

DECISION AND ORDER

Decision Issue Date Friday, April 12, 2019

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

Appellant(s): YORKDALE RESIDENCES II INC

Applicant: WSP CANADA GROUP LTD

Property Address/Description: 1 LEILA LANE

Committee of Adjustment Case File: 18 208290 NNY 15 MV

TLAB Case File Number: 18 242384 S45 15 TLAB

Hearing date: Wednesday, March 27, 2019

DECISION DELIVERED BY S. TALUKDER

APPEARANCES

NAME	ROLE	REPRESENTATIVE
TORONTO COMMUNITY HOUSING	OWNER	
WSP CANADA GROUP LTD	APPLICANT	
YORKDALE RESIDENCES II INC	APPELLANT	IAN ANDRES
KRISTOPHER HALL	EXPERT WITNESS	

INTRODUCTION

1. This is an appeal by the Applicant, Yorkdale Residences II Inc., of the decision of the Committee of Adjustment (COA) refusing an application for minor variances for the property located at 1 Leila Lane (subject property).
2. The subject property is part of an ongoing revitalization of the Lawrence Heights project as described in detail below. The development of the subject property will include a 15-storey building (Building A), an 8-storey social housing component

(Building B), townhouses and retail units. There will be a total of 386 units, which will consist of 308 market units and 78 social housing units.

3. The variances in this appeal are for the parking spaces in the underground parking on the subject property, which are a decrease in the minimum length of space for three parking spaces and the approval of paid parking.
4. The only party in the appeal is the Applicant.
5. Prior to the hearing, I visited the site of the subject property and the surrounding area.

MATTERS IN ISSUE

6. The variances requested for approval at this appeal are (in bold):

Section 2(mm), By-law No. 1338-2013

Visitor parking spaces for apartment house dwellings that are not rental replacement housing units shall be provided at a rate of 0.1 spaces per dwelling unit.

Apartment house dwellings that are not rental replacement housing units require the provision of 5 visitor parking spaces, provided 37 non-residential parking spaces are maintained on site.

Section 6A(3)(a)(i), By-law No. 7625

A parking space shall have a minimum length of 5.5 m.

Three of the proposed parking spaces on Development Block 2 will have a length of 5.3 m.

7. The By-law No. 1338-2013 is specific to certain lands in the North York region and includes the subject property. This by-law amends some sections of By-law No. 7625 of the former City of North York.
8. Section 6(A)8f of By-law No. 7625 states that for Residential Multiple Dwelling RM zones:

No charge shall be made for the use of required visitor parking spaces for multiple attached dwellings and apartment house dwellings.
9. The two variances requested are specific to the parking spaces in the underground parking for the Phase 1B construction. The Applicant proposes to convert twenty-five (25) free visitor parking spaces into paid, non-residential parking to allow it to charge

for parking. In doing so, the Applicant contravenes section 2(mm) By-law No. 1338-2013, which requires the visitor parking spaces be provided at 0.15 visitor parking per dwelling unit. In this case, the required number of visitor parking would have been 30; however, only 5 will be designated as visitor parking.

10. The Applicant further proposes to decrease the length of three parking spaces to 5.3m which is below the required minimum length of 5.5m.

JURISDICTION

Provincial Policy – S. 3

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

Minor Variance – S. 45(1)

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

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

EVIDENCE

13. The Applicant called one witness, Mr. Kristopher Hall, a Registered Professional Planner, who was qualified to give professional land use planning opinion evidence.

14. The subject property is located in the Lawrence Heights community. It is south of Rane Avenue, west of Varna Drive and East of Allen Road. The subject property is adjacent to the Yorkdale Subway Station with access to the south entrance of the subway station along Rane Avenue.

15. The Applicant and Toronto Community Housing Corporation (TCHC) partnered to re-develop the Lawrence Heights community, which is located approximately south of the Yorkdale Shopping Centre. The building on the subject property is termed Phase 1B and is part of a larger project that includes Phase 1A, 1D, 1E and 1F. Phase 1A is already completed and occupied.

