



**STAFF REPORT
ACTION REQUIRED**

**4954-4990 Yonge Street
Committee of Adjustment Application
Request for Representation
at the Ontario Municipal Board**

Date:	August 31, 2016
To:	North York Community Council
From:	Director, Community Planning, North York District
Wards:	Ward 23 – Willowdale
Reference Number:	File No: A0048/16NY

SUMMARY

At its June 22, 2016 meeting North York Committee of Adjustment approved a Minor Variance application to permit a professional medical office on the first floor along the Yonge Street frontage of the building at 4954-4990 Yonge Street.

At its July 12-15, 2016 meeting Council authorized the City Solicitor to appeal the Committee of Adjustment's approval of the minor variance application and attend the Ontario Municipal Board Hearing with appropriate staff and outside consultants as necessary in opposition to the proposed variances.

Council also requested the Director, Community Planning, North York District to respond to a number of questions about the application in a report to the September 12, 2016 North York Community Council. This report responds to Council's request.

RECOMMENDATION

The City Planning Division recommends that:

1. North York Community Council receive this report for information.

DECISION HISTORY

In 2001 Council enacted By-law numbers 600-2001 and 601-2001 which were a site-specific Official Plan Amendment and Zoning By-law for the development of the lands on Yonge Street south of North York Boulevard.

On March 16, 2016 the Committee of Adjustment accepted staff's recommendation to defer the application until additional information and analysis was provided to determine:

"-whether there is any additional gross floor area and/or non-residential floor space available, or the maximum gross floor area has been fully utilized; and
-the potential impact and scale of the use change relative to the overall total permitted gross floor area, non-residential gross floor area, and street related retail uses.

This report also indicated that: "Consultation with City Legal staff is also necessary to determine whether an amendment to the Section 37 Agreement would be required prior to the Committee's consideration of the matter."

On June 22, 2016 North York Committee of Adjustment considered the following requested variances to the Zoning By-law:

"1. Section 2(b)(ii), By-law No. 601-2001

A professional medical office is permitted except on the first floor along the Yonge Street frontage of any building.

A professional medical office is proposed on the first floor along the Yonge Street frontage.

2. Section 2(I)(C)(i), By-law No. 601-2001

A professional medical office (with a maximum gross floor area of 158m², and a maximum frontage of 9m) is proposed on the first floor along the Yonge Street frontage and the gross floor area of such use along with the other uses listed in 2(I)(C)(i) shall be exempt from the calculation of gross floor area up to a maximum of 5,233m²."

It was the decision of the Committee of Adjustment to authorize this variance application as the general intent and purpose of the Official Plan is maintained, the general intent and purpose of the Zoning By-law is maintained, the variances were considered desirable for the appropriate development of the land, and in the opinion of the Committee, the variances are minor.

City Council on July 12, 13, 14 and 15, 2016, adopted Item MM20.70:

- "1. City Council authorize the Interim City Solicitor to appeal the Committee of Adjustment's decision regarding Application A0048/16NY respecting 4954-4990 Yonge Street.
2. City Council authorize the Interim City Solicitor and appropriate staff to attend the Ontario Municipal Board and to retain outside consultants as necessary in order to oppose the proposed variances requested in Application A0048/16NY respecting 4954-4990 Yonge Street.
3. City Council request the Director, Community Planning, North York District, to report to the September 12, 2016 meeting of the North York Community Council, answering the following:
 - a. What is the as-built gross floor area of the buildings at 4954-4990 Yonge Street in relation to the maximum permitted under the North York Secondary Plan?
 - b. How much additional density did the applicant receive at the time of construction for providing an exempt retail use on the ground floor of the site?
 - c. Would the proposed replacement of a portion of the retail site with a non-exempt use cause the development to exceed the gross floor area permitted under the North York Secondary Plan?
 - d. Should additional Section 37 or Section 45 funding be required of the applicant?
 - e. Where else in the North York Centre has an applicant received a density exemption or bonus for a ground floor medical office?"

COMMENTS

The June 15, 2016 staff report to the Committee of Adjustment generally referenced policies in the North York Centre Secondary Plan, however, in the context of answering the questions above posed by Council, a more detailed summary of the specific policy context is instructive. It is the general intent of the Secondary Plan to require retail uses along the Yonge Street frontage and discourage below-grade and internalized retail uses (policy 1.15 and 1.16 of the North York Centre Secondary Plan). The purpose of this policy is further explained in more detail in policy 5.3.2 of the Secondary Plan, which is also instructive in the case of the proposed minor variance, and states:

"(b) Retail commercial and other uses that provide pedestrian oriented animation of the street and reflect the primacy of Yonge Street as the spine of the North York Centre are encouraged along Yonge Street on the ground floor with entrances at grade. Windows should allow for views of and from the street..."

(e) All buildings within the Prime Frontage Area along Yonge Street as shown on Map 8-2 will incorporate street-related retail uses at grade at the build-to-line.

