

DECISION AND ORDER

Decision Issue Date Friday, April 12, 2019

PROCEEDING COMMENCED UNDER section 53, subsection 53(19), section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): ROBERT HISCOX

Applicant: AIRD & BERLIS LLP

Property Address/Description: 64 WOODLAWN AVE W

Committee of Adjustment Case File Number: 17 210745 STE 22 CO, 17 210753 STE 22 MV, 17 210754 STE 22 MV

TLAB Case File Number: 17 270181 S53 22 TLAB, 17 270182 S45 22 TLAB, 17 270183 S45 22 TLAB

Hearing date: Thursday, November 01, 2018

DECISION DELIVERED BY DINO LOMBARDI

APPEARANCES

Name	Role	Representative
Aird & Berlis LLP	Applicant	
Constantine Enterprises Inc.	Owner	
Robert Hiscox	Appellant	Leo Longo
Jinny Tran	Land Use Planner (Aird & Berlis)	
City of Toronto	Party	
Carol Cowan	Party	
Michael Vaughan	Party	
Stephen Ader	Party	

Decision of Toronto Local Appeal Body Panel Member: D. Lombardi

TLAB Case File Number: 17 270181 S53 22 TLAB, 17 270182 S45 22 TLAB, 17 270183
S45 22 TLAB

Name	Role	Representative
Christine Ader	Party	
April Solman	Party	
Lorraine Greey	Party	
Warren Shear	Party	
Lynn Schumacher	Party	
Deborah Scott	Party	
John Vanstone	Party	
Deirdre Dyment	Party	
David Safran	Party	
Dana Williams	Party	
Allan Kaplan	Party	
John Macdiarmid	Party	
Eric Cunningham	Party	
Bruce Engell	Party's Legal Rep.	
Silvan Rouleau	(Weir Foulds)	
Daniel Elmadany	Party's Legal Rep.	
Sara Amini	Party's Legal Rep.	
David Winterton	Expert Witness	
David Huynh	Expert Witness	
Tyler Hughes	(Bousfields Inc.)	
Michael Presutti	Expert Witness	
Lisa Carson	Expert Witness	
Carl Bray	Expert Witness	

Rachael Kowaleski	Expert Witness
Lorna Beverley	Participant
David Beutel	Participant
Eleanor Cook	Participant

INTRODUCTION

This is an appeal from to the Toronto Local Appeal Body (TLAB) from consent and minor variance refusals decided by the Toronto and East York Panel of the City of Toronto (City) Committee of Adjustment (COA) in respect of 64 Woodlawn Avenue West (subject property).

On November 22, 2017, the COA refused a consent to sever the subject property into two parcels and refused the two associated minor variance applications to construct a new three-storey detached dwelling with a below-grade integral garage, front third-storey terrace and rear ground floor deck on each newly created severed lot.

The subject property is located on the north side of Woodlawn Avenue West, east of Avenue Road, west of Yonge Street, south of St. Clair Avenue West, and north of Bloor Street West, in the affluent Summerhill neighbourhood.

It is presently developed with a 2 ½ storey single detached dwelling of cultural heritage significance which has been designated under Part IV of the Ontario Heritage Act, R.S.O, 1990 Ch.18, and added to the City's Heritage Register.

The existing dwelling is situated on the top of the slope which forms part of the larger escarpment system (Lake Iroquois Shoreline) in the Summerhill neighbourhood and the broader Yonge-St. Clair area that spans from beyond Avenue Road, across Woodlawn Avenue West and Woodlawn Avenue East, to beyond Mount Pleasant Road.

The subject property is designated '*Neighbourhoods*' in the City Official Plan (OP) and is subject to the policies in the Yonge-St. Clair Secondary Plan. It is zoned R2 Z0.6 in Zoning By-law 438-86 (former By-law) and R (f9.0; d0.6) (x780) in the new City-wide harmonized Zoning By-law 569-2013 (new By-law).

BACKGROUND

Chronology of the Proceedings

The Hearing of this matter engaged five days over a significant time period, extending from the initial Hearing date of March 19, 2018 to the final Hearing day held

on November 1, 2018. Preceding these sittings and indeed, in advance of the COA Hearing, extensive evidentiary filings and interest was exhibited by the many persons of interest listed and involving many hundreds of pages, ranging from individual studies, photographic records, drawings and technical submissions were provided, including expert reports and the requisite attestations required by the Rules of Practice and Procedure (Rules) of the TLAB.

As noted, the COA refused the consent applications and the minor variance applications for each of the proposed severed lots and the owner/Appellant, Constantine Enterprises Inc., appealed the decision to the TLAB. A Hearing date was set for March 19, 2018.

On the return date for the Hearing, the City filed a Motion requesting an adjournment on multiple grounds. The Member scheduled to take the matter was not available and the TLAB Chair attended in the Member's stead. At the outset of the sitting, counsel for the various parties requested a Chambers discussion on a matter of recusal and scheduling. On consent, the City's Motion was granted, and Motion Hearing was rescheduled to March 27, 2018.

On the substantive appeal, counsel expressed some variation on the amount of time required to hear the matter and indicated a possible Hearing time of 2-4 consecutive Hearing Days being considered. The hearing of this appeal was subsequently rescheduled to three consecutive dates - July 10, 11 and 12, 2018.

At the rescheduled Motion Hearing on March 27, 2018, the City provided the following information:

- The City Solicitor, along with City staff, were directed by City Council to attend the TLAB hearing in opposition of the appeals filed by the owner of 64 Woodlawn Avenue West, and the intent to be a Party to the proceedings.
- On January 29, 2018, approximately one week after the deadline for submissions established by the TLAB Rules, the City served the Parties and Participants to this matter with its Document Disclosure.
- On February 5, 2018, the City filed an Urban Forestry Expert Witness Statement with the TLAB.
- On March 12, 2018, the owner's solicitor filed Expert Witness Statements and supporting documentation from two new witnesses (Michael Presutti and Rachael Kowaleski).
- Subsequently, Mr. Bruce Engell, counsel representing a total of 14 other Parties, notified the TLAB that the group would be calling three expert witnesses with respect to heritage matters related to the subject property and appeal: David Winterton, Heritage Architect; Marcus Letourneau, Heritage Planner; and, Dr. Carl Bray, Heritage Planner.

The City further revealed that after receiving a request from residents on Woodlawn Avenue West and the area Councillor, a meeting was convened on March 6, 2018 with

those residents and Heritage Preservation Services staff (HPS). At that meeting HPS staff reviewed documentation from Dr. Carl Bray provided by a resident and Party to this matter regarding an assessment of the heritage value of the subject property.

Following a review of Dr. Bray's report, HPS staff concluded that the subject property appeared to have potential cultural and architectural heritage value. In its Notice of Motion of March 9, 2018, the City acknowledged that it had no prior history with the subject property and that the meeting with the residents was the HPS's first opportunity to consider the heritage value of the subject property.

At the Motion Hearing, the City argued that any prejudice caused by a short adjournment of the proceedings, to the Appellant, was outweighed by the public interest in conserving the potential cultural heritage value or interest of the subject property. The City also contended that the TLAB Panel should have before it City Council's (Council) decision on the heritage value of the property to comprehensively assess the proposed development against all relevant provincial and municipal planning policies, having regard to matters of provincial interest under the *Planning Act (Act)*.

The Motion requested, among other things, that the Hearing Date in this matter be adjourned to a date after July 25, 2018, to permit HPS to assess whether the subject property should be listed or designated under the Ontario Heritage Act. In addition, the City requested that it be permitted to enter heritage planning evidence to the TLAB in the event that City Council or HPS determined that the property was of cultural heritage value or interest.

The TLAB issued a Decision and Order issued on April 18, 2018, rescheduling the substantive Hearing to July 10, 11 and 12, 2018. The Decision allowed the City to enter heritage planning evidence in the proceeding if the subject property was determined to have cultural heritage value or interest by Council, among other directives.

Following the TLAB's adjournment of the Hearing, and based on independent research and evaluation, HPS determined that 64 Woodlawn Avenue West had heritage value under Ontario Regulation 9/06, the Provincial criteria for determining heritage value, in three categories: Design, Associative and Contextual. On March 26, 2018, Council stated its intention to designate the subject property and on May 24, 2018, it passed By-law 606-2018 designating the subject property and adding it to the Heritage Registry.

Although Constantine Enterprise Inc. did not file a Notice of Objection, the owner of the subject property did express opposition to the designation. Ultimately, the owner submitted an application (Exhibit X) to the City on August 2, 2018, seeking Council's consent, pursuant to subsection 34(1) of the Ontario Heritage Act, to demolish the existing dwelling at 64 Woodlawn Avenue West.

The Proposed Development

The proposal is to sever the property into two residential lots: Part 1 (retained lot) and Part 2 (conveyed lot). Each severed lot will have a frontage of 7.62 m, a depth of approximately 54.4 m and a lot area of 414.7 m².

On each of the new lots, the Appellant is proposing to construct a new 3-storey detached dwelling with an integral single-car garage. Each dwelling is contemporary in architectural design. The total gross floor area of each new dwelling will be 317.82 m², resulting in a density of 0.77 times the lot area. Setbacks are provided as follows: front yard – 7.99 m for Part 1, 8.16 m for Part 2; east side yard – 0.50 m; west side yard – 0.5 m; and rear yard – 29.37 m for Part 1, and 29.29 m for Part 2.

The Applicant is seeking a total of 40 variances, 20 each for the proposed dwellings on each lot. Of the 20 variances required for each new lot, 10 variances are required under the former By-law and 10 are required under the new By-law. The requested severance and the list of variances for the dwellings to be constructed on each of the lots are recited in **Attachment 1** to this Decision.

The requested variances are summarized as follows: lot width; overall dwelling height and front and rear exterior wall height as a result of a flat roof design; dwelling depth; density; front and side yard setbacks; landscaping; and the projection of a second-floor balcony into the front yard setback.

MATTERS IN ISSUE

The applications and appeal before the TLAB were, in my opinion, neither unprecedented nor novel - whether the Appellant's severance of the property into two undersized lots for the purpose of introducing infill housing as a form of gentle intensification was appropriate; and, resulting from the severances, the need to address zoning relief in the form of minor variances to permit construction on the undersized lots of the specific dwellings proposed.

Complicating the proceeding and making the applications and appeal more difficult and multi-dimensional are a number of key matters: the heritage designation of the subject property; the diminution of the urban tree canopy resulting from the proposed development; and the permission to permit homes on undersized lots that do not 'fit' the physical character of the neighbourhood, in general, but Woodlawn Avenue West more particularly.

In opening remarks, the contrasting positions were succinctly stated by counsel for each Party. Mr. Leo Longo (Aird and Berlis LLP), counsel for the Appellant, submitted that the proposed severance and the requested variances, individually and collectively, are minor in nature and are desirable in that they will result in an appropriate built form that is consistent with the character of the neighbourhood.

He suggested that the heritage designation of the subject property does not make the Hearing moot as the Appellant will be calling expert witnesses to address issues relating to heritage, landscaping and the legislative planning tests. In this regard, he noted that expert opinion evidence would be provided by David Huynh, a land use planner, Mark Hall, a heritage architect and planner, Rachael Kowaleski, a certified arborist, and Michael Presutti, a landscape architect.

Ms. Sara Amini, and Mr. Daniel Elmadany, counsel for the City, stated that the Appellant is seeking a severance and associated variances to construct two new dwellings on a property that is designated as having heritage value under By-law 606-2018.

The City took the position that the Appellant cannot use the TLAB proceeding to circumvent a process entrenched by the Province of Ontario through the Ontario Heritage Act, and the TLAB will be hearing evidence regarding consent and minor variance applications for a property that is designated and protected by provincial and municipal heritage policies.

Ms. Amini advised that the City intended to call Mary McDonald, a Senior Manager, Heritage Preservation Services, to give expert opinion evidence in the area of heritage planning, policy and heritage conservation, and Lisa Carson, an assistant planner in the City's Urban Forestry division

Mr. Bruce Engell (WeirFoulds LLP), is counsel for the 14 residents listed below (in no particular order), all of whom have filed a Notice of Intention to be a Party (Form 4):

Eric Cunningham	Deborah Scott
John MacDiarmid	Lynn Schumacher
Allan Kaplan	April Solman
Dana Williams	Christine Ader
David Safran	Stephen Ader
Deidre Dymont	Michael Vaughan
John Vanstone	Carol Cowan

During the five days of the Hearing, several the Parties listed above attended the proceedings, but none was called to testify. Instead, Mr. Engell advised that he intended to call two expert witnesses: David Winterton, a heritage architect; and Dr. Carl Bray, a heritage planner.

Mr. Engell submitted that there are three elements of consideration in this appeal: the impact of the provincial and municipal heritage policy implications given the heritage designation on the subject property and the possible demolition of an existing heritage structure; the requested variances, particularly in respect of the lot frontage requirements, which are needed and otherwise preclude the type of development being proposed; and the proposed development simply does not fit the character of the street and fails the statutory tests in the Act.

He submitted that challenging the existing zoning by-law standards should be addressed through a rezoning process and that is the route that the Appellant should pursue.

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).

Consent – S. 53

TLAB must be satisfied that a plan of subdivision is not necessary for the orderly development of the municipality pursuant to s. 53(1) of the Act and that the application for consent to sever meets the criteria set out in s. 51(24) of the Act. These criteria require that " regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2 of the Planning Act;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
 - (d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the

proposed subdivision with the established highway system in the vicinity and the adequacy of them;

(f) the dimensions and shapes of the proposed lots;

(g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;

(h) conservation of natural resources and flood control;

(i) the adequacy of utilities and municipal services;

(j) the adequacy of school sites;

(k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;

(l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and

(m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

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.

Under s. 2.1(1) of the Act, the TLAB is also to have regard for the earlier Committee decision and the materials that were before that body.

EVIDENCE

Mr. Longo called David Huynh, to provide expert land use planning opinion evidence on behalf of the Appellant and I qualified Mr. Huynh in this regard. Pre- filed with the TLAB were a number of documents relating to Mr. Huynh's testimony including: Exhibit A – Applicant's Document Disclosure Book (containing Tab's 1 - 22); Exhibit B - Expert Witness Statement (Form 14) and Acknowledgement of Expert's Duty (Form 6); Exhibit C - Mr. Huynh's Reply Witness Statement (dated May 22, 2018); and Exhibit D - his Planning Presentation.

Mr. Huynh, a consulting professional land use planner and partner with Bousfields Inc., has had significant experience with large redevelopment and infill projects in the Greater Toronto Area, generally, and in Toronto, specifically. He has been qualified to provide expert land use planning opinion evidence at the former Ontario Municipal Board (OMB), the Local Planning Appeal Tribunal (LPAT) as well as the TLAB regarding consent and minor variance applications.

He was retained by the Appellant in January 2018 to review the land use planning merits of the proposed severance and associated variances before the COA and the TLAB and to opine whether:

- the severance satisfies the requirements set out under s.51(24) of the Planning Act;
- the variances meet the four tests under s.45(1) of the Act; and
- the proposed development represents good planning.

In support of his opinion, he reviewed, among other materials, the PPS, the Growth Plan, the City's Official Plan (OP), the Yonge-St. Clair Secondary Plan (YSSP), and both the former and new Zoning By-laws, and Zoning By-law 848-1980.

He gave a brief description of the proposal and referenced the rendering showing the two proposed detached dwellings (**Attachment 2** to this Decision), outlining the context of the subject property and summarizing the dimensions of the two lots to be created through consent. The subject property is rectangular in shape, with a lot area of 830 m², a lot frontage of 15.24 m and a lot depth of 54.43 m (Exhibit D – Survey, pg. 13). The front yard is higher in grade than the street and the existing home is built on a terraced slope which has been altered and is supported by a series of retaining walls (Exhibit D – photos 1-3). There are 13 steps to the top of the terraced slope and 7 more steps leading to the front door. The garage is located at street level and built into the slope.

