

DECISION AND ORDER

Decision Issue Date Friday, January 29, 2021

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): BRENDAN CHARTERS

Applicant: EURODALE DEVELOPMENT INC

Property Address/Description: 31 ROSLIN AVE

Committee of Adjustment Case File: 19 258063 NNY 15 MV (A0746/19NY)

TLAB Case File Number: 20 124166 S45 15 TLAB

Hearing date: Wednesday, December 09, 2020, Tuesday, December 15, 2020,
Thursday, December 17, 2020

DECISION DELIVERED BY D. LOMBARDI

APPEARANCES

NAME	ROLE	REPRESENTATIVE
BRENDAN CHARTERS	APPELLANT	JOE HOFFMAN
JOHN MCRAE PATTISON	PARTY (TLAB)	JENNIFER MEADER
CLINTON MILLER	PARTY (TLAB)	
SARA PARGARI-COHAN	PARTY (TLAB)	
CITY OF TORONTO	PARTY (TLAB)	LAUREN PINDER
EURODALE DEVELOPMENT	APPLICANT	
GREGORY PETER OAKES	PARTICIPANT	
MICHAEL GALEA	PARTICIPANT	
JAMES LEET	PARTICIPANT	
JO-ANN TAYLOR	PARTICIPANT	
LAWRENCE LOH	PARTICIPANT	
JOHN WANG	PARTICIPANT	
ADAM COOPER	PARTICIPANT	
RUTH DAWLISH-WESSENS	PARTICIPANT	
RODERICK WESSENS	PARTICIPANT	
MARTIN RENDL	EXPERT WITNESS	
SEAN GALBRAITH	EXPERT WITNESS	
HARRY LAY	EXPERT WITNESS	

INTRODUCTION

This is an appeal from a decision of the North York Panel of the City of Toronto (City) Committee of Adjustment (COA) refusing variances on behalf of Eurodale Development Inc. (Applicant) to permit the construction of a third storey addition over the existing dwelling at 31 Roslin Avenue (subject property), in conjunction with a three storey addition to the rear to facilitate the conversion of the dwelling into a triplex.

The subject property is located on the south side of Roslin Avenue in the first block east of Yonge Street and the third block north of Lawrence Avenue East, within the Lawrence Park North neighbourhood.

It is designated '*Neighbourhoods*' in the City's Official Plan (OP) and zoned R (f7.5) (d0.6) (x933) Residential in the new, harmonized Zoning By-law No, 569-2013 (new By-law).

The subject property is currently occupied by an older 2-storey, single detached residential dwelling, and a 1.07 m wide and 21.34 m long right-of-way runs along the east lot line in favour of the owner of the abutting property at 33 Roslin Avenue. This mutual right-of-way creates an approximately 2.17 m separation between the two existing dwellings on 31 and 33 Roslin Avenue.

The Hearing of this matter was conducted virtually by the Toronto Local Appeal Body (TLAB), and engaged three full Hearing days – December 9, 2020, December 15, 2020, and December 17, 2020. The Applicant/Appellant, Eurodale Development Inc. represented by Brendan Charters, appeared at the Hearing along with counsel, Joe Hoffman (Goodmans LLP), and expert planning witness Sean Galbraith, in support of the Application.

John Pattison, a Party, appeared in opposition along with his legal representative, Jennifer Meader (TMA Law), and expert witnesses Martin Rendl, land use planner, and Harry Lay, architect.

The City also elected Party status in the matter and was in attendance represented by Ms. Lauren Pinder. Ms. Aileen Keng, an Assistant Planner with City, attended following being summoned as an expert planning witness by the Appellant.

Two residents, Mss. Jo-Ann Taylor and Elyse Goody, elected Participant status and also attended all three days.

An extensive list of pre-filed documents was identified during the Hearing and entered into evidence in the form of 11 Exhibits as follows, forming part of the record:

- Exhibit 1 – S. Galbraith's Expert Witness Statement (Nov. 12/20).
- Exhibit 2 – Applicant's Combined Document Disclosure Book.
- Exhibit 3 – S. Galbraith's Visual Exhibits.
- Exhibit 4 – S. Galbraith's Response to Expert Witness Statements (Nov. 27/20).
- Exhibit 5 – Revised Site Plan Drawings (revision date Nov. 3/20).
- Exhibit 6 – Revised Requested Variance List.
- Exhibit 7 – J. Pattison's Document Disclosure Book (Nov. 12/20).
- Exhibit 8 – M. Rendl's Expert Witness Statement (Nov. 12/20).
- Exhibit 9 – H. Lay's Expert Witness Statement (Nov. 12/20).
- Exhibit 10 – M. Rendl's Reply to Mr. Galbraith's EWS (Dec. 3/20).
- Exhibit 11 – H. Lay's Reply to Mr. Galbraith's EWS (Dec. 3/20).

BACKGROUND

Mr. Hoffman provided opening remarks that proved helpful in identifying the issues and the position of the Owners.

He described the Application as a request for seven variances relating to the size and shape of the existing building, side yard setbacks, building depth, floor space index, roof eave projections, and parking spaces to enable the investment in and expansion of the existing dwelling on the subject property. The intent of the proposed additions is to increase the interior living area in order to convert the existing dwelling into a triplex creating three, family-sized rental units.

The variances, for which confirmation of approval was requested, are set out in Attachment 1 to this Decision.

Mr. Hoffman noted that the original application that went before the COA requested a total of eleven (11) variances. He asserted that the Application was the subject of a thorough review by City staff, which he noted is typically the review process for COA applications. The Committee received comments from Community Planning, dated February 13, 2020, Transportation Services, dated February 12, 2020, and Urban Forestry, dated February 11, 2020.

Comments from these latter City commenting departments are discussed, in summary, in Mr. Galbraith's evidence and testimony in this Decision under the heading 'Evidence', below.

Community Planning staff, in their February 13th Report, recommended that should the COA approve the application and grant the variances requested, the following conditions be imposed:

1. *The proposal be developed in accordance with the site plan, east and west elevation drawings attached to this report; and,*
2. *The applicant is to provide permanent opaque privacy screening along the east and west sides of the proposed rear second story balcony with a minimum height of 1.5 m from the balcony floor.*

The requested variances were refused by the COA, at its meeting on February 20, 2020, as usual without extensive reasons, and the Applicant/Owner subsequently appealed the decision to the Toronto Local Appeal Body (TLAB).

The Tribunal set three Hearing dates – December 9, 2020 (Hearing Day 1), December 15, 2020 (Hearing Day 2), and December 17, 2020 (Hearing Day 3) – to hear the matter.

Mr. Hoffman noted that the proposed redevelopment of the subject property has evolved as it has proceeded through the COA and appeal processes and briefly noted revisions based on discussions with City planning staff, and additional changes now

have been incorporated into the design of the project in consideration of comments made by neighbours.

The changes made to the proposal are reflected in the reduced number of variances in **Attachment 1** and the proposal now before the TLAB. He advised that the proposal before the Tribunal was indicative of a thoughtfully designed redevelopment with a diminished number of requested variances minimizing any adverse impacts on neighbours.

Finally, Mr. Hoffman advised that a Responding Expert Witness Statement had been filed by the Applicant's surveyor to address a question raised by Mr. Pattison as to the accuracy of the Applicant's survey. He noted that that issue has now been resolved and Mr. Pattison has abandoned that issue.

MATTERS IN ISSUE

The major issue on the appeal was whether the seven variances sought, individually and collectively, met the policy considerations and four statutory tests below recited.

It is the position of those opposed that the project is inconsistent in built form, its massing and scale is not appropriate for the site or the neighbourhood, and the proposal to facilitate the conversion of the dwelling to a triplex will have a destabilizing influence within the neighbourhood and will result in adverse impact on abutting properties.

Therefore, given the *de novo* nature of the TLAB Hearing, are the variances sought by the Appellant to the alteration of the interior and exterior of the existing two storey dwelling, to facilitate the conversion of the dwelling into a triplex, appropriate under applicable policy and statutory tests? Furthermore, does the proposal create adverse impacts to the adjacent neighbours and surrounding neighbourhood?

As such, all four tests of the variance power were put in issue by those opposed.

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').

Minor 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. Hoffman tendered Sean Galbraith, a Registered Professional Planner, to speak to the variances. Mr. Galbraith had prepared an exceedingly detailed and informative Expert Witness Statement (EWS) with appendices, Combined Document Book, and Visual Display Book, Exhibits 1,2 and 3, respectively.

Mr. Galbraith is an experienced planner who has appeared before both the former Ontario Municipal Board, now the Local Planning Appeal Tribunal, and the TLAB; I qualified him to give expert opinion evidence in the field of land use planning.

At this juncture, I advised that I had visited the subject property, walked the immediate area (neighbourhood), and generally read the pre-filed materials from all Parties and Participants but that it is the evidence to be heard at the Hearing that is of importance.

Mr. Galbraith stated that he had been retained in February 2020 and had not participated in the COA deliberations. He provided all the evidence at the Hearing on behalf of the Appellant although the Appellant's solicitor requested, and the TLAB issued, a summons to compel Ms. Aileen Keng, the City planner who authored the Community Planning Report to the COA, above cited.

I found Mr. Galbraith's evidence, conduct and competence to be thorough, well-researched, cogent, and detailed, and he proved fully alert to the issues, the neighbourhood, the assessment criteria, and the requisite research. His EWS and Visual Photo Book (Exhibit 3) demonstrated comprehensive and balanced research.

Noting the '*Neighbourhoods*' designation and policy framework in the OP, he demonstrated neighbourhood familiarity and nuanced aspects of the considerations of the variance types sought. He, then, related these all in respect of a similar lot context in a larger Neighbourhood Study Area (NSA) and a more proximate immediate area, the latter primarily consisting of those properties on Roslin Avenue.

These were defined based on the design criteria parameters set out in Policy 4.1.5 of the OP (as amended by OPA 320), for defining immediate and broader contexts considered 'compatibility' measurers when considering the existing physical character in established *Neighbourhoods*.

Mr. Galbraith noted that the NSA (Exhibit 2, Tab 1) is illustrative of a reasonable delineation for the purposes of evaluating the subject proposal and consists of some 851 lots. The NSA consists principally of these properties on Roslin Avenue, which in terms of zoning, street patterns, lot sizes, and dwelling types, is in the nature of a precinct within its surroundings and the immediate context, meaning properties that face the same street as the proposed development in the same block and the block opposite the proposed development as per OP policy 4.1.5.

Notwithstanding this clarification, he noted that there are some areas within the NSA, primarily the mixed-use commercial on Yonge Street, that are not consistent in terms of policy context, built form, density, lotting pattern and/or use. He opined they form part of the physical context in which the subject property is located, and therefore contribute to the varied character of the area although not pertinent for the evaluation of the proposal.

In describing the neighbourhood, he asserted that the area exhibits characteristics of a stable but not 'static' tight, urban residential area. He submitted, evidenced by the reinvestment, that the neighbourhood is experiencing change in the form of new construction, renovations, additions, or entirely new builds consistent with the character of the area.

Referencing his Visual Photo Book (Exhibit 3), Mr. Galbraith suggested that the area consists of a range of two (2) and three (3) storey, detached and semi-detached houses, triplexes, and walkup-style apartments typical of older neighbourhoods in the City. He further suggested that the immediate area has a grid-like lotting pattern with a streetscape consisting mainly of landscaped front yards with most lots having narrow side yard conditions.

