

# DECISION AND ORDER

**Decision Issue Date** Friday, July 03, 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): Ann Missetich

Applicant: Martin Shoom

Property Address/Description: 920 Yonge St Unit B2

Committee of Adjustment Case File: 19 176603 STE 11 MV (A0666/19TEY)

**TLAB Case File Number: 19 2480828 S45 11 TLAB**

**Hearing date:** Tuesday, February 18, 2020

**DECISION DELIVERED BY S. Karmali**

## REGISTERED PARTIES AND PARTICIPANTS

PERSON TYPE	PERSON NAME	PARTY'S REPRESENTATIVE (IF APPLICABLE)
Appellant	Ann Missetich	
Owner	Jagramstef Canada Limited	Martin Shoom (Applicant)
Party	Veterinary Emergency Clinic (VEC)	Mark Russell (Legal Representative)
		Natasha Sapra (Responding Party Witness)
		Jane McFarlane (Expert Witness)
Party	York Condominium Corporation Number 163 (YCC 163)	Paul Greco (Legal Representative)

## INTRODUCTION

[1] This is an appeal<sup>1</sup> by Ms. Ann Misitech from the Toronto and East York Committee of Adjustment (COA) decision of October 23, 2019. The COA had approved<sup>2</sup> the Applicant/Owner's<sup>3</sup> request for variances in respect of the condominium property located at 920 Yonge Street (subject property).

[2] The subject property is zoned Commercial Residential (CR)<sup>4</sup> and has a zoning label of: CR 4.0(c1.75; r4.0) SS1(x2403) and CR T4.0 C1.75 R4.0 (ZZC).<sup>5</sup>

[3] The subject property is located north-west of the intersection of Davenport Road and Yonge Street on which there is a 19-storey mixed use building with an existing veterinary clinic on the ground floor. The building itself was constructed in 1973 and, it would appear, that the building stands as non-compliant to regulations of the current City-wide Zoning By-Law 569-2013 and the Former City of Toronto By-Law 438-86.

[4] That the COA had approved the identical floor space index (fsi) variances would have permitted the Owner to convert a portion of the second basement level (B2) from storage space to a Magnetic Resonance Imaging (MRI) suite. This suite relates to the existing veterinary hospital on the ground floor of the mixed use building.

[5] The request for variances are indicated below and are also contained within **Attachment A** of this Decision and Order.

### **City-wide zoning By-law 569-2013, as amended**

#### **Chapter 40.10.40.40.(1)**

The maximum permitted floor space index of the mixed-use building is 1.75 times the area of the lot (10,093.48 m<sup>2</sup>)

The 19-storey mixed use building will have a floor space index equal to 2.25 times the area of the lot (12,960.77 m<sup>2</sup>)

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<sup>1</sup> A Notice of Appeal (Form 1) filed by Ms. Misitech on November 12, 2019. The TLAB, then, issued a Notice of Hearing on November 13, 2019.

<sup>2</sup> It should be noted that the COA did not provide *substantive* reasons for its notice of decision, although under Section 45(8.1) of the *Planning Act*, it may not have needed to.

<sup>3</sup> Section 45(1) of the *Planning Act* states that "...upon the application of the owner of any land, building, or structure, or any person authorized in writing by the owner..." The proper (registered) owner, as indicated, on the 2019 Committee of Adjustment Application is Jagramstef Canada Limited. Mr. Martin Shoom was given authorization by the registered owner to act on behalf of it. There is no information before the TLAB that would suggest there is some other proper owner. To ensure transparency, there must always be a registered owner stated. Otherwise, the land titles system, for example, could not guarantee title and transfer of title.

<sup>4</sup> The purpose of the CR zone under the City-wide Zoning By-Law 569-2013 is to provide areas for a broad range of uses, including retail, service commercial, office and residential uses often in mixed use buildings. A mixed use building is a building with a dwelling unit and a non-residential use. The same Zoning By-Law provides that a residential building is **not** a mixed use building.

<sup>5</sup> The numerical value most pertinent is 1.75, which represents the maximum value of commercial floor space index. An explanation of the other numerical components can be found in Chapter 40 of the City-wide Zoning By-Law.

**Former City of Toronto Zoning By-Law 438-86, as amended**

**Section 8(3) Part I 2**

The maximum permitted floor space index of the mixed-use building is 1.75 times the area of the lot (10,093.48 m<sup>2</sup>)

The 19-storey mixed use building will have a floor space index equal to 2.25 times the area of the lot (12,960.77 m<sup>2</sup>)

[6] The Proposal seeks to convert the existing storage space below grade to commercial space, which has the effect of increasing the commercial gross floor area (gfa) by approximately 122.71 m<sup>2</sup>. The Veterinary Emergency Clinic (VEC) requires this space to carry on business as an animal hospital.

[7] Ms. Misitech brings the appeal because she is concerned about potential risks to health and safety, including possible building code and fire code violations of the proposed development and use. Another concern of hers is how the variance regime applies to the common elements of the mixed use condominium affected by development.