At this point in the proceedings, I advised that pursuant to the standing direction of Council to the TLAB, I had visited the subject property and surrounding streets and had familiarized myself with the area.

Employing a Study Area and attendant colour maps, he referenced his Lot Study Analysis (consisting of a separate analysis of lot frontage, lot area and lot density), previous COA and OMB decisions, visual exhibits including a photo book and Streetscape Collage, showing the relative distribution of lot sizes and the presence of severance and variance applications, recent and pending. From these he formulated several observations:

- Two different areas of emphasis within the neighbourhood as shown on the Lot Study Frontage Map (Exhibit D, pg. 28). A broader Study Area and a smaller Focus Area (in blue dotted lines) defined as including all of Woodlawn Avenue West and Farnham Avenue between Yonge Street and Avenue Road;
- The character of the surrounding Summerhill neighbourhood consists primarily of detached and semi-detached dwellings many of which were constructed between the 1890's and the early 1950's.
- The surrounding neighbourhood has seen many homes undergo significant updates/renovations.
- The surrounding neighbourhood, including the properties on both sides of Woodlawn Avenue West, consists of a variety of lot frontages, lot depths and lot areas, as well as a variety of dwelling types, architectural styles, heights, massing, roof styles (pitched, mansard, and flat), and materials;
- Some properties on the north and south sides of Woodlawn Avenue West (including the subject property) are built on top of and into the existing slope, which has been altered over the years through ongoing reinvestment of homes and properties (e.g., there are many existing driveways built into the slope) (Exhibit D –photos 1-12);
- The slope forms part of the larger escarpment system (Lake Iroquois Shoreline) that spans from Avenue Road in the west, across Woodlawn Avenue West and Woodlawn Avenue East, south along the CP Rail corridor to the east beyond Mount Pleasant Road;
- In the larger Study Area, 117 lots (59%) have lot frontages equal to or less than the lot frontages proposed for the severed lots.
- In the smaller Focus Area, the number is almost identical with 50 lots (58%).

Policy and Regulatory Context

Mr. Huynh opined that the proposal is consistent with the PPS and the Growth Plan and properly implements the policy thrust and direction provided for in provincial policy. The proposal supports optimization of the use of land, encouragement of compact urban form, and redevelopment and intensification policies related to Complete Communities, being located within a `strategic growth area` and a `Major Transit Station Area` as set out in the Growth Plan.

He added that the proposed consent and minor variances will allow for growth that is sensitive to the surrounding context which includes a diverse range of lot sizes, heights, densities and built form with access to higher order transit present in the area.

With respect to the issue of heritage and appropriate regard for matters of provincial interest (Part V, Section 1.0 and Part V, Section 2) related to the wise use and management of cultural heritage resources, Mr. Huynh submitted that all the relevant policies set out in the PPS must be considered to determine consistency, as set out in Policy 4.4. He opined that in reviewing all relevant policies (including the heritage policies), on balance, the proposal is consistent with the PPS and conforms to the Growth Plan.

The Statutory Tests

With respect of Section 51(24) of the *Planning Act* (Act), Mr. Huynh opined that the consent application has appropriate regard to the applicable criteria set out in Section 51(24), and specifically to a), b) c) d) and f), and conforms with the applicable policies of the Official Plan.

He submitted that the proposal has regard to matters of provincial interest and the severance will allow for orderly development that will reinforce the physical character of the neighbourhood. He noted that the subject property is situated in proximity to transit services and is within a “strategic growth area.” In

He referenced his Lot Study – Frontage map (Exhibit D, pg. 149) which he submitted illustrates a varying pattern of lot frontages in both the Study Area and Focus Area with almost 60% of the lots having frontages similar or less than what is being proposed (7.63m). With respect to lot area, he referenced the Lot Study – Area map (Exhibit D, pg. 150) which also indicates that lot sizes in both the Study Area and Focus Area are within the range of 415 m² proposed by the Appellant for each severed lot – 64.6% and 59.3%, respectively, and are similar or less than the lot size proposed.

Mr. Huynh further suggested that there is a pattern of narrower sized lots adjacent to wider lots (15 m frontages) along Woodlawn Avenue West noting that to the west of the subject property, both on the north and south side of the street, there is a mix of lot frontages with a prevalence of wider lots.

Conversely, he suggested that to the east of the subject property, there is a predominance of narrower lots more reflective of the size of lots being proposed. He referenced recent consent decisions approved at 20 A and B Woodlawn Avenue West (Exhibit D, pg. 151) and 27 and 29 Woodlawn Avenue West (Exhibit D, pg. 151-154) as reflecting similar lot frontages (7.62 m) as proposed by the Appellant.

He submitted his opinion regarding OP conformity was informed by his Lot Study analysis which suggested that the new lots being created would reinforce the existing lot configurations in the area in accordance with Policy 4.1.5(b) of the OP.

In respect of the Planning Act tests under Section 45(1), Mr. Huynh found applicable policy direction in the City OP, especially applicable to the “Neighbourhoods” designation. He opined that the OP contains policies that recognize that change within neighbourhoods will occur over time and that such change should respect and reinforce the physical character of the neighbourhood. These policies do not require replication of existing physical character, but rather that new development should “fit” the general physical patterns.

Referring to Sections 2.3.1, 3.1.2, and 4.1.5 in the OP, he submitted that the proposed lot frontage, lot depth and lot area fit well with those found in the neighbourhood and added that the proposed building siting, size, height, scale and massing is appropriately proportioned to each proposed lot and compatible with the surrounding area.

In addressing the heritage policies found in Section 3.1.5, he noted that this section had been updated through OPA 199 and these policies were in full force and effect as of May 2015. He addressed policies 3.1.5.2 – 3.1.5.5 and acknowledged that the subject property is included in the City’s heritage registry as a designated property. However, he submitted that Policy 5.6(1) was added to the OP as part of the settlement of the appeals against OPA 199 (the new heritage conservation policies). He read from the policy:

“The Plan is more than a set of individual policies. Policies in the Plan should not be read in isolation or to the exclusion of other relevant policies of the Plan... The goal of the Plan is to appropriately balance and reconcile a range of diverse objectives affecting land use planning in the City.”

He also addressed Section 3.4 – The Natural Environment, and Policy 3.4.1d) regarding preserving and enhancing of the urban forest.

In addressing the development criteria found in Section 4.1.5 of the OP, Mr. Huynh offered his interpretation of the term ‘prevailing’ utilized in this section. He proposed that a key objective of the OP is to ensure that new development respects and reinforces the general physical patterns in a Neighbourhood. In this regard, he concluded that the OP recognizes that neighbourhoods can have more than one prevailing physical character.

With regard to Section 4.1.5, he specifically addressed criteria g) and h) as follows:

g) Continuation of special landscape or built form features that contribute to the unique physical character of a neighbourhood:

He opined about variety of architectural and built form in the area and he submitted that the proposed development would complement this diversity. Regarding the topographic slope on Woodlawn Avenue West, he noted that there are numerous

examples of varying slope conditions along the street. He referenced the Street Collage (Exhibit E) and photos (Exhibit D, pg. 21-27) showing examples of properties along the street where the slope has been disturbed through the accommodation of either driveways or integral garages, or both.

h) Conservation of heritage buildings, structures and landscapes:

He acknowledged that if the existing dwelling on the subject property is demolished the proposal would not conform to this policy.

Mr. Huynh suggested that a policy objective of the OP is to promote intensification in areas well served by public infrastructure, including public transit. In this regard, he opined that the proposal represents a modest form of intensification that is appropriate and desirable given the proximity to the Summerhill and St. Clair Subway Stations, as well as the St. Clair streetcar line, which are approximately 500 m and 700m, respectively, from the property.

The subject property is also located within the Yonge – St. Clair Secondary Plan (Secondary Plan, Exhibit D – Tab 4) and designated “*Neighbourhoods*” in that Plan. The Secondary Plan permits development that is compatible with adjacent residential developments and the relevant urban structure elements in the Secondary Plan Area.

Mr. Huynh reviewed the proposal with respect to the policies in the Secondary Plan referring specifically to the policies in Section 2.2 that outline the Plan’s purpose which he suggested directs new development to “protect, promote and enhance the existing type and quality of *Neighbourhoods* and *Apartment Neighbourhoods* and maintain their stability.”

Sections 4 (Residential Areas) and 6 (Natural Areas) reflect similar policies as found in the parent OP however with more specificity as it relates to the Secondary Plan Area. Policy 4.1 states:

“*Neighbourhoods* are intended to be stable areas. When redevelopment is proposed in *Neighbourhoods* in Yonge-St. Clair, in addition to the Built Form policies in the Official Plan, the built form of redevelopment projects will:

- a) Respect and reinforce the essential elements of established neighbourhood structure and character;
- b) Be compatible with adjacent residential developments; and
- c) Recognize the relevant urban structure elements specified in Section 2.1 of this Secondary Plan, such as views afforded to and from the escarpment.”

Policy 6.1 speaks to the type of development permitted on that portion of the Escarpment (Lake Iroquois Shoreline) on which the subject property (Map 6-1 in the Secondary Plan) is situated. Mr. Huynh submitted that any development that is permitted in *Neighbourhoods* is permitted on lots in private ownership along the

Escarpment and concluded that the proposed development conforms to the relevant policies in the Secondary Plan.

Finally, he had regard for OPA 320 which updated and strengthened the *Neighbourhoods* policies in the OP. Although he noted this as Council approved, he acknowledged that parts of OPA 320 are under appeal (at the relevant time) and therefore not yet in force. While not determinate, he opined that the proposal is in keeping with the objectives of this planning document.

In addressing the second statutory test, whether the proposal maintains the general intent and purpose of the Zoning By-law, Mr. Huynh briefly highlighted amending Zoning By-law 848-1980 (Exhibit D, pg. 128), the precursor to Zoning By-law 438-86 (as amended). He noted that the new Zoning By-law, 569-2013, adopted most of the provisions of the former By-law including minimum lot frontage (9 m) and a maximum density (0.6 times the area of the lot).

By-law 848-1980 increased minimum lot frontages for an area along Woodlawn Avenue West which included the subject property and correlates to the boundaries of Mr. Huynh's Focus Area. He submitted that the By-law was not intended to restrict development on Woodlawn Avenue West but, rather, was implemented at the time to prevent the loss of existing buildings in order to maintain the established streetscape.

He suggested that By-law 848-1980 was illustrative of the development standards of the time period in which it was written and is not in line with current provincial and municipal planning policy context which encourages redevelopment and intensification, particularly in proximity to transit. In referencing the City Planning Staff report that accompanied the amending By-law (Exhibit D – Tab 8), he noted that Staff acknowledged that there was no clearly prevailing lot size on the street.

He opined that the proposal would not erode the character of the existing streetscape since Woodlawn Avenue West specifically, and the neighbourhood in general, does not have a consistent or uniform streetscape character or feel.

He argued that neither the 1980 By-law nor the heritage designation of the subject property were the appropriate planning mechanisms to achieving the protection of existing properties located on Woodlawn Avenue West. Instead, he submitted that this should have been done through an Official Plan Amendment or by designating the street and the surrounding area as a heritage conservation district.

Mr. Huynh utilized the findings in his Wider Lot Table (Exhibit F) and Lot Study – Frontage, Area and Density mapping to inform his analysis of the requested variances which he addressing as follows

Lot Frontage Variances

Within the Study Area, there are approximately 117 lots (58.7%) with frontages less than 7.63 m, and 180 lots (90.4%) with frontages less than 15.0 m. In addition, there have been approvals for a lot frontage of 7.62 m at 20 Woodlawn Ave. W. (COA), and a lot frontage of 5.94 m at 29 Woodlawn Avenue West (OMB).

Height Variances

The height of the proposed dwellings is similar to dwellings within the Study Area, including recent approvals. A previous minor variance application for the subject property was approved for a height of 12.9 m. Several minor variance applications have been approved in the Study Area for heights in excess of 11m.

Given that height as measured under the former By-law is numerically larger than that measured under the new By-law, the proposed heights will be similar to the existing dwellings both to the east and west of the subject property.

Density Variances

Within the broader Study Area, there are several recent examples of approvals with permitted densities in the range of the density proposed by the Appellant (Exhibit D – Lot Study Density map). For example, 20 Woodlawn Avenue West was approved for a density of 0.87 times the area of the lot; and several properties on Farnham Avenue (#'s 86, 100, 105, and 130) have been approved for densities in excess of 1.0 times the area of the lot.

He noted that he previous application on the subject property permitted a GFA of 0.88 times the area of the lot.

Building Depth Variances

There is generally no consistent or uniform building depth and length conditions within the Study Area or the smaller Focus Area even though some dwellings are set back farther than adjacent dwellings. Nevertheless, he opined that the depth of the proposed dwellings does not result in variances for rear yard setbacks and the proposed front yard setbacks are intended to mirror the adjacent dwellings.

Side Yard Setbacks

There is generally no consistent or uniform spacing between dwellings in the Study Area and conditions vary, as do the lot sizes and built form. In many instances, side yard setbacks between dwellings in the neighbourhood are less than the minimum zoning standards. There have also been several approvals for reduced side yard setbacks.

Landscape and Driveway Variances

The design of the front yard of the proposed dwellings is consistent with examples on Woodlawn Avenue West, where driveways and/or garages are located at the front of the property. The quantity of landscaped areas is appropriate given the size of the lot and is comparable to other lots in the neighbourhood. A significant amount of rear landscaping is also proposed.

With respect to the third test, whether the proposal is desirable and appropriate for the development of the land, Mr. Huynh opined that the requested variances will permit the development of two dwellings that will respect the built form and streetscape character of the area and along Woodlawn Avenue West, as well as achieving the policy objectives of the PPS, the Growth Plan and the OP.

He submitted that the proposed dwellings are in keeping with the eclectic character of the surrounding neighbourhood and the alteration to the slope in the front yard of the subject property due to the proposed development will be similar to adjacent and nearby conditions found along the street.

As to the test of minor, he submitted that this is not simply a numerical calculation but is based on an analysis of fit and impact on the immediate context and surrounding neighbourhood. In this regard, he opined that the proposal creates no unacceptable adverse impacts such as shadow, privacy or overlook.

The overall heights, massing and architectural styles are in keeping with the existing built form and the proposed lot frontages reflect existing conditions. Therefore, there will be no impact on the lotting pattern and streetscape character of the neighbourhood.

In his summation, Mr. Huynh opined that the proposal represents good planning and the consent and minor variances will allow for the construction of two single-detached dwellings which are compatible with the general height, scale and character of other existing and approved dwellings in the surrounding neighbourhood.

He submitted that the proposal will result in a development that provides for an appropriate level of intensification that is in keeping with the immediate and larger neighbourhood character and is within walking distance of higher order transit service.

For all the foregoing reasons, he recommended that the proposed severances and minor variances should be approved, subject to the conditions set out by the COA and Urban Forestry.

In cross-examination by Mr. Elmadany, the witness' testimony was questioned in a number of areas including provincial policy, municipal planning policies, and a review of the witness' lot study data.

Provincial Policy

Mr. Elmadany suggested that the PPS must be read and applied in its entirety as it relates to the consideration of matters of provincial interest. It is more than a set of individual policies, but relevant policies must be applied to understanding the framework of the PPS. He questioned Mr. Huynh as to his interpretation of key provincial interests in relation to 'intensification' and specifically Policy 1.1.3.3, suggesting that Mr. Huynh had failed to consider the 2nd paragraph of that Policy (Exhibit D – Tab 1) which states that:

"Intensification and redevelopment shall be directed in accordance with the policies of Section 2: Wise Use and Management of resources and Section 3: Protecting Public Health and Safety."

