterns in stable residential neighbourhoods.

ATTACHMENTS:

- Appendix 1: Committee of Adjustment Decisions
'B' 5/13 W1, 'A' 9/13 and 'A' 10/13 W1
- Appendix 2: Land Use Map
- Appendix 3: Zoning Map
- Appendix 4: General Context Map
- Appendix 5: Aerial Photograph
- Appendix 6: Proposed Severance/Concept Plan
- Appendix 7: Lotting Pattern

Edward R. Sajecki
Commissioner of Planning and Building

*Prepared By: Lauren Eramo-Russo,
Committee of Adjustment Planner*



COMMITTEE OF ADJUSTMENT DECISION

APPENDIX I

City of Mississauga

'B' - 5 / 13

"B" 005/13

Ward 1

COMMITTEE OF ADJUSTMENT

IN THE MATTER OF SECTION 50(3) AND/OR (5)
of The Planning Act R.S.O. 1990, c.P.13, as amended
- and -

IN THE MATTER OF AN APPLICATION BY

FRIEDA EMMA FISCHER

on Thursday January 3, 2013

Frieda Emma Fischer is the owner of Part of Lot 117, Registered Plan K-22, located and known as 1238 Strathy Avenue, zoned R3, Residential. The applicants request the consent of the Committee to the conveyance of a parcel of land having a frontage of approximately 11.55 m (37.89 ft.) and an area of approximately 387.40 m² (4,170.07 ft²). The effect of the application is to create a new lot for residential purposes.

The subject lands are also subject to Minor Variance Applications 'A? 009/13 and 'A? 010/13.

Mr. P. Chee, authorized agent, attended and presented the application to convey a parcel of land for the creation of a new undersized residential property. Mr. Chee advised the Committee that although both the conveyed and retained lands would be undersized, appropriately sized dwellings could be constructed on each property without requiring any variances for the dwellings. Mr. Chee noted that the proposed frontages of the conveyed and retained lands would be compatible with the frontages of other properties in the surrounding neighbourhood.

The Committee reviewed the information submitted with the application.

The Committee received comments and recommendations from the following agencies:

City of Mississauga, Planning and Building Department (December 21, 2012),
City of Mississauga, Transportation and Works Department (December 20, 2012),
City of Mississauga, Community Services Department, Park Planning (December 20, 2012),
Region of Peel, Environment, Transportation and Planning Services (December 21, 2012),

A letter was received from T. Wichert, a resident of 1200 Strathy Avenue, confirming no objection to

the subject application.

A letter was received from R. Agic, a resident of 1204 Strathy Avenue, confirming no objection to the subject application.

A letter was received from A. Proulx, a resident of 1217 Strathy Avenue, confirming no objection to the subject application.

A letter was received from F. & M. De Jesus, a resident of 1226 Strathy Avenue, confirming no objection to the subject application.

A letter was received from C. Turnbunn, a resident of 1227 Strathy Avenue, confirming no objection to the subject application.

A letter was received from M. Gaspar, a resident of 1240 Strathy Avenue, confirming no objection to the subject application.

A letter was received from S. Tapp, a resident of 1247 Strathy Avenue, confirming no objection to the subject application.

A letter was received from P. Irvani, a resident of 1264 Strathy Avenue, confirming no objection to the subject application.

A letter was received from O. Dylskyi, a resident of 1208 Ogden Avenue, confirming no objection to the subject application.

A letter was received from F. Prelec, a resident of 1211 Ogden Avenue, confirming no objection to the subject application.

A letter was received from A. Hayes, a resident of 1216 Ogden Avenue, confirming no objection to the subject application.

A letter was received from L. Fillion, a resident of 1219 Ogden Avenue, confirming no objection to the subject application.

A letter was received from I. Pettipas, a resident of 1226 Ogden Avenue, confirming no objection to the subject application.

A letter was received from A. Costache, a resident of 1236 Ogden Avenue, confirming no objection to the subject application.

A letter was received from G. Cormier, a resident of 1243 Ogden Avenue, confirming no objection to

the subject application.

A letter was received from S. Borys, a resident of 1047 Atwater Avenue, confirming no objection to the subject application.

A letter was received from H. Butt, a resident of 1059 Atwater Avenue, confirming no objection to the subject application.

A letter was received from A. Moisa, a resident of 1076 Atwater Avenue, confirming no objection to the subject application.

A letter was received from L. Bontogon, a resident of 1074 Serson Avenue, confirming no objection to the subject application.

Mr. J. Lahay, a resident of 1048 Atwater Avenue, attended and expressed his objection to the subject application. Mr. Lahay noted that the various letter of support presented by Mr. Chee were from residents outside of the municipal circulation area. He noted that the division of the lot and subsequent new dwelling represented contributed to excessive residential densities in the area. It was Mr. Lahay's opinion that the subject property could accommodate one detached dwelling of modest proportions. Mr. Lahay expressed concern with any reduced separation distances between dwellings.

No other persons expressed any interest in the application.

The Secretary-Treasurer reviewed the recommended conditions for the Committee's consideration should the application be approved.

Mr. Chee consented to the imposition of the proposed conditions. Mr. Chee indicated that all variances requested in the concurrent Minor Variance applications pertaining to the development of the dwellings would be deleted. He confirmed that his client would construct dwellings in compliance with the Zoning By-law on each of the undersized properties.

The Committee, after considering the submissions put forward by Mr. Chee, the comments received and the recommended conditions, is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality.

The Committee, having regard to those matters under subsection 51(24) of the Planning Act R.S.O. 1990, c. P.13., as amended, resolves to grant provisional consent subject to the following conditions being fulfilled:

1. Approval of the draft reference plan(s), as applicable, shall be obtained at the Committee of Adjustment office, and; the required number of prints of the resultant deposited reference plan(s) shall

be received.

2. An application amendment letter shall be received from the applicant or authorized agent confirming that the "severed" land shall be together with and/or subject to services easement(s) and/or right(s)-of-way, if necessary, in a location and width as determined by the Secretary-Treasurer based on written advice from the agencies having jurisdiction for any service or right for which the easement or right-of-way is required; alternatively, a letter shall be received from the applicant or authorized agent confirming that no services easement(s) and/or right(s)-of-way, are necessary.

3. A letter shall be received from the City of Mississauga, Transportation and Works Department, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated December 20, 2013.

