

DECISION AND ORDER

Decision Issue Date Tuesday, October 02, 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): JAMES BURTON

Applicant: SORENSEN GRAVELY LOWES

Property Address/Description: 1553, 1555, 1557 BLOOR ST W

Committee of Adjustment Case File: 17 276836 STE 14 MV (A1387/17TEY),
17 276848 STE 14 MV (A1386/17TEY), 17 276855 STE 14 MV (A1385/17TEY)

TLAB Case File Number: **18 176857 S45 14 TLAB, 18 176860 S45 14 TLAB,
18 176864 S45 14 TLAB**

Hearing date: Thursday, September 27, 2018

REGISTERED PARTIES AND PARTICIPANTS

		Legal Rep
9016848 and 9016716 Canada Corporation	Owner	Amber Stewart
Paul Lowes	Expert Witness	

DECISION DELIVERED BY T. YAO

This is a settlement. Perry Ellis Holdings¹ owns three three-storey houseform buildings at the south east corner of Alhambra Avenue and Bloor Street West. (Bloor/Dundas Street West area). It proposes to renovate and add a fourth storey to create three identical buildings at each of the three addresses. The final layout will be:

Fourth floor one three-bedroom apartment

¹ 9016848 Canada Corporation owns 1553-5 Bloor St W and 9016716 Canada Corporation owns 1557 Bloor St W. Perry Ellis is the trade name.

Third floor	one three-bedroom apartment
Upper ground floor	one three-bedroom apartment (what the Buildings Department considers to be the first storey)
Lower Ground Floor	one artist's studio (front); one bachelor (rear) (This level is what the Buildings Department considers to be below the first storey).

This arrangement needs three variances: first storey residential, lack of parking spaces and maximum residential gross floor area. The sole witness at this hearing was Paul Lowes², whom I qualified as able to give opinion evidence in the area of land use planning.

Non-residential use at street level

By-law 438-86 zones the properties as Mixed-Use District – MCR, and an area specific provision unique to the Dundas West/ Bloor Street area does not permit residential within the first storey.³ The City had concerns because Perry Ellis had originally proposed an all residential building, which would have contravened this provision. By letter dated May 17, 2017, Mladen Kusic, the City's planner, wrote to the Committee of Adjustment as follows:

City Planning Staff have reviewed the application and have concerns regarding the variance related to permitting residential uses on the ground floor. The intent of the Zoning By-law provisions is to animate the street with ground related non-residential uses that would provide 'eyes on the street' and contribute to a safe and comfortable public realm on a major arterial road such as Bloor Street West.

On May 23, 2018, the Committee of Adjustment refused the variances. Subsequently, Mr. Lowes, Perry Ellis's planner met with Mr. Kusic to advise that Perry Ellis had proposed that the **front half** of the lower ground floor level consist of an **artist's studio**: two rooms, with the street facing room containing a large window. The other room has some privacy from the street. The studio is shown to contain cooking facilities and a bathroom. The rear would be residential as originally proposed. Mr. Lowes went on to explain to Mr. Kusic that the upper ground level is about seven feet above grade and Perry Ellis has had difficulty attracting a commercial renter for space without effective street-level visibility. The studios' floor will be about two feet below the sidewalk. Perry Ellis has had experience with artists' studios of this design at other locations. Although described as an "artist's studio", the use could be any non-residential use.

² Principal in Sorensen Gravely Lowes, planners

³ (8) GROUND FLOOR USES (a) Only non-residential gross floor area is permitted within the first storey of any building with the exception of entrances and lobby space associated with residential gross floor area located above the first storey

Based on Mr. Lowes' assurance, Mr. Kusic had no further concerns, which he confirmed in writing. The other two issues, parking and a small increase in residential gross floor area are not of concern to the City. Since this is a modification of the original application, I find no further notice of this modification is needed pursuant to s. 45 (18.1.1) of the *Planning Act*.

Overall residential GFA

Table 1 – Residential GFA.		
	Permitted	Proposed
1553 Bloor St. W.	3 x lot area	3.35 x lot area
1555 Bloor St. W.	3 x lot area	3.26 x lot area
1557 Bloor St. W	3 x lot area	3.1 x lot area

The zoning by-law permits:

Residential GFA up to 3 x lot area

Plus non-residential GFA up to 1.5 x lot area

Total GFA not to exceed 4 x lot area

That is, a total GFA envelope of 4 x lot area is permitted, within which the residential and non-residential GFA have their own "sub-envelopes". It is only this residential GFA "sub-envelope" (bolded) that is proposed to be exceeded⁴. The overall cap of 4 x lot area will not be exceeded and the three buildings have the same dimensions; it is the varying lot sizes of the properties that leads to different GFA numbers. Mr. Lowes said this caused no adverse impact; the nearest low-rise building being to the south and separated by a lane. I find this variance to be minor and to meet the intent of the zoning by-law.

Parking

Table 2 – Parking spaces		
	Permitted	Proposed
1553 Bloor St. W.	3 spaces per lot	Zero spaces
1555 Bloor St. W.	3 spaces per lot	Zero spaces
1557 Bloor St. W	3 spaces per lot	One space

The third required variance is to parking; 1557 Bloor St. W. has room for a parking space with access from Alhambra, whereas the other two buildings are landlocked. This building only five minutes' walk from the Dundas West subway station and the Pearson UP Express line and has what Mr. Lowes called one of the most transit accessible locations in the GTA and perhaps Ontario. His offices are three doors away and he says he can be downtown in ten minutes. This parking variance accords with the

⁴ Section 8 - Mixed-Use Districts (CR, MCR and Q) (3) Regulations applying to Mixed-Use Districts.

higher-level Provincial Policies to serve intensification in areas well served by rail and bus routes.

Tests and conclusions

I must be satisfied that the applications meet 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.

This proposal for three-bedroom **rental** units in a transit friendly location meets the policies of the Provincial Policy Statement and Growth Plan that favour increased use of transit. They also meet the OP policies for "vibrant neighbourhoods that are part of complete communities" (from Chapter 1 Making Choices.). Chapter 1, page 4 also states: "Toronto's future must be one where: the arts and culture are actively promoted".

The provision of artists' studios or similar will animate the street, maintains the intent of the by-law and is desirable for the appropriate development of the building that the non-residential space be where people can see it.

In conclusion, I find all the statutory tests are met.

Decision and Order

I authorize a variance from Section 12(2) 347(8)(a), By-law 438-86, to permit the residential gross floor area within the ground floor of each of 1553, 1555 and 1557 Bloor St. W, Toronto, plus the variances set out in Tables 1 and 2 on the following conditions:

1. The proposed building shall be constructed substantially in accordance with the site plan and elevations prepared by JCI Studio and revision dated December 14, 2017.
2. Despite the variance to permit residential gross floor area on the first storey, a non-residential use such as an Artist's Studio shall be provided in one unit on the Lower Ground Level, as shown on the Lower Ground Level Plan (A2).

X

Ted Yao

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