[8] As this is a *de novo* hearing, the burden of proof is on the Owner, Jagramstef Canada Limited, not Ms. Misitech, to demonstrate, on a balance of probabilities, that the requested variances meet the relevant statutory and policy tests recited below. Where this onus is found not to have been discharged, the Proposal must fail.

[9] Ms. Misitech, on the other hand, must, to a satisfactory level, address the same considerations and show cause why the relief sought meets the standard necessary to demonstrate non-conformity, undesireability in the public interest or undue adverse impact that would warrant the relief sought, in this case to allow the appeal and refuse the variances requested.

[10] Before I move forward, I would like to clarify the relationships of those who testified at the hearing. Mr. Martin Shoom is the architect of the Proposal. He is authorized to represent the Owner. Ms. Sapra, in her capacity as a director, represents the VEC. Mr. Mark Russell is the VEC's legal representative for this matter. Ms. Jane McFarlane is the VEC's expert witness candidate and Mr. Russell's call. Mr. Patrick Greco is the legal representative for YCC 163 for this matter. Ms. Ann Misitech is the Appellant and is self-represented in this matter.

[11] I reviewed the online pre-filings. I visited and explored the subject property as best as I could. The visual depictions provided to the TLAB by Ms. Misitech and Ms. McFarlane helped me develop a better understanding of the access route, and pinch points, that lead to the proposed development.

## **BACKGROUND**

[12] On January 30, 2020, Ms. Misitech filed a Notice of Motion (Form 7) and Affidavit (Form 10) with the TLAB. She moved to seek an order for full disclosure of all relevant materials. In particular, she sought referenced documents from the Owner seeking this variance. She further stated in Part 3 of Form 7 that she requested disclosure of a specified email correspondence that was referenced in a Corporation solicitors' letter presented to the COA in conditional support of the Owner's variance request. Simply put, this letter was not disclosed to her. She stated that this letter is "critical for her to formulate her appeal documents" in preparation for the TLAB hearing. She further stated that, at minimum, disclosure in full of documents referenced at and filed with the COA should be provided to her.

[13] On February 10, 2020, YCC 163, represented by Mr. Greco, offered to settle the motion on a set of terms. The offer included a term that would allow Ms. Misitech to receive a copy of an email from Patrick Greco to Martin Shoom and another person dated October 22, 2019 subject to Ms. Misitech withdrawing her motion and not making other requests for disclosure from YCC 163. The same day, Ms. Misitech accepted the offer: "I thank the Corporation for providing that correspondence referenced in the conditional support letter filed with the Committee of Adjustment." In an email to the TLAB dated February 12, 2020, Ms. Misitech wrote that since she had received the particular disclosure, she would like to withdraw her motion.

[14] An order for production of documents is not required in this case. As between the parties, the motion request, although initially refused by Mr. Greco, was later acquiesced to by what appears to have been a good faith offer to settle, which Ms. Misitech accepted. Ms. Misitech, then, with knowledge and understanding of the offer she had accepted, withdrew her motion to the TLAB in writing.<sup>6</sup> She confirmed her withdrawal at the outset on the day of the TLAB proceeding. The TLAB, therefore, need not decide the merits or demerits of a motion to order for discovery, now withdrawn.

## **MATTERS IN ISSUE**

[15] Do the requested two identical variances meet the tests under Section 2, Section 3, and Section 45(1) of the *Planning Act*?

[16] This involves a reconsideration of the variances considered by the COA in the physical and planning context.

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<sup>6</sup> Email correspondence from Ms. Misitech to Mr. Greco dated February 10, 2020 at 16:56.

[17] In addition, TLAB must have regard to matters of provincial interest as set out in Section 2 of the Act. The variances must be consistent with provincial policy statements and conform to provincial plans as set out in Section 3 of the Act. A decision of the TLAB must, therefore, be consistent with the 2014 Provincial Policy Statement (PPS) and conform to (or not conflict with) any provincial plan such as the Growth Plan for the Greater Golden Horseshoe (Growth Plan) for the subject area.

[18] The four tests of Section 45(1) are indicated below. The TLAB must be satisfied that each test is satisfactorily met, individually and cumulatively.

## **JURISDICTION**

### **[19] 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 2019 Growth Plan for the Greater Golden Horseshoe for the subject area ('Growth Plan').

### **[20] 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 four 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**

[21] This section captures the key relevant considerations of the proceeding. The TLAB does not need to restate every point spoken in evidence. The considerations, below, inform the planning merits of the appeal and are vital to the determination of the matter, which is whether the requested commercial fsi increase is in keeping with the *Planning Act*.