4. A letter shall be received from the City of Mississauga, Manager/Supervisor, Zoning Plan Examination, indicating that the "severed" land and "retained" land comply with the provisions of the Zoning By-law, or alternatively; that any variances are approved by the appropriate authorities and that such approval is final and binding. ("A" 009/13 & "A" 010/13)

5. A letter shall be received from the City of Mississauga, Community Services Department, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated December 20, 2013.

6. A letter shall be received from the Region of Peel, Environment, Transportation and Planning Services, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated December 21, 2013.

MOVED BY:

J. Robinson SECONDED BY: R. Bennett CARRIED

Application Approved on conditions as stated.

Dated at the City of Mississauga on January 10, 2013.

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 FEBRUARY 3, 2013.

Date of mailing is January 14, 2013.

S. PATRIZIO (CHAIR)
D. GEORGE

R. BENNETT
J. THOMAS

D. KENNEDY
L. DAHONICK

J. ROBINSON

I certify this to be a true copy of the Committee's decision given on January 10, 2013.

DAVID L. MARTIN, SECRETARY-TREASURER

NOTES:

The decision to give provisional consent shall be deemed to be refused if the conditions of provisional consent, have not been fulfilled on or before January 14, 2014.

See "SUMMARY OF APPEAL PROCEDURES" and "FULFILLING CONDITIONS & CERTIFICATE ISSUANCE" attached.



COMMITTEE OF ADJUSTMENT DECISION

City of Mississauga

'A' - 9 / 13

"A" 009/13
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

FRIEDA EMMA FISCHER

on Thursday January 3, 2013

Frieda Emma Fischer is the owner of Part of Lot 117, Registered Plan K-22, located and known as 1238 Strathy Avenue, zoned R3, Residential. The applicant request the Committee to authorize a minor variance to permit the construction of a new two (2) storey detached dwelling on the subject property, being the conveyed lands of Consent Application 'B' 005/13, proposing:

1. a lot frontage of 11.55 m (37.89 ft); whereas By-law 0225-2007, as amended, requires a minimum lot frontage of 15.00 m (49.21 ft) in this instance,
2. a lot area of 387.40 m² (4,170.07 ft²); whereas By-law 0225-2007, as amended, requires a minimum lot area of 550.00 m² (5,920.34 ft²) in this instance,
3. a lot coverage of 40% of the lot area; whereas By-law 0225-2007, as amended, permits a maximum lot coverage of 35% of the lot area in this instance,
4. a front yard to the garage of 6.00 m (19.68 ft); whereas By-law 0225-2007; as amended, requires a minimum front yard to the garage of 7.50 m (24.60 ft) in this instance; and,
5. a southerly side yard of 1.20 m (3.93 ft); whereas By-law 0225-2007, as amended, requires a minimum side yard of 1.81 m (5.93 ft) in this instance.

Mr. P. Chee, authorized agent, attended and presented the application to allow for the creation of a new undersized residential property and for the construction of an oversized dwelling on the resultant

property. Mr. Chee noted that the proposed frontage and lot area were compatible with the existing lot pattern of the surrounding properties. He noted that the proposed dwelling was compatible with the size and scale of other dwellings on this portion of Strathy Avenue.

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

The City of Mississauga Planning and Building Department commented as follows (December 21, 2012):

71.0 RECOMMENDATION

The Planning and Building Department recommends that the consent and minor variance applications be refused.

2.0 BACKGROUND

Mississauga Official Plan

Character Area: Lakeview Neighbourhood

Designation: Residential Low Density II

Discussion:

Lakeview is an established and stable residential Neighbourhood. To satisfy compatibility concerns, any proposed development is required to recognize and enhance the scale and character of the existing residential areas by having regard to lot frontages and areas, among other matters. Mississauga Official Plan encourages development in neighbourhoods to be context sensitive and respect the existing or planned character and scale of development.

To preserve the character of lands designated Residential Low Density I and Residential Low Density II, the minimum frontage and area of new lots proposed will generally represent the greater of the average lot frontage and area within 120 m, or the requirements of the Zoning By-law. The requested consent and minor variance applications will result in lots that are less than the average lot frontage within 120 m of the subject property.

The requested severance does not recognize or enhance the scale and character of the existing residential area or streetscape with respect to lot frontage or area, and therefore, does not satisfy compatibility concerns as outlined in the Mississauga Official Plan.

Zoning By-law 0225-2007

Zoning: "R3", Residential

Discussion:

The intent of the Zoning By-law is to ensure that new lots and dwellings are designed in a manner that respects the character of the area. The proposed lot frontages of 11.55 m (37.89 ft.) and lot areas of 387.4 m² (4170.07 sq ft.) are significantly less than the existing lots along Strathy Avenue. The cumulative variances that result from the proposed severance, which include insufficient lot frontage, insufficient lot area, excessive lot coverage, and dwellings with insufficient side yards, do not maintain

the intent of the Zoning By-law.

3.0 OTHER APPLICATIONS

0 Building Permit File: Required - No application received

4.0 COMMENTS

We note that in the absence of Building Permit applications for the subject dwellings, we are unable to confirm the accuracy of the requested variances or determine whether additional variances will be required. In addition, we advise that a demolition permit is required for the existing dwelling. We advise that we have serious concerns with the consent application and associated Minor Variance applications since the proposed lots are not consistent in size and character with the other properties along Strathy Avenue.

Further, we have serious concerns with the associated minor variance applications as approval would set an undesirable precedent for lots that are not in keeping with the established character of the streetscape. We advise that the proposed lot frontages of 11.55 m (37.89 ft.) are 3.45 m (11.31 ft.) less than the Zoning By-law requirement, which is not suitable for this established area. The resulting variances for the new dwellings, which include reduced lot frontages, lot areas, excessive lot coverage, and reduced side yard setbacks, are reflective of the inappropriateness of the proposed severance. As such, we advise that the requested variances are not minor in nature nor desirable for the appropriate development of the subject property.

In addition, we advise that due to the number of trees located on the subject property, this Department requires a Tree Inventory/ Preservation Plan be submitted prior to any division of land. The purpose of this report is to provide an inventory of the trees on the property, including the size, condition, and species. This will indicate which trees may be removed to accommodate construction, and which trees could be preserved.?

The City of Mississauga Transportation and Works Department commented as follows (December 19, 2012):

?We are noting that any Transportation and Works Department concerns/requirements for this property will be addressed under Consent Application 'B? 5/13.?

