

Toronto Local Appeal Body

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## **DECISION AND ORDER**

Decision Issue Date Thursday, February 03, 2022

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): MISHA BEREZNYAK

Applicant(s): NAAMA BLONDER

Property Address/Description: 662 DUNDAS ST WEST

Committee of Adjustment File

Number(s): 21 112225 STE 11 MV (A0130/21TEY)

TLAB Case File Number(s): 21 197508 S45 11 TLAB

Hearing date: January 10, 2022.

Deadline Date for Closing Submissions/Undertakings: N/A

**DECISION DELIVERED BY TLAB VICE-CHAIR A. BASSIOS** 

## REGISTERED PARTIES AND PARTICIPANT

Appellant MISHA BEREZNYAK

Applicant / Owner / Party NAAMA BLONDER

Owner MOSHE BEREZNYAK

Participant WAI YUEN CHOW

## INTRODUCTION

This is an Appeal of the Toronto and East York panel of the City of Toronto (City) Committee of Adjustment's (COA) refusal of an application for variances for the property known as 662 Dundas St West (subject property). The purpose of the application is to construct a four-storey, two-unit residential building with a third floor platform at the rear of the lot, accessing a public lane. The existing two-storey townhouse fronting onto Dundas St W is to be altered by constructing a third-storey addition with a rooftop terrace.

The subject property is located in the Kensington - Chinatown neighbourhood. It is designated *Mixed Use Areas* in the City Official Plan (OP) and zoned CR 2.0 (c1.0; r2.0) SS2 (x2355).

In attendance at the Hearing were Misha Bereznyak, an Owner, and Shirley Chow, representing the owner of 664 Dundas St W.

Mr. Bereznyak had not submitted a Witness Statement prior to the Hearing day as is required by the Toronto Local Appeal Body (TLAB) Rules of Practice and Procedure. A set of drawings had been submitted and a very brief set of notes. I allowed Mr. Bereznyak to submit his speaking notes to serve as a Witness Statement and allowed a set of documents to be entered as Exhibits to underpin his justifications. I advised that I would allow the Disclosure and Witness Statement to be entered in the moment only on the basis that there were no Parties in opposition and warned Mr. Bereznyak that he would be unlikely to encounter such leniency before the TLAB again.

#### **BACKGROUND**

The Applicant proposes to alter and add a third level to the existing townhouse and construct a separate building at the rear of the lot consisting of two secondary suites. The project is to be undertaken in two phases.

## REQUESTED VARIANCES TO THE ZONING BY-LAW:

### 1. Chapter 150.10.20.1.(4), By-law 569-2013

A secondary suite is a permitted use within a townhouse provided each dwelling unit has a maximum of one secondary suite.

In this case, the altered townhouse will have two secondary suites.

### 2. Chapter 150.10.40.40.(1), By-law 569-2013 (for the entire proposal)

The interior floor area of a secondary suite, or all secondary suites where more than one is permitted, must be no more than 45% (122.93 m2) of the interior floor area of the dwelling unit within which it is located.

In this case, the interior floor area of all secondary suites will be equal to 58% (157.76 m2) of the interior floor area of the dwelling unit within which they are located.

## 3. Chapter 150.10.40.40.(1), By-law 569-2013 (Phase 1 – New building only)

The interior floor area of a secondary suite, or all secondary suites where more than one is permitted, must be no more than 45% (108.25 m2) of the interior floor area of the dwelling unit within which it is located.

In this case, the interior floor area of all secondary suites will be equal to 66% (157.76 m2) of the interior floor area of the dwelling unit within which they are located.

### 4. Chapter 40.10.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index for all uses on the lot is 2.0 times the area of the lot (208 m2).

The two residential buildings will have a floor space index for all uses on the lot equal to 2.63 times the area of the lot (273.67 m2).

## 5. Chapter 40.10.40.40.(1)(C), By-law 569-2013

The maximum permitted floor space index for all residential uses on the lot is 2.0 times the area of the lot (208 m2).

The two residential buildings will have a floor space index for all residential uses on the lot equal to 2.63 times the area of the lot (273.18 m2).

## 6. Chapter 200.5.10.1.(1), By-law 569-2013

A minimum of two parking spaces are required to be provided.

In this case, zero parking spaces will be provided.

