

Authority: Ontario Land Tribunal Decision/Order issued
on August 10, 2022 in Tribunal File OLT-22-003801
(Formerly PL170525)

CITY OF TORONTO
BY-LAW 1155-2022(OLT)

To amend the former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known as 386-394 Symington Avenue, 485 Perth Avenue and 17 Kingsley Avenue.

Whereas Ontario Land Tribunal Decision/Order issued on August 10, 2022 in File OLT-22-003801, in hearing an appeal under Section 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, deem it advisable to amend the former City of Toronto Zoning By-law 438-86, as amended, with respect to the lands municipally known in the year 2021 as 386-394 Symington Avenue, 485 Perth Avenue and 17 Kingsley Avenue; and

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

Whereas pursuant to Section 39 of the Planning Act, the Council of a Municipality may, in a by-law passed under Section 34 of the Planning Act, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited in the by-law; and

Whereas pursuant to Section 37 of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c.18 came into force, 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 provision of such facilities, services or matters as are set out in the by-law; and

Whereas Subsection 37(3) of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c.18 came into force, 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, 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 increase in height permitted beyond that otherwise permitted on the aforesaid lands by By-law 438-86, as amended, is 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;

The Ontario Land Tribunal Orders:

1. District Map 48 J-322 contained in Appendix "A" forming part of By-law 438-86, 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, is further amended by rezoning the lands known municipally in the year 2021 as 386-394 Symington Avenue, 485 Perth Avenue and 17 Kingsley Avenue to "R2 Z0.6" as delineated on Map 2 attached to, and forming part of, this By-law and as shown thereon as R2 Z0.6.
2. None of the provisions of Section 2(1) with respect to the definition of '*height*', '*grade*' '*gross floor area*' and '*lot*' and Sections 4(1)(a), 4(2)(a), 4(4), 4(6), 4(10), 4(13), 6(1), 6(2), 6(2)20, 6(3) PART I 1, 6(3) PART II, 6(3) PART III, 6(3) PART IV, 12(2) 236 and 12(2) 270 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*, *detached house* and *accessory* uses on the *lot* provided that all of the provisions of this By-law are complied with.
3. Except as otherwise provided herein, the provision of By-law 438-86, as amended, continue to apply to the *lot*.
4. The *lot* consists of the lands delineated by heavy lines on Map 1, attached hereto.
5. The total *residential gross floor areas* on the *lot* shall not exceed 31,500 square metres.
6. A minimum of 20 percent of all *dwelling units* shall contain at least two-bedrooms and a minimum of 10 percent of all *dwelling units* shall contain at least three-bedrooms.
7. No part of any building or structure on the *lot* is located above the maximum *height* in metres as indicated by the following letters "HT" as shown on Map 3, attached to and forming part of this By-law, except:
 - (a) parapets, planters, and guardrails by a maximum of 2.2 metres;
 - (b) parapet for a green roof or any associated elements by a maximum of 2.0 metres;
 - (c) mechanical penthouse, *structures* on a roof for functional operations of a *building* and their screening elements, by a maximum of 6.6 metres and may cover no more than 60 percent of the roof area measured horizontally;
 - (d) exhaust flues, window washing equipment, and lightning rods by a maximum of 3.0 metres;
 - (e) pool decks and fences by a maximum of 2.5 metres; and

- (f) stair structures or ladders and their associated walls for access to rooftop by a maximum of 3.7 metres.
8. No portion of any building or structure erected and used above *grade* on the *lot* is located otherwise than wholly within the areas delineated by heavy lines shown on Map 3 attached to, and forming part of, this By-law, except for:
- (a) a balcony and its guard by a maximum of 2.2 metres;
 - (b) a canopy and its support by a maximum of 2.3 metres;
 - (c) cornices, lighting fixtures, architectural elements by a maximum of 2.0 metres; and
 - (d) crash wall and structures associated with rail safety mitigation.
9. *Parking spaces* shall be provided and maintained on the *lot* in accordance with the following minimum requirements:
- (a) a minimum of 0.25 *parking spaces* for each *dwelling unit*;
 - (b) a minimum of 0.1 visitor *parking spaces* for each *dwelling unit*; and
 - (c) a minimum of 3 car-share *parking spaces*.
10. If the calculation of the number of required *parking spaces* results in a number with a fraction, the number is rounded down to the nearest whole number.
11. Notwithstanding 9(a) above, for each on-site *car-share parking space* provided on the *lot*, the resident parking requirement shall be reduced by four *parking spaces* to a maximum of 12 *parking spaces*.
12. Notwithstanding 4(17), a maximum of 5 percent of the total number of *parking spaces* may have a minimum width of 2.6 metres, despite being obstructed pursuant to 4(17)(a).
13. An accessible *parking space* shall have the following minimum dimensions:
- (a) length of 5.6 metres;
 - (b) width of 3.9 metres; and
 - (c) vertical clearance of 2.1 metres.
14. Accessible *parking spaces* must be the *parking spaces* located within 25 metres of a barrier free:
- (a) entrance to a *building*; or

