

DECISION AND ORDER

Decision Issue Date Friday, January 12, 2018

PROCEEDING COMMENCED UNDER section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): BHALWANT DEONARAIN

Applicant: 1893163 ONTARIO INC

Property Address/Description: 419 DUNDAS ST E

Committee of Adjustment Case File Number: 17 127700 STE 28 MV (A0292/17TEY)

TLAB Case File Number: 17 216588 S45 28 TLAB

Hearing date: Tuesday, January 09, 2018

DECISION DELIVERED BY: Ian James LORD

INTRODUCTION

This is an appeal by the owner from a decision of the Toronto and East York District panel of the Committee of Adjustment (the 'Committee') of the City of Toronto ('City') refusing zoning by-law variances sought for and applicable to 419 Dundas Street East (the 'subject property'). The variances that were requested and ultimately put before the Committee are identified on Attachment 1, attached hereto and forming part of this decision. Attachment 1 differs from the Notice of Decision mailed August 1, 2017, only in respect of Variance 6 under By-law 569-2013 (the 'new zoning by-law', still under appeal) and Variance 2 under By-law 438-86 (the 'current zoning by-law'). Both of these variances deal with a reduced height sought for the building before the Committee of 15.2 m, a reduction from the 15.96 m identified in the Notice of Decision.

I indicated at the outset that the site had been visited and the materials, pre-filed in accordance with the Rules, had been reviewed.

Mr. Bronskill appeared as counsel on behalf of the Applicant//Appellant and called Tae Ryuck, a professional land use planner, who was qualified to give expert opinion evidence, without objection.

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Several Participants addressed the appeal. Francis Sanderson spoke in support. Daxin Jin, abutting neighbor to the south and west at 275 Berkeley Street; Anthony Wallace, abutting neighbor immediately west of the subject property at 417 Dundas Street East, and Aksana Botnarenko, neighbouring owner to the south across Coatsworth Street at 269 Berkeley Street, all spoke in opposition to the variances.

Ms. Melisa Humm, a new resident at 269 Berkeley Street, was also allowed on consent to speak although she had not previously filed a Participant Statement, as required by the Rules of the Toronto Local Appeal Body (the 'TLAB').

Despite filing two Staff Reports with the Committee and referred to in the evidence, the City did not attend nor send a representative to participate in this appeal.

BACKGROUND

The subject property is a vacant parcel of land located mid-block on the south side of Dundas Street East, between Poulter and Berkeley Streets, immediately west of Parliament Street. The southern boundary of the subject property is on Coatsworth Street described as a laneway measuring some 3 m (12 feet) in width. Both Poulter and Berkeley Streets are one way northbound; Coatsworth Street is unrestricted movement except for its narrow width. Dundas Street East is a major arterial road immediately to the east of the central core of the City.

Previous uses were not described for the subject property. Its dimensions are a rectangular 5.13 wide by 34.75 m depth and an area of 172 m². By any measure it is a site of modest size and is currently fenced, more or less effectively. Its current use appears to be for occasional private parking accessed off Coatsworth Street.

To the east is a four-storey, multi-32 unit affordable/assisted housing project. As explained by Ms. Sanderson, its Board of Directors supports the development of the subject property as bringing positive housing and businesses to an otherwise derelict site. All witnesses who spoke to the issue were encouraged by the recent widespread Regent Park regeneration and reclamation projects occurring in close proximity.

To the west, Mr. Wallace's property is a two storey Victorian style residence also fronting on Dundas Street East. It would share a common lot line and an expression of sensitivity to the development project of the immediate neighbour is expected.

MATTERS IN ISSUE

The Appellant seeks the variances identified on Attachment 1 to construct a five storey mixed use commercial and residential apartment building. The project envisages two stories of commercial space above grade fronting on Dundas Street East, and three stories of walk-up residential apartment space above, with the upper two-storeys being two, two-storey units. The upper unit on the Dundas frontage is proposed to be set back on its upper (fifth floor) level, masking its appearance at grade as being a partial storey or more appearing somewhat above the apartment project to the east.

