

DECISION AND ORDER

Decision Issue Date Tuesday, June 05, 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): REBECCA KURULIAK

Applicant: DALES CONSULTING

Property Address/Description: 1316, 1318, and 1320 KINGSTON RD

Committee of Adjustment Case File Number: 15 187390 ESC 36 MV (A229/15SC)

TLAB Case File Number: **17 279436 S45 36 TLAB**

Hearing date: Thursday, May 17, 2018

DECISION DELIVERED BY T. YAO

APPEARANCES

Name	Role	Representative
Sunrise Gate (Kingston) Ltd	Applicant	Aaron Platt
Rebecca Kuruliak	Appellant	
Ryan Kuruliak	Party	
Shawn Boyd	Party	
Christie Lockhart	Party	

INTRODUCTION

Sunrise Gate (Kingston) Ltd is in the final stages of planning approval for a 30-unit condominium/retail building at 1316, 1318 and 1320 Kingston Road. Many City policies encourage this type of midrise building to help revitalize Kingston Road. Sunrise needs seven minor variances, which were granted by the Committee of Adjustment on December 7, 2017. Rebecca Kuruliak, 67 Briar Dale Boulevard, appealed and so this matter comes before the TLAB.

EVIDENCE

Mr. Andrew Dales, whom I qualified as able to give opinion evidence in land use planning, gave evidence in support of Sunrise's application. Two neighbours, Ms. Rebecca Kuruliak and Mr. Shawn Boyd testified in opposition to Sunrise.

BACKGROUND

The physical context

Sunrise assembled this property from three contiguous lots that contain one single detached house per lot. The lots front on Kingston Road and are about 33 m (110 feet) deep. The combined lots are at the west end of the block between Woodland Park Road and Queensbury Avenue. To the south on the other side of Kingston Road is the Toronto Hunt Club Golf Course. To the west, are a strip of bungalows, extending for about three blocks, designated as Neighbourhood in the Official Plan. To the north are single detached homes. Ms. Kuruliak's appeal is based on her assertion that the Sunrise building, being the end property for a strip of seven mid rise buildings, does not offer sufficient height and setback transitions to the bungalows and to the single detached homes to the north. None of those property owners sought to participate in this hearing.

The site and surrounding context are shown in Figure 1. Figure 1¹ is taken from the Kingston Road Revitalization Study, discussed later. The block contains two other mid-rise buildings both already built. Immediately to the east, is 1336, an older four storey apartment building. Next is 1340, a 2014 six storey mixed use building. On the other side of Queensbury is a second, larger mixed use building, 1336-1364 Kingston Road, now under construction. It will have nine stories.² All these buildings have zoning permission to build from 2 to 6 storeys. The apparent discrepancies between permitted

¹ All Figures and Tables form part of this decision.

² Mr. Dales' witness statement summarizes these projects: 1340 Kingston Road: On April 12, 2013, a site plan approval application was submitted to permit a six-storey mixed use building. The building has been constructed. It has 16 residential units and a commercial unit on the ground floor of 97 square metres. . . 1346-1364 Kingston Road: A site plan approval application was approved in 2015 to permit a nine-storey, mid-rise residential building occupying the entire block between Queensbury and Audrey Avenues. The building, which is currently under construction, will contain 80 residential units. . . .

height and the built form will be explained in the section entitled “Intent of the zoning by-law”.

