TORONTO
City Planning Division
Committee of Adjustment
Toronto and East York District
100 Queen Street West, 1st Floor
Toronto, Ontario M5H 2N2
Tel: 416-392-7565
Fax: 416-392-0580

NOTICE OF DECISION

CONSENT
(Section 53 of the Planning Act)

File Number:	B0009/16TEY	Zoning	CR 2.0 (c2.0; r1.5) SS2 & CR T2.0 C2.0 R1.5 (WAIVER)
Owner(s):	159 AVENUE INC	Ward:	Trinity-Spadina (20)
Agent:	DAVID HUYNH	Heritage:	Not Applicable
Property Address:	**159 AUGUSTA AVE**	Community**:**	Toronto
Legal Description:	PLAN 131 PT LOT 9		

Notice was given and a Public Hearing was held on **Wednesday, December 7, 2016**, as required by the Planning Act.

THE CONSENT REQUESTED:

To obtain consent for the purpose of a lot addition.

Conveyed-Part 2, Draft R-Plan
To be added to 10A Kensington Avenue - Part 3 – Draft R-Plan
Part 2 has an area of 162.3 m² and will be added to the abutting property, Part 3, known municipally as 10A Kensington Avenue. A new three-storey mixed use building with one levels of underground parking, ground floor retail, and four residential dwelling units above will be constructed. The new building will require variances outlined in minor variance application A0127/16TEY.

Retained-Part 1, Draft R-Plan
159 Augusta Avenue
The reduced parcel of land, shown as Part 1, has a frontage of 6.0 m and an area of 202.2 m². The existing two storey commercial building will be converted to mixed use, and a third storey addition with front and rear third storey balconies will be constructed. The ground floor will be a restaurant with four residential dwelling units above. The altered building will require variances outlined in minor variance application A0126/16TEY.

The Committee of Adjustment considered any written and oral submissions in making its decision. For a list of submissions, please refer to the minutes.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:

The Consent Application is Refused

In the opinion of the Committee, the application does not satisfy the requirements of Section 51(24) of the Planning Act and is **NOT** approved for the following reason(s):

(i) the proposed land division is premature;
(ii) the proposed land division does not conform to the policies of the official plan;
(iii) the suitability of the land for the purposes for which it is to be subdivided has not been demonstrated;
(iv) the suitability of the dimensions and shapes of the proposed lots has not been demonstrated;
(v) the adequacy of roads, vehicular access, parking and loading facilities has not been demonstrated; and
(vi) the adequacy of utilities and municipal services has not been demonstrated.

SIGNATURE PAGE

File Number:	B0009/16TEY	Zoning	CR 2.0 (c2.0; r1.5) SS2 & CR T2.0 C2.0 R1.5 (WAIVER)
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Agent:	DAVID HUYNH	Heritage:	Not Applicable
Property Address:	**159 AUGUSTA AVE**	Community**:**	Toronto
Legal Description:	PLAN 131 PT LOT 9		

Ewa Modlinska (signed) Nancy Oomen (signed) Worrick Russell (signed)

DATE DECISION MAILED ON: **Tuesday, December 13 , 2016**

LAST DATE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD: **Tuesday, January 3, 2017**

CERTIFIED TRUE COPY

Anita M. MacLeod
Manager & Deputy Secretary-Treasurer
Toronto and East York Panel

To appeal this decision to the Ontario Municipal Board, send a completed OMB Appellant Form (A1) to the Manager & Deputy Secretary-Treasurer, Committee of Adjustment. You must pay a filing fee of $300.00, by certified cheque or money order, in Canadian funds, payable to the Minister of Finance. An additional reduced fee of $25.00 is required for each connected appeal filed by the same appellant. To obtain a copy of Appellant Form (A1) and other information about the appeal process please visit the Ontario Municipal Board web site at www.omb.gov.on.ca.
NOTE: Only individuals, corporations and public agencies may appeal a decision to the Ontario Municipal Board. The appeal may not be filed by an unincorporated association or group. However, the appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