He noted that many policies in the PPS such as 1.4.3 b) 1 and 2 and 1.7.1 refer back to Policy 1.1.3.3. He highlighted Section 1.7: Long-Term Economic Prosperity, noting Policy 1.7.1d) which states that long-term economic prosperity should be supported by: "encouraging a sense of place, by promoting well-designed built form and cultural planning, and by conserving features that help define character, including *built heritage resources and cultural heritage landscapes*." (emphasis included) and Policy 2.6.1, under Cultural heritage and Archaeology, which states that "*Significant built heritage resources and significant cultural heritage landscapes shall be conserved*."

Mr. Elmadany submitted that this is mandatory language that must be considered as a precursor to any intensification and redevelopment. Mr. Huynh agreed.

Finally, Mr. Elmadany highlighted PPS Policy 4.7 which states that "The official plan is the most important vehicle for implementation of this Provincial Policy Statement. Official plans shall identify provincial interests and set out appropriate land use designations and policies. To determine the significance of some natural heritage features and other resources, evaluation may be required."

In the Growth Plan, Mr. Elmadany highlighted numerous policies with a specific emphasis on those related to Settlement Areas (Policy 2.2.1.3) and 'strategic growth areas' (Policy 5.2.5.3). He emphasized the policy language in 4.2.7.1 which states that "Cultural heritage resources will be conserved in order to foster a sense of place and benefit communities, particularly in strategic growth areas."

He submitted that this language actually elevates the status of heritage resources in strategic growth areas contrary to Mr. Huynh's opinion and evidence, which Mr. Elmadany suggested was completely dismissive of heritage preservation in general.

Official Plan

Mr. Elmadany highlighted the OP policy context (Exhibit D – Tab 3), referencing policies 2.3.1 and 2.2.2, and emphasizing subparagraph 2.2.2.2. i), which directs that land use planning “protect neighbourhoods, green spaces and natural heritage features and functions from the effects of nearby development.”

He noted that Section 4.1: *Neighbourhoods*, directs that new development to respect and reinforce the general physical character in a *Neighbourhood*. Policy 4.1.5h), requires the “conservation of heritage buildings, structures and landscapes.” He reminded Mr. Huynh that in *viva voce* testimony he acknowledged that the proposal does not conform to this policy.

In Section 3.4: The Natural Environment of the OP, Mr. Elmadany highlighted policies related to growth and the impact of growth on the City’s urban forest. He highlighted the preamble in this section of the OP and specifically paragraph three (Exhibit D, pg. 115), “Protecting Toronto’s natural environment and urban forest should not be compromised by growth, insensitivity to the needs of the environment, or neglect.”

He submitted that these impacts must be anticipated and assessed if we are to have a healthy environment and suggested that Mr. Huynh had not addressed these impacts in his witness statement or testimony.

He also referenced policies in the Yonge-St. Clair Secondary Plan and submitted that the language found in Section 2.2 a) was more forceful than that found in the OP in promoting and enhancing the existing type and quality of neighbourhoods and maintaining their stability.

With respect to Zoning By-law 848-1980, Mr. Elmadany questioned the witness’ interpretation and assessment of the intent of this planning instrument based on the 1980 Planning staff report supporting implementation of the By-law. He submitted that Mr. Huynh’s inference that it could justify the creation of smaller lot frontages through severances was incorrect and that this was not Council’s intent at the time.

Lot Study Analysis

Mr. Elmadany referenced the Built Form Policies found in 3.1.2 and 3.1.2.1 of the OP and specifically policies related to matters of the ‘height and density aspects of the planned context of new development’ which he submitted should be assessed based on additional policies if found in Secondary Plans.

As the subject property is located within the Yonge-St. Clair Secondary Plan, which does not identify permitted height and density limits, he noted that the Secondary Plan directs that the bench mark for assessment of these limits are to be found in the area zoning By-law which implements the Plan.

He addressed Lot Study Data (Exhibit G), an additional table submitted by Mr. Huynh as an ancillary and supporting document to mapping found in his Lot Study analysis. He suggested, and Mr. Huynh agreed, that the data reveal that there are a significant number of lots within the Study Area that have densities between 0.60 and 0.77 times the area of the lot, in proximity to the subject property.

He completed his cross-examination by submitting that lots with narrower frontages on the north side of Woodlawn Avenue West pre-date the 1980 Zoning By-law and are historical lots of record reflecting a different built typology (semi-detached). He suggested that more recent comparative consent approvals referenced by Mr. Huynh in his testimony are not useful in helping to understand the evolution of the built form and streetscape on Woodlawn Avenue West.

Mr. Huynh was then cross-examined by Mr. Engell who focused primarily on the issue of heritage. He noted that while the witness, in his Reply Witness Statement (Exhibit C), continued to assert that, on balance, the applications are consistent with the PPS even after reviewing all relevant policies (including the heritage policies), relevant heritage policies are not specifically cited. Mr. Engell highlighted the significant number of relevant heritage policies in the PPS, the Growth Plan and the OP for the witness.

Mr. Engell questioned the relevance of using the OMB decision for 29 Woodlawn Avenue West as a principle of *stare decisis*, or precedent, for what is being proposed on the subject property. He highlighted the specific paragraph of relevance in that Decision previously referenced by Mr. Huynh (Exhibit D, pg. 171) in his testimony, Mr. Engell submitted that, in his opinion, the Board Member's own statement was intended to discourage using the decision as precedent for future applications such as the subject proposal.

Finally, Mr. Engell addressed Zoning By-law 848-1980, and highlighted the following paragraph found in the 1980 Planning staff Report (exhibit D – Tab 8, pg. 173):

“The purpose would be to prevent the loss of existing buildings as lots are subdivided, and the consequent continued erosion of the streetscape. As the threat is generally in connection with lots having frontages of 15.2 m (50 feet), an effective control would be a minimum frontage requirement of 9m (about 30 feet).”

Mr. Huynh agreed with Mr. Engell's assessment of the intent of what Staff was suggesting: that the intent of the By-law was not to prevent the severance of all lots on Woodlawn Avenue West and those properties located within his Focus Area, but targeted at the lots with 15 m frontages such as the subject property. Mr. Engell concluded his cross-examination by suggesting that the frontage requirement intent in the 1980 By-law was brought forward into the proceeding By-law (438-86) and, subsequently, into the new Zoning By-law (569-2013) which reflects the current planning intent of City Council.

Mr. Longo called Ms. Rachael Kowaleski as the next witness. She is a certified arborist and member of the International Society of Arborists (ISA) as well as Tree Risk Assessment Qualified (TRAQ), and currently employed by the City of Markham as a Tree Preservation Technical Coordinator. I qualified her to provide expert opinion evidence in the area of arboriculture.

She was retained by the Appellant and prepared a Tree Preservation Plan (TPP) (Exhibit H2) on February 28, 2018, including a tree inventory and arborist report for the proposed development at 64 Woodlawn Avenue West. The TPP was revised on May 17, 2018 (Exhibit H2) in response to recommendations by the City's arborist, Lisa Carson.

She provided an overview of the Proposed Landscaping Plan as prepared by MEP Design (dated May 22, 2018), and as revised pursuant to recommendations from Urban Forestry (attached as **Attachment 3**) to accommodate the development of two new detached residential dwellings on the subject property (Exhibit H2 – Drawing SKL, pg. 32). As a result of the proposed development eighteen trees are required to replace the 6 privately-owned trees to be removed.

She addressed the proposed development plan at a more granular level and referred to the TPP on p. 24 (attached as **Attachment 4**) and noted that four (4) new trees can be accommodated in the rear yard, with Tree #12 (located at the front of 66 Woodlawn Avenue West), to be "preserved with injury." Cash-in-lieu of planting is proposed for the remaining 14-17 trees required. In addition, the Appellant is proposing three (3) additional new trees on the City right-of-way.

A summary of her opinion testimony and conclusions, including reference to her visual evidence (Exhibit H2, Fig. 1-36), is provided as follows:

- 1) She concurs with the City's arborist that there are five (5) trees in poor to fair condition on the subject property that should be removed based on their condition and proximity to the proposed development (Municipal Code 813 – City's Tree By-law). The subject trees are identified on the TPP diagram as Trees #1-10 located on the east side of the subject property, and Trees #2-4 on the west side.
- 2) The City concurs with her assessment that four (4) trees, identified as trees #5, 6, 8, and 9 and situated in the rear yard of the subject property, can be fully protected with no risk of injury if the proposed new dwellings are constructed.
- 3) The City agrees that Tree #1(a 43cm (DBH) Black Walnut) situated 3.7m from the front of the existing dwelling will need to be removed based on the proposal to regrade the south side of the property.
- 4) Tree #12, a City-owned White Spruce, is located on the raised terrace in the front yard of 66 Woodlawn Avenue West, the abutting property immediately to

the west of the subject property. Ms. Kowaleski submitted that there is no disagreement with the City regarding the assessment of this tree and that this tree can be preserved with injury based on the anticipated Tree Protection Zone (TPZ).

5) The proposed tree replacement and cash-in-lieu of planting is based on the City's approved policies (By-law 813, Chapter 13, S. 20). Cash-in-lieu of planting is being proposed for the required 14-17 replacement trees based on the recommendations from Urban Forestry and Ms. Kowaleski suggested that additional new trees may be proposed on the property at 66 Woodlawn Avenue West, subject to discussions with the owners.

6) There is disagreement as to the number of trees that can be accommodated in the rear yard as a result of the proposed development. The City has suggested that due to City guidelines regarding the spacing of planting (7m separation distance) only one tree can be planted; Ms. Kowaleski submitted that up to four trees can be accommodated within a tighter spacing of plantings (4-5 m).

7) Ms. Kowaleski noted that revisions were made to the replanting Plan to respond to the City's concerns regarding the size, location and species of the trees being proposed.

On cross-examination by City, Ms. Kowaleski was further questioned as to the characterization of the condition of the existing trees on the subject property as outlined in her Report.

The City solicitor, Ms. Amini, suggested that neither the City's Tree By-law nor policies in the OP regarding the urban tree canopy utilize a rating system for the condition of trees as suggested in her Report but, rather, that the health of trees is either 'healthy or terminally diseased. Ms. Kowaleski acknowledged that this distinction and acknowledged that none of the existing trees on the property falls into either category.

Ms. Kowaleski also acknowledged on questioning that the number of replanted trees being proposed would result in a "short term" loss of tree canopy on the property, which she agreed was likely between 15 to 30 years.

Ms. Amini submitted that there was no evidence presented by the Appellant that any additional tree planting could occur on the neighbouring property immediately to the east, nor had any preliminary discussion occur with that property owner.

Ms. Amini specifically highlighted the preamble to Section 3.4 of the OP and policy 3.4.1d) the goal of which she opined required that the City's natural environment and urban forest should not be compromised by growth. In counsel's words, "growth should not trump trees or the urban forest (her own words)."

She submitted that Ms. Kowaleski's assessment of the impacts of the proposed development and the loss of mature healthy trees on the subject property did not include an analysis of any policies in the OP related to the preservation of the City's urban tree canopy.

Following Ms. Kowaleski, Mr. Longo called Michael Presutti, a practicing landscape architect since 1996 and principal of MEP Design Inc. He submitted the requisite Expert Witness Statement and Acknowledgment of Expert Duty documents (Exhibit I) to the TLAB. Mr. Presutti has considerable experience with new infill residential development projects in Toronto and I qualified him to provide expert opinion evidence in the area of landscape architecture.

Mr. Presutti prepared a Landscape Architectural Plan and Streetscape Improvement Plan for the proposed development in conjunction with the architect, Julian Jacobs, and the consulting arborist, Ms. Kowaleski.

He reviewed in greater detail the Proposed Landscape Plan (Drawing SKL-01) previously referred to by Ms. Kowaleski as well as the eight guiding design principles outlined in the City's "Complete Streets Guidelines" (Exhibit K - Edition 1, Vol. 1, 2017) he utilized to develop the proposed front yard landscaping and streetscape treatment for the proposed development (Drawing SKL-03 – Proposed Streetscape Profile, Exhibit I, p. 15).

Mr. Presutti acknowledged that prior to finalizing the Proposed Landscape Plan he had reviewed the Witness Statements (WS) of the opposing Party's expert witnesses, David Winterton (Exhibit T) and Dr. Carl Bray (Exhibit Y). His responses to the issues raised in those Witness Statements can be summarized as follows:

1. With respect to Mr. Winterton's assertion that the street fronting the subject property is a "significant and steep portion of natural escarpment landform, including its trees and variegated landscaping...", Mr. Presutti was in disagreement suggesting it is not a natural heritage feature, neither in the form of a natural landform nor with the absence of native vegetation. He referred to a survey in Exhibit I (Existing Survey Conditions, p. 10) which clearly illustrated the existing front yard of 64 Woodlawn Avenue West had previously been disturbed with engineered retaining walls and an ornamental terraced garden well before the current owners took possession of the property.
2. In response to Mr. Winterton's suggestion that the existing landscape fronting the subject property creates a "coherent" streetscape and that the existing driveway leads to a "discreet garage incorporated into the slope," Mr. Presutti introduced a video (Exhibit J - taken by a drone) fly-by along the north side of Woodlawn Avenue West, from Yonge Street to the east to the end of the street in the west. The video showed evidence of examples of existing at-grade driveway conditions along the street. He noted that the existing rather imposing concrete retaining wall in the front yard of the subject property is further evidence that any remnant

topography or landform has been removed and questioned the characterization of the garage as being 'discreet'.

3. Regarding Dr. Bray's suggestion in his Witness Statement that the street fronting the subject property traverses the former shoreline of Lake Iroquois, Mr. Presutti referred to historical provincial mapping (Exhibit I, p. 11) noting that the dotted-red line on that mapping indicates the Shoreline is located well to the south of 64 Woodlawn Avenue West. He submitted this is contrary to the less accurate OP policy mapping provided utilized by Dr. Bray (Exhibit Y - Attachment F).

In summation, he submitted that the proposed Landscape Plan is appropriate for the subject development and the proposed new streetscape boulevard is appropriately designed to accommodate the safe and comfortable navigation of pedestrians, and is suited to the context of Woodlawn Avenue West, mirroring the treatment across the street and along several lots on the north side.

Furthermore, the new streetscape provides for a continuous lawn boulevard with three new street trees and permeable paving where the proposed driveways cross the boulevard.

On cross-examination by the City, Ms. Amini referred to OP Policy 3.1.1 and how to apply the 'Complete Streets' Guidelines, as well as Policies 4.5 and 4.6 in the Guidelines dealing with pedestrian crossings and public realms and the interpretation of 'placemaking'.

She questioned Mr. Presutti regarding aspects of the City's Complete Streets Guidelines specifically focusing on the Guidelines as a providing direction in a broader, as opposed to a site-specific, approach to the proposed development.

Mr. Presutti was then cross-examined by Mr. Engell who addressed the issue of the Lake Iroquois Shoreline and the escarpment that rises from the Shoreline relative to the subject property. A vigorous debate ensued between Mr. Engell and the witness regarding the Shoreline's location either north or south of Woodlawn Avenue West or that this a natural feature that forms part of the escarpment.

The final expert witness called by Mr. Longo in support of the Appellant's proposed development was Mark Hall. Mr. Hall, a practicing architect, planner and urban designer and principal of MW Hall Corp., has been involved extensively with heritage conservation and restoration projects and is familiar with the architecture of Eden Smith in Toronto, of which the existing dwelling on the subject property is an example of one. Mr. Hall's Witness Statement and supporting documents were identified as Exhibit L.

I qualified Mr. Hall to provide expert opinion evidence in the areas of heritage planning and architecture. Prior to commencing his testimony, Mr. Engell requested that I caution the witness to avoid a debate of the merits of the heritage designation

of the subject property or its designation pursuant to the Ontario Heritage Act, which I did.

Mr. Hall acknowledged that his original Witness Statement had been filed with the TLAB prior to the designation of the subject property and agreed to deviate in his evidence from his Statement where he provided an assessment of whether the existing residence at 64 Woodlawn Avenue West meets criteria for designation as a heritage property.