## 7. Chapter 40.10.40.1.(3), By-law 569-2013

A building with a dwelling unit may not be located so that another building is between any main wall of the building and the street on which the building fronts. The residential building at the rear of the lot will be located so that the townhouse at the front of the lot will be between its rear main wall and Dundas Street West.

#### 8. Chapter 40.10.40.1.(5)(A), By-law 569-2013

A building or an addition, which is not attached above-ground to the original part of a building, is not permitted if it has dwelling units and is in the rear of another building or the original part of the same building.

In this case, a residential building with two dwelling units will be located in the rear of another building.

#### 9. Chapter 40.10.40.10.(2)(A), By-law 569-2013

The maximum permitted building height is 14 m.

The residential building at the rear of the lot will have a height of 16.73 m.

### 10. Chapter 40.10.40.10.(5), By-law 569-2013

The minimum permitted height of the first storey, measured between the floor of the first storey and the ceiling of the first storey, is 4.5 m.

The first storey of the residential building at the rear of the lot will have a height of 2.24 m.

### 11. Chapter 40.10.40.70.(2)(A), By-law 569-2013

At least 75% of the main wall of the building facing a front lot line must be located at or between the front lot line and a maximum of 3.0 m from the front lot line. In this case, 71% of the main wall of the altered townhouse at the front of the lot facing a front lot line will be located at or between the front lot line and a maximum 3.0 m from the front lot line.

### 12. Chapter 40.10.40.70.(2)(B)(ii), By-law 569-2013

Where the rear lot line abuts a lane, the building must be set back 7.5 m from the lot line of the lot abutting the lane on the opposite side of the lane.

In this case, the residential building located at the rear of the lot will be located 6 m from the lot line of the lot abutting the lane on the opposite side of the lane.

### 13. Chapter 40.10.40.70.(2)(C), By-law 569-2013

Where the main wall of a building has windows or openings, the main wall must be set back at least 5.5 m from a lot line that is not adjacent to a street or lane. In this case, the west side main wall will be set back 1.27 m from the west side lot line.

## 14. Chapter 40.10.40.70.(2)(E)(i), By-law 569-2013

If a lot abuts a lot in a Residential Zone category, then every building on the lot may not penetrate the 45 degree angular plane projected over a shallow lot, along the entire required rear yard setback, starting at a height of 10.5 m above the average elevation of the ground along the rear lot line.

The residential building at the rear of the lot will penetrate the angular plane.

### 15. Chapter 40.10.40.80.(2)(A), By-law 569-2013

Any main wall of a building where a main wall of the building has windows and a line projected at a right angle from one of these main walls intercepts another main wall with windows on the same lot, the minimum above ground distance between the main walls is 11 m.

The two residential buildings on the same lot will have a distance between main walls with windows of 3.58 m.

## 16. Chapter 40.10.40.80.(2)(B), By-law 569-2013

Any main wall of a building where a main wall of the building has windows facing another main wall on the same lot which does not have windows and a line projected at a right angle from one of these main walls intercepts the other main wall, the minimum above ground distance between the main walls is 5.5 m. The two residential buildings on the same lot will have a distance between main walls of 0 m, at the ground floor, and second floor.

## 17. Chapter 40.10.40.60.(1)(C)(iii), By-law 569-2013

A platform or similar structure, attached to or less than 0.3 m from a building, and attached to the front main wall with a floor level higher than the floor level of the first floor of the building must not project more than 1.5 m from the main wall to which it is attached.

The third floor platforms will project 2.77 m from the front main walls to which they are attached.

#### 18. Chapter 40.10.40.60.(3)(A)(iii), By-law 569-2013

Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no closer to a lot line than 0.3 m. The rear stairs will be located 0 m from the rear (north) lot line.

## 19. Chapter 40.10.50.10.(2), By-law 569-2013

If a lot abuts a lot in the Residential Zone category a fence must be installed along the portion of a lot line abutting the lot in the Residential Zone category.

In this case, no fence will be provided along the portion of the lot line abutting the lot in the Residential Zone category.

## 20. Chapter 40.10.50.10.(3), By-law 569-2013

If a lot abuts a lot in the Residential Zone category, a minimum 1.5 m wide strip of land used only for soft landscaping must be provided along the part of the lot line abutting the lot in the Residential Zone category.

In this case, no strip of land used only for soft landscaping will be provided along the portion of the lot line abutting the lot in the Residential Zone category.

