

# DECISION AND ORDER

**Decision Issue Date**      Wednesday, August 15, 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): CITY OF TORONTO

Applicant: SCOTT POMEROY

Property Address/Description: 75 EASTDALE AVE

Committee of Adjustment Case File Number: 17 248252 STE 31 MV

TLAB Case File Number: **18 145032 S45 31 TLAB**

**Hearing date:**      Monday, August 13, 2018

## DECISION DELIVERED BY

## APPEARANCES

Name	Role	Representative
Capreit Apartments Inc	Applicant/Owner	Scott Pomeroy, Georgeta Morar, Gopal Mailwaganam, Alex Pike
City of Toronto	Appellant	Kasia Czajkowski

## INTRODUCTION

Capreit Apartments Inc<sup>1</sup>. proposes to remove and fill in an existing indoor/outdoor pool to create two new dwelling units. The remainder of the indoor

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<sup>1</sup> Which I will just call "Capreit" from now on.

amenity space will be renovated to create a media and party room. An existing squash court will be converted to a use to be decided by the tenants with the assistance and input of local Councillor Janet Davis.

## **BACKGROUND**

This is a settlement between the City of Toronto and the owners of the apartment at 75 Eastdale Avenue. In my view, the principles in the TLAB case of 263 *Gamble Ave* are applicable: The TLAB does not “rubber stamp” settlements but must exercise its decision-making respectfully and independently, but when one party is the City and there is a public benefit or public interest served, the TLAB will give a settlement great deference. I do so in this case.

About two years ago Capreit sought a building permit to refurbish its common areas. The apartment building consists of 234 units plus a number of townhouses all being situate in the Danforth/Main Street area. At first it sought to create shared living accommodation for some of its units to accommodate Syrian refugees. Although the Mayor and City staff were involved, after much discussion, it was decided that rooming house regulations and zoning made this impossible. Capreit scaled down its plans to deal only with the swimming pool and change rooms. The pool has been unused for about 10 years and is open to the elements.

The variances sought are set out in Table 1. There are two by-laws being considered because there are still appeals of the later by-law (569-2013) and until they are resolved, the Buildings Department requires applicants to seek variances under both By-law 569-2013 and its predecessor (in this case a site-specific by-law of the former City of East York.)

<b>Table 1. Variances sought for 75 Eastdale Ave</b>			
		Required	Proposed
<b>Variances from City-wide harmonized By-law 569-2013</b>			
1	Maximum number of apartments permitted by site specific by-law	227	236
2	Minimum number of parking spaces	275	251
3	Number of dwelling units	243	252

4	Indoor amenity space	2 m <sup>2</sup> per dwelling unit or 2 x 236 = 472 m <sup>2</sup>	154.7 m <sup>2</sup>
		Plus 40 m <sup>2</sup> outdoor amenity space adjacent to indoor amenity space <sup>4</sup>	1720 m <sup>2</sup> of outdoor amenity space is provided; however it is not adjacent to indoor amenity space
<b>Variances from former Borough of East York zoning by-law 6752 exception RA 385</b>			
1	Maximum number of apartments permitted by site specific by-law	227	236
2	Minimum number of parking spaces	275	251

The pool will be filled in, proper windows installed, and the former pool space converted to two new two-bedroom apartments. In Mr. Pomeroy’s experience (Mr. Pomeroy is Capreit’s architect), the parking space variance is appropriate; this is only a 1% increase in units and although there is underground and at-grade space for 251 cars, the parking is never fully used. With respect to amenity space, this is being modernized and the total proposed amenity space of 1874 m<sup>2</sup> exceeds the required amount of 944 m<sup>2</sup>.

I think this is reasonable and as a result these variances meet the general intent of the zoning by-law.

Mr. Pomeroy also set out how the variances meet the policy criteria 4.2 of the Official Plan, particularly the sections referring to amenity spaces and ground level animation<sup>2</sup>. The increase in the number of apartments is a compatible infill renovation that accommodates growth without significant change to the character of the neighbourhood. City planning staff worked collaboratively with Capreit in every aspect and are supportive of the proposal. A City planning report (authored by Derrick Wong) dated March 26, 2018 set this out along with conditions to be imposed. Unfortunately, the report did not reach the Committee of Adjustment in time and on March 28, 2018. it

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<sup>2</sup> 4.2 Development Criteria in Apartment Neighbourhoods 2. Development in Apartment Neighbourhoods will contribute to the quality of life by: d) including sufficient off-street motor vehicle and bicycle parking for residents and visitors; f) providing indoor and outdoor recreation space for building residents in every significant multi-unit residential development; g) providing ground floor uses that enhance the safety, amenity and animation of adjacent streets and open spaces; . . .

authorized the variances with only condition 10. The City appealed, but only to secure those conditions, which have been agreed to, and at the TLAB hearing on August 13, 2018, this was all explained to me.

The variances Conditions #1 to 5 have to do with the interior renovations as discussed above. Condition #6 is a recognition of an existing grassed area used as a park for residents of the complex. Condition #7 is a commitment by Capreit to build a tot lot for the residents of the townhouses, but accessible to the tower residents as well. All conditions are to be secured by a s. 45(9) agreement (# 8 and 9).

## **MATTERS IN ISSUE**

There are no matters in issue. Mr. Wong's report indicates that staff consider that these variances are consistent with and conform to higher level Provincial documents and with the four tests under s. 45(1) of the *Planning Act*, namely that 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.

I agree that this is the case and make findings consistent with Mr. Wong's report.

I thank the above-mentioned persons for their cooperation and settlement. As I stated to those in attendance if there are errors in this decision, could the parties please email the TLAB.

## **DECISION AND ORDER**

I authorize the variances in Table 1 on the following conditions:

1. A minimum of 48 square metres of indoor amenity space is to be provided and maintained for the purpose of a party room accessible to any and all tenants of the building.
2. The party room is to be appropriately furnished for gatherings and include a kitchen with a sink, a microwave and a refrigerator.
3. A minimum 62 square metres of indoor amenity space is to be provided and maintained for the purposed of a squash court OR partial basketball court OR

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fitness area with gym equipment subject to review with tenants and approval by Toronto Community Planning.

4. A minimum of 37 square metres of indoor amenity space to be provided and maintained for the purpose of a media room accessible to any and all tenants of the building.
5. The media room is to be furnished with a large screen television and/or other media equipment, as well as furniture appropriate for gatherings.
6. A minimum of 1700 square metres of outdoor amenity space is to be maintained as gathering space accessible to any and all tenants of the tower building and the townhouses.
7. The outdoor amenity space is to be (a) furnished with a children's play structure and appropriate outdoor furniture and (b) accessible to tenants of the tower building and the townhouses.
8. Conditions 1 to 7 are to be secured to the satisfaction of the Chief Planner and Executive Director.
9. The owner is to enter into a Section 45(9) Agreement under the *Planning Act* to secure the above noted facilities at no extra charge to the existing residents for a minimum of 20 years.
10. The Owner shall submit an application to the Chief Engineer and Executive Director, Engineering and Construction Services, for revised municipal numbering.

X



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