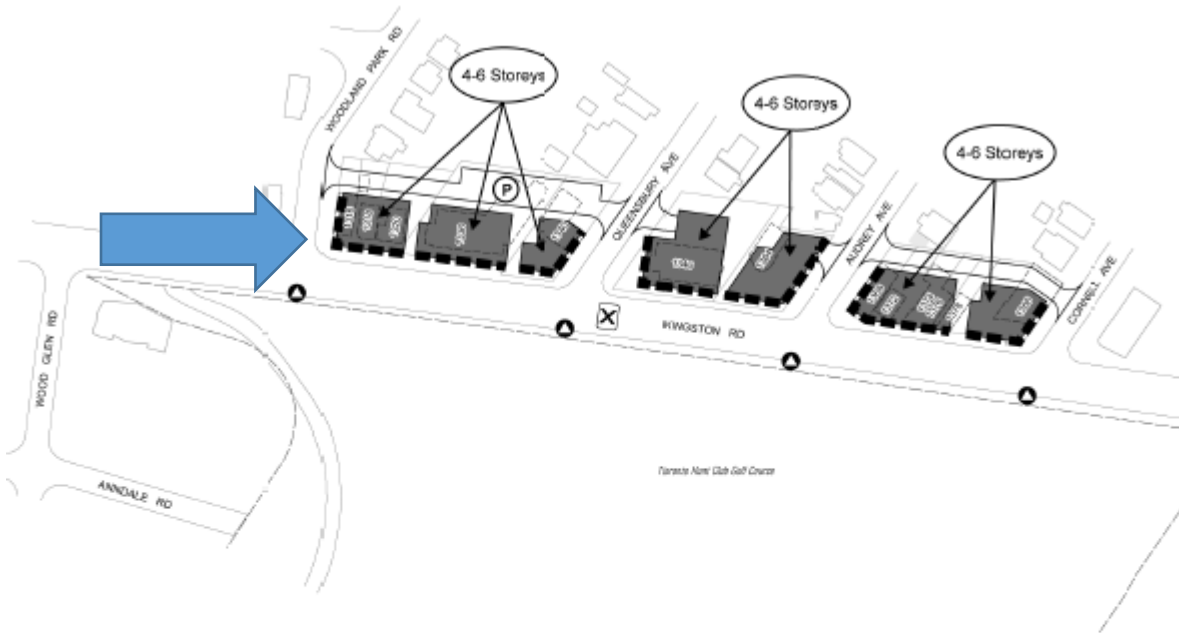


Figure 1. Concept Plan accompanying Revitalization Study, for Hunt Club area; dotted line shows Commercial /Residential Frontage on north side of Kingston Road

- Buildings**
- 4-6 Storeys
 - Commercial or Residential Frontage
- Movement and Connections**
- ⊗ Existing Pedestrian Crosswalk
 - Laneway
 - ⊙ Existing / Potential Parking Area
- Zoning/enhancements delineated on future "Site"

The Official Plan designation and zoning

In the site planning report that I will later call “Reany2”, Ms. Andrea Reany, senior planner, stated:

“The property is zoned Commercial Residential (CR) under the Birchcliff Community Zoning By-law No. 8786, as amended. The property is not subject to the City-wide Zoning By-law No. 569-2013. The site is designated Mixed Use Areas in the Official Plan. Mixed Use Areas are made up of a broad range of commercial, residential and institutional uses, in single use or mixed use buildings. Kingston Road is also identified as an Avenue in the Official Plan.”

Kingston Road Revitalization Study

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In January 2010, Council adopted a planning report, the Kingston Road Revitalization Study, which would, “result in a vibrant, mixed-use, pedestrian-oriented main street with beautiful streetscapes, high quality architecture, compatible development and economic prosperity.” The chronology was:

2005 Terms of reference established

2008 Phase 2 report – the Vision

2009 Phase 3 Report (the “Revitalization Study”), along with OPA 83 and amendments to the Birchcliff Community Zoning By-Law 8786. As well, the Revitalization Study resulted in adoption of urban design guidelines and a draft streetscape improvement plan.

2013 Technical amendments. The report states that after 2010, “Certain errors were identified whereby conflicting performance standards and zoning provisions do not accurately reflect the intent of City Council’s vision and the urban design guidelines adopted by Council in 2010. The proposed City initiated technical amendments to the Zoning By-law correct these errors and maintains City Council’s stated intention for this area.”

In 2009, Kingston Road was already an “Avenue” in the Official Plan, where growth is to be encouraged. The Official Plan amendments adopted as consequence of the Revitalization Study were rather modest; certain setbacks along Kingston Road became subject to pedestrian easements and one property at Fallingbrook was redesignated from Neighbourhoods (residential) to Mixed Use Area (commercial at ground floor).

Sunrise’s application is submitted in 2014

Sunrise originally made two preapplications to the City, on January and April 2014. It submitted plans for approval on July 15, 2014. Over the four-and-a-half year course of obtaining planning approval, four revisions of the plans have been made. While the number of stories (seven) has remained the same throughout, the number of units has been reduced from 33 to 30; the commercial component, originally 355 m² is now 297 m². The design has always respected the need to transition to the north by terracing the upper levels. The project has now received site plan approval, conditional on the requested minor variances being granted.

The Committee of Adjustment process

The first application to the Committee was in July, 2015. Staff requested the hearing be adjourned until discussions were held so that staff could support the proposal. By March 2017, Mr. Dales asked the Committee to convene the hearing. Prior to the meeting, local Councillor Gary Crawford convened a meeting amongst

residents, which was an extra step not required by the Committee of Adjustment process. After the meeting Councillor Crawford wrote:

The proposed development is well planned and welcomed by the neighbourhood. The Birch Cliff (sic.) Community can look forward to this building being a keystone for further rejuvenation within the community.

