

DECISION AND ORDER

Decision Issue Date Tuesday, October 17, 2017

PROCEEDING COMMENCED UNDER subsection 45 (1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): 2364885 ONTARIO INC

Applicant: BRIAN ABBEY ADTEK BUILDING CONSULTANTS

Subject(s): 45(1)

Property Address/Description: 122 JUDGE RD

Committee of Adjustment Case File Number: 17 110000 WET 05 MV

TLAB Case File Number: **17 184920 S45 05 TLAB**

Hearing date: Thursday, October 12, 2017

DECISION DELIVERED BY Laurie McPherson

INTRODUCTION

This is an appeal to the Toronto Local Appeal Body (the "TLAB") by the owner ("Applicant") of the decision of the Committee of Adjustment ("Committee") for the City of Toronto ("City") to refuse minor variances related to a conversion of an existing parking garage into office space at 122 Judge Road ("the subject property"). The subject property is zoned Employment in both the new City By-law and the former Etobicoke Zoning Code and is designated Employment Areas in the Official Plan.

BACKGROUND

The owner wishes to convert previous indoor parking and storage space to office space. The variances sought were as follows:

1. **Section 200.5.10.1, By-law 569-2013**

A minimum of 15 parking spaces are required.

Section 320-18.C (2)(f), Etobicoke Zoning Code

A minimum of 34 parking spaces are required.

Section 200.5.10.1, By-law 569-2013 & Section 320-18.C (2)(f), Etobicoke Zoning Code

A total of 14 parking spaces are being provided.

2. **Section 320-18.A, Etobicoke Zoning Code**

A minimum of 6 m of access should be provided in front of all parking spaces.

A total of 3.4 m will be provided in front of two rear parking spaces.

The Committee of Adjustment refused the applications on June 1, 2017 and the Applicant has appealed the decision.

Further to TLAB Rule 11, the Applicant filed Form 3, Applicant's Disclosure, which included intended revisions to the plans and application that was made to the Committee of Adjustment.

The revisions would have the effect of changing one of the variances. Variance 2 would apply to one rear parking space instead of two.

I accept that this revision to the application is minor, was appropriately disclosed in the exchanges required by the TLAB Rules, and no further notice or consideration is required under s. 45 (18.1) of the Planning Act.

MATTERS IN ISSUE

In considering the applications for variances from the Zoning By-laws, the TLAB must be satisfied that the applications meet the four tests under s. 45(1) of the Planning Act. The tests are whether each of the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land, building or structure; and
- are minor.

The TLAB will be applying these “four tests” based on the revised plans and variances disclosed as part of this proceeding.

EVIDENCE

The TLAB heard from the Applicant’s professional land use planner, Michael Manett. Mr. Manett was qualified to provide land use planning opinion evidence (Exhibit 1). No one else appeared before the TLAB. Mr. Manett was retained after the Committee decision and worked with the applicant to address the Engineering staff comments. As a result, the parking was reorganized and, as noted, Variance 2 has been revised so that the number of spaces affected by the variance is reduced to one. The overall number of parking spaces remains at 14. The revised plan (Exhibit 3) illustrates the revised parking plan. The reduction of one space increased the accessibility to the remaining parking space. Mr. Manett noted that there is no issue with respect to the land use; the office use is a permitted use in the employment area. The subject property is located just east of Kipling Avenue and is within 500 m of the Kipling subway station, a major transit station.

Mr. Manett described the subject property and location. Exhibit 2 is the Applicant’s Photo Book. He indicated that the subject property has a better parking arrangement and better landscaping than most properties in the area. Landscaping currently exists along the front. The current interior space is open and modern and the proposal is to expand this type of space into the area that was previously used for parking and storage.

Mr. Manett provided opinion evidence on the four 4 tests and applicable provincial policy.

With respect the Growth Plan and the Provincial Policy Statement (PPS), in his opinion, these documents generally do not apply to situations of a local nature such as the subject proposal; however, it is his opinion that the proposal supports the intent of these higher level policies by reinvesting in the employment area, supporting employment uses in areas close to transit nodes, and making more efficient use of land by intensifying an existing use.