The Participants opposed the variances on somewhat similar grounds, principally: over development, accentuating neighbourhood concerns for noise, waste disposal; overlook (privacy); bulk form (height), and consequent reductions of sky views, light and air movement. Various relief was requested: from outright rejection of the appeal, to modifications involving undifferentiated reductions in density, building form and height.

JURISDICTION

Provincial Policy – S. 3

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2014 Provincial Policy Statement ('PPS') and conform to the Growth Plan of the Greater Golden Horseshoe for the subject area ('Growth Plan').

Minor Variance – S. 45(1)

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

EVIDENCE

The appellant and the participants are to be commended for their preparation and the quality and brevity of their presentations.

By all accounts the general area is a tightly knit, compact, active and dense area of urban development, with mixed commercial and residential uses fronting onto the arterial and residential to the north, south and with some fronting onto Dundas Street East. The built form of the residential, by way of general characterization, was described as having Victorian design elements in housing built in the 1800's with multiple upgrades and replacements, in a similar design motif, throughout and also in a dense urban fabric. Indeed, the neighbourhood character is pleasant, substantial, well maintained and apparently energized by redevelopment having occurred throughout.

Mr. Ryuck provided the applicable context elements of city planning documents of which many of the participants were either unfamiliar or felt were indistinguishable. The subject property is located in a Mixed Use Area designation and zone categories, permitting multiple use properties with guiding performance standards for density (fsi), setbacks, height and built form. To the south, across Coatsworth, land parcels are designated and zoned for residential uses in the classic Neighbourhood policy of the

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City Official Plan. These designations were described by the planner to have discrete and concrete policy distinction. The former, encouraging intensification and mixed uses of the nature proposed and the latter demanding more continuity, managed control of change, stability, preservation and protection of the character of neighbourhoods.

At issue here was whether the proposal appropriately responded not only to the encouragement of mixed use development on Dundas Street East appropriately, but did so with proper regard to transition to the Neighbourhood designation to the south.

Mr. Ryuck urged that it was the job of the zoning by-law to manage that transition recognized as occurring by the discrete designation. In his view, the adherence of the project to the use, setback, building depth, and design components of that transition did so and that the variances sought, to density (fsi), height, and the definition of parking stall size were minor and in keeping with those objectives.

He tried to explain his reasons for the opinion that the relevant statutory tests were met by the relief requested. Clearly the parking space reduction is the result of the narrow lot width. He explained the height increase continued to fall well within the angular plane guidelines as applied to the subject property.

No issue was taken with Mr. Ryuck's evidence that the Provincial Policy Statement, the Growth Plan and the Mixed Use designation on the subject property recognize, promote and encourage the optimization, use, compact form, infrastructure, intensification and transportation use objectives of development and the urban fabric.

He cited an absence of any unique or compelling shadow impact (Exhibit 6) as shadowing projects north and noted the site plan requirement for a 1.375 m widening dedication to Coatsworth Street.

He opined constructively on each element of the Official Plan, section 4.5, Mixed Use policies (Exhibit 5), items a) – j) also covered in his Witness Statement, paragraph 44, as to meeting the plans' general intent and purpose. No element of that evidence was contested. The list contains the substantive policy considerations applicable to evaluating infill proposals within the Mixed Use designation of the Official Plan.

With respect to the density variances, Mr. Ryuck asserted no adverse impact from the deployment of density either as between uses or the overall increases. In his view, adding height bettered the transition to the Neighbourhood designation as it permitted the built form to allow some 11 m of rear yard setback, over the 7.5 m permitted under zoning. He noted no discernable negative impact on the streetscape and suggested Dundas Street East would benefit from the 'animation', architectural treatment, fenestration and transparency proposed for two front storeys of commercial uses, likely office. No site plan concerns had been identified by staff following acceptance by the applicant of an overall height reduction to 15.2 m and proposed conditions relating to: a) elimination of fifth floor roof access, railing and balustrade, except for maintenance purposes; and b) removal of any amenity access to a fourth floor west wall indent providing light to bedroom space.

