

## **Region of Queens Municipality Variance Appeal Hearing Tuesday, May 9, 2023, 9:00 a.m.**

### **Minutes**

Present: Mayor Darlene Norman, Chair  
Deputy Mayor Jack Fancy  
Councillor David Brown  
Councillor Vicki Amirault  
Councillor Maddie Charlton  
Councillor Carl Hawkes  
Dan MacDougall, Interim CAO  
Christine Watson, Admin. Assistant – Planning & Development

### **Call to Order**

Mayor Norman called the Variance Appeal Hearing to order at 9:00 a.m.

### **Opening Remarks**

Mayor Norman stated the purpose of the Variance Appeal Hearing is to provide the appellants, Linda K. Lane, Yvette Cherry, Mitchell J. Harlow and Natasha M. Harlow, with an opportunity to present an oral and/or written argument to Council of Region of Queens Municipality respecting the decision of its Development Officer to issue a variance to the owner of property identified as PID #70275094 and located at the rear of 87 Bristol Avenue in Liverpool, which would allow a reduction in lot area to facilitate 8 additional dwelling units as set out in Section 5.5 of the Municipality's Land Use Bylaw.

Mayor Norman reviewed the procedures for the Hearing that was provided on the agenda.

### **Andrew Bursey and Linda Lane, Appellant, 75 Bristol Avenue, Liverpool**

Mr. Bursey stated he is speaking as a citizen and property owner and not as a business owner. Development is essential to our area and any builds would have a positive economic impact.

As stated in the letter received dated March 20, 2021, the Region's Land Use Bylaw allows for a 30 unit apartment building and was allowing an additional 6 units. We were given an opportunity at that time to appeal but decided not to at that time as the appeal was to be done in person.

Approval was given for the additional 6 units. In the March 20, 2023 letter received, it stated that Region of Queens permit is for a 37 unit building, and the new application would allow for 45 units. He enquired if the 37 units was an error.

He enquired if there will be a retaining wall and how it will affect water levels to the surrounding properties. Has an environmental impact study was done to assess the potential damage to the tidal estuary?

He further enquired if wetlands and habitats would be backfilled and be destroyed? Will they be using fill to expand their land? There is a history in Liverpool of filling in rivers and expanding land, and impacts are being seen from that.

He enquired to height restrictions of buildings in residential areas.

The Government of Canada recently projected that the sea level rise would exceed one meter by the end of this century along the areas of the Nova Scotia coast. We need to consider the possibility of storm surges that can temporarily increase water levels. Much of our coastline is already at increased risk from coastal erosion. We are already feeling the effects of climate change. Has the Coastal Protection Act been taken into consideration, which came into law in 2019? It seems that the developer is pushing his project agenda through to avoid these laws.

In the article written by the CBC titled, "Municipality Rejects Recommendations in Liverpool Flooding Report", citing costs, Mayor Norman stated that doing any of these recommendations was far above the financial capacity of the Region of Queens. He does not see what is being asked to do financially. What we are asking is that these things be taken into consideration. Isn't the waterfront development the exact opposite of what is being recommended?

As business owners, we're all for growth and expansion of our community. He asked for reconsideration of location and size of this building stating there will be a loss of privacy and an increase in traffic.

He brought attention to the misinformation on the Region's website concerning advertising in The Advance, and enquired how residents are being informed.

Mayor Norman noted that the Coastal Protection Act has not yet been passed.

**Yvette Cherry, Appellant, 11 Mersey Avenue, Liverpool**

Ms. Cherry stated her main concern is the impact to traffic in the area and enquired about access to and from the building; two way, one way, another street?

She further enquired to the impact of the waterway and the threat of flooding, which there has been flooding previously in that area.

She raised concerns of parking along Mersey Avenue as there are no restrictions. There is a boat launch at the end of the street and several large boats are brought down the road and people are parking along the street. She enquired how the Region intended to deal with these issues when they happen.

**Mitchell J. Harlow and Natasha M. Harlow, Appellant, 35 Mersey Avenue, Liverpool**

Mrs. Harlow stated they decided to move to Liverpool for the quietness of the town. They fully support development but are concerned about a 5-storey building that will tower over everything that doesn't fit into the fabric of the town.

