

Monday, November 9, 2009

To: Chair and Members of the Toronto East York Community Council

Re: 70 Ossington Avenue (A0421/09TEY) – Minor Variance Appeal (Ward 19 – Trinity Spadina)

Recommendation: Direct the City Solicitor and appropriate City staff to attend the Ontario Municipal Board hearing uphold the decision of the Committee of Adjustment (except for the fifth condition: the approval of the requested variances shall extend for a term of one year expiring on or before September 30, 2010).

Discussion: On May 25, 2009, an Interim Control By-Law, being City of Toronto By-law 547-2009, was adopted applicable to Ossington Avenue between Dundas Street West and Queen Street West prohibiting restaurants and related uses, including patios, for a period of one year, to allow City Planning staff the opportunity to undertake a planning study for the area.

Staff reported to this Toronto East York Community Council meeting with the results of that planning study. The Planning Staff Report, being Item TE29.3, recommends zoning by-law amendments for the area including a prohibition on rear yard patios.

On June 25, 2008, the Committee of Adjustment granted a minor variance to construct an outdoor patio to the rear of an existing restaurant at the subject property, on certain conditions including that: (1) “No music, artificial, or amplified sound shall be played on , or projected into the patio area”; (2) “The patio’s opening hours be restricted to 11:00 am to 11:00 pm,”; and (3) “The approval of Minor Variance Application A0612/08TEY shall extend for a term of one year, expiring on July 31, 2009.” The variance permission was temporary and expired on July 31, 2009.

As such, on August 26, 2009, the Committee of Adjustment considered the applicant’s new application for a minor variance to permit the patio whereas the patio is located on a lot too close to an “R” district and whereas patios are prohibited by Interim Control By-law 547-2009. The Committee approved the variances on the following conditions: (1) the opening hours for the patio shall be restricted to 11:00 a.m. to 11:00 p.m.; (2) no music, artificial or amplified sound shall be played on , or be projected into, the patio area; (3) the patio shall maintain a maximum area of 58.5 square metres and a minimum setback from the residential zone of 9.26 metres; (4) the existing privacy fence shall be maintained along the perimeter of the patio at a minimum height of 1.8 metres; and (5) the approval of the requested variances shall extend for a term of one year expiring on or before September 30, 2010.

On September 15, 2009, the applicant appealed the Committee of Adjustment decision, specifically conditions. The applicant first applied in 2008. Given recommendations before Toronto East York Community Council in the Ossington Planning Study – especially in regards to the restriction on rear yard patios, I recommend that the City Solicitor and appropriate staff attend the Ontario Municipal Board hearing to uphold the decision of the Committee of Adjustment except for the approval of the requested variances shall extend for a term of one year expiring on or before September 30, 2010.

Sincerely,

Joe Pantalone
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City of Toronto
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