A letter was received from T. Wichert, a resident of 1200 Strathy Avenue, confirming no objection to the subject application.

A letter was received from R. Agic, a resident of 1204 Strathy Avenue, confirming no objection to the subject application.

A letter was received from A. Pronlx, a resident of 1217 Strathy Avenue, confirming no objection to the subject application.

A letter was received from F. & M. De Jesus, a resident of 1226 Strathy Avenue, confirming no

objection to the subject application.

A letter was received from C. Turnbunn, a resident of 1227 Strathy Avenue, confirming no objection to the subject application.

A letter was received from K. Zejmo, a resident of 1230 Strathy, expressing an interest in the subject application.

A letter was received from M. Gaspar, a resident of 1240 Strathy Avenue, confirming no objection to the subject application.

A letter was received from S. Tapp, a resident of 1247 Strathy Avenue, confirming no objection to the subject application.

A letter was received from P. Irvani, a resident of 1264 Strathy Avenue, confirming no objection to the subject application.

A letter was received from O. Dylskiy, a resident of 1208 Ogden Avenue, confirming no objection to the subject application.

A letter was received from F. Prelec, a resident of 1211 Ogden Avenue, confirming no objection to the subject application.

A letter was received from A. Hayes, a resident of 1216 Ogden Avenue, confirming no objection to the subject application.

A letter was received from L. Filion, a resident of 1219 Ogden Avenue, confirming no objection to the subject application.

A letter was received from I. Pettipas, a resident of 1226 Ogden Avenue, confirming no objection to the subject application.

A letter was received from A. Costache, a resident of 1236 Ogden Avenue, confirming no objection to the subject application.

A letter was received from G. Cormier, a resident of 1243 Ogden Avenue, confirming no objection to the subject application.

A letter was received from S. Borys, a resident of 1047 Atwater Avenue, confirming no objection to the subject application.

A letter was received from H. Butt, a resident of 1059 Atwater Avenue, confirming no objection to the

subject application.

A letter was received from A. Moisa, a resident of 1076 Atwater Avenue, confirming no objection to the subject application.

A letter was received from L. Bontogon, a resident of 1074 Serson Avenue, confirming no objection to the subject application.

Mr. J. Lahay, a resident of 1048 Atwater Avenue, attended and expressed his objection to the subject application. Mr. Lahay noted that the various letter of support presented by Mr. Chee were from residents outside of the municipal circulation area. He noted that the division of the lot and subsequent new dwelling represented contributed to excessive residential densities in the area. It was Mr. Lahay's opinion that the subject property could accommodate one detached dwelling of modest proportions. Mr. Lahay expressed concern with any reduced separation distances between dwellings.

No other persons expressed any interest in the application.

Mr. Chee indicated that he wished to amend the application to delete the requested variances for the proposed dwelling. He confirmed an adequately sized dwelling could be constructed on the conveyed lands in compliance with the Zoning By-law. Mr. Chee suggested that this was indicative of the appropriateness of the proposed lot frontage and area.

The Committee consented to the request and, after considering the submissions put forward by Mr. Chee and having reviewed the plans and comments received, is satisfied that the amended request is desirable for the appropriate further development of the subject property.

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 amended request is minor in nature in this instance.

Accordingly, the Committee resolves to authorize and grant the amended request to permit the construction of a new two (2) storey detached dwelling on the subject property, being the conveyed lands of Consent Application 'B' 005/13, proposing:

1. a lot frontage of 11.55 m (37.89 ft); whereas By-law 0225-2007, as amended, requires a minimum lot frontage of 15.00 m (49.21 ft) in this instance; and,

2. a lot area of 387.40 m² (4,170.07 ft²); whereas By-law 0225-2007, as amended, requires a minimum lot area of 550.00 m² (5,920.34 ft²) in this instance.

MOVED BY:
J. Robinson SECONDED BY: R. Bennett CARRIED

Application Approved, as amended.

Dated at the City of Mississauga on January 10, 2013.

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 JANUARY 30, 2013.

Date of mailing is January 14, 2013.

S. PATRIZIO (CHAIR)
D. GEORGE

R. BENNETT
J. THOMAS

D. KENNEDY
L. DAHONICK

J. ROBINSON

I certify this to be a true copy of the Committee's decision given on January 10, 2013.

DAVID L. MARTIN, 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.



COMMITTEE OF ADJUSTMENT DECISION

City of Mississauga

'A' - 10 / 13

"A" 010/13
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

FRIEDA EMMA FISCHER

on Thursday January 3, 2013

Frieda Emma Fischer is the owner of Part of Lot 117, Registered Plan K-22, located and known as 1238 Strathly Avenue, zoned R3, Residential. The applicant request the Committee to authorize a minor variance to permit the construction of a new two (2) storey detached dwelling on the subject property, being the retained lands of Consent Application 'B' 005/13, proposing:

1. a lot frontage of 11.55 m (37.89 ft.); whereas By-law 0225-2007, as amended, requires a minimum lot frontage of 15.00 m (49.21 ft.) in this instance,
2. a lot area of 387.40 m² (4,170.07 ft²); whereas By-law 0225-2007, as amended, requires a minimum lot area of 550.00 m² (5,920.34 ft²) in this instance,
3. a lot coverage of 40% of the lot area; whereas By-law 0225-2007, as amended, permits a maximum lot coverage of 35% of the lot area in this instance,
4. a front yard to the garage of 6.00 m (19.68 ft.); whereas By-law 0225-2007, as amended, requires a minimum front yard to the garage of 7.50 m (24.60 ft.) in this instance; and,
5. a southerly side yard of 1.20 m (3.93 ft.); whereas By-law 0225-2007, as amended, requires a minimum side yard of 1.81 m (5.93 ft.) in this instance.

Mr. P. Chee, authorized agent, attended and presented the application to allow for the retained lands to remain and to allow for the construction of an oversized dwelling on the retained lands. Mr. Chee noted

that the proposed frontage and lot area were compatible with the existing lot pattern of the surrounding properties. He noted that the proposed dwelling was compatible with the size and scale of other dwellings on this portion of Strathy Avenue.

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

The City of Mississauga Planning and Building Department commented as follows (December 21, 2012):

71.0 RECOMMENDATION

The Planning and Building Department recommends that the consent and minor variance applications be refused.