With respect to the Official Plan, the employment designation permits the use. Exhibit 4 contains the relevant Official Plan policies. Mr. Manett referred to policies within Section 4.6. The Employment areas are where enterprises and jobs are intended to grow. The proposed development would provide the expansion of an existing, modern use.

Other relevant policies in Section 4.6 deal with reducing car traffic and encouraging alternative forms of transportation. The proposal to reduce one parking space will assist in achieving this policy. The Engineering staff use the standards in the new City By-law in reviewing the parking requirements and it is the relevant standard to use. The current employer actively promotes employees walking and cycling to work and public transit. The Official Plan policies also support providing adequate parking and loading which in Mr. Manett’s opinion the revised proposal addresses. In addition there will be

significantly more landscaping than other properties in the front of the building and some new landscaping of at the east end of the building to screen the parking as set out in the Official Plan.

In conclusion, it is Mr. Manett's opinion that the proposal development conforms to the Employment policies of the Official Plan and meets the intent and purpose of the Official Plan.

With respect to the Zoning By-law, there are two variances. The first variance relates to the number of parking spaces. The second variance relates to the width of the laneway in front of one parking space. In his view the revised plan provides an appropriate layout and a sufficient number of parking spaces. The intent of the By-law is to ensure that there is sufficient parking to support the use and that adequate access is provided. In his opinion, the revised variances meet the general intent and purpose of the By-law.

With respect to appropriate development of the property, Mr. Manett indicated that it is the intention of the owners to convert the former parking and storage space to office space so the expanded business can remain at the current, appropriate location in a designated employment area. The proposal provides an appropriate reinvestment in the area without creating any negative impacts on surrounding properties or businesses. It is his opinion the proposal represents an appropriate development of the property and supports the continuity of the Employment district.

In terms of minor, the requested variances relate to parking regulations. No other variances are required. In Mr. Manett's opinion, there will be adequate parking and loading for the existing office space and the proposed expansion. The reduction of 1 parking space and the reduced access width for 1 space is minor and appropriate for the use on the property. A traffic expert provided input into the redesign of the layout. If the proposal is approved, this Member is advised there would be no negative impact on adjacent properties and businesses. The variances will permit the business to expand and remain in the neighbourhood. Mr. Manett's opinion is that the variances are minor.

In conclusion, it is Mr. Manett's opinion that the requested variances individually and collectively meet the four tests for minor variances under Section 45(1) of the Planning Act, represent good planning and should be approved. He further notes there was no opposition from the neighbours and the Planning Department had no objection to the application.

ANALYSIS, FINDINGS, REASONS

The TLAB finds that the revised variances individually and collectively maintain the general intent and purpose of the Official Plan and the Zoning By-laws, are desirable for the appropriate development of the subject site and are minor. The Panel also finds that the Application, as revised, is consistent with the PPS and conforms to the Growth Plan.

The variances relate to parking and access. No other variances for use or other performance standards are required. The building and office use exist today and the

purpose of the proposed variances is to facilitate the expansion of the office space in the existing building. The variance to reduce the required number of parking spaces by one space is considered minor. The TLAB accepts Mr. Manett's position that City staff rely on the new City By-law standards to evaluate appropriate parking. The location of the subject property close to a major transit station provides support for the modest reduction in parking. The site plan was revised to eliminate a parking space at the rear of the building thereby improving the access to the one remaining space.

In conclusion, the TLAB finds that the appeal should be allowed and the application for variances authorized, subject to the conditions noted below.

DECISION AND ORDER

1. Section 200.5.10.1, By-law 569-2013

A minimum of 15 parking spaces are required.

Section 320-18.C (2)(f), Etobicoke Zoning Code

A minimum of 34 parking spaces are required

**Section 200.5.10.1, By-law 569-2013 & Section 320-18.C (2)(f),
Etobicoke Zoning Code**

A total of 14 parking spaces are to be provided.

2. Section 320-18.A, Etobicoke Zoning Code

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A total of 3.4 m will be provided in front of one rear parking space.

Conditions of Approval

1. The proposed dwelling shall be constructed substantially in accordance with the Proposed Parking Plan, filed as Exhibit 3 and attached as Attachment 1 forming part of this decision.