- (b) passenger elevator that provides access to the first *storey* of the *building*.
15. *Bicycle parking spaces* for residents and visitor shall be provided and maintained on the *lot* in accordance with the following minimum requirements:
- (a) for residential uses, a minimum of 0.9 *bicycle parking spaces* shall be provided for each *dwelling unit*; and
- (b) for visitors, a minimum of 0.1 *bicycle parking spaces* shall be provided for each *dwelling unit*.
16. A *bicycle parking space* may be provided in a *stacked bicycle parking space* with a vertical clearance for each *bicycle parking space* of 1.2 metres.
17. At least one *loading space – type G* shall be provided and maintained on the *lot*.
18. On the lands outlined by heavy black lines on Map 1, a temporary sales office is permitted for a period of not more than 3 years from the date this By-law comes into force and effect, used exclusively for the purpose of marketing, sales, and leasing of *dwelling units* on the site. A temporary sales office is permitted if the *gross floor area* of the sales offices does not exceed 300 square metres and 5 *parking spaces* and 1 accessible *parking space* are provided on the *lot*.
19. 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 By-law 438-86, as amended, with the exception of the following:
- (a) "*bicycle parking space*" means an area that is equipped with a bicycle rack, locker or bicycle stacker for the purpose of parking and securing bicycles, and
- (i) where the bicycles are to be parked on a horizontal surface, has a horizontal dimension of at least 0.6 metres by 1.8 metres and a vertical dimension of at least 1.9 metres; and
- (ii) where the bicycles are to be parked in a vertical position, has a length of or vertical clearance of at least 1.2 metres; width of at least 0.4 metres, and horizontal clearance from a wall of at least .03 metres.
- (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 used for car-sharing.

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- (d) "*height*" means the vertical distance between *grade* and the highest point of the buildings or structures, excluding those permitted exceptions identified in Section 7 of this By-law.
 - (e) "*grade*" means 120.9 metres Canadian Geodetic Datum.
 - (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 *grade*;
 - (iv) storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
 - (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*.
 - (g) "*lot*" means the parcel of land outlined by heavy lines on Map 1 attached to and forming part of this By-law.
 - (h) "*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*.
- 20.** 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.

21. Section 37 Provisions

- (a) Pursuant to Section 37 of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c.18 came into force, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Map 1 in return for the provision by the owner, at the owner's expense, of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c.18 came into force, that is/are in a form and registered on title to the lands, to the satisfaction of the City Solicitor;
- (b) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters and to enter into an agreement prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of same; and
- (c) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Pursuant to Ontario Land Tribunal Decision/Order issued on August 10, 2022 in Tribunal File OLT-22-003801 (Formerly PL170525).

SCHEDULE A**Section 37 Provisions**

The facilities, services and matters set out below are required to be provided by the owner of the *lot* at its expense to the City in accordance with one or more agreements pursuant to Section 37(3) of the Planning Act, as it read the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c.18 came into force, in a form satisfactory to the City with conditions providing for indexing escalation of both the financial contributions and letters of credit, development charges, indemnity, insurance, GST, HST, termination and unwinding, and registration and priority of agreement:

1. Prior to the issuance of any Building Permit, the owner shall enter into an agreement to the satisfaction of the City Solicitor pursuant to Section 37 of the Planning Act as it read on the day before Section 1 of Schedule 17 to the COVID-19 Economic Recovery Act, 2020 came into force to secure the community benefits below:

- (a) a cash contribution of \$500,000.00 to the City to be paid to the Conseil Scolaire Viamonde (the French Language Public School Board) for capital improvements to the school's yard, soft landscaping, and repurposing existing paved areas to green space to be designed by the Conseil, and made accessible to the public, all in a manner that demonstrates community benefit with input from the Ward Councillor and the Perth Symington Kingsley Residents Association, with such payment to be made by the owner to the City prior to the earlier of:
 - (i) the first above-grade building permit for the development; or
 - (ii) one year from the date that the Zoning By-law is in full force and effect.

Which funds shall be held by the City and, in turn, paid from the City to the Conseil subject to the Conseil entering into a community access agreement satisfactory to the Ward Councillor, in a form acceptable to the City Solicitor;

- (b) a cash contribution of \$250,000.00 to the City for local capital facilities in the vicinity, with such payment to be made prior to the first above-grade building permit;
- (c) a cash contribution of \$300,000.00 to the City for capital facilities and/or public realm improvements in the vicinity within Ward 9, with such payment to be made prior to the first above-grade building permit;
- (d) a cash contribution of \$100,000.00 to the City for local capital facilities in the vicinity, with such payment to be made prior to the first above-grade building permit; and
- (e) a new private laneway will be introduced along the rear portion of the neighbouring properties that front on Symington Avenue to the north of the mid-rise component of the development and to the south of Kingsley Avenue. The

laneway will be subject to an easement for vehicular access in favour of these neighbouring Symington Properties.

2. The cash contribution set out in Subsection 1 above shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table: 18-10-0135-01, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of the Cash Contribution by the owner to the City.
3. In the event the Cash Contributions in Subsection 1(b), (c), and (d) have not been used for the intended purpose within three (3) years of the By-law coming into full force and effect, the Cash Contribution may be redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose is identified in the Official Plan and will benefit the community in the vicinity of the property.





