

Response to TE30.39 - 49 Felstead Avenue - Zoning Matter

Date: February 16, 2022

To: Toronto and East York Community Council

From: Director, Investigation Services, Municipal Licensing and Standards

Wards:14, Toronto-Danforth

SUMMARY

This report responds to the Toronto and East York Community Council's request to report back on the current zoning status of 49 Felstead Avenue, including what actions have been taken by the City between 2018 and 2021 to ensure compliance with zoning bylaws, and what further action the city can take to bring any non-compliant zoning elements into compliance.

RECOMMENDATIONS

The Director, Investigation Services, Municipal Licensing and Standards recommends that:

1. Toronto and East York Community Council receive this report for information.

FINANCIAL IMPACT

There are no financial implications resulting from the recommendations included in this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting on January 6, 2022, the Toronto and East York Community Council adopted [TE30.39 – 49 Felstead Avenue - Zoning Matter](http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.TE30.39) (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.TE30.39>) and directed the Deputy Chief Building Official, Toronto Building, the City Solicitor, the Director of Investigation Services, Municipal Licensing and Standards, and the Acting Director, Zoning, City Planning to report to the February 16, 2022 meeting of the Toronto and East York Community Council on the current zoning status of 49 Felstead Avenue, including what actions have been taken by the City between 2018 and 2021 to ensure compliance with zoning bylaws, and what further action the City can take to bring any non-compliant zoning elements into compliance.

COMMENTS

The site at 49 Felstead Avenue is owned by the Toronto District School Board (TDSB) and the Toronto Catholic School Board (TCDSB) is this site's long-term tenant. The site is occupied by St. Patrick Secondary School and its associated sports field. The site is subject to the zoning by-law of the former City of Toronto, By-law 438-86. The Zoning By-law relieves properties that were owned by the TCDSB or Toronto District School Board (TDSB) on June 16, 1986, from zoning restrictions, as long as the land, building or structure is used only for teaching or instructional purposes, including purposes accessory thereto.

In 2015, Toronto Building received a preliminary project review application in relation to 49 Felstead Avenue for proposed improvements at St. Patrick Catholic School, including refurbishment of the sports field. A preliminary project review application reviews the proposed work and land use against the applicable zoning of the site. The proposed work at 49 Felstead Avenue included a new artificial turf field, movable bleachers, exterior lighting, a new scoreboard, removable goal posts, fencing, netting, and a new drainage system. The proposed users of the site were the Toronto Catholic District School Board (TCDSB) and Ryerson University.

Toronto Building considered the preliminary project review application of TCDSB and Ryerson University in 2015 and issued a notice with this determination:

“The submitted proposal complies with the Zoning By-law, provided that the use of the lot is **only** for teaching or instruction purposes, including purposes accessory thereto.”

Toronto Building’s notice also stated:

“This response is based on plans and documents submitted and the Zoning By-law in force at this time.”

The City’s understanding is that the use of the site has not gone forward as proposed in the 2015 preliminary project review application submitted by TCDSB and Ryerson University. Specifically, Ryerson University is not involved and the TCDSB has leased out the site to one or more commercial operator(s). The City has received complaints

that suggest the site is not being used for only teaching or instructional purposes, including purposes accessory thereto, as required by the zoning by-law.

The City's investigation into the complaints remains active. While City staff cannot comment on an active and on-going investigation, City staff can provide general guidance with respect to zoning investigations in any case.

The City's Municipal Licensing and Standards division enforces the City's zoning by-laws. Where MLS receives a complaint of non-compliance with zoning, MLS officers investigate the site – including structural and use issues – and compile evidence in determining whether or not to lay a charge. Each investigation is highly contextual, and decisions on enforcement are made in light of the unique circumstances in each case.

Under the Planning Act, every person who contravenes the City's zoning by-laws is guilty of an offence and may be liable on conviction to a fine of not more than \$25,000 on a first conviction. Where a corporation is convicted of contravening a zoning by-law, the corporation may be liable for a fine of not more than \$50,000 on first conviction. Subsequent convictions may bring additional fines for each day the contravention continues after the date of the first conviction.

Where a person or corporation is convicted of contravening a zoning by-law, the City can also seek a court order prohibiting the person or corporation from continuing or repeating the offending act(s). Such an order is at the court's discretion at the time of conviction.

The City continues to investigate the complaints in relation to 49 Felstead Avenue, and will take enforcement action where appropriate.

CONTACT

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SIGNATURE

Elizabeth Glibbery
Director, Investigation Services, Municipal Licensing and Standards