

Authority: Toronto and East York Community Council Item TE21.6, as adopted by City of Toronto Council on December 16, 17 and 18, 2020 and MM35.40, by Councillor Josh Matlow, seconded by Councillor Mike Layton, as adopted by City of Toronto Council on July 14, 15 and 16, 2021

## **CITY OF TORONTO**

### **BY-LAW 689-2021**

**To amend former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2020 as 1637, 1639, 1641, 1643 and 1645 Bathurst Street.**

Whereas Council of the City of Toronto has the authority pursuant to Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended, to pass this By-law to the lands known municipally in 2020 as 1637, 1639, 1641, 1643 and 1645 Bathurst Street; 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; and

Whereas the Official Plan for the City of Toronto contains such provisions relating to the authorization of increases in height and density of development; and

Whereas pursuant to Section 37 of the Planning Act, a by-law under Section 34 of the Planning Act may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matter 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 and matters in return for an increase in the height or density of development, the 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 increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law 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 which are secured by one or more agreements between the owner of the land and the City of Toronto; and

Whereas the Council of the City of Toronto has required the owner of the aforesaid lands to enter into one or more agreements for the provision of certain facilities, services and matters in return for the increases in height and density permitted by this by-law; 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;

The Council of the City of Toronto enacts:

1. Pursuant to Section 37 of the Planning Act, the heights and density of development permitted by this By-law on the lands shown on Map 1 of this By-law are permitted subject to compliance with conditions set out in this By-law, and in return for the provision by the owner of the lands shown on Map 1, of the facilities, services and matters set out in Schedule A hereof, the provision of which shall be secured by one or more agreements with the City pursuant to Section 37(3) of the Planning Act.
2. Upon execution and registration in priority of an agreement or agreements with the owner of the lot pursuant to Section 37 of the Planning Act, to the satisfaction of the City Solicitor, securing the provisions of the facilities, services, and matters set out in Schedule A hereof, 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, the owner may not erect or use such building until the owner has satisfied the said requirements.
3. Except as otherwise provided herein, the provisions of this By-law 483-86, as amended, shall continue to apply to the *lot*.
4. None of the provisions of Section 2 with respect to the definition of *grade*, *height*, *lot* and *residential gross floor area*, and Sections 4(2)(a), 4(4)(b), 4(6), 4(7), 4(10), 4(12), 4(13), 4(16), 6(1)(f)(a)(i) and (iii), 6(3) Part I, 6(3) Part II, 6(3) Part III, 6(3) Part IV, 12(1)320 and 12(1)365 of Zoning By-law 438-86, as amended, shall apply to prevent the erection and use of an *apartment buildings* on the *lot* and uses *accessory* thereto, on the lands municipally known as 1637, 1639, 1641, 1643 and 1645 Bathurst Street, in the year 2020, provided that:
  - (a) A *parking garage* may be permitted on the *lot* solely for the purpose of *car-share parking spaces*;
  - (b) The permitted *residential gross floor area* erected or used on the *lot* shall not exceed 8,700 square metres;
  - (c) No portion of any building or structure erected above *grade* on the *lot* is located above the maximum *height* in metres as indicated by the numbers following the letters "HT" as shown on Map 2, attached to and forming part of this By-law;
  - (d) Notwithstanding Section 4(c) of this By-law, the following building elements and structures are permitted to project vertically above the *height* limits specified on Map 2, attached to and forming part of this By-law:
    - (i) equipment used for the functional operation of the building, such as electrical, utility, mechanical and ventilation equipment, to a maximum of 3.9 metres, except that flues, chimneys, pipes and vents may project an additional 1.0 metre;

