

Thursday, March 16, 2017

**NOTICE OF DECISION**  
**MINOR VARIANCE/PERMISSION**  
**(Section 45 of the Planning Act)**

File Number:	A0343/16SC	Zoning	Office Uses (OU), Apartment Residential (A) & Commercial Residential (CR) Zone [Waiver]
Owner:	CITY OF TORONTO	Ward:	Scarborough-Rouge River (42)
Agent:	DIAMOND CORP	Heritage:	Not Applicable
Property Address:	<b>5131 SHEPPARD AVE E</b>	Community:	Malvern Community
Legal Description:	PLAN 66M2300 BLK 1		

Notice was given and a Public Hearing was held on Thursday, March 16, 2017, as required by the Planning Act.

**PURPOSE OF THE APPLICATION:**

This application is for variances for a proposed residential development with four 3-storey stacked townhouse buildings and three 6-storey apartment buildings, connected by one level of underground parking on vacant land on the east side of Markham Road, between Sheppard Avenue E. and Orchid Place Drive. The proposed development would include a range of unit sizes, including family-sized units.

This proposed development is also subject to Site Plan Control by the City of Toronto (File No. 16 153771 ESC 42 SA).

**REQUESTED VARIANCES TO THE ZONING BY-LAW**

**By-law No. 569-2013:**

- 1) **Chapter 5.10.40.70 (1) and (2)**  
No building setback will be provided for the below-grade portions of buildings.  
Whereas the minimum building setback from a lot line abutting a street is 3.0 metres and the minimum building setback to a side lot line that abuts a lot in a Residential Zone category or Residential Apartment Zone category that does not have operable windows is 3.0 m
- 2) **Chapter 40.10.40.70(3)(C)**  
No building setback will be provided for the below-grade portions of buildings.  
Whereas the main wall of a building without windows or openings must be set back at least 3.0 m from a side lot line abutting a lot in the R or RA zone category.
- 3) **Chapter 900.11.10 (487)(D)**  
No building setback will be provided for the below-grade portions of buildings.  
Whereas the minimum required building setback from a lot line abutting a street is 3.0 m

- 4) **Chapter 40.10.40.70(3)(D)(ii)**  
Buildings A and B will penetrate the 45 degree angular plane along the rear yard setback facing Sheppard Avenue East.  
Whereas a 45 degree angular plane is required along the required rear yard setback, at a height of 7.5 m above the average elevation of the ground or more.
- 5) **Chapter 40.10.40.80(2)(A)**  
A minimum separation distance of 8.6 m is proposed between the facing walls of Buildings D and E and Buildings F and G (facing pairs of stacked townhouses), at the north and south ends of the buildings, up to a length of 7.2 m  
Whereas a minimum above-ground distance of 11.0 m is required between the main wall of a building with windows and another main wall with windows facing it at a 90 degree angle, for the portions of the building with a height equal to or less than the right of way of the abutting street
- 6) **Chapter 40.10.40.10(5)**  
A minimum first-storey height of 3.2 m will be provided.  
Whereas a minimum first storey height of 4.5 m is required.
- 7) **Chapter 40.10.50.10(3)**  
No soft landscaping is proposed adjacent to the eastern property line, a common property line shared with the lands to the east.  
Whereas a minimum 1.5 m wide strip of soft landscaping is required along the part of the lot line abutting a lot in the Residential Zone category or Residential Apartment Zone category.
- 8) **Chapter 900.11.10(487)**  
A total of 42.0 m<sup>2</sup> of enclosed recreation floor space will be provided for Phase 1 of the development and at final build-out there will be a minimum of 328 m<sup>2</sup> of enclosed recreation floor space provided.  
Whereas a minimum of 1.0 m<sup>2</sup> of enclosed recreation floor space is required per dwelling unit, or a total minimum of 328 m<sup>2</sup> of enclosed recreation floor space is required at total build out and 121 m<sup>2</sup> of enclosed recreation floor space is required for Phase 1.
- 9) **Chapter 40.10.100.10(C)**  
Two vehicle accesses are proposed.  
Whereas only one vehicle access is permitted in the CR zone.
- 10) **Chapter 900.11.10(487)**  
Parking is proposed on the basis of Policy Area 4 in By-law No. 569-2013:
  - (i) at a minimum rate of :
    - a) 0.7 for each bachelor dwelling unit up to 45 square metres and 1.0 for each bachelor dwelling unit greater than 45 square metres;
    - b) 0.8 for each one bedroom dwelling unit;
    - c) 0.9 for each two bedroom dwelling unit; and
    - d) 1.1 for each three or more bedroom dwelling unit; and
  - (ii) at a maximum rate of:
    - a) 1.0 for each bachelor dwelling unit up to 45 square metres and 1.3 for each bachelor dwelling unit greater than 45 square metres;
    - b) 1.2 for each one bedroom dwelling unit;
    - c) 1.3 for each two bedroom dwelling unit; and
    - d) 1.6 for each three or more bedroom dwelling unit; and