## 21. Chapter 40.10.150.1.(1)(A), By-law 569-2013

All waste and recyclable material must be stored in a wholly enclosed building. In this case, the waste and recyclable material will not be stored in a wholly enclosed building.

## 22. Section 4(5)(b), By-law 438-86

A minimum of three parking spaces are required to be provided. In this case, there will be zero parking spaces provided.

#### **MATTERS IN ISSUE**

The appeal before the TLAB was uncontested. The matter at issue is therefore fulfillment of TLAB's mandate to establish that the requested variances meet the four tests of s. 45(1) of the *Planning Act*.

#### JURISDICTION

### 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 Growth Plan for the Greater Golden Horseshoe for the subject area ('Growth Plan').

### **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 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**

Mr. Bereznyak, one of the Owners and a qualified Architect, described the proposal and provided evidence to the TLAB.

## Policy and Zoning Documents

I have reviewed Mr. Bereznyak's submitted documents and confirmed the accuracy of his evidence in the following respects:

- The subject property is located within the boundaries of the Provincially designated Downtown Toronto Growth Centre, as identified in the Growth Plan and within the Downtown Secondary Plan boundaries.
- It is designated *Mixed Use Areas* in the Official Plan, which supports a broad range of commercial, residential, and institutional uses, in single use or mixed use buildings, as well as parks and open spaces and utilities.
- It is designated "Mixed-Use Areas 3 Main Street" in the Downtown Secondary Plan.
- The Policies of the Downtown Plan state that development in *Mixed Use Areas 3* will be in the form of mid-rise buildings, with some low-rise and tall buildings permitted based on compatibility.
- Mid-Rise Buildings Policies are contained in the Downtown Plan and include direction that Mid-Rise development will have heights that reasonably define and enclose the right-of-way that it fronts onto... and be informed by the Performance Standards contained within the Avenues and Mid-Rise Building Study.
- Although the proposal is not considered a Mid-Rise Building, the Design Guidelines from the Avenues and Mid-Rise Study set performance standards which have been taken into consideration in the design of the proposal. Performance standards are set for maximum allowable height, angular planes, front setbacks, lanes, amongst others.
- Two other policy documents which are not yet in force were brought to the TLAB's attention, the City Planning "Missing Middle Housing Options" report and the Draft Zoning By-law Amendment for Automotive Standards.
- The in-force Zoning By-law is Zoning By-law 569-2013, which is the City of Toronto harmonized zoning by-law. With respect to parking requirements, Zoning By-law 428-86 of the former City of Toronto applies through Exception 2355 in the harmonized By-law.

### Revised Site Plan

The Owner of an adjacent property had elected Participant status in this appeal. Their stated concern was that Variance 19 would release the Applicant from the duty to construct a fence along their mutual property line.

The Applicant had reassured the Participant that a fence would be constructed between their two properties. To reassure the Participant that the agreed-to fence would be required as part of this TLAB process, the site plan was amended and resubmitted to the TLAB as part of Exhibit 13,

The Participant's representative chose not to speak, and was satisfied that their concerns had been addressed by the proposed site plan revision.

#### **Proposal**

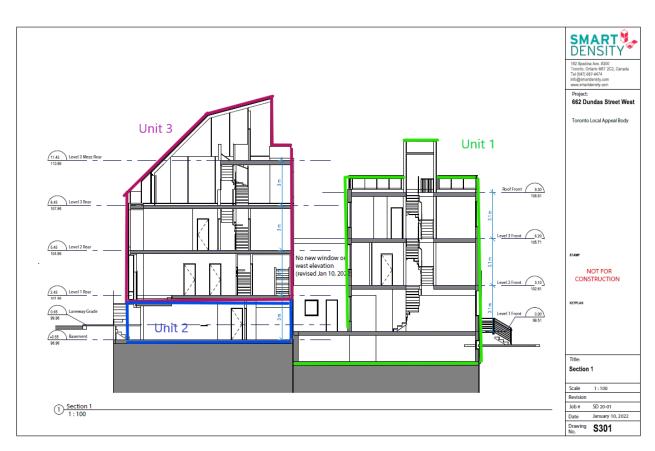


Figure 1: Exhibit 13, Section 1. Annotated to show units.

Mr. Bereznyak advised that the proposal is to add to the existing townhouse which faces onto Dundas St W (unit 1) and to construct two additional units in the rear of the property (units 2 and 3) which will gain access from a public lane at the rear of the property. The construction of units 2 and 3 will comprise the first phase of construction, with the alterations and addition to unit 1 to take place in the second phase.