He noted that he had filed an Addendum to his original Witness statement which included a map showing the location of Eden Smith homes in Toronto. The homes were categorized under the headings: not listed and not designated; listed; designated under Part IV of the Ontario Heritage Act; and, designated Heritage Conservation Districts (HCD) Part V.

He submitted the mapping indicated that many of the Eden Smith homes are located in the neighbourhoods of Forest Hill and the Annex, to the west and south, respectively, of the subject property. He noted that there were only two other Eden Smith designed homes on Woodlawn Avenue West other than the subject property, at #'s 99 and 103, and that neither dwelling was listed or designated as a heritage property.

Mr. Hall addressed the severance application for the subject property in an historical context referencing the Goads Map in his Exhibit L (pg. 20). He opined that what the Map clearly shows is that properties fronting on the north side of Woodlawn Avenue West were 50 feet wide and planned to be subdivided into a series of residential lots with no intention (at the time) to conserve the historic Shoreline topography. As a result, he submitted that the proposed development for the subject property is reflective of the planned development of the street.

With respect to the architectural and built form character of Woodlawn Avenue West, he illustrated through visual evidence (exhibit L, pg. 13) that virtually all the dwellings are typically two storeys with a third floor or use of an attic in the pitched roof facing the street. The architectural character of the dwellings along the street varies, with some dwellings reflecting a modified Georgian style, some are flat-roofed contemporary, while others such as the Eden Smith homes included a mixture of styles. He submitted that Woodlawn Avenue West is not an enclave of heritage homes nor is it a designated heritage district.

In his summation, he referred to the rendering of the proposed development previously highlighted by Mr. Huynh and submitted that the construction of the two proposed dwellings will maintain the architectural character of the street through the use of building materials (red brick), the scale and massing, and the contemporary design style of similar dwellings in proximity to the subject property. The proposed integral garages at grade will also address parking issues and reflect the consistency of existing conditions on the street.

He opined that the consent application satisfies the criteria under s. 51(24) of the *Planning Act* and the minor variance applications satisfy the statutory tests under s. 45(1) of the *Act*. Further, he noted that if the applications are approved, the owner has agreed to prepare documentation of the Eden Smith designed residence on the subject property for archival purposes as a condition of approval.

On cross-examination by Mr. Elmadany, the City challenged the witness' interpretation of the term 'significance' with respect to the matter of heritage in the PPS and the Growth Plan. He referenced the City's Combined Document Disclosure Book dated July 9, 2018 (Exhibit M).

Mr. Elmadany submitted that the word 'significant' is a defined term in the provincial documents from a planning and policy perspective highlighting Policy 2.6.1 (Exhibit M, pg. 480) which states that "**Significant** built heritage resources and significant cultural heritage landscapes **shall be conserved** (Mr. Elmadany's emphasis)." Given that the subject property has a heritage designation he submitted that the intent of provincial and municipal policies requires that heritage be conserved.

Mr. Engell questioned the witness as to the exterior architectural design elements of the proposed dwellings and whether the dwellings, if constructed, would actually reflect the renderings submitted by the Appellant (Exhibit M, pg. 12). Mr. Longo responded that the TLAB could impose a condition of approval that requires the development be "constructed substantially in accordance with the proposed elevations as shown in the renderings" in order to guarantee that the dwellings will reflect the elements shown in the renderings.

The afternoon of Day 2 of the proceedings saw the City call its first expert witness, Lisa Carson. Ms. Carson filed an original Expert Witness Statement and supporting documentation (Exhibit N) with the TLAB on February 5, 2018, and a Reply Witness Statement (Exhibit O) dated May 8, 2018.

She is an Assistant Planner in the City's Urban Forestry Division, Toronto and East York District, and a Certified Arborist and a member of the International Society of Arboriculture (ISA). I qualified her to provide expert opinion evidence in the areas of arboriculture and forest ecology.

She reviewed the Tree Preservation Plan submitted by Ms. Kowaleski indicating areas of concern and disagreement. She referred to her visual evidence (Exhibit P – revised March 2018) which included an aerial photo of the subject property and photographs of the Tree #'s 1-7, 10 and 12 corresponding to those identified in the TPP in Exhibit H2.

Ms. Carson acknowledged no objection to the removal of the five trees identified for removal on the TPP but qualified her statement by suggesting that these trees are not, in her opinion, in 'hazardous' condition as suggested by Ms. Kowaleski and would remain in place if the proposed development was not approved.

She agrees with the Appellant's arborist that Tree #12 (City-owned) can be retained 'with injury' but suggested that the long-term health of that tree is in jeopardy if the proposed development goes forward.

Her main concern relates to the privately-owned Black Walnut identified as Tree #1 in Exhibit H2, assessed as being in good condition, with a well-balanced crown and indicators of vigorous growth (photos on p. 3 & 4). She suggested that the reason this By-law protected tree would be removed is to facilitate the installation of the at-grade driveways.

Ms. Carson provided an overview of the policy and regulatory context with respect to the requested consent to sever the subject property into two undersized lots and the impact of removing healthy trees as outlined in her Witness Statement.

At this juncture in Ms. Carson's testimony, Mr. Longo objected to the scope of her opinion evidence submitting that portions of her Witness Statement contained land use planning opinion which she was not competent to give. He advised that the witness has not been qualified by the TLAB as a land use planner and he asked that her opinion in this regard not be accepted.

Ruling 1

"On the issue of providing professional planning opinion, I advised the Parties that I have some knowledge as I am a Registered Professional Planner (RPP). I noted that land use planning is a recognized professional discipline which has two streams of membership in the province of Ontario; one is membership in the Ontario Professional Planners Institute (OPPI) with a designation by the legislature for status. It is undergoing a review and being amplified with a draft bill that's in front of the House now.

But both the existing private act and the public bill contemplate that the discipline of Land Use Planning is a recognized profession in Ontario subject to regulation and enforcement. In both cases, they also recognize that there are planners in Ontario that have not elected to become members. It is recognized that because the profession has adopted rules of membership criteria and has worked collaboratively with other provinces to achieve the standards board and has adopted a discipline code and has an enforcement committee, it's understood that members who ascribe to that organization should be accredited recognition above and beyond and distinct from those who elect not to be a member.

This is really not the issue here, as the witness, Ms. Carson, was not being tendered as a professional planner and, I suggest, that was made clear at the outset of her testimony. Therefore, although it's instructive to know the basis of the planning discipline and membership accreditation in Ontario, to me, it's not an absolute bar in general circumstances and not a bar in this circumstance because there was no effort to qualify Ms. Carson as a professional planner.

I find that it is open for an expert in another field to introduce a relevant consideration which is subject to evaluation. Urban Forestry staff are often asked to provide opinion evidence as to compliance with the Official Plan. In this case, I will allow Ms. Carson to give evidence confined to the policy goals of the Official Plan as they pertain to urban forestry objectives and resultant considerations and not on questions of Official Plan conformity on other matters. Where the witness may stray and when counsel questions whether the opinion being given might be considered to be land use planning opinion, the situation will be 'policed', for lack of a better term.

I do acknowledge that this Tribunal, like the Local Planning Appeal Tribunal (LPAT), does have a gatekeeper role in ensuring that the evidence it hears meets qualifications of relevance and necessity, and expertise in an area of qualification, if that qualification is sought, which I believe did happen with Ms. Carson.

Ms. Carson was called to give evidence in her area of expertise and to provide factual and relevant evidence to the proceedings. In that regard, she is advised to provide expert opinion evidence, subject of course to the limitations on exclusion of opinion evidence that is characterized as planning opinion evidence.

Counsel may challenge attempts by Ms. Carson to make Land Use Planning conclusions that may be reached by someone who is not a professional planner, and I will grant those challenges with some latitude. My feeling is that there may be a distinction on weight given the qualifications of an expert, but that is also dependent on the research that they conducted and their support for the proposition advanced.

I am reluctant to exclude evidence that may have relevance to the determination of the consent and minor variance applications as sought in this Hearing. If it's relevant and is competently prepared and subject to challenge, I think the vehicles of challenge and cross-examination are available to test the extent and relevance of the evidence called. I know that there is competent counsel present who can exercise their right to object.

I am prepared to hear Ms. Carson's testimony and expert opinion in her area of expertise – arboriculture and forest ecology – and to provide conclusions from her area of expertise and relate her opinion evidence to the subject property. Beyond that, I give Mr. Longo some latitude to challenge areas into which Ms. Carson may stay.

That is my ruling, which I feel is fair and will not prejudice any of the parties in this Hearing. I allowed Ms. Carson to proceed with her testimony."

Ms. Carson reiterated that the Appellant's request for consent to sever the subject property will likely require the removal of one healthy City-owned tree (#12) and one healthy privately-owned tree. She submitted that the proposal fails to adhere to the relevant policy and guideline direction adopted by City Council, including Every Tree Counts and Toronto's Strategic Forest Management Plan, and will negatively impact the urban forest of the surrounding neighbourhood, and the City as a whole.

She highlighted Section 2 a) and s) of the *Planning Act* addressing the protection of ecological systems, including natural areas and she specifically referenced s. 2 s), a relatively new addition to the *Act*, which further advances the City's goals to mitigate and adapt to climate change impacts through the Strategic Forest Management Plan and related policies. Similar policies in the Growth Plan were also underscored such as Policies 1.2.1 and 2.2.1.4 f).

She submitted that the OP contains very strong policy language direction to promote environmental sustainability through investing in naturalization and landscaping improvements, tree planting and preservation (Policy 2.3.1.5). Further, Policy 3.4 discusses that the preservation and enhancement of the urban forest is essential to the City's character. Finally, new policies in OPA 262 further strengthen this Council direction.

With respect to the proposed development, she submitted that the trees to be removed contribute to the City's goal of mitigating climate change and increasing tree canopy coverage. As a result, she opined that the proposed development does not promote environmental sustainability, and the goal of tree preservation and tree planting will not be satisfied.

Additionally, the requested variances to increase driveway width and a reduction in front yard soft surfaces will eliminate any potential for the replanting of replacement trees on the privately-owned section of the front yard. Therefore, she opined that the removal of trees as well as the removal of potential replanting space does not align with Council's position of enhancing the City's urban forest.

Ms. Carson briefly highlighted several key reports to Council that contributed to the City adopting its Tree Planting Strategy supporting the expansion of Toronto's urban forest in 2016. She provided a more in-depth analysis of two particular City policy framework documents: "Every Tree Counts: A Portrait of Toronto's Urban Forest, a study of Toronto's urban forest inventory;" and "Sustaining and Expanding the Urban Forest: Toronto's Strategic Forest Management Plan (Urban Forest Plan).

Ms. Carson noted that the City-owned white spruce (28cm in diameter) and the privately-owned black walnut trees (42cm) required to be removed have a diameter greater than the average tree diameter in the City (16.3 cm) and that only 14% of trees in Toronto are between 15.2cm and 30.6cm while only 14% are greater than 30.6cm. She concluded that the combination of removing the existing trees and eliminating future tree planting potential would not increase tree canopy cover across the City cover and does not align with s. 2(s) of the *Planning Act*.

The "Urban Forest Plan" reaffirms Council's direction of increasing tree canopy cover across the City to between 30% and 40%. One of the fundamental aspects in supporting this increase is through the protection of existing resources. Ms. Carson submitted that the proposed lot severance does not protect existing tree resources as required but also eliminates the benefits provided these trees. As such, she opined that

the proposal fails to respond to the goals in the Urban Forest Plan and therefore City Council's direction as it relates to the expansion of the urban forest.

In summation, Ms. Carson submitted that the proposed development will result in the removal of trees on the subject property that would otherwise benefit the property owner in the short term but will impact the community through a net loss of ecosystem services in the longer term. Not only will the abutting neighbour at 66 Woodlawn Avenue West be directly affected through the loss of Tree #12 which is located on the City road allowance fronting that property, but surrounding properties will also be impacted as all of the trees affected by the proposal (except Tree #1) are located near shared boundaries.

She opined that while the removal of trees related to development is not uncommon, the removal should be in keeping with relevant provincial and municipal policies and by-laws. She submitted that the proposed development fails to conform to the OP and to support the goal of 40% tree canopy cover adopted by Council; therefore, the consent and variances requested should not be approved.

Cross-examination of the witness by Mr. Longo commenced on Day 3 of the proceedings. He questioned Ms. Carson as to her familiarity with the proposed applications noting that her involvement with the applications only commenced in March 2018 and Urban Forestry comments to the COA were provided by a different staff person (Exhibit A – Tab 17). Although Urban Forestry made no recommendation to deny the applications, Ms. Carson suggested that she would have recommended refusal of the applications if provided the opportunity.

Mr. Longo highlighted OP Policy 2.3.1.5 in her Witness Statement (at para. 32) and she agreed with his submission that planting trees and providing cash-in-lieu of planting as proposed by the Appellant would comply with that policy. However, she again reiterated that the City's position is that preservation is preferred.

He introduced three staff reports from Urban Forestry to City Council as exhibits; Exhibit Q – PE 14.2 – growing Toronto's Canopy (Tree Planting Strategy dated November 8, 2016); Exhibit R – PE 19.1 – Strategy to Expand the City's Tree canopy on Private Lands (dated May 24, 2017); and Exhibit S – PE 22.3 – Feasibility of Expanding Partnership with Local Enhancement and Appreciation of Forests (LEAF) for Private Property Planting (dated October 16, 2017).

He referenced all three exhibits and submitted that the City has acknowledged the importance of tree planting to increase the urban canopy in the City on private residential lands through various funding programs including private partnerships. He highlighted page 3 in Exhibit S noting that the City planted 275 trees in 2016 and 400 trees in 2017 through the private partnerships established as part of LEAF's Backyard Tree Planting Program.

With respect to the Toronto Municipal Code Chapter 813, Trees (Exhibit M, pg. 120), he highlighted Article III (Private Tree Protection) s. 813.18B which states that the General Manager is authorized to issue permits to injure or destroy healthy trees where (5) "Injury or destruction is required for trees specifically identified for injury or removal on plans approved by the Ontario Municipal Board, City Council or a final and binding decision of the Committee of Adjustment." The witness agreed with Mr. Longo's submission that a TLAB decisions would have similar authority.

He noted that a new Section (813-18.1) was added that gives the General Manager overriding discretion to issue a permit to destroy a healthy tree regardless of the 11 conditions in the previous Section, 813-18B. Ms. Carson also agreed that Section 813-20 A. and B. address the issue of replacement planting on another suitable site as well as cash-in-lieu of planting payment.

Finally, Mr. Longo questioned the witness' assessment of the Proposed Landscape Plan (Exhibit I) prepared by Mr. Presutti specifically focusing on the trees to be planted at the rear yards of two proposed severed lots. Ms. Carson agreed that while a 7m planting separation distance is an ideal spacing guideline used by the City, proposing small to medium sized trees might be a more suitable compromise.

She noted that the 3 additional trees proposed within the City-owned boulevard, in front of the proposed dwellings, are valued; however, she stated that replacement trees for privately-owned trees that are removed must be planted on private property. As a result, the proposed new trees would not count towards the eighteen replacement trees required as a result of the proposed development.

The last witness called by the City was Mary MacDonald, who filed an Expert Witness Statement (Exhibit U dated May 8, 2018) and supporting photographic materials (Exhibit V – Heritage Visuals) as well as an Affidavit (Exhibit W) dated March 9, 2018.

Ms. MacDonald is the Senior Manager, Heritage Preservation Services, City Planning, and has direct professional experience in matters of heritage planning, conservation, historic research and policy development. I qualified Ms. MacDonald to give expert opinion evidence in the areas noted above.

For a second time, Mr. Longo asked that the clarification be provided regarding the witness' areas of qualification. He stated for the record that while he had no issue with Ms. MacDonald giving opinion evidence in the areas where she is qualified, he submitted that there had been no effort to qualify heritage planning as land use planning.