Notwithstanding, some residents, including Ms. Kuruliak, voiced opposition to the proposal so Mr. Dales requested that the Committee again defer deciding while Sunrise looked to see what could be done to alleviate their concerns.

There were major modifications involving the seventh floor mass. The rooftop mechanical equipment was made shorter, which was more costly than the original equipment. In place of an enclosed mechanical penthouse, the owner proposes to leave the equipment in the open, which will require visual and acoustical screening. This eliminated a variance for the footprint of mechanical equipment.

The stacker parking system was modified, to eliminate a variance for number of parking spaces. I infer that Ms. Kuruliak and Mr. Boyd are motivated by traffic issues in their neighbourhood, which they continue to pursue through enforcement and dialogue with Councillor Crawford. In response to their concerns, Sunrise has eliminated the need for any parking space variance even though this building will be on a transit corridor.³

These changes were presented at a second public meeting convened by Councillor Crawford. (The first meeting was June, 2017 and this second “extra-process” meeting was August, 2017.) According to Ms. Kuruliak, Councillor Crawford told her at one point that he would “remain neutral”, but it is not necessary for me to make a finding on this issue. While it is helpful to have a political representative’s views, it is but one of the pieces of evidence that goes toward the interpretation of the Official Plan and zoning by-law and compliance with the *Planning Act*.

³ Mr. Dales wrote: “Parking supply was increased. To address the community concern that parking supply would not be sufficient to satisfy parking demand from occupants and lead to traffic and parking impacts on neighbouring streets, the parking supply was increased by slightly reducing the width of the parking stacker bays by 20cm (about 7.85”). This modification permitted the design to include an additional parking stacker bay with three parking stalls. This increased the parking supply from 31 to 34 parking spaces (32 parking stackers and 2 parallel spaces) As a result, Variance No. 7 [at that time] was redundant as the proposal now complies with the zoning bylaw’s requirements for parking supply. The parking stacker manufacturer has indicated that even with the modest reduction in width by 20cm per bay, the parking stackers will be: 1) the stacker system with the widest stalls that they have installed in Toronto and 2) more than adequate to accommodate the vast majority of vehicles on the market. “

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Sunrise returned to the Committee in December 2017, which granted it the variances set out in Figure 1.

Table 1. Variances from By-Law 8786			
		Required	Proposed
1a	Building Height	6 Stories	8 Stories
1b		20 m.	25.86 m
2.	Levels 2 to 5 setback to main wall abutting a public street (Woodland Park Road) ⁴	1.5 m	0 m
3.	Parking space width to be increased by .6 m. Length deficient by .535 m.	3.2 m wide by 5.6 m long.	2.5 m wide by 5.065 m long;
4.	Amenity room (such as a fitness room) located in basement	no	yes
5.	Canopies project over front (south) property line ⁵	Should not exceed property line	Exceeds property line
6.	North side yard setback (accessible parking space only) ⁶	1.5 m	0 m
7	Portion of building located too close to Woodland Park Road ⁷	1.5 m	0 m

⁴ This is my interpretation of the variance requested. The Notice reads “296. Side yard setback at Woodland Park is 0 [m]. Level 5 floor level now 13.68 m above established grade. Level 6 floor level is 16.63. Height between level 5 floor level and level 6 floor level is required to be set back an additional 1.5m from main wall. Height between floor level 5 and floor level 6 is in line and not setback an additional 1.5m. Does not comply.”

⁵ This was not discussed in detail by either side. I gather that sidewalk improvements at grade will result in a new “property line” and this variance is a consequence of such negotiations.

⁶ Zoning notice Nov. 15, 2017: All canopies on south elevation encroach over front property line. No part of structure, roof, eaves, footings, weeping tile, etc. shall encroach or exceed property lines. Does not comply.

⁷ Zoning notice Nov. 15, 2017: 291. Minimum building setback of 1.5 m from a lot line abutting a public street other than Kingston Road. Minimum required building setback of 1.5m required from Woodland Park Road. Proposed setback from Woodland Park Road is 0. Does not comply.”

As set out in the Introduction, Ms. Kuruliak appealed this decision, which came on for a TLAB hearing May 17, 2018.