## **ANALYSIS, FINDINGS, REASONS**

### General Intent and Purpose of the Official Plan

I find that the proposal is consistent with the PPS and conforms to the Growth Plan. I find that the proposal maintains the general intent and purpose of the Official Plan with respect to the parent Official Plan, the Downtown Plan and the design guidelines of the Avenues and Mid-Rise Study.

## General Intent and Purpose of the Zoning By-law

The regulations for secondary suites in townhouses are generally premised on the expectation that the suites are located within a structure. In this proposal, two separated structures are proposed, with the new construction to contain two suites and take access from a public lane at the rear of the property.

In the context of the generous development parameters conveyed by the overriding Official Plan and Downtown Secondary Plan policies, and the access provided by the rear lane, I find the design of the proposal to be appropriate and adapted to the specific circumstances of this townhouse property located in Downtown Toronto.

Variances 1, 2 and 3 – number and floor area of secondary suites

Only one secondary suite is permitted within a townhouse. Where more than one secondary suite is permitted, the floor area of all the secondary suites is limited to 45% of the floor area, whereas 58% is proposed. Variance 3 reflects the variance required for phase 1 only (the new building containing units 2 and 3). Variance 2 reflects the variance required for the overall proposal, including phase 2.

The existing townhouse is intended to remain as one unit, with an addition on the third level to enhance the dwelling. The secondary suite areas are both contained within the new structure to be constructed in the rear of the property. In this scenario, I find that the intent of the By-law is maintained and that the secondary suites proposed for the rear structure will not constrain the existing dwelling nor compromise the functional floorspace of the townhouse.

Variances 4 and 5 – maximum floor space index

The maximum permitted floor space index for all uses on the lot is 2.0. The maximum permitted floor space index for residential uses on the lot is also 2.0.

In light of the policy direction that growth be directed to the Downtown and cognizant of the permissions for Mid-Rise development on this Main Street, I find that the floor space index proposed is appropriate and reflects the general intent of the provisions in the Zoning By-law.

Variances 6 and 22 – Parking

The harmonized City of Toronto Zoning By-law (569- 2013) requires two parking spaces and the former City of Toronto By-law 428-86 requires three spaces. Zero parking is proposed.

Given the Downtown location, with the wealth of amenity available and the high order transit service available, and mindful of the limited site area, I find that the elimination of the parking requirement to be reasonable and supportable.

Variances 7 and 8 – Building between another building and the street

The existing townhouse is located between the new, proposed structure, which is not attached to the existing townhouse above-ground, and Dundas St W.

The rear structure can gain access via the public laneway to the rear of the property and therefore the intent of the By-law to maintain suitable public access for each structure is maintained.

Variance 11 – proportion of front wall of the main wall within 3.0m of the lot line

The By-law requires that at least 75% of the main wall must be within 3.0m of the front lot line. The addition to the top of the existing townhouse fronting onto Dundas St W is partially set back from the front lot line.

The intent of the By-law is to maintain a street wall that is set forward on the lot, close to the front lot line. The existing townhouse maintains the street wall and the proposed addition to the townhouse, which is partially set back, I find does not detract from this intent of the By-law.

Variance 9 – Maximum Height

The overall height of the residential building at the rear of the lot will exceed the maximum permitted height by 2.73m. The addition to the upper level of the existing townhouse is within the maximum height permitted.

Given the location of the property and the Official Plan policies which promote Mid-Rise development, I find that the proposed overall height of the building to be appropriate and reasonable within the planned context.

• Variance 10 – Minimum permitted height of the first storey

The minimum permitted height of the first storey in the Commercial Residential zone, measured between the floor and the ceiling of the first storey, is 4.5m (14.7 ft). Mr. Bereznyak advised in his testimony that this provision in the By-law was intended for commercial floorspace at the street level.

The proposal is wholly residential in nature and Mr. Bereznyak advised that including commercial activity would be challenging and that the only commercial activity in the row of townhouses was a small restaurant which extended over two frontages.

The variance, as written in the Decision Notice, is to allow the first storey of the residential building at the rear of the lot to have a height of 2.24m between floor and ceiling. Mr. Bereznyak advised in his testimony that the first storey of the rear building will have the "normal" height of 3.0m between the floor and the ceiling and that the floor to ceiling height of the first storey of the townhouse will not be altered from the existing.

