

DECISION AND ORDER

Decision Issue Date Wednesday, May 27, 2020

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): 1628487 Ontario Inc

Applicant: Diana Mercier

Property Address/Description: 101 Oakdale Rd

Committee of Adjustment Case File: 19 220833 WET 07 MV (A0466/19EYK)

TLAB Case File Number: 19 247885 S45 07 TLAB

Hearing date: March 13, 2020

DECISION DELIVERED BY S. KARMALI

APPEARANCES

Applicant/Expert Witness	Diana Mercier	
1628487 Ontario Inc.	Appellant's Legal Rep.	Matthew Lakatos-Hayward
Expert Witness	John Barrington	

INTRODUCTION

[1] The Appellant, who is the Owner of 101 Oakdale Road (subject property or Site), has proposed, by way of a 2018 Development Approval Application, to convert an existing ten industrial units within the multi-unit industrial building into an Industrial Condominium (Condominium). If successful, the conversion would permit individual ownership of the units together with common areas.

[2] Among the preliminary conditions for Condominium Draft Plan¹ (Draft Plan) approval, as indicated by the City of Toronto's (City) Engineering and Construction Services (ECS), the owner is to obtain final and binding approval for a loading rate variance and a parking rate variance.

¹ The City has filed this application as File No. 18 139178 WET 07 CD – 101 Oakdale Road

[3] Ms. Diana Mercier, to whom authorization was given by the Owner to sign and act as agent for the 2019 Committee of Adjustment Application (Application or Proposal), had written that the purpose of the Application is to “regularize existing parking and loading conditions.” Elsewhere, she had indicated that no change, development or construction has been proposed to the existing building and that the variances are being sought to facilitate the Draft Plan, to bring the building into conformity with requirements of zoning for a condominium development.

[4] On October 24, 2019, the Committee of Adjustment (COA) Etobicoke York Panel considered oral and written submissions.² The COA refused the Application and provided no substantive reasons in reaching its decision.

[5] The stated purpose on the COA’s Notice of Decision reads: “To permit loading space and parking space deficiencies.” The variances requested are identified below and contained in **Attachment A** of this Decision and Order.

1. Section 220.5.10.1.(7), By-law 569-2013

A total of 3 Type C and 2 Type B loading spaces are required.

A total of 1 Type B loading space will be provided for the industrial units.

2. Section 6A(2)a, By-law 7625

A total of 75 parking spaces are required.

A total of 40 parking spaces will be provided.

[6] There was no one adverse in interest who was present at the Hearing. Moreover, no person had represented the City at the Proceeding.

[7] I had visited the subject property and familiarized myself with the online filings and conveyed this information to those in attendance.

BACKGROUND

[8] The subject property is located northeast from the intersection of Sheppard Avenue West and Highway 400. The property is zoned Employment Light Industrial with a zone label of ‘EL 1.0’ under City-wide By-Law No. 569-2013, as amended, and zoned with ‘M1’ under the former City of North York Zoning By-Law No. 7625, as amended. There is a residential zone immediately behind the property to the east and the south. The property has an existing generalized (light) industrial use. It has ten separate units, which are occupied by five businesses, with access doors on the north and south sides of each unit.

² The Application was initially brought in the form of waiver to the Committee by Ms. Mercier. However, I note, a City Zoning Examiner issued a City Zoning By-Law Notice dated September 25, 2019, and even prior to that, a By-Law Notice on May 3, 2019. That the Application was brought by waiver is not exactly clear. Nevertheless, I observed that the recent Examiner’s Notice seems to reflect the performance standards and compliance indications on the COA’s Notice of Hearing and Notice of Decision in respect of the subject property.

**Decision of Toronto Local Appeal Body Panel Member: S. Karmali
TLAB Case File Number: 19 247885 S45 07 TLAB**

[9] Oakdale Road is generally north-south minor arterial road that extends from Finch Avenue West to the north to Sheppard Avenue West in the south. Two driveways provide access to the subject property. The south driveway seems to provide access to approximately forty open-surface parking spaces. The north driveway is narrow and seems to provide access to the rear of each of the ten units. Please see Figures 1 & 2 below.