2.0 BACKGROUND

Mississauga Official Plan

Character Area: Lakeview Neighbourhood

Designation: Residential Low Density II

Discussion:

Lakeview is an established and stable residential Neighbourhood. To satisfy compatibility concerns, any proposed development is required to recognize and enhance the scale and character of the existing residential areas by having regard to lot frontages and areas, among other matters. Mississauga Official Plan encourages development in neighbourhoods to be context sensitive and respect the existing or planned character and scale of development.

To preserve the character of lands designated Residential Low Density I and Residential Low Density II, the minimum frontage and area of new lots proposed will generally represent the greater of the average lot frontage and area within 120 m, or the requirements of the Zoning By-law. The requested consent and minor variance applications will result in lots that are less than the average lot frontage within 120 m of the subject property.

The requested severance does not recognize or enhance the scale and character of the existing residential area or streetscape with respect to lot frontage or area, and therefore, does not satisfy compatibility concerns as outlined in the Mississauga Official Plan.

Zoning By-law 0225-2007

Zoning: "R3", Residential

Discussion:

The intent of the Zoning By-law is to ensure that new lots and dwellings are designed in a manner that respects the character of the area. The proposed lot frontages of 11.55 m (37.89 ft.) and lot areas of

387.4 m² (4170.07 sq ft.) are significantly less than the existing lots along Strathly Avenue. The cumulative variances that result from the proposed severance, which include insufficient lot frontage, insufficient lot area, excessive lot coverage, and dwellings with insufficient side yards, do not maintain the intent of the Zoning By-law.

3.0 OTHER APPLICATIONS

0 Building Permit File: Required - No application received

4.0 COMMENTS

We note that in the absence of Building Permit applications for the subject dwellings, we are unable to confirm the accuracy of the requested variances or determine whether additional variances will be required. In addition, we advise that a demolition permit is required for the existing dwelling. We advise that we have serious concerns with the consent application and associated Minor Variance applications since the proposed lots are not consistent in size and character with the other properties along Strathly Avenue.

Further, we have serious concerns with the associated minor variance applications as approval would set an undesirable precedent for lots that are not in keeping with the established character of the streetscape. We advise that the proposed lot frontages of 11.55 m (37.89 ft.) are 3.45 m (11.31 ft.) less than the Zoning By-law requirement, which is not suitable for this established area. The resulting variances for the new dwellings, which include reduced lot frontages, lot areas, excessive lot coverage, and reduced side yard setbacks, are reflective of the inappropriateness of the proposed severance. As such, we advise that the requested variances are not minor in nature nor desirable for the appropriate development of the subject property.

In addition, we advise that due to the number of trees located on the subject property, this Department requires a Tree Inventory/ Preservation Plan be submitted prior to any division of land. The purpose of this report is to provide an inventory of the trees on the property, including the size, condition, and species. This will indicate which trees may be removed to accommodate construction, and which trees could be preserved.

The City of Mississauga Transportation and Works Department commented as follows (December 19, 2012):

?We are noting that any Transportation and Works Department concerns/requirements for this property will be addressed under Consent Application 'B? 5/13.?

A letter was received from T. Wichert, a resident of 1200 Strathly Avenue, confirming no objection to the subject application.

A letter was received from R. Agic, a resident of 1204 Strathly Avenue, confirming no objection to the subject application.

A letter was received from A. Proulx, a resident of 1217 Strathly Avenue, confirming no objection to the

subject application.

A letter was received from F. & M. De Jesus, a resident of 1226 Strathy Avenue, confirming no objection to the subject application.

A letter was received from C. Turnbunn, a resident of 1227 Strathy Avenue, confirming no objection to the subject application.

A letter was received from K. Zejmo, a resident of 1230 Strathy, expressing an interest in the subject application.

A letter was received from M. Gaspar, a resident of 1240 Strathy Avenue, confirming no objection to the subject application.

A letter was received from S. Tapp, a resident of 1247 Strathy Avenue, confirming no objection to the subject application.

A letter was received from P. Irvani, a resident of 1264 Strathy Avenue, confirming no objection to the subject application.

A letter was received from O. Dylskyi, a resident of 1208 Ogden Avenue, confirming no objection to the subject application.

A letter was received from F. Prelec, a resident of 1211 Ogden Avenue, confirming no objection to the subject application.

A letter was received from A. Hayes, a resident of 1216 Ogden Avenue, confirming no objection to the subject application.

A letter was received from L. Filion, a resident of 1219 Ogden Avenue, confirming no objection to the subject application.

A letter was received from I. Pettipas, a resident of 1226 Ogden Avenue, confirming no objection to the subject application.

A letter was received from A. Costache, a resident of 1236 Ogden Avenue, confirming no objection to the subject application.

A letter was received from G. Cormier, a resident of 1243 Ogden Avenue, confirming no objection to the subject application.

A letter was received from S. Borys, a resident of 1047 Atwater Avenue, confirming no objection to the

subject application.

A letter was received from H. Butt, a resident of 1059 Atwater Avenue, confirming no objection to the subject application.

A letter was received from A. Moisa, a resident of 1076 Atwater Avenue, confirming no objection to the subject application.

A letter was received from L. Bontogon, a resident of 1074 Serson Avenue, confirming no objection to the subject application.

Mr. J. Lahay, a resident of 1048 Atwater Avenue, attended and expressed his objection to the subject application. Mr. Lahay noted that the various letter of support presented by Mr. Chee were from residents outside of the municipal circulation area. He noted that the division of the lot and subsequent new dwelling represented contributed to excessive residential densities in the area. It was Mr. Lahay's opinion that the subject property could accommodate one detached dwelling of modest proportions. Mr. Lahay expressed concern with any reduced separation distances between dwellings.

No other persons expressed any interest in the application.

Mr. Chee indicated that he wished to amend the application to delete the requested variances for the proposed dwelling. He confirmed an adequately sized dwelling could be constructed on the retained lands in compliance with the Zoning By-law. Mr. Chee suggested that this was indicative of the appropriateness of the proposed lot frontage and area.

The Committee consented to the request and, after considering the submissions put forward by Mr. Chee and having reviewed the plans and comments received, is satisfied that the amended request is desirable for the appropriate further development of the subject property.

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 amended request is minor in nature in this instance.