16. Phase 1A is constructed on the opposite side of Allen Road and across from Phase 1B. It is located at 1-45 Zachary Court. The Phase 1A building is similar in design to

Phase 1B, with a 15-storey mixed-use building and a 7-storey social housing building with underground parking.

17. The Lawrence-Allen Secondary Plan along with the Official Plan applies to the subject property. The subject property is designated as "Apartment Neighbourhood" under the Lawrence-Allen Secondary Plan. The subject property has a designation of Residential Multiple Dwelling RM6(215). It is under site specific zoning By-law No. 1338-2013.

Phase 1B development - history

18. Mr. Hall provided a brief history of the development of the Phase 1A and Phase 1B projects within the context of the larger development of the Lawrence Heights community which I found helpful.
19. The Applicant applied for a number of variances at the COA for Phase 1B, most of which were approved on November 10, 2016.
20. The COA in its Notice of Decision dated November 10, 2016 (Exhibit 1, Tab 10) approved the following variances (relevant for the appeal):
- (a) Visitor parking spaces for Apartment House Dwellings that are not rental replacement housing units will be provided at a rate of 0.1 spaces per dwelling unit (instead of 0.15 spaces per dwelling unit).
 - (b) Visitor parking for non-residential uses and apartment house dwellings to be provided in a combined commercial parking garage, and that the parking spaces would not be designated as being for either purpose exclusively.
 - (c) One of the parking spaces will have a length of 5.3m.
21. The following variance was not approved (variance # 19, in bold):

Section 6(A)8f, By-law No. 7625

No charges shall be made for the use of required visitor parking spaces for apartment house dwellings.

Payment will be required for the use of visitor parking spaces for apartment house dwellings located within Building "A".

22. The Applicant is required to provide 30 visitor parking spaces (as per the approved variance of 0.1) spaces per dwelling unit. The Applicant is also required to provide 12 retail parking spaces. The Applicant proposed to have visitor parking spaces converted to paid non-residential parking spaces, which are located with the paid retail parking spaces in the commercial parking garage.

23. Following the refusal by the COA, Councilor Josh Colle introduced a Member Motion supporting the implementation of a charge for visitor parking for Phase 1B through the process of a zoning by-law amendment. The motion was adopted City Council.
24. The Applicant worked with the City Planning and Transportation Services (Transportation Services) to address their concerns regarding paid parking. Transportation Services required the inclusion of 5 visitor parking for apartment dwellings which are not paid. Accordingly, the Applicant revised its approach and included five 5 unpaid visitor parking.
25. The Applicant proceeded with an application to request for the variances at the COA instead of proceeding with an amendment of the zoning by-law. The COA did not approve the variances in its decision dated September 26, 2018, which is now subject of this appeal.
26. Mr. Hall referred to the variances approved by the COA for the Phase 1A development. In its decision dated August 7, 2014 (Exhibit 1, Tab 9), the COA had approved the variance for Section 6A(8)f, By-law No. 7625, allowing the requirement of payment for the use of visitor parking spaces for apartment house dwellings located within Building "A". Mr. Hall opined that the variance related to paid parking is essentially the same as the variance approved for Phase 1A. It is unclear why the variance for Phase 1A was approved but not for Phase 1B.

Evidence on the statutory criteria and tests under the Act

27. Mr. Hall reviewed the variances against the PPS and the Growth Plan and opined that the variances comply with them. In making this conclusion, Mr. Hall stated that the proposed variance will provide a range and a mix of housing types and densities, encourage intensification, and optimize long term use of land and make efficient use of existing infrastructure, including transportation and public transit.
28. Mr. Hall opined that the proposed variances comply with the Official Plan and Lawrence-Allen Secondary Plan by establishing suitable parking requirements close to transit, maintaining parking underground, discouraging surface parking and was based on sustainable transportation goals.
29. Mr. Hall stated that the Phase 1B development encourages the use of public transit given its proximity with the Yorkdale Subway Station. However, if the visitor parking is free, the commuters can take advantage of the free parking instead of using the on-street paid parking or parking for TTC users available at the north end of the Yorkdale subway station. In addition, visitors of Phase 1A development can also take advantage of the free visitor parking instead of using the designated paid parking available in the Phase 1A development. The visitors of Phase 1B themselves may then not have access to the free visitor parking.
30. Mr. Hall believes that it is desirable for appropriate use of the lands to convert 25 visitor parking spaces to paid non-residential parking spaces to prevent non-visitors and non-patrons from using the parking for free. The proposed variance meets the

