



**STAFF REPORT
ACTION REQUIRED**

**Supplemental Report:
Application to Consider – 615-617 Yonge Street**

Date:	May 11, 2015
To:	Toronto and East York Community Council
From:	Director and Deputy Chief Building Official, Toronto Building
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	TE15005(a)

SUMMARY

At its meeting on February 9, 2015, the Sign Variance Committee granted the two variances requested to §§ 694-2D(5)(a) and 694-20A required to allow the issuance of a permit for the erection and display of one first party wall sign at the property municipally known as 615-617 Yonge Street, (the "Proposed Sign") on the condition that the sign is "hand-painted".

The Sign Variance Committee, at its April 28, 2015 meeting provided, in response to a staff request, written reasons for its decision. The Sign Variance Committee's written reasons may be of assistance to City Council in making a determination of whether the application for the variances requested to §§ 694-2D(5)(a) and 694-20A for the Proposed Sign meets all nine established criteria required by Chapter 694, Signs, General (the "Sign By-law"); and what, if any, conditions should be imposed if the variances are granted.

The Chief Building Official and Executive Director, Toronto Building ("CBO") remains of the position that it has not been established that the Proposed Sign meets the established criteria for variances to be granted. The CBO is of the position that the condition that the sign be "hand-painted" does not address the impact of the Proposed Sign or the variances sufficiently to establish the Proposed Sign as complying with the Sign By-law's criteria to grant variances. The CBO does not believe that it has been established that the Proposed Sign, with the condition imposed by the Sign Variance Committee that the sign is hand-painted, or otherwise, meets the criteria established in the Sign By-law.

RECOMMENDATIONS

The Director and Deputy Chief Building Official, Toronto Building, recommends that:

1. City Council receive this report for information.

Financial Impact

There are no financial impacts associated with this report.

DECISION HISTORY

Consideration of Sign Variance Applications by City Council

(<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.TE12.98>)

Sign Variance Process

(<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE32.42>)

Appeal by Oberon Development Corporation of the Chief Building Official's Decision to Refuse Two Variances with Respect to One Proposed First Party Wall Sign at 615-617 Yonge Street

(<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.SB1.3>)

Approval of Sign Variance Committee Written Reasons for Item SB1.3, Appeal by Oberon Development Corporation with Respect to One Proposed First Party Wall Sign at 615-617 Yonge Street

(<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.SB3.2>)

COMMENTS

At its meeting on February 9, 2015, the Sign Variance Committee granted the two variances requested to §§ 694-2D(5)(a) and 694-20A required to allow the issuance of a permit for the erection and display of one illuminated first party wall sign, containing one sign face (with a vertical measurement of 12.2 metres and horizontal measurement of 5.8 metres), displaying static copy with a height of 20.6 metres, located on the third, fourth, fifth and sixth storeys of the northerly facing wall of the premises municipally known as 615-617 Yonge Street (the "Proposed Sign"), on condition that the sign is "hand-painted".

A decision of the Sign Variance Committee to grant a variance or to grant a variance with conditions is final and binding 21 days after the date of the decision unless, pursuant to §694-30S, an application to consider is filed by the ward councillor. If an application to consider is made, the respective Community Council is required to determine if the application for variance meets the established criteria under Chapter 694, for purposes of making for a recommendation to City Council for final decision. The ward councillor, Councillor Wong-Tam, filed an application to consider, pursuant to §694-30S, on February 26, 2015.

Subsection 11.8 of the Sign Variance Committee Rules of Procedure, provides that under certain conditions the Sign Variance Committee may be requested to provide written

reasons for its decision. At the conclusion, of the February 19, 2015 hearing where the Sign Variance Committee issued its decision, staff requested written reasons for this decision. The Sign Variance Committee's written reasons are provided as Attachment 1 to this report.

Considering all materials filed, the CBO remains of the position that it has not been established that the Proposed Sign meets the mandatory criteria for variances to be granted. The CBO is of the position that the condition that the sign be "hand-painted" does not sufficiently address the impact of the Proposed Sign and the effect of the variances sufficiently to establish the Proposed Sign as complying with the Sign By-law's established criteria.

The CBO does not believe that it has been established that the Proposed Sign, even with the condition imposed by the Sign Variance Committee, meets the criteria for variances to be granted.

CONTACT

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SIGNATURE

John Heggie,
Director and Deputy Chief Building Official, Toronto Building

ATTACHMENTS:

1. Appendix 1: Written Reasons – Item: SB1.3, Appeal by Oberon Development Corporation

Appendix 1: Written Reasons – Item: SB1.3, Appeal by Oberon Development Corporation



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April 28, 2015

Written Reasons
Item: SB1.3, Appeal by Oberon Development Corporation
of the Chief Building Official's Decision to Refuse Two Variances
With Respect to One Proposed First Party Wall Sign at
615-617 Yonge Street
FP-14-00094
(Ward 27 – Toronto Centre-Rosedale)

Considered by the Sign Variance Committee on February 9, 2015

The Sign Variance Committee on the above date:

1. Granted the two variances requested to §§ 694-2D(5)(a) and 694-20A required to allow the issuance of a permit for the erection and display of one first party wall sign at the property municipally known as 615-617 Yonge Street, described in Attachment 1 to the report (November 14, 2014) from the Manager, Sign By-law Unit, Toronto Building, on condition that the sign is hand-painted.