Existing Condition and Requested Variances

Mr. Galbraith described the subject property as currently being occupied by an older, two-storey single detached dwelling (Exhibit 3, Tab 3A) featuring an existing legal non-conforming front yard parking space. He noted that the dwelling is not centred on the lot but, rather, is sited slightly west creating a smaller west side yard setback and a resulting larger setback for the east side yard. Abutting the east lot line is a mutual driveway with the neighbour at 33 Roslin extending into the rear yard (Exhibit 3, Tab 20).

He noted that the lot is also setback from the street approximately the same distance as 29 Roslin whereas 33 Roslin is set closer to the street (Exhibit 3, Tab 24).

Highlighting the coloured renderings in Exhibit 3 (Tab 8), Mr. Galbraith explained that the Appellant is proposing to renovate the existing house to construct a three-storey triplex, incorporating a two-bedroom unit in the basement, a two-bedroom unit on the 1st floor, and a four-bedroom unit located on the 2nd and 3rd floors.

He clarified that the proposal has evolved considerably noting that the original design featured a squared rear building with all three above grade floors extending the

full length of the dwelling. The project also included 3 proposed parking spaces, one located in front of the house and two being in the backyard accessed via the mutual driveway.

Following discussions with City Planning staff, the Appellant revised the proposal to incorporate rear step-backs at the 2nd and 3rd floors and the removal of the two rear parking spaces replaced with soft landscaping. Removal of the proposed parking spaces resulted from consultation with City Planning and Transportation staff, the latter who provided comments to the COA in a memorandum dated February 12, 2020 (Exhibit 2, Tab 13).

In that memorandum, Mr. Galbraith noted that staff accepted an on-site parking space reduction provided that there is a sufficient supply of on-street parking and highlighted that 4 on-street parking permit spaces were currently available on Roslin Avenue. As a result, Transportation staff had no objection to the variance application and accepted the proposed parking space in the front yard conditional on:

“Obtaining an on-street parking permit for each of the on-site parking space reductions.”

Additionally, Mr. Galbraith asserted that although the application before the COA requested eleven variances in total, the Appellant has incorporated additional revisions to the proposal since that time in consideration of comments made by neighbours. The resulting revised design proposal now before the TLAB (Exhibit 3, Tab 9) includes the following changes not part of the proposal when presented at the COA:

- A revised roofline that features a pitched roof with front and rear dormers removing the need for the side wall height variance (Variance No. 10) previously sought;
- The ‘architectural feature’ variance (Variance No. 6) was clarified with the Zoning Examiner and determined not be needed as the eaves variance was sufficient to capture the relief required;
- The front steps were reconfigured, and the front yard parking space reduced in size to the zoning by-law minimum dimensions thereby increasing soft landscaping to satisfy the by-law’s requirements. As a result the previously sought associated Variance No. 9 is no longer required; and
- The change in roof pitches modestly reduced the FSI of the building from 0.998 to 0.993.

He noted that the revisions, above cited, not only resulted in a reduction in the overall massing of the proposed dwelling and provided additional front yard green space but also reduced the number of variances required implement the proposal from eleven to seven (including two related variances that the Zoning Examiner combined into a single Variance No. 3). Those variances are outlined in the Revised List of Variance attached as **Attachment 1** to this Decision.

Mr. Galbraith then addressed the policy framework and planning analysis relative to the four tests as set out in Section 45(1) of the *Planning Act* (*Act*) and the requirements of Section 2 and 3(5) the *Act*.

He asserted that the proposed development appropriately addresses the relevant considerations in Sections 2 and 3(5) of the *Act*, and consistency with the PPS opining that the proposed renovation represents modest intensification that contributes to a range and mix of housing options in the area compatible with adjacent uses.

He also asserted conformity to the Growth Plan, highlighting relevant Policies 2.2.1.2 (a), (d), and (e) and 2.2.6.1a.i, and the provision of a complete range and diversity of housing options.

Addressing the statutory tests, he assessed each individually. With respect to maintaining the general intent and purpose of the OP, Mr. Galbraith referenced Policy 3.1.2.3 which states that “*new development will be massed and its exterior façade will be designed to fit harmoniously into its existing and/or planned context...*” and opined that “fit harmoniously/being compatible does not mean ‘the same as’ or even necessarily ‘similar to’.” (Exhibit 1, para. 7.6.5)

He asserted that the proposal ‘fits’ the existing and/or planned context, respects the massing and street proportions of the neighbourhood, is appropriate in scale and proportion, creates an appropriate transition in scale to neighbouring dwellings, and adequately limits any resulting adverse impacts such as shadow or overlook on abutting properties.

In addressing Policy 4.1.5, he submitted that policy requires development in established *Neighbourhoods* ‘respect and reinforce the existing physical character’ and that it be materially consistent with the prevailing physical character of properties both in the broader and immediate context. He asserted that “appropriateness of fit is the overall guiding principle.” (Exhibit 1, para. 7.6.6)

In considering the relevant criteria established in Policy 4.1.5, and specifically (c), (d) and (g), he opined that the height, massing, scale, setbacks, and landscaping open space criteria of the proposed triplex respect and enhance the existing character of the neighbourhood.

Furthermore, he highlighted the explanatory text in this Policy section noting that the language asserts that the physical character of the ‘geographic area’ includes both the broader neighbourhood context and the immediate context and that proposed development within a neighbourhood will be materially consistent with the prevailing physical character of properties in both the broader and immediate contexts. He defined the immediate context as representing properties that face the same street as the proposed development in the same block and the block opposite and that the policy directs that in instances of significant difference between these two contexts, the immediate context is considered of greater relevance.

He opined that the immediate context has some prevailing physical characteristics, including front yard setbacks, small side yard setbacks, and front yard parking, and that the broader neighbourhood context features a range of built forms, including triplexes, and replacement dwelling units that are larger than their immediate context neighbours. (Exhibit 3, Tab 3d) He asserted that triplexes exist within the geographic area in which the subject property is located, and the proposal represents a modest form of intensification that will enhance, and not destabilize, either the immediate or broader neighbourhood.

With respect to whether the variances maintain the general intent and purpose of the applicable zoning by-laws, Mr. Galbraith first addressed R-zone permissions relative to dwelling unit types noting that triplexes are permitted as-of-right in this zoning category. He further noted that the R-zone also permits secondary suites in single detached dwellings with no upper limit number and analogized that if the Applicant had proposed a detached dwelling, that house could contain two secondary suites which he opined would “be functionally essentially identical to a triplex.” (Exhibit 1, para. 8.5)

This comparative analogy is carried through much of his evidence and testimony.

In summarizing the distinction between the two uses, he concluded that the difference is in the relationship between the largest and smallest units – in single detached form the secondary suite is ‘subordinate’ whereas there is no such relationship in a triplex. He highlighted the different performance standards between the two use classifications and noted that the standards for triplexes are the more restrict provisions.

Mr. Galbraith, then, addressed each of the requested variances individually and briefly summarized below:

Variance 1: Side Yard Setback for Decks/Balconies

Utilizing the elevation drawings found in Exhibit 3 (Tabs 8 and 14) and in Attachment 2 herein, he noted the Applicant is proposing a west side yard setback of 0.41 m for the rear main floor platform and 0.21 m for the rear 2nd storey platform, whereas as the minimum requirement is 1.2 m. He suggested that minimum required side yard setback would be 0.9 m if the Applicant had proposed a single detached dwelling with secondary suites, continuing with his classification analogy.

He asserted that the originally submitted application did not have a rear balcony/projection, as the rear wall had no setbacks and that that current feature now proposed was introduced because of the inclusion of rear step backs following discussions with City Planning staff. He also suggested that the rear balcony/projection will not project past the proposed side walls of the dwelling and the side yard setback/projection setback is 6 cm smaller than the existing condition due to the tapering of the side yard lot line.

Mr. Galbraith noted that City Planning staff recommended in their comments to the COA (Exhibit 2, Tab 14) a condition that approval be subject to a minimum 1.5 m tall

privacy screen at the east and west ends of the 2nd floor platform. He confirmed that the Applicant is prepared to accept this condition if the variances are granted.

Variance 2: Building Depth

Mr. Galbraith clarified that the R-zone regulates building depth and does not require a maximum building length for dwellings unlike in other zones. The Applicant proposes a building depth of 19.21 m for the triplex whereas the by-law permits a maximum depth of 14 m. He noted that building depth is defined as *“the distance between the front yard setback required on lot and the portion of the building’s rear main wall furthest from the required front yard setback, measured along a line that is perpendicular to the front yard setback line.”* (Exhibit 1, para. 8.9.1)

Front yard setback, he asserted, is defined as *“...the required minimum front yard setback is the average of the front yard setbacks of the buildings on the abutting lots.”* (Exhibit 1, para. 8.9.2)

This results for the subject property, he asserted, in the existing dwelling not being situated on the required front yard setback due to the property at 33 Roslin being set four meters closer to the front property line. Highlighting his visual exhibits (Exhibit 3, Tab 13), he illustrated that this alters the front yard setback line for 31 Roslin, moving it forward on the property in front of where the existing building sits, thereby increasing the variance required by 2.32 m.

Furthermore, he demonstrated the relationship of front and rear building walls of the dwellings on this block. He asserted that the front wall of the existing/proposed dwelling will generally align with the dwellings to the west, while the dwellings to the east of the subject property generally sit more forward on their respective lots; the subject property is located at the transition point between these lot relationships. He submitted that the proposed dwelling maintains and reinforces the built form relationship on the block, and that while the size of the required variance would be reduced if the dwelling were shifted forward on the lot, he opined that doing so would alter the building’s existing relationship to the street, the two abutting neighbours, and eliminate the front yard parking space.

He also asserted additional caveats to the circumstances related to front yard setback and building depth relative to abutting properties; the proposed building depth of 19.31 m is only applicable to the first floor and basement whereas the 2nd floor is stepped back 0.61 m and has a building depth of approximately 18.9 m, and the dwelling at 33 Roslin is 17.69 m in length, which is longer than what is required for the proposed triplex.

Additionally, the new revised 3rd floor is pitched forward at an angle of 60 degrees and the rear peak of the roof is approximately 2.6 m back from the 1st floor rear wall aligned behind the rear wall of 289 Roslin.

Mr. Galbraith submitted that if it were not for the significant amount the dwelling at 33 Roslin projects beyond the established street wall located to the west, the

proposed dwelling depth would be 17.2 m, only 20 cm beyond what would be permitted if the proposal were classified as a detached dwelling with two secondary suites.

Employing a Building Depth Map of the NSA (Exhibit 3, Tab 26), he asserted that building depth variances are 'fairly common' in this neighbourhood (Exhibit 1, para. 8.9.11) noting that 15 variances have been approved on Roslin ranging from 17.68 m to 19.98 m. He highlighted that 37 Roslin, for which a front property setback is not skewed by neighbouring properties, obtained a variance for a building depth of 19.3 m.

Variance 3: Side yard Setback

With respect to variances for the east and west side yard setbacks, 1.07 m and 0.21 m respectively, whereas the minimum required for a triplex is 1.2 m, he submitted that the proposed variances are reflective of the existing condition and the project proposes to maintain both existing setbacks.

In explaining why this is a technical variance, Mr. Galbraith advised that the existing east side yard setback of 1.07 m and the proposed are compliant for a detached house with two secondary suites (0.9m) but due to the reclassification of the proposal as a triplex a variance of 0.13 m in size is required. For the west side yard setback, the existing is 0.27 m but is reduced to 0.21 m due to a slight tapering of the side lot line. The Applicant is requesting a variance of 0.99 m, again, because the proposal is a triplex.

