June 4, 2018

Toronto and East York Community Council
100 Queen Street West
Toronto, ON M5H 2N2

Dear Chair and Members:

RE: 79 Eaton Avenue – Request for Representation at the Toronto Local Appeal Body

The applicant applied to the Committee of Adjustment, Toronto and East York Panel, (the “Committee”) to construct a new three-storey duplex with third-storey roof decks at the front and rear, and a rear detached two-car garage for the property municipally known as 79 Eaton Avenue (A1257/17TEY) (the “Application”). The Application seeks variances from the City-wide Zoning By-law 569-2013 and former municipality of Toronto Zoning By-law 438-86.

In their report, Community Planning did not object to the variances as represented in the Application; however, Community Planning recommended that should the Committee approve the Application, the Committee impose the following conditions:

1. That permanent opaque screening or fencing be provided along the north and south edges of the rear third storey deck to a minimum height of 1.5 metres from the floor of the deck; and

2. That the third floor of the proposed dwelling have a maximum building length of 16.96 metres inclusive of the balcony, and 14 metres exclusive of the balcony, as per the third floor plan shown on drawing A-02.2.3.4 received by the Committee of the Adjustment on April 4, 2018.

Additionally, Urban Forestry staff submitted a Memorandum dated May 3, 2018, recommending that should the Committee approve the requested variances, such approval be conditional upon the submission of a complete application for permit to injure or remove City owned trees under Municipal Chapter 813 Article II, Street Trees.

Development Engineering staff also submitted a Memorandum dated February 7, 2018, recommending that should the Committee approve the application, it is subject to the Owner submitting to the Chief Engineer & Executive Director, Engineering &
Construction Services, an application for revised municipal numbering. On May 9, 2018, the Committee approved the Application with conditions (the “Decision”). On May 29, 2018, the owner of 77 Eaton Avenue appealed the Decision to the Toronto Local Appeal Body. A copy of the Notice of Decision and Staff Reports are attached.

RECOMMENDATIONS:

1. City Council direct the City Solicitor and appropriate City staff to attend the Toronto Local Appeal Body with respect to the appeal of the Committee Decision (A1257/17TEY) regarding 79 Eaton Avenue, and request that in the event the Toronto Local Appeal Body approves the Application, it impose the conditions requested by City staff; and

2. City Council authorize the City Solicitor to resolve the matter on behalf of the City at the discretion of the City Solicitor, after consultation with the Ward Councillor and the Chief Planner and Executive Director, City Planning.

Thank you for your consideration.

Sincerely,

Mary Fragedakis
City Councillor
Ward 29, Toronto-Danforth

Attachment 1: Notice of Decision of the Committee of Adjustment
Attachment 2: Community Planning Staff Report
Attachment 3: Urban Forestry Memorandum
Attachment 4: Development Engineering Memorandum
NOTICE OF DECISION
MINOR VARIANCE/PERMISSION
(Section 45 of the Planning Act)

File Number: A1257/17TEY
Owner(s): BAUKULTRICA INCORPORATED
Agent: FELIX LEICHER
Property Address: 79 EATON AVE
Legal Description: PLAN 1457 LOT 99 PT LOT 98
Zoning R (d0.6) & R2 Z0.6 (Waiver)
Ward: Toronto-Danforth (29)
Heritage: Not Applicable
Community: Toronto

Notice was given and a Public Hearing was held on Wednesday, May 9, 2018, as required by the Planning Act.

PURPOSE OF THE APPLICATION:
To construct a new three-storey duplex with third-storey roof decks at the front and rear, and a rear detached two-car garage.

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

1. Chapter 10.10.40.40.1(B), By-law 569-2013
   The maximum permitted floor space index for a duplex is 0.6 times the area of the lot (171.72 m²). The new duplex will have a floor space index equal to 0.97 times the area of the lot (278.62 m²).

2. Chapter 10.10.40.30.1, By-law 569-2013
   The maximum permitted depth for a duplex is 14.0 m. The new duplex will have a depth of 17.0 m.