X



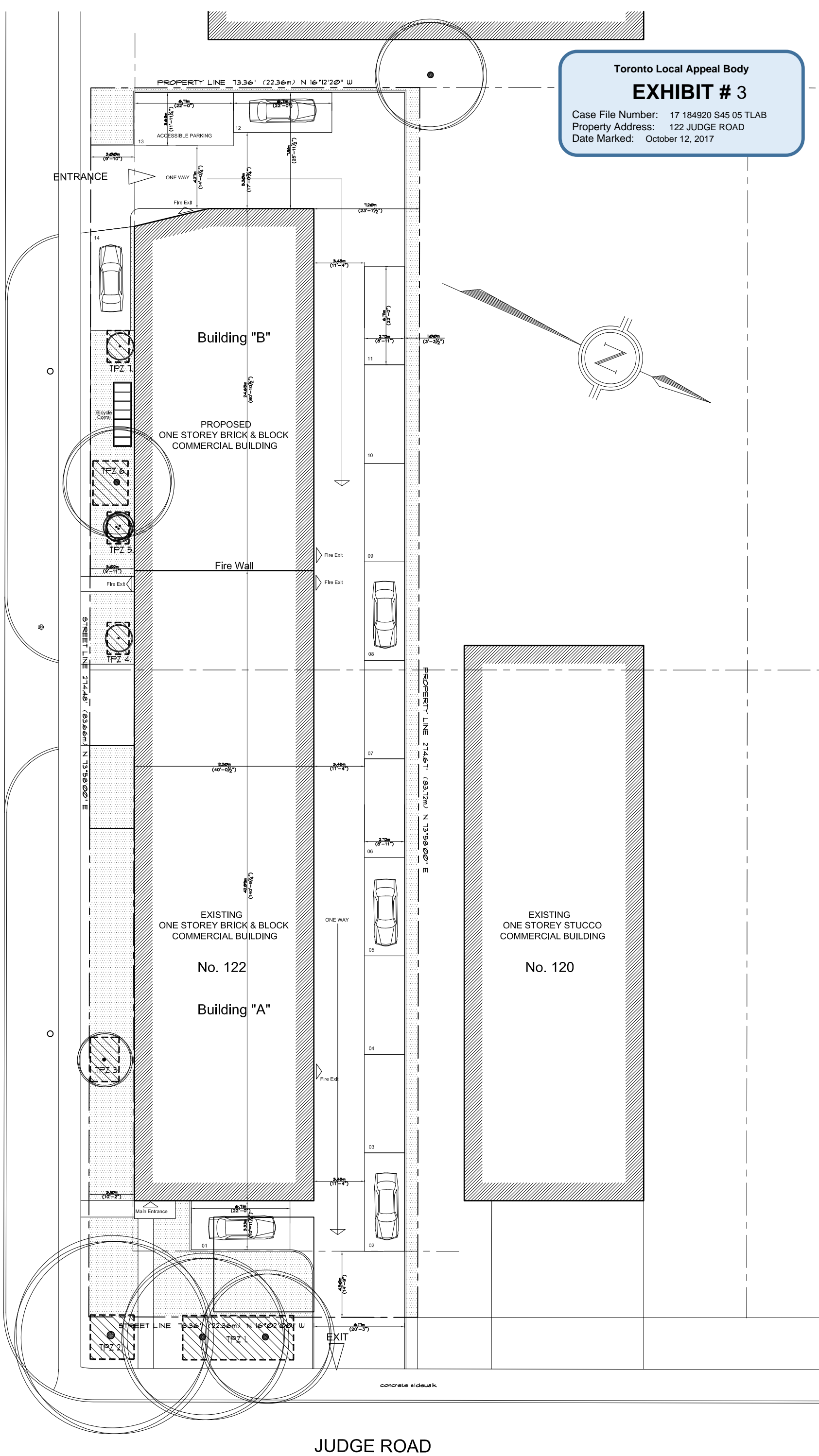
Laurie McPherson

Chair, Toronto Local Appeal Body

EXHIBIT # 3

Case File Number: 17 184920 S45 05 TLAB
Property Address: 122 JUDGE ROAD
Date Marked: October 12, 2017

SIX POINTS ROAD



JUDGE ROAD

PROPOSED PARKING PLAN Scale - 1 : 250