

## **123 Massey Street – Front Yard Parking Pad Application**

**Date:** March 16, 2017

**To:** Toronto and East York Community Council

**From:** City Solicitor

Manager, Right of Way Management, Transportation Services

Toronto and East York District

**Wards:** Trinity - Spadina - Ward 19

### **REASON FOR CONFIDENTIAL INFORMATION**

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This report is about litigation or potential litigation that affects the City or one of its agencies or corporations and contains advice or communications that are subject to solicitor-client privilege.

### **SUMMARY**

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The purpose of this report is to advise of an Ontario Municipal Board proceeding that affects the City or one of its agencies or corporations and relates to front yard parking pad regulations contained in Toronto Municipal Code Chapter 918 ("Chapter 918").

In 2013, the owner of 178 Strachan Avenue, located in Ward 19, applied for a consent to create a new lot with its proposed frontage on Massey Street. The property at 178 Strachan Avenue was a double frontage lot to Massey Street. The owner also applied for associated variances to authorize a new three storey dwelling with an integral garage on the newly created vacant lot known as 123 Massey Street (the "Property"). On March 27, 2013, the Committee of Adjustment (File Nos. B0011/13TEY & A0072/13TEY) approved the consent and associated variances and, in 2016, a building permit was issued for the construction of the new dwelling on the Property.

Subsequently, the building permit was revoked as the proposed construction required further variances to permit the proposed dwelling on the Property. The applicant made a subsequent application to the Committee of Adjustment (File No. A0391/16TEY) with the same plans, seeking the additional required variances. On July 27, 2016 the Committee of Adjustment refused the requested variances and the applicant appealed that decision to the Ontario Municipal Board. In accordance with the City's instructions, the City Solicitor and the Applicant have negotiated a settlement of the City's issues (the "Settlement").

The Settlement was presented to the Ontario Municipal Board at a hearing on February 1, 2017. An element of the Settlement includes the provision of parking on the Property. In accordance with the Settlement, the Applicant must apply for a front yard parking pad. Since the provisions of Chapter 918 prohibit the installation of a front yard parking pad at the Property, the Applicant requires relief from the provisions of Chapter 918.

## **RECOMMENDATIONS**

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The City Solicitor and Transportation Services recommend that:

1. City Council allow for a site-specific amendment to Toronto Municipal Code Chapter 918, Parking on Residential Front Yards and Boulevards despite the provisions in Chapter 918 that would otherwise prohibit it, including 918-5B, 918-8C(3), 918-8I, 918-14 and 918-21B, front yard parking for the property at 123 Massey Street (the "Property") on the following conditions:

- a. the front yard parking pad area must not exceed 2.6 m in width;
- b. the owner(s) of the Property (the "Owner") must submit an application and pay all applicable fees under Chapter 918, excluding the non-refundable appeal fee that would otherwise be required to be paid;
- c. the Owner shall be exempt from any polling requirements that may otherwise be applicable under Chapter 918; and
- d. the Owner must comply with all other provisions of Toronto Municipal Code Chapter 918, to the extent that these provisions do not conflict with the site-specific by-law amendment.

2. City Council direct the Confidential Attachment to the report (March 16, 2017) from the City Solicitor and the Manager, Right of Way Management, Transportation Services remains confidential in its entirety as it about litigation or potential litigation that affects the City or one of its agencies or corporations, and it contains advice or communications that are subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

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If adopted, the recommendations in this report will have no financial impact beyond what has already been approved in the current year's budget.

## **DECISION HISTORY**

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Toronto Municipal Code Chapter 918 was adopted by the Council of the City of Toronto on July 27, 2006, by by-law No. 680-2006.

[http://www.toronto.ca/legdocs/municode/1184\\_918.pdf](http://www.toronto.ca/legdocs/municode/1184_918.pdf)

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060627/cofa.pdf>

## COMMENTS

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Under the current provisions of Chapter 918, Ward 19 is one of a number of City Wards where the General Manager of Transportation Services is not permitted to accept an application for front yard parking (Section 918-5B). Further, residential properties in these Wards are not entitled to file an appeal for consideration by Community Council unless the property has no other alternative parking option and meets the physical criteria set out in the Chapter (Section 918-21B). These provisions predate the harmonized Chapter 918 and have been in effect since October 26, 2004.

The Property does not meet the criteria for an appeal to Community Council for the following reasons:

- (a) on street permit parking is authorized on this portion of Massey Street on the opposite side of the street; and
- (b) the formal poll has not been conducted to date.

Accordingly, since Community Council cannot entertain an appeal in this instance, the only avenue available to permit front yard parking at this location would be for City Council to authorize an amendment to Chapter 918 itself to permit a parking pad on a site-specific basis. Any such amendment would necessarily have to include exemptions from provisions, such as the polling requirement, which would conflict with the intent of the amendment, being to permit a parking pad at the Property.

