

City Council

Motion without Notice

MM22.24	ACTION			Ward: 8
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3180-3202 Yonge Street - Request for City Solicitor to Attend at the Ontario Land Tribunal - by Councillor Mike Colle, seconded by Councillor James Pasternak

** Notice of this Motion has not been given. A two-thirds vote is required to waive notice.*
** This Motion is subject to referral to the North York Community Council. A two-thirds vote is required to waive referral.*
** This Motion has been deemed urgent by the Chair.*

Recommendations

Councillor Mike Colle, seconded by Councillor James Pasternak, recommends that:

1. City Council direct the City Solicitor to seek party status at the Ontario Land Tribunal and to attend the Ontario Land Tribunal hearing, with appropriate City staff, to support the North York District Committee of Adjustment's decision to refuse the variances requested in Application A0312/24NY respecting 3180-3202 Yonge Street.
2. City Council authorize the City Solicitor to attempt to negotiate a resolution of the appeal of the decision respecting 3180-3202 Yonge Street and to resolve the matter on behalf of the City at the City Solicitor's discretion after consultation with the Ward Councillor and the Director of Community Planning, North York District.

Summary

In June 2024, the applicant applied to the Committee of Adjustment (the "Committee") requesting variances from site-specific By-law 1248-2022 for the property located at 3180-3202 Yonge Street (Application A0312/24NY) (the "Minor Variance Application"). Among other things, the Application seeks to permit four additional storeys, a taller mechanical penthouse, an increased maximum gross floor area, and a reduction in the amount of soft landscaping required to be provided.

For context, the Ontario Land Tribunal approved a settlement between the applicant and the City in October 2022, which resulted in site-specific By-law 1248-2022. This by-law limited the permitted height on the subject lands to 11 storeys (36.9 metres; 41.9 metres with the mechanical penthouse). Among other things, the Minor Variance Application seeks to permit four additional storeys (49.13 metres without the mechanical penthouse; 58.13 metres with the mechanical penthouse); a mechanical penthouse that is nine metres in height (compared to the five metres that the mechanical penthouse was limited to in the site-specific by-law); and a maximum gross floor area of 15,922 square metres (compared to the maximum 12,000 square metres that was permitted in the site-specific by-law). In sum, the applicant is requesting a

maximum height that is 16 metres beyond what the Ontario Land Tribunal approved in October 2022 on the basis of the applicant's settlement with the City.

In a report from the Director of Community Planning, North York District dated July 18, 2024, Community Planning Staff recommended refusal of the Minor Variance Application on the basis that it does not meet any of the four tests for a minor variance under Section 45(1) of the Planning Act. The staff report is attached as Attachment 1.

On August 29, 2024, the North York District of the Committee refused the Minor Variance Application. The Committee's Decision is attached as Attachment 2.

The applicant has appealed the refusal of the Minor Variance Application to the Ontario Land Tribunal (the "Appeal"). In addition, the applicant has appealed the City of Toronto's failure to make a decision within the prescribed timeframe in respect of the applicant's associated site plan control application (Application 21 162972 NNY 08 SA). Pursuant to Section 115 of the City of Toronto Act, these appeals can be heard together before the Ontario Land Tribunal. The applicant's appeal letter is attached as Attachment 3.

This Motion will authorize and direct the City Solicitor to attend the Ontario Land Tribunal, along with appropriate City staff, to oppose the Appeal. This Motion will also authorize the City Solicitor to resolve the matter on behalf of the City in her discretion after consultation with the Ward Councillor and the Director of Community Planning, North York District.

The scheduling of this hearing is imminent and as such this Motion is urgent.

Background Information (City Council)

Member Motion MM22.24

(<https://www.toronto.ca/legdocs/mmis/2024/mm/bgrd/backgroundfile-249284.pdf>)

(July 18, 2024) Report from the Director, Community Planning, North York District on 3180-3182 Yonge Street

(<https://www.toronto.ca/legdocs/mmis/2024/mm/bgrd/backgroundfile-249297.pdf>)

Attachment 2 - Notice of Decision of the Committee of Adjustment (Application A0312/24NY)

(<https://www.toronto.ca/legdocs/mmis/2024/mm/bgrd/backgroundfile-249298.pdf>)

Attachment 3 - Applicant's Appeal Letter dated September 9, 2024

(<https://www.toronto.ca/legdocs/mmis/2024/mm/bgrd/backgroundfile-249299.pdf>)