

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

## **CITY OF TORONTO**

### **BY-LAW 1156-2022(OLT)**

**To amend Zoning By-law 569-2013, 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.**

Whereas the Ontario Land Tribunal, in its 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. P13, as amended, ordered the amendment of Zoning By-law 569-2013, 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 pursuant to Section 39 of the Planning Act, as amended, 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 the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development; and

Whereas Section 37.1 of the Planning Act provides that Subsections 37(1) to (4) 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to the COVID-19 Economic Recovery Act, 2020 came into force shall continue to apply to a by-law passed pursuant to the repealed Section 37(1) prior to the date that a municipality passes a community benefits charge By-law and this By-law was passed prior to that date; and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 on the aforesaid lands by By-law 569-2013, as amended, in return for the provision of such facilities, services or matters as are set out in this 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 in Schedule A of this By-law in return for the increase in height and density permitted on the aforesaid lands by By-law 569-2013, as amended; and

Whereas Schedule A of this By-law requires the owner of the aforesaid lands to provide certain facilities, services or matters and enter into an agreement or agreements between the owner of the land and the City of Toronto prior to the issuance of a building permit;

The Ontario Land Tribunal, by Order, amends By-law 569-2013 as follows:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law 569-2013, Chapter 800 Definitions.
3. Zoning By-law 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands subject to this By-law from a zone label of E 2.0 (x301) to a zone label of RA (d2.0)(x187) as shown on Diagram 2 attached to this By-law.
4. Zoning By-law 569-2013, as amended, is further amended by adding Article 900.7.10 Exception Number 187 so that it reads:

(187) Exception RA (187)

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections:

Site Specific Provisions:

- (A) On 386-394 Symington Avenue, 485 Perth Avenue, and 17 Kingsley Avenue, as shown on Diagram 1 of By-law 1156-2022(OLT), if the requirements of By-law are complied with, a **building** or **structure** may be constructed, used or enlarged in compliance with Regulations (B) to (Q) below:
- (B) In addition to the **residential building** types listed in Regulation 15.10.20.40(1), a **detached house** is also permitted.
- (C) Despite Regulation 15.5.40.10(1), the height of a **building** or **structure** is the distance between the Canadian Geodetic Datum of 120.9 metres and the elevation of the highest point of the **building** or **structure**.
- (D) Despite Regulations 15.10.40.10(1) and (2), the permitted maximum height of any **building** or **structure** is the number following the "HT" symbol in metres and the permitted maximum number of **storeys** is the numerical value following the "ST" symbol as shown on Diagram 3 of By-law 1156-2022(OLT).
- (E) Despite (D) above and Regulations 15.5.40.10(2) to (6), the following equipment and **structures** may project beyond the permitted maximum height of a **building** as shown on Diagram 3 of By-law 1156-2022(OLT), in accordance with the following:
  - (i) parapets, planters, and guardrails by a maximum of 2.2 metres;

- (ii) parapets for a **green roof** or any associated elements by a maximum of 2.0 metres;
  - (iii) **structures** located on any area of the **building** as shown on Diagram 3 of By-law 1156-2022(OLT) used for elevators overruns and related structural elements as well as **structures** on any roof used exclusively for the enclosure or storage of mechanical, electrical, or other equipment used for the functional operation of the **building**, inclusive of a mechanical penthouse, by a maximum of 6.6 metres and may cover no more than 60 percent of the area of the roof of the **building**, measured horizontally;
  - (iv) exhaust flues, window washing equipment, and lightning rods by a maximum of 3.0 metres;
  - (v) pool decks and fences by a maximum of 2.5 metres; and
  - (vi) stair structures or ladders and their associated walls for access to the roof of the **building** by a maximum of 3.7 metres.
- (F) Despite Regulation 15.10.40.40(1), the permitted maximum **gross floor area** of all **buildings** and **structures** on the **lot** is as follows:
- (i) The **gross floor area** of "Building A" as shown on Diagram 3 of By-law 1156-2022(OLT) must not exceed 31,300 square metres; and
  - (ii) The **gross floor area** of "Building B" as shown on Diagram 3 of By-law 1156-2022(OLT) must not exceed 200 square metres.
- (G) The provision of **dwelling units** on the **lot** is subject to the following percentages, rounded up to the nearest whole number:
- (i) a minimum of 20 percent must be two-bedroom **dwelling units**; and
  - (ii) a minimum of 10 percent must be three-bedroom or greater **dwelling units**.
- (H) Despite Clauses 15.10.40.70 and 15.10.40.80, the required minimum **building setbacks** and the required separation of **main walls** of a **building** are as shown in metres on Diagram 3 of By-law 1156-2022(OLT).
- (I) Despite (H) above and Clause 15.5.40.60, the following elements of a **building** or **structure** are permitted to encroach into the required **building setbacks** shown on Diagram 3 of By-law 1156-2022(OLT):
- (i) a balcony and its guard by a maximum of 2.2 metres;
  - (ii) a canopy and its support by a maximum of 2.3 metres;