(f) Each retail store fronting on Yonge Street in the Prime Frontage Area as shown on Map 8-2 will be required to have an entrance from Yonge Street.

(g) On those sites that abut Yonge Street in the Prime Frontage Area as shown on Map 8-2, priority will be given to uses which add animation and activity to the sidewalk.

Accordingly:

(i) less active uses such as banks, offices and health care uses may be prohibited along the Yonge Street sidewalk;

(ii) any individual retail/service commercial store front, along the Yonge Street sidewalk may be restricted to a maximum width of 14 metres;..."

The policy is to "encourage" "retail commercial and other uses that provide pedestrian oriented animation of the street." The policy provides some flexibility by giving "priority" to (rather than requiring) uses which animate the street, and also recognizes that offices and health care uses "may" be prohibited (rather than shall). This flexibility is appropriate in the case of a large block and streetscape that is supported by extensive retail and office lobby uses such as the subject lands and site-specific zoning by-law. It is also the policy context in which the proposed variance was evaluated, and the context for responding to the questions from Council on July 12-15, 2016:

a. What is the as-built gross floor area of the buildings at 4954-4990 Yonge Street in relation to the maximum permitted under the North York Secondary Plan?

As-built drawings are not available, however, Buildings staff were consulted to review the 2001 building permit applications. The review found that the permit approved a total of 134,966.5 m² of residential floor area and 46,131 m² of office floor area for a total of 181,097.5 m². Using the site-specific Zoning By-law's definition of gross floor area, 10,804 m² of gross floor area attributable to road widenings, and 1,077 m² attributable to recreational club were excluded from the total gross floor area calculation. The resulting total gross floor area of 169,216.5 m² is in keeping with the site-specific Secondary Plan amendment permissions for a maximum of 169,945 m² in gross floor area.

b. How much additional density did the applicant receive at the time of construction for providing an exempt retail use on the ground floor of the site?

The site-specific Zoning By-law permitted a maximum gross floor area of 5,233m² of ground floor retail uses (which did not include professional medical office uses). The 5,233m² of retail use equates to an additional density of approximately 0.19 FSI.

The review of the building permit application indicated that 820 m² of this 5,233 m² retail use was treated as exempt floor space and received at the time of the building permit application.

c. Would the proposed replacement of a portion of the retail site with a non-exempt use cause the development to exceed the gross floor area permitted under the North York Secondary Plan?

No. The site-specific Zoning By-law identified a maximum total gross floor area of 169,945 m². The review of the permit application indicated that an additional 728.5 m² of non-exempt gross floor area is available and the additional 158 m² would not cause the development to exceed the site-specific Zoning By-law.

d. Should additional Section 37 or Section 45 funding be required of the applicant?

No. No additional gross floor area is being proposed that is greater than what is permitted by the site-specific Zoning By-law.

e. Where else in the North York Centre has an applicant received a density exemption or bonus for a ground floor medical office?

A comprehensive review of all site-specific by-laws and minor variances enacted in North York Centre could not be conducted in time for a report to the September North York Community Council meeting. It is not typical for ground floor medical offices to be permitted throughout the ground floor of buildings on Yonge Street to receive a density incentive because, as noted in the staff report to the Committee of Adjustment, "these uses are often not permitted fronting onto pedestrian environments as they are typically less able to provide similar levels of pedestrian activity or visibility onto adjacent streetscapes.

Staff are not aware of any examples where an applicant received a density exemption for medical office uses, however there are other site specific examples where density exemptions have been provided for commercial uses rather than just retail uses, such as in both the Sheppard Centre and Hullmark Centre developments at Yonge Street and Sheppard Avenue. This was done as part of the comprehensive redevelopment of large sites, like the subject lands, with extensive retail uses and streetscape improvements. These comprehensive redevelopments were permitted through site specific Zoning By-laws and Section 37 agreements that provided density incentives for less active uses e.g. banks. This follows from the purpose and intent of the Secondary Plan as found in policy

5.3.2. noted above, to provide pedestrian oriented animation of the street by giving priority to (rather than requiring) retail uses, and potentially ("may" rather than "shall") prohibiting uses such as for health care.

On the subject lands, the proposed medical office would be limited to a frontage of 9 m within an overall building facade of about 135 m, representing less than 7% of the Yonge Street frontage. The existing unit would continue to have a front entrance on Yonge Street and, in the context of the overall site-specific Zoning-By-law, in this instance contribute towards active uses on Yonge Street.

Conclusion

The general purpose of the Official Plan and site-specific Zoning By-law 601-2001 is to provide for a large-scale, mixed use redevelopment of a city block that would, among meeting many other objectives, provide for pedestrian oriented animation of Yonge Street through active retail uses.

The variances do not increase the total floor area of development on the lands and based on this analysis do not appear to increase the total gross floor area permitted under the Secondary Plan and Zoning By-law.

CONTACT

Robert Gibson, R.P.P.

Tel. No. 416-338-7639

E-mail: rgibson@toronto.ca

SIGNATURE

Joe Nanos
Director, Community Planning, North York District