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Mr. Ryuck opined the request to permit 1.02x fsi for commercial uses over the permitted 1x was negligible in size and not discernable in scale. With respect to the requested increase in residential fsi to 1.55x fsi over the permitted 1x, he suggested that that resulted in no undue adverse impact and augmented the agreed need for new and varied housing opportunities, in this case four rental apartment units. The combined overall fsi increase of 2.57x over the permitted 1.5x was the product of the additions of these two contributory uses deployed evenly towards Dundas Street East and not over the entire site.

It was his summary opinion, again, uncontested by qualified expert testimony, that the zoning provisions were designed to ensure compatibility and not to require similarity to adjacent properties or any architectural theme. It was his opinion that nothing proposed would create an impact not found in kind or degree elsewhere in the area or was unacceptable on planning principles; as such, he stated his opinion that the variances created no adverse impact that was unacceptable and as such met the intent and purpose of zoning compatibility, were minor and produced a desirable contribution to city building.

In questioning, the Mr. Ryuck noted that no elevator was proposed for the building leaving accessibility issues to the site plan review process. Further, applicable zoning required neither the provision of parking nor loading spaces for the project, nor any rear yard setback relief.

Having mentioned the support of Ms. Sanderson, the issues raised by all the other participants demonstrated genuine concerns arising from the presence of the proposed infill project.

Ms. Jin reviewed the Examiners Notice (Exhibit 9) raising items described thereon in conjunction with her Participant Statement (Exhibit 10). I have reviewed these again as they focus on the issues of height, building location and proximity to bedroom windows in her converted garage space, adjacent the parking area proposed and currently used for vehicle parking, at the southwest corner of the subject property.

No excavation is proposed for this area or in the vicinity of the Yin residence.

On density, her concern for two (or more) floors of commercial space was partially anchored to an oblique sky view reduction, partial view and sun blockage, as well as incremental congestion. On height as well, she expressed concern for the invasion of privacy affecting her above grade deck, bedroom window as well as apprehensions of increased building mass.

In questioning, she was forthright in acknowledging that she was unfamiliar with or understand the import on the requested setback variance applicable to the fourth floor 'notch', did not know that the applicable rear yard setback was being met and exceeded, was not aware of the similarity of Official Plan and zoning permissions applicable to her own property and had not raised similar issues or opposed variances granted to 417 Dundas Street East, permitting a four storey addition for residential dwellings abutting her property - to the north and in closer proximity.

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Anthony Wallace spoke to his Witness Statement in a concise and prepared presentation statement (Exhibit 11), noting major issues to be adverse impacts on sun access, shadow impact, the proposed height and density, rooftop use, privacy and the failure to adequately and meaningfully engage the community following one meeting on project options.

Mr. Wallace revised his comments on the rooftop use on appreciating the intended removal of resident access, which he endorsed. He expressed concern that the shadow analysis did not consider the impact on his approvals being a proposed four-storey addition to 417 Dundas Street East. He pointed to a shadow impact prior to noon on his existing kitchen and rear bedroom windows during one of the specified study periods described in Exhibit 11. He suggested that an option for the applicant would have been to lower and stagger the rear building face as being a gesture of responsiveness and 'commitment' to the community.

As a neighbour, he challenged paragraphs 44, 59-63 of the Ryuck Witness Statement as misleading, noting anticipated privacy and shadow impacts on the Yin deck, the second floor commercial potential for noise adjacent his bedroom space, increased congestion generally and anticipated detrimental waste handling practices.

He suggested it was TLAB's 'duty' to uphold the decision of the Committee.

In questioning, he was aware of the similarity of Official Plan designation and zoning on his property noting however, that the applicant was seeking variances. He acknowledged, that he, as well, had recently sought and received similar zoning variances increasing permitted density to 1.95x the lot area, the height to 13.16 m and a reduction in the required rear yard to 5.5 m permitting a project of four storey massing at the rear of 417 Dundas Street East.