intent and purpose of the zoning by-laws as it will ensure visitors and retail patrons have adequate parking, though paid, and that such parking is not subject to misuse by commuters seeking free parking.

31. The variance for paid parking is required because the subject property is zoned "RM6(215)" through Site Specific By-law 1338-2013. The use of land surrounding a subway station in many areas in the City are zoned Commercial Residential (CR), which would allow as of right paid parking for mixed-use developments. Examples include the Eglinton West subway station and the Lawrence Subway Station. Given the proximity to the Yorkdale subway station, there is a high possibility that if the subject property was rezoned under By-law 569-2013, the designation would change to CR. This would have allowed the subject property to institute paid parking without the need for a variance. Therefore, the variance would be consistent with the intent of the zoning By-law 569-2013.
32. Mr. Hall opined that the proposed variances are minor in nature. There is no change in the total number of spaces provided for visitors of apartment dwellings and retail, which remains at 42 spaces. The permission to charge for 37 of these spaces is consistent with the permission granted by the City to other similar development projects in the nearby area.
33. With respect to the length of the parking space, only three spaces will be for use of compact cars while remaining of the 283 parking spaces will comply with the zoning by-law requirement. Therefore, 99% of the parking spaces will be compliant with the by-law. This variance is minor and desirable for the appropriate use of the land, as it allows for parking spaces for compact vehicles and does not compromise overall supply of parking.

ANALYSIS, FINDINGS, REASONS

34. I have considered Mr. Hall's statement about the probability of the subject property and area surrounding the Yorkdale subway station being zoned CR in the event of rezoning of the land. The rezoning to commercial residential would have allowed the subject property to have paid parking as of right. I do not accept this statement as I do not have any evidence before me that provides confirmation that this would be the case.
35. Apart from this issue, I accept Mr. Hall's evidence.
36. It is easy to contemplate and appreciate the difficulty the management of Phase 1B will face with respect to free visitor parking alongside paid commercial parking. It is very likely that the visitors of the apartment house dwellings in Phase 1B will compete with commuters, non-visitors and other individuals for the 30 free visitor parking spaces. Having free parking spaces near a major subway station, such as Yorkdale subway station, will defeat the intent of the zoning by-law to accommodate for visitors of the apartment dwellings. Paid parking is not the best option as visitors

would be required to pay as well, but it is a suitable one given the context and surrounding area.

37. I note that the five parking spaces that will be designated as free visitor parking will face similar issues with respect to potential misuse by non-visitors. The Applicant attempts to accommodate the recommendation of the Transportation Services by making the five parking spaces available as free visitor parking. I will not interfere with this recommendation.

38. I also accept Mr. Hall's evidence regarding the decrease in the length of the three parking spaces. Out of the total of 283 parking spaces, only three will require variances and can accommodate compact cars. These three smaller parking spaces comply with the intent and purpose of the zoning by-law and the variance requested is minor.

DECISION AND ORDER

39. The following variances are approved (in bold):

- a) **Section 2(mm), By-law No. 1338-2013:** Visitor parking spaces for apartment house dwellings that are not rental replacement housing units shall be provided at a rate of 0.1 spaces per dwelling unit.

Apartment house dwellings that are not rental replacement housing units require the provision of 5 visitor parking spaces, provided 37 non-residential parking spaces are maintained on site.

- b) **Section 6A(3)(a)(i), By-law No. 7625 :** A parking space shall have a minimum length of 5.5 m.

Three of the proposed parking spaces on Development Block 2 will have a length of 5.3 m.

X



Shaheynoor Talukder
Panel Chair, Toronto Local Appeal Body