Figure 1: Aerial Photograph of 101 Oakdale Road & Area | GoogleEarth

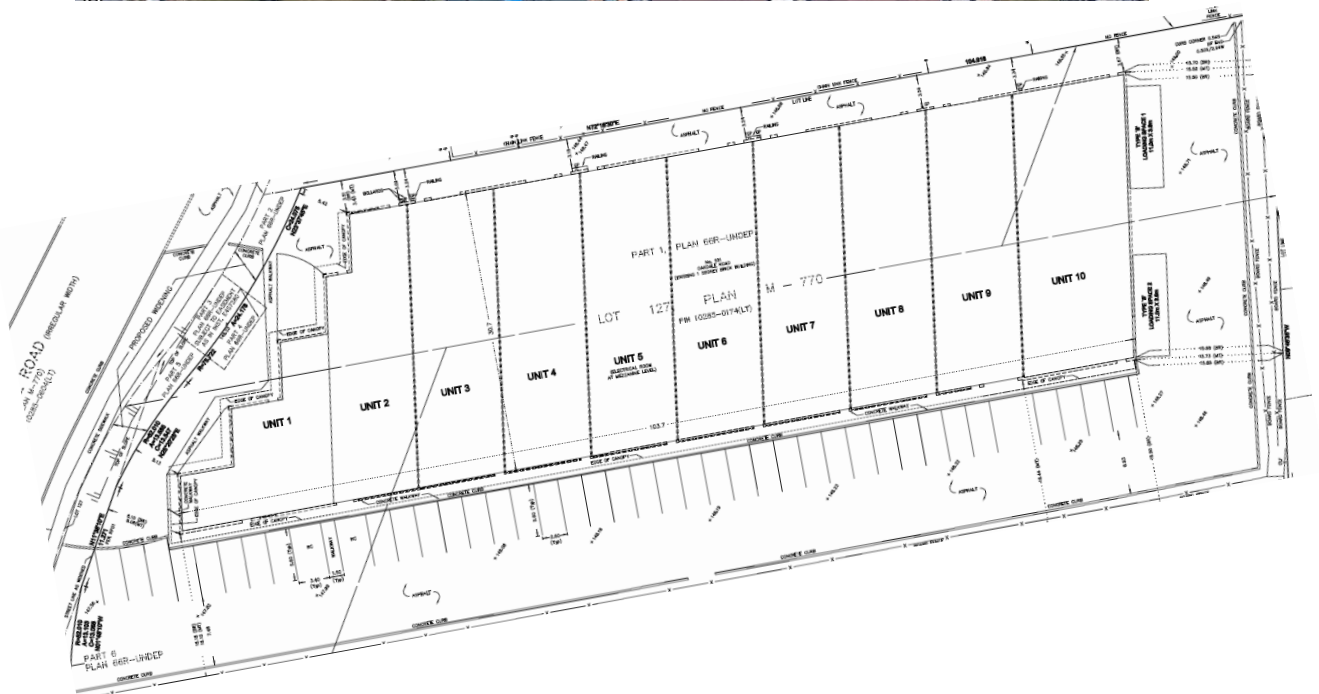


Figure 2: Draft Plan of Condominium Survey/Plan | KRCMAR Surveyors Ltd. | September 30, 2019

Decision of Toronto Local Appeal Body Panel Member: S. Karmali
TLAB Case File Number: 19 247885 S45 07 TLAB

[10] The industrial building has a gross floor area (gfa) of 2,859.10 square metres. With this gfa, the loading space requirement for the uses of manufacturing or warehousing is 1 Type A loading space, which is a space that must have a minimum length of 17.0 metres; a minimum width of 3.5 metres; and, a minimum vertical clearance of 4.4 metres.³ However, since there is more than one industrial unit⁴, the calculation of the required loading spaces is based upon the interior floor area of each unit and not the total gross floor area of the entire building. The Zoning By-Law Notice dated September 25, 2019 provides a distribution of loading spaces for each unit, which I have organized below in Figure 3:

Figure 3: Information from Zoning By-Law Notice dated September 25, 2019 (19 130916 ZPR 00 ZR)

Unit Number	Type	Loading Space Requirements
Units 1 and 2	1 Type C	1 Type C loading space must have a: (i) Minimum length of 6.0 metres (ii) Minimum width of 3.5 metres; (iii) Minimum vertical clearance of 3.0 metres
Unit 3	1 Type C	
Unit 4	1 Type C	
Units 5 & 6	1 Type B	1 Type B loading space must have a: (i) Minimum length of 11.0 metres (ii) Minimum width of 3.5 metres; (iii) Minimum vertical clearance of 4.0 metres
Units 7 & 8	1 Type B	

[11] There used to be parking spaces on the east side of the building. Now, there are two proposed loading spaces identified for this area, as indicated generally in Figure 2 above and, more clearly, in **Attachment B** of this Decision and Order. Each loading space has dimensions of 11 metres long and 3.6 metres wide with a vertical clearance of 4.4 metres. One Type ‘B’ loading space is proposed for the ‘Industrial Units’, and another Type ‘B’ loading space is proposed for the ‘Office Uses’. The transportation-related variance of loading rate, if approved, could allow for the loading areas to be considered as common areas of the proposed Condominium.