On the basis of Mr. Bereznyak's justification, I shall approve a variance of a minimum of 3.0m to facilitate an appropriate floor to ceiling height for a residential building and not the stated 2.24m variance that has been requested.

Variance 12 – setback from the lane

A 7.5m setback is required from the proposed building to the lot line of the property on the other side of the lane. 6m is proposed.

Mr. Bereznyak advised that the proposal is similar to the condition at the rear of 668 Dundas St W. The requirement for laneway widening has been met, and a 1m setback has been provided from the new rear lot line.

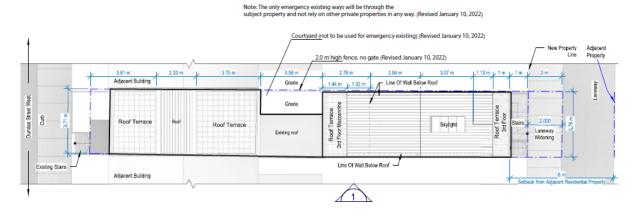


Figure 2: Exhibit 13, Revised Site Plan Jan 10, 2022

The proposal will improve and enhance the experience of the lane behind the rowhouses. I find that the setback from the lane is sufficient for the purposes of access and separation from the existing structures occupying lots that back onto the lane.

Variance 13 – Setback for Window

At the Hearing, the request for this variance was withdrawn by Mr. Bereznyak. It will not be approved.

Variance 14 – Angular Plane

The penetration of the required angular plane is due to the dormer and the door for access to the balcony. Given the minor nature of the intrusion into the angular plane and the rear lane condition from which the façade will be visible, I find that the penetration of the angular plane to be acceptable.

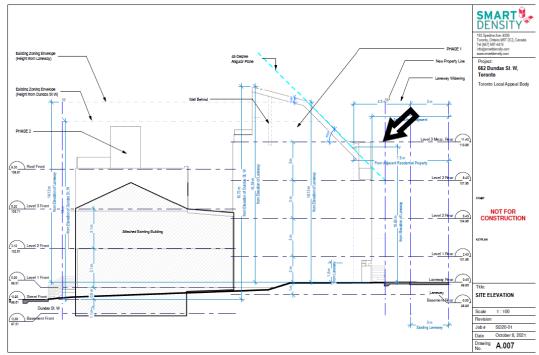


Figure 2: Exhibit 13

 Variance 15 and 16 – Separation Distances, Walls with Windows, and Walls without

The Zoning By-law requires a minimum distance of 11m between a main wall with windows and another main wall with windows. Where there are no windows, the main walls are to be separated by a minimum of 5.5m. Mr. Bereznyak asserted that the intent of the By-law is maintained since all the units still have views and windows onto the laneway or street.

The subject property is a townhouse lot, narrow and constrained. If the overall objectives of the Downtown Plan are to be met and intensification achieved, on such a lot, the minimum separation distances cannot be maintained. I find the proposed separation distances to be appropriate within the context, particularly as the two suites in the rear are identified as secondary suites and are therefore expected to be more closely integrated with existing structures on the property.

Variance 17 – Platform

The By-law regulates the extent that platforms above the first floor may project beyond the front wall to which they are attached.

Mr. Bereznyak advised that this variance is required for the third floor rooftop terraces, which do not project beyond the lower main walls and, as such, do not overhang. I find that the rooftop terraces to be an attractive amenity and appropriate to the context, therefore, I am of the opinion that they maintain the intent of the By-law.

#### Variance 18 – Exterior Stairs

Exterior stairs are not permitted to be closer than 0.3m to the lot line. The exterior stairs at the north lot line (lane side) are 0m from the lot line.

I find this variance to be minor and appropriate, recognizing that there will be a laneway widening ceded to the City.

#### Variance 19 – Fences

Fences are required along the portion of a lot line abutting a lot in the Residential Zone Category.

The Site Plan has been revised to show the fence to be constructed on the subject property's north lot line, enclosing the courtyard area. No fence will be constructed at the rear lot line since this is where the secondary suites will take access.

I find this to be a satisfactory arrangement which meets the intent and purpose of the fence provisions in the By-law.

## Variance 20 – Soft Landscaping

Given the constrained site and the existing building, it is not possible to accommodate the required landscape strip. In the context of the tight development constraints of this site, its downtown location, and the orientation onto a laneway that will be improved by the new secondary suites that will face onto it, I find that the requirement for soft landscaping may be waived in this unique context.