- (iii) cornices, lighting fixtures, architectural elements by a maximum of 2.0 metres; and
  - (iv) crash wall and **structures** associated with rail safety mitigation.
- (J) Regulations 15.5.50.10(1) and (2) with respect to **landscaping** requirements for an **apartment building** do not apply.
- (K) Despite Regulations 200.5.10.1(1) and Table 200.5.10.1, **parking spaces** must be provided in accordance with the following:
  - (i) a minimum of 0.25 **parking spaces** for each **dwelling unit** for residents;
  - (ii) a minimum of 0.1 **parking spaces** for each **dwelling unit** for residential visitors; and
  - (iii) a minimum of three "car-share parking spaces".
- (L) For each "car-share parking space" provided on the **lot**, the minimum number of required **parking spaces** for residents required in (K)(i) above, may be reduced by four **parking spaces** up to a maximum of 12 **parking spaces**. For the purposes of this exception:
  - (i) "car-share" means the practice whereby a number of people share the use of one or more motor **vehicles** and such "car-share" motor **vehicles** are made available to at least the occupants of the **building** for short term rental, including hourly rental; and
  - (ii) "car-share parking space" means a parking space exclusively reserved and signed for a **vehicle** used only for "car-share" purposes.
- (M) Despite Regulations 200.5.1.10(2)(A) and (2)(D), a maximum of five percent of the total number of **parking spaces** provided on the **lot** may have a minimum width of 2.6 metres, despite being obstructed on one or both sides.
- (N) Despite Regulation 200.5.1.10(2)(D), Electric Vehicle Infrastructure including electrical vehicle supply equipment, does not constitute an obstruction to a **parking space**.
- (O) Despite Regulation 200.15.1(4), accessible **parking spaces** must be located with 25 metres of a barrier free entrance to a **building** or passenger elevator that provides access to the first **storey** of the **building**.
- (P) Despite Clause 220.5.10.1, one Type "G" **loading space** is required on the **lot**.
- (Q) Despite Regulation 230.5.1.10(4)(B), the minimum dimension of a **bicycle parking space** if placed in a vertical position on a wall, **structure**, or mechanical device is:

- (i) minimum length or vertical clearance of 1.2 metres;
- (ii) minimum width of 0.6 metres; and
- (iii) minimum horizontal clearance of 0.3 metres from a wall.

Prevailing By-laws and Prevailing Sections: (None Apply)

- 5. Despite any severance, partition or division of the lands, the provisions of this By-law shall apply as if no severance, partition or division occurred.
- 6. Temporary Uses:
  - (A) None of the provisions of By-law 569-2013, as amended, apply to prevent the erection and use of a temporary sales office that does not exceed a **gross floor area** of 300 square metres with five **parking spaces** and one **accessible parking space** on the **lot** for a period of not more than three years from the date this By-law comes into full force and effect, used exclusively for the purpose of marketing, sales, and leasing of **dwelling units** on the site.
- 7. Section 37 Requirements:
  - (A) Pursuant to Section 37 of the Planning Act, 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 Diagram 1 attached to this By-law in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A attached to this by-law and which are secured by one or more agreements pursuant to Section 37(3) of the Planning Act that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.
  - (B) Where Schedule A attached to this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
  - (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 Requirements**

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 Diagram 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. Prior to the issuance of any Building Permit, the owner shall enter into an agreement and the agreement shall be registered on title to the lands 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 facilities, services or matters set out below:

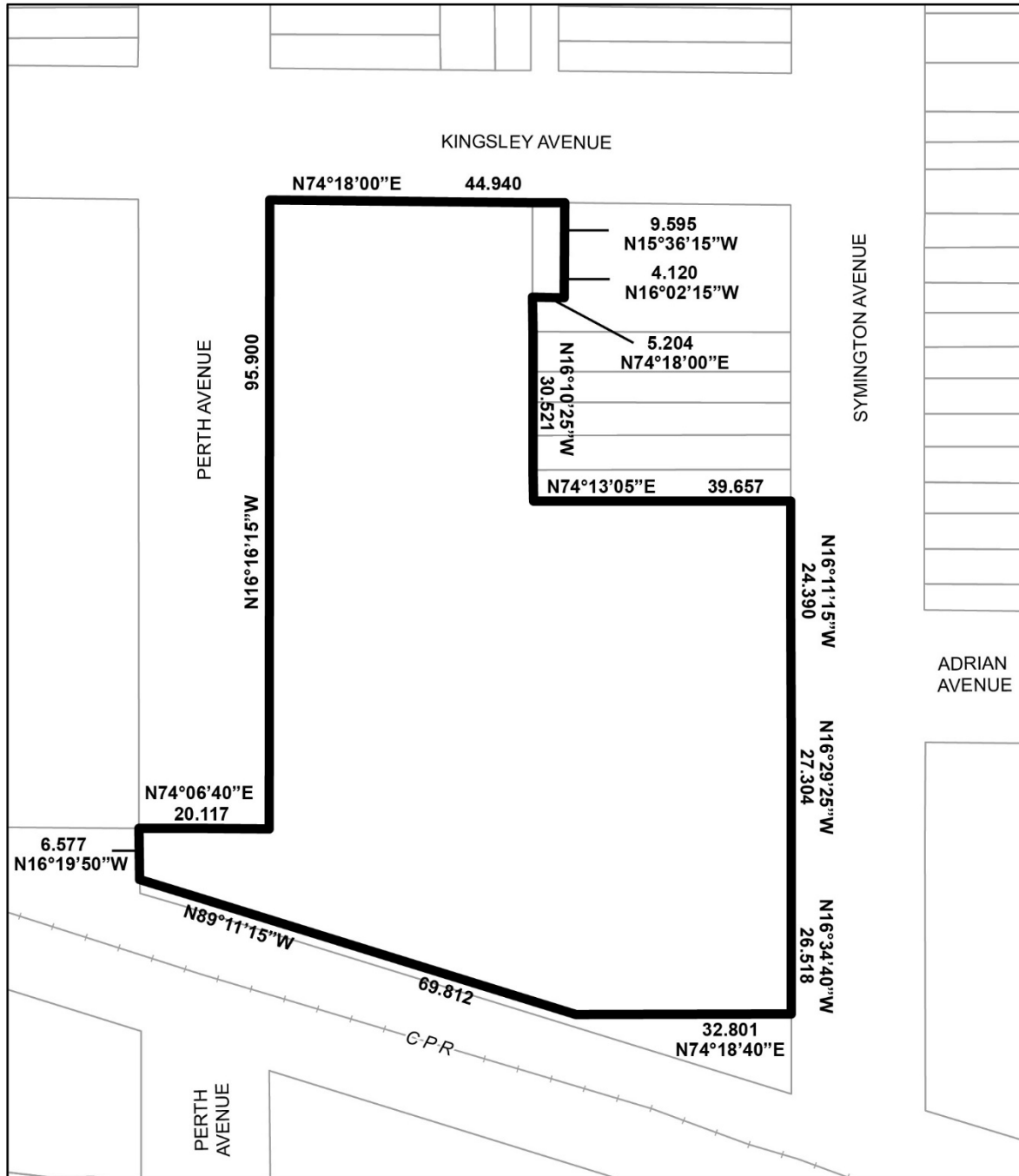
- (A) A cash contribution of \$500,000.00 to the City to be paid to the Conseil Scolaire Viamonde (the French Language Public School Board) for capital improvements to the school's yard, soft landscaping, and repurposing existing paved areas to green space to be designed by the Conseil, and made accessible 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.
- (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 contributions 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.