Accordingly, the Committee resolves to authorize and grant the amended request to permit the construction of a new two (2) storey detached dwelling on the subject property, being the retained lands of Consent Application 'B' 005/13, proposing:

1. a lot frontage of 11.55 m (37.89 ft.); whereas By-law 0225-2007, as amended, requires a minimum lot frontage of 15.00 m (49.21 ft.) in this instance; and,

2. a lot area of 387.40 m² (4,170.07 ft²); whereas By-law 0225-2007, as amended, requires a minimum lot area of 550.00 m² (5,920.34 ft²) in this instance.

MOVED BY:

J. Robinson SECONDED BY: R. Bennett CARRIED

Application Approved, as amended.

Dated at the City of Mississauga on January 10, 2013.

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 JANUARY 30, 2013.

Date of mailing is January 14, 2013.

S. PATRIZIO (CHAIR)
D. GEORGE

R. BENNETT
J. THOMAS

D. KENNEDY
L. DAHONICK

J. ROBINSON

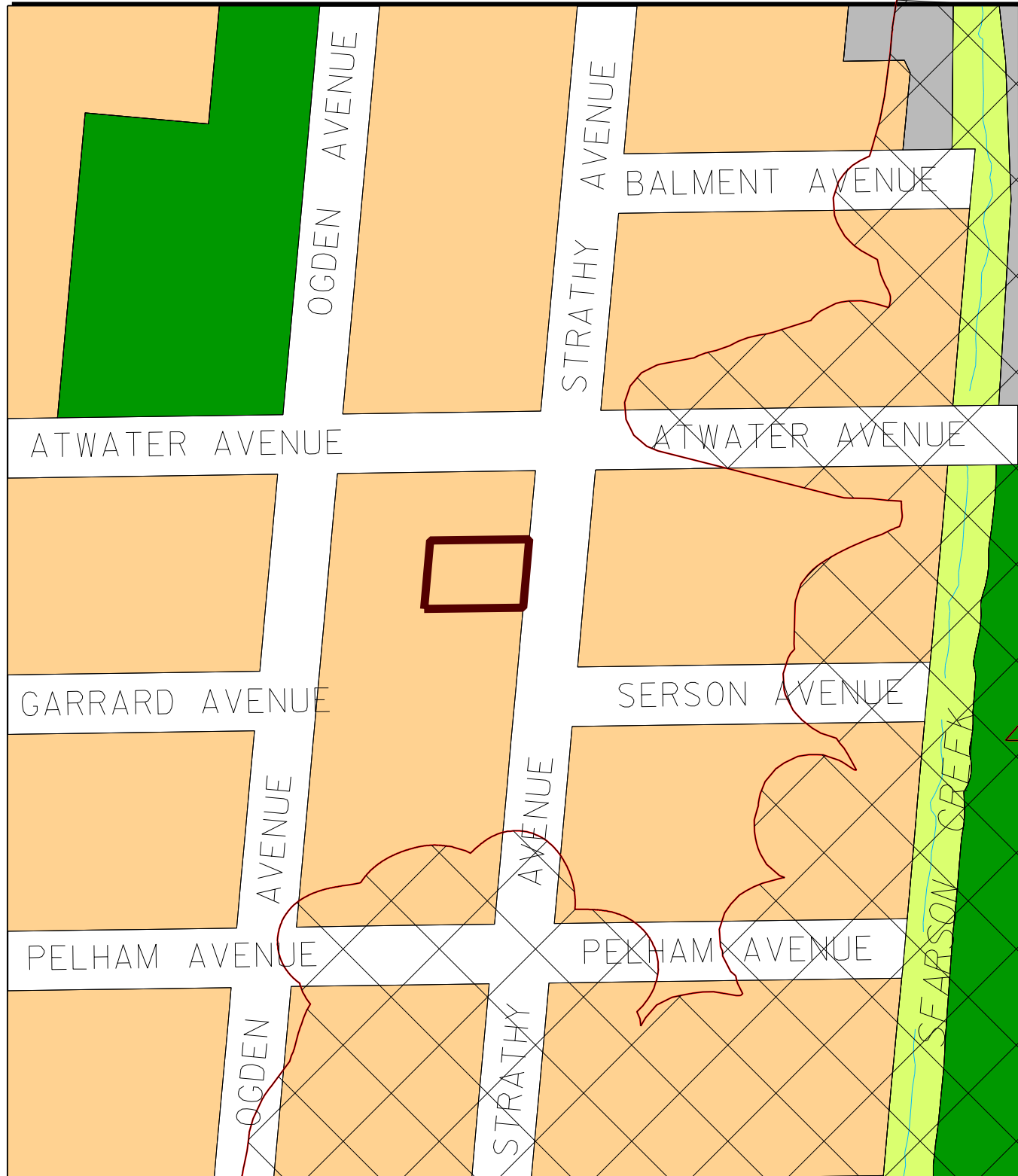
I certify this to be a true copy of the Committee's decision given on January 10, 2013.

DAVID L. MARTIN, 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.



**PART OF SCHEDULE 10 LAND USE DESIGNATIONS
OF MISSISSAUGA OFFICIAL PLAN**

LAND USE DESIGNATIONS

- | | |
|----------------------------|---------------------|
| Residential Low Density I | Business Employment |
| Residential Low Density II | Industrial |
| Residential Medium Density | Airport |
| Residential High Density | Institutional |
| Downtown Mixed Use | Public Open Space |
| Downtown Core Commercial | Private Open Space |
| Mixed Use | Greenbelt |
| Convenience Commercial | Parkway Belt West |
| Motor Vehicle Commercial | Utility |
| Office | To Be Determined |

LAND USE LEGEND

- | | |
|---|------------------------------|
| Heritage Conservation District | Civic Centre (City Hall) |
| 1996 NEP/2000 NEF Composite Noise Contours | City Centre Transit Terminal |
| LBPIA Operating Area Boundary See Aircraft Noise Policies | GO Rail Transit Station |
| Area Exempt from LBPIA Operating Area | Public School |
| Natural Hazards | Catholic School |
| | Hospital |
| | Community Facilities |

