

Authority: Local Planning Appeal Tribunal Order issued  
on May 12, 2021 in Tribunal Case PL171307

## CITY OF TORONTO

### BY-LAW 450-2021(LPAT)

**To amend former City of Toronto Zoning By-law 438-86, as amended, respecting to lands municipally known in the year 2020 as 55 Erskine Avenue.**

Whereas the Local Planning Appeal Tribunal, by its decision and Order issued on May 12, 2021 in Tribunal Case PL171307, approved amendments to the former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands; and

Whereas pursuant to Section 37 of the Planning Act, R.S.O. 1990, c. P.13, as amended, a by-law under Section 34 of the Planning Act may authorize increases in the height or density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provisions of such facilities, services or matters as are set out in the by-law; and

Whereas the Official Plan for the City of Toronto contains such provisions relating to the authorization of increases in the height or density of development; 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 aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increases in height and density permitted beyond that otherwise permitted on the aforesaid lands is 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 between the *owner* of the land and the City of Toronto (hereinafter referred to as the "City");

Now therefore pursuant to the Order of the Local Planning Appeal Tribunal, By-law 438-86, the General Zoning By-law of the former City of Toronto, as amended, is further amended as follows:

1. Pursuant to Section 37 of the Planning Act, the density of development permitted by this By-law is permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the owner of the *lot* of the facilities, services and matters set out in Schedule A, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the Planning Act.
2. Upon execution and registration of an agreement or agreements between the City and the owner of the *lot* pursuant to Section 37 of the Planning Act securing the provision of the facilities, services and matters set out in Schedule A, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a

facility, service or matter as a precondition to the issuance of a building permit, such building may not be erected or used until the owner of the *lot* has satisfied the said requirements.

3. Wherever in this By-law a provision is stated to be conditional upon the execution and registration of an agreement(s) entered into with the City pursuant to Section 37 of the Planning Act, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of such agreement.
4. Except as otherwise provided herein, the provisions of By-law 438-86 shall continue to apply on the *lot*.
5. The lands shown on Map 1 of this by-law shall be rezoned from R4A Z1.0 to R4A Z2.9 and G.
6. None of the provisions of Section 2(1) with respect to the definition of '*height*', '*grade*', '*residential gross floor area*', and '*lot*' and Sections 4(2)(a), 4(4), 4(6), 4(11)(b), 4(12), 4(13), 6(3) PART I (1) and (3), 6(3) PART II (2), (3), (4), (5) and (8), 6(3) PART III (1) of Zoning By-law 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", shall apply to prevent the erection and use of an *apartment building* and *accessory* uses thereto on the lands shown on Map 1, provided that:
  - a. The *lot* on which the buildings are to be located comprises at least those lands within the heavy lines on Map 1, attached to and forming part of this By-law;
  - b. The total *residential gross floor area* of *Building 'A'* shall not exceed 9,500 square metres;
  - c. For the purposes of this exception, the *existing building* has a *gross floor area* of 14,300 square metres;
  - d. The height of any building or structure shall not exceed the maximum height in metres specified by the numbers following the symbol "H" on Map 2, attached to and forming part of this by-law, with the exception of the following:
    - (i) Antennae, flagpoles, parapets for a green roof, satellite dishes and weather vanes, up to 5.0 metres beyond the *height* limit;
    - (ii) Equipment used for the operation of the building, such as electrical, utility, mechanical and ventilation equipment, up to 5.0 metres beyond the *height* limit;

- (iii) Structures or parts of the building used for the functional operation of the building, such as enclosed stairwells, roof access, maintenance equipment storage, elevator shafts, chimneys, vents and water supply facilities;
  - (iv) Structures that enclose, screen or cover the elements listed in (ii) and (iii) above;
  - (v) Skylights up to 1.0 metres beyond the *height* limit; and
  - (vi) Unenclosed structures providing safety or wind protection to rooftop amenity space up to 3.0 metres beyond the *height* limit if the structures are no closer than 2.0 metres from the interior face of any *main wall*;
- e. No portion of such building above *grade* is located otherwise than wholly within the area delineated by heavy lines on Map 2 attached to and forming part of this By-law, other than:
  - (i) Balconies and terraces, to a maximum of 1.8 metres;
  - (ii) Canopies, awnings to a maximum of 3.0 metres;
  - (iii) cornices, light fixtures, eaves, window sills, planters, screens and safety features, stairs, stair enclosures, doors, fences, screens and architectural features to a maximum of 1.5 metres; and
  - (iv) covered ramp to underground parking and other structures associated with the underground garage;
- f. Residential amenity space within *Building 'A'* must be provided and maintained on the lands in accordance with the following:
  - (i) A minimum of 325 square metres of indoor *residential amenity space* located in *Building 'A'*; and
  - (ii) A minimum of 40 square metres of outdoor *residential amenity space* in a location adjoining or directly accessible to the indoor *amenity space* in *Building 'A'*;
- g. *Parking spaces* for both *Building 'A'* and the *existing building* shall be provided and maintained above and below *grade* on the *lot* in accordance with the following ratios:
  - (i) A minimum of 0.55 resident *parking spaces* for each dwelling unit; and
  - (ii) A minimum of 0.10 visitor *parking spaces* for each dwelling unit.

