



## STAFF REPORT INFORMATION ONLY

### 2319 Keele Street – Zoning Matters

<b>Date:</b>	October 18, 2012
<b>To:</b>	Etobicoke York Community Council
<b>From:</b>	Director Investigation Services, Municipal Licensing and Standards
<b>Wards:</b>	Ward 12 - York South-Weston
<b>Reference Number:</b>	

#### **SUMMARY**

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At its meeting on June 13, 2012 the Etobicoke York Community Council (EYCC) requested the District Manager, Municipal Licensing and Standards investigate zoning violations related to this address, including any violation to the Committee of Adjustments approval dated 1985, and report back to the Etobicoke York Community Council on September 11, 2012.

At its meeting on September 11, 2012, the Etobicoke York Community Council deferred consideration of this report to the meeting of October 10, 2012.

At the Etobicoke York Community Council meeting on October 10, 2012 the consideration of this matter was again deferred with a request that the District Manager, Municipal Licensing and Standards investigate and report to the November 6, 2012 EYCC meeting on an additional zoning violation under Section 33(6)(b) of Zoning By-law 7625, regarding a required landscape strip along the Milford Avenue lot line and any enforcement action taken to ensure compliance.

The report dated August 24, 2012 prepared for the September 11, 2012 meeting represented an investigation that was incomplete as Municipal Licensing and Standards made a submission before completing a thorough consultative process and vital information was not considered in the review. This report is submitted in place of the report included in the agenda of the September 11, 2012 meeting and responds to all matters requested by the Committee on June 13, 2012 and October 10, 2012.

#### **RECOMMENDATIONS**

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**That Community Council receive this report for information.**

## FINANCIAL IMPACT

None.

## DECISION HISTORY

At the June 13, 2012 meeting the Etobicoke York Community Council gave consideration to the June 5, 2012 letter (Attachment 1) from Councillor Di Giorgio and referred the matter to the District Manager Municipal Licensing and Standards to investigate zoning violations pertaining to the subject property. In the letter from Councillor Di Giorgio there is reference to a Notice of Violation issued by Municipal Licensing and Standards in February 2011, a Committee of Adjustment decision granting variances in 1985 and provides an interpretation of provisions in Zoning By-law 7625 of the former City of North York.

Further, in the motion adopted by the Etobicoke York Community Council on October 10, 2012 the decision requested a review of an additional zoning violation pertaining to the provision of a landscape strip along the Milford Avenue frontage and any enforcement action taken to ensure compliance.

All of these requests and interpretations were included in the review undertaken by Municipal Licensing and Standards, in the preparation of this report.

## ISSUE BACKGROUND

### Committee Of Adjustment

#### File No. CA-85-474

On June 27, 1985 the Committee of Adjustment heard submissions with respect to requested landscaping and setback variances at the subject address. The Committee of Adjustment approved the variances requested by H.E.K. Motors Ltd, "subject to there being no parking or storage of vehicular (sp) in the front yard".

	<u>Variance</u>	<u>By-law Requires</u>
Front yard setback Approx. (from centre line of Keele Street)	25.73 m	30.00 m
Landscaping	0 m	9 m

Since that decision in 1985 there have been no other Committee of Adjustment approvals pertaining to setback or landscaping at the subject location.

## **File No. A569/11EYK**

September 14, 2011 an application for variances to permit five additional parking spaces for a new car rental agency, was submitted to the Committee of Adjustment. This proposal also included the removal of some landscaping planters from the Keele Street frontage.

This application to the Committee of Adjustment was made as a result of a Notice of Violation issued by Municipal Licensing and Standards dated February 11, 2011. This application was an attempt to get permission to maintain five parking spaces along the Keele Street frontage.

The application for variance(s) was withdrawn in November 2011 as it appears a decision was made by the owners to eliminate parking along the Keele Street frontage and replace the landscaping that was removed.

### **Notice of Violation – February 11, 2011**

As a result of a complaint received in February 2010, Municipal Licensing and Standards inspected the subject property and noted that vehicles were parked along the Keele Street frontage on both public and private lands. The operator of Practicar Car and Van Rentals was advised of the violation and a referral was made to Transportation Services as well.

At a follow up inspection in March, it was found that Practicar Car and Van Rental signs were no longer on the building and no vehicles were parked on the Keele Street frontage. Municipal Licensing and Standards continued periodic inspections throughout 2010 and staff found no violations until a joint inspection with staff of Transportation Services was carried out in November 2010. At this time the tenants indicated that they were not aware of the Committee of Adjustment decision from 1985 or the parking restriction it contained.

Further inspections in the following months found no violations at 2319 Keele Street until a site visit was conducted on February 2, 2011. A vehicle was observed parked along the Keele Street frontage and this resulted in the issuance of a Notice of Violation.

Several discussions with the owner and various representatives continued until the Committee of Adjustment application for variances was filed in September 2011. Site visits and monitoring continued after the Committee of Adjustment application was withdrawn in November 2011. Given there were no additional violations found, the investigation file was closed in March 2012.