[12] Furthermore, the City’s ECS had identified conveyance requirements along the subject property’s frontage near Oakdale Road. The Appellant had been asked to satisfy, by contribution to the provision of a twenty-seven metre right-of-way for this part of Oakdale Road.

³ According to 220.5.1.10(8)(A) of the City of Toronto Zoning By-Law 569-2013, as amended (consolidation)

⁴ According to 220.5.1.10(3) Interpretation of ‘Industrial Unit’ means the portion of a building used by or under the control of an individual owner or tenant. Since there is a Condominium Application being considered by the City, the proposal before me is to consider the units as individually owned.

MATTERS IN ISSUE

[13] Given the gfa of the building and the building's use of manufacturing or warehousing, the minimum parking rate required under the City-wide Zoning By-Law 569-2013 is twenty-eight (28) parking spaces. The proposed parking rate is forty (40) spaces, including two (2) accessible parking spaces, which satisfy the zoning regulations for By-Law 569-2013. However, under the Former City of North York By-Law 7625, seventy-five (75) parking spaces have been identified as required.

[14] Given the industrial building gfa, the loading rate required under the Former City of North York By-Law 7625 is two (2) loading spaces, each with dimensions of 11 metres in length and 3.6 metres wide, with a vertical clearance of 4.2 metres. The proposed loading rate is two (2) total loading spaces (one for Industrial Use and the other for Office Uses), each with dimensions of 11 metres in length and 3.6 metres in width, with a vertical clearance of 4.4 metres, which satisfies the zoning regulations for By-Law 7625. However, under the City-wide By-Law 569-2013, the interior floor area of each industrial unit requires: Three (3) Type 'C' and Two (2) Type 'B' loading spaces.

JURISDICTION

Provincial Policy – S. 3

[15] 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 for the Greater Golden Horseshoe for the subject area ('Growth Plan').

Variance – S. 45(1)

[16] 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

[17] The following documents were tendered as exhibits. I accepted them and marked them accordingly:

- Exhibit 1: Document Disclosure Book (Part 1 to Part 6, consolidated)
- Exhibit 2: Expert Duty Form, Curriculum Vitae, Expert Witness Statement of Ms. Mercier
- Exhibit 3: Expert Duty Form, Curriculum Vitae, and Expert Witness Statement of Mr. Barrington

The Evidence of Ms. Diana Mercier

[18] Ms. Mercier indicated that she was retained by the Owner of the property to facilitate the Draft Plan of Condominium: to convert the existing units into individual ownership with parking and loading as common areas. She said she was also retained to prepare a variance application for the Owner and to represent the Owner before the Etobicoke COA.

[19] Ms. Mercier has an Honours Bachelor of Arts degree in Environmental Studies and Urban Studies and a Master of Environmental Studies, which she earned from York University in 2001 and 2004, respectively. She is a Registered Professional Planner, a full member of the Ontario Professional Planners Institute and a member of the Canadian Institute of Planners. She has worked as an Associate Senior Planner since 2013 at Hunter & Associates Limited. Before this, she was a Planner at Armstrong Hunter & Associates as well as WND Associates. She expressed that she has worked on commercial development applications, site plan approvals, zoning by-law amendment applications, and variance applications. At the Hearing, she read out her duties, as contained in Part 4 of her completed and signed Acknowledgement of Experts Duty Form within Exhibit 2.

[20] For the record, this was Ms. Mercier's first time called as an Expert witness in a land-use tribunal proceeding. She confirmed that she would provide the TLAB with an unbiased evaluation of the proposed variances. I provisionally qualified Ms. Mercier to provide expert opinion evidence in land use planning for this Proceeding.

