

TORONTO STAFF REPORT

November 20, 2006

To: Chairman and Members of the Committee of Adjustment
North York Panel

From: Thomas C. Keefe, Director, Community Planning, North York District

| | | | |
|--------------------|---|------------|---|
| File Number: | A0817/06NY | Zoning: | C2 - Commercial Zone, RM6 - Multiple Family Dwelling Zone |
| Owner(s): | SKYLINE YORKGATE MALL INC | Ward: | York West (08) |
| Agent: | FIRST GULF GROUP INC | | |
| Property Address: | 1 YORK GATE BLVD | Community: | |
| Legal Description: | PLAN M-1994 PT BLKS 1 2 5 PT YORK GATE BLVD CLOSED RP 66R 15013 PARTS 1 TO 5 | | |

PURPOSE OF THE APPLICATION:

This is an application under Section 45 of the Planning Act, for variance from the provisions of the North York Zoning By-law 7625, as amended, to allow the construction of a free-standing commercial building located at the rear of the property.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW :

1. Proposed building to be located outside of the required building envelope
WHEREAS all additional buildings separate from the existing mall may be constructed only in the location shown as the required building envelope on the attached site plan;
2. Proposed west side yard setback of 16 m to the proposed building
WHEREAS a minimum of 60m is required;
3. Proposed north (rear) yard setback of 6m to the proposed building
WHEREAS a minimum of 63m is required;
4. Proposed 16 parking spaces located in the yard setback between the proposed building envelope and York Gate Boulevard
WHEREAS no parking spaces shall be permitted in the yard setback between the proposed building envelope and York Gate Boulevard; and
5. Proposed front yard setback from Finch Avenue West to the proposed building of 240m
WHEREAS a maximum of 3m is permitted.

LOCATION

The site is 5.3 ha in size and located at the northeast corner of Finch Avenue West and York Gate Boulevard. The existing York Gate Mall is L-shaped with frontage on Jane Street, Finch Avenue West and York Gate Boulevard. The entrance to the mall is from the parking lot. The surrounding uses are:

North: Hydro corridor and commercial recreation facility;

East: Gas station and high-density residential located on the east side of Jane Street;

South: Commercial plaza, long-term care facility and low-density residential; and

West: Vacant lands designated and zoned for high-density and low-density residential development.

COMMENTS

In 2002, the City of Toronto enacted By-law 271-2002 which permits a maximum aggregate gross floor area (GFA) of 29,904 m² on the site. This increase in GFA would allow for a second storey addition up to 4,172 m² GFA to the existing mall. 1,486 m² or less of the GFA can be accommodated in an additional building(s) separate from the existing mall. The additional building(s) can only be constructed in the Proposed Building Envelope as shown on Schedule C2(5) (see attachment) of the By-law. The building envelope allows for a maximum setback of 3 m along Finch Avenue West and a minimum setback of 6 m along York Gate Boulevard.

The intent and purpose of the By-law is to create a more pedestrian friendly, street-related relationship between the private buildings and the public realm. The By-law provided for a reduced front yard setback to create a strong street orientation along Finch Avenue West. It was also intended to ensure direct pedestrian access from the sidewalk and to improve pedestrian connections on the site. In addition, the By-law's intent is to provide retail and service commercial uses oriented to Finch Avenue West, a major arterial, not towards a local or collector road that has residential uses fronting it.

The proposal is for a 743 m² building located at the rear of the site, which is not street-related and will not provide direct pedestrian access from Finch Avenue West. Locating the retail and/or service commercial building in the required building envelope would be more desirable as it would improve the physical relationship of the site with the street and provide for more interest and animation on this arterial since the south and west elevations of the existing mall currently have blank façades with little articulation and no glazing. The proposed building fronts onto York Gate Boulevard, which is a local street. Although currently a vacant site, the proposed development for the lands west of York Gate Boulevard consists of high-density and low-density residential. As a result, the proposal does not maintain the intent and purpose of the Zoning By-law.

The new City of Toronto Official Plan designates the site as *Mixed Use Areas*. This designation provides for a broad range of commercial, residential and institutional uses, as well as parks and open space.

In *Mixed Use Areas*, development will:

- Locate and mass new buildings to frame the edges of streets;
- Provide an attractive, comfortable and safe pedestrian environment; and
- Provide good site access and circulation.

The majority of the site also falls within the *Avenues* as shown on Map 2 of the Official Plan. The *Avenues* are important corridors along major streets where reurbanization can create new housing and jobs while improving the pedestrian environment, the appearance of the street, shopping opportunities and transit service to community residents.

The proposal does not meet the intent and purpose of the Official Plan. As previously noted, the proposal is located at the rear of the site, rather than along the street edge. As this site falls within the *Avenues*, the building should front onto Finch Avenue West. Locating new buildings to the rear of the site is contrary to the policies of the Plan and has the potential to establish a precedent for future development on this portion of the *Avenues*. To provide for an attractive, comfortable and safe pedestrian environment, as well as good site access and circulation, it is important that surface parking between the front face of a building and the street is limited. Moreover, direct pedestrian access should be provided from the sidewalk.

It has been suggested by the applicant that the enhanced streetscaping achieved by fronting a retail and/or a service commercial building on Finch Avenue West could still be achieved by locating an additional building with a GFA up to 743 m² within the building envelope. This is premature given that no application has been submitted for the remainder of the GFA permitted for development within the building envelope. There is nothing in the By-law requiring that this additional building ever be developed. The remainder of the GFA permitted by the Zoning By-law could be used for an addition to the existing mall.

In addition to not maintaining the intent and purpose of the Official Plan and Zoning By-law, the variance for locating the building outside of the required building envelope is not minor. The By-law specifically states that the “additional building(s) may be constructed only in the location shown as the Proposed Building Envelope”. Consequently, the variances for front, rear and side yard setbacks are also not minor. Although these variance may be technical in nature, as they relate to the location of the building envelope in the By-law, they are too large to be considered minor. For instance, the proposed front yard setback for this proposal is 240m. The maximum permitted front yard setback is 3 metres. This is a 237 metre relief from the By-law requirement.

The variance for locating the 16 parking spaces in the yard setback between the proposed building envelope and York Gate Boulevard is in direct contravention to the purpose and intent of both the Official Plan and Zoning By-law, which seeks to locate and mass new buildings to frame the edges of streets.

CONCLUSION

The proposal does not meet the four tests of the *Planning Act*. The variance is not minor. The intent and purpose of the Official Plan and Zoning By-law would not be maintained, and it is not desirable development for the site.

RECOMMENDATION

It is recommended that Minor Variance application A0817/06NY be refused.

Respectfully submitted,

Thomas C. Keefe, Director
Community Planning, North York District

Contact:

Cassidy Ritz, Assistant Planner
Tel: 416.395.7053
Fax: 416.395.7155
critz@toronto.ca