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

- Exhibit 1: Witness Statement of Responding Party, Ms. Natasha Sapra
- Exhibit 2: Expert Witness Statement, Ms. Jane McFarlane
- Exhibit 3: Reply to Response to Expert Witness Statement, Ms. McFarlane
- Exhibit 4: Letter dated May 7, 2019, Mr. Paul Greco
- Exhibit 5: Party Witness Statement and Replies, Ms. Misitech

[23] **Ms. Natasha Sapra of VEC**

Ms. Sapra relied on Exhibit 1 to testify. She stated that she manages the overall operations of VEC. She said the B2 unit is space that could be used for a new replacement MRI machine, which is essential for VEC to continue to carry on its business. The machine would be used to image dogs and cats and occasionally rabbits and birds. She indicated that there is no intention to have zoo animals come through the VEC and use its MRI machine.

Ms. Sapra testified that the new MRI machine is structurally too heavy to be placed on the ground floor, where VEC's main operation is currently housed. She expects the new machine would be used two to three times a day on average.

She indicated that her staff would get to the MRI suite by taking the public elevator from the main floor to the first floor of the parking garage (B1) and then proceed to the B2 unit. A staff member would accompany all animal patients to and from the proposed MRI suite. She said that most animal patients are ambulatory, and, thus, would be leashed and walked to the suite. If an animal could not walk, a children's wagon might be used to transport the animal. Ms. Sapra stated there is no reasonable expectation for overlap with any residents of the condominium at any point in the route that narrows.

In cross-examination, Ms. Sapra confirmed that the MRI does not have a radioactive component and that a gurney for transport would not be used.

[24] **Ms. Jane McFarlane of Weston Consulting Group Incorporated on behalf of VEC**

Ms. McFarlane testified that she is a Registered Professional Planner with the Ontario Professional Planners Institute and a full member of the Canadian Institute of Planners. She also has a Master of Environmental Studies in Urban Planning from York University. She has been with Weston Consulting as an associate since 2009. Ms. McFarlane has been qualified as a land use planning expert witness in the past at the TLAB. She acknowledged that she understood her duties owed to the TLAB in this matter.

There were no objections to her proposed qualification. I qualified Ms. McFarlane to provide expert opinion evidence in land use planning in this proceeding.

Ms. McFarlane referred to photographs she had taken on January 6, 2020 (Exhibit 2, Tab 7 and Tab 8). She walked the TLAB through a possible access route that leads to the proposed MRI suite. She indicated that there are approximately three floors of underground in the mixed use building: B1, B2, and B3. She pointed out that B1 is only a partial level due to grade changes. She indicated that the primary route to take would be from the main VEC hospital area on the ground floor through the commercial lobby and down the parking garage elevator, which provides public access to B2 and B3. However, she further indicated that a pre-programmed key would permit access to B1 for the VEC attendants, the client, and the animal patient to walk down the common element and private hallways and arrive at the proposed MRI suite on B2. Along this way, there is a laundry room used by residents of the condominium.

She stated that the B2 unit is currently being used as storage. She indicated a furniture store previously occupied it, and the furniture store necessarily used the close by dock and loading facilities.

Ms. McFarlane opined that the mixed use building contains commercial and residential uses. She stated that Floors 1 to 10 contain commercial uses and a total commercial GFA of approximately 12,839 m<sup>2</sup>. Floors 11 to 19 contain residential units, consisting of 105 residential units. She indicated there are separate commercial and residential entrances from Yonge Street. She clarified that the main entrance of the VEC is off of McMurrich Street, which is just west of Yonge Street between Belmont Street to the north and Davenport Road to the south.

She remarked that the existing building was constructed in 1973, which is before the enactment of both the City-wide Zoning By-Law 569-2013 and Former City of Toronto Zoning By-Law 438-86. Accordingly, she opined, the building is deemed to be "legal non-conforming."

Ms. McFarlane stated that the current commercial fsi of the building, without the proposed MRI suite, has a gross floor area (gfa) of 12,839.06 m<sup>2</sup>, which is approximately 2.22 times the lot area. The proposed commercial gfa is 12,961.77 m<sup>2</sup>, which is 2.25 times the lot area.

She indicated that the existing MRI unit on the ground floor hospital area would be removed and converted to storage. She stated the proposed MRI unit on B2 would replace outdated MRI equipment on the ground level and accommodate existing patients. The conversion of existing storage space below grade to commercial space would increase the fsi of the existing building by 122.71 m<sup>2</sup>.

She indicated that City Planning did not prepare and provide a staff report concerning the Proposal. This, she said, is usually suggestive that City Planning does not have any significant concerns.

### *Provincial Policy*

Ms. McFarlane opined that the proposed fsi variances are consistent with the policy objectives of the 2014 Provincial Policy Statement (PPS). She referred to PPS Policies 1.1.1, 1.1.3.2, 1.1.3.3, 1.1.3.4, 1.1.3.6, 1.3.1, 1.4, and 1.6.7. She stated that the proposed development would implement the policies and direction provided for in the PPS such that it would contribute to a healthy community inclusive of a range and mix of uses. She further stated that the proposed development would promote intensification in a manner that would utilize existing infrastructure and reduce transportation pressures.