#### Variance 20 – Waste

Waste and recyclable material are required to be stored in a wholly enclosed building.

Mr. Bereznyak advised that there is a sunken patio area in the stairwell of the stairs onto the laneway where waste and recycling will be stored.

I find that the requirement for enclosing waste in a building is intended to manage the undesirable impacts of storing waste for Mid-Rise or more intense uses. The proposal will result in three units on the property and I find that the storage of waste can be arranged in the same manner as the surrounding residential properties. I find that the storage of waste from the three units has been accommodated adequately in the plan.

#### CONCLUSION

I find that requested Variance 13 should not be granted, and that Variance 10 should be amended to bring it into greater compliance with the Zoning By-law. For Variances 1 to 9, Variances 11, 12 and 14 to 22, I find that they individually and cumulatively meet the intent and purpose of the Zoning By-law.

### Desirable and Minor

I find that the proposal meets the final two tests of s. 45(1) of the *Planning Act*, for the same reasons as set out above.

#### **Notice**

I find that the elimination of Variance 13 (to Chapter 40.10.40.70.(2)(C), By-law 569-2013) regarding the setback of a main wall with windows or openings to be minor and that it does not require further notice as might otherwise be relevant under s. 45(18.1.1.) of the *Planning Act*. My decision to permit a reduced variance to Chapter 40.10.40.10.(5), By-law 569-2013 (Variance 10) regarding the minimum permitted height of the first storey of the residential building at the rear of the lot does not require further notice.

## **DECISION AND ORDER**

The appeal of the Committee of Adjustment Decision is allowed, in part. The Variances set out in Appendix A are authorized as modified, subject to the conditions contained therein.

Ana Bassios

Panel Chair, Toronto Local Appeal Body

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## **APPENDIX A**

#### APPROVED VARIANCES AND CONDITIONS OF VARIANCE APPROVAL:

## **VARIANCES:**

## 1. Chapter 150.10.20.1.(4), By-law 569-2013

A secondary suite is a permitted use within a townhouse provided each dwelling unit has a maximum of one secondary suite.

In this case, the altered townhouse will have two secondary suites.

## 2. Chapter 150.10.40.40.(1), By-law 569-2013 (for the entire proposal)

The interior floor area of a secondary suite, or all secondary suites where more than one is permitted, must be no more than 45% (122.93 m2) of the interior floor area of the dwelling unit within which it is located.

In this case, the interior floor area of all secondary suites will be equal to 58% (157.76 m2) of the interior floor area of the dwelling unit within which they are located.

## 3. Chapter 150.10.40.40.(1), By-law 569-2013 (Phase 1 – New building only)

The interior floor area of a secondary suite, or all secondary suites where more than one is permitted, must be no more than 45% (108.25 m2) of the interior floor area of the dwelling unit within which it is located.

In this case, the interior floor area of all secondary suites will be equal to 66% (157.76 m2) of the interior floor area of the dwelling unit within which they are located.

## 4. Chapter 40.10.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index for all uses on the lot is 2.0 times the area of the lot (208 m2).

The two residential buildings will have a floor space index for all uses on the lot equal to 2.63 times the area of the lot (273.67 m2).

## 5. Chapter 40.10.40.40.(1)(C), By-law 569-2013

The maximum permitted floor space index for all residential uses on the lot is 2.0 times the area of the lot (208 m2).

The two residential buildings will have a floor space index for all residential uses on the lot equal to 2.63 times the area of the lot (273.18 m2).

#### 6. Chapter 200.5.10.1.(1), By-law 569-2013

A minimum of two parking spaces are required to be provided. In this case, zero parking spaces will be provided.

## 7. Chapter 40.10.40.1.(3), By-law 569-2013

A building with a dwelling unit may not be located so that another building is between any main wall of the building and the street on which the building fronts. The residential building at the rear of the lot will be located so that the townhouse at the front of the lot will be between its rear main wall and Dundas Street West.

### 8. Chapter 40.10.40.1.(5)(A), By-law 569-2013

A building or an addition, which is not attached above-ground to the original part of a building, is not permitted if it has dwelling units and is in the rear of another building or the original part of the same building.

In this case, a residential building with two dwelling units will be located in the rear of another building.

## 9. Chapter 40.10.40.10.(2)(A), By-law 569-2013

The maximum permitted building height is 14 m.