[21] Ms. Mercier's testimony was based on Exhibit 1 and Exhibit 2. She provided a comprehensive land use planning opinion. She offered a background of the Application. She stated that the parking and loading space conditions at the subject site had remained the same since the Site was developed almost fifty years ago. The Owner, she said, would like to bring the parking and loading supply into conformity, and that no development, construction or demolition has been proposed.

Provincial Policies

[22] Mr. Lakatos-Hayward, a licensed lawyer in Ontario, who represents the Appellant in this matter, directed Ms. Mercier to speak to the 2014 Provincial Policy Statement (PPS). Before Ms. Mercier began, she correctly indicated that the 2020 Provincial Policy Statement comes into effect on May 1, 2020 and that what applies to the Proposal is the 2014 PPS.

[23] She referred to several Provincial Policies, including Policy 1.1.1(e), which provides for the promotion of cost-effective development patterns and standards to minimize land consumption and servicing costs. She also referred to Policy 1.3, which provides direction for *Employment Areas*. She said that Policy 1.3.1 states that planning authorities shall promote economic development and competitiveness by, among other things, ensuring infrastructure is available to support existing and future needs. She further said that Policy 1.3.2 states that planning authorities shall plan for, protect, and preserve employment areas for current and future uses that ensure that necessary infrastructure is provided to support current and project needs.

[24] Ms. Mercier opined that the variances support what is currently existing on the Site. There are no proposed changes to the overall use or size of the building, she repeated. She further said that the building is close to pedestrian sidewalks and very close to transit. In her opinion, the transportation-related variances sought are consistent with the policy direction of the 2014 PPS.

[25] Ms. Mercier proceeded to discuss considerations of the 2019 Growth Plan in respect of the Proposal. She stated that the general intent of this Plan is to make better use of the land and infrastructure within existing urban areas, promoting intensification and supporting the achievement of complete communities. She pointed out some policy sections of particular relevance to the Proposal. Among other sections, she pointed to Section 2.2.5.1(a), which provides direction to promote efficient use of existing employment areas, either vacant or underutilized lands and increasing employment densities. She also pointed to Section 2.2.5.1(4), which provides that in planning for employment, surface parking will be minimized, and the development of active transportation networks and transit-supportive built form will be facilitated.

[26] Ms. Mercier stated that the Site is located within a 'Provincially Significant Employment Zone' (PSEZ) which, can include employment areas for long-term planning for job creation and economic development. She discussed Section 2.2.5.10, which outlines how lands within existing employment areas may be converted to a designation that permits non-employment uses. She pointed out that 2.2.5.10(c) states that conversion would not include any part of an employment area identified as a PSEZ, including the subject Site.

[27] She reiterated that the Owner seeks variance approval to further a Draft Plan of Condominium application and facilitate unit ownership, which could provide employment opportunities and meet or exceed employment policy area objectives. There is no change being proposed for land uses.

[28] She testified that the proposed variances conform to the 2019 Growth Plan.

Official Plan

[29] Ms. Mercier discussed how the variances, in her expert opinion, maintain the general intent and purpose of the City of Toronto's 2019 Official Plan, as amended. She indicated that the subject Site had been designated as an Employment Area (Map 2 – Urban Structures) with both Core Employment Areas and General Employment Areas, with Core Employment Areas (Map 13 – Land Use Plan). She said that these maps of the City are not under appeal at the Local Planning Appeal Tribunal (LPAT).

[30] She referred to several policy sections that could apply to the Proposal (2.2.4), but which are not yet in force because the LPAT has not rendered a decision on these policies. She referred to Sections 2.2.4.1, 2.2.4.2, 2.2.4.3, and 2.2.4.4 of the Official Plan, which she said provides general policy direction that encourages a broad range of employment activities within permitted employment designations. Section 2.2.4.1 states these included business and economic activities, including, but not limited to, manufacturing, warehousing, offices, and associated retail and facilities. Section 2.2.4.2 relates to use exclusively for business and economic activities in order to retain sufficient availability of lands for current and future needs for industrial functions such as manufacturing and warehousing, which are permitted only within Employment Areas and Regeneration Areas. Section 2.2.4.3 states that more intensive use of lands in Employment Areas for business and economic activities should be encouraged to make better use of a limited supply of lands available for these activities.

[31] She testified that the 2015 City of Toronto Official Plan in respect of Employment Districts Supporting Business and Employment Growth is similar to the policies of the 2019 City of Toronto Official Plan.