### **Notice of Violation – June 7, 2012**

On June 7, 2012 a Notice of Violation was issued when Municipal Licensing and Standards attended the location and found vehicles parked along the Keele Street

frontage. The new operator indicated that he was unaware of the Committee of Adjustment decision from 1985. The two vehicles were removed immediately upon request from the investigating officer.

At this time all of the landscaping elements that were shown on earlier drawings have been returned and there has been no violations noted at subsequent visits. The location has been brought into compliance with the Committee of Adjustment decision of 1985 and no further action is necessary at this time.

In both Notices of Violation, staff included the requirement that the 3.0 meter landscaping strip was a violation to be addressed. As shown in Attachment 3, this has been addressed.

## **MILFORD AVENUE - LANDSCAPING**

A review of the applicable zoning bylaws with assistance from other Divisions has led to the independent conclusion that landscaping requirements along the Milford Avenue flank are not required for the subject property.

In 1985, the provisions for landscaping relating to corner properties did not set out a requirement for the flanking yard. The only landscaping requirements in place applied to the frontage on Keele Street. As indicated earlier in this report, the landscaping requirement for the Keele Street frontage was addressed in the Committee of Adjustment decision in 1985.

Despite amendments in 1992 and 1994 to change the zoning designation on the subject property, there were no amendments to the provisions that affected landscaping along the Milford Avenue frontage.

In 1997, by-law 7625 was amended by by-law 33091. This amendment introduced a new requirement for M2 Zones, prescribing that "a minimum distance of 1.0 metres from all lots lines that abut a street shall be landscaped". It is my conclusion that unless the property was redeveloped and any existing legal non-conforming protections were lost, the provision for a 1.0 metre landscaped strip could not be imposed on the subject property.

## **COMMENTS**

In both letters from Councillor Di Giorgio (see Attachment 1), there is reference to changes made to the west wall of 2319 Keele Street and alterations to the subject building. Municipal Licensing and Standards have consulted with staff of Toronto Buildings in regard to the interpretation of s 6(15) of the North York Zoning By-law and concur with the advice provided to the Etobicoke York Community Council in a report pertaining to 2321 Keele Street, under separate cover. Since the door in question was installed in an opening where a window existed, there was no requirement to issue a

building permit, in these circumstances. That said, the landscaping at 2319 Keele Street has been increased on the Keele Street frontage to provide soft landscaping in the area between the sidewalk and planters, in response to the Notices of Violation issued to the property owner by Municipal Licensing and Standards.

Also included in the letter from Councillor Di Giorgio is a reference to an invalid business licence issued in 2009 for a car rental agency. As in each case, the zoning provisions were reviewed by staff of Toronto Building and found to be compliant, before the licence was issued.

Further, an historic review of all licences issued for businesses at 2319 Keele Street confirms that none of the licences were/are invalid. A summary of licences issued to tenants of the subject building dating back to 1994 appears below.

### **2319 Keele Street – Business Licence History**

<b>Licence No./ Operating Name</b>	<b>Licence Category</b>	<b>Licence Class(es) and Conditions</b>	<b>Issuance Date</b>	<b>Expiry Date</b>
B20-3955391 Rent-A-Wreck	Drive-Self Rental Owner	Drive Self Car Rental Owner, Shared Address	August 26, 2009	August 26, 2013
B68-0230642 Dave Nicholls Toyota	Public Garage	Car Sales over 10	April 18, 1994	April 18, 2009
B50-3959638 Asian Food Market (Unit 101)	Retail Store (Food)	Cigars, Cigarettes & Tobacco; Foodstuffs	December 3, 2009	December 3, 2011
B68-4189824 Adventure Cars (Unit 102)	Public Garage	Indoor Showroom Only, No display or Storage of Vehicles outside on Keele St; Car Sales up to 5	March 20, 2012	March 20, 2013
B12-4188611 Drive Maxx Driver Education (unit 205)	Driving School Operator	No Vehicle Storage on Site; Driving School Operator – Office – No Vehicle	December 23, 2011	December 23, 2012

### **CONTACT**

Staff report for information  
Re: 2319 Keele Street

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## **SIGNATURE**

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Lance Cumberbatch  
Director, Investigation Services

## **ATTACHMENTS**

Attachment 1: Letters of June 5, 2012 and Sept 11, 2012 - Councillor Di Giorgio  
Attachment 2: Aerial View - 2319 Keele Street  
Attachments 3 and 4: 2319 Keele Street - Street Frontages and Landscaping

**Attachment 1: Councillor Di Giorgio letters to EYCC  
June 5, 2012 and September 11, 2012**



**Councillor Frank Di Giorgio**  
Toronto City Council  
Ward 12 York South-Weston



**June 5, 2012**

**To: Chair and Members of Etobicoke York Community Council  
c.c.: Rosemary MacKenzie – Committee Administrator  
Re: 2319 Keele Street – Enforcement of Zoning Violation**

**SUMMARY:**

In February 2011, a Notice of Violation was issued to the property owner with regards to front yard parking on the site that was contrary to a Committee of Adjustment decision in 1985. It appears, the applicant removed existing landscape including planters outlined in a 1985 site plan approval to accommodate parking for 2 cars fronting on Keele Street.

