

- b. Dismiss the balance of the appeal.
2. The Applicant is the owner of the property at 30 Fernwood Park Avenue (Subject Property). The Appellant is the owner of the neighbouring properties at 32 and 34 Fernwood Park Avenue.
3. The Committee of Adjustment issued a decision approving the variances required to convert the existing three-storey semi-detached triplex on the Subject Property into a fourplex. The variances permitted creating an additional suite in the basement and constructing a rear basement walkout and three rear yard parking spaces.
4. There are no other parties or participants in this hearing.

MATTERS IN ISSUE

5. At issue is whether the Toronto Local Appeal Body (TLAB) should approve the variances that were before the Committee of Adjustment based on the settlement between the two parties.
6. The variances before the Committee of Adjustment are attached to this decision as Schedule "A" and the architectural plans that are subject to the settlement is attached as Schedule "B".
7. The approval of variances is grounded in the following statutory considerations and tests under the Planning Act:

The decision of the TLAB must be consistent with the policy statements and confirm with the provincial plans that are in effect (section 3).

The tests for variances must be satisfied. The variance(s) must (as per subsection 45(1)):

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

EVIDENCE AND ANALYSIS

8. The Applicant's affidavit to support this motion included correspondence from the Appellant's counsel, Max Reedjik, revised plans date stamped August 20, 2020 and a Zoning Notice (ZZC) dated September 4, 2020.
9. Based on the affidavit, I accept the Applicant's submission as follows:

- a. The Appellant enjoyed a right of way over the mutual driveway between the two parties' properties.
 - b. The original architectural plans submitted to the Committee of Adjustments included an error that resulted in the proposed northerly parking space encroaching onto the right of way.
 - c. The Appellant filed an appeal to address this encroachment and to protect her interests with respect to the right of way.
 - d. The Applicant provided amended plans to the Appellant that decreased the length of the northerly parking space to 5.64 m such that the parking space no longer encroached on the right of way. The decrease of the size of the parking space to 5.64 m does not require a variance as per the ZCC dated September 4, 2020 because the minimum required length is 5.6 m. The width of this parking space being 2.52 m is still an issue and part of the requested variances.
 - e. This specific amendment to the architectural plans is satisfactory to the Appellant and she wishes to have her appeal withdrawn if the variances are approved, subject to the revised architectural plans.
10. The TLAB encourages settlement between the parties. In this case, the circumstances are unusual as planning evidence has not been provided on whether the variances satisfy the four tests. However, I note that the Appellant's concern was related to the right of way. Further, in her Notice of Appeal, she noted that her appeal is with respect to variances 2 and 5 because "minor variances #2 and #5 are not appropriate or reasonable because they will result in the creation of a northerly parking space that encroaches on the appellant's right of way". I am satisfied that the evidence before me is sufficient to determine that the appeal was related only to the encroachment. Therefore, I am satisfied that the relief requested should be granted.

DECISION AND ORDER

11. The decision of the Committee of Adjustments to approve the variances listed in Schedule "A" is varied to include the following condition:

The variances are subject to the architectural plans prepared by QBS Architects and date stamped "2020-08-20 9:58:57 AM" and attached to this decision as Schedule "B".

12. The Appeal is dismissed.

X 

SHAHEYNOOR TALUKDER

Panel Chair, Toronto Local Appeal Body

Signed by: Shaheynoor Talukder

Schedule “A”

Variances before the Committee of Adjustment

1. Chapter 150.10.40.40.(1), By-law 569-2013

The interior floor area of a secondary suite or all secondary suites where more than one is permitted, must be no more than 45% (102.52 m²) of the interior floor area of the dwelling unit within which it is located.

The interior floor area of all secondary suites will be 74% (168.16 m²) of the dwelling unit within which they are located.

2. Chapter 200.5.1.10.(2), By-law 569-2013

The required parking space must have a minimum width of 2.60 m.

The three rear parking spaces will each measure 2.52 m in width.

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

The maximum permitted floor space index of a fourplex is 0.60 times the area of the lot (140.88 m²).

The fourplex will have a floor space index equal to 0.82 times the area of the lot (191.50 m²).

4. Chapter 10.5.50.10.(3)(A), By-law 569-2013

A minimum of 50% (40.75 m²) of the rear yard must be maintained as soft landscaping.

In this case, 0% (0.00 m²) of the rear yard will be maintained as soft landscaping.

5. Chapter 10.5.80.10.(7), By-law 569-2013

A maximum of two parking spaces may be located in the rear yard.

