

Authority: Toronto and East York Community Council Report No. 6, Clause No. 14,  
adopted as amended, by City of Toronto Council on July 20, 21 and 22, 2004  
Enacted by Council: September 30, 2004

**CITY OF TORONTO**

**BY-LAW No. 872-2004**

**To amend the General Zoning By-law No. 438-86 of the former City of Toronto  
with respect to lands municipally known as 40-42 Westmoreland Avenue.**

WHEREAS pursuant to Section 37 of the *Planning Act*, the council of a municipality may, in a by-law passed under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond that otherwise permitted by the by-law, in return for the provision of such facilities, services or matters as are set out in the by-law; and

WHEREAS subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, a Municipality may require the owner to enter into one or more agreements with the Municipality dealing with the facilities, services and matters; and

WHEREAS the owner of the lands known at the date of enactment of this By-law as 40-42 Westmoreland Avenue has elected to provide the facilities, services or matters as are set out in this By-law; and

WHEREAS the increase in density of development permitted hereunder, beyond that otherwise permitted by By-law No. 438-86, as amended, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law and to be secured by one or more agreements with the owner of the lands, and the City of Toronto; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

NOW THEREFORE the Council of the City of Toronto HEREBY ENACTS as follows:

1. None of the provisions of Section 2(1) with respect to the definition of *apartment building*, Sections 4(5)(i)(ii), 4(6)(c), 4(12), 6(1), 4(4)(b), 6(3) PART I 1 of Zoning By-law No. 438-86, as amended, being “A By-law to regulate the use of land and the erection, use, bulk height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto”, as amended, shall apply to prevent the redevelopment of the existing church building and *single detached dwelling* to accommodate up to 26 dwelling units on the lot, provided:
  - (1) the *lot* consists of the lands delineated by solid dark lines on Plan 1, attached hereto and forming part of this By-law;
  - (2) the existing church building shall be maintained in accordance with the provisions of a Heritage Easement Agreement between the City of Toronto and the owner, pursuant to Section 37 of the *Ontario Heritage Act*;

- (3) the church building contains up to 25 *dwelling units*;
- (4) the combined aggregate of the *residential gross floor area* for the lands shall not exceed 2,853 square metres, provided that:
  - (i) not more than 2,602 square metres shall be within the existing church building; and
  - (ii) not more than 252 square metres shall be within the existing *single detached dwelling*.
- (5) notwithstanding (4), the enclosure for pedestrian access to the underground parking has a gross floor area of no more than 5 square metres;
- (6) a minimum of 24 parking spaces are provided on the lands of which:
  - (i) 6 small car *parking spaces*, of which 5 spaces shall have a minimum width of 2.3 metres and 1 space shall have a minimum length of 5.0 metres, shall be designated for the use of the residents; and
  - (ii) 2 *parking spaces* shall be designated for visitors;
- (7) the reversible one way driveway aisle shall have a minimum width of 2.9 metres;
- (8) no portion of the additional dormers shall exceed the *heights* indicated on Plan 2 attached hereto;
- (9) the waste and recycling storage room shall be located not less than 3.5 metres from the south property line and shall be fully enclosed.
- (10) the owner shall enter into an agreement with the City of Toronto pursuant to section 37 of the *Planning Act*, that shall be registered against title of the *lot*, and shall include but not be limited to, providing the facilities, services and matters set out below:
  - (i) a contribution in the amount of \$100,000 to improvements to local open spaces, parks and community facilities and/or researching and identifying other heritage resources in Ward 18;
  - (ii) to provide winter maintenance of the public laneway utilized by residents of the lots and surrounding lands, located first west of Westmoreland Avenue, from the lane first north of Bloor Street West, excluding the portion abutting the Toronto Parking Authority parking lot, to the north limit of Premises No. 42 Westmoreland Avenue, at no cost to the City and

provide confirmation to the City of Toronto that a snow removal contract has been secured on an annual basis to meet the following minimum standards:

- (a) the laneway shall be maintained such that the pavement after any snowfall of accumulation less than 8 cm is in a safe and passable condition;
  - (b) at snow accumulation of 8 cm or greater, the owner shall be responsible for the removal, haulage and relocation of snow and debris to a private snow dump;
  - (c) the owner shall be responsible for the restoration of any damage caused by the snow removal to the pavement, street furniture, traffic calming devices, signs or abutting property; and
  - (d) the event that the owner fails to fulfil its obligation under the agreement the City may recover the total cost of all labour and materials in carrying out and completing the snow removal from the laneway, plus an administrative fee equal to 15% of the cost as outlined above and such costs may be added to the tax collector's roll against 40-42 Westmoreland and may be recovered in like manner as municipal taxes pursuant to section 427 of the *Municipal Act* S.O. 2001, Chapter 25;
- (iii) that prior to Site Plan Approval, all elements of the exterior of the redevelopment of the existing church will be subject to review and approval of the Commissioner of Urban Development Services in consultation with the Commissioner of Economic Development, Culture and Tourism, including among other things the architectural treatment and finishes and materials, window treatments and materials, proportions of openings and colours on the exterior of the building;
  - (iv) that prior to Site Plan Approval, the owner enter into a Heritage Easement Agreement with the City of Toronto pursuant to the *Ontario Heritage Act* with respect to the existing church building and such agreement is appropriately registered against the title to the *lot*;
  - (v) that prior to the application for the first building permit for the lot, the owner provide certification that the site and buildings meet provincial standards for residential use;
2. The provisions of Section 8 of By-law No. 438-86, as amended, and Section 1 above permit *residential gross floor area* to be erected or used on the *lot* only:
- (1) in accordance with the provisions of a Heritage Easement Agreement between the City of Toronto and the owner pursuant to Section 37 of the *Ontario Heritage Act* is registered against title; and

- (2) in accordance with the provisions of a Section 37 Agreement between the City of Toronto and the owner pursuant to Section 37 of the *Planning Act*.
3. Each word or expression, which is italicized herein, shall have the same meaning as such word or expression as defined in the aforesaid By-law No. 438-86, as amended, unless otherwise defined by this By-law.
4. For the purpose of this By-law, the word “existing” means that which is existing on the date of the passage of this By-law.
5. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.

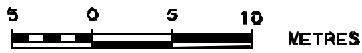
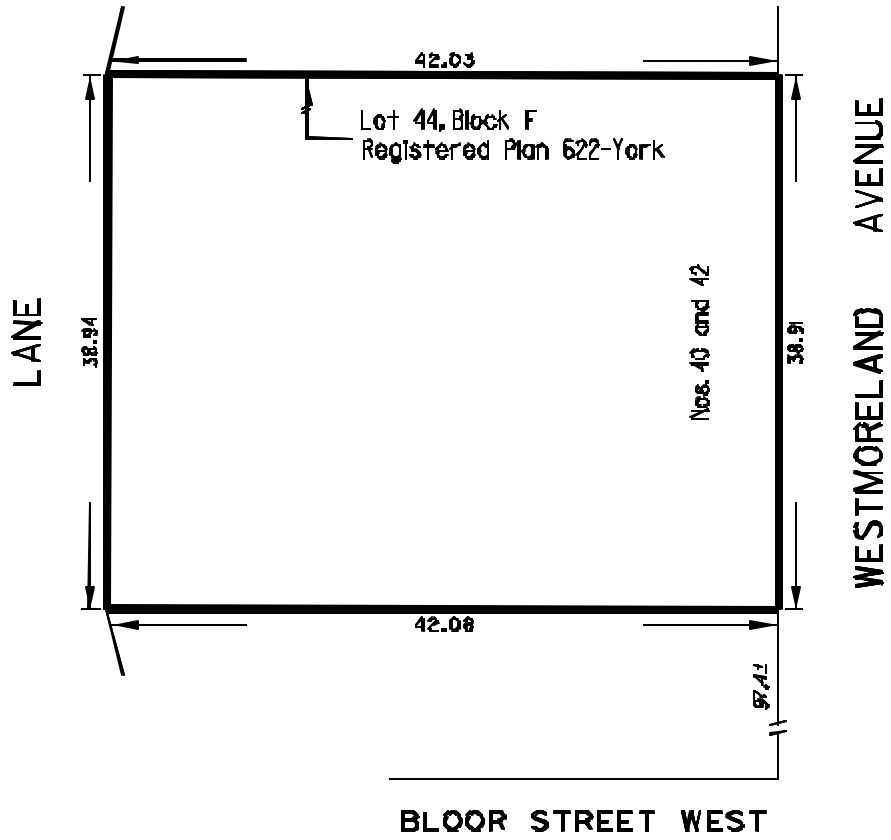
ENACTED AND PASSED this 30th day of September, A.D. 2004.