MATTERS IN ISSUE

A decision of the Toronto Local Appeal Body must be consistent with the 2014 Provincial Policy Statement and conform to the 2017 Growth Plan of the Greater Golden Horseshoe. This application and the Revitalization Study responds to both documents; (the Revitalization Study has a long discussion of both documents.) Clearly, the revitalization of Kingston Road is an attempt to make the best use of infrastructure improvements (public transit, road, sidewalks etc.) and to intensify in settlement areas, so I consider this decision at least consistent with, and conforming to these “high-level” policies.

The TLAB Panel must also be satisfied that the applications meet all the four tests under s. 45(1) of The *Planning 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.

ANALYSIS, FINDINGS, REASONS

Ms. Kuruliak and Mr. Boyd conducted a very able case, filing hundreds of pages of material. However, I ultimately do not find that they persuaded me that the project runs contrary to the intent and purpose of the Official Plan and zoning by-law. Both of those documents, when read together, show the intent is a combination of demands — for example, a consistent street façade, revitalization of a declining area, intensification, protection of adjoining residential areas, provision of public art etc.

I state their presentation was “able”, while at the same time disagreeing with their position. This was a difficult case with a complicated zoning and building form. Anyone attempting to ascertain the intent of the zoning by-law must first read it. The Scarborough zoning by-law⁸ refers to performance standards such as height and angular planes by numbers, so that to “read” the revitalization by-law requires constant reference to the Birchcliff Community Zoning By-Law 8786. This document is not available on line, so a citizen must go to a planner to find a copy to determine the intent and purpose of the zoning to assess whether the minor variances meet the statutory tests.

In support of her appeal, Ms. Kuruliak quoted a phrase in the Revitalization Study: “intensify residential uses through modest developments but not tall apartment buildings.” This was not a conclusion of the study, but a summary of resident concerns, expressed

⁸ Zoning By-Law 1055-2013

at open houses, and local advisory committee meetings. It is not a statement of the goals of the Revitalization Study.

The reasons for this decision will rely heavily on the written comments of Ms. Reany, the previously mentioned planner, who wrote the site planning report (Reany2), dated May 16, 2018 (one day before the TLAB hearing). It advises that City Planning is ready to approve the site plan, if the minor variances are granted. Her first report, (“Reany1”) written July 7, 2017, was a background report to the Committee of Adjustment for the July 2017 meeting, in support of the 9 variance application. (It may be recalled that this was pulled, at Sunrise’s request, to permit a second informal public meeting and that, the at the second Committee hearing, the number of variances were reduced.)

Reany2 notes that:

. . .the proposal has been through extensive review by various City Divisions and external agencies whose comments have helped to inform and guide revisions to the proposal and the required supporting studies.

Although the following discussion focusses on the performance standards (i.e., height, angular planes), the Revitalization Study dealt with many more issues: trees, transit improvements, public art, bike lanes, struggling retail strips, Toronto owned parking lots, Toronto Green Standard (energy use etc.), parks and open space, community services, s. 37 (density bonus) and water services deficiencies. These are relevant when Official Plan intent is considered. The Plan says, “everything is connected to everything in some way” (page 1-4). That is, the larger planning goals have to be considered. This was a limitation of the appellant’s case; a failure to consider the need to “incentivize” new construction along Kingston Road since the goal of a well-functioning “main street” was not happening without encouragement.

Through the design iterations, Mr. Dales said that sometimes separate City Divisions had different views; for example, Urban Forestry wished a city owned tree to be retained, whilst Transportation wished a city-owned tree to be removed (to enable a side walk to be erected along the Woodland Park flankage.) Transportation ultimately prevailed. The report notes input was obtained from Solid Waste, Fire Services as well as Community Planning. I consider this extensive input from multiple expert sources, to which Sunrise has responded, in good faith, to be persuasive in finding the variances to be “desirable for the appropriate development of the land”. They are “appropriate” because both the shape of the building and its functioning have been carefully considered.

Height and west side yard setback

Ms. Kuruliak’s appeal letter states:

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After extensive public consultation in or about 2007⁹, the site of the proposed building was re-zoned from residential to commercial-residential. This change was approved on the understanding that all future buildings on this site and on lots to the east would be limited to no more than 6 storeys tall with an overall maximum height of 20 m.