He opined that in his estimation, all non-attached dwellings on the south side of the Roslin Avenue block have at least one west side yard setback that is similar to what is being proposed and, therefore, these variances respect and reinforce the existing, long-established relationship between the subject property and its immediate neighbours.

Variance 4: Eaves, Projections/Side Yard Setbacks

Mr. Galbraith submitted that the proposed triplex does not feature overhanging eaves, and the variance applies only to the eaves' downspouts at the northwest corner of the dwelling. He noted that the variance is less than the existing setback condition as the variance applies to just 2 downspouts.

Variance 5 and 7: Front Yard Space and Number of Parking Spaces

With respect to these requested variances, he noted that the by-law requires that no parking space be located in the front or side yard and that the minimum number of parking spaces for a triplex is three.

As to front yard parking, he noted that the previous owner of the subject property provided a Statutory Declaration (Exhibit 2, Tab 16) confirming that the space proposed for parking in the front yard had been utilized for quite some time and was recognized as a legal non-conforming use of the existing space. Additionally, he submitted that Transportation Services did not object to this location for a parking space and that front

yard parking is common in the immediate neighbourhood context with a total 13 properties on both sides of Roslin Avenue exhibiting this condition.

With respect to the variance for only one parking space for the proposal, Mr. Galbraith opined that although 3 spaces had been proposed, one at the front and two at the rear, that number was reduced to one following consultation with City Planning staff to increase soft landscaping in the rear yard to improve the rear yard condition. Furthermore, he asserted that while three parking spaces could not be accommodated in the front yard that accommodation would not be desirable since improved landscaping is a more optimal use of the land on the subject property.

He submitted that the reduction of proposed parking spaces should not be viewed as detracting from the viability of the proposal since the area features “excellent transit” amenities in the form of a major subway station (Lawrence Station) and bus routes approximately an 8-minute walk south of the property. As well, he opined that the area also has a “high walkability and transit score of 80” (Exhibit 1, para. 8.14.4) which he sourced from a real estate services website that measures the walkability of residential areas.

Variance 6: Floor Space Index

Mr. Galbraith described the existing dwelling has having an FSI of 0.421 times the area of the lot reflective of the small building footprint characteristic of first-generation houses on the block and in the neighbourhood. He suggested that the Applicant is requesting an FSI of 0.993 x deployed across three floors within a dwelling that features a traditional peaked front design and that steps back from the front wall of the structure.

He noted that no height variance is requested; while the first two floors of the triplex will have a combined FSI of 0.69 the third floor, and associated FSI, is accommodated within the attic. He opined that the resulting massing will not create visual inconsistency with neighbouring properties and is appropriate given the proposed building depth and side yard lot line considerations.

He submitted that FSI variances (106 in total over a 10-year period) are the most commonly approved in both the immediate and broader neighbourhood ranging from 0.61 to 1.18 times the area of the lot. More specifically, he highlighted his Neighbourhood FSI Map (Exhibit 3, Tab 11) to illustrate that approved FSI variances on Roslin Avenue ranged from 0.671 to 1.03 times the area of the lot with Numbers’ 16 Roslin and 36 Roslin approved for an FSI of 1.03 and 0.996, respectively.

He opined, therefore, that the requested FSI of 0.993 for the triplex is within the range of previously approved variances in this neighbourhood.

As to the tests of desirable and minor, he opined that the proposed redevelopment of, and reinvestment in the subject property as a triplex is appropriate and consistent with the evolving character of the neighbourhood, does not represent an overdevelopment of the property, and is contemplated by the planning policy regime. He

asserted that the requested variances for side yard setbacks, front yard parking, and eaves are reflective of the existing condition and facilitate a building that optimizes an under-utilized property for more intensive housing (a triplex).

In addressing the extent of any adverse impacts on adjacent properties, he opined that the test is not “no impact” but a planning impact that is ‘unacceptable’ and asserted that the variances requested do not create any undue adverse impacts on the streetscape, neighbourhood, or the adjacent neighbours.

At this juncture on Hearing Day 1, Mr. Galbraith proceeded to address his Response to Expert Witness Statement (Response), entered as Exhibit 4, which addressed the Expert Witness Statements (EWSs) of Mr. Lay (Exhibit 9) and Mr. Rendl (Exhibit 8) retained by Mr. Pattison. The Response provided, in some detail, responses to comments made by each of the expert witnesses above noted in their respective EWSs specifically focusing on anticipated impacts of the proposal on Mr. Pattison’s property.

With respect to Mr. Lay’s EWS, Mr. Galbraith responded to the statement made at paragraph 5 in that EWS in which Mr. Lay discusses the residential built character of Roslin Avenue and states that “*They (built form) are primarily two stories in height, with some newer homes **skirting** the height limitation...*” (my emphasis) In response, Mr. Galbraith takes umbrage with the use of the term ‘skirting’ noting that either a proposal’s building height complies with the zoning by-law restrictions or a variance is required. He also, again, reiterated that the R-zone does not limit the number of stories for a residential building.

Mr. Galbraith highlighted paragraph 6 in Mr. Lay’s EWS and disagreed with the assertion that the proposed balconies at the front and rear elevations of the *triplex* “*will generate noise and overlook onto 33 Roslin Avenue.*” Mr. Galbraith noted that the proposed balconies are permitted features of buildings and that the 21 cm setback for the 2nd floor rear balcony is small and will not generate any undue noise or overlook impacts; he reiterated the Applicant’s willingness to accept the condition of a privacy screen for that balcony.

Mr. Galbraith addressed the issue of shadow anticipated to impact 33 Roslin as a result of the proposed triplex raised in Mr. Lay’s EWS and noted that he had reviewed the Shadow Study (SS) prepared by VRJ CAD Solutions (Exhibit 7, Tab 21), submitted as part of Mr. Rendl’s EWS. He asserted that the Study was inaccurate in that it did not utilize or reflect the most recent revised design before the TLAB, nor did he agree that any resulting shadow from the proposed renovation of the subject property represents a significant impact on the neighbouring property compared with existing shadows cast by 29 Roslin.

Finally, with respect to the front yard characteristics of properties on Roslin proximate to the subject property, Mr. Galbraith suggested that the depth of front yard on the block and facing block vary significantly and disagreed with Mr. Lay that garage parking is often located in the rear yard as illustrated in his visual evidence.

Mr. Galbraith then addressed Mr. Rendl's EWS and responded to matters of the massing, scale, density, and prevailing building typology in the neighbourhood as well as accuracy of the Shadow Study, above cited. He disagreed with Mr. Rendl's assessment that the proposed three storey triplex exceeds the prevailing density, massing, and scale of nearby residential properties, asserting that the proposed density of the proposal is within the range of previously approved variances and the triplex is compatible with the existing physical character of the neighbourhood as the area features a number of multi-unit buildings.

With respect to the suggested shadow impact on Mr. Pattison's property, Mr. Galbraith reiterated his concern about the accuracy of that Study as suggested above; nevertheless, he provided a more detailed assessment of shadow impacts, noting the following:

- Shadow impact primarily exist only during the March 21st period and not the June 21st period.

Front Yard Amenity Area – 33 Roslin (March 21st & June 21st @ 2:18 pm)

- The majority of the impacts to the front outdoor amenity area of 33 Roslin are from the existing development at 29 and 31 Roslin, and 333 Roslin itself.
- The Study shows that if the requested depth variance were reduced by shifting the building on subject property further north, the shadow impact would increase.
- Comparing the March 21st period at 2:18 pm with the existing, proposed and as-of-right situations, the proposed design appears to cast a nearly identical shadow onto 33 Roslin's front amenity space, and the as-of-right appears to cast a greater shadow.
- A similar comparison of the June 21st shadow appears to indicate no notable shadow in the existing or proposed conditions.

Rear Yard Amenity Space – 33 Roslin (March 21st & June 21st @ 5:18 pm)

- On March 21st, the building at 29 Roslin casts a shadow across the full width of 33 Roslin with an identical shadow in an 'as-of-right' scenario.
- The proposed design appears to show a very slight additional increase in shadow on 33 Roslin as compared to the existing and as-of-right.

Rear Yard Amenity Space – 33 Roslin (March 21st & June 21st @ 6:18 pm)

- One hour later, Mr. Galbraith asserts there is no difference between the existing condition and either of the other scenarios because 29 Roslin cast a shadow across the rear yard of 33 Roslin and the proposed dwelling has a similar building length.
- On June 21st, the majority of shadowing at the rear of 33 Roslin results from a combination of existing shadow cast by 29 Roslin and 33 Roslin itself.
- Mr. Galbraith noted that the proposed renovation will result in a small, additional shadow being cast.

He qualified his assessment of the Shadow Study by asserting that it does not model an 'as-of-right' 2.5 storey dwelling with a permitted depth of 17 m and a 10 m building height. He concluded that if Study had modeled that scenario, both the alternative and the proposal cast virtually identical shadows on the rear amenity outdoor area of 33 Roslin. He also highlighted an aerial photo (Exhibit 3, Tab 2) of the subject property and abutting homes to illustrate the mature trees and significant tree canopy in the rear yards of 29 and 33 Roslin which he suggested had not been considered in the Study.

Cross-examination by Ms. Meader

Ms. Meader undertook an extensive cross-examination of Mr. Galbraith that encompassed the remaining portion of Hearing Day 1 and the morning of Hearing Day 2.

She questioned the validity of the number of variances being requested suggesting that although the Applicant's revised list of variances indicates 7 in total, the number of variances have not actually been reduced as the variances for side yard setbacks have now been combined as Variance No. 1.

She questioned Mr. Galbraith's attempt throughout his evidence to conflate the proposed triplex with a scenario representing a single detached dwelling with two additional residential units reflecting a similar building typology. Ms. Meader suggested that comparing the proposal to a single detached dwelling with additional units was 'not a fair comparison' (her words) since the number and types of variances required would likely be different. Mr. Galbraith disagreed suggesting the comparison to an 'as-of-right' build could be helpful in respect of the existing and planned context of an area.

Ms. Meader then addressed the language in Policy 4.1.5 of the OP suggesting that the term 'prevailing' character of the neighbourhood refers to the building type that is "most frequently occurring" in the geographic neighbourhood. She asserted that triplexes were not the prevailing building type.

Although Mr. Galbraith agreed that the proposal is not the most frequently occurring, he argued that the proposed triplex is permitted by the zoning by-law and a use variance is not required. He also disagreed with Ms. Meader's interpretation of the policy language arguing that the OP does not permit development only if that building type is reflected in substantial numbers in the neighbourhood. In his opinion, the proposed triplex respects and reinforces neighbourhood character and the argument that it is not the 'prevailing' building type *"does not come into play because it is a permitted use."*

Ms. Meader, then, addressed aspects of the physical design of the proposed triplex dwelling. She questioned the witness as to whether the massing, scale, and density of the proposal is in keeping with the existing and planned context of both the immediate and broader neighbourhood and whether the FSI is in the higher range of FSIs in the area.

In response, Mr. Galbraith reiterated that while the requested FSI is “above average” (his words) continues to believe, nevertheless, that it’s within the range of approved variances within the neighbourhood and the immediate context which he suggested includes small side yard setbacks, front yard parking, and new, larger 2nd generation homes. However, he did acquiesce to the statement that the proposed FSI *“is not the most frequently occurring”* was a fair one.