- (ii) structures or parts of the building used for the functional operation of the building, such as enclosed stairwells for roof access, elevator shafts and overruns and water supply facilities, to a maximum of 3.9 metres;
  - (iii) structures that enclose, screen or cover the elements listed in (i) and (ii) above, to a maximum of 3.9 metres;
  - (iv) wind screens, parapets, fences, guard rails, railings and dividers, pergolas, trellises, balustrades, screens, stairs, roof drainage, window washing equipment, vents, lightning rods, light fixtures, landscaping, planters, and elements of a green roof, to a maximum of 3.0 metres;
  - (v) elements or structures on any roof, terrace or *patio* used for outdoor *residential amenity space* and for maintenance, safety and wind protection, to a maximum of 3.0 metres;
  - (vi) terraces, *patios*, covered walkways and ramps attached to the east main wall of the building, to a maximum of 5.5 metres; and
  - (vii) *a bicycle parking spaces, residential amenity space*, storage rooms and access to these spaces, to a maximum of 4.0 metres;
- (e) No part of the above *grade* portion of any building or structure on the *lot* is located otherwise than wholly within the areas delineated by the heavy lines on Map 2 attached to and forming part of this By-law;
- (f) Notwithstanding Section 4(e) of this By-law, the following building elements, structures, above or below-ground, are permitted to encroach into the required minimum building setbacks specified in Map 2, attached to and forming part of this By-law, subject to the following limitations:
- (i) landscape planters;
  - (ii) eaves, cornices, window sills, light fixtures, railings and bollards may extend into a required building setback by a maximum of 0.6 metres;
  - (iii) wheelchair ramps, stairs, stair enclosures, covered walkways and ramps, *patios, bicycle parking spaces, residential amenity space*, storage rooms and access to these spaces attached to the east main wall of the building may extend into a required building setback by a maximum of 5.5 metres;
  - (iv) canopies, awnings or similar structures may extend into a required building setback by a maximum of 3.0 metres; and
  - (v) balconies are permitted to project and may extend into a required building setback by a maximum of 2.1 metres;
- (g) *Residential amenity space* shall be provided on the *lot* in accordance with the following:

- (i) A minimum of 2.0 square metres of indoor *residential amenity space* per *dwelling unit*;
- (ii) A minimum of 2.0 square metres of outdoor *residential amenity space* per *dwelling unit*;
- (iii) At least 40.0 square metres of outdoor *residential amenity space* shall be provided in a location adjoining or directly accessible via hallway from indoor *residential amenity space*; and
- (iv) No more than 25 percent of the outdoor component may be a green roof;
- (h) *Parking spaces* shall be provided and maintained below ground on the *lot* as follows:
  - (i) A minimum of 0.8 resident *parking spaces* for each bachelor *dwelling unit* up to 45 square metres and 1.0 for each bachelor *dwelling unit* greater than 45 square metres;
  - (ii) A minimum of 0.9 resident *parking spaces* for each one *bedroom dwelling unit*;
  - (iii) A minimum of 1.0 resident *parking spaces* for each two *bedroom dwelling unit*;
  - (iv) A minimum of 1.2 resident *parking spaces* for each three or more *bedroom dwelling unit*;
  - (v) A minimum of 0.2 visitor *parking spaces* per *dwelling unit*;
- (i) Notwithstanding Section 4(h) of this By-law, *car-share parking spaces* may replace *parking spaces* otherwise required for residential occupants, subject to the following:
  - (i) a reduction of 4 resident *parking spaces* will be permitted for each *car-share parking space* provided and that the maximum reduction permitted be capped by the application of the following formula:  
  
4 x (Total No. of *dwelling units* ÷ 60), rounded down to the nearest whole number;
- (j) *Bicycle parking spaces* shall be provided and maintained on the *lot* for the residents and visitors in accordance with the following:
  - (i) A minimum of 0.9 *bicycle parking spaces* – occupant per *dwelling unit*;
  - (ii) A minimum of 0.1 *bicycle parking spaces* – visitor per *dwelling unit*;
- (k) The *bicycle parking spaces* – occupant noted in subsection 4(j) above may be located in a storage room above or below ground and/or a *parking garage* in a

*building* on the *lot* and may be provided in the form of *stacked bicycle parking spaces*; and

- (l) One (1) *loading space – type G* shall be provided and maintained on the *lot*.
5. For the purposes of this By-law, every other word or expression which is italicized herein shall have the same meaning as each word or expression as defined in the aforesaid Bylaw 438-86, as amended, with the exception of the following:
- (a) "*car-share*" means the practice whereby a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit car-sharing organization, such car-share motor vehicles to be made available for short term rental, including hourly rental, and where such organization may require that the car-share motor vehicles 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;
  - (b) "*car-share parking space*" means a *parking space* that is reserved for a motor vehicle for *car-share* purposes;
  - (c) "*grade*" means 170.65 metres Canadian Geodetic Datum;
  - (d) "*height*" means the vertical distance between *grade* and the highest point of the building or structure, subject to permitted projections;
  - (e) "*lot*" means those lands outlined on Map 1 attached hereto;
  - (f) "*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) indoor *residential amenity space*;
    - (ii) parking, loading and bicycle parking below established *grade*;
    - (iii) parking, loading and bicycle parking at or above established *grade*;
    - (iv) storage rooms, washrooms not in *dwelling units*, electrical, utility, mechanical and ventilation rooms;
    - (v) shower and change facilities required by this By-law for required *bicycle parking spaces*;
    - (vi) elevator shafts;
    - (vii) garbage shafts;
    - (viii) mechanical penthouse; and