The Appeal letter goes on to say:

We submit that the builder's request to exceed the maximum height by 2 full storeys and 5.86 m (or 29.3%) is not a "minor variance" and should not have been approved. Indeed, the Committee's decision ignores the fact that this site is supposed to be one which transitions from an uninterrupted row of single-storey homes to the west (and one- and two-storey homes in the adjacent neighbourhood) to a series of 4 to 6 storey buildings to the east. The height and location of the proposed building fails to do so. Instead, the location and degree to which the proposed building exceeds the maximum height permitted effectively neuters the vision that the Scarborough Community Council and local community had for the revitalization of this area of Kingston Road when approval to re-zone the site was granted. As such, the proposed building's height is neither desired nor in keeping with the neighbourhood and its vision for the revitalization of this area of Kingston Road.

Sunrise is not seeking a variance for "2 full storeys". The eighth floor will not contain habitable space. It consists of the mechanical penthouse plus an access stair landing. The zoning allows for a 20 m building with an additional 5 m for a mechanical penthouse and, in that respect, Ms. Kuruliak's statement that the height limit is exceeded by 5.83 m is somewhat misleading by omission. The height of the seventh floor roof is 23.1 m and so the 5.83 m is comprised of 3.1 m to top of the main roof and 2.76 m for the roof to the access stair landing. Without the latter feature, a mechanical penthouse would fit within the 5 m allowance.

In Reany¹, Ms. Reany commented on a height variance now not at issue. It was slightly more than what Sunrise seeks in the current iteration (26.13 m vs. 25.83 m). Yet she considered the height variance "appropriate for this site and the surrounding context."

Intent of the zoning by-law

I find the additional seventh storey and the slight increase in height are minor and meet the intent of the zoning by-law. In ascertaining intent, the whole of the zoning regime must be examined, as well as the appropriate contextual legislation. The following bullets set out some of the zoning objectives of the Revitalization Study (with my comments on Sunrise's proposal for comparison):

- Delete obsolete land uses such as highway commercial and introduces Commercial Residential;

⁹ I believe Ms. Kuruliak was referring to the Revitalization Study, approved by Council in 2010.

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- Minimum building heights of two stories;
- Maximum building heights of from four to eight stories, depending on the depth of the lot (the subject lot is shallower than others);
- Angular planes measured from the furthest edge of adjacent laneways (Note: there is no public laneway at the subject site);
- For six story buildings a maximum density of 3.5 (Note: the subject site is 3.2);
- No gaps in massing to define a consistent wall for the streetscape (Note: the building is virtually at property lines to the east and west);
- Front yard setbacks of zero to encourage a main street. (Note: this is applied to subject site; however, the authors of the Study noted narrow rights of way for Kingston Road would constrain the public boulevard.);
- Rear yard setbacks of 7.5 m (Note: the subject's rear yard setback is 9 m);
- Minimum ground floor ceiling height of 4.5 m (Note: subject complies.);
- Appropriate parking requirements as contained in the current Birchcliff zoning bylaw 8786. Parking not to be visible from Kingston Road (Note: the subject complies.);
- Bicycle parking for new residential construction (Note: the subject complies.).

I find fulfilment of these objectives strongly suggest the variances meet the intent of the zoning bylaw. This is further demonstrated when we consider how the Committee has interpreted the same zoning for other similarly situated sites. We consider:

- the subject site (1316, 1318, and 1320);
- the four storey building site to the east (1340);
- the nine storey building across Queensbury Avenue, one block east (1346 -1364); and
- the eight storey building at Cornell, 2.5 blocks east, (1390-1400).

All the sites are subject to Zoning By-Law 1055-2013, enacted July 19, 2013 (please see Figure 2, below) and given the height limitation coded as "284":

284. Minimum of two storeys and a maximum height of 6 storeys, excluding basements and rooftop mechanical penthouses, not exceeding an overall height of 20 m.

From Figure 1 (page 3), all these buildings are intended to be “4 to 6 storeys” in