She opined that the proposed fsi variances conform to the 2019 Growth Plan for the Greater Golden Horseshoe (Growth Plan). She referred to Growth Plan Policies 2.2.1, 2.2.2, 2.2.4, and 2.2.5. She stated that the Proposal is redevelopment within a settlement area, delineated built-up area and along a transit corridor. She further stated that the Proposal contributes to a range and mix of employment with densities that support the principles of intensification, optimization of public transit, and the efficient use of infrastructure.

### *The Four Tests*

#### A. The Official Plan (OP) & Downtown Plan (DP) Secondary Plan

Ms. McFarlane opined that the proposed development maintains the general intent and purpose of the OP considering the subject property's location within a defined Mixed Use Area. On this point, she stated that the Proposal would provide a range and mix of uses within the Area and would have regard for the existing surrounding area context.

She referred to Section 4.5.2 of the OP, which guides development in Mixed Use Areas. This Section of development relates to reduced automobile dependency and meeting needs of the local community.

Ms. McFarlane stated that the subject property is located within the Downtown Plan (DP) Secondary Plan boundary. The DP designates the property as "Mixed Use Areas 2-Intermediate." She referred to Section 6.27 of this designation, which provides for a diverse range of uses, including retail, service, office, institutional and residential uses. She alluded to other sections. She opined that the permitted use, extended to the MRI suite on B2, would add to the diverse range of uses in the neighbourhood.

#### B. City-wide Zoning By-Law 569-2013 and Former City of Toronto Zoning By-Law 438-86

Ms. McFarlane opined that a slight increase in commercial gfa/fsi would maintain the general intent of the two Zoning By-Laws. She stated that the gfa thresholds in By-Law 569-2013 were carried forward from its predecessor, By-Law 438-86. She further stated that the gfa/fsi is already above the commercial gfa/fsi maximum. She indicated there is no site-specific by-law that applies to the subject property.



Ms. McFarlane reiterated that the proposed MRI suite is not a standalone commercial enterprise. Rather, the suite, if approved, would connect to an existing permitted use. She stated that the suite could be viewed as an accessory use to the VEC on the ground level. She further stated that the suite would enjoy restricted access as it is neither publicly accessible nor accessible to the residents of the building.

**C. Desirable for the Appropriate Use of the Land**

Ms. McFarlane opined that the proposed variances are appropriate and desirable for the development and use of the subject property. She stated that the MRI unit would allow the VEC to utilize modern equipment and reduce vehicle trips rather than send the client and the animal patient to another facility to receive an MRI. She pointed out that there would likely be no changes to parking demand created by the Proposal.

She reiterated that hallways of common element ownership and private ownership would be used to access the proposed MRI suite. She indicated that the hallways are not restricted to unit owners of residential suites. Furthermore, Ms. McFarlane stated residents use the hallways to access the laundry room. On this point, she suggested, based on her observations, that the laundry room is currently underutilized.

**D. Minor in Nature**

Ms. McFarlane opined that the marginal increase in commercial gfa/fsi value is minor in nature. She stated that the increase would not significantly impact the use of the building. There would be no undue or unacceptable impact, in her opinion. She added there are no built form changes proposed to the footprint of the building. The conversion of the storage space, she said, would result in an increase of 122.71 m<sup>2</sup> to the existing clinic, which represents less than one percent of the aggregate commercial gfa.

She concluded that the Proposal satisfies all four tests to be considered a 'minor' variance and, overall, represents good planning. She submitted that the Proposal should be approved.

In direct examination, Ms. McFarlane was asked what impact does the number of people in the hallways have in terms of the planning merits of the Proposal. She responded there is no specific threshold. The hallway in question, she repeated, is not an exclusive use. In cross-examination, she was asked by Ms. Misitech, whether the Proposal creates a new situation. Ms. McFarlane answered that commercial tenants and residential tenants are already in a situation where they encounter animals at ground level. The Proposal, she said, would not deviate from this existing experience. Ms. Misitech asked whether consultation is important in the development process. Ms. McFarlane said that while consultation is encouraged, it is not required. She commented that City Planning did not provide a report opposing the Proposal. Ms. Misitech asked if Ms. McFarlane could offer assurance about human health and safety in respect of the Proposal. Ms. McFarlane said that she is not a health and safety inspector but that she could provide hopeful assurances that the City would be careful to ensure health and safety, including fire safety.

**[25] Mr. Martin Shoom (Architect, and Applicant on behalf of Owner)**

Mr. Shoom was an impromptu call. Although Mr. Shoom did not prepare and file a witness statement, he was called by Mr. Russell as a lay witness. Mr. Russell asked several questions of Mr. Shoom. What is it about the MRI suite that makes it the way it is? Mr. Shoom replied that the new MRI equipment has an extreme weight due to the magnet itself. The MRI is three times heavier than the outdated one. He commented that there is potential for interference with the imaging device and its proximity to steel and large vehicles moving about. He stated that the proposed location is ideal because it puts the device at the southwest corner of the building, far away from other tenants. He was asked what he thought about the width of the hallways along the primary access route. Mr. Shoom said that some of the hallways are oversized, but there is a narrow part that is about thirty-six inches wide at the doorway entrance. He does not anticipate any conflicts as there is more than sufficient room to go by.