She raised issues about the traffic study, stating she felt it was not very well done and not enough information was provided; specifically, the data is outdated and doesn't reflect the current population and the current situation. There is no current information on the level of traffic on Mersey Avenue.

Further there will be a clinical impact on the people that isn't represented in the numbers. In this situation, they're saying we don't expect there to be a traffic or safety issue, however, the numbers on Mersey Avenue probably will be impacted. It does not meet the requirements and criteria for when you are turning left off the Avenue.

She further stated that only the people who have adjacent parcels of land to the building were invited, and the people on the other side of the street were not invited. Although their parcels may not be adjacent to this building, they still live on the street and are part of the community so everyone should have an opportunity to express how they feel.

Mr. Harlow stated that the building of this magnitude is significant and will completely change the fabric of this town. He feels that we've failed the community with the first variance request and need to set a precedence.

He further stated there is a huge safety concern. He urged Council to take into consideration what has been said and do what is best for the community.

Mayor Norman stated it is not a matter of invitation to speak, according to the Land Use Bylaw, 30 meters is the distance given for the variance. We work within the rules that have been adopted.

**Greg Zwicker – ZZAP Consulting Inc.**

Greg Zwicker, planner for ZZAP Consulting Inc., stated the appeal today is for variation to the minimum lot size. As a planner, he is sympathetic to the issues raised by the appellants. The property is zoned for this use and many issues raised are permitted in the zone. We are not asking to vary the height, parking, setbacks, or coastal protection. The application is for the minimum lot area. The building as presented is permitted under the Land Use Bylaw and Municipal Planning Strategy. The request is to put 8 more units in the building. The minimum lot requirement is 125 square meters and are asking for a 25% reduction, which equates to 93.75 square meters. Everything else is in compliance.

He shared slides outlining the application request (copy attached to original set of Minutes). Some highlights included:

The building is located in an RM zone.

Two access points; Mersey Avenue and Bristol Avenue.

Lot area is 49,833 square feet.

The maximum number of units without the variance is 37, and the request is to put 45 in the same building. They will be smaller, more affordable units.

The variance is tested on three things under the Municipal Government Act, and is what the Development Officer tests against, and should not be granted if:

1. The variance violates the intent of the Land Use Bylaw.
2. The difficulty experienced is general to properties in the area.
3. The difficulty results from an intentional disregard for the requirements of the Land Use Bylaw.

They believe the answer is No to all these tests.

- The Municipal Planning Strategy outlines the intent of the RM zone.
- The intention for the zone is to address demand for and issues surrounding the development of higher density residential housing options.
- Large lot is an ideal location for addressing demand for higher density housing while meeting other lot requirements.

In summary, the request is that Council deny this appeal on the grounds that the Development Officer did not err in their application of the Municipal Government Act.

## Closing Remarks


Mayor Norman stated the rules set in the Land Use Bylaw and the Municipal Government Act are what we follow as Council. There are times when issues are brought before us that are not liked. Mr. Zwicker is correct in his statements, that had they not been requesting 45 units within the same building size, same height and same land coverage, they are legitimate in what they are building.

The question for Council to consider is, have all the requirements been met from the applicant to place more, smaller units, in the building. The height is legal, the footprint is legal, as is the buffer.

Questions were raised concerning traffic. There are solutions that Council have, through our Engineering Department, that can be considered to solve these questions.

## Adjournment

Mayor Norman declared the Variance Hearing adjourned at 9:33 a.m.