3. Section 6(3) Part I 1, By-law 438-86
   The maximum permitted gross floor area for a duplex is 0.6 times the area of the lot (171.72 m²). The new duplex will have a gross floor area equal to 0.97 times the area of the lot (278.62 m²).

4. Section 6(3) Part II 3(I)(i), By-law 438-86
   The minimum required setback from the side wall of an adjacent building that does not contain any openings is 0.90 m. The new duplex will be located 0.54 m from 81 Eaton Avenue to the North.

5. Section 6(3) Part II 3(I)(ii), By-law 438-86
   The minimum required setback from the side wall of an adjacent building that contains openings is 1.20 m. The new duplex will be located 0.65 m from 77 Eaton Avenue to the South.
4. **Section 6(3) Part II 5(1), By-law 438-86**
The maximum permitted depth of a duplex is 14.0 m.
The new duplex will have a depth of 17.75 m.

5. **Section 2(1)(A), By-law 438-86**
A duplex is defined as a building containing two dwelling units divided horizontally, each of which has an independent entry.
In this case, the two dwelling units within the duplex will be divided both horizontally and vertically.

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 Approved on Condition**

It is the decision of the Committee of Adjustment to approve this variance application for the following reasons:
- The general intent and purpose of the Official Plan is maintained.
- The general intent and purpose of the Zoning By-law is maintained.
- The variance(s) is considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance(s) is minor.

This decision is subject to the following condition(s):

1. Prior to the issuance of a building permit, the applicant/owner shall submit a complete application for permit to injure or remove City owned trees under Municipal Chapter 813 Article II, Street trees, to the satisfaction of the Supervisor, Urban Forestry, Tree Protection and Plan Review, Toronto and East York District.

2. The maximum building length of the third floor of the new three storey duplex dwelling shall not exceed 16.96 m, inclusive of the balcony, and 14 m exclusive of the balcony, as per the third floor plan A-02.2.3.4, received by the Committee of Adjustment on April 4, 2018.

3. The rear third storey deck shall be constructed and maintained with permanent opaque screening or fencing along the north and south edges to a minimum height of 1.5 m measured from the floor of the deck.
SIGNATURE PAGE

File Number: A1257/17TEY
Owner(s): BAUKULTRICA INCORPORATED
Agent: FELIX LEICHER
Property Address: 79 EATON AVE
Legal Description: PLAN 1457 LOT 99 PT LOT 98

Zoning: R (d0.6) & R2 Z0.6 (Waiver)
Ward: Toronto-Danforth (29)
Heritage: Not Applicable
Community: Toronto

DISSENTED

Worrick Russell
Edmund Carlson
Joanne Hayes
Ewa Modlinska

DATE DECISION MAILED ON: TUESDAY, MAY 15, 2018
LAST DATE OF APPEAL: TUESDAY, MAY 29, 2018

CERTIFIED TRUE COPY

Anita M. MacLeod
Manager & Deputy Secretary-Treasurer
Committee of Adjustment; Toronto and East York District
Appeal Information

All appeals must be filed with the Deputy Secretary Treasurer, Committee of Adjustment by the last date of appeal as shown on the signature page.

Your appeal to the Toronto Local Appeal Body (TLAB) should be submitted in accordance with the instructions below unless there is a related appeal* to the Ontario Municipal Board (OMB) for the same matter.

**TORONTO LOCAL APPEAL BODY (TLAB) APPEAL INSTRUCTIONS**
To appeal this decision to the TLAB you need the following:

- a completed TLAB Notice of Appeal (Form 1) in digital format on a CD/DVD
- $300 for each appeal filed regardless if related and submitted by the same appellant
- Fees are payable to the City of Toronto by cash, certified cheque or money order (Canadian funds)

To obtain a copy of the Notice of Appeal Form (Form 1) and other information about the appeal process please visit the TLAB web site at www.toronto.ca/tlab.