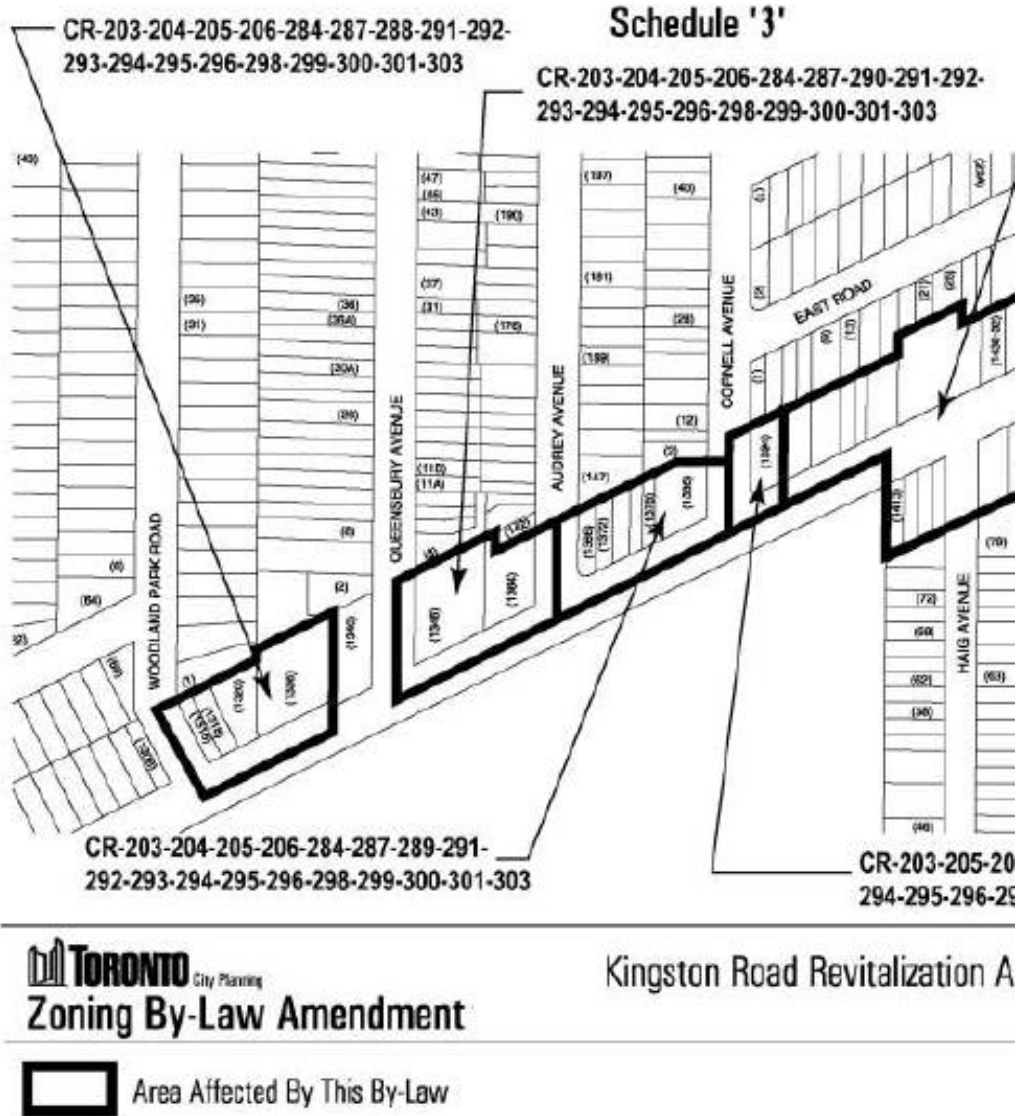


Figure 2. Zoning showing the properties with the “284” performance standard (from By-law 1055-2013)

the concept plan, with a strong Kingston Road street frontage line and public art at the south side of each of the various T intersections. As far as I can tell, all have sought height tweaks through the minor variance process.

For No. 1340 Kingston Road (NW corner of Queensbury), in 2013, the Committee authorized a roof access stair vestibule, like the subject, but at the seventh level instead of the eighth. However, this had the effect of making it legally a seven storey building. The Committee also authorized a height variance to 22.9 m.

For No. 1346-64 Kingston Road (NE corner of Queensbury), in 2015, the Committee authorized 9 stories on a land deeper than the subject site. It also approved a height of 28 m excluding rooftop amenity spaces, stairwells and mechanical penthouses.

For 1390-1400 Kingston Road, north east corner of Cornell Ave (Cornell is the last or easternmost cross street before Warden), with a 284 height limit (not shown in Figure 2 because it is off the cropping), the Committee granted it minor variances for eight storeys and a height of 22.5 m, exclusive of mechanical penthouse.

Mr. Dales' position was that the 6 storey limit is not an absolute, but a "low bar" — beyond which the builder would have to submit to the minor variance process. Perhaps a better phrase is "entry point beyond which a comprehensive analysis is required". From the above, the Committee of Adjustment does treat the 284 limit as an entry point.

Variations 2 and 7

Variations 2 and 7 dealt with the setback from Woodland Park Road. Mr. Dales' description was:

The proposed variations are to permit a setback of 0 m from Woodland Park Road (west lot line), for the second to fifth floors, with stepbacks exceeding the required 1.5 metre requirement but starting at a height of 17.18 metres instead of the required 14 metres.

