



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 &

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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



City Planning Division  
Michael Mizzi, MCIP, RPP  
Director, Zoning and Secretary-Treasurer,  
Committee of Adjustment

Committee of Adjustment  
Toronto and East York District

100 Queen Street West, 1<sup>st</sup> Floor  
Toronto, Ontario M5H 2N2  
Tel: 416-392-7565  
Fax: 416-392-0580

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

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

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:**

- 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 m<sup>2</sup>).  
The new duplex will have a floor space index equal to 0.97 times the area of the lot (278.62 m<sup>2</sup>).
- 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.
- 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 m<sup>2</sup>).  
The new duplex will have a gross floor area equal to 0.97 times the area of the lot (278.62 m<sup>2</sup>).
- 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.
- 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(I), 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.

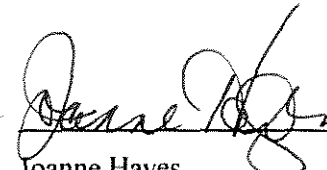
**SIGNATURE PAGE**

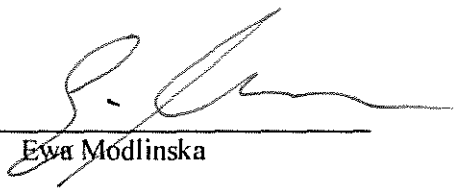
File Number:	A1257/17TEY	Zoning	R (d0.6) & R2 Z0.6 (Waiver)
Owner(s):	BAUKULTRICA INCORPORATED	Ward:	Toronto-Danforth (29)
Agent:	FELIX LEICHER	Heritage:	Not Applicable
Property Address:	79 EATON AVE	Community:	Toronto
Legal Description:	PLAN 1457 LOT 99 PT LOT 98		

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](http://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](http://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.



**STAFF REPORT**  
Committee of Adjustment  
Application

<b>Date:</b>	April 24, 2018
<b>To:</b>	<b>Chair and Members of the Committee of Adjustment Toronto and East York District c/o Anita MacLeod, Manager &amp; Deputy Secretary-Treasurer Toronto and East York</b>
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Ward:</b>	Ward 29, Toronto-Danforth
<b>Reference:</b>	File No.: A1257/17TEY Address: 79 Eaton Avenue Application to be heard: May 9, 2018

## **RECOMMENDATION**

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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**

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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**

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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](mailto:Stephanie.Hong@toronto.ca)

## **SIGNATURE**

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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



Parks, Forestry & Recreation  
Janie Romoff, General ManagerUrban Forestry  
50 Booth Avenue, 2nd Floor  
Toronto, Ontario M4M 2M2TPPR Info Line: 416-392-7391  
TPPR Fax: 416-392-7277**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:**

File Number	Property	Conditions (1,2,3) Comment (4)				Denial requested
		1	2	3	4	
A1240/17TEY	73 FERN AVE	X				
A1241/17TEY	37 FRATER AVE		X			
A1243/17TEY	67 ROSE PARK DR					X
A1250/17TEY	52 FERNWOOD PARK	X				
A1257/17TEY	79 EATON AVE		X			
A1262/17TEY	128 BANFF RD					X
A1269/17TEY	73 FLOYD AVE		X			
A1272/17TEY	45 GLENAYR RD		X			
A1276/17TEY	211 HOLBORNE AVE	X				
A1340/17TEY	250 SILVER BIRCH AVE PART 2			X		
A0988/17TEY	40 WALLINGTON AVE	X		X		
A1035/17TEY	550 CHRISTIE ST	X	X			
B0127/17TEY	1557 BLOOR ST W		X			
B0128/17TEY	1555 BLOOR ST W		X			

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, 2<sup>nd</sup> 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](mailto:tpprsouth@toronto.ca)

Andrew Pickett  
Acting Supervisor, Tree Protection & Plan Review  
/CP  
cc: Forestry File



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

**Metro Hall**  
55 John Street, 16<sup>th</sup> Floor  
Toronto, Ontario M5V 3C6

# Memorandum

**Tel:** 416.392.8320  
**Fax:** 416.392.4426  
Avi.Bachar@toronto.ca

**Reply to: Ana Maria Luciani**  
Engineering Technical Coordinator  
**Tel:** 416.392.3986  
AnaMaria.Luciani@toronto.ca

**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](mailto:municipaladdress@toronto.ca)

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