**ONTARIO MUNICIPAL BOARD (OMB) APPEAL INSTRUCTIONS**
To appeal this decision to the OMB you need the following:

- a completed OMB Appellant Form (A1) in paper format
- $300.00 with an additional reduced fee of $25.00 for each connected appeal filed by the same appellant
- Fees are payable to the Minister of Finance by certified cheque or money order (Canadian funds).

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.

*A related appeal is another planning application appeal affecting the same property. To learn if there is a related appeal, search community planning applications status in the Application Information Centre and contact the assigned planner if necessary. If there is a related appeal, your appeal to the Ontario Municipal Board should be submitted in accordance with the instructions above.
**RECOMMENDATION**

Staff respectfully recommend that, should the Committee of Adjustment choose to approve Application A1257/17TEY, the Committee impose the following conditions:

1) That permanent opaque screening or fencing be provided along the north and south edges of the rear third storey deck to a minimum height of 1.5 metres from the floor of the deck; and

2) That the third floor of the proposed dwelling have a maximum building length of 16.96 metres inclusive of the balcony, and 14 metres exclusive of the balcony, as per the third floor plan shown on drawing A-02.2.3.4 received by the Committee of Adjustment on April 4, 2018.

**APPLICATION**

The application proposes to construct a new three-storey duplex with third-storey roof decks at the front and rear, and a rear detached two-car garage.

The variances requested are with respect to floor space index, building depth, gross floor area, side yard setback and two dwelling units divided horizontally each of which has an independent entry.

**COMMENTS**

The subject site is located on the east side of Eaton Avenue, north of Danforth Avenue and east of Pape Avenue. The site is designated *Neighbourhoods* in the City of Toronto Official Plan, which are considered physically stable areas made up of residential uses in lower scale buildings. The
site is zoned Residential (R) in City-Wide Zoning By-law 569-2013, and Residential (R2 A0.6) in City of Toronto Zoning By-law 438-86, as amended. The purpose of the Residential zone category in these respective By-laws is generally to maintain a stable built form, and to limit the impact of new development on adjacent residential properties.

Staff have reviewed the application and do not object to the variances as represented in Application A1257/17TEY. However, staff are concerned that if the application is unconditionally approved, the applicant could potentially build a building to fill the entire zoning envelope, as varied, which would result in a much larger, and more imposing building than the built form proposed in this application. To mitigate this concern, staff recommend that the Committee impose a condition on the maximum allowable building length for the third floor.

Staff also have concerns with privacy and overlook resulting from the proposed rear deck. In order to minimize the negative impact associated with the proposed elevated rear deck, staff recommend that the applicant provide permanent opaque screening or fencing along the north and south edges of the proposed third storey rear deck to a minimum height of 1.5 metres from the floor of the deck.

For these reasons, staff respectfully recommend that should the Committee of Adjustment choose to approve Application A1257/17TEY, the Committee impose the above noted conditions.

CONTACT
Stephanie Hong, Assistant Planner
Tel: 416-338-0618
E-mail: Stephanie.Hong@toronto.ca

SIGNATURE

Lynda H. Macdonald, OALA
Acting Director, Community Planning
Toronto and East York District

Copy: Councillor Mary Fragedakis, Ward 29 Toronto-Danforth
Felix Leicher, Agent for the Owner
DATE: May 3, 2018

TO: Anita MacLeod, Manager / Deputy Secretary-Treasurer
   Toronto and East York Committee of Adjustment

FROM: Yaroslav Medwidsky, Acting Supervisor Tree Protection & Plan Review
      Toronto-East York District

RE: Conditions of Urban Forestry – Committee of Adjustment

This will acknowledge receipt of the public hearing notices regarding applications for approval by the Committee of Adjustment for the hearing of May 9, 2018- Panel A

Tree by-laws to protect and preserve all trees on City property and trees equal to or above 30cm at 1.4m above ground level on private property have been established in order to retain as much crown cover as possible, particularly where site alteration is concerned. It is expected that retention and appropriate protection of existing trees will be considered when developing plans and whenever possible, buildings and driveways are to be diverted around trees.