For a dwelling unit in an Apartment Building, parking spaces for visitors must be provided at a minimum rate of 0.15 for each dwelling unit;  
Whereas a minimum of 1.2 residential parking spaces and 0.2 visitor parking spaces per dwelling unit is required (total 1.4 parking spaces per dwelling unit).

**By-law No. 14402:**

- 11) **CLAUSE VIII – ZONE PROVISIONS, Section 6(a) and CLAUSE V – INTERPRETATION (f)**  
For the purposes of this site, the definition of Apartment Building shall be the same as the definition in By-law No. 569-2013:

"**Apartment Building** means a building that has five or more dwelling units, with at least one dwelling unit entirely or partially above another, and each dwelling unit has a separate entrance directly from outside or through a common inside area. A building that was originally constructed as a detached house, semi-detached house or townhouse and has one or more secondary suites is not an apartment building."

Whereas in the Malvern Community Zoning By-law No. 14402, the definition of Apartment Building is

"**Apartment Building** means dwelling units arranged in a building so that five (5) or more dwelling units shall have common external access at grade level to the building."

12) **Performance Standard Chart – Schedule “B” – Item No. 132**

No building setback is proposed for the below-grade portions of buildings.

Whereas a minimum building setback of 3.0 m from streets applies to underground structures on the property.

13) **Performance Standard Chart – Schedule “B” – Item No. 432**

A total of 42.0 m<sup>2</sup> of enclosed recreation floor space will be provided for Phase 1 of the development and at final build-out there will be a minimum of 328 m<sup>2</sup> of enclosed recreation floor space provided.

Whereas a minimum of 1.0 m<sup>2</sup> of enclosed recreation floor space is required per dwelling unit, or a total minimum of 328 m<sup>2</sup> of enclosed recreation floor space is required at total build out and 121 m<sup>2</sup> of enclosed recreation floor space is required for Phase 1.

14) **Chapter 900.11.10(487)**

Parking is proposed on the basis of Policy Area 4 in By-law No. 569-2013:

(i) at a minimum rate of :

- a) 0.7 for each bachelor dwelling unit up to 45 square metres and 1.0 for each bachelor dwelling unit greater than 45 square metres;
- b) 0.8 for each one bedroom dwelling unit;
- c) 0.9 for each two bedroom dwelling unit; and
- d) 1.1 for each three or more bedroom dwelling unit; and

(ii) at a maximum rate of:

- a) 1.0 for each bachelor dwelling unit up to 45 square metres and 1.3 for each bachelor dwelling unit greater than 45 square metres;
- b) 1.2 for each one bedroom dwelling unit;
- c) 1.3 for each two bedroom dwelling unit; and
- d) 1.6 for each three or more bedroom dwelling unit; and

For a dwelling unit in an Apartment Building, parking spaces for visitors must be provided at a minimum rate of 0.15 for each dwelling unit;

Whereas a minimum of 1.2 residential parking spaces and 0.2 visitor parking spaces per dwelling unit is required (total 1.4 parking spaces per dwelling unit).

The Committee of Adjustment considered the written submissions relating to the application made to the Committee before its decision and oral submissions relating to the application made at the hearing. In so doing, **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**

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David Peacock

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Eden Gajraj

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Hena Kabir

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Sean Karmali

DATE DECISION MAILED ON: Tuesday, March 21, 2017

LAST DATE OF APPEAL TO  
THE ONTARIO MUNICIPAL BOARD: Wednesday, April 5, 2017

CERTIFIED TRUE COPY

Denise Rundle  
Manager & Deputy Secretary Treasurer  
Scarborough 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](http://www.omb.gov.on.ca).