The proposal for front yard parking is shown on Attachment 'A' and a digital photo of the property is shown on Attachment 'B'.

### **Other Factors**

Permit parking on this portion of Massey Street is authorized on the even (west) side, within permit parking area 4I, with 838 spaces of which 567 permits issued. In this block there are 30 spaces and 32 permits (107%) have been issued to residents on the block.

A ramp is not required as there is an existing ramp to service the proposed front yard parking space.

On this portion of Massey Street there are no properties licensed for front yard parking.

There is a tree on the boulevard at this location. A review of this application by Urban Forestry has determined that there is no suitable planting site for an additional tree.

## CONTACT

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## SIGNATURE

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Wendy Walberg  
City Solicitor

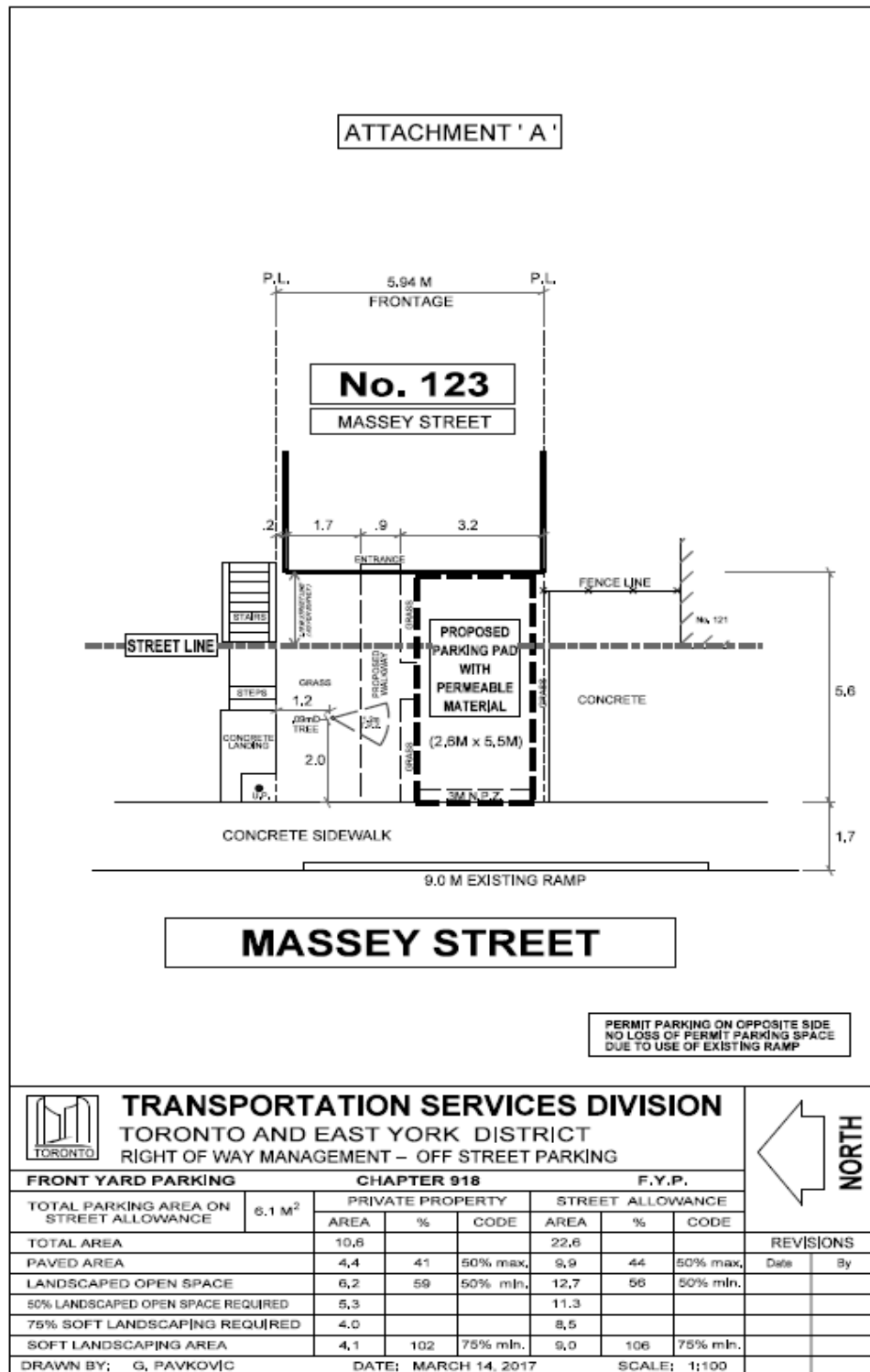
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Andre Filippetti  
Manager, Right of Way Management

## ATTACHMENTS

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Attachment "A" - Sketch  
Attachment "B" - Photo  
Confidential Attachment



*Attachment B - Photo of Front Yard at - 123 Massey Street*