CITY STRUCTURE

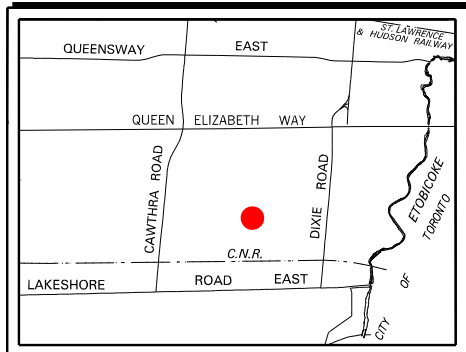
- Elements
- | | |
|----------------|----------------------|
| Downtown | Corporate Centre |
| Major Node | Employment Area |
| Community Node | Special Purpose Area |
| Neighbourhood | |

ND2 Region of Peel Non-Decision

SUBJECT LANDS
1238 STRATHY AVENUE



SUBJECT: FREIDA EMMA FISCHER



FILE NO:
'B'513, 'A'913, 'A'1013

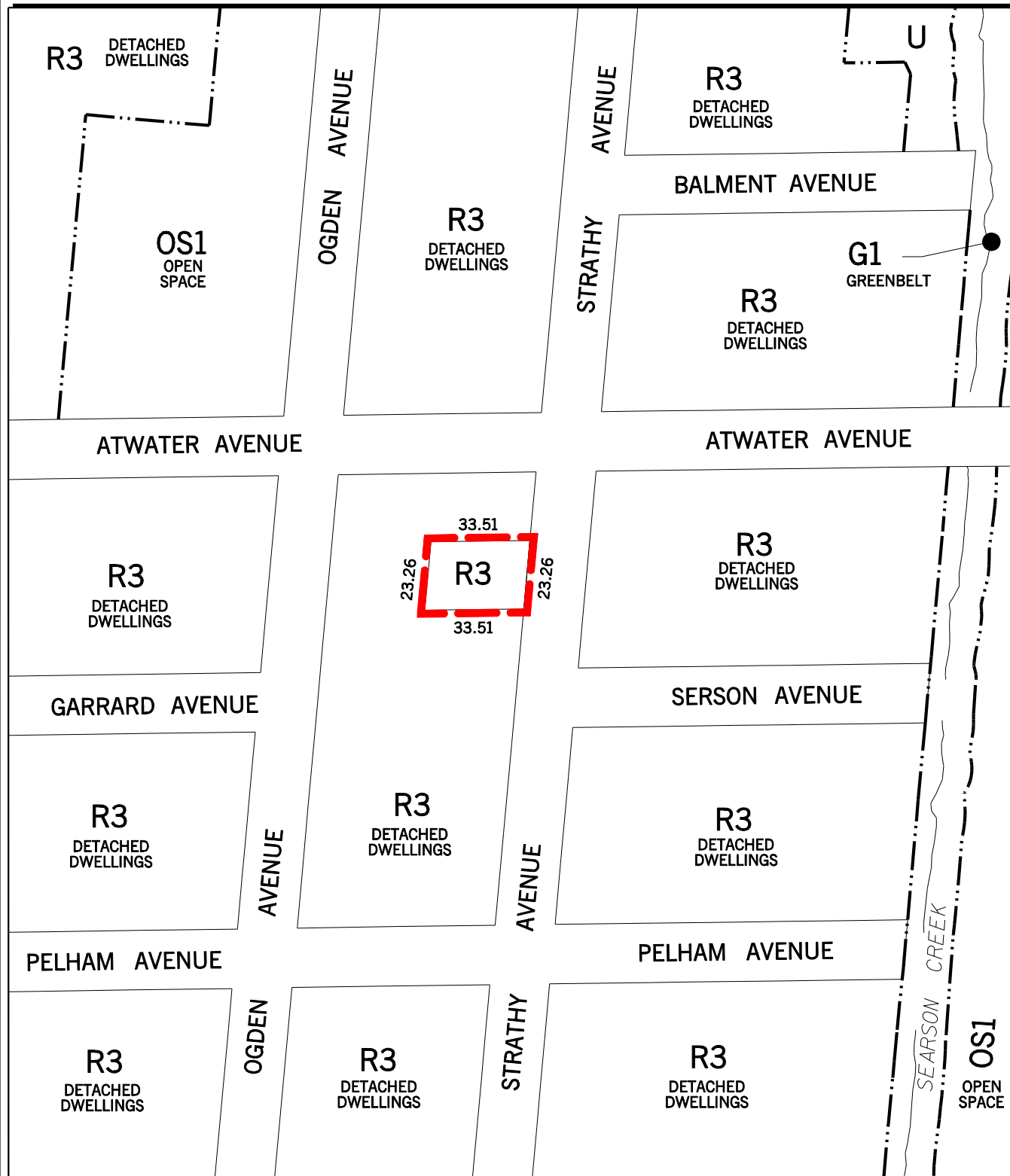
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SCALE:
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DATE:
6 02 2013

DRAWN BY:
B. KRUGER

APPENDIX 2



LEGEND:

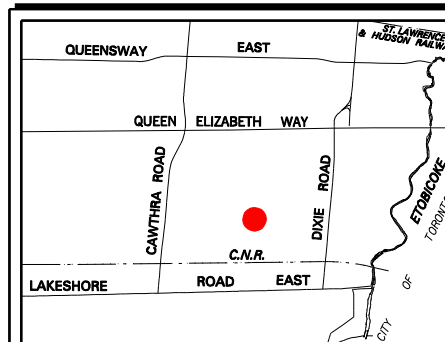


SUBJECT LANDS
1238 STRATHY AVENUE



SUBJECT:

FREIDA EMMA FISCHER



FILE NO:
'B'513, 'A'913, 'A'1013

DWG. NO:
B513 A913 A1013R

SCALE:
1:20000

PDC DATE:
6 02 2013

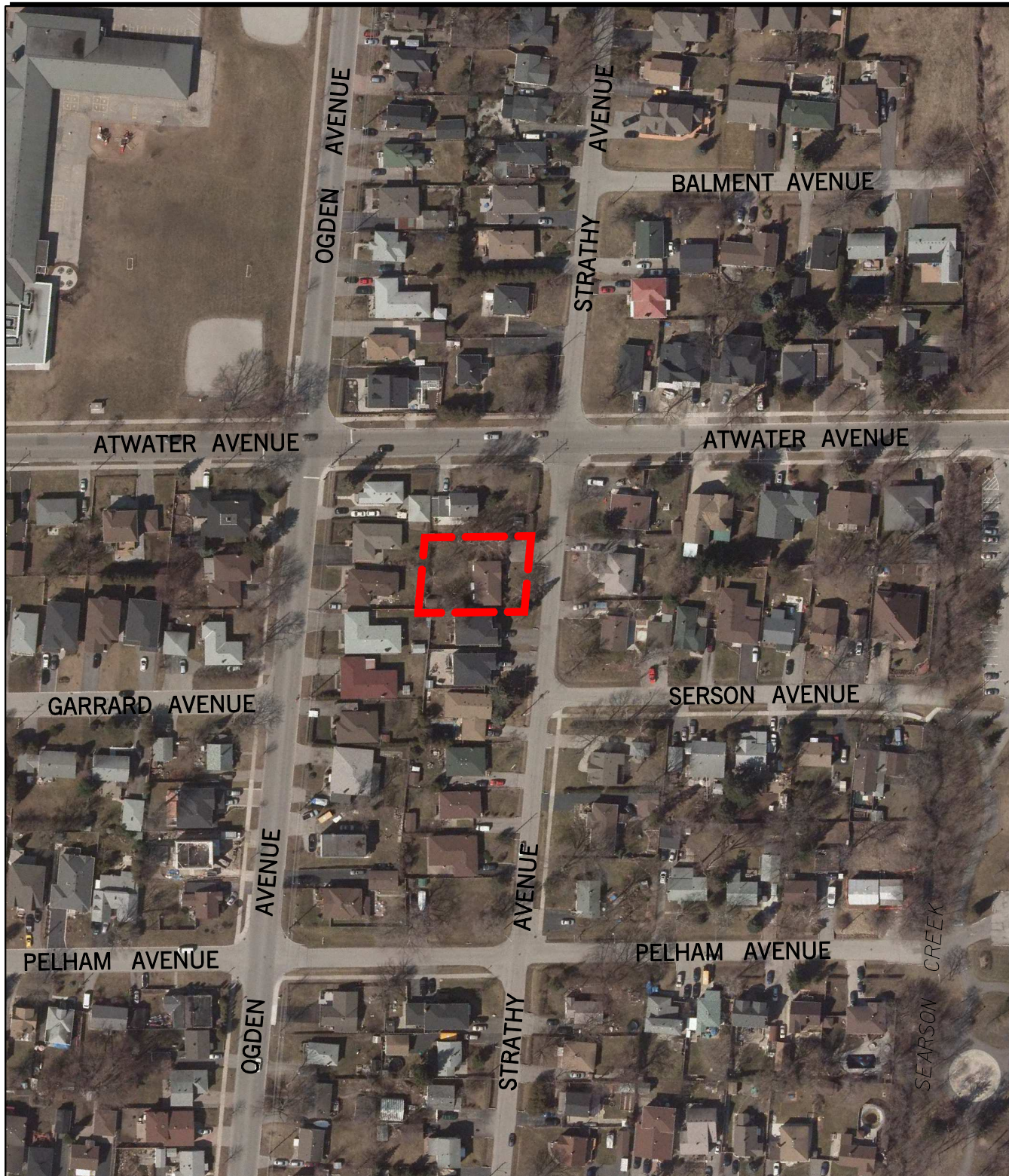
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APPENDIX 3

MISSISSAUGA
Planning and Building

Produced by
T&W, Geomatics





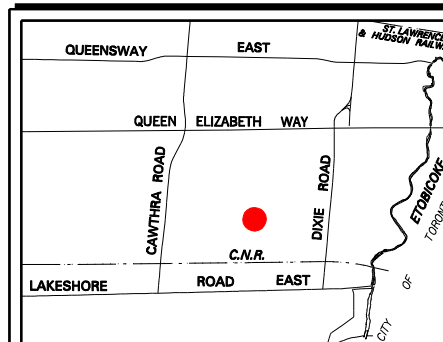
LEGEND:



SUBJECT LANDS
1238 STRATHY AVENUE



SUBJECT: FREIDA EMMA FISCHER



FILE NO:
'B'513, 'A'913, 'A'1013

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SCALE:
1:20000

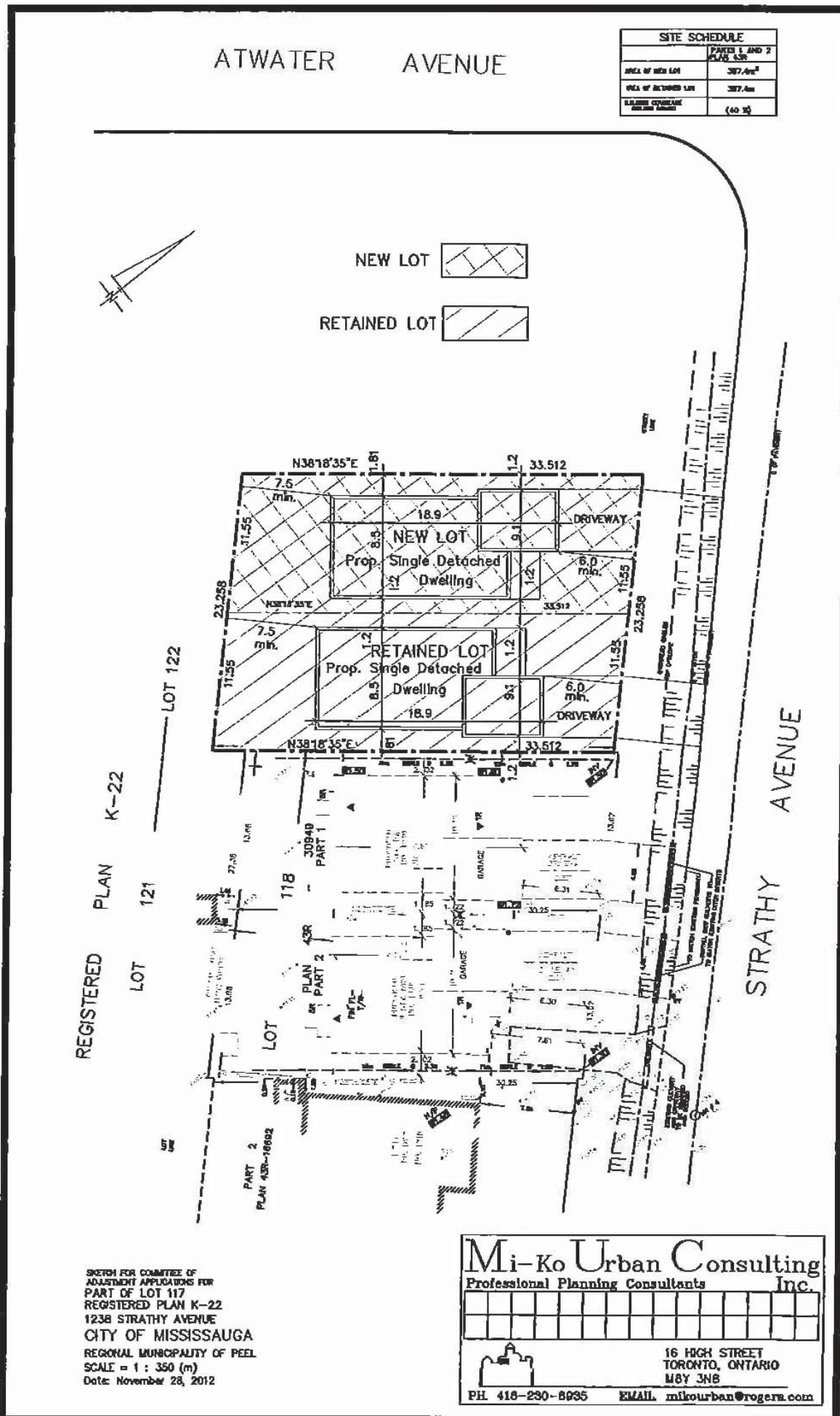
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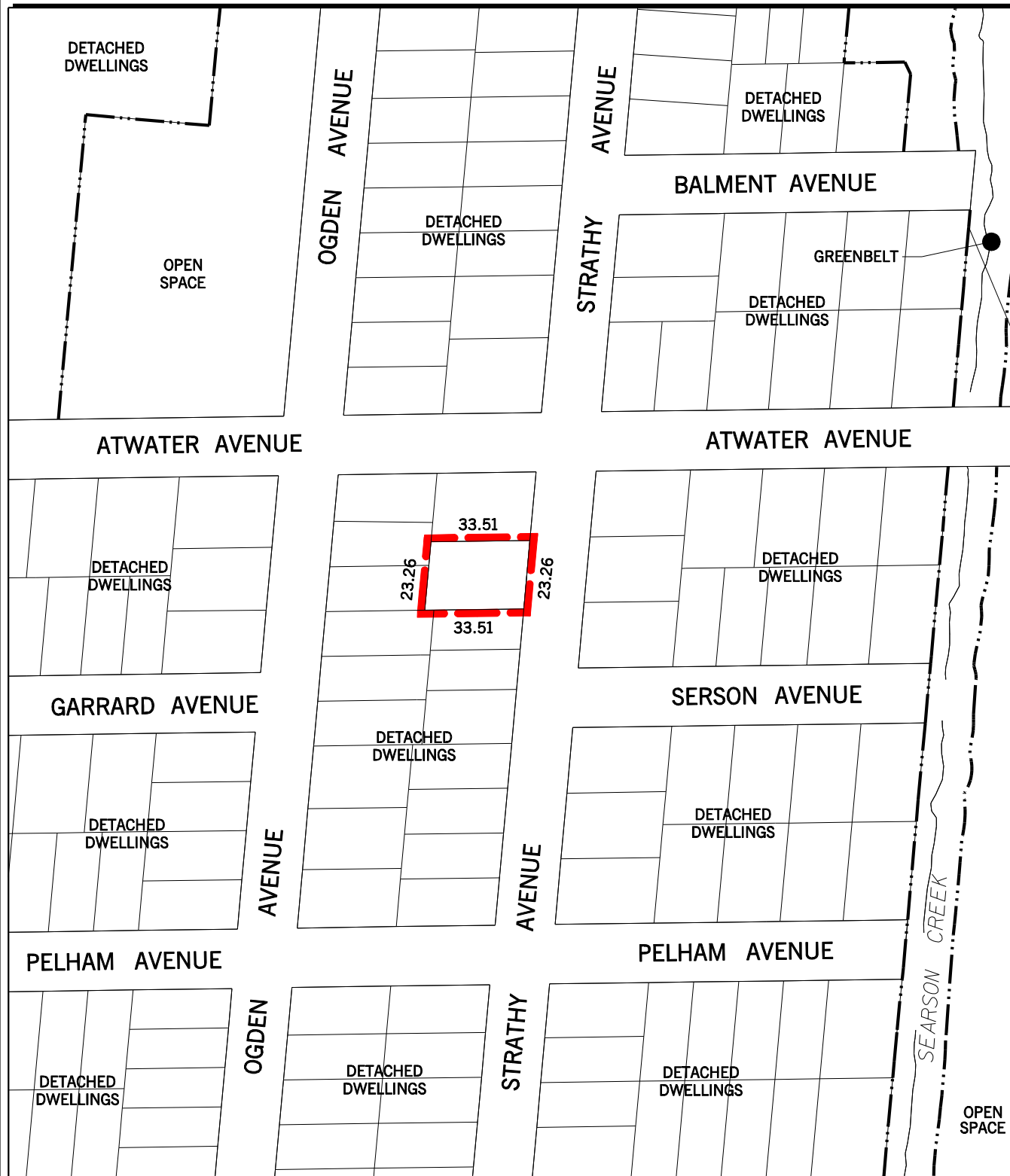
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B. KRUGER

APPENDIX 5

MISSISSAUGA
Planning and Building

Produced by
T&W, Geomatics





LEGEND:

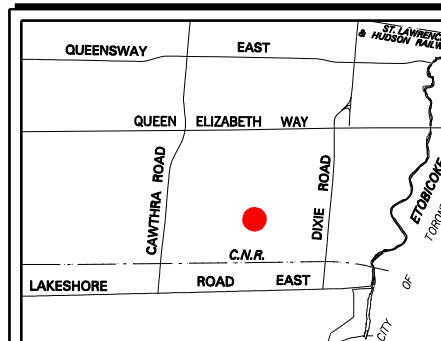


SUBJECT LANDS
1238 STRATHY AVENUE



SUBJECT:

FREIDA EMMA FISCHER



FILE NO:

'B'513, 'A'913, 'A'1013

DWG. NO:

B513 A913 A1013lots

SCALE:

1:20000

PDC DATE:

6 02 2013

DRAWN BY:

B. KRUGER

APPENDIX 7

MISSISSAUGA
Planning and Building

Produced by
T&W, Geomatics