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NOTICE OF DECISION

MINOR VARIANCE/PERMISSION
(Section 45 of the Planning Act)

File Number:	A0126/16TEY	Zoning	CR 2.0 (c2.0; r1.5) SS2 & CR T2.0 C2.0 R1.5 (WAIVER)
Owner(s):	159 AVENUE INC	Ward:	Trinity-Spadina (20)
Agent:	DAVID HUYNH	Heritage:	Not Applicable
Property Address:	**159 AUGUSTA AVE PART 1**	Community**:**	Toronto
Legal Description:	PLAN 131 PT LOT 9		

Notice was given and a Public Hearing was held on **Wednesday, December 7, 2016**, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To alter the existing two storey commercial building on the reduced lot as described in Consent Application B0009/16TEY by: converting to mixed use, and constructing a third storey addition with front and rear third storey balconies. The ground floor of the building will be a restaurant with four residential dwelling units above.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

1. Chapter 40.10.40.40.(1), By-law 569-2013
The maximum permitted floor space index is 2.0 times the area of the lot (404.4 m^2).
The altered building will have a floor space index equal to 2.75 times the area of the lot (555.03 m^2), consisting of 358.02 m^2 of residential gross floor area and 197.01 m^2 of non-residential gross floor area.

2. Chapter 40.10.40.70.(2)(B), By-law 569-2013
The minimum required rear yard setback is 7.5 m.
The altered building will be located 0.7 m from the altered east rear lot line.

3. Chapter 40.10.40.80.(2)(A), By-law 569-2013
The minimum required above-ground distance between main walls is 11.0 m for the portion of a building in a CR zone which has a height equal to or less than the width of the right-of-way of the street, where a main wall of the building has windows and a line projected at a right angle from that main wall intercepts another main wall with windows on the same lot.
The above-ground distance between main walls with windows will be 7.2 m.

4. Chapter 900.11.10(2457), By-law 569-2013
A minimum of two parking spaces per dwelling unit shall be provided, at a rate of 1 parking space per dwelling unit per 3.0 m of lot frontage.
In this case, zero residential parking spaces will be provided.

5. Chapter 900.11.10.(2457), By-law 569-2013
A minimum of one residential parking space is required to be provided for a building containing four dwelling units on a lot that does not exceed 207 m^2.
In this case, zero residential parking spaces will be provided.

6. Chapter 900.11.10.(2457), By-law 569-2013
A bake-shop, a caterer's shop , a club , a place of amusement , a place of assembly, a restaurant , or a take-out restaurant are permitted within any building or structure located on a lot as such lot existed on July 9, 1991;
In this case, a bake-shop, a caterer's shop, a club, a place of amusement, a place of assembly, a restaurant , or a take-out restaurant shall be permitted on an altered lot.

7. Chapter 900.11.10.(2457), By-law 569-2013
A restaurant is a permitted use provided that at least one parking space is provided for each 33 m^2 of non-residential gross floor area in excess of the first 100 m^2 (3 parking spaces).
In this case, zero non-residential parking spaces will be provided.

1. Section 8(3) Part I 1, By-law 438-86
The maximum permitted combined residential and non-residential gross floor area is 2.0 times the area of the lot (404.4 m^2).
The altered building will have a combined residential and non-residential gross floor area of 2.75 times the area of the lot (555.03 m^2), consisting of 358.02 m^2 of residential gross floor area and 197.01 m^2 of non-residential gross floor area.

2. Section 8(3) Part I 3(A), By-law 438-86
The maximum permitted residential gross floor area is 1.5 times the area of the lot (303.3 m^2).
The altered building will have a residential gross floor area equal to 1.78 times the area of the lot (358.02 m^2).

3. Section 8(3) Part II 1(A)(I), By-law 438-86
The minimum required distance between a window of a dwelling unit and a window of another dwelling unit is 11.0 m.
The distance between windows of dwelling units will be 7.24 m.