Ms. Misitech, then, proceeded to ask Mr. Shoom some questions. Why do we need this variance from a by-law that was designed to protect us? Mr. Shoom responded that by-laws change. In the present case, the building became 'legal non-conforming' and now the by-laws are triggered for a small amount of space relative to the entire building. Ms. Misitech asked Mr. Shoom whether he thinks the hallways are oversized. Mr. Shoom agreed.

**[26] Ms. Misitech (Appellant)**

Ms. Misitech relied on Exhibit 5 to provide her testimony. She stated that she has nothing against animals or the VEC. She is concerned about the potential compromise to the health and safety of building residents arising from the future use of the common element corridor space if the Proposal is allowed.

She emphasized in her Witness Statement that the variances fail to meet the tests of desirable for the appropriate development or use of the land and the test of minor in nature. She testified that intermingling with sick animals is inappropriate. Ms. Misitech further testified that there could be several impacts from potential exposure to animals and sick animals: allergic responses and emotional distress.

Ms. Misitech also expressed concern about the treatment of common elements from a resident unit owner's perspective. She expressed concern about an increased commercial floor space index as that could further shift the balance of power of a mixed use condominium, away from condominium residents.

## **ANALYSIS, FINDINGS, REASONS**

**[27]** I have carefully reviewed and considered the marked exhibits, including the pre-filed witness statements, as well as the audio recording of the matter and the written closing submissions.

[28] I hope it is understood that the TLAB is a creature of statute and is not a court of inherent jurisdiction, where broader issues are triable. The appellate jurisdiction of the TLAB is circumscribed in the *Planning Act*.

[29] I endorse the finding that my colleague, Member Leung, had made in *13 Denton Avenue* at page 8: "Any other issues which are not planning-related are peripheral in nature and cannot be directly assessed by this tribunal as it does not have such authority under the *Planning Act*."<sup>7</sup> To that end, I appreciate the concerns raised by Ms. Misitech. To be fair, this tribunal cannot adjudicate the majority of her concerns because they fall outside of the tribunal's jurisdictional purview. This is not to suggest that Ms. Misitech is precluded from pursuing at least some of her concerns or claims elsewhere, as a condominium resident unit owner.

[30] While it might appear unusual that a tenant party (the VEC) called an expert witness to present the unit owner's case in support of variance relief, this is not an invalid arrangement. The *Planning Act* only requires that there be an identifiable owner of the property. The owner of the unit in question is Jagrastef Canada. I need not satisfy myself further about ownership of the unit. I will mention, as obiter, that a condominium board owes a fiduciary duty to all unit owners notwithstanding land use designation of the condominium. Unit owners should feel confident that their board is performing its fiduciary duties.

[31] Moving forward, risks to health and safety, including fire safety, are issues of concern that were raised by Ms. Misitech. Ms. Misitech referred fire safety violations having occurred in the past. She alluded to a major fire having occurred in the basement of the building in 2013. While these are serious matters, there was no expert evidence proffered to show that the development of an MRI suite on B2 of the subject property would precipitate significant fire safety issues. I have also not heard, for example, that significant health and safety issues have occurred at the existing operation of the VEC.

[32] I heard from Ms. Sapra who testified that the vast majority of animal patients that would receive MRIs are dogs and cats. I also heard her say that in a small number of instances, a child wagon may be used to transport an animal that could not walk. She confirmed there is no radioactive component for the MRI equipment.

[33] Furthermore, undesireability in the public interest may be demonstrated by the City claiming an adverse interest in a matter. In the present case, there is no Staff Report from City Planning. Even where a health and safety issue surfaced of considerable magnitude, the City has broad powers to pass specific by-laws respecting the health, safety, and well-being of persons. More likely, the City could ensure that the proposed development is up to the standard of the Ontario Building Code.

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<sup>7</sup> *13 Denton Avenue*, April 1, 2019, Member J. Leung TLAB Case File Number: 19 114147 S45 19 TLAB

[34] Equally important, Exhibit 4, a letter from the YCC 163, states that once the MRI suite is in operation, the Condominium Corporation would continue to monitor the walkway leading to the MRI suite to observe any negative impacts from the veterinary MRI Suite use of the unit, including soiling and odour.

[35] The aforementioned are examples of assurance to give Ms. Misitech at least some peace of mind about the matter. I believe she is *bona fide* in making this appeal. I commend her efforts as a self-represented party to have challenged an outcome she was affected by. She used her own time and spent a great deal of effort to, among her other contributions, develop informative visuals for the TLAB's understanding.