Mayor Darlene Norman, Chair



Eric Levy, Municipal Clerk



Christine Watson, Administrative Assistant – Planning & Development

Date Approved: May 23, 2023

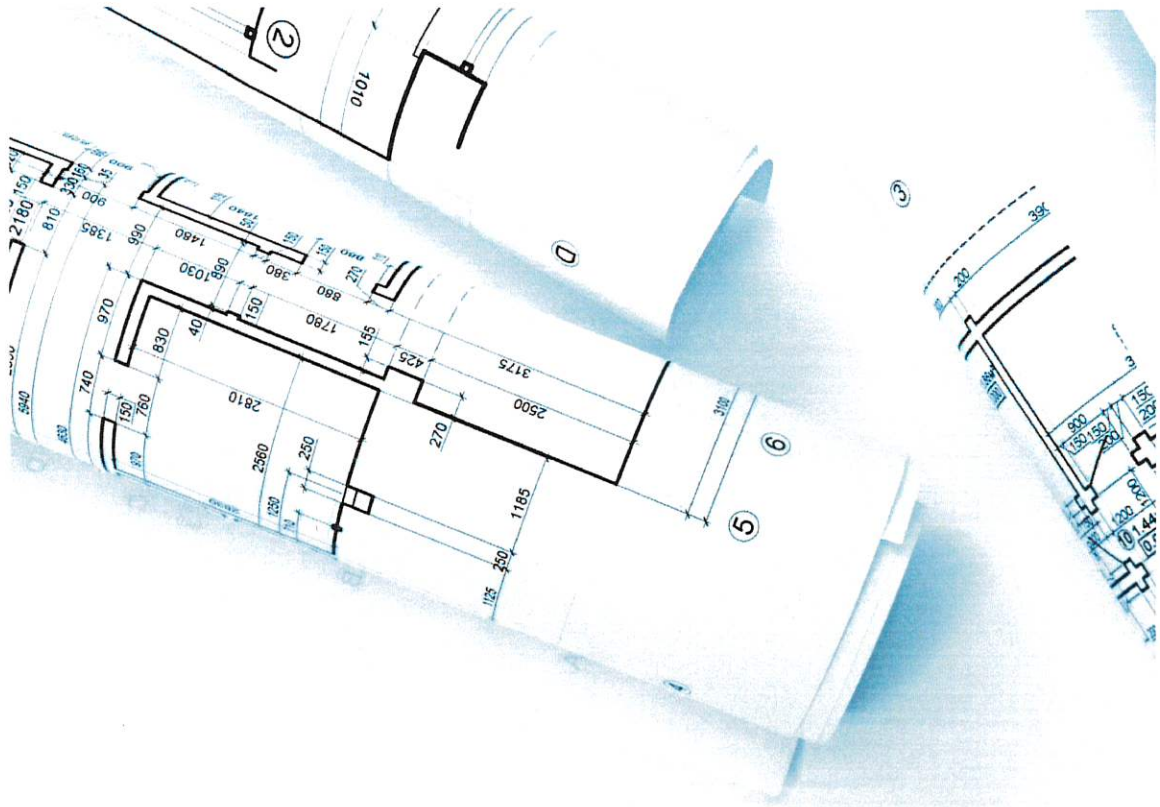
# Lot 4 Bristol Avenue Variance Application