Subsequently, he requested a ruling that Ms. MacDonald not express a land use planning opinions on, for example, the following areas: whether the appeal or the proposed development before this Tribunal conform to OP policies; whether the appeal or proposed development conform to the Growth Plan; whether sufficient and

appropriate regard has been had to matters of provincial interest regarding Section 2 of the *Planning Act*; whether the four tests under Section 45(1) of the *Act* have been met; and whether sufficient and appropriate regard has been had to the criteria set out in Section 51(24) of the *Act*. In making this request, he noted that he was mindful of the ruling I made regarding Ms. Carson.

He argued that the City has professional planners on staff that could have been called to provide a land use planning opinion respecting conformity and matters of provincial interest but failed to do so. He noted that he raised the matter at this point because Ms. MacDonald's Witness Statement contains, in his words, "bold" statements regarding matters of conformity that erode issues I addressed in my earlier ruling regarding the TLAB's role as a 'gatekeeper' and the weight that should be given to the qualifications of an expert.

In response, Mr. Elmadany provided the following case law for the Tribunal's guidance:

- a) *Lo Presti Holdings v. Toronto (City)*, 2018 CarswellOnt 16762 ('*Lo Presti*') re 89, 97 and 99 Church Street (LPAT); and
- b) *Liu v. Toronto (City)*, 2015 CarswellOnt 17498 ('*Liu*') (OMB) – Various appeals of the City of Toronto's designation as a portion of Yonge Street as a heritage conservation study area.

He noted that Ms. MacDonald had been an expert witness in each of the above referenced cases and was similarly qualified to give expert opinion evidence in the areas of heritage planning, heritage conservation and Heritage policy in those proceedings.

In *Lo Presti*, he submitted that the Board heard Ms. MacDonald's opinion evidence in relation to issues of heritage policy and conformity to the OP and consistency with matters of provincial interest (para. 63-66, pg. 6). The same approach is taken in *Liu*, at paragraphs 9 and 10 (pg. 2), where the Tribunal allowed her to address the issue of heritage relative to applicable provincial policies and the OP.

Mr. Engell submitted that providing planning opinion regarding policies in the broader sense as found in higher level planning documents as well as the OP is not the exclusive preserve of land use planners. Further, he suggested that land use planning requires the input of experts in various specialized fields in order to inform opinion; having expert assistance for the Tribunal is common place and really becomes a question of direction and guidance.

Conversely, Mr. Longo suggested various reasons why the case law submitted by the City should be read with caution including: Ms. MacDonald's qualifications were never challenged; the Tribunals accepted her expertise "on faith" (his words); and she was not qualified to offer opinion respecting s. 45(1) or s.51(24) of the *Act*.

Ruling #2

"I considered several factors including my previous ruling regarding testimony from Ms. Carson, the case law provided by City counsel, the submission made by Mr. Longo and provided my ruling.

I noted that my previous ruling in this proceeding was, in my opinion, consistent, clear and unambiguous.

In considering the case law provided, I noted that Ms. MacDonald was asked to review policy documents which included heritage policies and she provide opinion in this regard. Her opinion evidence in those cases related to policies in the PPS and the *Planning Act* and consisted of an assessment of 'consistency' and 'relevance' in respect of the conservation of a feature of significant cultural, historical and archaeological interests. This review, in my opinion, requires someone with a specific background that can speak to those policies.

Provincial and municipal planning policies are informed by professionals with varying expertise in their respective fields (e.g., heritage, economic development, transportation, architecture, engineering, etc.) and these policies are drafted with the input of these experts.

It is my finding and, therefore, my ruling that as long as Ms. MacDonald's testimony does not venture into territory where she is not qualified and she does not provide an overreaching opinion, I am prepared to hear her opinion evidence. She will be allowed to provide factual evidence and evidence that is relevant to the proceedings subject of course to the limitations on exclusion of opinion evidence that is characterized as land use planning opinion.

I concluded that Ms. MacDonald will be allowed to give expert opinion evidence related to heritage and to provide conclusions from her area of expertise, relating her opinion to the subject proposal. I advised that Mr. Longo that challenge and cross examination are available to challenge the relevance and the extent of the evidence called."

Following my ruling, Ms. MacDonald resumed her testimony briefly providing a chronology of the subject applications including the context of HPS's determination that the subject property had heritage value under Ontario Regulation 9/06. This context is more aptly delineated in her Affidavit in Exhibit W.

She provided her summary opinion on the proposal in the context of Sections 2, 3, 45 and 51 of the *Planning Act*, the PPS and the Growth Plan, the Ontario Heritage Act as well as heritage policies in Section 3.1.5 of the OP.

She submitted that Section 2 of the *Act* directs that “the council of a municipality, a local board, a planning board and the Municipal Board, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as: (d) the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest; and (r) the promotion of built form that, (i) is well-designed; and (ii) encourages a sense of place.”

She opined that the applications do not have appropriate regard for matters of provincial interest including the conservation of the designated Eden Smith home which is of significant architectural, cultural and historic interest and the promotion of well-designed built form that encourages a sense of place.

In this regard, she highlighted the Survey Map in her visual evidence (Exhibit V), in addition to a photograph of the subject property and an aerial image of the north side of Woodlawn Avenue West showing the property in its immediate context.

She submitted that the situation of subject property is similar to its neighbours to the west; that is, reflecting comparable articulation of dwellings through a set back from the street and being elevated on a rise of land. While there has been development along Woodlawn Avenue West, she suggested that detached house forms from the same era remain at 35 Woodlawn to the east and 105 Woodlawn to the west. This is seen as different from the articulation of front yard setbacks on the south side of the street which she suggested was due to a distinct topography.

She opined that the severance of the subject property and demolition of the existing dwelling would disrupt, not encourage, a sense of place and not promote the characteristic, well-designed built form that prevails on Woodlawn Avenue West.

She further opined that the relevant heritage policies in Section 45 of the *Planning Act* have not been satisfied as the applications are not minor due to the importance of the proposed demolition of a significant built heritage resource with cultural heritage value,, do not maintain the general intent and purpose of the OP’s heritage conservation policies of (3.1.5.2, 3.1.5.3, 3.1.5.4, and 4.1.5 h)) and the Zoning By-laws, and do not represent desirable development since they have insufficient regard for matters of provincial interest.

With respect to matters of provincial interest, she opined that the applications are not consistent with the PPS as found in Part V, Section 1.0 and Section 2.0, highlighting the relevant definitions in the PPS of “Built Heritage Resources,” “Conserved” and “Significant.” She also highlighted the relevant policy of the Growth Plan (4.2.7.1) opining that the subject applications fail to conserve a cultural heritage resource, do not foster a sense of place and, in doing so, the applications harm the community.

In her summation, she addressed the consent criteria in Section 51(24) of the *Act* and submitted that the application to sever the subject property does not satisfy the criteria. She opined that the application does not conserve a significant built heritage

resource (s. 5.1), does not conform to the City's OP (s. 5.3 and 5.7), is premature because it does not protect and manage significant heritage resources, and the proposed severance presupposes demolition of a designated property that requires the consent of City Council pursuant to Sections 33 and 34 of the Ontario Heritage Act.

On cross-examination, Mr. Longo attempted to confirm the timeline as to when HPS became aware of the subject applications and Council's passing of a resolution stating intent to designate the property under Part IV of the Ontario Heritage Act. He suggested that that timeline was approximately 20 days which he implied was rather hurried.

He challenged Ms. MacDonald's characterization of the north side of Woodlawn Avenue West as being "dramatically" (his words) different than the south side referencing a photo of a westerly view of the street taken in 1912 (Exhibit V, pg. 26). She suggested that the photo reflects the differences she identified as well as the fact that the east side of Woodlawn Avenue West is also substantially different than the west side. She suggested that house construction, building materials, setbacks and the siting of houses given the topography of the land, are the tree canopy are distinctive and many elements can still be seen in the streetscape today.

In questioning her assessment of streetscape character and her opinion as to 'sense of place', Mr. Longo noted that she had not undertaken a lot fabric analysis of the neighbourhood.

He also opined that heritage is just one of the aspects of the many policies that the TLAB must consider in deciding this appeal. In her testimony and evidence, Ms. MacDonald made a determination as to whether the relevant heritage policies found in various planning instruments had been satisfied. He asserted that this should not be done in isolation, referencing the language in Policy 5.6.1.1, and specifically the last sentence which states "The goal of this Plan is to appropriately **balance and reconcile** (emphasis added) a range of diverse objectives affecting land use planning in the City." He noted that this Policy resulted from OPA 199 which refreshed the heritage policies in the OP.

In response, Ms. MacDonald maintained that her opinion evidence is provided to assist decision-makers in understanding the language of the relevant policies, specifically related to heritage, and the mandatory considerations which direct how policies are to be implemented. With respect to 'balancing and reconciliation', relevant heritage policies found in the OP are implemented through the mandatory language in the PPS which states that significant heritage resources 'shall' be conserved.

As to the issue of the heritage designation of the subject property, Mr. Longo highlighted two letters written by his firm on the Appellant's behalf and addressed to City Council. The first letter (found in Exhibit M, pg. 547), and dated March 23, 2018, outlines why the Appellant chose not to appeal the proposed designation. He submitted

that this decision should not be interpreted as agreement at the Appellant strongly disagrees with the heritage designation.

The second letter, dated August 2, 2018 (Exhibit X), contains the Appellant's application seeking Council's consent to demolish the dwelling on the subject property, pursuant to subsection 34(1) of the *Ontario Heritage Act*. Mr. Longo noted that there is an appeal process to the LPAT should Council refuse to allow demolition.

Hearing Day 4 commenced on October 31, 2018, almost three months after the initial hearing date, and included the testimony of two witnesses called by Mr. Engell.

David Winterton is an architect and Associate of the firm, ERA Architects Inc., and a Member of the Society for the Study of Architecture in Canada. He filed an Expert Witness Statement, and Acknowledgement of Expert's Duty (Form 6) on February 5, 2018 (Exhibit T – Schedule A). I qualified him to give expert opinion in the areas of heritage architecture and urban design (streetscapes).

Employing various visual evidence contained in his Witness Statement including a vintage historical photo of the street (circa 1912), an illustration of the elevations of the streetscape on the north side of Woodlawn Avenue West relative to the subject property, and a photo of the existing home, he provided an impression of the streetscape character of Woodlawn Avenue West which included the subject property and described its contribution to that streetscape.

He reviewed the streetscape collage (Exhibit E) identified previously by the Appellant's planner and briefly described the broader qualities of the streetscape on Woodlawn Avenue West. He submitted that much of the former Regency-era Woodlawn estate was subdivided in the late 1880's contributing to the formation of the subject street. Over time, the residential streetscape on Woodlawn Avenue evolved as a distinctive and coherent late Victorian, Edwardian and Arts & Crafts expression, especially on the north side of the Street.

In describing the topography of Woodlawn Avenue West, he referenced the City of Toronto Data Map (Exhibit T, pg. 11) to illustrate underlying area topographic contouring. He suggested that the street traverses and bisects the escarpment tracing the former shoreline of Lake Iroquois, lending an interesting topographical variety to the contours of the street and the lots situated along the roadway.

Mr. Winterton opined the result was a distinctive division of the Woodlawn Avenue West into a higher western end, with properties on the north side sitting atop the ridge, in contrast the lower eastern end where the ridge veers north (east of #62 Woodlawn) where the houses have a plainer character and sit at level grade relative to the street.

Further, he asserted that the houses on the northern side are set back farther from the sidewalk as opposed to those on the south side which he suggested are closer

to the street and more tightly situated forming a consistent street wall articulation and reflecting a denser urban condition. In his words, the streetscape of Woodlawn Avenue West is an “asymmetrical experience.”

Continuing with his assessment of the differences visible on the street, he noted that driveways (and garages) have been incorporated at the edges of several of the sloped north-side residential frontages but front yards are generously landscaped or include terraced gardens. There is a mature tree canopy on the north side.

He suggested that the higher half of the plateau on Woodlawn Avenue West contain larger detached houses on 50 ft. lots while the lower eastern half of the plateau includes lots with smaller frontages. The scale of most large house forms on these larger lots is irregular and rendered ‘relatable and domestic’ (his words) through the use of similar and prevalent volumetric asymmetrical architectural styles and features (e.g., steep-pitched roofscapes, dormers and chimneys, red brick, half-timbered gables, etc.).

In summation, he opined that the proposed development will detract from the existing coherent streetscape by removing the significance of the subject property and the steep portion of the natural escarpment landform in the front yard. The proposal to sever the property into two smaller lots thereby demolishing the articulated massing and roofscape of the existing Eden Smith designed dwelling and replacing it with two four-storey ‘minimalist expression’ modern townhouses would, in his opinion, disrupt the traditional architectural rhythm of Woodlawn Avenue West and significantly diminish its architectural pedigree.

On cross-examination by Mr. Longo, the witness acknowledged having had additional time and information to assess the subject applications since being retained by the local residents, many of whom are parties in this proceeding, in mid-January of 2018. As to his understanding and use of the terms ‘distinctive’ and ‘coherent’ relative to his assessment of the streetscape, he reiterated his conclusion that Woodlawn Avenue West is a distinct street because of added asymmetries as outlined in his testimony. He offered his definition of the term ‘coherent’ as meaning “readable and understandable – but that doesn’t mean every dwelling is the same. There is a consistency in architectural expression.”

Mr. Longo questioned the witness’ description of the properties on the north side in his Witness Statement that “larger detached houses on wider lots, set on the ridge, with deep front gardens on the north side” and suggested this was factually incorrect. Mr. Longo referenced the Lot Study – Frontage Map prepared by Mr. Huynh which shows numerous semi-detached dwellings and narrower lots in the Study Area with frontages less than 7.63 m (as proposed by the Appellant). Mr. Winterton reluctantly agree to this assertion as well as acknowledging that some of the homes he referenced as sitting on the ridge have driveways at grade and minimal front yard landscaping.

Mr. Engell called Dr. Carl Bray as the last witness in the proceedings. He submitted an Expert Witness Statement (Exhibit Y) dated February 5, 2018 as well as an Acknowledgement of Expert's Duty (Form 6).

Dr. Bray is a principal of Bray Heritage, a consulting firm specializing in heritage planning and strategic planning for cultural heritage resources, and a Senior Associate with Letourneau Heritage Consulting Inc. (LHC) specializing in heritage planning, urban design, and landscape architecture. Dr. Bray has an impressive Curriculum Vitae, including being a Registered Professional Planner, a Professional Member of the Canadian Association of Heritage Professionals (CAHP), and a full member of the Canadian Society of Landscape Architects and Ontario Association of Landscape Architects.

I qualified Dr. Bray in the areas of heritage planning, urban design, landscape architecture, and land use planning.

Dr. Bray's testimony and evidence addressed various aspects related to the proposed development and subject property including a descriptive assessment of the streetscape character of Woodlawn Avenue West and its topography, and a policy review relative to the consent and request variances. He utilized various visual materials found as Attachments in his Witness Statement to support his opinions.

He provided an overview of the streetscape character of Woodlawn Avenue West referring to Attachment F (OP Natural Heritage Map) of his Witness Statement and suggested that the subject property may fall within the Natural Heritage System along the former shoreline of glacial Lake Iroquois.

He submitted that the streetscape is characterized by responses to topography evidenced by the former shoreline of Lake Iroquois. This is especially evident in the western end of the street where properties on the north side of the street are located along the top of the ridge. He described the subject property as the "eastern anchor of the northwest quadrant" of the Woodlawn neighbourhood.

He submitted that the streetscape changes at 62 Woodlawn as the escarpment face swings north; houses on the north side are set back with those on the ridge positioned part-way up the slope, retaining portions of the escarpment landscape in their front yards. He submitted that houses on the ridge, including the dwelling on the subject property, are located for the most part on fifty-foot lots and their scale is modulated by a variety of architectural devices, echoing the opinion evidence provided by Mr. Winterton.