- (ix) exit stairwells in the building; and
  - (G) "*stacked bicycle parking spaces*" means a horizontal bicycle parking space that is positioned above or below another bicycle parking space and equipped with a mechanical device providing floor level access to both bicycle parking spaces.
6. Despite any existing or future severance, partition or division of the lot, including any stratified severance, the provisions of this By-law shall apply to the whole lot as if no severance, partition or division had occurred.
7. Within the lands shown on Map 1 attached to this By-law, 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.

Enacted and passed on July 16, 2021.

Frances Nunziata,  
Speaker

John D. Elvidge,  
City Clerk

(Seal of the City)

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

The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the lands as shown in Map 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the Planning Act whereby the owner agrees as follows:

1. The owner shall provide and maintain twenty-seven (27) replacement rental dwelling units on the subject site for a period of at least 20 years beginning from the date that each replacement rental dwelling unit is first occupied and, during which time, no application may be submitted to the City for condominium registration, or for any other conversion to a non-rental housing purpose, or for demolition without providing for replacement during the, at minimum, aforesaid 20 year period; the twenty-seven (27) replacement rental dwelling units shall be comprised of two (2) one-bedroom units, four (4) two-bedroom units, and twenty-one (21) three-bedroom units as generally illustrated in the plans submitted to the City Planning Division dated August 31, 2020. Any revision to these plans shall be to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
2. Of the twenty-seven (27) replacement rental dwelling units required in Item 1 above, the owner shall provide at least two (2) two-bedroom, and two (2) three-bedroom replacement rental dwelling units at "affordable rents", as currently defined in the City's Official Plan, and two (2) one-bedroom, two (2) two-bedroom, and eleven (11) three-bedroom replacement rental dwelling units at "mid-range rents", as currently defined in the City's Official Plan, all for a period of at least 10 years beginning, respectively, from the date of first occupancy of each unit. The rents of the remaining eight (8) replacement rental dwelling units shall be unrestricted;
3. The owner shall provide an acceptable tenant relocation and assistance plan for all Eligible Tenants of the twenty-five (25) existing rental dwelling units proposed to be demolished at 1637, 1639, 1641, 1643 and 1645 Bathurst Street, addressing the right to return to occupy one of the replacement rental dwelling units at similar rents and other assistance to mitigate hardship. The tenant relocation and assistance plan shall be developed in consultation with, and to the satisfaction of, the Chief Planner and Executive Director, City Planning Division;
4. The owner shall provide tenant relocation and assistance to all Post Application Tenants, all to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
5. The owner shall provide tenants of all twenty-seven (27) replacement rental dwelling units with access to, and use of, all indoor and outdoor amenities in the new residential building at no extra charge. Access to, and use of, these amenities shall be on the same terms and conditions as any other resident of the building without the need to pre-book or pay a fee, unless specifically required as a customary practice for private bookings;

6. The owner shall provide ensuite laundry in each replacement rental dwelling unit within the residential building at no additional cost to tenants;
7. The owner shall provide central air conditioning in each replacement rental dwelling unit within the proposed residential building;
8. The owner shall provide and make available for rent at least fifteen (15) vehicle parking spaces to tenants of the replacement rental dwelling units. Such parking spaces shall be made available firstly to returning tenants who previously rented a vehicle parking space, secondly to returning tenants who did not previously rent a vehicle parking space, and thirdly to new tenants of the rental replacement dwelling units;
9. The owner shall provide tenants of the twenty-seven (27) replacement rental dwelling units with access to all bicycle and visitor parking on the same terms and conditions as any other resident of the proposed residential building; and
10. The owner shall make twenty (20) storage lockers available for rent to tenants of the replacement rental dwelling units.