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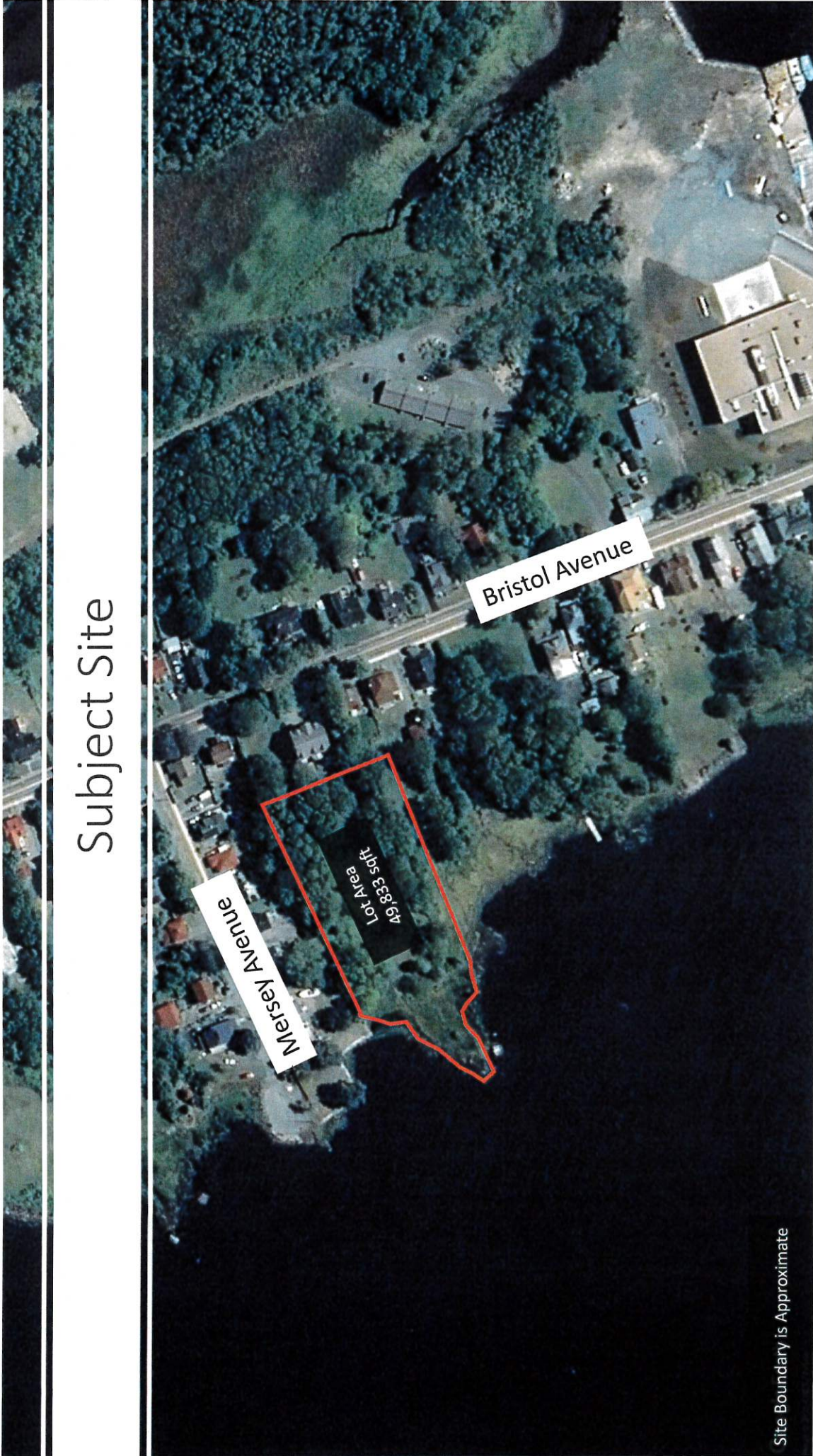
Presentation to Council 5/09/23