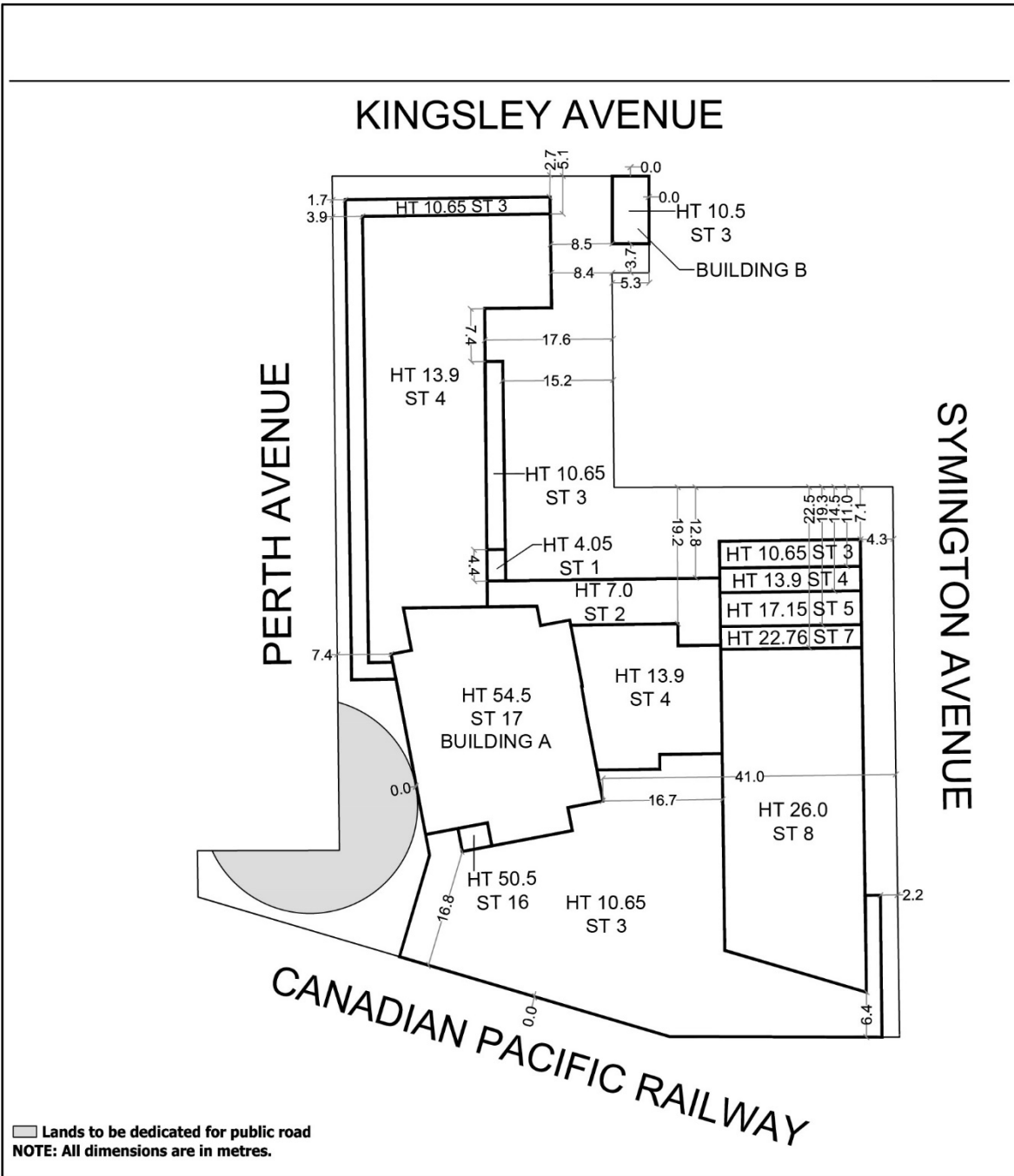


**TORONTO**  
 Diagram 1

**386-394 Symington Avenue**

File # 15 238678 WET 17 OZ





**TORONTO**  
Diagram 3

**386-394 Symington Avenue**

File # 15 238678 WET 17 OZ