From:
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Summary – the Legacy of DeGasperis

- Duty of decision makers to give reasons;
- There are 4 separate and distinct tests;
- The tests cannot be collapsed into a discussion of impact only;
- With respect to the ZBL and OP there must be a rigorous and purposeful analysis;
- The determination of "minor" is specific to each application but the issue of impact alone will not suffice;
- The determination of "desirable" must be objective and address broader public interest issues;
- Other factors – such as need and hardship – may apply if they "reasonably bear" on the application.

Conclusions

DeGasperis has confirmed the duty to give reasons as a key principle of administrative law and the need for a comprehensive review of each of the 4 tests when considering applications under ss.45(1).

Recent changes to the *Planning Act* [Bill 51] suggest that both the decisions and the decision making process at the C of A may be required to be more rigorous.

Increased rigour may ultimately mean a longer and more costly C of A process – at odds with the 30 day window and goal of maintaining ease of public access.
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From
Vincent v. DeGasperis, 2005 CanLII 24263 (ON S.C.D.C.)Vincent v. DeGasperis, 2005 CanLII 24263 (ON S.C.D.C.) - Divisional Court

MATLOW J.

REASONS FOR JUDGMENT

[9] An application for a minor variance must meet what is often referred to as the four part test mandated by the *Act*. To satisfy the requirements of the test a variance must:

1. be a minor variance;
2. be desirable, in the opinion of the committee, for the appropriate development or use of the land, building or structure;
3. maintain, in the opinion of the committee, the general intent and purpose of the zoning bylaw; and
4. maintain, in the opinion of the committee, the general intent and purpose of the official plan.