Aksana Botnarenko referenced, beyond her Participants Statement, significant filings, documentary evidence and photographs demonstrating concerns and considerable commitment to and tracking of the applications on appeal. Her property fronts on Berkeley Street running between it and Poulter Street to the east, flanking the south side of Coatsworth Street along the entirety of the block.

Her presentation, Exhibit 12, identified similar concerns to that expressed by Ms. Yin and Mr. Wallace: the amount of commercial space; building height and depth; the rooftop terrace; parking; loading, garbage handling; density and privacy issues of overlook.

She described well the consistency of character of the Victorian style residential neighbourhood, including some buildings within the Mixed Use designation and zone. She stated that four stories constituted the tallest building on the block and that existing second-storey uses were not commercial retail. She felt the project height and second-storey commercial space were pushing the boundaries of zoning and were, in part, the derivative of her concern over height, privacy, congestion, parking and waste removal conflicts. She described the neighbourhood, similar to Mr. Ryuck, as being congested and lacking in on-street and public parking. She described her property as being at risk of property damage being in the path of access/egress matters, given the narrow right-

of-way of Coatsworth Street and the blockage that could occur from service truck off-loading, parking manoeuvres and waste disposal. She anticipated adverse impacts arising from blockage of sky views, overlook into her 'fully exposed' backyard from new residences (including into bedroom windows and an interior patio space), and the related consequences of the density increase sought. She was frank to suggest that the variances 'might' increase problems already experienced from the congestion associated with the Dundas Street East properties and the arterials' use.

She said the owner had promised waste disposal would be contained on site in basement storage.

Ms. Botnarenko suggested the uses should require a loading zone space and that deliveries in the early morning and at night using the Coatsworth Street access will be disturbing. She thought more could be done to preserve area identity and safety for children through increased responsiveness in project design.

In questioning, Ms. Botnarenko acknowledged the Victorian character features that had been maintained were not the product of heritage listings, designations or a heritage district status under the Ontario Heritage Act. She had not objected to the approvals sought for 417Dundas Street East on the premise it was a 'single family dwelling', despite the application and approval for 'dwelling units' in a four-storey addition. She maintained that trip truck traffic use and the standing and loading of vehicles were an inevitable concern to the use and enjoyment of her property and its access.

Melisa Humm asked and spoke as a new resident to the community. She provided observations on the conduct of discussions and the evidence heard. While not the proper role of a participant, even one who had fulfilled the Rules and obligation for fair disclosure, she provided articulate and concise commentary. She identified the 'biggest issue' as miscommunication and the failure to convene a second meeting on project 'adjustments' and options. She noted as well, in line with the theme of apparent area congestion, that the 12 foot lane of Coatsworth Street afforded minimal access and safety for residents and the potential for a loading zone was unrealistic – as were the limited hours for vehicle parking on Dundas Street East. She suggested the inevitable consequence was added congestion and speculated as to who might be the 'residents' of the new space? She suggested that the neighbourhood had no option but to oppose the development, the tallest building in the block, albeit in the order of less than 3 m.

She criticized Mr. Ryuck as not being a resident in the community and, presumably, therefore unable to appreciate its values. In questioning, she opined that City Engineering and Planning Staff in their reports, Mr. Ryuck and the Ward Councilor were humans and had made a mistake in failing to oppose the project.

ANALYSIS, FINDINGS, REASONS

It is clear that the development of an unproductive vacant lot in a congested area warrants consideration for development and that such development is encouraged by Provincial and City policy direction and support.

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I have considered the decision of the Committee and the materials that were before it but was not, of course, privy to the consideration, discussions or rationale. I do not accept that the TLAB has a 'duty' to confirm the disposition by a Committee; to so conclude would negate the statutory direction of the appellate authority.

It is regretful that greater attention was not paid by the owners or its representatives to community consultation. It is an accepted element of proper community planning that dialogue and exposure of development projects affecting the public and that require planning approvals be the subject of meaningful community dialogue. Residents should not be presumed to be acting irresponsibly and a project having the endorsement of community interests is stronger for it.