Dr. Bray referenced a photo of the existing dwelling on the subject property (Exhibit Y, pg. 62) suggesting the architecture utilizes modulated design elements and articulated of masonry and natural materials, canted chimneys, a window bay and gable, small dormers, and a roof form in multiple dimensions. He opined that the

existing dwelling is an “exemplar” (his word) of the character of the area with mature landscaping and minimal terracing of the topography.

He provided his opinion as to whether the proposed consent and minor variances applications are consistent with the PPS and conform to the Growth Plan and satisfied the statutory tests.

He submitted that the proposed severance is inconsistent with section 51(24) (a) related to the effect of the development on matters of provincial interest as referred to in Section 2 of the Planning Act. In this regard, he summarizes his analysis in Attachment G to his Witness Statement noting the proposed development fails to have appropriate regard for the conservation of significant cultural heritage resources.

He opined that the proposed severance does not conform to Policies 1.7.1 and 2.6.2 of the PPS in that the development would have a negative impact on the cohesive streetscape on the north side of Woodlawn Avenue West, removing features that help define the street’s character, including the existing house, the terraced front garden, as well as on large portions of the escarpment topography existing on the property.

With respect to the provincial policies regarding intensification, Dr. Bray suggested that the intent of those policies is not to encourage intensification throughout the City. To emphasize his interpretation he quoted a former OMB Chair who stated that, “If that had been the policy intent, we would be building apartment buildings in flood plains.”

Furthermore, he opined that the Growth Plan, in Policy 4.2.7.1 (Attachment H in his Witness Statement), also provides for the protection of valuable heritage resources stating that, “Cultural heritage resources will be conserved in order to foster a sense of place and benefit communities, particularly in strategic growth areas.” In that regard, he submitted that the proposed development will erode the sense of place of the streetscape by removing a significant built form and landscape features.

Dr. Bray continued his testimony regarding Section 2 of the *Planning Act* and concluded that subsections 2 (d), (p) and (r) are not satisfied.

He highlighted the consent criteria of Section 51(24) and opined that there were substantive implications on matters identified in numerous subsections including 51(24) (a), (b), (c), (d), (f) and (g).

In addressing the minor variances, he reviewed the four tests individually as follows:

1. The General Intent and purpose of the Official Plan

He identified the relevant policies in the OP, namely Policies 3.2 and 4.1.5 and opined that the proposal will not achieve the policy objectives set out in the OP. He

also identified the relevant policies of Section 4.1 of the Yonge-St. Clair Secondary Plan which requires redevelopment to:

(a) respect and reinforce the essential elements of established neighbourhood structure and character; (b) be compatible with adjacent residential development; and (c) recognize the relevant urban structure elements specified in Section 2.1 of this Secondary Plan, such as views afforded to and from the escarpment.”

He opined that the proposed development satisfies none of these criteria.

He also briefly addressed the area-specific Zoning By-law 848-1980 and suggested that the Planning Staff Report supporting its implementation highlighted in testimony by previous witnesses recognized the potentially negative effect that severances and the demolition of homes would have on the streetscape of Woodlawn Avenue West. He quoted from the Staff Report, “There is little doubt that such extensive redevelopment would in time completely transform the appearance of Woodlawn Avenue West. It is this eventuality which the introduction of some form of development control is intended to address” (op.cit. p.2).

2. The general intent and Purpose of the Zoning By-law

He opined that the proposed variances would result in substantially different and larger built form than is permitted in the existing zoning and would substantially impact the exiting landform.

3. Desirable for the appropriate development or use of the land

The proposed development removes the existing house and landscaping, replacing it with a much larger pair of structures and a large paved front courtyard. The proposed severance departs from the predominant fifty-foot lot frontages that characterize much of the western and north side of Woodlawn Avenue West. He opined that the proposal does not represent an appropriate, reasonable and compatible development for the street, in particular, and the neighbourhood, in general.

4. Minor in nature

The proposal requires variances for, but not limited to, building height and depth, lot frontage, floor space index, gross floor area, setbacks, and extent of soft landscape. He opined that the variances are not minor as they would negatively impact the character of the streetscape.

In summarizing his opinion, Dr. Bray submitted that the consent is not appropriate and not consistent with the applicable planning framework. Additionally, the proposed development does not represent good land use planning, good urban design, and will not conserve cultural heritage resources on the subject property.

On cross-examination by Mr. Longo, Dr. Bray acknowledged that some Eden Smith designed buildings had been demolished in the City but was unaware of whether they were residential dwellings. He was also unaware of the designation of any other Eden Smith homes elsewhere in the City since the designation of the subject property in March 2018.

With respect to the 1980 Planning Staff Report referenced by Dr. Bray, Mr. Longo highlighted Recommendation #2, which the witness failed to note, which states, and I paraphrase, that “Council would support applications to divide existing detached dwellings vertically to create a pair of semi-detached dwellings provided that the original lot frontage is no less than 15 m and provided that the exterior treatment of the dwelling is satisfactory to Council.” Mr. Longo questioned whether that Recommendation would have permitted a 25 ft. lot frontage on the subject property.

All three solicitors provided closing remarks on Day 5 (November 1, 2018) of the proceedings.

Mr. Longo highlighted what he identified as the three pertinent themes relating to the subject applications and submitted rationale for why the appeal should be allowed.

A. Heritage

Mr. Longo suggested that although relevant heritage policies within the various planning framework documents were identified by the opposing Parties, they were not weighted or balanced against land use planning policies suggesting a limitation of analysis.

He submitted the TLAB should prefer Mr. Huynh’s opinion evidence which reflected an approach that heritage policies are not to be read in isolation or are somehow discrete but must be balanced with other policies as directed in all planning documents.

He also intimated that the Part IV designation of the subject property was undertaken by the City in “extreme haste” (his words) and improperly in an attempt to prevent the subject appeal from being successful.

B. Planning Issues

Mr. Longo noted that the only professional land use planners called were Mr. Huynh and Dr. Bray. He suggested that Mr. Huynh provided a more comprehensive review of planning policy documents and his evidence was more relevant and unequivocal in cross-examination.

He contended that Dr. Bray’s evidence, in some respects, was misleading and that his narrative of the streetscape character of Woodlawn Avenue West was arrived at without substantive evidence.

Mr. Huynh's assessment of the statutory tests represented, in Mr. Longo's opinion, a balanced and reasoned application of provincial and City policies.

C. Proposed Landscape Plan

Mr. Longo submitted that the TLAB should prefer the testimony of Ms. Kowaleski, who presented a Tree Preservation Plan and Arborist Report in collaboration with Mr. Presutti, to the testimony of the witnesses called by the other Parties. He suggested that the Proposed Landscape Plan for the development of the subject property, along with the cash-in-lieu of planting payment, will more than compensate for any trees that are required to be removed, and I should find favour with that Plan.

In his closing remarks, Mr. Elmadany noted that competing expert opinion evidence on various topics has been presented throughout the proceedings and he submitted that the evidence providing by the City and the residents should be preferred. He suggested that the Appellant's heritage planner (Mr. Hall) failed to provide any evidence that the proposal is consistent with or conforms to any heritage policies, as did Mr. Huynh as acknowledged during cross-examination.

Mr. Elmadany provided several cases from the former OMB and the TLAB for guidance. While I am appreciative of that assistance, ultimately the determination of the appeal must bear strong bonds to the evidence heard. I deal with the *ratio decidendi* of the referenced cases below, refereeing to them by their popular names. Not all the following cases were addressed by counsel:

- a. Re Proud, PL060850 (Section 43 Review Decision), May 4, 2009 (Tab 1);
- b. Solaris Energy Partners Inc., v. East Hawkesbury (Township), 2009 CarswellOnt 2650 (OMB) (Tab 2);
- c. Re 9 Thirty-Eight Street – Review Decision (TLAB Case #17 165404 S53 06 TLAB, 17 165406 TLAB, 17 165408 S45 06 TLAB) (Tab 3);
- d. Guiducci, Re, 2018 CarswellOnt 4719, March 7, 2018 (TLAB 17 201219 S53 06 TLAB, 17 201220 S45 06 TLAB, 17 201221 S45 06 TLAB) (Tab 4);
- e. Rubino v Toronto (City), PL160574, May 30, 2017 (82 Roxaline Street) (OMB) (Tab 5);
- f. Inacio v. Toronto (City), 2018 CarswellOnt 471 (96 John Street) (OMB) (Tab 6).

He referred to *Proud* (Tab 1) noting that this was a Section 43 review involving development within a Heritage Conservation District, which is still under appeal. He noted that the Board did not grant the review request and on page 470 of the decision the Board Member acknowledged that the policy objectives of conserving significant heritage features (Section 2.6.1 of the PPS) and the goal to promote long-term economic prosperity were not viewed as conflicting.

In *Solaris* (Tab 2), the Board Member addressed the need to “balance” supposedly conflicting elements. Mr. Elmadany suggested that the Appellant has not balanced the

heritage designation of the subject property against intensification policies applicable to the site.

With respect to *Guiducci* (Tab 4), a TLAB Decision by Member Lord, Mr. Elmadany highlighted the paragraph on p. 25 of that Decision in which the Member acknowledges that the loss of such trees “is not supportive of the Natural Environment protection policies of section 3.4 d) of the Official Plan.”.

The OMB decision in *Inacio* (Tab 6) addresses the issue of neighbourhood character relative to the historical context of lots of origin. Mr. Elmadany submitted that the sizes of the severed lots being proposed and the built type and form to be constructed are not in keeping with the neighbourhood character.

Mr. Elmadany concluded his remarks by submitting that the TLAB dismiss the appeal and not grant the consent and minor variance applications.

In his closing remarks, Mr. Engell concisely distilled the essence of this appeal into one key matter: the planning considerations of the heritage designation of the subject property. He submitted that when considering the planning policy context, heritage has direct and immediate consequences in the policies and triggers the application of various policies within these planning instruments. He reiterated that the issue of heritage cannot be ignored.

He submitted that Zoning By-law 834-1980 is relevant in this matter, contrary to the testimony of Mr. Huynh. The new harmonized Zoning By-law is an expression by Council of its intent in the current policy context and has incorporated the intent found in preceding By-laws, which Mr. Engell suggested as reflecting the “law of long-standing.”

He suggested that the issue of lot frontage lies at the heart of planning difficulties with the subject applications given that the intent of the lot frontage zoning provisions that apply to the area in which the subject property is located was, in his opinion, to prevent this very type of development.

In summation, Mr. Engell submitted that the proposed consent and minor variance applications should not be granted because doing so would result in a destabilizing influence on the neighbourhood.

ANALYSIS, FINDINGS, REASONS

As stated under ‘Matters in Issue’, the applications and appeal before this Body are, in my opinion, neither unprecedented nor novel, with a significant caveat. The issues of heritage, the loss of healthy mature trees, and the creation of undersized lots relative to the character of the neighbour complicate the consideration of this matter, not to mention the overwhelming number of filings, evidentiary materials, and interest from the public regarding this proposed development.

Based on the submissions presented by the counsel (Mr. Longo), this should be a 'textbook' (my word) case of the application of the professional evidence to the subject property and the Applications. Conversely, given the evidence provided by the Parties in opposition to this appeal, the matter is more complex than suggested by the Appellant.

The rationale for my summaries in the proceeding section of this Decision are consolidated under the headings identified by Mr. Longo in his closing arguments for reasons of consistency and clarity. That is, an analysis of the applications before this Tribunal from the perspective of: 1) heritage; 2) planning; and 3) landscaping. These headings, in my mind, succinctly and aptly encapsulate the issues that warrant evaluation relative to the subject proposal.

The issue of heritage is, I believe, the 'elephant in the room' in this appeal. All three planning policy documents, the PPS, the Growth Plan and the City OP speak to heritage related matters. Additionally, the Planning Act itself identifies 'heritage' as a matter of provincial interest to which consistency, conformity and consideration must be given. Heritage is a planning matter; planning is not a heritage matter.

As I wrote in my Motion Decision of April 18, 2018, requesting an adjournment of the original Hearing Date for this matter (p. 22), "Not to consider heritage, which has public interest implications, would go to the issue of procedural fairness and is discussed in citations raised by the City. Heritage is an important matter to the planning process and is identified through various documents both at the provincial level as well as the City of Toronto. The protection of potential heritage attributes is referenced in the PPS, which requires tribunals such as the TLAB to consider heritage matters specifically when it comes to consents and when issuing decisions under the *Planning Act* that are required to be consistent with the PPS and in conformity with the Growth Plan."

The proposal before the TLAB is for consent to sever the subject property into two undersized lots and to construct two new contemporary three-storey detached residential dwellings. In order to accommodate this development, if approved, the existing and designated Eden Smith designed home would require demolition.

Section 2 of the Planning Act directs this Tribunal, in carrying out its responsibilities under the *Act*, that it "shall have regard to, among other matters, matters of provincial interest" and lists those matters. Heritage as a matter of provincial interest is identified in Section 2 (d). Matters of interest are also identified in provincial framework documents such as the PPS and the Growth Plan. Regardless of the challenge to the timing as to how the heritage designation came about, the fact before the TLAB is that the subject property is designated as a heritage asset to the City.

The PPS provides clarity with respect to relevant definitions of conservation and significance. With respect to conservation, the PPS is clear that in what it is directing, that is the "identification, protection, management and use of built heritage resources, cultural heritage landscapes and archaeological resources in a manner that ensures

their cultural value or interest is retained under the Ontario Heritage Act.” Policies in the Growth Plan also address heritage and direct that ‘Cultural Heritage Resources’ will be conserved.

In this regard, the Appellant’s expert land use planner, Mr. Huynh, while acknowledging that he reviewed all of the relevant policies set out in the PPS and the Growth, including the heritage policies, agreed with Mr. Elmadany in cross-examination that the proposal does not conform with Policy 2.6.1 (PPS) and 4.2.7.1 (Growth Plan). I find this both troubling and instructive.

The TLAB must be satisfied that all the legislative tests are met before the TLAB can grant the consent and the variances requested, which are a privilege not a right. Mr. Longo submitted on multiple occasions that the designation of the subject property was utilized improperly in relation to the subject property, in his opinion, in an attempt to prevent the appeal from being pursued and being successful. As I noted several times during the proceedings, this is not the issue before the TLAB.

In this regard, I prefer Ms. MacDonald’s evidence and I find that the applications do not conform to and fail to maintain the intent and purpose of the City’s OP heritage conservation policies, which take advantage of the enabling legislation of the Ontario Heritage Act. The applications fail to conserve a designated property and advance no measure of conservation.

I also note that when Mr. Huynh was asked, under cross-examination, as to whether he had considered the various heritage policies he acquiesced that the applications did not comply with any of those policies but also stated, “but on balance, the other policies outweigh them.” While I agree with Mr. Longo that the issue of the potential demolition of the house on the subject property is a matter of a separate process and that the TLAB’s responsibility is to determine the appeal and the applications before it on merit, I disagree with him, if it is so suggested, that this should be done without regard to the heritage designation of the property.

With respect to the proposed landscaping plan and the loss of healthy mature trees as a result of the proposed development, expert opinion evidence was provided by a number of very qualified professional, which I am appreciative. There is disagreement between the Appellant’s arborist and City arborist regarding the loss of two trees (Trees #1 and #12), the potential number of trees that can be accommodated in the rear yard as a result of the proposed development as well as the efficacy of cash-in-lieu of planting payment.

The proposed development of the subject property will require the removal of six (6) privately-owned trees because they are all within the footprint or in unacceptable proximity to the proposed construction of the two residential dwellings. As a result, eighteen trees will be required to replace them pursuant to the City’s Tree By-law. The Appellant is proposing one to four trees will be planted on the subject property to

replace the six trees being removed with cash-in-lieu of planting for the remaining 14-17 trees.