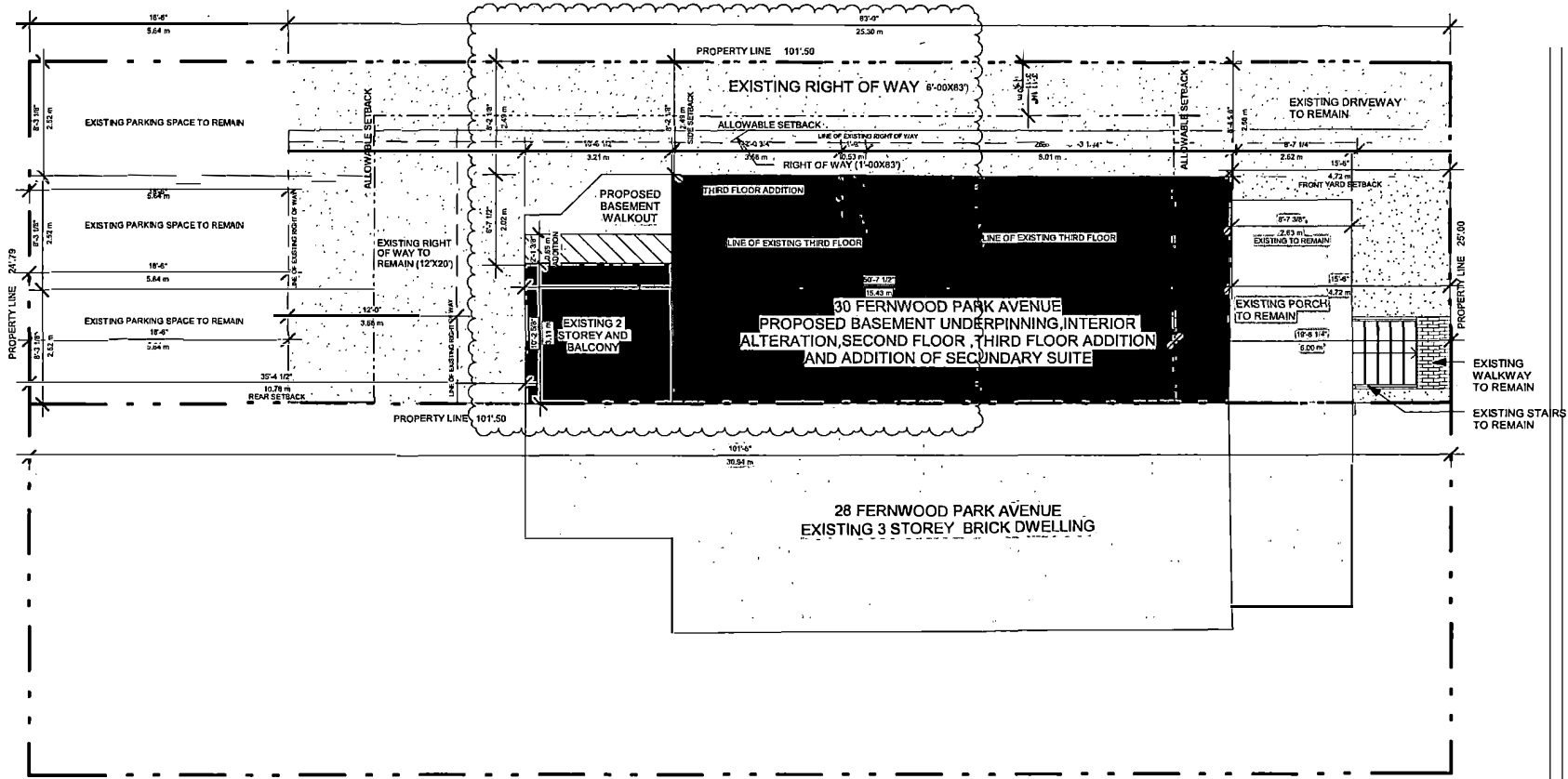
In this case, three parking spaces will be located in the rear yard.

6. Chapter 10.5.100.1.(2)(B), By-law 569-2013

The maximum permitted driveway width is 6.0 m.

In this case, the driveway width will be 7.6 m.

SCHEDULE "B"



30 FERNWOOD PARK AVE, TORONTO	
STAGE	DRAWING NO.
COFA	A0-004

No.	Description	Date
07	ISSUED FOR CLIENT	2020-07-16
06	ISSUED FOR CLIENT	2020-05-29
05	ISSUED FOR COFA	2019-12-16
04	ISSUED FOR REVISION FOR ZONING C.	2019-11-15
03	ISSUED FOR COMMITTEE OF ADJUSTMENT	2019-08-30
02	REISSUED FOR ZONING CERTIFICATE	2019-08-14
01	ISSUED FOR ZONING CERTIFICATE	2019-07-11

ARCHITECTS



TORONTO - CANADA
info@qbsarchitects.com



PROPOSED SITE PLAN			
PROJECT NUMBER	190127	DRAWING STATUS	ISSUED FOR COMMITTEE OF ADJUSTMENT
DATE	07/03/19	DRAWN	JB
CHECKED	SA	SCALE	1/8" = 1'-0"
		REVISION	06