[32] Ms. Mercier, then, referred to Sections 4.6.1.1 and 4.6.1.2 of the current Official Plan. She said that these policies govern *Core Employment Areas*, and are policies that are in force. Section 4.6.1.1 defines these employment areas as places for business and economic activities. This Section permits all types of manufacturing, processing, warehousing, wholesaling, distribution, storage, transportation facilities, vehicle repair and services, office uses, among other uses, within Core Employment Areas.

[33] Ms. Mercier stated that she had also reviewed the Official Plan Amendment (OPA) 231⁵, which replaced the Employment Lands policies of the Official Plan and considered it in her analysis. She said that while OPA 231 is partially in effect, Map 12 of OPA 231 designates the Site as a 'Core Employment Area'.

⁵ OPA 321 proposes to establish new policies, designations, and mapping for lands designated Employment Areas. The intent is to: "preserve the City's Employment Areas for business and economic activities; limit sensitive uses that could affect the function of businesses within Employment Areas; promote office space on rapid transit; accommodate growth of the retail and institutional sectors to serve the growing population of the City and region." (City of Toronto website).

[34] Mr. Lakatos-Hayward asked Ms. Mercier if the Proposal would increase any parking or loading demands on the subject Site. Ms. Mercier responded that the Proposal would not raise any parking or loading demands, in her expert opinion, which is informed, on this point, by the findings in the BA Group Study from Mr. John Barrington, a Transportation Consultant and Certified Engineering Technologist.⁶

[35] Ms. Mercier stated that the Official Plan does not provide a designation for parking and loading requirements. The Official Plan supports the industrial use of the land.

[36] She concluded that the proposed parking and loading variances conform to the general intent of the City of Toronto Official Plan policies.

Zoning By-Laws

[37] The Site is subject to City-wide Zoning By-Law 569-2013, as amended, and Former City of North York By-Law 7625, as amended.

[38] Ms. Mercier said that the subject property requires a variance for loading spaces under By-Law 569-2013 and a variance for parking spaces under By-Law 7625, as determined by the City's Zoning Examiner.

[39] She stated that under By-Law 569-2013, the Site is zoned Employment Light Industrial (EL). She opined that the purpose of this zoning designation is to ensure the proper and orderly development of employment sites and to establish performance standards that help direct develop in terms of use, built form, parking, and loading.

[40] Ms. Mercier relied on the BA Group Study, a private study commissioned for this Proposal that assesses the availability of nearby transit and the demand for parking and loading spaces on the subject property. She stated the conclusion of this Study is that the parking and loading spaces at the Site serve the needs of the existing units, i.e. they are adequate.

[41] She discussed the general intent and purpose for the M1 zone under By-Law 7625, which, she said, is to ensure that adequate automobile parking is provided for the subject property. She stated that under By-Law 569-2013, the parking provided meets and exceeds the zoning requirements.

[42] Ms. Mercier testified that Section 6A-2 of By-Law 7625 sets out parking space regulations that apply to office uses. She stated that the BA Consulting Group Limited (BA Group) conducted parking surveys to sample the parking demand as it relates to the subject property. The BA Group found that the peak parking demand warranted twenty of the forty spaces provided and that the parking supply, as shown on the plans is sufficient to meet the automobile parking needs of the existing Site.

[43] She stated that the City's Transportation Services Division is satisfied with the Draft Plan of Condominium and the BA Group Study.

⁶ Mr. Barrington was found qualified to provide expert opinion evidence at the Proceeding. This is noted below.

[44] She concluded that the variance for the loading space requirements at the subject property meets the general intent and purpose of By-Law 569-2013, and the variance for the parking spaces meets the general intent and purpose of By-Law 7625.

Desirable for the Appropriate Development or Use of Land

[45] Ms. Mercier said that there is no development being proposed per se. The variances are existing conditions that are being sought as variances to bring the Proposal into conformity and the Draft Plan into conformity. She said that there are no new impacts that would result if these variances should be granted. She noted that the Proposal supports businesses and could be viewed as being in public interest in that respect. In her expert opinion, the requested variances are desirable for the appropriate development or use of the land.

Minor

[46] Ms. Mercier testified that the Proposal seeks to update an existing non-conforming use present at the subject property. She said, again, that the property has functioned successfully for over fifty years, and that the businesses will run their functions as they did yesterday, today and in the future.