I find that the loss of healthy mature trees, regardless of whether privately or City owned, is not supportive of the Natural Environmental protection policies of Section 3.4 d) of the OP. I also find that while the proposal of mere replacement policies, or compensation is an attempt to mitigate impacts from the loss of trees, they do not obviate the preference of preservation. While tree removal alone is not a determinant of the applications, it is an element of area character that is not reinforced given the immediacy of the loss, the quantity of trees that can be accommodated on the property due to the proposed development, and the generations required to replace the existing physical offerings.

The Appellant's arborist, in her evidence and testimony, is not certain as to the number of trees that can actually be accommodated with the development of the subject property. On p. 8 in Exhibit H2, Ms. Kowaleski stated that **"one to four trees"** (my emphasis) will be planted on the subject (property) to replace the 6 trees being removed." Additionally, she stated in her Witness Statement that a total of up to four trees can be planted due to the development proposal. The remaining trees to be planted are to be addressed through cash-in-lieu of planting and at other locations.

Ms. Kowaleksi raised the issue of the possibility of additional tree planting on neighbouring properties but acknowledged that no discussions have occurred to date with any of those residents, including the property owner at 66 Woodlawn Avenue West. I acknowledge that the Appellant is proposing three (3) new trees within the City boulevard in front of the subject property where currently there are no trees and that this is to be considered worthwhile. However, I note that these three new trees do not count toward the eighteen replacement trees as required by the City

I accept the City arborist's opinion that the removal of the existing trees and eliminating the future tree planting potential would not benefit the neighborhood or achieve the management goals of an increase in tree canopy cover across the City. The amount of "plantable" space on the proposed newly created lots would be significantly reduced, due to the increased footprint of the buildings, driveways and other hard surface elements

I agree with Urban Forestry that the benefits of replacement trees should not be considered an incentive to or mitigation of tree removal unless or until the necessity of the removal of tree(s) has been established. Replacement tree planting cannot, in any reasonable time frame, replace the lost trees or the benefits they provide. I agree with the City that cash-in-lieu of planting does not replace the benefits to the ecosystem of the loss of trees and the best way to preserve these benefits is to maintain and care for existing trees.

I find that shifting the obligation of accommodating tree planting onto adjacent property owners as suggested by the Appellant's arborist is not an appropriate

approach to addressing matters of provincial interest and the OP and preserving the City's urban tree canopy. The proposed landscaping plan does not have regard to the numerous City Council policy directives with the goal of preserving and increasing the City's urban forest.

The Official Plan is an elemental consideration of both the consent and the variance relief sought. From the evidence, I cannot conclude that the appeals, in respect of the preservation of the urban forest and tree canopy, or its enhancement, that the intent and purpose of the OP is in conformity.

With respect to the legislative tests, I find favour with the expert opinion evidence provided by the City and the other Party (the residents). Section 53 of the Planning Act requires that the criteria in Section 51(24) of the Act be considered in reviewing an application for consent.

In this regard, I prefer Dr. Bray's opinion that the proposed severance is inconsistent with 51(24) (a), (b), (c), (d), (f) and (g). I agree that severance will have a negative impact on the character of Woodlawn Avenue West, particularly the cohesive streetscape on the north side of the street, removing features that help define the street's character, including the existing house, the terraced front garden with its mature trees and plantings facing the public realm, as well as on large portions of the escarpment topography existing on the property.

I agree with Dr. Bray that the proposed severance is inconsistent with criteria in Section 51(24), specifically criterion a) "the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2." Section 2 d) identifies "the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest" as a matter of provincial interest.

The proposed severance departs from the predominant fifty-foot lot frontages that characterize much of the streetscape and, especially, the western half of the north side of Woodlawn Avenue West. I accept Mr. Winterton's assessment in describing the character of the subject property in its context that, "The house contributes greatly to the existing streetscape character of Woodlawn Avenue West and indeed serves as an eastern anchor to the continuous rhythm of late Victorian and Arts & Crafts house forms atop the ridge."

For the reasons noted above, I cannot find that the creation of two undersized lots from the larger lot and the consequential development of two detached dwellings on two smaller lots will be consistent with the established character and lot pattern of the neighbourhood, in general, and Woodlawn Avenue West, in particular, and other applicable policies set out in the OP. The evidence before me does not support a planning conclusion that the two lots created by the severance will respect and reinforce the physical character of the area and the various expressed policies in the OP that govern such changes through severance.

I agree with Dr. Bray that the proposed development does not maintain the general intent and purpose of the Official Plan with respect to the development criteria outlined in Section 4.1.5 b), c), f) and h). The proposed severance is contrary to the pattern of fifty-foot lot frontages and not supportive of the minimum lot frontage requirements of the applicable zoning, and the proposed dwellings are taller and larger in massing than their neighbours, with much smaller side yard setbacks.

I find that the proposed development is not consistent with the provisions of the applicable Yonge-St. Clair Secondary Plan. The Secondary Plan identifies the escarpment as an important feature (Map 6-1) and Section 2.2 directs that development “protect, promote and enhance the existing type and quality of *Neighbourhoods*...and maintain their stability.”

Relevant Secondary Plan Policies in 3.2 b) and 4.1 a), b) and c), directs that the built form of redevelopment projects will, in addition to the Built Form policies of the OP: “respect and reinforce the essential elements of established neighbourhood structure and character; be compatible with adjacent residential development; and recognize the relevant urban structure elements specified in Section 2 of the Secondary Plan, such as views afforded to and from the escarpment.”

I accept Dr. Bray’s opinion that the proposed development meets none of these policies.

The extensive excavation of the existing escarpment slope required to construct these dwellings will result in a development that conflicts with the prevailing pattern of retaining portions of the existing slope and vegetation within the front yards of other properties along the street. I also agree with Dr. Bray that the proposed development will result in the demolition of a building that contributes significantly to the unique physical character of the neighbourhood.

I also agree with the opinion of both the City’s and the resident’s expert witnesses that the proposed variances are not minor and are not desirable for the appropriate development or use of the subject property.

Considering the foregoing, having considered the decision of the COA, the applicable statutory tests and evidence, I find that the Appellant’s proposed severance does not satisfy the criteria set out in s. 51(24) of the *Act*. For the same reasons, and upon the separate application of the same evidence, I find that associated minor variances do not meet the criteria set out in s. 45(1), are not appropriate and desirable, not minor, not in keeping with the intent and purpose of the City Official Plan, and does not have appropriate regard for matters of provincial interest under s. 2 of the *Act* and not consistent with and does not conform to provincial policies.

The proposed development does not represent good land use planning and will not conserve the cultural heritage resources of the designated subject property.

Decision of Toronto Local Appeal Body Panel Member: D. Lombardi

TLAB Case File Number: 17 270181 S53 22 TLAB, 17 270182 S45 22 TLAB, 17 270183 S45 22 TLAB

The TLAB accordingly denies the Appellant's appeal and the application for provisional consent is denied. In light of this denial it is unnecessary to consider further and individually whether the minor variances maintain the intent and purposes of the Zoning By-laws. I find that they do not.

DECISION AND ORDER

The appeals are dismissed; the decision of the COA is confirmed.

X 

Dino Lombardi
Panel Chair, Toronto Local Appeal Body

Attachment 1



City Planning Division

Committee of Adjustment
Toronto and East York District

100 Queen Street West, 1st Floor
Toronto, Ontario M5H 2N2
Tel: 416-392-7565
Fax: 416-392-0580

NOTICE OF DECISION

CONSENT

(Section 53 of the Planning Act)

File Number:	B0081/17TEY	Zoning	R (f9.0; d0.6)(x780) HT 11.0 & R2 Z0.6 H11.0 (ZPR)
Owner(s):	CONSTANTINE ENTERPRISES INC.	Ward:	St. Paul's (22)
Agent:	EILLEEN COSTELLO	Heritage:	Not Applicable
Property Address:	64 WOODLAWN AVE W	Community:	Toronto
Legal Description:	PLAN 669Y LOT 33		

Notice was given and a Public Hearing was held on **Wednesday, November 22, 2017**, as required by the Planning Act.

THE CONSENT REQUESTED:

To obtain consent to sever the property into two lots for residential purposes.

Retained

Part 1, Draft R-Plan

Address to be assigned

The lot frontage is 7.62 m and the lot area is 414.7 m². A new three-storey detached dwelling will be constructed and require variances to the Zoning By-law as outlined in Application A0845/17TEY.

Conveyed

Part 2, Draft R-Plan

Address to be assigned

The lot frontage is 7.62 m and the lot area is 414.7 m². A new three-storey detached dwelling will be constructed and require variances to the Zoning By-law as outlined in Application A0844/17TEY.

Applications B0081/17TEY, A0844/17TEY & A0845/17TEY will be considered jointly.

The Committee of Adjustment considered any written and oral submissions in making its decision. For a list of submissions, please refer to the minutes.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:


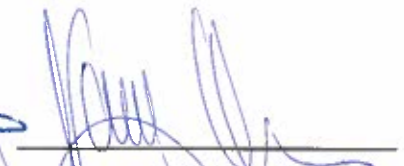
The Consent Application is Refused

In the opinion of the Committee, the application does not satisfy the requirements of Section 51(24) of the Planning Act and is **NOT** approved for the following reason(s):

- The proposed land division does not conform to the policies of the official plan.
- The suitability of the land for the purposes for which it is to be subdivided has not been demonstrated.
- The suitability of the dimensions and shapes of the proposed lots has not been demonstrated.

SIGNATURE PAGE


File Number:	B0081/17TEY	Zoning	R (f9.0; d0.6)(x780) HT 11.0 & R2 Z0.6 H11.0 (ZPR)
Owner(s):	CONSTANTINE ENTERPRISES INC.	Ward:	St. Paul's (22)
Agent:	EILLEN COSTELLO	Heritage:	Not Applicable
Property Address:	64 WOODLAWN AVE W	Community:	Toronto
Legal Description:	PLAN 669Y LOT 33		


Edmund Carlson
Worrick Russell
Nancy Oomen
Ewa Modlinska

DATE DECISION MAILED ON: **TUESDAY, NOVEMBER 28, 2017**

LAST DATE OF APPEAL: **MONDAY, DECEMBER 18, 2017**

CERTIFIED TRUE COPY


Anita M. MacLeod
Manager & Deputy Secretary-Treasurer
Committee of Adjustment, Toronto and East York District

Appeal Information

All appeals must be filed with the Deputy Secretary Treasurer, Committee of Adjustment by the last date of appeal as shown on the signature page.

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NOTE: Only individuals, corporations and public agencies may appeal a decision. The appeal may not be filed by an unincorporated association or group. However, the appeal may be filed in the name of an individual who is a member of the association or group on its behalf.



City Planning Division

Committee of Adjustment
Toronto and East York District

100 Queen Street West, 1st Floor
Toronto, Ontario M5H 2N2
Tel: 416-392-7565
Fax: 416-392-0580

NOTICE OF DECISION
MINOR VARIANCE/PERMISSION
(Section 45 of the Planning Act)

File Number:	A0845/17TEY	Zoning	R (f9.0; d0.6)(x780) HT 11.0 & R2 Z0.6 H11.0 (ZPR)
Owner(s):	CONSTANTINE ENTERPRISES INC.	Ward:	St. Paul's (22)
Agent:	EILLEN COSTELLO	Heritage:	Not Applicable
Property Address:	64 WOODLAWN AVE W (PART 1)	Community:	Toronto
Legal Description:	PLAN 669Y LOT 33		

Notice was given and a Public Hearing was held on **Wednesday, November 22, 2017**, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To construct a new three-storey detached dwelling with below-grade integral garage, front third-storey terrace and rear ground floor deck.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

- Chapter 10.10.30.20.(1)(A), By-law 569-2013**
The minimum required lot frontage is 9.0 m.
The newly severed lot will have a frontage of 7.62 m.
- Chapter 10.10.40.10.(1)(A), By-law 569-2013**
The maximum permitted height is 11.0 m.
The new three-storey dwelling will have a height of 11.45 m.
- Chapter 10.10.40.10.(2)(a)(i), By-law 569-2013**
The maximum permitted height of all front exterior main walls is 8.5 m.
In this case, the height of the front exterior main walls will be 11.45 m.
- Chapter 10.10.40.10.(2)(a)(ii), By-law 569-2013**
The maximum permitted height of all rear exterior main walls is 8.5 m.
In this case, the height of the rear exterior main walls will be 11.45 m.
- Chapter 10.10.40.10.(2)(B)(ii), By-law 569-2013**
The maximum permitted height of all side exterior main walls facing a side lot line is 8.5 m.
In this case, the height of the side exterior main walls facing a side lot line will be 11.45 m.
- Chapter 10.10.40.30.(1)(A), By-law 569-2013**

The maximum permitted building depth is 17.0 m.
The new three-storey dwelling will have a building depth equal to 19.01 m.

7. Chapter 10.10.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index is 0.6 times the area of the lot (249.0 m²).
The new three-storey dwelling will have a floor space index equal to 0.77 times the area of the lot (318.0 m²).

8. Chapter 10.10.40.70.(3)(A)(i), By-law 569-2013

The minimum required side yard setback is 0.9 m.
The new three-storey dwelling will be located 0.5 m from the side lot line.

9. Chapter 10.5.50.10.(1)(B), By-law 569-2013

A minimum of 50% of the front yard must be maintained as landscaping (30.6 m²).
In this case, 42% of the front yard will be maintained as landscaping (25.83 m²).

10. Chapter 10.5.50.10.(1)(D), By-law 596-2013

A minimum of 75% of the front yard landscaping must be maintained as soft landscaping (22.95 m²).
In this case, 51% of the front yard landscaping will be maintained as soft landscaping (15.67 m²).

1. Section 6(3) Part I 1, By-law 438-86

The maximum permitted gross floor area is 0.6 times the area of the lot (249.0 m²).
The new three-storey dwelling will have a gross floor area equal to 0.98 times the area of the lot (406.43 m²).

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

The minimum required building setback to the portion of the side wall of an adjacent building that contains openings is 1.2 m.
The new three-storey dwelling will be located 1.0 m from the adjacent building to the east.

3. Section 6(3) Part II 3.B(II), By-law 438-86

The minimum required side lot line setback for that portion of the building not exceeding 17.0 m in depth where the side wall contains openings is 0.9 m.
The new three-storey dwelling will be located 0.5 to the east and west side lot lines.

4. Section 6(3) Part II 8 F(IV), By-law 438-86

The by-law allows a roof over a first floor platform or terrace to project into the required setbacks provided the top of the roof is not used or designed to be used as a deck or terrace.
In this case, the roof is designed as a deck/balcony.

5. Section 6(3) Part III 3(d), By-law 438-86

A minimum of 75% of the front yard not covered by a permitted driveway must be maintained as soft landscaping (19.37 m²).
In this case, 65% of the front yard will be maintained as soft landscaping (15.67 m²).

6. Section 4(10)(A), By-law 438-86

The maximum permitted height is 11.0 m.
The new three-storey dwelling will have a height of 14.25 m.

7. Section 6(3) Part VII 1(i), By-law 438-86

The minimum required lot frontage is 9.0 m.

The newly severed lot will have a frontage of 7.62 m.

8. **Section 6(3) part IV 4(ii)B, By-law 438-86**
The maximum permitted driveway width is 3.59 m.
In this case, the driveway will have a width of 5.3 m.
9. **Section 6(3) Part II 3.B(II), By-law 438-86**
The minimum required side lot line setback for that portion of the building exceeding 17.0 m in depth is 7.5 m.
The new three-storey dwelling will be located 0.5 to the east and west side lot lines.
10. **Section 6(3) Part III 3(A), By-law 438-86**
The minimum required front yard landscaped open space is 50% (30.6 m²).
The front yard landscaped open space will be equal to 42% (25.83 m²).

