

DECISION AND ORDER

Decision Issue Date Thursday, June 06, 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): CITY OF TORONTO

Applicant: MICHAEL FLYNN¹

Property Address/Description: 11 BELFIELD RD

Committee of Adjustment Case File: 18 241256 WET 02 MV

TLAB Case File Number: 18 267761 S45 01 TLAB

Hearing date: Tuesday, June 04, 2019

DECISION DELIVERED BY TED YAO

APPEARANCES

Name	Role	Representative
City of Toronto	Appellant	Michael Mahoney/Matt Schuman
Daniela DeGasperis	Expert Witness	
2677241 Ontario Ltd	owner	Harpreet Luthra

This is a City appeal of a granting of a minor variance by the Committee of Adjustment for which a settlement was reached on May 22, 2019. 2677241 Ontario Ltd wishes to be permitted to sell and lease vehicles from 11 Belfield Road. The premises consist of two units to be used by separate businesses:

Unit A for which the main use is a vehicle repair shop and where 2677241 Ontario Ltd wishes to add the ancillary use of vehicle sales.

¹ Michael Flynn is a principal of Mantella, which was the recipient of the minor variance, but sold the land to Mr. Luthra's client in April 2019. Thus 2677241 Ontario Ltd stands in Mr. Flynn's place.

Unit B, which has a car washing facility, to be a satellite "office" for another tenant's car rental business.

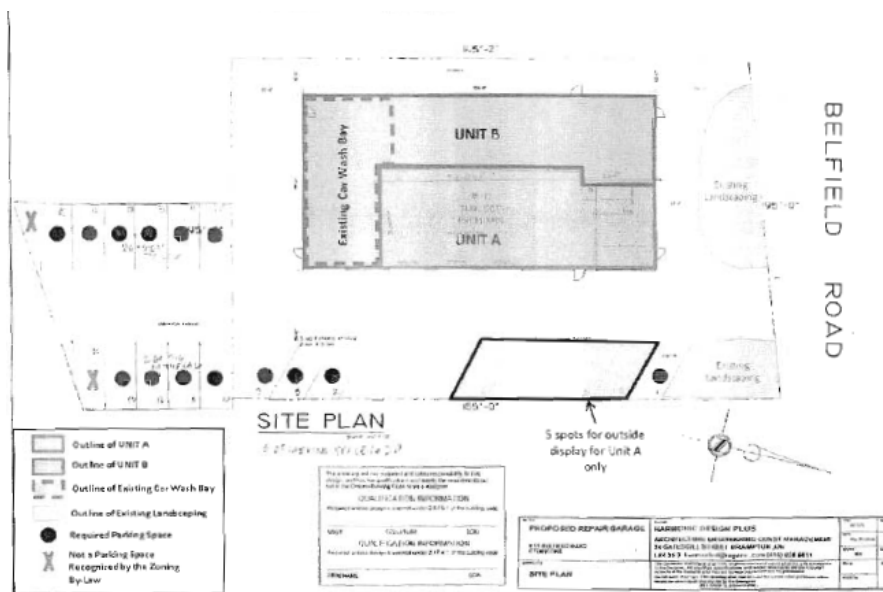
Prior to the Minutes, the City's position was that none of the four tests was met; however, with further information from 2677241 Ontario Ltd, the City is satisfied that conditions can be imposed such that it can support the application. I give deference to a settlement between the City, a decision-making authority under the *Planning Act*, and an owner who was represented by counsel.

Official Plan

The property is designated Core Employment Area, which is reserved for distribution, manufacturing, warehousing and office, etc. Retail is permitted so long as it is ancillary to the main use.

For Unit A, the main use is a vehicle repair shop, for which vehicle sales would be ancillary. For Unit B, the main use would be offices for a car rental business, which is analogous to "a vehicle dealership," which is not a permitted use in Zoning By-Law 569-2013.

Since OPA 231 reserves Core Employment for industrial uses for the long term, the sale and lease of vehicles would not be consistent with the land's long-term designation and purpose as inventory for Employment uses. The lands are in close proximity to other parcels in the Rexdale Employment Area with industrial-style buildings and ample parking. However, the imposition of a five-year temporary permission will permit the City to monitor the proposed uses and ensure that if the uses proposed leave the site, the subject lands can be retained for Employment functions.



Zoning

The zoning is Employment Industrial. The conditions agreed upon in the Minutes of Settlement limit the scale of the use for Unit A, where the zoning envisions that some sales may occur which are ancillary to car repair, a permitted use. For Unit B, Mr. Luthra stated that the business has another

lot one building away, which will be used for most of the vehicle storage. His client is

satisfied that the only use that can be carried on at 11 Belfield will be office, indoor storage of rental vehicles and car washing. There is a blanket prohibition on outdoor storage of derelict vehicles and a 5-year period which applies to both businesses. The parking will be controlled as follows:

- The fourteen spaces with the dots are reserved for employee parking; and
- The area marked with a heavy outline and the caption "5 spots for outside display for Unit A only" is for the Unit A car sales/repair business.

These conditions allow Ms. DeGasperis to conclude that the intent and purpose of the zoning is maintained. As well, she does not feel that the proposed uses will impact other industrial uses nearby.

Minor and desirable

The vehicle sales for Unit A has been approved in previous Committee of Adjustment decisions for 2008, 2013, and 2018 under the Etobicoke Zoning Code. Unit A already has this permission until 2023, so this would represent an extension to 2024, which Ms. DeGasperis considered minor. For Unit B, its business is essentially limited to indoor use and at a limited scale.

Under these circumstances, I am satisfied that all the statutory tests have been met. Because this is a settlement, it should NOT be considered to have precedential value for other applications in Employment Districts. If there are errors in the Order would the parties kindly contact me.

Order

The appeal is allowed in part and the decision of the Committee is varied as follows:

A vehicle dealership use for Units A and B at 11 Belfield Road is authorized subject to the following conditions:

For Unit A:

1. Approval of this application is granted for not more than 5 years from the date on which TLAB issues its Order.
2. The vehicle dealership shall operate ancillary to the vehicle repair shop.
3. The use of the boulevard area of Belfield Road for vehicle parking is prohibited.
4. The outdoor storage of derelict or unlicensed vehicles, or vehicles for sale, lease, or rent is prohibited. However, vehicles for sale by the business at Unit A can be displayed in the area within the heavy outline on schedule A (further described below). For additional clarity, storage is long term; display is short term with some frequency of rotation of the displayed cars.

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5. Vehicles may not be displayed and/or stored in required parking spaces.
6. The application shall operate substantially in accordance with the site plan drawing attached to the Minutes of Settlement as Schedule "A", to the satisfaction of the Director. Community Planning, Etobicoke York District.

For Unit B:

1. Approval of this application is granted for not more than 5 years from the date on which TLAB issues its Order.
2. The use of the boulevard area of Belfield Road for vehicle parking is prohibited.
3. The outdoor storage and display of derelict or unplated vehicles, or vehicles for sale, lease, or rent is prohibited. For clarity, the spaces in the display area with the heavy outline are reserved for the business being carried on at Unit A.
4. The indoor storage of vehicles may be located within the area delineated as "existing wash bay" of Unit B.
5. The application shall operate substantially in accordance with the site plan drawing attached to the Minutes of Settlement as Schedule "A" [the Minutes are an exhibit to this hearing and the site plan itself is reproduced in this decision], to the satisfaction of the Director, Community Planning, Etobicoke York District A.

X



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