- 
- h. Notwithstanding g. above, for each on-site *car-share parking space* provided on the *lot*, the resident parking requirement for dwelling units shall be reduced by 4 *parking spaces* to a maximum of 8 *parking spaces*;
  - i. The existing *parking spaces* and existing *drive aisle* are permitted within their existing dimensions as of the date of passing of this By-law;
  - j. Notwithstanding Section 4(17) of By-law 438-86, as amended, parking spaces accessed by a drive aisle less than a 6.0 metres shall have a minimum width of 2.9 metres;
  - k. Notwithstanding Section 4(17) of By-law 438-86, as amended, a drive aisle may have a minimum width of 5.5 metres; and
  - l. *Bicycle parking spaces* for residents and visitor to *Building 'A'* shall be provided and maintained on the *lot* in accordance with the following ratios:
    - (i) for residential uses, a minimum of 0.9 *bicycle parking spaces* shall be provided for each *dwelling unit* of *Building 'A'*; and
    - (ii) for visitors, a minimum of 0.1 *bicycle parking spaces* shall be provided for each *dwelling unit* of *Building 'A'*.
7. For the purposes of this By-law, all italicized words and expressions have the same meaning as defined in By-law 438-86, as amended, with the exception of the following:
- a. "*Building 'A'*" means the building identified as "Building 'A' on Map 2 attached to and forming part of this By-law;
  - b. "*car-share*" means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car-sharing organization and where such organization may require the use of cars be reserved in advance, charge fees based on time and/or kilometres driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable;
  - c. "*car-share parking space*" means a *parking space* exclusively reserved and actively for *car-share* purposes, including by non-residents;
  - d. "*Existing Building*" means the building identified as "Existing 17 Storey Building" on Map 2 attached to and forming part of this By-law;
  - e. "*grade*" means 163.92 metres Canadian Geodetic Datum;

- f. *"height"* means the vertical distance between *grade* and the highest point of the buildings or structures, excluding permitted projections identified in section 6(d) of this By-law;
  - g. *"lot"* means the parcel of land outlined by heavy lines on Map 1 attached to and forming part of this By-law;
  - h. *"residential gross floor area"* means the aggregate of the areas of each floor, measured between the exterior faces of the exterior walls of the building or structure at the level of each floor, but excluding:
    - (i) parking, loading and bicycle parking below *grade*;
    - (ii) required loading spaces and required bicycle parking spaces at or above *grade*;
    - (iii) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
    - (iv) shower and change facilities required by this By-law for required bicycle parking spaces;
    - (v) indoor *residential amenity space* required by this By-law;
    - (vi) elevator shafts;
    - (vii) garbage shafts;
    - (viii) mechanical penthouse; and
    - (ix) exit stairwells in the building;
  - i. *"Type G loading space"* means a loading space that is a minimum of 4.0 metres wide, 13.0 metres long and has a minimum vertical clearance of 6.1 metres; and
  - j. Each other word or expression that is italicized in this By-law shall have the same meaning as that word or expression as defined in By-law 438-86, as amended.
- 8.** Notwithstanding any severance, partition or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division had occurred.
- 9.** Within the lands shown on Map 1, no person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:
- a. all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway, and

- b. all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

Pursuant to the Decision and Order of the Local Planning Appeal Tribunal issued May 12, 2021 in Tribunal Case PL171307.