Ms. Meader suggested that the proposed massing of the triplex and side yard setbacks will result in a dwelling that does not fit the character of the neighbourhood, and one that is not a prevailing type or common on the street. Mr. Galbraith disagreed. He highlighted his visual evidence (Exhibit 3, Tab 2) along with his experience in walking the neighbourhood to suggest that the side yard setbacks proposed are similar to or slightly larger than what he observed. He argued that on the block and the facing block on Roslin properties exhibit tight side yard setbacks with some as small as 0.45 m.

With respect to the proposed rear multiple platforms/balconies, Ms. Meader questioned the witness as to whether overlook will occur onto Mr. Pattison’s property even with privacy screening as a mitigation measure and condition of any approval. Mr. Galbraith concurred that some overlook would occur but that that is to be expected in a tight urban context such as found on Roslin Avenue while also noting that there is no variance for the 3rd floor balcony and that rear balconies are evident through the area.

In this regard, Ms. Meader referenced case law in the form of an Ontario Municipal Board decision (Bahardoust v. Toronto (City) PL130592) dealing with multiple appeals of the City’s Comprehensive Zoning By-law 569-2013. At paragraph 118 in that decision, the Board Member heard evidence from the City that building length and depth requirements for the R-zone were carried over from the former By-law 438-86 and the *“14 m depth for duplexes, triplexes, fourplexes, townhouse and apartment buildings...were determined in consideration of potential impacts respecting light, views and privacy on adjacent properties.”*

With respect to the evolution of the proposal before the TLAB, she opined that although Mr. Galbraith suggested that the two rear parking spaces were eliminated due to discussions with City Planning staff, the existing mutual right-of-way would in fact have prevented the feasibility of parking access at the rear of the subject property. He asserted that in place of parking, Planning wanted additional soft landscaping in the rear amenity space.

Finally, Ms. Meader noted that Mr. Pattison had installed skylights within the roof of his home and questioned whether the proposed massing and height of the triplex would result in shadow impacts on those skylights. Mr. Galbraith suggested that installation of a skylight in a roof structure is a personal decision by a homeowner and that shadowing occurs as of right in dense urban situations such as on Roslin Avenue. On a question as to why the Applicant did not commission a shadow study in this matter, Mr. Galbraith responded that such a modelling exercise is not required for a residential project of this scale and normally not required by the City.

Cross-examination by Ms. Pinder

Ms. Pinder questioned the approach Mr. Galbraith applied in determining the building depth and front yard setback for the proposed triplex and how the zoning by-law regulates these standards. He reiterated the requirement in the by-law as to how building *depth* is defined and also reasserted that building *length* is not a performance standard in the R-zone.

Mr. Galbraith disagreed with Ms. Pinder's proposition that the variances for front yard setbacks and building depths in the area are overly large given its context. He emphasized the variety in immediate proximity to the subject property highlighting his Building Depth Variances Map (Exhibit 3, Tab 26) and noting, for example, that 37 Roslin was approved for a larger variance than requested by the Applicant.

He submitted that the subject property is effectively a "transition lot" (his words) on the block and that the zoning acknowledges this evolution, explaining that building alignments are 'staggered' with front walls that tend to meander as one moves from east to west on the block. He submitted that front walls of dwellings on the same side of the block as the subject property going west exhibit more consistency than those east.

Ms. Pinder then addressed the OP policies in 2.3.1 and 4.1.5 that deal with the physical change in neighbourhoods, emphasizing that the guiding principle for new development is the appropriate 'fit' of development and whether it respects and reinforces the existing physical character. Although he agreed, Mr. Galbraith noted that the OP anticipates that some physical change will occur and that neighbourhoods are to be stable but not static.

As to the deployment of the proposed scale and massing of the triplex within the subject property, Ms. Pinder referred to the front elevation drawings (Exhibit 2, Tab 9) and questioned the third storey and the front peaked roof design and noted that that design incorporates the full height and massing of the main side walls the length of the dwelling. Mr. Galbraith responded that the variances are being requested to accommodate the overall proposal.

In concluding her cross-examination, Ms. Pinder asked the witness to agree that in directing opposition to this Application, City Council is indicating its concerns that the requested variances are significant in nature and that the proposed triplex will disrupt the character of the surrounding neighbourhood. Mr. Galbraith did not.

On re-examination by the Applicant's solicitor, Mr. Galbraith reaffirmed that this was an appropriate location in which to support a reduction in the number of on-site parking spaces because of the property's proximity to a range of modes of transit and that the massing of the proposed triplex as a 3-storey structure is appropriate as no variance is required for the number of storeys. He referred again to his visual evidence illustrative of 2nd generation new homes in the area exhibiting what he termed 'tall buildings' characteristics which if not 3-storeys, present as such from the street.

Finally, Mr. Hoffman asked the witness whether the proposed building depth and front yard setback condition would exacerbate impacts of overlook and privacy on 29 and 33 Roslin. Mr. Galbraith, again, opined that the shadow study submitted by Mr. Rendl suggests that the proposal will result in no unacceptable impacts given the dense urban context of the neighbourhood.

Testimony from Aileen Keng

Ms. Keng is an Assistant Planner with the North York Section of Community Planning at the City and was summoned to provide testimony by the TLAB on request by the Applicant. She processed this COA variance application and was also the author of the Report to the COA dated February 13, 2020.

She confirmed that discussions occurred with the Applicant in respect of eliminating the two rear parking spaces to increase rear yard amenity space soft landscaping, in addition to the introduction of step backs in the roof design at the front and rear in order to align the proposed dwelling with the home at 29 Roslin.

City Planning staff encouraged the Applicant to reduce the proposed building depth to meet the zoning standard; however, the Applicant expressed reluctance in order to maintain the interior floor plan which includes three, family-sized units which are appropriate for rental purposes.

Ms. Keng confirmed that she had undertaken an extensive review of past COA decisions in the neighbourhood in respect of variance approvals for the FSI and side yard setback using City of Toronto Planning Department data. She concluded following her review that the requested variance for FSI was within the range approved by the COA and that the side setbacks for the proposal were appropriate for the redevelopment of the subject property.

She stated in her comments to the COA that Planning staff were of the opinion that the variances sought maintain the general intent of the zoning by-law and recommended conditions of approval including that the two conditions, above recited.

On cross-examination by Ms. Meader and Ms. Pinder, she was asked why Planning staff recommended as a condition of approval that the proposal be developed 'substantially' in accordance with the site plan drawings; Ms. Keng advised that that was to secure the step backs of the 2nd and 3rd floors at the rear agreed to by the Applicant which she noted help mitigate the impact of additional depth and side wall height on abutting neighbours.

Ms. Keng also confirmed that she had not parsed out the percentage of properties with an FSI between 0.95 and 1.04 times the area of the lot in her data set, and agreed with Ms. Meader that although the City 's overarching housing goal is to increase the number of 'family-sized' (her words) rental units in Toronto's housing stock, that is not a policy specifically found in section 3.2.1.1 in the OP.

Testimony of Harry Lay

Mr. Lay, a practicing architect in Ontario, was called on behalf of the Appellant to provide opinion in opposition to the Application; he is the architect of record for 33 Roslin Avenue, having been involved in designing several renovations to the property since 20020 and represented Mr. Pattison at the COA opposing the proposed triplex and associated variances.

He has extensive experience and specializes in residential design, pre-filed an Acknowledgment of Expert's Duty, and I affirmed him to provide opinion evidence in the area of architectural design.

Mr. Lay opined that the Roslin Avenue is characterized by detached homes, with some new townhouse developments: houses are primarily two storeys in height with some 'skirting' (his word) the height limitations in the zoning by-law. He submitted that the homes in the neighbourhood are generally located in proximity to the street with short front yards and garages parking often located in the rear yard. He submitted that the triplex proposed for the subject property will result in significant loss of enjoyment for the neighbouring property owned by Mr. Pattison

Commenting on the architectural plans for the proposal, he asserted that the triplex will result in impacts of noise, loss of privacy, and overlook to 33 Roslin. Referencing an architectural drawing (Exhibit 7, Tab 10) he created comparing the height of the dwellings at 29 and 33 Roslin and the proposed triplex, he submitted that the height of the triplex is significantly taller than the other two.

With respect to the front elevation, he noted that the triplex proposes only one entrance facing the street and there are three proposed at the rear (Drawing A204) which he argued would result in excessive foot traffic along the mutual driveway and at the rear. Additionally, he submitted that the proposed balconies at the front and rear elevations will generate noise and overlook on to Mr. Pattison's property.

At the rear, he questioned what he termed an 'illegal fire escape' which he characterized as an "overly large" 2nd floor balcony that will only exacerbate the negative impacts of overlook, privacy and excessive noise on abutting properties. Mr. Lay suggested that the Applicant's rationale for creating this large balcony/deck is to accommodate outdoor space for tenants and that any attenuation measures such as privacy screening will do nothing to mitigate the potential noise that could be generated.

With respect to potential overshadowing on 33 Roslin by the proposed triplex, he had reviewed the shadow study filed by Mr. Rendl and concluded that, indeed, shadow will be cast over Mr. Pattison's rear yard as well as the existing roof skylights. Highlighting the March 21st and June 21st modelling in that study, he asserted shadow from the proposed dwelling will cover half the roof and some of the rear yard of 33 Roslin on March 21st at 4:18 pm while at 5:18 pm and 6:18 pm the roof and rear yard are completely covered. He submitted that the cumulative impact of shadow from the proposed triplex on Mr. Pattison's enjoyment of his rear yard and patio is most experienced in the June 21st modelled period.

He concluded his testimony by opining that a triplex of the scale proposed will inflict noise and loss of privacy on 33 Roslin and the reduced and inadequate number of parking spaces on the subject property will exacerbate an already taxed on-street parking situation.

On cross-examination, Mr. Lay acknowledged that the architectural drawing he created comparing building heights of the proposed and abutting dwellings reflected a previous iteration of the proposal. However, Mr. Lay disagreed that the height measurement used for the proposed triplex was inaccurate although he conceded that the view perception from the street between the iteration used and what is being proposed would be discernable.

Mr. Lay agreed that access to two of the proposed units is from the front door and one cannot discern the number of units internally from the proposed front elevation. He also acknowledged that there are not multiple entrances proposed at the rear and one front door primary entrance is a common characteristic in this neighbourhood.

With respect to the shadow study and the issue of overlook onto 33 Roslin, Mr. Lay agreed that Mr. Pattison's roof and rear yard are most impacted on March 21st between 5:18 and 6:18 pm but characterized this as "*medium impact consequences*." (his words) However, he agreed with Mr. Hoffman that depending on the roof top design of an 'as-of-right' dwelling scenario additional shadows could be created and further impact 33 Roslin.

In addition, Mr. Hoffman referenced Photo 8 in Exhibit 7 (p. 10) to illustrate that existing rear boundary fencing between 33 Roslin and the subject property had not been modelled in the shadow study and that shadow is cast on the basement staircase and much of the rear patio as a result. Mr. Lay acknowledged that existing condition as well as the fact that the shadow study did not model the existing tree canopy (referenced by Mr. Hoffman) evident in an aerial photo (Exhibit 7, p. 6) of the rear yards of the two abutting properties.

Hearing Day 3

Hearing Day 3 commenced with the testimony of Expert Witness Martin Rendl who was tendered as a Registered Professional Planner, to speak in opposition to the variances requested. He had prepared a detailed and informative Document Book and Expert Witness Statement (EWS) with appendices, in addition to a Reply to Mr. Galbraith's EWS, entered as Exhibits 7, 8 and 10, respectively.

He is a seasoned and extremely experienced planner who has appeared before both the OMB, now the LPAT, and the TLAB and I qualified him to give expert opinion evidence in the discipline of land use planning.