4. Section 8(3) Part II 1(A)(II), By-law 438-86
The minimum required distance between a window of a dwelling unit and a lot line that is not a street line is 5.5 m.
The distance between the windows of dwelling units and the rear lot line will be 0.7 m.

5. Section 12(1) 279, By-law 438-86
A minimum of one residential parking space is required to be provided for a building containing four dwelling units on a lot that does not exceed 207 m^2.
In this case, zero residential parking spaces will be provided.

6. Section 12(2) 240(i)(D), By-law 438-86
A bake-shop, a caterer's shop, a club , a place of amusement , a place of assembly, a restaurant , or a take-out restaurant are permitted within any building or structure located on a lot as such lot existed on July 9, 1991;
In this case, a bake-shop, a caterer's shop, a club, a place of amusement, a place of assembly, a restaurant, or a take-out restaurant shall be permitted on an altered lot.

7. Section 12(2) 240(i)(E), By-law 438-86
A restaurant is a permitted use provided that at least one parking space is provided for each 33 m^2 of non-residential gross floor area in excess of the first 100 m^2 (3 parking spaces).
In this case, zero non-residential parking spaces will be provided.

The Committee of Adjustment considered any written and oral submissions in making its decision. For a list of submissions, please refer to the minutes.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:

The Minor Variance Application is Refused

It is the decision of the Committee of Adjustment to **NOT** approve this variance application for the following reasons:

- The general intent and purpose of the Official Plan is not maintained.
- The general intent and purpose of the Zoning By-law is not maintained.
- The variance(s) is not considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance(s) is not minor.

SIGNATURE PAGE

File Number:	A0126/16TEY	Zoning	CR 2.0 (c2.0; r1.5) SS2 & CR T2.0 C2.0 R1.5 (WAIVER)
Owner(s):	159 AVENUE INC	Ward:	Trinity-Spadina (20)
Agent:	DAVID HUYNH	Heritage:	Not Applicable
Property Address:	**159 AUGUSTA AVE PART 1**	Community**:**	Toronto
Legal Description:	PLAN 131 PT LOT 9		

Ewa Modlinska (signed) Nancy Oomen (signed) Worrick Russell (signed)

DATE DECISION MAILED ON: **Tuesday, December 13, 2016**

LAST DATE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD: **Wednesday, December 28, 2016**

CERTIFIED TRUE COPY

Anita M. MacLeod
Manager & Deputy Secretary-Treasurer
Toronto and East York Panel

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NOTICE OF DECISION

MINOR VARIANCE/PERMISSION
(Section 45 of the Planning Act)

File Number:	A0127/16TEY	Zoning	CR 2.0 (c2.0; r1.5) SS2 & CR T2.0 C2.0 R1.5 (WAIVER)
Owner(s):	QING YING ZHANG 159 AUGUSTA AVE INC	Ward:	Trinity-Spadina (20)
Agent:	DAVID HUYNH	Heritage:	Not Applicable
Property Address:	**10 A KENSINGTON AVE PARTS 2 & 3**	Community**:**	Toronto
Legal Description:	PLAN D10 PT LOTS 3 & 4		

Notice was given and a Public Hearing was held on **Wednesday, December 7, 2016**, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To construct a new three-storey mixed use building with one level of underground parking, ground floor retail, and four residential dwelling units above, on the lot with the lot addition, as described in Consent Application B0009/TEY.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

1. Chapter 5.10.30.1.(1)(A) , By-law 569-2013
A building may not be erected unless the land abuts an existing street, or is connected to an existing street by a street or streets, constructed to a minimum base curb and base asphalt or concrete.
The property will not abut an existing street, is connected to an existing street by a private right of way, and not constructed to a base curb.

2. Chapter 5.10.30.1.(2) , By-law 569-2013
A building or structure may not be erected or used, on any lot that does not abut a street.
The building will be on land that does not abut a street.

3. Chapter 40.5.1.20.(2), By-law 569-2013
A lot in the Commercial Residential Zone category that does not front on a street and has its only vehicle access from a lane or private right-of-way that abuts a lot in the Residential zone category may only be used for required parking spaces.
The lot will be used for a mixed-use building.