After discussing the implications of the curve rounding, which reduced the first-floor setback to zero, Ms. Reany (the City Planner) stated: "The remainder of the west side of the **ground floor** was variable and above the setback requirement. The **levels above** "project closer to the street line" (Note: in the present application, it is zero). She concluded that:

Given the property configuration, considerations of pedestrian sidewalks both on site and within the Woodland Park right-of-way and landscaping along Woodland Park Road, the setbacks are considered acceptable and appropriate at this location.

Ms. Kuruliak stated:

The west wall, with the predominantly glass wall, we find it to be very intrusive, into our neighbourhoods...and we just find it invasive of the privacy of the surrounding neighbourhood and given the lack of setback in the makeup of the west wall, we feel there has been no steps to mitigate this impact on us.

For upper floors 2 to 6, the building is lot line to lot line although the legal setback is given for the Woodland Park flankage. This is in keeping with the no gaps vision expressed in the Revitalization Plan. Surely it is unreasonable to expect that the upper floors have a blank wall, particularly when this building is expected to provide landscaping and high quality hard surfaces where none presently exist along Woodland

Park, to enhance the pedestrian experience. Nor do I accept the overlook argument is related to the lack of setback. This is a 1.5 m variance on a wall facing the street; from the back yards, the difference is imperceptible.

Angular Planes

Ms. Kuruliak stated:

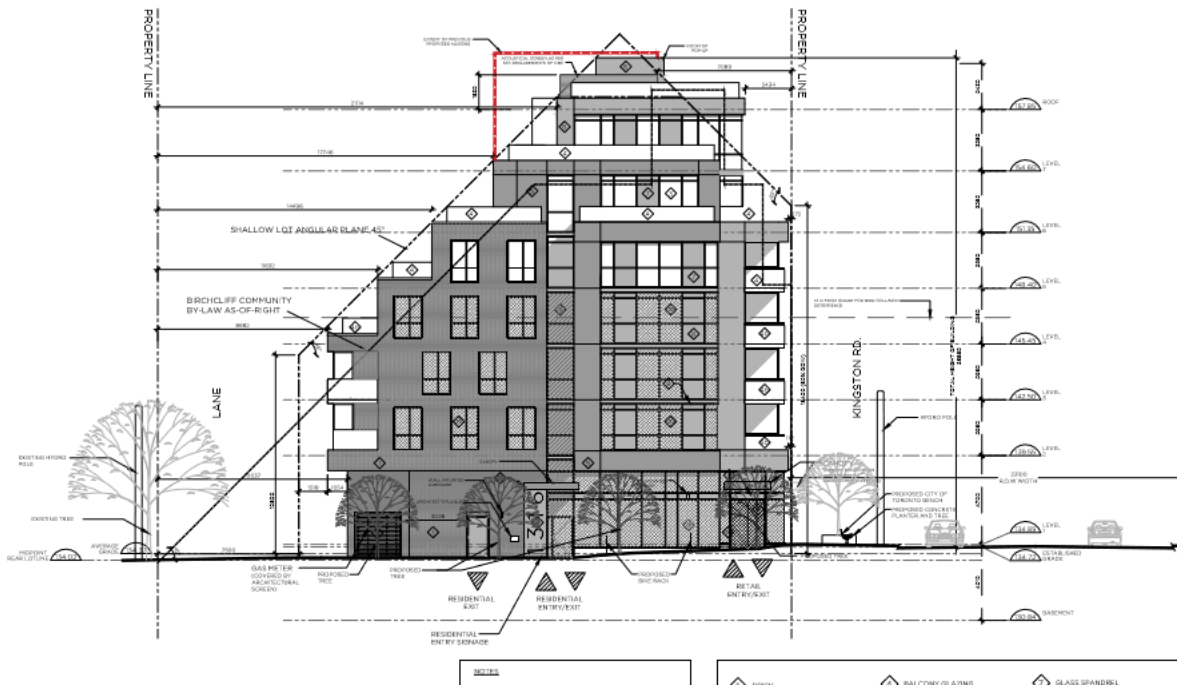
So, Mr. Dales showed this morning [the angular planes] so for the first few floors. The setback is supposed to be 1.5 [metres] and for the higher floors it is supposed to be an additional 1.5, so this morning he showed that chunk of building that they're asking for, so we feel that this extra section is not necessary.