DAVID R. MILLER,  
Mayor

ULLI S. WATKISS  
City Clerk

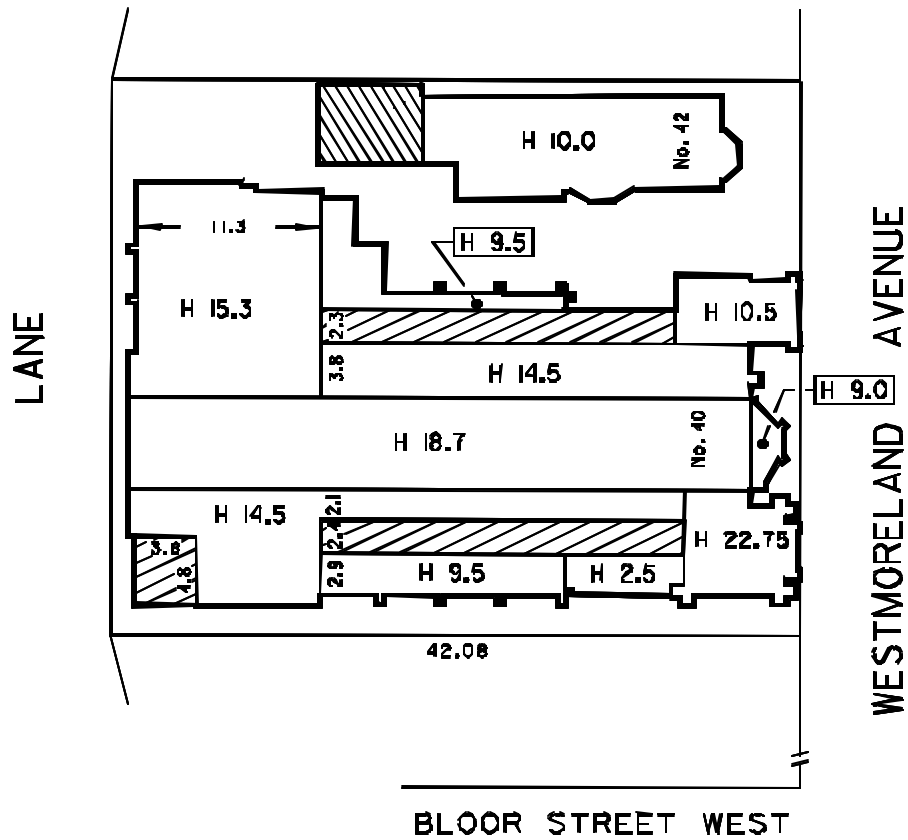
(Corporate Seal)

PLAN 1





WORKS AND EMERGENCY SERVICES  
SURVEY AND MAPPING SERVICES  
TORONTO JULY, 2004  
BLO4/40WESM01.DGN  
FILE# W67-21  
MAP No. 49J-311 DRAWN: D.R

PLAN 2



H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE

-  DECK OR TERRACE (H 1.9)
-  DECK OR TERRACE (H 9.0)



WORKS AND EMERGENCY SERVICES  
 SURVEY AND MAPPING SERVICES  
 TORONTO JULY, 2004  
 BLO4/40WESTM02.DGN  
 FILE: 867-21  
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