Mr. Rendl was retained by Mr. Pattison in April 202 and agreed to appear before the TLAB in opposition to the appeal. He prepared visual exhibits, including a photographic exhibit of 31 and 33 Roslin as well as photos showing properties in the neighbourhood which are found in Tabs 2 and 3 in Exhibit 7.

He referred to photos 1-12 to highlight the assessment characteristics of the abutting properties such as dwelling scale, massing, and height. Utilizing the remaining 20 photos, he reviewed the block on Roslin both east and west of the subject property to illustrate that the property is an undersized lot at its 6.55 m lot frontage and, in terms of lot frontage and area, is the smallest lot developed with a detached house on the street, on the block between Yonge Street and Bocastle Avenue.

He characterized the area as a stable and mature neighbourhood and that it is experiencing reinvestment primarily in the form of the construction of new detached houses and additions to existing homes. Generally, the area exhibits a tight lot fabric with primarily 1½ and 2-storey detached dwellings where 7.62 m is the most common lot frontage. There are some semi-detached dwellings and attached or townhouse development. The area exhibits a mix of off-street parking provided in integral garages or front yard parking spaces.

He described the property at 33 Roslin as having the second widest lot and the largest lot area of those on the south side of the street between Yonge and Bocastle but characterized the existing 1 ½ storey house on the subject property as having a “cottage-like, small scale” design similar to other nearby original homes at 32 and 34 Roslin.

Employing a Neighbourhood Study Area (NSA) to assess physical character of the immediate and broader context corresponding with the parameters set out in Policy 4.1.5 of the OP, Mr. Rendl highlighted Table 1 – Lot Characteristics in the Immediate Context (Exhibit 7, p. 4) and Table 2 – Summary of FSI for Detached Dwellings (Exhibit 7, p.5).

He summarized that the Tables show that 31 Roslin has the 4th smallest lot frontage of the 26 lots with detached dwellings in the immediate context, and the proposed FSI variance of 0.993 times the area of the lot is just below the maximum FSI of 0.996 in the immediate area for new dwellings and less than the FSI maximum of 1.03 for additions to existing dwellings. In the broader neighbourhood, the maximum FSI for a dwelling with additions is 1.08 x.

Turning his focus to the statutory tests and the planning framework, Mr. Rendl categorized the requested variances into three categories: built form; setbacks from the lot lines; and parking; he opined that the triplex represents ‘overdevelopment’ of the subject property, it does not meet the OP criteria for new development within the *Neighbourhoods* designation and creates negative impacts on nearby properties.

In addressing the policy framework and planning analysis, he acknowledged that the Application is consistent with the PPS (2020) and conforms to the Growth Plan (2019) but asserted that the more relevant framework for assessing this application is found in the City OP.

He reviewed the Application against the four tests under s. 45(1) of the Act, individually, as follows:

1. General Intent and Purpose of the OP

He referenced the policies found Sections 2.3.1.1., 3.1.2 and 4.1.5 of the OP noting that those policies assess the compatibility and fit of new development and implement the objectives that development in residential neighbourhoods respect and reinforce the existing physical character of those areas. He also highlighted OPA 320 which he noted refined the *Neighbourhoods* policies, added the term 'prevailing' where it had previously been missing in the development criteria in Policy 4.1.5, and placed greater emphasis on the consideration of surrounding properties on the same street and block as a proposed development.

Mr. Rendl opined that the prevailing house typology on this block of Roslin Avenue, west of Bocastle Avenue, is two-storey detached homes. In assessing the appropriateness of the proposed triplex, he specifically considered relevant development criteria in 4.1.5 and opined as follows:

- *4.1.5 (c) – prevailing heights, massing, scale, density and dwelling type of nearby residential properties;*
 - The 3-storey triplex exceeds the prevailing density, massing and scale of nearby properties.
 - The requested FSI of 0.993 x is significantly greater than the prevailing density in the area and is in the higher range of approved FSIs in the neighbourhood for recent variance approvals for new dwellings or additions to existing homes.
 - Neighbourhood approved FSIs range between 0.613 to 1.16 x.
- *4.1.5 (d) – prevailing building types.*
 - The existing two-storey detached dwelling on the subject property which the Applicant proposed to replace is the 'prevailing' building type on Roslin Avenue.
 - Building typology on the street consist of detached houses (26.65%), semi-detached (6.15%), duplexes (2.5%), and townhouses (6.15%).
 - A triplex is not a 'prevailing' building type either in the immediate or broader neighbourhood contexts and is not present in substantial numbers.

He referenced the Built Form policies in 3.1.2 of the OP noting that 3.1.2.1 states that "new development will be located and organized to fit with its existing and/or planned context." He opined that the existing context refers to Roslin Avenue whereas the planned context is what is intended in the future and that the planned context reinforces the existing. Where the OP has no height and density limits, he asserted that the zoning by-law implements the OP for those aspects of the planned context. He opined that as expressed in Policy 4.1.8, the intent and purpose of by-law's numerical standards for building type and height, density, etc. is "to ensure new development will be compatible with the physical character of established residential *Neighbourhoods*."

In this regard, Mr. Rendl opined that the built form and massing of the proposed triplex does not fit with either the existing or planned context. He specifically highlighted Policy 3.1.2.1(b) which describes new development achieve fit by *“locating main building entrances so that they area clearly visible and directly accessible from public sidewalks.”* He asserted that the proposed triplex fails to achieve this ‘fit’ because the entrance for the basement unit is located at the rear, is not visible from the public sidewalk, and ingress/egress to that unit will require walking some 29 metres into the subject property from the sidewalk.

While he acknowledged that proposed triplex meets the Zoning By-law’s definition of a triplex, he reiterated that not all the units are directly accessible from the public sidewalk and referenced a photo of the triplex at 47 Ranleigh Avenue and other examples of multi-unit residential dwellings in the neighbourhood to illustrate that all have one front entrance and an internal stairwell providing access to each unit. He questioned whether this could be achieved with the proposed redevelopment by incorporating a main front foyer accommodating access to all three of the units.

In assessing the massing and exterior building façade and its fit with and impact on neighbouring properties, he opined that the triplex fully exploits the R-zone’s 10 m maximum building height provision and the scale of the proposed three-storey 9.98 m high, flat roof building is visually amplified by the high side walls and the 19.3 m building depth. Furthermore, he asserted that the triplex exceeds the height of the 1 ½ and 2-storey neighbouring properties at 29 and 33 Roslin.

With respect to the built form and scale, he argued that the built form and scale of the proposed triplex will result in shadow cast on 33 Roslin impacting the light and privacy of Mr. Pattison’s front and rear amenity areas.

2. General Intent and Purpose of the Applicable Zoning By-Laws

Mr. Rendl opined that the variances requested do not maintain the general intent and purpose of Zoning By-law 569-2013 and provided planning analysis by grouping the variances into the following two categories.

A. Built Form and Setback Variances (i.e., FSI, Side Wall Heights, Building Depth, Side Yard)

He submitted that the relatively high FSI arises in part because of a building envelope beyond the zoning parameters and that the existing substandard and proposed side yard setbacks combined with the three storeys and side wall heights result in overdevelopment of the subject site.

With respect to the proposed building depth, he opined that the By-law maximum of 14 m for a triplex is intended to limit how deep it extends into the property. He highlighted the 2018 OMB decision (PL130592) dealing with appeals to residential regulations of Zoning By-law 569-2013 which he suggested provided rationale for the 14 m building depth. In that decision, at paragraph 118, evidence from the City’s planning witness explains that the building depth for triplexes was established *“in consideration of*

potential impacts respecting light, views, and privacy on adjacent properties.” (Exhibit 8, para. 107)

Mr. Rendl concluded that the depth of 19.31 m of the proposed triplex extends the dwelling 3.31 m beyond the rear wall of 33 Roslin and 1.717 m beyond the wall of the house west of 29 Roslin. Additionally, the proposed exterior stairs and rear balconies extend a further 2 m beyond the rear wall of the triplex contributing to impacts onto Mr. Pattison’s property. He opined that as a result of these ‘cumulative impacts’ (his term) of the built form variances do not respect and reinforce the area’s existing physical character.

As to the variance for parking spaces, he asserted that reducing the number of on-site spaces will impact upon the limited supply of on-street parking in an area already under greater pressure and will also constrain area resident’s ability to secure that on-street parking.

3. Desirable and Minor

Mr. Rendl opined that the triplex is overdevelopment of the lot and not desirable for the appropriate development of the subject property. He asserted that the variances, cumulatively, result in a building that is out of scale with the neighbourhood and will create adverse privacy and overlook impacts on the adjacent house at 33 Roslin.

He then addressed his Reply Expert Witness Statement (Exhibit 10) to Mr. Galbraith’s Response to his Witness Statement and focused specially on Mr. Galbraith’s comparative attempt in his evidence to analogize the performance standards associated with the proposed triplex with that of an ‘as-of-right’ detached dwelling with secondary suites on the subject property.

Mr. Rendl opined that that is not an “apples to apples” comparison as a triplex is a “different animal” (his words) as the two building typologies have different by-law standards.

He also raised the issue of the residential units within the proposed triplex being positioned as short-term rental suites reiterating neighbours’ concerns that these could become ‘AirBnB’-type units with attendant issues associated with such tenancies. Although he acknowledged that the City now licenses such rentals, he suggested that this would not prevent tenants in those rental units from further subletting their unit.

In concluding his testimony, Mr. Rendl opined that the variances requested should be refused as they fail to meet the four statutory tests, will create adverse impacts of view, loss of privacy and shadow on nearby properties, and do not represent good planning.

On cross-examination, Mr. Rendl agreed with the Appellant’s solicitor that the City is attempting through licensing to control the proliferation of short-term rental situations and that Residential Tenancies Act (Section 97) does control whether a unit can be sublet.

With respect to the OP policies that discourage new development that destabilizes a neighbourhood and require the identification of the prevailing building typology in an area, the witness disagreed as to how some two storey dwellings in the area might 'read' as three-storey structures. Mr. Hoffman highlighted numerous photos in Mr. Rendl's Exhibit 7 (Tab 3) of examples of large, two-storey dwellings in the area that he suggested reflect such a visual. Mr. Rendl did not agree.

Although Mr. Rendl agreed that residential zoning categories allow different performance standards, he reasserted his opinion that the existing context should not prevail over the planned context as the "*planned context typically reinforces the existing context.*" However, he did acknowledge that the planned context in this neighbourhood allows a three-story dwelling.

He also noted that the proposed triplex does not represent a new build but rather is a renovation that incorporates additions to the front and rear of the existing dwelling and that for the most part existing side yard setbacks are being retained. In response, Mr. Rendl acknowledged that the side yard variance seeking a 13 cm *difference "is not that great"* (his words) and is an appropriate condition to maintain.

In addressing the rear balconies being proposed, Mr. Rendl agreed with Mr. Hoffman's characterization of the two upper floor platforms as small 'Juliette' balconies with limited area. He also agreed that some level of overlook and privacy impacts to Mr. Pattison's property would remain even if the depth of the proposed triplex were reduced.

On re-examination by Ms. Meader, the witness reaffirmed the fact that 29 Roslin is indeed a two-storey dwelling and opined that it presents as such from the street. He submitted that the proposed triplex, architecturally, presents as a much 'boxier' design with the 3rd floor extending from side wall to side wall, and he highlighted his photographic evidence to illustrate that many of the dwellings in the area have gable-shaped roofs oriented towards the street more appropriately replicating the roof designs in the area.