The applicant then complicated the process by applying to the Committee of Adjustment in October 2011 requesting that more planters and greenery be removed to accommodate parking for 5 more cars along Keele Street. The implication was that the original removal of greenery and planters was permitted and in compliance with the by law.

The building at the subject site is a non complying building with variances granted under a Committee of Adjustment decision in 1985. Under Sec. 6 (15) of the Zoning by law 7625, any door opening on the west wall of the building triggers the need to comply with the zoning by law which requires a 3 metre strip of landscaping along the lot frontage on Keele Street.

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In my view, the notice of violation issued on February 2011 is still applicable and enforceable by the City.

**RECOMMENDATION:**

1. Etobicoke York Community Council direct By Law Enforcement staff to enforce the violation cited in February 2011 and the applicant be required to replace any greenery or planters removed but existing under the Site Plan on October 30, 1985.
2. That in accordance with Sec. 6 (15) of the Zoning by law 7625, the applicant be required to install a 3 metre strip of landscaping along the lot frontage on Keele Street
3. That no cars be parked along the Keele Street frontage facing Keele Street or, in the alternative, the applicant be required to close the door opening on the west side of the building to comply with the 1985 Committee of Adjustment decision.

Thank you,

A handwritten signature in black ink, appearing to read 'Frank Di Giorgio', with a stylized flourish at the end.

Councillor Frank Di Giorgio  
York South - Weston, Ward #12





**Councillor Frank Di Giorgio**  
Toronto City Council  
Ward 12 York South-Weston



**September 11, 2012**

**To: Chair and Members of Etobicoke York Community Council**  
**c.c.: Rosemary MacKenzie – Committee Administrator**  
**Re: 2321 Keele St. – Zoning Violations**

**MOTION**

That the District Manager, Municipal Licensing Standards explore zoning violations that exist at 2321 Keele St. and submit a report to the next meeting of Community Council to accompany the supplementary report for the zoning violations at 2319 Keele Street.

**SUMMARY**

Although I intend to defer Item EY 18.19 to the next meeting of Community Council to permit a more comprehensive investigation of zoning violations at 2319 Keele Street, I believe there are a number of zoning provisions that the current uses located at 2321 Keele St. and 2319 Keele St. do not comply with. The subject buildings are both non complying buildings and Sec 6 (15) of the North York Zoning by law 7625 underlies the zoning violations. Essentially, where there is a substantial alteration to the existing non complying buildings, the building changes are subject to Sec 6 (15) of the zoning by law prior to the issuance of any building permit. These zoning violations prevail in spite of the existence of any legal non conforming use on the sites.

Accordingly, I respectfully request the investigation of the following additional zoning violations.

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**2319 Keele St.**

- 1.) The issuance of an invalid business licence in August 2009 for a car rental agency that was conditional and resulted in a parking shortage on the site, a violation of landscaping requirements and included an illegal accessory use located at 2321 Keele St.

**2321 Keele St.**

- 1.) The issuance of an invalid business license in April 2009 for an accessory use as a motor vehicle body repair shop to a car dealership agency located at 2319 Keele St.
- 2.) Unauthorized changes and alterations to a non complying building in violation of Sec 6 (15) of the zoning by law and that affected both the existing use, the streetscape on the site and the landscaping requirements.
- 3.) The continued use of the southerly driveway whereas curbs were required to prevent parking on the public boulevard and access to the southerly entrance.
- 4.) Adherence and compliance with the building permit plans approved in 1987 that restricts any legal non conforming use to within the building unless subsequent necessary planning approvals are attained.

It appears that the approvals and the necessary permits to authorize the above noted changes were not obtained prior to submission of any application to the Committee of Adjustment in February 2009 that claimed the existing changes were legally established. It is my understanding and belief that there are still no valid building permits for the changes to the buildings to accommodate the current uses.

Thank you,



Councillor Frank Di Giorgio  
York South – Weston, Ward #12

## Attachment 2: Aerial View



### Description:

The aerial view shows the subject building and surrounding area. The property is located on the north east corner of Milford Avenue and Keele Street.

On the west side of Keele Street in the vicinity of the subject property there is a residential area with a mix of multiple unit buildings on Keele Street and single unit house form buildings to the west.

Adjacent to the subject building on the east side of Keele Street and further east the uses are a mix of commercial and residential uses.

**Attachment 3: Keele Street Frontage – Landscaping  
As at September 21, 2012**



Attachment 3 shows the landscaped planters as well as the strip of landscaping installed between the planters and the sidewalk.



**Attachment 4: Milford Avenue Flankage  
As at September 21, 2012**



Attachment 4 shows the existing Milford Avenue frontage. Parking abutting the sidewalk and no landscape strip.