# Who are we?

- Zzap Consulting Inc
- Fares and Co. Developments
- Paul Skerry Architects



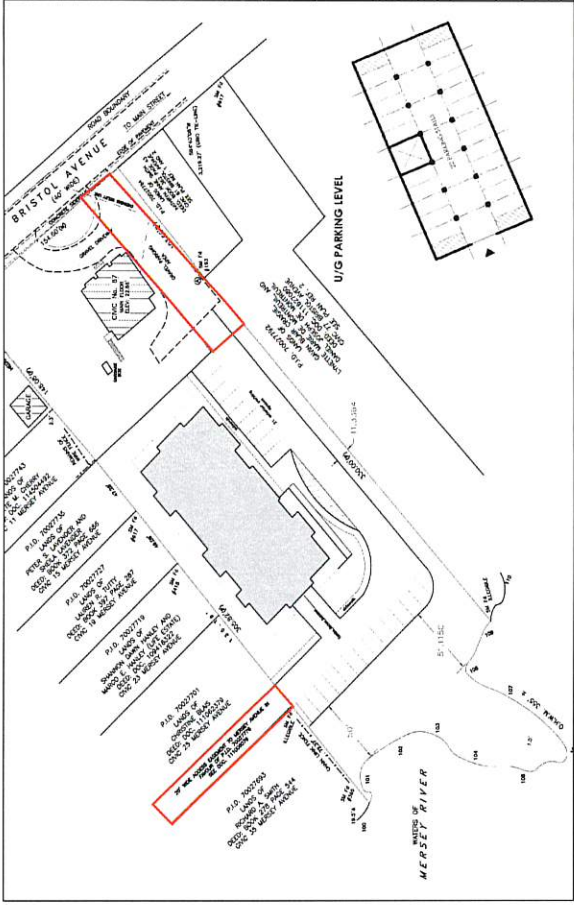
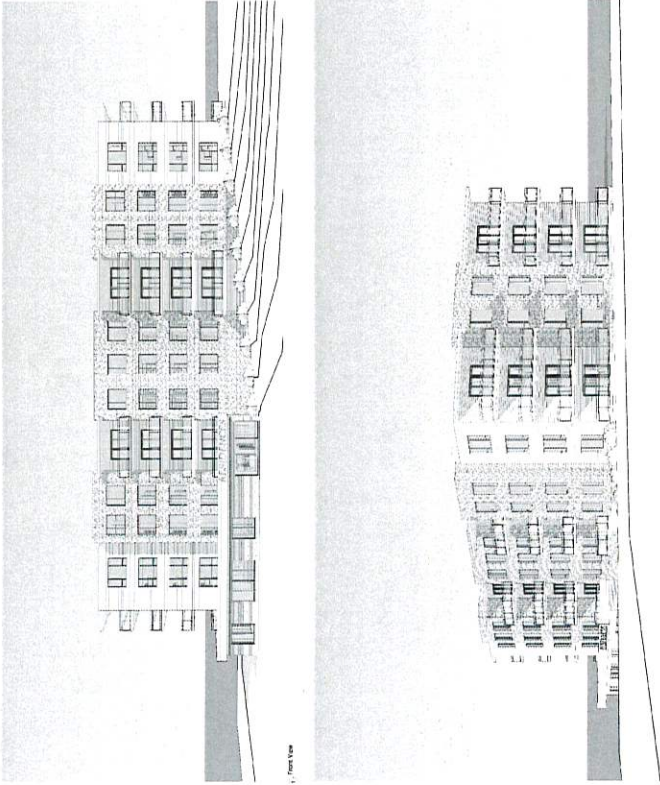
# Subject Site



Site Boundary is Approximate

Requirement	RM Zone
Minimum Lot Area	125m <sup>2</sup> per dwelling unit
Minimum Lot Frontage	15 metres
Minimum Front Yard Setback	3 metres
Minimum Rear Yard Setback	7.5 metres
Minimum Side Yard Setback	4 metres
Maximum height of the Main Building	15.2 metres
Parking	1.25 spaces per unit

# Zoning Summary



# Proposed Building

# Variance Request

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- Variance to **minimum lot area**
- Lot area: 4,629.6 sq metres
- Maximum number of units without variance: 37
- Maximum number of units requested with variance: 45

# Compliance with Municipal Government Act

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- MGA Test – Should not be granted if...
  1. The variance violates the intent of the land use bylaw
  2. The difficulty experienced is general to properties in the area
  3. The difficulty results from an intentional disregard for the requirements of the land use bylaw

## Does the variance violate the intent of the land use bylaw?

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- **No**
- The Municipal Planning Strategy (MPS) outlines the intent of the RM zone
- The intention for the zone is to address demand for and issues surrounding the development of higher density residential housing options.
- Large lot is an ideal location for addressing demand for higher density housing while meeting other lot requirements

Is the difficulty experienced is general to properties in the area?

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- **No**
- Most of the surrounding properties are zoned RL and lot sizes are smaller.
- The footprint of low-density homes in the surrounding area do not face the same issue of minimum lot coverage because the lot requirements are less than the RM zone.

Does the difficulty result from an intentional disregard for the requirements of the LUB?

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- **No**
- No development has been constructed on the site
- Therefore, no difficult has been experienced resulting from intentional disregard of the Land Use Bylaw

# Summary

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- Requesting a variance to minimum lot area requirement
- Development Application meets all other requirements of the Land Use Bylaw
- Denying the appeal allows for 45 units rather than 36 units in the same building envelope.
- Our request: That Council deny this appeal on the grounds that the development officer did not err in their application of the Municipal Government Act.

Thank You!

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