Mr. Rendl specifically highlighted Photo 33 showing 97 Roslin, a relatively new build which he submitted was similar to what is being proposed. He noted that that property is a corner lot, and the dwelling reflects a more modern architectural design with an articulated and stepped front façade with the front door setback from the street. He suggested that there are few examples of this in the neighbourhood.

Testimony of Participant Elyse Goody

Ms. Goody is the abutting neighbour and only very recently purchased her home. She strongly opposes the proposed triplex as it increases the number of potential residential units for occupancy on the property by 66%. She submitted that this will significantly alter the character of the neighbourhood producing adverse impacts on her property. She submitted that the proposal lacks adequate on-site parking, and the new units could be used for short-term rentals raising issues related to safety, security, and garbage.

She asserted that the proposed balconies will significantly impact the privacy of abutting neighbours and that impacts of noise and overlook will not be mitigated by imposing the condition related to privacy screening. On cross-examination by both Mr. Hoffman and Ms. Meader, Ms. Goody acknowledged that privacy and overlook related to any short-term rental situation on the property is her primary concern with the proposal; she noted that she would also not have purchased her home if she had known about this application.

Testimony of Participant Jo-Anne Taylor

Ms. Taylor raised her concerns regarding the potential parking impact on Roslin Avenue from the proposed triplex. She stated that the three interior residential units to be created within the triplex could result in a total of six cars with only one space proposed on the subject property. She noted that Roslin is a long street, any available on-street parking spots are typically found west of Ronan Avenue, which is closer to Bayview Avenue, and on this stretch of Roslin parking is only permitted on the north side of the street.

In this regard, she asserted competition for on-street parking from customers frequenting the retail establishment on Yonge Street in the vicinity of the intersection with Roslin Avenue, also impacting the availability of on-street parking. In an interesting departure, she suggested that perhaps the only situation where parking would not be an issue is if the units within the triplex were in fact proposed as short-term rental suites such because renters would likely not have cars.

Finally, she questioned aspects of the internal and external layout of the proposed development with respect to laundry and storage facilities and the location of garbage and recycling bins.

On cross-examination by Mr. Hoffman, Ms. Taylor acknowledged that on-street parking on Roslin is limited to one hour which she agreed would assist in freeing spaces throughout the day. Mr. Hoffman also advised that the property has a generous rear yard for storage opportunities.

Ms. Taylor inquired as to why the Applicant requires the proposed staircase leading to the upper storey balcony at the rear of the triplex. Mr. Hoffman explained that the dimensions of that staircase allow a setback from the rear building wall to accommodate the stairway to the basement unit below the upper staircase. In reference to the rear 2nd floor balcony, Mr. Hoffman suggested that the Applicant would be willing to include as a condition of approval the installation of a 2' x 6' permanent planter, 72 cm in height, at the southeast corner of that balcony as a way of reducing the amount of activity space available on that balcony.

Closing arguments were provided by Mr. Hoffman, Ms. Meader and Ms. Pinder and I provide a brief summation of each, below.

Mr. Hoffman submitted that a triplex is a permitted use and multi-unit residential dwellings can be found in the area therefore forming part of the neighbourhood

character; in his opinion, it's not a threshold question. He reiterated that Planning staff supported the application and concluded that the variances meet the four planning tests.

He asserted that the issue of impacts of noise, privacy and overlook on the adjacent properties have been addressed and that Mr. Galbraith's testimony and evidence suggests that any shadow impact on 33 Roslin is minimal, is limited during the March 21st period and only at certain times, and that an 'as-of-right' dwelling would be cast a comparable shadow. He requested that the variances be granted.

Ms. Meader argued that the proposal represents "overdevelopment in its clearest context" and that the proposal is being "shoehorned" into the site with insufficient parking. She characterized Mr. Galbraith's assessment approach as a "bit of smoke and mirrors" and his evidence as falling short of satisfying the four tests.

She submitted that the prevailing character of the neighbourhood is two storey building typology and that there are no triplexes in the immediate neighbourhood context. She was of the opinion that Mr. Galbraith failed to appropriately analyze the possible adverse impacts of privacy, overlook and shadow, and requested that the variances not be granted.

Ms. Pinder expressed similar sentiments regarding the proposal arguing that the massing and scale of the triplex is not in keeping with the prevailing physical character of the neighbourhood. She noted that the City took issue with Mr. Galbraith's comparison of the proposed triplex with that of a single detached dwelling with secondary suites and asserted that a variance for FSI would likely not be required without the proposed 3rd storey. She also requested that the appeal be dismissed for failing to demonstrate that the variances meet the prescribed statutory tests.

ANALYSIS, FINDINGS, REASONS

I take this opportunity to thank the residents who attended the three-day Hearing of this appeal for their dedication and enthusiasm in the matter at hand and in providing what I characterize as passionate and credible presentations. I found the residents, Mss. Goody and Taylor, to be eloquent and cogent in discussing the neighbourhood, its character, and their concerns.

I have made the effort to deal with the evidence presented by all Parties and Participants in some detail, as noted above, because of the angst this application has generated amongst abutting neighbours.

First, let me address the comparative analytic proposed by Mr. Galbraith in his evidence in which he analogizes the proposed triplex as comparable to a detached dwelling with two secondary suites. While an interesting exercise, and one that in my opinion contrasts more than it compares, it is what I would term a 'false equivalency'. Although I agree with Mr. Rendl that Zoning By-law 569-2013 considers a triplex to be a different building typology and distinct from the detached dwelling analogy offered by

Mr. Galbraith nevertheless, I concur with Mr. Galbraith that the performance standards for a triplex are the more restrictive provisions.

I agree with Mr. Rendl that it is not an “*apples to apples*” (his term) analogy for a number of reasons including but not limited to development standards.

However, analogizing the two fails to engage the issue before me – that is an application and variances to permit a triplex, not a detached dwelling with two secondary suites, and that is what I am tasked with assessing.

As above noted, while I found the statements from both Ms. Goody and Ms. Taylor in opposition to the Application, genuine and credible. I have no doubt that the proposed additions and renovations to the existing dwelling to facilitate a triplex will create an impact on the abutting properties, but I require more than that assessment than the mere impression to raise that impact to what would be considered rising to a standard of undue adverse impact.

I note that expert opinion evidence was presented by three well-experienced, professional, and competent expert witnesses both in support of and in opposition to the proposal, and I was impressed by each. The evidence and testimony were well-researched, fulsome, and focused. That said, I preferred the evidence provided by Mr. Galbraith to that of Mr. Rendl and Mr. Lay.

Mr. Galbraith provided a thorough approach to analyzing the subject property and neighbourhood from a variety of perspectives, measures, assessments, and the policy direction. I cannot find that either his methodology or credibility was undermined on cross-examination by the Parties and I find his evidence that the proposed variances meet the four statutory tests persuasive for the following reasons:

Maintain the General Intent and Purpose of the OP

The property is designated *Neighbourhoods* in the OP which includes triplexes within the definition of lower scale building typology and, therefore, I agree that the proposal represents an appropriate level of intensification of the property. I agree with Mr. Galbraith that the variances related to side yard setbacks, massing and scale, and building depth on the lot will result in a building footprint similar to other homes in the area.

I agree that the proposed triplex will have a height and scale that is respectful of other properties in the area while maintaining setbacks that are proportionate to adjacent properties and will reinforce the prevailing building size, lot configurations and building type. I note that this assessment was similarly communicated by City Planning staff in their report to the COA in which they stated that the proposed variances maintain the general intent and purpose of the OP.

I agree with Mr. Galbraith that the OP and City policies are generally supportive of increasing housing options throughout the City and particularly in the Neighbourhoods designation, and that triplexes represent a built form that exist within

the geographic area in which the subject property is located. I find the proposal represents a modest form of 'scaled density' (my term) that will not destabilize either the broader or immediate neighbourhood context.

I agree that converting existing single detached dwellings into multi-unit residences as contemplated by this Application can add density without significantly altering neighbourhood scale or built form

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

The zoning by-law is intended to implement the policies in the OP that ensure new development reinforces the physical character of the neighbourhood. With respect to Variance 1, the originally submitted application did not have a rear balcony/ projection as the rear wall had no step backs, a feature introduced following discussions with City Planning. I agree with Mr. Galbraith that side yard setbacks for rear balconies are appropriate and I find that the condition that requires privacy screening at the east and west ends of the 2nd storey balcony a reasonable mitigating addition.

With respect to Variance 2 and 6, Building Depth and FSI, respectively, I agree with Mr. Galbraith that retaining the existing front wall as part of the proposed renovation of the dwelling will maintain and reinforce the built form relationships evidence on the block. The building depth variance results from the siting of the dwelling at 33 Roslin on its property, a house that is greater in building length than that proposed for 31 Roslin.

As noted by the Applicant, the proposed building length of 19.31 m for the triplex is only applicable to the 1st floor and basement whereas the 2nd and 3rd floors are stepped back aligning the rear peak of the roof 2.6 m from the 1st floor rear wall. This results in alignment behind the rear wall of 29 Roslin to mitigate the impact of the proposed massing on abutting properties and is sensitive to its context. This mitigation was further increased by pitching the 3rd floor roof at the front and rear.

I find relevance in Mr. Galbraith's evidence that variance approvals for building depth are 'fairly common' (his words) within the neighbourhood and those depths range from 17.68 m to 19.98 m.

As to the variance for FSI, the FSI of the existing building is 0.421 times the area of the lot, which is reflective of the small footprint of other first-generation homes in the area. The requested variance represents an increase of 0.333 to the maximum permitted by the By-law; however, the floor area proposed is deployed across three floors utilizing a traditional peaked roof design that steps back from the front wall. I find that the Appellant has attempted to minimize the massing of the triplex architecturally by stepping back each upper floor and shifting it away from the rear of the property.

I agree with Mr. Galbraith that FSI variances are the most commonly approved in the neighbourhood, ranging between 0.61 and 1.18 x, and that the variance requested to permit an increase in FSI is appropriate in the context.

With respect Variance 3, I agree that the requested variances for east and west side yard setbacks are reflective of and maintain the existing condition of a home first constructed in the 1950's. I find that the variance respects and reinforces the existing, long-standing established relationship between the subject property and its immediate neighbours. Variance 4, the projection for roof eaves, only refers to the downspouts at the northwest corner of the dwelling and represents a reduction in the eaves' setback from the property line.

Regarding Variances 5 and 7, front yard parking and the number of parking spaces for a triplex, respectively, I will address each individually. The front yard parking space, again, is reflective of an existing legal non-conforming use condition as confirmed by the previous owner by in a Statutory Declaration (Exhibit 2, Tab 16). I agree with Mr. Galbraith that front yard parking is common in the neighbourhood, specifically on the block within which the property is located, including on the neighbouring property at 33 Roslin.

As to the variance for the number of required parking spaces, I understand that the Appellant revised the proposal to eliminate two parking spaces in the rear yard to improve the rear amenity space condition and the front yard could not accommodate additional spaces. I agree with Mr. Rendl although this concession to City Planning may appear to be benevolent on the part of the Appellant, it is somewhat of an insincere gesture since vehicle access to the rear of the subject property would be difficult in any circumstance given the existing mutual right of way in favour of the abutting neighbour.

Nevertheless, I do agree with Mr. Galbraith that given the site's proximity to higher order public transit such as a major subway station and bus routes., coupled with the fact that the neighbourhood features a very high walkability score (80), utilizing the limited space on the property for landscaping represents a more optimal use of the land. Additionally, Transportation Services has indicated no objection to the proposed parking reduction since there are on-street parking passes available in the vicinity of 31 Roslin.