[36] Has the Applicant discharged the onus of meeting the legal tests of the *Planning Act* as well as the policy tests? I find in the affirmative. I accept the expert opinion evidence provided by Ms. McFarlane. I found Ms. McFarlane's evidence to be comprehensive and thorough. Her evidence was also helpful to my task of assessment and determination on the planning merits of the Proposal. I find that the requested fsi variances satisfy the four tests prescribed under the *Planning Act*. I also find the requested variances are consistent with Provincial Policies and conform to Provincial Plans, as discussed in Ms. McFarlane's testimony. I do not need to make a finding that the building is deemed to be legal non-conforming.

[37] To that end, I would like to thank the parties for their civility and cooperation throughout the proceeding. I do hope the relationships between the proximate parties have been repaired or are, at least, repairable.

## DECISION AND ORDER

[38] The Appeal is not allowed. The variances in **Attachment A** are authorized. The Plans contained in **Attachment B** are approved with construction to be in substantial compliance.

X 

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S. Karmali  
Panel Chair, Toronto Local Appeal Body

**ATTACHMENT A:**  
**REQUESTED VARIANCES**

**1. City-wide zoning By-law 569-2013, as amended**

**Chapter 40.10.40.40.(1)**

The maximum permitted floor space index of the mixed-use building is 1.75 times the area of the lot (10,093.48 m<sup>2</sup>)

The 19-storey mixed use building will have a floor space index equal to 2.25 times the area of the lot (12,960.77 m<sup>2</sup>)

**2. Former City of Toronto Zoning By-Law 438-86, as amended**

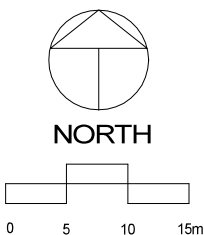
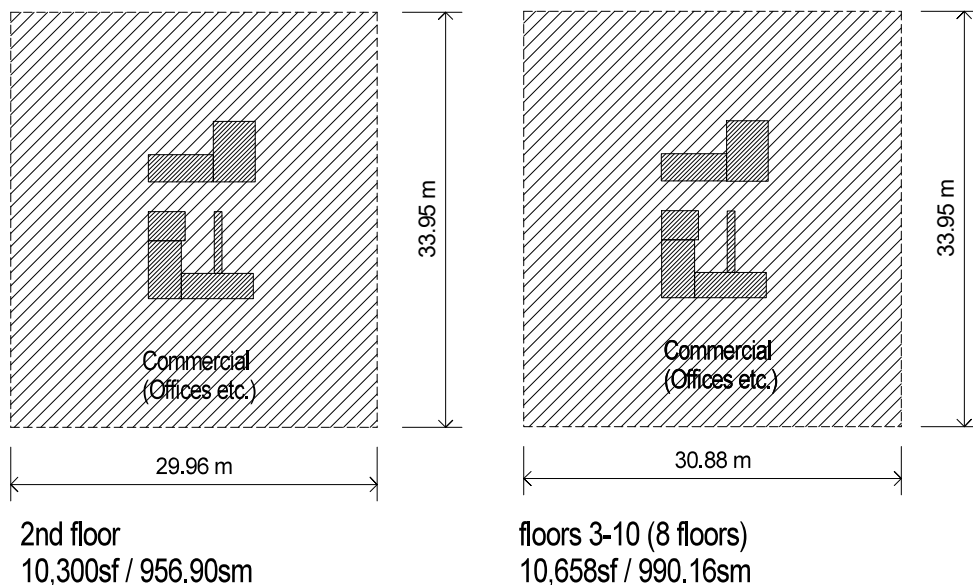
**Section 8(3) Part I 2**

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**ATTACHMENT B:**

PLANS



#### SITE STATISTICS: 920 Yonge Street \*\*\*\*\*

Zoning: CR4.0(c1.75:r4.0)SS1(x2403) current zoning \*\*  
(\*\* Zoning has changed since building was constructed in 1973+-)

Lot Area: 62,085sf / 5,767.7sm+-

#### GFA: **Commercial** - EXISTING

Grd. floor	42,642sf / 3,961.44sm - EXISTING
Levels 2-10	95,561sf / 8,877.62sm - EXISTING
TOTAL	138,203sf / 12,839.06sm - EXISTING

Max. permissible **Commercial** GFA - 108,649sf / 10,093.48sm+- = 1.75xLot Area = \*\*  
EXISTING **Commercial** GFA = 2.226xLot Area

Variance from Zoning = 29,554sf / 2,745.58sm+- = EXISTING 'Legal non-conforming Comm. GFA'

#### WORK RELATED TO PROPOSED ALTERATIONS - ie. ZC APPLICATION:

GFA: **Commercial** - Proposed/NEW @Level B2 - VEC MRI Suite  
(ie. conversion of exist. Storage Rm.)

MRI Suite 1,321sf / 122.71sm (<1% increase in GFA vs. EXIST. Commercial GFA)

EXIST. + NEW **Commercial** GFA - 139,509sf / 12,960.77sm = 2.247xLot Area  
Variance from Zoning = 30,863sf / 2,867.29sm+- = NEW + EXIST. 'Legal non-conforming Comm. GFA'

\*\*\*\*\* NOTE: AREA CALCULATIONS ARE APPROXIMATE, TAKEN FROM AVAILABLE ARCHIVAL MATERIALS (LOW QUALITY) PROVIDED BY CITY OF TORONTO RECORDS & YCC163. THIS OFFICE DOES NOT WARRANT THE ACCURACY OF THE STATISTICAL CALCULATIONS.