4. Chapter 40.10.40.10.(4), By-law 569-2013
The required minimum height of a building in Policy Area 1 (PA1) is 10.5 m.
The new building will be 10.0 m in height.

5. Chapter 40.10.40.10.(5), By-law 569-2013
The required minimum height of the first storey is 4.5 m.
The height of the first storey will be 3.6 m.

6. Chapter 40.10.40.70.(2)(C), By-law 569-2013
The minimum required setback from a side lot line of the main wall of a building that has windows or openings that is not adjacent to a street or lane is 5.5 m.
The main walls will be located 2.7 m from the east lot line and 4.5 m from the west lot line.

7. Chapter 40.10.40.70.(2)(D), By-law 569-2013
The minimum required setback of a main wall of a building which does not have windows or openings from a side lot line that abuts a lot in the Residential Zone category is 3.0 m.
The new building will be set back 0.0 m from the north and 0.6 m from the south side lot lines.

8. Chapter 40.10.50.10.(2), By-law 569-2913
A fence must be installed along the portion of a lot line abutting the lot in the Residential Zone category.
A fence will not be installed along the northern lot line or along the southern lot line.

9. Chapter 40.10.50.10.(3), By-law 569-2013
A 1.5 m wide minimum strip of soft landscaping must be provided along the part of the lot line abutting the lot in the Residential zone or Residential Apartment zone.
In this case, no strip of soft landscaping will be provided along the north and south side lot lines.

10. Chapter 40.10.100.10.(2), By-law 569-2013
Vehicle access to a parking space may not be over any part of a lot in the Residential Zone category.
Access to required parking spaces will be over a private laneway, a portion of which in the Residential Zone.

11. Chapter 200.5.1.10 (12)(A), By-law 569-2013
The required minimum vehicle entrance and exit for a two-way driveway is 5.5 m.
The width of the driveway/access located on the lot and the adjacent private lane, will be 2.66 m.

1. Section 4(5)(I(II), By-law 438-86
A parking facility is required to be accessible by a driveway having a minimum width of 5.5 m for two-way operation.
The width of the driveway/access located on the lot, and the adjacent private lane, will be 2.66 m.

2. Section 4(11)(A), By-law 438-86
The minimum required frontage where the residential lot fronts onto or abuts a highway assumed for public highway purposes is 3.5 m.
In this case, the residential building will be located on a lot which does not front on or abut a highway assumed for public highway purposes.

3. Section 8(3) Part II 1(a), By-law 438-86
The minimum required separation of a window of a dwelling unit in a mixed-use building to a lot line that is not a street is 5.5 m.
The minimum separation of a window of a dwelling unit in a mixed-use building to a lot line will be 2.7 m to the east lot line and 4.5 m to the west lot line.

4. Section 8(3) Part II 2(a), By-law 438-86
The minimum required setback of a mixed-use building or structure from a lot wholly within an R-District is 3.0 m.
The new building will be located 0.0 m from the north and 0.6 m from the south side lot lines.

5. Section 8(3) Part VIII(1), By-law 438-86
Where either limit of a public or private lane, alley, driveway or right-of-way constitutes the boundary or part of the boundary between a CR district and an R district, no person shall, in the CR district, use land or erect or use a building or structure on land that fronts on the lane, alley, driveway or right-of-way for a non-residential use permitted in a CR district if the only means of access to the land is by the lane, alley, driveway or right-of-way.
The new building will be accessible via a private lane and a pedestrian easement.

The Committee of Adjustment considered any written and oral submissions in making its decision. For a list of submissions, please refer to the minutes.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:

The Minor Variance Application is Refused

It is the decision of the Committee of Adjustment to **NOT** approve this variance application for the following reasons:

- The general intent and purpose of the Official Plan is not maintained.
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- In the opinion of the Committee, the variance(s) is not minor.

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Ewa Modlinska (signed) | Nancy Oomen (signed) | Worrick Russell (signed)

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