Furthermore, I concur that these variances are appropriate in the circumstances as they support the City's policy objection related to encouraging non-car oriented transportation modes in areas where public transit is widely available and active transportation is easily accommodated.

Desirability of Appropriate Use or Development of the property

I accept Mr. Galbraith's proposition that the proposal represents reinvestment and an appropriate expansion of the range of housing options within the neighbourhood in a form and tenure contemplated by the planning policy regime. I agree that the variances collectively will facilitate a use of the building that increases its utility and optimizes an under-utilized property that is suited for more intensive housing in the form of three residential rental units.

The issue of the potential nature of the proposed units becoming short-term 'Airbnb' rentals was raised by neighbours in this area as of some concern. While this is not an area of jurisdiction of the Tribunal and there is no variance associated with use, I

provide some very brief commentary. Although some of the residents expressed apprehension that the units within the proposed triplex could be disposed to short-term rental situations, I note that the City recently approved a licensing and registration system dealing specifically with AirBnB-type, short-term rental situations making it more difficult to accommodate in residential neighbourhoods.

Furthermore, Mr. Hoffman also advised that the Owners have expressed a desire to limit occupancy to stable, long-term tenants.

Minor in Nature

On the question of 'minor', I am reminded of the decision rendered by the Divisional Court in the matter of Vincent v. DeGasperis, supra (2005 CanLII 24263 (ON S.C.D.C. – Divisional Court)). In that decision, the Court observed that 'minor' involves consideration of both size and impact (at para. 12).

In view of this observation, I concur with Mr. Galbraith that the test of 'minor' is not whether development creates 'no impact' but rather, the 'level' of impact and whether the proposal and associated variances result in an undue adverse impact on the adjacent neighbours or, more broadly, on the neighbourhood as a whole. I find that it does not.

With respect to proposed balconies at the rear of the triplex, I find on the evidence that they will not accommodate the number of people suggested by Mr. Lay, and I agree with Mr. Galbraith that examples of the rear 2nd floor balcony are found in the area and are an appropriate condition in such an urban setting. With respect to noise, privacy, and overlook impact on Mr. Pattison's property, I agree that there will be some impact given the urban context of this neighbourhood however, the conditions proposed by the Appellant and included as part of this Decision will assist in mitigating those impacts to an appropriate degree.

As to the issue of shadow impact on 33 Roslin, I concur with Mr. Galbraith that there were some discrepancies with respect to the accuracy of the shadow study prepared by VRJ Cad Solutions. I find on the evidence that the shadows impact primarily exists on March 21st during the early afternoon on the front amenity area of 33 Roslin and is significantly reduced on June 21st. I agree that an 'as-of-right' development would cast similar shadows as well.

I agree that there will be some additional shadow cast on the rear yard of 33 Roslin as a result of the proposed renovation of the dwelling on subject property but that it is a small, incremental increase in comparison to the existing dwelling or an 'as-of-right' condition. In the June 21st series, that shadow is increased but I concur with Mr. Galbraith that shadow cast is from a combination of existing shadow from 29 Roslin, the dwelling at 33 Roslin, and the proposed triplex. I find that it does not reach the threshold of an unacceptable adverse impact.

In light of the foregoing, having considered the decision of the COA, the applicable statutory tests and evidence, I accept that the variances sought, individually

and collectively, meet the intent and purposes of the OP, and zoning permissions. They maintain their purpose on the subject property within the relevant ranges, all the while being quantitatively and qualitatively minor and desirable.

I agree with Mr. Galbraith's submissions that all relevant tests are met on the evidence, that there will be no adverse impacts on privacy and shadow on the neighbouring properties, and that the reinvestment contemplated by the plans for the subject property is desirable for the neighbourhood and does not constitute over-development.

DECISION AND ORDER

The appeal is allowed; the decision of the Committee of Adjustment dated February 20, 2020 is set aside, and the following variances in **Attachment 1**, below, are approved subject to the Conditions in **Attachment 2**.

ATTACHMENT 1 – List of Revised Variances

1. Chapter 10.5.40.50.(2), By-law No. 569-2013

A platform without main walls, such as a deck, porch, balcony, or similar structure, attached to or within 0.3m of a building, must comply with the required minimum building setbacks for the zone; in this case 1.2m.

The proposed west side yard setback for the rear main floor platform is 0.41m;

The proposed west side yard setback for the rear second storey platform is 0.21m; and

The proposed east side yard setback for the rear second storey platform is 1.07m.

2. Chapter 10.10.40.30.(1), By-law No. 569-2013

The maximum permitted building depth for a triplex is 14.00m. The proposed building depth is 19.31m.

3. Chapter 10.10.40.70.(3), By-law No. 569-2013

The minimum required side yard setback for a triplex is 1.20m. The proposed east side yard setback is 1.07m.

The minimum required side yard setback for a triplex is 1.20m. The proposed west side yard setback is 0.21m.

4. Chapter 10.5.40.60.(7), By-law No. 569-2013

Roof eaves may project a maximum of 0.90m provided that they are no closer than 0.30m to a lot line.

The proposed eaves are 0.06m from the west lot line.

5. Chapter 10.5.80.10.(3), By-law No. 569-2013

A parking space may not be located in a front yard or a side yard abutting a street. The proposed parking spot is located in a front yard.

6. Chapter 10.10.40.40.(1), By-law No. 569-2013

The maximum permitted floor space index is 0.6 times the lot area. The proposed floor space index is 0.993 times the lot area.

7. Chapter 200.5.10.1.(1), By-law No. 569-2013

The required minimum number of parking space(s) for a triplex is three (3) spaces. The proposal will have ones (1) parking space.

ATTACHMENT 2 – CONDITION OF APPROVAL

1. The proposal be constructed substantially in accordance with the set of Site Plan drawings prepared by Eurodale Design Build, dated November 3, 2020, attached as **ATTACHMENT 3** hereto, and consisting of Drawings A001 (Site Plan), A109 (Roof Plan), A202 (Main Elevation), A204 (Rear Elevation), and A206 – East Elevation), A208 – West Elevation). Any other variance(s) that may appear on these plans but are not listed in the written decision are **NOT** authorized.
2. The Owner is to provide permanent opaque privacy screening along the east and west sides of the proposed rear 2nd storey balcony with a minimum height of 1.5 m from the balcony floor. In addition, the Owner is to install a 0.61 m x 1.83 m permanent planter, 72 cm in height, at the southeast corner of the balcony.
3. Where there is no existing street tree, the owner shall provide payment in lieu of planting of one street tree on the City road allowance abutting each of the sites involved in the application. The current cash in-lieu payment is \$583/tree.
4. Obtain an on-street parking permit for each of the on-site parking space reductions.

X 

Dino Lombardi
Panel Chair, Toronto Local Appeal Body

NOTES:
1. ALL DESIGN AND CONSTRUCTION TO BE IN ACCORDANCE WITH THE CITY OF TORONTO ZONING BY-LAW AND THE CITY OF TORONTO BUILDING CODE.
2. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF TORONTO AND THE PROVINCE OF ONTARIO.
3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF TORONTO ZONING BY-LAW AND THE CITY OF TORONTO BUILDING CODE.
4. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF TORONTO AND THE PROVINCE OF ONTARIO.
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8. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF TORONTO AND THE PROVINCE OF ONTARIO.

REV #	DATE	ISSUED FOR
1	NOV 21, 2019	ZONING CERTIFICATE
2	DEC 2, 2019	COMMITTEE OF ADJUSTMENT
3	JAN 28, 2020	RELIQUARY FROM CITY
4	FEB 11, 2020	ZONING CERTIFICATE
5	FEB 11, 2020	ZONING CERTIFICATE
6	MAY 4, 2020	ZONING CERTIFICATE
7	MAY 26, 2020	BUILDING PERMIT
8	NOV 3, 2020	T.L.A.B.