Ms. Kuruliak's "chunk" is actually the "corners" of floors 3 to 7 that project higher and to the left of the lower solid line marked "Birchcliff Community By-law as-of right". The heavy black line outside the angular plane at floors 6 and 7 represent modifications made between the July and December 2017 Committee of Adjustment hearings.

Mr. Dales' position was that while the increased mass does exceed the specifications of 294 of the Birchcliff zoning in a minor fashion, it does meet the "shallow lot" standard in the City's Avenues and Mid-Rise Buildings Study¹⁰. This 2010 Study is a well-researched study independent of the Revitalization Study and used by planning staff on a consistent basis across the City. The Study's authors point out that mid rise Avenues have the potential to house 250,000 residents, which is consistent with the goals of the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe. The Mid-Rise Study states:

"The Avenues policies in the Official Plan are intended to help the City direct growth to key main streets, and area with existing infrastructure, including transit, retail and community services while protecting the character and stability of existing adjacent neighbourhoods. The character of growth that will occur through mid-rise build form will

¹⁰ The Study's authors are Brook Mclroy Planning + Urban Design Pace Architects, E.R.A architects, Quadrangle Architects Limited and Urban Marketing Collaboration. Mr. Dales wrote, "As a result, the City's Avenue & Mid-Rise Guidelines provide that a 45 degree angular plane is to be maintained from a height of 10.5 metres above grade from a point 7.5 metres *from* the north property line. The zoning by-law imposes a 45 degree angular plane commencing *at* the rear property line."



recognize the unique connection to these neighbourhoods through a development for

Figure West elevation. The projections of the angular plane are at the top left.

that is moderate in scale and reflects high quality design and materials.

The Study goes on to recommend policies and processes to develop well designed mid-rise buildings. These include “updating the zoning that reflects the Official Plan” and providing “compliance alternatives for constrained sites”. Thus, to determine the intent of the zoning by-law and Official Plan, as well as establishing consistency with Provincial Policy, the Design Guidelines must be considered.

The objectives of the Mixed-Use designation (i.e. the Official Plan) and zoning are to *revitalize* Kingston Road, and thus the shape and massing address a very complex objective. The Revitalization Study stated at page 19:

The retail and commercial sector along this stretch of Kingston Road is suffering and in need of revitalization. ... some retailers struggle to pay their rent and risk having to leave the area due to lack of patronage. . .

Kingston Road is designated as Mixed-Use Area and identified as an Avenue in the Official Plan. Such areas are intended to incorporate diverse uses such as retail and residential in a unified built form. They are intended to serve as growth areas and are

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intended to be vibrant communities where the streets are animated by population living nearby. A strong commercial presence is vital to ensuring this happens.

Accordingly, I find the small exceedances in angular planes maintain the intent and purpose of both documents and satisfy the other statutory tests.

Other variances

The stacker parking spaces are “thinner”, i.e., have substandard width than the by-law permits. Mr. Dales said this was a technical variance and he disputed the plan examiner’s interpretation of “obstruction”, which did not contemplate a parking space in a stacker system. He said that the stacker could accept an Escalade. Ms. Kuruliak and Mr. Boyd did not wish the stacker limitations to contribute to current on-street neighbourhood illegal parking. This is an ongoing issue, common to many parts of the City and some visitors or residents of the Sunrise building may indeed attempt to park on adjoining streets. However, I find the thinner stacking module variance minor and note total available parking is increased in comparison to the earlier proposal.

The by-law forbids amenity space, for example, a gym with stationary bicycle, in the basement. I find this variance only concerns the residents and is not of neighbourhood concern. This is minor in impact and suitable for the use of the land.

The north side yard setback is for an accessible parking space only; the setback is maintained for the remainder of the lot line and mature trees are preserved which is appropriate and desirable.

Conclusion

All variances singularly and collectively maintain the intent and purpose of the Official Plan and zoning and satisfy the other tests of being minor and desirable for the appropriate development of the land. The appropriate development is a mixed-use building that will offer a strong Kingston Road frontage, make use of transportation facilities (road, biking, public transit) and provide street level retail. It is consistent for the vision for this area, as expressed in the Official Plan and Zoning Bylaw.

DECISION AND ORDER

I authorize the variances set out in Table 1 on condition that:

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The owner shall submit a complete application for permit to injure or remove privately owned tree(s).

The owner shall [also] submit a complete application for permit to injure or remove City-owned tree(s). A Contractor's Agreement to Perform Work on City-Owned Trees will be required prior to the removal of the subject tree(s).

X



Ted Yao
Panel Chair, Toronto Local Appeal Body
Signed by: Ted Yao