

The South Armour Heights Residents' Association

Tips for Dealing with the Developer on the Construction of a New House

The Winter 2013 Newsletter contained a four-page "Guide to the North York Committee of Adjustment" prepared by Councillor Karen Stintz's consultant, Linda McCarthy. A very detailed "Guidelines for Dealing with Committee of Adjustment Applications" prepared by the York Mills Ratepayers Association in 2006 and an article prepared by the Teddington Park Residents Association on "Minor Variance Applications – 5 Nuggets of Wisdom" can also be reviewed on the SAHRA website (<http://sahratoronto.com>).

It is extremely important that **before** the Committee of Adjustments (CofA) hearing you address your questions/ concerns with the developer or their agent. This is the time that they are willing to discuss issues with you and you may be able to obtain resolution/agreement on issues that are not even of interest to the CofA. The following is a list of issues that you should review with the developer...many of these issues are not of any concern to the CofA but you have the developer's attention at this time. The developer may be quite willing to appease your concerns before the CofA hearing but you will have to keep following up on these issues as construction proceeds.

It is best to do all correspondence via hard copy or emails, maintaining the string of correspondence as a history trail. Prepare and distribute minutes or at least email confirmation of all meetings/discussions with the developers, their agents and their sub-contractors.

- a) Ask the developer about his understanding of the **Property Line** from your foundation walls; clarify the amount of space that will exist between the two foundations; ask if they will be building a chimney stack that will protrude into the side yard setback and determine what the implications are considering the placement of your basement windows or your own chimney or external vents.
- b) Very important – determine if you are going to encounter the "**Chimney Dilemma**" due to the height of the new house and the closeness of your chimney if it is venting gas (boiler, furnace and/or gas fireplace). If so, negotiate with the developer (**before** the CofA hearing) to reimburse you for the costs, which will be significant.
- c) Be aware that you can be '**red-tagged**' by Enbridge if there is less than 12" between the final grading and any direct vents. This means that you have 45 days to 'correct' the situation or your gas will be cut off. Remind the developer of this situation so that they consider it in advance to their grading and/or laying of interlocking bricks. Measure during the grading/interlocking brick process...involve the City Building Department immediately if the grading is too high.
- d) Review in detail the developer's plan for the **excavation area**. For example, if there is a driveway between the houses, how are they planning to deal with that and what will you agree to (because some of it will likely be your property). What will they do to avoid cave-ins? If they cut into your driveway, what are the arrangements for the repair costs?
- e) Discuss with the developer how they plan to '**finish**' the area between the houses; materials with the best water absorbency and the grading are very important issues for both of you. Grass or gravel is the cheapest/least desirable finish; properly graded and sloped interlocking bricks with good caulking along the walls/window wells is the ideal.
- f) Determine if **window wells** will need to be constructed around your side basement windows based on the grading. If so, the developer should be responsible for installing these; come to agreement on the proper installation...height off the ground, bolting to the foundation, caulking and height of the gravel.
- g) Request confirmation from the developer on the actual positioning of any backyard **walkout and deck**...the drawings that they submit to the City do not necessarily represent the true positioning. Also confirm if there are any plans for **upper floor balconies**...again the drawings may not show a balcony. What are the plans for the **deck** – how far up in the air will it be; how far does it extend into the back yard; is it within municipal size limits (3.8 m²); what privacy arrangements are going to be installed?
- h) Discuss with the developer the arrangements for **scaffolding** – will you allow it to be positioned on your property? Will you agree to the sub-contractors walking on your roof? Get agreement that should damage be done to your eavestroughs or roof that they will reimburse you for repairs; that you will be reimbursed for the proper cleaning of any mortar deposits on your outside walls, windows and/or the roof.
- i) Request that **wire fencing** be installed before demolition begins (do not be willing to accept a plastic fence as it gets knocked down). Keep an eye out once demolition begins...the sub-contractors will often try to move/remove the wire fence to make it easier for them to position their vehicles.

The South Armour Heights Residents' Association

- j) Investigate City rules for **fences** so that you are aware of your rights; review the developer's plans for fencing. Be careful about the placement of the fencing...by default over the years the fenced property can be deemed to become theirs.
- k) Request an explanation from the developer on their plans for **grading** and sloping of the property. You want their assurance that they will not change the current grading; ask for a copy of the site grading plan. Determine if the developer intends to install a "dry well" in the backyard – this may prevent flooding into your backyard. Before they start the grading work, review the issue again with the developer. If there are any concerns, involve the City Building Department before the grading work begins...the City does not have the power to make them correct it after it is done.
- l) Review with the developer where the **downspouts** will be positioned at the side, front and back; how are they planning to see that the water is properly distributed – what grading considerations have been made/will extensions be added to the downspouts to feed the water into their own front and back yards?
- m) Review the **sump pump** discharge arrangements with the developer – where and how will they be discharged?
- n) Ask where the **air conditioning unit** is going to be positioned. Is it in a good location considering your backyard deck, bedroom windows or side windows? They will say that the new units are very quiet but eventually they will start to make a lot of noise and the new houses usually have them on constantly.
- o) Review the placement of **side windows** – the drawings submitted to the City do not necessarily represent the real design of the house. How do they line up compared to your windows? Will the developer consider repositioning them? Ask the developer to advise you if they change the placement of windows after your original discussion (they can do this without advising the City or you).
- p) Ask the developer to **protect your windows** (before they get broken or damaged) by putting up plywood covers during risk periods...demolition, excavation, bricking and stone slinging deliveries (the stones really fly and can even hit your back windows).
- q) Request that the developer commit to properly **maintain the site** before construction (cutting the lawn) and during construction (rubbish disposal/cleaning up materials that fall/blow onto your property).
- r) Ask the developer to inform all **sub-contractors** that they are not to trod on/damage your lawn and gardens and that they are not allowed to position truck 'balancers' on your property (these vehicles are very heavy and will leave an imprint on your lawn). The sub-contractors may try to take the easiest route possible from their perspective.
- s) Reach an agreement with the developer that should **trees or shrubs** die that they will be responsible for reimbursing you for the cost of replacing them with equivalent sized trees/shrubs.

Take tons of pictures before demolition, both inside and outside of everything! Outside – the state of the roof, eavestroughs, downspouts, concrete block/foundations, brick walls, lawn, flower beds, trees and shrubs, basement windows, caulking along the outside walls, fencing, views from your deck/backyard, the driveway, etc. Inside – walls and ceilings, windows, state of the basement. You may need to 'prove' the original state when damage is done. Inform the developer that you have taken 'before' pictures'. Take more pictures once excavation work is underway, especially of the digging beside your home. Take more pictures throughout the building and landscaping phases to help deal with any potential damage or incorrect situations that you may need to report to the City Building Department.

Take detailed measurements of anything that you think you may need to have on record in the future to 'prove' original state. Again, inform the developer that you have taken measurements. Carry on taking measurements and photos as construction and grading progresses.

Be vigilant especially during the demolition, excavation and foundation work phases of the construction to prevent damage to your property before it occurs. If the developer and the sub-contractors know that you are watching, they are more careful and will not try to take shortcuts at your expense.

GOOD LUCK !

You can find articles on dealing with CofA applications on the SAHRA website at <http://sahratoronto.com>