[47] Mr. Lakatos-Hayward asked Ms. Mercier whether the ten opportunities for ten separate businesses to run would result in any additional burdens on parking or load demands. Ms. Mercier said 'no' because the BA Group Study calculated adequate parking, and because the parking supply complies with By-Law 569-2013.

[48] The two requested variances, in Ms. Mercier's opinion, are minor in nature.

[49] She concluded that the proposed variances both individually and cumulatively, satisfy all four tests for a variance application under the *Planning Act*.

The Evidence of Mr. John Barrington

[50] Mr. Barrington was present. I indicated that I could have questions for him about the BA Group Study, which he reported on in July 2019.

[51] Mr. Barrington was sworn. He stated that he is a member of the Ontario Association of Engineering Technologists and a full member of the Institute of Transportation Engineers. He said he is a Transportation Planner and Traffic Engineer. He further said he has been with the BA Group for more than thirty years. He has worked on and coordinated numerous transportation planning studies, traffic impact studies, parking utilization studies, loading studies, and function design studies for land developments in Toronto and the Greater Toronto Area.

[52] Mr. Barrington testified that he has been qualified to give opinion evidence as a transportation planner and traffic expert at the Ontario Municipal Board and the LPAT on a number of occasions. I noticed, from his curriculum vitae, Mr. Barrington had obtained a Bachelor of Arts degree in Planning and Urban Geography from York University in 1988.

[53] I qualified Mr. Barrington to provide opinion evidence in transportation planning for this Proceeding and to provide a brief overview of his findings and results.

[54] Mr. Barrington was given the mandate to ascertain the loading and parking requirements and recommend the provisions of an acceptable loading facility to facilitate the proposed Draft Plan of Condominium. His testimony was based on his Witness Statement (Exhibit 3) and Loading and Parking Study (Exhibit 1, Tab 8).

[55] Mr. Barrington indicated that the existing building is a multi-unit, multi-tenant building, which is occupied by five small businesses. The gfa of the building is 2,859.10 square metres. He also indicated that most tenants occupy a gfa of approximately 1,145 square metres or less (i.e. two units or less). He noted that one business occupies a gfa of approximately 2,290 square metres or less.

[56] Regarding the requested variance of loading supply, Mr. Barrington stated that two (2) Type 'B' loading spaces and one (1) Type 'A' loading space are required under City-wide By-Law 569-2013.

[57] He testified that two Type 'B' loading spaces, each measuring 11 metres by 3.6 metres are "accommodated on" the subject property at the rear of the building. He opined that these accommodations satisfy the loading requirement under By-Law 7625.

[58] Mr. Barrington said that the results of the loading surveys, which were conducted on Wednesday, May 15, 2019, and Friday, May 17, 2019, between the times of 9:00 am and 6:00 pm. The surveys revealed that the subject property has a peak demand of two Type C loading spaces, which seems to occur between 2:20 pm and 3:30 pm. He said that step vans and cube vans were the predominant vehicle used for shipping and receiving. Other vehicle types include passenger cars, vans, pick-up trucks, and security vans.

[59] He testified that based on findings of the survey research and the acceptability of those spaces, using vehicle maneuvering simulation and diagramming, two Type B spaces could readily accommodate the loading behaviour that exists at the Site.

[60] He said that the Employment Light Zone does not permit heavy industrial uses. Single-unit trucks and semi-trailer trucks did not appear to have accessed the Site on the days the survey observations had been made.

[61] Regarding the requested variance of parking supply, Mr. Barrington said that the existing parking configuration had to be adjusted on the Site because of the road widening along Oakdale Road. The proposed widening for the Draft Plan would result in a loss of one parking space at the front of the subject site.

[62] He testified that approximately sixty-six parking spaces are required, according to By-Law 7625, whereas approximately twenty-eight (28) parking spaces are required, according to By-Law 569-2013. He testified that parking utilization studies were performed under his direction for three days in May 2019. The parking surveys were conducted on Wednesday May 15, 2019, and Friday, May 17, 2019, between the times

of 9:00 am and 6:00 pm. The results of these surveys showed a peak parking demand of 20 parking spaces between 11:00 am and 1:30 pm. He testified that at no time did the parking demand at the subject property exceed the available supply of parking. He said that peak demand could be readily accommodated on the subject site. He further said that employees without a car could readily reach the subject site using nearby public transit. He referred to the 84 Sheppard West transit option operated by the Toronto Transit Commission.