The Chief Building Official requested the Sign Variance Committee to give reasons in writing for its decision [Subsection 11.8 of the Sign Variance Committee Rules of Procedure].

Background:

As of April 6, 2010, decision-making powers respecting first party sign variance under Chapter 694, Signs, General, of the City of Toronto Municipal Code is delegated to the Chief Building Official and in the event of an appeal of the decision of the Chief Building Official, to the Sign Variance Committee.

The Chief Building Official's decision rendered on November 14, 2014, determined that the proposed two variances to §§ 694-2D(5)(a) and 694-20A did not meet the mandatory criteria established by §694-30A. In this regard, the Chief Building Official ("CBO") refused to grant two variances to Chapter 694, required to allow the erection and display of one non-illuminated wall sign (the "Proposed Sign") displaying static copy on portions of the northerly facing wall at the third, fourth, fifth and sixth storeys of the premises municipally known as 615-617 Yonge Street. The Proposed Sign is to measure 5.8 metres horizontally by 12.2 metres vertically at a height of 20.6 metres.

The Appellant, Oberon Development Corporation appealed the CBO's decision.

At the hearing of the item on February 9, 2015, it was determined that the sought after variances by the Appellant were to replace an existing sign and, said sign was in a vicinity where there were other existing first party signs erected above the second storey in the immediate vicinity, namely a sign on the Aura building on Yonge Street, which had previously approved by the Committee. During the hearing, the Appellant conceded that he would consider conditions attached to the variance, namely that the said sign would be hand painted.

Action by Committee:

The Sign Variance Committee, at its meeting on February 9, 2015, granted the two requested variances to Chapter §§ 694-2D(5)(a) and 694-20A, required to the erection and display of one non-illuminated wall sign, of a proposed measurement of 5.8 metres horizontally by 12.2 metres vertically at a height of 20.6 metres displaying static copy on portions of the northerly facing wall at the third, fourth, fifth and sixth storeys of the premises municipally known as 615-617 Yonge Street **on condition that the Proposed Sign be hand painted.**

Section	Requirement	Proposal
694-21D(5)(a)	A sign shall not be erected above the second storey.	The Proposed Sign displaying static copy on portions of the northerly facing wall at the third, fourth, fifth and sixth storeys of the premises.
694-20A	First party signs may advertise, promote, or direct attention to goods available at the premises where the sign is located provided the portion of the sign copy which advertises, promotes, or directs attention to goods available at the premises does not exceed 30 percent of the total area of the sign copy.	The Proposed Sign is to measure 5.8 metres horizontally by 12.2 metres vertically at an overall height of 20.6 metres. The Proposed Sign is to be wholly dedicated to advertising, promoting and directing attention to goods available at the premises.

In particular, this Committee refused the recommendations in the report of the CBO of November 14, 2014, on the basis that the Committee determined that the proposed variances complied with each of the nine mandatory criteria. Accordingly, this Committee granted the appeal.

REASONS

Variance 1: 694-2D(5)(a) A sign shall not be erected above the second storey

The Committee was supportive of granting this variance in light of it was to replace an existing sign in a corridor where there were other existing first party signs erected above the second story in the vicinity. Other first party sign variances above the second storey along Yonge Street, namely on the Aura building had been previously approved by the Committee.

Variance 2: 694-20A First party signs may advertise, promote, or direct attention to goods available at the premises where the sign is located provided the portion of the sign copy which advertises, promotes, or directs attention to goods available at the premises does not exceed 30 percent of the total area of the sign copy

The Committee was supportive of granting this variance as there were other businesses in the vicinity that direct attention to services on the premises nearby with the example of the fitness studio with a sign displaying pricing facing Yonge Street.

Hand Painting Condition

The Committee was also supportive of the appeal when the appellant agreed that the sign be hand painted. It was felt that the impact of the hand painted condition would encourage first party use. In addition to the foregoing, this Committee granted the two variances to the Proposed Sign with a hand painting condition, for the reasons identified above.

This item and any background information can be reviewed in the Sign Variance Committee's decision document posted on the City of Toronto's Website at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.SB1.3>

In the case of a decision to grant a variance or to grant a variance with conditions, the decision of the Sign Variance Committee is final and binding 21 days after the date the decision was issued unless an application to consider is filed by the ward councillor in accordance with Subsection 694-30S of the City of Toronto Municipal Code.

Yours truly,

Tracey Hamilton, Chair
Sign Variance Committee

Sent to:

Applicant

Interested Parties

Councillor Kristyn Wong-Tam, Ward 27 – Toronto Centre-Rosedale

Ann Borooh, Chief Building Official and Executive Director, Toronto Building

Ted Van Vliet, Manager, Sign By-law Unit, Toronto Building

Robert Bader, Supervisor, Sign By-law Unit, Toronto Building

Ian Duke, Solicitor, City Legal