**SCHEDULE A**  
**Section 37 Provisions**

Upon execution and registration in priority of an agreement or agreements with the owner, pursuant to Section 37 of the Planning Act, with conditions providing for without limitation, indexing escalation of letters of credit, development charges, indemnity, insurance, and registration in priority, satisfactory to the City Solicitor, securing the provision of the facilities, services and matters set out herein, the land is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a building permit, the owner may not erect or use such building until the owner has satisfied the said requirements:

1. The owner shall covenant and agree to secure the rental tenure of the existing rental building on the land, which contains 188 existing rental dwelling units, without application to demolish or convert the existing rental building or any of the existing rental dwelling units to another use or form of tenure for a period of at least 20 years commencing from the date the Local Planning Appeal Tribunal issues its final Order in respect of this zoning by-law, to the satisfaction of the City Solicitor;
2. The owner shall covenant and agree to provide access for residents of the existing rental building on the land to all indoor and outdoor amenities within and adjacent to the development permitted by this zoning by-law, with no cost pass-through to existing tenants and residents within the existing rental dwelling units, to the satisfaction of the City Solicitor;
3. Prior to site plan approval for the development permitted by this zoning by-law, the owner shall design the following improvements to the existing rental building on the land, to the satisfaction of the Chief Planner and Executive Director, City Planning or designate, and the owner shall covenant and agree with the City that the following improvements will be provided on the land with no cost pass-through to existing tenants and residents within the existing rental dwelling units, to the satisfaction of the City Solicitor:
  - a. Permanent outdoor furniture and BBQ cooking appliances within the existing 1385 square metre outdoor amenity area surrounding the existing swimming pool on the *lot*;
  - b. New programming within the 70 square metre amenity space located on the ground floor of the existing building on the *lot*;
  - c. No fewer than five (5) new short-term visitor bike parking spaces located at the rear of the existing rental building on the *lot*;
  - d. Centralize garbage storage, staging and pickup within the new building for waste associated with the existing rental building on the *lot* and the subject development on the *lot* permitted by this zoning by-law; and

- e. A new refuse drop-off area for hand-delivered kitchen waste and recycling within the existing rental building on the *lot*;
4. Prior to the approval of a site plan control application for the development permitted by this zoning by-law, the owner shall provide a construction mitigation and tenant communications plan to lessen adverse impacts on tenants due to the redevelopment proposal, to the satisfaction of the Chief Planner and Executive Director, City Planning or designate;
5. Prior to the approval of a site plan control application for the development permitted by this zoning by-law, the owner shall design a privately-owned publicly accessible open space on the land at-grade reflective of the vision for the Park Street Loop abutting the Broadway Avenue frontage of the land to a minimum depth of 7.5 metres from the Broadway Avenue property line starting at the west property line of the land and terminating at the future boundary of the parkland dedication to be provided by the Owner in accordance with paragraph 7 of this Schedule A, to the satisfaction of the Chief Planner and Executive Director, City Planning or designate, and the owner shall financially secure the privately-owned publicly accessible open space prior to the approval of a site plan control application for the development, to the satisfaction of the Chief Planner and Executive Director, City Planning or designate;
6. Prior to the issuance of the first above-grade building permit for the development permitted by this zoning by-law, the owner shall register a grant of an easement to the City, for nominal consideration and free and clear of all physical encumbrances, save and except those permitted by the Chief Planner and Executive Director, City Planning or designate, upon and over the privately-owned publicly accessible open space to be on the land abutting Broadway Avenue, to a minimum depth of 7.5 metres from the Broadway Avenue property line starting at the west property line of the subject lands and terminating at the future boundary of the parkland dedication to be provided by the owner in accordance with paragraph 7 of this Schedule A, for the purpose of the public's use, to the satisfaction of the City Solicitor in consultation with the Chief Planner and Executive Director, City Planning or designate;
7. Prior to the issuance of the first above-grade building permit for the development permitted by this zoning by-law, the owner shall convey the fee simple interest in a part of the land with a minimum area of 284.2 square metres, free and clear, above and below grade, of all easements, encumbrances, and encroachments, in satisfaction of the owner's required parkland contribution under the *Planning Act*, said lands being Zoned 'G' as shown on Map 2 to this Zoning By-law, to the satisfaction of the General Manager, Parks, Forestry and Recreation and the City Solicitor, in consultation with the Ward Councillor; and
8. Prior to the issuance of the first building permit for the development permitted by this zoning by-law, the owner shall pay a cash contribution of \$300,000 to the City to be used for the purpose of local parks improvements in the vicinity of the site, to the satisfaction of the General Manager, Parks, Forestry and Recreation, in consultation with the Ward Councillor.