The residential building at the rear of the lot will have a height of 16.73 m.

## 10. Chapter 40.10.40.10.(5), By-law 569-2013

The minimum permitted height of the first storey, measured between the floor of the first storey and the ceiling of the first storey, is 4.5 m.

The first storey of the residential building at the rear of the lot will have a height of 3.0 m.

## 11. Chapter 40.10.40.70.(2)(A), By-law 569-2013

At least 75% of the main wall of the building facing a front lot line must be located at or between the front lot line and a maximum of 3.0 m from the front lot line. In this case, 71% of the main wall of the altered townhouse at the front of the lot facing a front lot line will be located at or between the front lot line and a maximum 3.0 m from the front lot line.

### 12. Chapter 40.10.40.70.(2)(B)(ii), By-law 569-2013

Where the rear lot line abuts a lane, the building must be set back 7.5 m from the lot line of the lot abutting the lane on the opposite side of the lane.

In this case, the residential building located at the rear of the lot will be located 6 m from the lot line of the lot abutting the lane on the opposite side of the lane.

## 13. Chapter 40.10.40.70.(2)(E)(i), By-law 569-2013

If a lot abuts a lot in a Residential Zone category, then every building on the lot may not penetrate the 45 degree angular plane projected over a shallow lot, along the entire required rear yard setback, starting at a height of 10.5 m above the average elevation of the ground along the rear lot line.

The residential building at the rear of the lot will penetrate the angular plane.

#### 14. Chapter 40.10.40.80.(2)(A), By-law 569-2013

Any main wall of a building where a main wall of the building has windows and a line projected at a right angle from one of these main walls intercepts another main wall with windows on the same lot, the minimum above ground distance between the main walls is 11 m.

The two residential buildings on the same lot will have a distance between main walls with windows of 3.58 m.

#### 15. Chapter 40.10.40.80.(2)(B), By-law 569-2013

Any main wall of a building where a main wall of the building has windows facing another main wall on the same lot which does not have windows and a line projected at a right angle from one of these main walls intercepts the other main wall, the minimum above ground distance between the main walls is 5.5 m. The two residential buildings on the same lot will have a distance between main walls of 0 m, at the ground floor, and second floor.

### 16. Chapter 40.10.40.60.(1)(C)(iii), By-law 569-2013

A platform or similar structure, attached to or less than 0.3 m from a building, and attached to the front main wall with a floor level higher than the floor level of the first floor of the building must not project more than 1.5 m from the main wall to which it is attached.

The third floor platforms will project 2.77 m from the front main walls to which they are attached.

### 17. Chapter 40.10.40.60.(3)(A)(iii), By-law 569-2013

Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no closer to a lot line than 0.3 m. The rear stairs will be located 0 m from the rear (north) lot line.

## 18. Chapter 40.10.50.10.(2), By-law 569-2013

If a lot abuts a lot in the Residential Zone category a fence must be installed along the portion of a lot line abutting the lot in the Residential Zone category. In this case, no fence will be provided along the portion of the lot line abutting the lot in the Residential Zone category.

## 19. Chapter 40.10.50.10.(3), By-law 569-2013

If a lot abuts a lot in the Residential Zone category, a minimum 1.5 m wide strip of land used only for soft landscaping must be provided along the part of the lot line abutting the lot in the Residential Zone category.

In this case, no strip of land used only for soft landscaping will be provided along the portion of the lot line abutting the lot in the Residential Zone category.

## 20. Chapter 40.10.150.1.(1)(A), By-law 569-2013

All waste and recyclable material must be stored in a wholly enclosed building. In this case, the waste and recyclable material will not be stored in a wholly enclosed building.

## 21. Section 4(5)(b), By-law 438-86

A minimum of three parking spaces are required to be provided. In this case, there will be zero parking spaces provided.

## **CONDITION:**

The proposed dwelling shall be constructed substantially in accordance with Site Plan (drawing A006), and Section 1 (S 301) prepared by Smart Density and dated January 10, 2022; the Site Elevation (A007), Roof Plan (A 105), East Elevation (S 401), West Elevation (S 402), North Elevation Existing Building (S 406), North Elevation New Building (S 403), South Elevation Existing Building (S 404), South Elevation New Building (S 405), prepared by Smart Density and dated October 8, 2021, attached hereto.

Any other variances that may appear on these plans that are not listed in this decision are **NOT** authorized.