Mr. Ryuck provided unchallenged expert opinion evidence as to the variances requested meeting the tests established in the statute. While his judgement was suggested as being mistaken, substantiated reasons must evidence omissions, oversights or error rather than simple bald assertions. In this case, much of the criticism of the variances sought surrounding the implications of development were not distinguished by a quantification of the extent, degree and contributory impact of the variance permission sought over 'as-of-right' development within the Mixed Use designation and Commercial Residential zoning applicable to the subject property.

Mr. Bronskill asserted that planning is a public interest contribution, and is not only reflective of the local interests. While I agree with this proposition, it is important to acknowledge, assess and apply well- presented local concerns to properly adjudicate the applicable assessment criteria to the public relief sought.

This is a process of proper perspective and purposive consideration. The variances sought must individually and cumulatively meet the statutory considerations above enumerated to be warranted. In Mr. Ryucks professional judgement they do.

His evidence was not before the Committee; in my consideration it was credible and did not omit consideration of anticipated impacts of height, use, service and access, built form, and environmental considerations.

At issue is whether he attributed too much weight to the policy support for the location of the site in an intensification area of Mixed Use on an arterial street, given the subject properties admitted size constraints.

The applicant seeks a height of 15.2 m and an fsi number of 2.57x the lot area, emphasizing increased residential apartment space with rear yard parking. Its fifth storey is set back effectively masking its appearance from street level.

The property to the east, I was told, achieved through planning relief, a height of 15.1 m and a density of 2.29x fsi, on a considerably bigger lot. It is built out as a four-storey apartment type residential building, with rear yard parking.

The property to the west achieved through similar planning approvals relief, a four-storey residential height of 13.16 m and a permitted fsi of 1.95x the area of its lot. While it is not yet built, the permission is recent and was unopposed on the evidence.

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I find these distinctions to be minimal in the circumstances of the subject property located on an arterial in a Mixed Use designation.

Perhaps the major distinction between the proposal sought and these adjacent approvals is the second-storey commercial use proposed. This was challenged as presenting or contributing to additional height, deteriorated area amenities through increased traffic and loading demands, potential noise and possible waste disposal unsightliness.

The applicants' planner described the second-storey commercial use as likely offices. In such a small space accessed by stairs, logic suggests that I agree with this as a practical expectation and permitted use. While the current perspective and design drawings interrupt a somewhat continuous external second-storey cornice line, I accept that glazing and open articulation of space can contribute positively to the ambiance, security, diversity and liveliness of the streetscape. I agree that the variances to permit and locate this space usage on this small property are minor in all senses of that word, including scale and impact. The height variance to the minimum height of the first storey also contributes to overall height reduction. To the extent those variances contribute to the public interest in the timely filling of this derelict and void space, I agree with the planner Ryuck that they are supportable. Non-residential uses on the second floor are a business risk to the owner; I accept the evidence that they are neither unusual in the immediate context nor in themselves indicative of undue adverse consequences, measured on the evidence, that takes them out of consideration because of contributing impacts, in an already existing dense urban fabric.

The evidence showed a consensus supportive of additional residential housing, whether in an extended assisted housing scheme or an independent project on the subject property. The owners of 417 Dundas Street East, to the west, clearly support that use with the recent four-storey dwelling unit approval sought and received.

The subject property asks increased density and project relief to accommodate residential uses. The generated unit count is very low at four dwellings. Due to lot size and enhanced rear yard setback, even with the commercial and the two (two-storey) units on floors four and five, the planner demonstrated ample height compliance with suggested angular plane controls applied to both street frontages. The height increase requested is consistent with adjacent properties and, while somewhat higher, is not out of context to a degree warranting reconsideration and revision.

The new Zoning By-law variance on the fourth floor level to accommodate an indentation to permit offset bedroom windows was not challenged and appears a desirable amenity to achieve light and air into appropriate space, provided it is secure and inaccessible to building occupants.