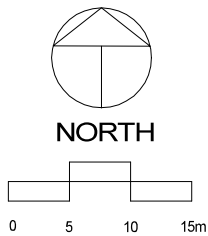
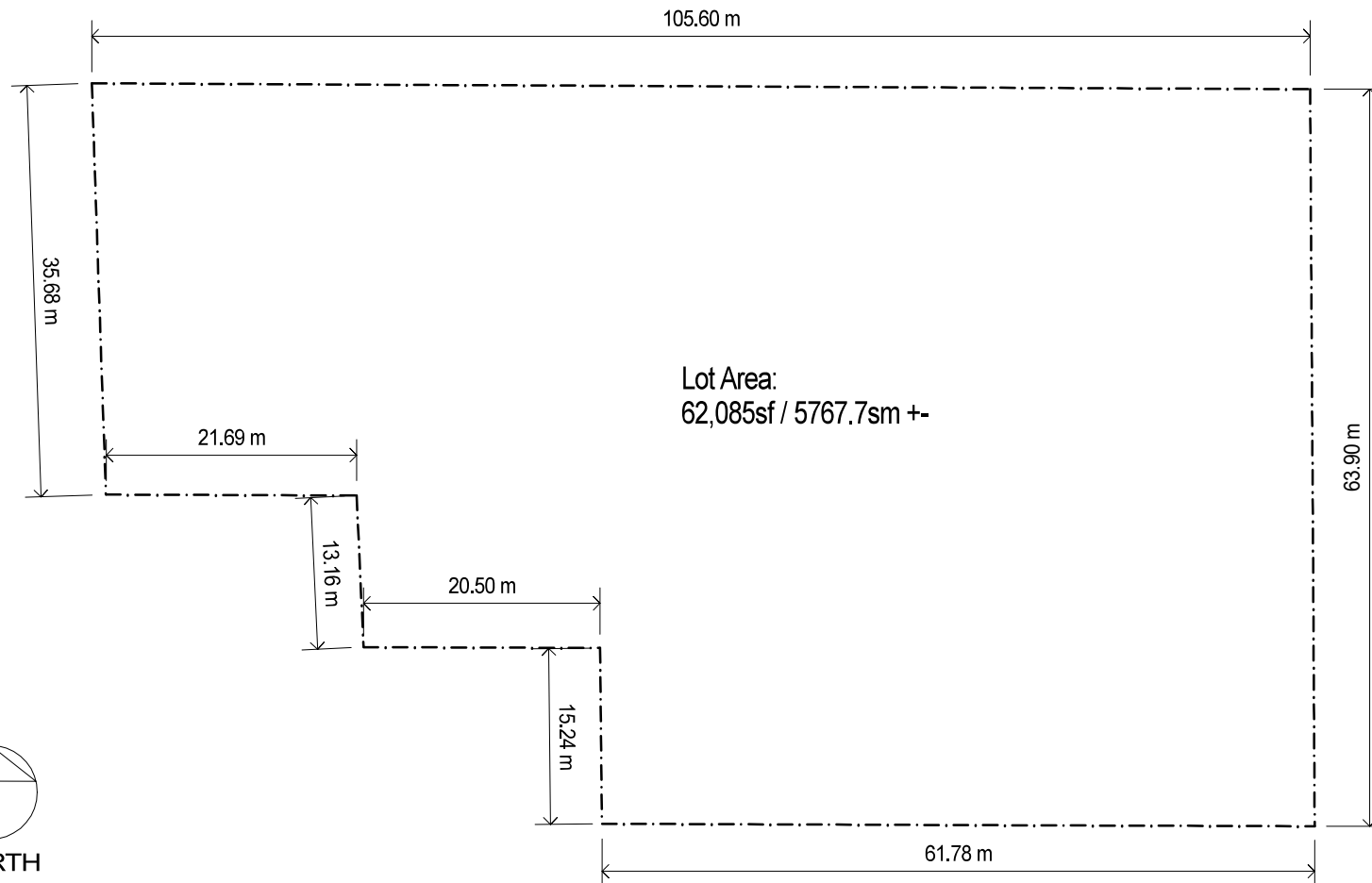
### 2nd -10th Floor Plans: (Commercial floors) & GFA Summary



MA, SHOOM ARCHITECT INC.  
542 M. Pleasant Rd., Ste. 200a  
Toronto, ON M4S 2M7  
T/F: (416) 524-0024  
shoomdesign@star.ca