[63] Mr. Lakatos-Hayward asked Mr. Barrington if he believes that adequate parking is provided for given that there could be ten businesses occupying each occupying one unit of the proposed Condominium. Mr. Barrington said that the units are 'quite small' and they are industrial in nature. He further said that his team had observed a parking demand that is significantly less than the supply.

ANALYSIS, FINDINGS, REASONS

[64] The transportation-related variances, if approved, could allow for the parking spaces and loading areas to become common areas of the proposed industrial Condominium.

[65] A version of the Draft Plan of Condominium was at least reviewed by the City divisions of Planning, Engineering and Construction Services, and Transportation Services to date. No person representing the City had registered, attended, or participated in the Proceeding.

[66] Furthermore, one of the pre-filled application materials, that was before the Committee, and before the Committee refused the Proposal, is a Memorandum dated October 17, 2019 from Mr. Luigi Nicolucci, of the City's Transportation Services Division, to Ms. Barbara Bartosik, Manager and Deputy Secretary-Treasurer for the COA Etobicoke York Panel.

[67] This Memo states that the City's Transportation Services Division reviewed the Proposal from a traffic planning perspective, and concluded that it does not have any objections to Proposal provided that there is a minimum of two Type 'B' loading spaces and a minimum of forty parking spaces provided on-site. The Memo cautions the Applicant that by electing to undertake a zoning review waiver, instead of a zoning review, the Applicant is "fully responsible for any zoning compliance issues that may arise with respect to the subject [variance] application."

[68] I place at least some weight on this Memo.

[69] In addition, I place some weight on the testimony of Mr. Barrington. It was unclear whether Mr. Barrington was provided with the City Zoning Examiner's Notice of May 3, 2019 (Exhibit 2, Tab 9), before he finalized the BA Group Study for July 22, 2019. In Exhibit 2, Tab 8, his Study indicates that only one (1) Type 'A' loading space is required under City-wide Zoning By-Law 569-2013 whereas the Zoning Examiner Notice of May 3, 2019 (and of September 25, 2019) show a loading requirement of a total of three (3)

Type C and two (2) Type B loading spaces. A premise that Mr. Barrington may have started with, in this case, does not necessarily interfere with his professional conclusion, which is the provision of two Type 'B' loading spaces. I generally accept the results of his findings, which are based on surveys gleaned from human observation.

[70] In addition, I place considerable weight on the oral testimony and written evidence of Ms. Mercier. I found her qualified to provide expert opinion evidence in relation to the matter. I asked her a series of questions to assist the TLAB to determine the impacts of the proposed variances.

[71] Overall, I accept Ms. Mercier's professional land use planning opinion and Mr. Barrington's professional transportation planning opinion.

[72] I find that the requested variances are consistent with the 2014 Provincial Policy Statement and that the requested variances conform to the 2019 Growth Plan. I find that the proposed variances both individually and cumulatively meet the general intent and purpose of the 2019 Official Plan of the City of Toronto, including Section 4.6.6(f), which is an Official Plan Policy for All Employment Areas. Also, I find that the proposed variances both individually and cumulatively, meet the general intent and purpose of the Zoning By-Laws of 569-2013 (City of Toronto) and 7625 (Former City of North York). I further find that the proposed variances individually and cumulatively are desirable for the appropriate use of the land, and are minor.

[73] The existing physical facilities and standards are recognized and maintained as legal conforming.

DECISION AND ORDER

1. The Appeal is allowed. The decision of the Committee of Adjustment dated October 24, 2019 is set aside.
2. The variances identified in **Attachment A** are authorized.
3. The location and execution of the variances in **Attachment A** is to be done in substantial accordance with the Survey of the Draft Plan of Condominium, which is **Attachment B**.
4. Any other variances that may appear on the plans that are not listed in this decision and order are expressly not authorized.

X 

S. Karmali
Panel Chair, Toronto Local Appeal Body

ATTACHMENT A

Variances for 101 Oakdale Road

Purpose: To permit loading space and parking space deficiencies.

1. Section 220.5.10.1.(7), By-law 569-2013

A total of 3 Type C and 2 Type B loading spaces are required.

A total of 1 Type B loading space will be provided for the industrial units.

2. Section 6A(2)a, By-law 7625

A total of 75 parking spaces are required.

A total of 40 parking spaces will be provided.

ATTACHMENT B

Plan for 101 Oakdale Road