The revised project also responds positively to community values with features of the fifth storey setback, the removal of rooftop amenity space and the increased rear yard setback exceeding 11 m where only 7.5 m is required.

I am satisfied that these responses meet the zoning goal of transitioning between 'Mixed Use' and 'Neighbourhood' Official Plan designations. While a stepping down of

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the building was suggested, that trade off was not pursued with an evidentiary justification. It inevitably would bring mixed uses closer to the residences on Coatsworth Street and it is not the design with which the TLAB is charged to adjudicate.

It is clear that the proposed reduction in parking stall width is in aid of supplying recognized lawful parking permission at the rear of the subject property. This use is of concern to Ms. Yin given the proximity of a bedroom window on or near the mutual property boundary.

Parking in this location is an existing condition and is beneficial in the sense of the provision of off-street parking, given the existence of area demand and congestion. I accept that any project or no project at all has the likelihood of at grade parking in this location. It is not appropriate to employ the already cumbersome process of a Planning Act appeal to reverse an existing condition or the status quo; no improvements to the use of this space were proposed.

I accept that the parking width variance in this case is necessitated by the undersized width of the lot and that it is appropriate to recognize and maintain an existing condition. No parking space relief is otherwise requested as current and proposed zoning does not require either the provision of parking spaces or a loading space.

It is clear that the proposed building will add eyes on the street and, in the rear, overlook onto residential properties on Coatsworth and Beverley Streets. I have considered closely where the difference between 'as-of-right' zoning height, setback and existing and approved conditions dictate a materially different circumstance from the proposal. I cannot find that they do. Overlook is present and approved (for 417 Dundas Street East). The additional storey for which relief is requested is a two storey unit apartment residence. I find that the incremental overlook, even at the distance proposed, is minor and well within acceptable standards for a mixed use area within a dense urban fabric. Further intensification is permitted as of right and while it is an appropriate opportunity to review the proposal to ensure it does all it can for the overall betterment of the community within which it finds itself, it is another matter to demand more that the site or circumstances can or should deliver, or face frustration.

Compromises of increased traffic, privacy incursions, loss of views are all elements of urban living. They are a question of degree in the assessment of appropriateness. No evidence was led or substantiated that that the incremental increases sought by the variances amounted to the test level of unacceptable adverse impact. Indeed, almost no evidence was led to attempt a quantification of additional incremental impact tied to the variances appealed.

As such, I accept the opinion of the planner Ryuck, supplemented by the reviews of City Staff, that the degree of additional impact expected from the proposed project, inclusive of the variance permission, is no different in scale or kind from that already experienced in this local area. The increments reflected by the variances sought are a subset of that expected experience and were never quantified.

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The owners representatives accepted conditions satisfactory to City Staff and these are deserving of imposition: there shall be no rooftop patio on top of the fifth floor and no access other than for maintenance purposes. Similarly, there shall be no public access to the 'notch' on the fourth floor.

It was common to the evidence of Ms. Yin, Mr. Wallace and Ms. Botnarenko that the owner had proposed basement storage of waste. This was not addressed nor responded to in the owners' evidence. I am satisfied by the very real representations and photographs of the residents that waste and litter are an area problem and that efforts to avoid further contribution by this project are appropriate. The conditions will address the Staff concerns and add waste storage - all to be implemented both here and in the site plan approval process.


In any specific area with which I have failed to address, I accept the evidence of Mr. Ryuck as preferred. I do not believe he over emphasized the justification of the policy support for intensification in his support for the variance requests.