The Committee of Adjustment considered any written and oral submissions in making its decision. For a list of submissions, please refer to the minutes.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:

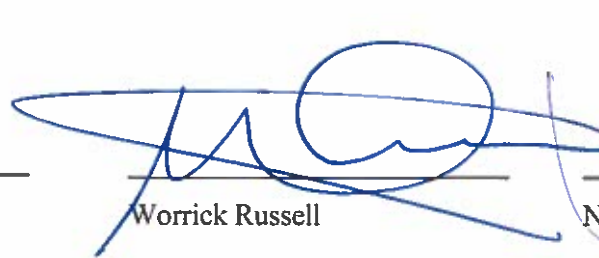
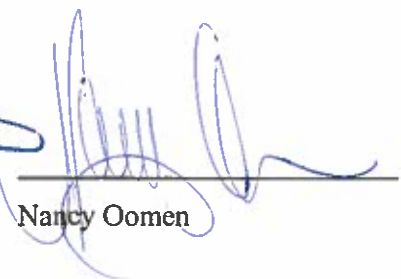
The Minor Variance Application is Refused

It is the decision of the Committee of Adjustment to **NOT** approve this variance application for the following reasons:

- The general intent and purpose of the Official Plan is not maintained.
- The general intent and purpose of the Zoning By-law is not maintained.
- The variance(s) is not considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance(s) is not minor.

SIGNATURE PAGE


File Number:	A0845/17TEY	Zoning	R (f9.0; d0.6)(x780) HT 11.0 & R2 Z0.6 H11.0 (ZPR)
Owner(s):	CONSTANTINE ENTERPRISES INC.	Ward:	St. Paul's (22)
Agent:	EILLEN COSTELLO	Heritage:	Not Applicable
Property Address:	64 WOODLAWN AVE W (PART 1)	Community:	Toronto
Legal Description:	PLAN 669Y LOT 33		


Edmund Carlson
Worrick Russell
Nancy Oomen
Ewa Modlinska

DATE DECISION MAILED ON: **TUESDAY, NOVEMBER 28, 2017**

LAST DATE OF APPEAL: **TUESDAY, DECEMBER 12, 2017**

CERTIFIED TRUE COPY


Anita M. MacLeod
Manager & Deputy Secretary-Treasurer
Committee of Adjustment, Toronto and East York District

Appeal Information

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NOTICE OF DECISION
MINOR VARIANCE/PERMISSION
(Section 45 of the Planning Act)

File Number:	A0844/17TEY	Zoning	R (f9.0; d0.6)(x780) HT 11.0 & R2 Z0.6 H11.0 (ZPR)
Owner(s):	CONSTANTINE ENTERPRISES INC.	Ward:	St. Paul's (22)
Agent:	EILLEN COSTELLO	Heritage:	Not Applicable
Property Address:	64 WOODLAWN AVE W (PART 2)	Community:	Toronto
Legal Description:	PLAN 669Y LOT 33		

Notice was given and a Public Hearing was held on **Wednesday, November 22, 2017**, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To construct a new three-storey detached dwelling with below-grade integral garage, front third-storey terrace and rear ground floor deck.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

- Chapter 10.10.30.20.(1)(A), By-law 569-2013**
The minimum required lot frontage is 9.0 m.
The newly severed lot will have a frontage of 7.62 m.
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- Chapter 10.10.40.10.(2)(B)(ii), By-law 569-2013**
The maximum permitted height of all side exterior main walls facing a side lot line is 8.5 m.
In this case, the height of the side exterior main walls facing a side lot line will be 11.45 m.
- Chapter 10.10.40.30.(1)(A), By-law 569-2013**
The maximum permitted building depth is 17.0 m.

The new three-storey dwelling will have a building depth equal to 19.18 m.

7. Chapter 10.10.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index is 0.6 times the area of the lot (249.0 m²).

The new three-storey dwelling will have a floor space index equal to 0.77 times the area of the lot (318.0 m²).

8. Chapter 10.10.40.70.(3)(A)(i), By-law 569-2013

The minimum required side yard setback is 0.9 m.

The new three-storey dwelling will be located 0.5 m from the side lot line.

9. Chapter 10.5.50.10.(1)(B), By-law 569-2013

A minimum of 50% of the front yard must be maintained as landscaping (30.94 m²).

In this case, 42% of the front yard will be maintained as landscaping (25.22 m²).

10. Chapter 10.5.50.10.(1)(D), By-law 596-2013

A minimum of 75% of the front yard landscaping must be maintained as soft landscaping (23.21 m²).

In this case, 55% of the front yard landscaping will be maintained as soft landscaping (17.09 m²).

1. Section 6(3) Part I 1, By-law 438-86

The maximum permitted gross floor area is 0.6 times the area of the lot (249.0 m²).

The new three-storey dwelling will have a gross floor area equal to 0.98 times the area of the lot (406.43 m²).

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

The minimum required building setback to the portion of the side wall of an adjacent building that contains openings is 1.2 m.

The new three-storey dwelling will be located 1.0 m from the adjacent building to the west.

3. Section 6(3) Part II 3.B(II), By-law 438-86

The minimum required side lot line setback for that portion of the building not exceeding 17.0 m in depth where the side wall contains openings is 0.9 m.

The new three-storey dwelling will be located 0.5 to the east and west side lot lines.

4. Section 6(3) Part II 8 F(IV), By-law 438-86

The by-law allows a roof over a first floor platform or terrace to project into the required setbacks provided the top of the roof is not used or designed to be used as a deck or terrace.

In this case, the roof is designed as a deck/balcony.

5. Section 6(3) Part III 3(d), By-law 438-86

A minimum of 75% of the front yard not covered by a permitted driveway must be maintained as soft landscaping (19.67 m²).

In this case, 65% of the front yard will be maintained as soft landscaping (17.09 m²).

6. Section 4(10)(A), By-law 438-86

The maximum permitted height is 11.0 m.

The new three-storey dwelling will have a height of 14.25 m.

7. Section 6(3) Part VII 1(i), By-law 438-86

The minimum required lot frontage is 9.0 m.

The newly severed lot will have a frontage of 7.62 m.

8. **Section 6(3) part IV 4(ii)B, By-law 438-86**
The maximum permitted driveway width is 3.59 m.
In this case, the driveway will have a width of 5.3 m.
9. **Section 6(3) Part II 3.B(II), By-law 438-86**
The minimum required side lot line setback for that portion of the building exceeding 17.0 m in depth is 7.5 m.
The new three-storey dwelling will be located 0.5 to the east and west side lot lines.
10. **Section 6(3) Part III 3(A), By-law 438-86**
The minimum required front yard landscaped open space is 50% (30.94 m²).
The front yard landscaped open space will be equal to 42% (26.22 m²).

Applications B0081/17TEY, A0844/17EY & A0845/17TEY will be considered jointly.

The Committee of Adjustment considered any written and oral submissions in making its decision. For a list of submissions, please refer to the minutes.

IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:


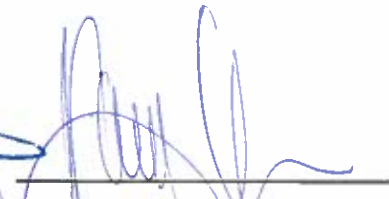

The Minor Variance Application is Refused

It is the decision of the Committee of Adjustment to **NOT** approve this variance application for the following reasons:

- The general intent and purpose of the Official Plan is not maintained.
- The general intent and purpose of the Zoning By-law is not maintained.
- The variance(s) is not considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance(s) is not minor.

SIGNATURE PAGE


File Number:	A0844/17TEY	Zoning	R (f9.0; d0.6)(x780) HT 11.0 & R2 Z0.6 H11.0 (ZPR)
Owner(s):	CONSTANTINE ENTERPRISES INC.	Ward:	St. Paul's (22)
Agent:	EILLEN COSTELLO	Heritage:	Not Applicable
Property Address:	64 WOODLAWN AVE W (PART 2)	Community:	Toronto
Legal Description:	PLAN 669Y LOT 33		


Edmund Carlson
Worrick Russell
Nancy Oomen
Ewa Modlinska

DATE DECISION MAILED ON: **TUESDAY, NOVEMBER 28, 2017**

LAST DATE OF APPEAL: **TUESDAY, DECEMBER 12, 2017**

CERTIFIED TRUE COPY


Anna M. MacLeod
Manager & Deputy Secretary-Treasurer
Committee of Adjustment, Toronto and East York District

Appeal Information

All appeals must be filed with the Deputy Secretary Treasurer, Committee of Adjustment by the last date of appeal as shown on the signature page.

Your appeal to the **Toronto Local Appeal Body (TLAB)** should be submitted in accordance with the instructions below unless there is a related appeal* to the Ontario Municipal Board (OMB) for the same matter.

TORONTO LOCAL APPEAL BODY (TLAB) APPEAL INSTRUCTIONS

To appeal this decision to the TLAB you need the following:

- ☐ a completed TLAB Notice of Appeal (Form 1) in **digital format** on a CD/DVD
- ☐ \$300 for each appeal filed regardless if related and submitted by the same appellant
- ☐ Fees are payable to the **City of Toronto** by cash, certified cheque or money order (Canadian funds)

To obtain a copy of the Notice of Appeal Form (Form 1) and other information about the appeal process please visit the TLAB web site at www.toronto.ca/tlab.

ONTARIO MUNICIPAL BOARD (OMB) APPEAL INSTRUCTIONS

To appeal this decision to the OMB you need the following:

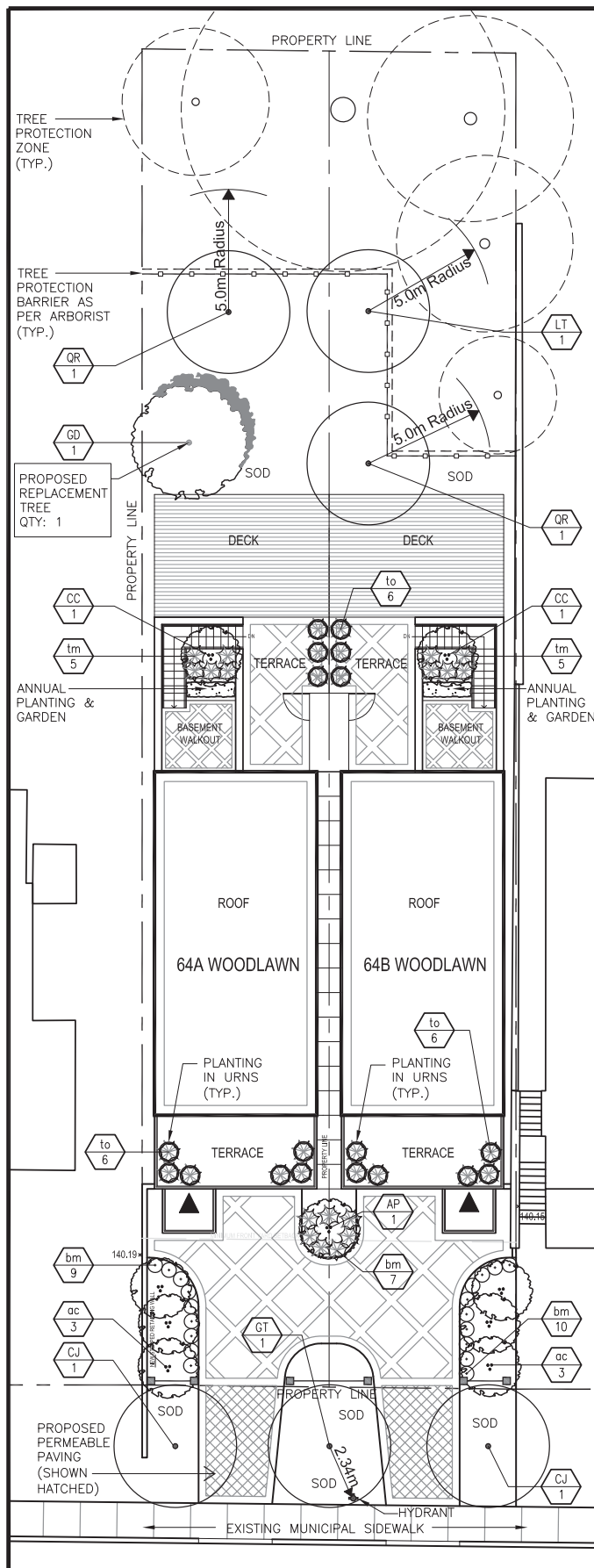
- ☐ a completed OMB Appellant Form (A1) in **paper format**
- ☐ \$300.00 with an additional reduced fee of \$25.00 for each connected appeal filed by the same appellant
- ☐ Fees are payable to the **Minister of Finance** by certified cheque or money order (Canadian funds).

To obtain a copy of Appellant Form (A1) and other information about the appeal process please visit the Ontario Municipal Board web site at www.omb.gov.on.ca.

***A related appeal** is another planning application appeal affecting the same property. To learn if there is a related appeal, search community planning applications status in the Application Information Centre and contact the assigned planner if necessary. If there is a related appeal, your appeal to the **Ontario Municipal Board** should be submitted in accordance with the instructions above.

Attachment 2





Key	qty.	Botanical Name	Common Name	Cal.	Ht./Sp.	Cond.
DECIDUOUS TREES						
AP	1	Acer palmatum	Japanese Maple	70mm		WB
CC	2	Cercis canadensis	Eastern Redbud	70mm		WB
CJ	2	Per City of Toronto Approved Species		70mm		WB
GD	1	Gymnocladus dioica	Kentucky Coffee Tree	70mm		WB
GT	1	Gleditsia triacanthos var. inermis 'Impale'	Imperial Honeylocust	70mm		WB
LT	1	Liriodendron tulipifera	Tulip Tree	70mm		WB
QR	2	Quercus rubra	Red Oak	70mm		WB
DECIDUOUS SHRUBS						
ac	6	Amelanchier canadensis	Serviceberry		200cm	
CONIFEROUS SHRUBS						
bm	26	Buxus mic. var. insularis 'Green Mountain'	Boxwood Green Mountain		60cm	
tm	10	Taxus media hicksii	Hick's Yew		60cm	
to	18	Thuja occidentalis 'Smaragd'	Emerald Cedar		60cm	

PLANT LIST

TREES



AP - JAPANESE MAPLE



CC - EASTERN REDBUD



GD - KENTUCKY COFFEE TREE



GT - IMPERIAL HONEYLOCUST



LT - TULIP TREE



CJ - JAPANESE KATSURA TREE

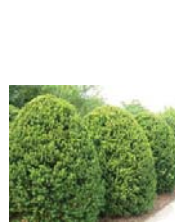


QR - RED OAK

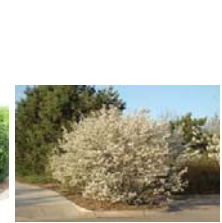
SHRUBS



bm - BOXWOOD GREEN MOUNT,



tm - HICK'S YEW



ac - SERVICEBERRY

NOTE:
ALL PLANT IMAGES ARE
FOR ILLUSTRATIVE
PURPOSES ONLY

ARBORIST REPORT NOTE:

OPTIONAL TREES SHOWN AS
(NOT INCLUDED IN
REPLACEMENT TREE COUNT)

Per Arborist Report
Recommendation & Subject
to City Approval



to - EMERALD CEDAR

PROJECT: 64 WOODLAWN AVE. W
TITLE: PROPOSED LANDSCAPE PLAN
SCALE: 1:175
DWG. NO.: SKL-01 PROJECT NO.: (MEP)18-474

ISSUANCE:
1. 09.MAR.2018 - ISSUED FOR TLAB HEARING
2. 22.MAY.2018 - REV. PER ARBORIST REPORT

MEPDESIGN
LANDSCAPE ARCHITECTURE
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Toronto, Canada M6P 1T4
+1 416.781.9205
studio@mepdesign.com
mepdesign.com

Attachment 4