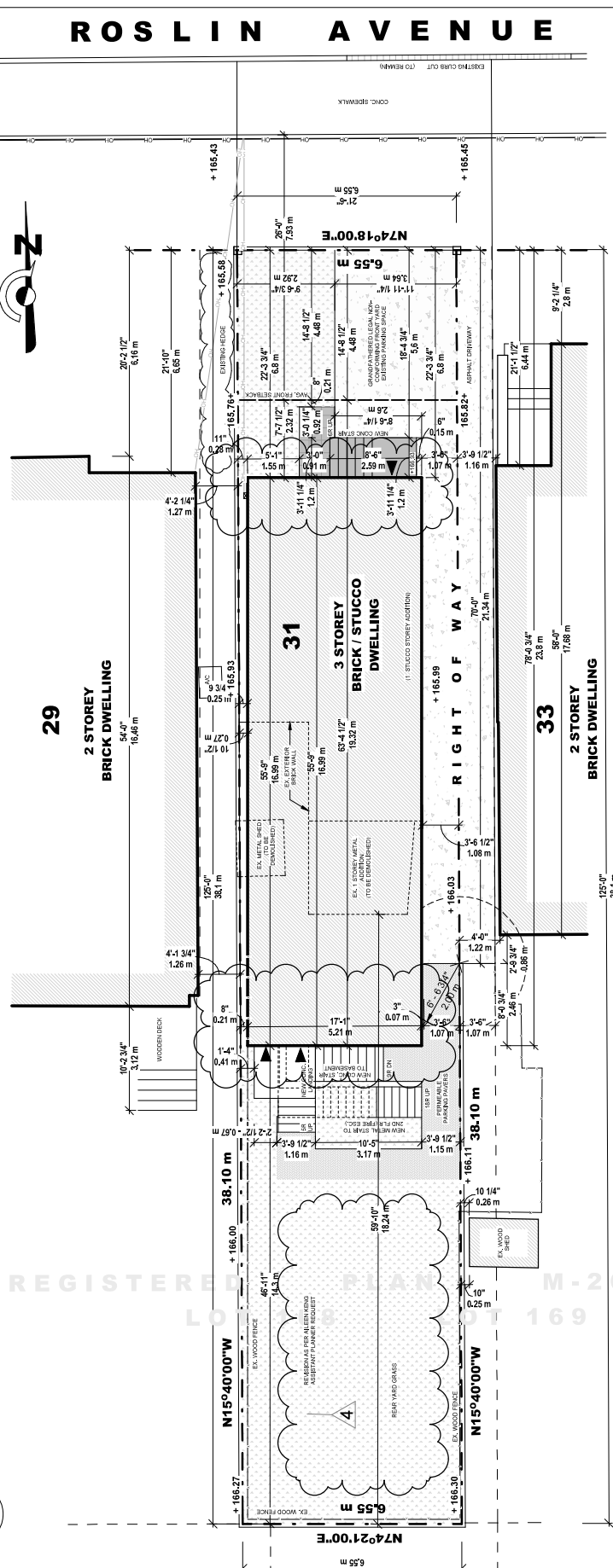


31 ROSLIN AVE
TORONTO, ON
SCALE: 1 : 125
DRAWN: A.A.
CHECKED: B.C.

EURODALE
DESIGN + BUILD
1189 LAWRENCE AVE. W. - SUITE 7, TORONTO, ON M6A 1E2
TELEPHONE 416.782.5690 | WWW.EURODALE.CA

SITE PLAN - PROPOSED
A001
NOV 3, 2020

1 SITE PLAN - PROPOSED
A001
SCALE: 1 : 125



PROPERTY LINE	
ASPHALT DRIVEWAY	
SOFT LANDSCAPING	
EXISTING BLDG. FOOTPRINT	
PROPOSED BLDG. FOOTPRINT	

SITE DATA		EXISTING	PROPOSED
LOT AREA		249.56 m ² (2662.2 S.F.)	249.56 m ² (2662.2 S.F.)
BUILDING AREA		96.76 m ² (611 S.F.)	88.48 m ² (952.4 S.F.)
BUILDING HEIGHT		8.91 m	9.88 m
BUILDING LENGTH		13.11 m	16.99 m
BUILDING DEPTH		14.02 m	19.32 m
FRONT YARD AREA		41.06 m ² (442 S.F.)	41.48 m ² (446 S.F.)
FRONT YARD LANDSCAPE AREA		21.55 m ² (232 S.F.)	19.73 m ² (212 S.F.)
FRONT YARD SOFT SCAPE AREA		21.55 m ² (232 S.F.)	17.66 m ² (190 S.F.)
FRONT LANDSCAPE TO YARD %		52.49 %	47.57 %
FRONT SOFT TO LANDSCAPE %		100 %	89.51 %
FRONT YARD SETBACK		6.8 m	6.8 m
REAR YARD AREA		118.81 m ² (1279 S.F.)	93.74 m ² (1009 S.F.)
REAR YARD SOFT SCAPE AREA		117.34 m ² (1263 S.F.)	75.79 m ² (816 S.F.)
REAR SOFT TO LANDSCAPE %		98.75 %	80.85 %
AGG. MAIN FLOOR AREA		56.76 m ² (611 S.F.)	88.48 m ² (952 S.F.)
AGG. SECOND FLOOR AREA		48.31 m ² (520 S.F.)	85.28 m ² (918 S.F.)
AGG. THIRD FLOOR AREA			73.96 m ² (798 S.F.)
TOTAL GROSS FLOOR AREA		105.07 m ² (1131 S.F.)	247.72 m ² (2666.2 S.F.)
FLOOR SPACE INDEX		0.421	0.9925

TOTAL EXISTING BUILDING ELEMENTS (RETAIN / REMOVED)
EXISTING ELEMENTS TO BE REMOVED = 719 S.F. / 66.77 m²
EXISTING ELEMENTS TO BE RETAINED = 1562 S.F. / 145.11 m²
RATIO = 46.03 %

NOTES:
1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF TORONTO'S ZONING BY-LAW AND THE CITY OF TORONTO'S BUILDING CODE.
2. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF TORONTO AND THE PROVINCE OF ONTARIO.
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8. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF TORONTO AND THE PROVINCE OF ONTARIO.

THE UNDERSIGNED HAS REVIEWED AND APPROVED THE ROOF PLAN AND THE ROOF DRAINAGE SYSTEM SHOWN ON THE ATTACHED DOCUMENTS. I HEREBY CERTIFY THAT THE ROOF PLAN AND THE ROOF DRAINAGE SYSTEM SHOWN ON THE ATTACHED DOCUMENTS COMPLY WITH THE CITY OF TORONTO'S ZONING BY-LAW AND THE CITY OF TORONTO'S BUILDING CODE.

NAME: ANNA J. JAMES
SIGNATURE:  DATE: NOV 3, 2020

REV #	DATE	ISSUED FOR
1	NOV 21, 2019	ZONING CERTIFICATE
2	DEC 2, 2019	COMMITTEE OF ADJUSTMENT
3	JAN 28, 2020	SCULPTURE PERMIT
4	MAY 19, 2020	ZONING CERTIFICATE
5	FEB 11, 2020	ZONING CERTIFICATE
6	MAY 4, 2020	ZONING CERTIFICATE
7	MAY 26, 2020	BUILDING PERMIT
8	NOV 3, 2020	T.L.A.B.



31 ROSLIN AVE

TORONTO, ON

SCALE: 3/16" = 1'-0"
DRAWN: A.A.
CHECKED: B.C.

EURODALE
DESIGN + BUILD
1189 LAWRENCE AVE W. - SUITE 7, TORONTO, ON M6A 1E2
TELEPHONE 416.782.5990 | WWW.EURODALE.CA

ROOF PLAN -
PROPOSED

A109

NOV 3, 2020

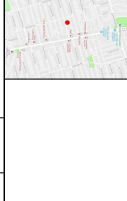
1 ROOF PLAN - PROPOSED

SCALE: 3/16" = 1'-0"

NOTES:
1. ALL DESIGN AND CONSTRUCTION TO BE IN ACCORDANCE WITH THE CITY OF TORONTO ZONING BY-LAW.
2. THE DESIGNER ACCEPTS RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THIS DRAWING.
3. THE DESIGNER HAS CONDUCTED A VISUAL ANALYSIS OF THE PROPOSED DEVELOPMENT AND HAS DETERMINED THAT IT IS IN ACCORDANCE WITH THE CITY OF TORONTO ZONING BY-LAW.
4. THE DESIGNER HAS CONDUCTED A VISUAL ANALYSIS OF THE PROPOSED DEVELOPMENT AND HAS DETERMINED THAT IT IS IN ACCORDANCE WITH THE CITY OF TORONTO ZONING BY-LAW.
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8. THE DESIGNER HAS CONDUCTED A VISUAL ANALYSIS OF THE PROPOSED DEVELOPMENT AND HAS DETERMINED THAT IT IS IN ACCORDANCE WITH THE CITY OF TORONTO ZONING BY-LAW.

THE UNDERSIGNED HAS REVIEWED AND APPROVED THE INFORMATION PROVIDED IN THIS DRAWING AND ACCEPTS RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THIS DRAWING.
NAME: ANNA MARINO
SIGNATURE:  DATE: NOV 3, 2020

REV #	DATE	ISSUED FOR
1	NOV 21, 2019	ZONING CERTIFICATE
2	DEC 2, 2019	COMMITTEE OF ADJUSTMENT
3	JAN 28, 2020	REPLACES FRONT
4	FEB 11, 2020	ZONING CERTIFICATE
5	FEB 11, 2020	ZONING CERTIFICATE
6	MAY 4, 2020	ZONING CERTIFICATE
7	MAY 26, 2020	BUILDING PERMIT
8	NOV 3, 2020	T.L.A.B.



31 ROSLIN AVE

TORONTO, ON

SCALE: 3/16" = 1'-0"

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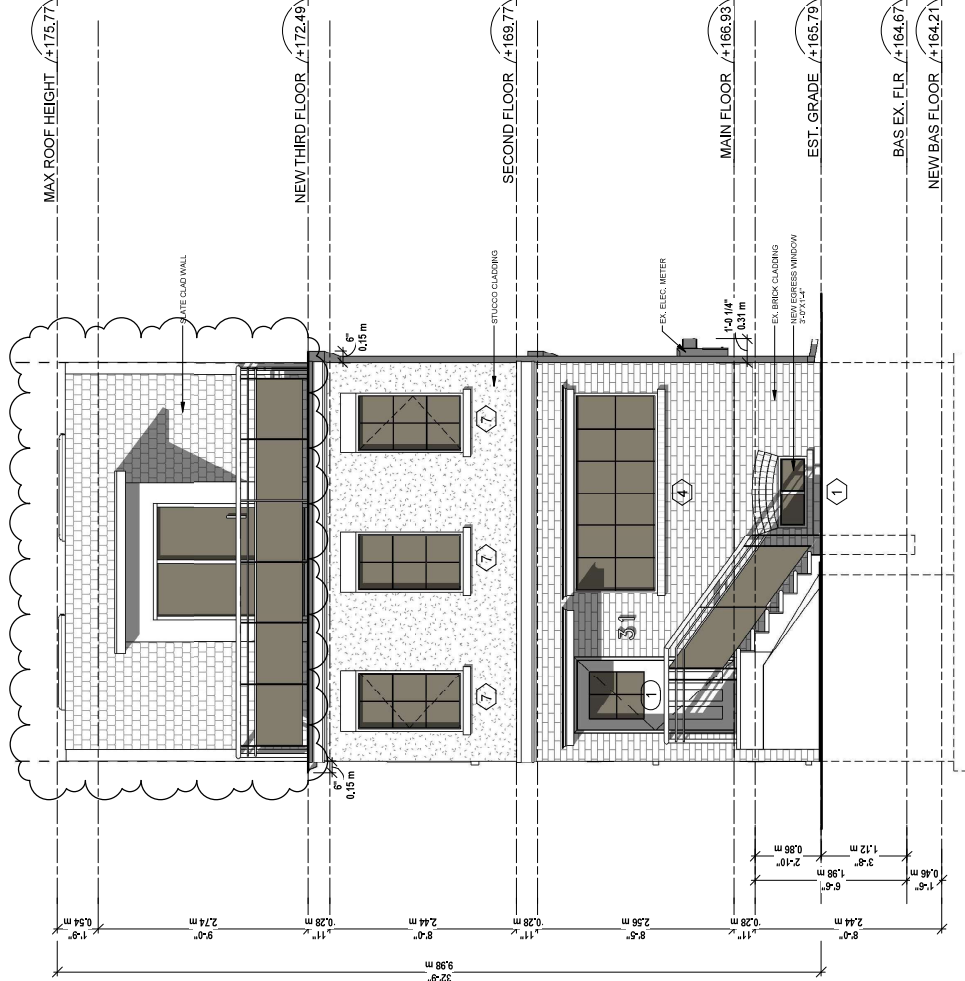
MAIN ELEV. -
PROP.

A202

NOV 3, 2020

1 MAIN ELEVATION - PROP.

SCALE: 3/16" = 1'-0"

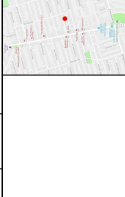


NOTES:
1. ALL DESIGN AND CONSTRUCTION TO BE IN ACCORDANCE WITH THE CITY OF TORONTO ZONING BY-LAW.
2. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF TORONTO.
3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF TORONTO ZONING BY-LAW.
4. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF TORONTO.
5. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF TORONTO ZONING BY-LAW.

THE UNDERSIGNED HAS REVIEWED AND APPROVED THE DESIGN AND CONSTRUCTION OF THE PROJECT SHOWN ON THE ATTACHED DOCUMENTS.
I, ANNA J. JARVIS, ARCHITECT, OF THE FIRM OF EURODALE DESIGN + BUILD, OF THE ADDRESS 1189 LAWRENCE AVE. W. - SUITE 7, TORONTO, ON M6A 1E2, DO HEREBY CERTIFY THAT THE DESIGN AND CONSTRUCTION OF THE PROJECT SHOWN ON THE ATTACHED DOCUMENTS IS IN ACCORDANCE WITH THE CITY OF TORONTO ZONING BY-LAW.

NAME: ANNA J. JARVIS
SIGNATURE: [Signature] I.D.N. 48570

REV #	DATE	ISSUED FOR
1	NOV 21, 2019	ZONING CERTIFICATE
2	DEC 2, 2019	COMMITTEE OF ADJUSTMENT
3	JAN 28, 2020	SOLAR STUDY
4	FEB 11, 2020	ZONING CERTIFICATE
5	FEB 11, 2020	ZONING CERTIFICATE
6	MAY 4, 2020	ZONING CERTIFICATE
7	MAY 26, 2020	BUILDING PERMIT
8	NOV 3, 2020	T.L.A.B.



31 ROSLIN AVE

TORONTO, ON

SCALE: 3/16" = 1'-0"
DRAWN: A.A.
CHECKED: B.C.

EURODALE
DESIGN + BUILD

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REAR ELEV. -
PROP.

A204

NOV 3, 2020

1 REAR ELEVATION - PROP.

SCALE: 3/16" = 1'-0"