DECISION AND ORDER

The appeal is allowed and the variances detailed in Exhibit 7 and attached hereto as Attachment 1 are approved; and further that construction be generally in accordance with the Plans for the subject property prepared by Matthew P. Hickey issued under date of January 25, 2017 (Job 1350) and filed as Exhibit 4, all subject to the following conditions:

1. Access to the fifth floor roof shall be locked and used for maintenance purposes only; the associated railing (guard, balustrade, patio and amenity space thereon) shall be eliminated and such use prohibited.
2. Access to the outdoor area between the residential units on the 5th floor shall be from the fifth floor and for maintenance purposes only and shall not be used as a patio, amenity or recreation area for building occupants or invitees.
3. Provision shall be made in the basement or other space within the building or adjacent the main rear wall of the building for the solid and secure enclosure, receipt, storage and packaging of waste streams generated from the building, pending disposal.
4. That provision for items 1 – 3 be supplemented for inclusion not inconsistent therewith as a condition of site plan approval and any security required thereunder.

X



I. Lord
Panel Chair, Toronto Local Appeal Body
Signed by: Ian Lord

**LIST OF VARIANCES
(AMENDED)**

- 1. Exception 900.11.10(1915), By-law 569-2013**
Any part of a building above the first storey must be used for residential use. The new mixed-use building will have non-residential uses on the second floor in addition to the first floor.
- 2. Chapter 40.10.40.40.(1)(A), By-law 569-2013**
The maximum permitted combined floor space index is 1.5 times the area of the lot (259.29m²). The new mixed-use building will have a combined floor space index equal to 2.57 times the area of the lot (443.5m²).
- 3. Chapter 40.10.40.40.(1)(B), By-law 569-2013**
The maximum permitted non-residential floor space index is 1.0 times the area of the lot (172.86m²). The new mixed-use building will have a non-residential floor space index equal to 1.02 times the area of the lot (176.2m²).
- 4. Chapter 40.10.40.40.(1)(C), By-law 569-2013**
The maximum permitted residential floor space index is 1.0 times the area of the lot (172.86m²). The new mixed-use building will have a non-residential floor space index equal to 1.55 times the area of the lot (267.3m²).
- 5. Chapter 200.5.1.10.(2)(D), By-law 569-2013**
The minimum required width of a parking space is 2.9m.
The parking space will have a width of 2.29m.
- 6. Chapter 40.10.40.10.(2)(A), By-law 569-2013**
The maximum permitted height is 12.0m.
The new mixed-use building will have a height of 15.2m.
- 7. Chapter 40.10.40.10.(5), By-law 569-2013**
The minimum required height of the first storey is 4.5m.
In this case, the height of the first storey will be 3.23m.
- 8. Chapter 40.10.40.70.(2)(C), By-law 569-2013**
Where the main wall of a building has windows or openings, the main wall must be setback at least 5.5m from a lot line that is not adjacent to a street or lane.
In this case, the main wall will be setback 2.45m from the west side lot line.

9. Chapter 40.10.40.80.(2)(A), By-law 569-2013

Any main wall of a building where a main wall of the building has windows and a line projected at a right angle from one of these main walls intercepts another main wall with windows on the same lot, the minimum above ground distance between the main walls is 11.0m.
In this case, the distance between main walls will be 1.58m.

1. Section 12(2)101, By-law 438-86

No person shall erect or use a part of a building above the first floor for non-residential uses.

The new mixed-use building will have non-residential uses on the second floor in addition to the first floor.

2. Section 4(2), By-law 438-86

The maximum permitted height is 12.0m.

The new mixed-use building will have a height of 15.2m.

3. Section 4(17(a)), By-law 438-86

The minimum required width of a parking space is 2.9m.

The parking space will have a width of 2.29m.

4. Section 8(3), Part I 1, By-law 438-86

The maximum permitted combined floor space index is 1.5 times the area of the lot (259.29m²). The new mixed-use building will have a combined floor space index equal to 2.57 times the area of the lot (443.5m²).

5. Section 8(3), Part I 2, By-law 438-86

The maximum permitted non-residential floor space index is 1.0 times the area of the lot (172.86m²). The new mixed-use building will have a non-residential floor space index equal to 1.02 times the area of the lot (176.2m²).

6. Section 8(3), Part I 2, By-law 438-86

The maximum permitted residential floor space index is 1.0 times the area of the lot (172.86m²). The new mixed-use building will have a non-residential floor space index equal to 1.55 times the area of the lot (267.3m²).