### PROPOSED INTERIOR ALTERATIONS - LEVEL B2 920 YONGE STREET, TORONTO NEW MRI SUITE - VETERINARY EMERGENCY CLINIC (VEC)

Committee of Adjustment Application  
SITE STATISTICS  
Scale - 1:400m  
June 2019  
Project #1910(1714)



Site Plan:

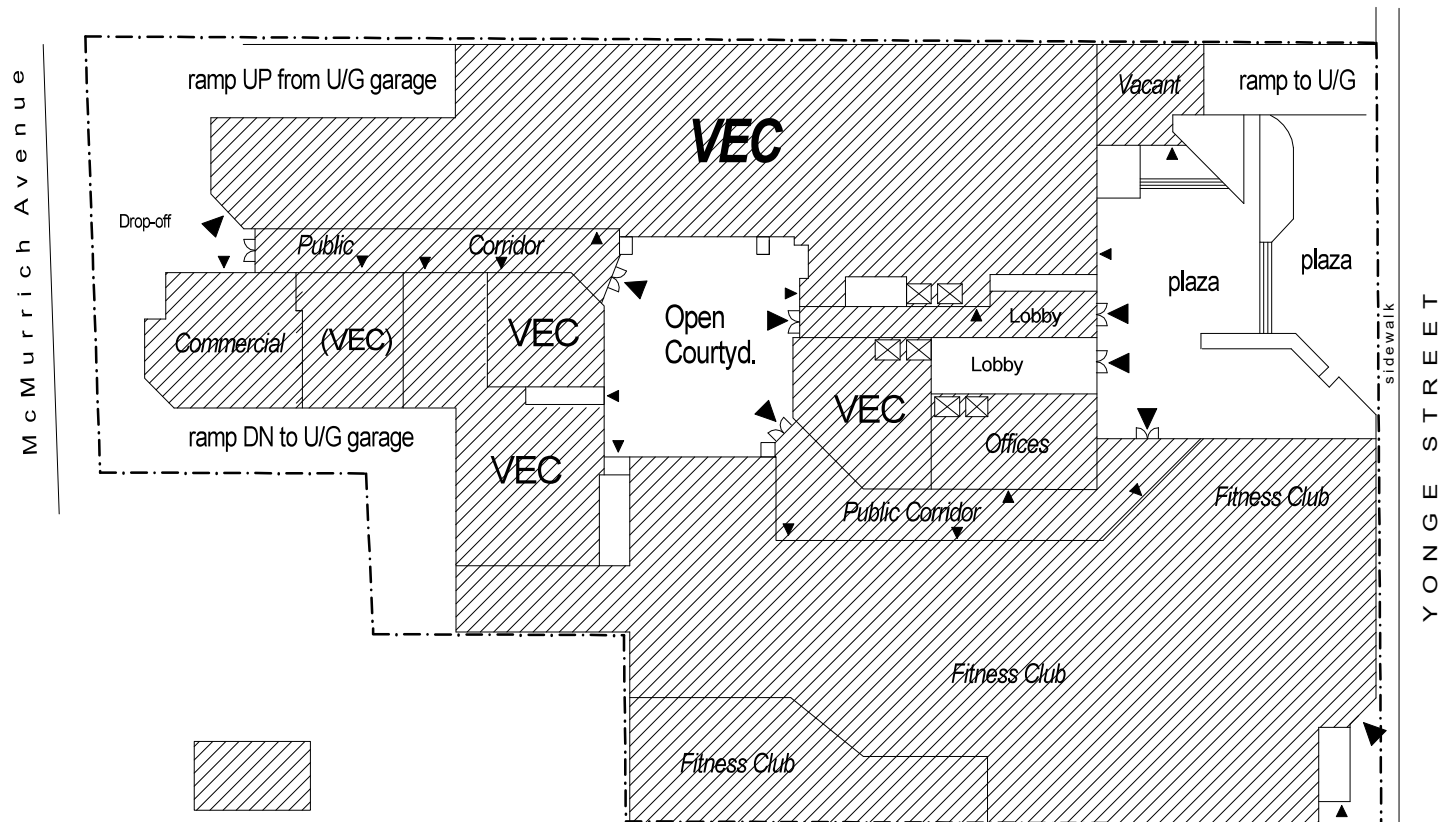


M.A. SHOOM ARCHITECT INC.  
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T/F: (416) 924-0034  
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PROPOSED INTERIOR ALTERATIONS - LEVEL B2  
**920 YONGE STREET, TORONTO**  
NEW MRI SUITE - VETERINARY EMERGENCY CLINIC (VEC)

Committee of Adjustment Application  
SITE STATISTICS  
Scale - 1:400m  
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Commercial GFA - 42,642sf / 3961.44sm +/-

Site Plan / Ground Floor Plan:



MA, SHOOM ARCHITECT INC.  
542 McPheasant Rd., Ste. 200a  
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PROPOSED INTERIOR ALTERATIONS - LEVEL B2  
**920 YONGE STREET, TORONTO**  
NEW MRI SUITE - VETERINARY EMERGENCY CLINIC (VEC)

Committee of Adjustment Application  
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