Should the Committee of Adjustment decide to approve the requested variances/consents, Urban Forestry requests that such approval be conditional upon the following conditions (note each Committee of adjustment file number and corresponding condition(s):

Conditions:

1) Submission of complete application for permit to injure or remove privately owned trees under Municipal Chapter 813 Article III, Private trees.

2) Submission of complete application for permit to injure or remove City owned trees under Municipal Chapter 813 Article II, Street trees.

3) Where there are no existing street trees, the owner shall submit a payment in lieu of planting one street tree on the City road allowance abutting each of the sites involved in the application or elsewhere in the community if there is no space. The current cost of planting a tree is $583.00, subject to changes.

Advisory Comment:

4) Approval of the variances listed in the subject application does not preclude the applicant from requiring additional approvals from Urban Forestry. Driveways, garages, porches and/or landscape proposals that necessitate removal or injury to City-owned street trees or loss of tree planting space on the road allowance will not necessarily be supported by Urban Forestry.
File List and conditions:

<table>
<thead>
<tr>
<th>File Number</th>
<th>Property</th>
<th>Conditions (1,2,3)</th>
<th>Comment (4)</th>
<th>Denial requested</th>
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<tr>
<td>A1240/17TEY</td>
<td>73 FERN AVE</td>
<td>X</td>
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<tr>
<td>A1241/17TEY</td>
<td>37 FRATER AVE</td>
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Please be advised that applications not listed above may require a permit and/or approval from Urban Forestry in order to construct the proposed. The absence of a condition above does not necessarily indicate that further approvals for removal or injury of trees under Chapter 813 of the Municipal Code are not required. Anyone failing to adhere to the City's tree protection bylaws may result in infraction fees and charges under the Municipal Code.

Applications under Municipal code chapter 813, Article II or III (Conditions 1 & 2) shall be made to Tree Protection and Plan Review, Toronto East York located at 50 Booth Avenue, 2nd floor, Toronto Ontario, M4M 2M2.

Payments (Condition 3) shall be made payable to the Treasurer City of Toronto and sent to the attention of Supervisor Urban Forestry, Tree Protection & Plan Review, at 50 Booth Avenue, 2nd Floor, Toronto, Ontario, M4M 2M2. Acceptable methods of payment may be made in the form of a Letter of Credit, certified cheque, bank draft, money order, or pay in person by Visa, MasterCard, Amex or debit.

For further information please visit [www.toronto.ca/trees](http://www.toronto.ca/trees), call 416-392-7391 or email tpprsouth@toronto.ca

Andrew Pickett  
Acting Supervisor, Tree Protection & Plan Review  
/CP

cc: Forestry File
TO: Anita M. MacLeod, Manager, Committee of Adjustment
Toronto & East York Panel, City Planning, City Hall, 1 W, Toronto
Attn: Sylvia Mullaste

FROM: Avi Bachar, PMP, P. Eng, Manager, Development Engineering
Toronto & East York District, Attn: Ana Maria Luciani

DATE: February 7, 2018

SUBJECT: Premises No. 79 Eaton Avenue
Minor Variance Application Nos. A1257/17TEY
Applicant: Felix Leicher
Request Comments by: February 7, 2018
Tentative Meeting Date: May 9, 2018 Ward: 29

This is in reference to the application for minor variance to the Zoning By-law related to the demolition of the existing detached dwelling and construction of a 3-storey semi-detached house with two dwelling units on the lot. The existing double car garage will also be demolished and a new garage constructed at the rear at premises No. 79 Eaton Avenue. No application is being submitted to sever the lands into separate lots.

While there is no objection to the minor variance application should your Committee recommend approval of this application, it is subject to the Owner submitting to the Chief Engineer & Executive Director, Engineering & Construction Services:

1. An application for revised municipal numbering. The Owner should contact John House, Supervisor, Land and Property Surveys at 416.392.8338 for further information in this regard or, submit the application to municipaladdress@toronto.ca

Avi Bachar, PMP, P. Eng., Manager
Development Engineering, Engineering & Construction Services