

January 27, 2019

Committee Chair & Members
Committee of Adjustment - Toronto and East York
Toronto City Hall
100 Queen Street West
Toronto, Ontario
M5H 2N2

RECEIVED*By Committee Of Adjustment at 9:07 am, Jan 28, 2020*

Re: *Application for Minor Variances File No 19 244135 STE 09 MV*
861 – 863 St. Clair Avenue West, Toronto

We are the planning consultants for 2558961 Ontario Ltd. (the “Applicant”), the owner of the lands municipally known as 861-863 St. Clair Avenue West (the “subject site”). The subject site is located on the southwest corner of St. Clair Avenue West and Winona Drive in the Wychwood neighbourhood.

On May 23, 2019, the Etobicoke York Committee of Adjustment approved minor variances (File No. 18 260004 WET 17 MV) to allow for the construction of a 9-storey (34.35 metres including the rooftop amenity area and mechanical penthouse) mixed-use building. The requested variances generally related to maximum height, setbacks, step-backs, angular planes, amenity space, access and landscaping.

Since this time, the owner has been continuing to work with planning staff on the Site Plan Control application (File No. 18 259789 WET 17 SA). Through the ongoing review of the application, additional variances to permit the proposed redevelopment of the site have been identified by Toronto Building staff in relation height of features on the roof, the setback of main windows, the width of the commercial space and the rooftop amenity fence setback.

The following minor variances are requested:

1. *Section 12(1) 479 (4)(e)(i)(a)(i), By-law 438-86*

The maximum permitted height of a stair tower, an elevator shaft, a chimney stack of other heating , cooling or ventilating equipment or window washing equipment on the roof of the building or a fence, wall or structure enclosing such elements is 35 metres.

Whereas, the proposed height of the elevator shaft is 36.28 metres.

2. Section 8(3) Part II 1(b)(ii), By-law 438-86

The minimum required setback of main windows of a residential or mixed used building, which contained more than 5 dwelling units, from a non-street lot line is 5.5 metres.

Whereas, the proposed setback of the west main windows from the non-street lot line are 1.26 metres.

3. Section 8(3) Part XI 2(2), By-law 438-86

The by-law requires the main floor level used for commercial purposes to have a width of at least 60% of any street frontage of the building; 12.98 metres on Winona Drive.

Whereas, the proposed commercial use has a width of 46.23%; 9.92 metres on Winona Drive.

4. Section 4(2)(a)(ii)B, By-law 438-86

The minimum setback of a roof structure, above the permitted height, used for out side or open air recreation, safety or wind protection purposes from an adjacent wall or projection thereof is 2.0 metres.

Whereas, the proposed roof outdoor amenity space fence setback from an adjacent wall or projection thereof is 0 metres.

Analysis of Requested Variances

As set out below, it is our opinion that the requested variances both individually and cumulatively satisfy the four tests for a minor variance as set out in Section 45(1) of the Planning Act, as listed below:

1. maintains the general intent and purpose of the Official Plan;
2. maintains the general intent and purpose of the Zoning By-law;
3. are minor in nature; and,
4. are desirable for the appropriate development and use of the land.

The following provides an analysis of the requested variances based on the four above considerations.

1. General Intent and Purpose of the Official Plan

In our opinion, the requested variances meet the general intent and purpose of the Official Plan. The proposal allows for the redevelopment of the subject site with a residential building containing retail uses at grade, uses that are permitted in the applicable *Mixed Use Areas* designation (4.5.1). In our opinion, the proposal conforms to the provisions of Sections 4.5.2 with respect to Development Criteria, which ensure that developments will contribute to creating a balance of high quality commercial and residential uses, while also providing new jobs and homes on underutilized lands in the Downtown.

2. General Intent and Purpose of the Zoning By-law(s)

The requested variances will permit the construction of a high-quality and architecturally distinctive building that maintains the intent of the initial Committee of Adjustment approval, while permitting specific design refinements or revisions that were erroneously overlooked during the minor variance application. In our opinion, the requested variances meet the general intent and purpose of the applicable Zoning By-law.

Height

The maximum permitted height is 35.0 metres including the mechanical penthouse. The proposal contemplates a total height of 36.28 to accommodate the elevator shaft. This represents a minor increase of 1.28 metres from what is permitted overall. In addition to accommodating the elevator shaft height, the variance is required due to differences in the calculation and interpretation of height from the grade of Winona Drive as opposed to St. Clair Avenue West due to the technical interpretation that Winona Drive is the front lot line.

In our opinion, the increase in height does not result in any significant or undue impacts to the surrounding area nor does it increase height to any other component of the building aside from the elevator shaft.

Main Window Setback

The by-law provides that the minimum required setback of main windows of a residential or mixed used building, which contained more than 5 dwelling units, from a non-street lot line is 5.5 metres. Whereas, the proposed setback of the west main windows from the non-street lot line are 1.26 metres. This variance is required in response to comments provided by Urban Design during the Site Plan

Control review that requested the stepping back of the west wall at and above the fifth level.

The windows are limited in their size and would not have any adverse impacts with respect to overlook on surrounding residential uses. In addition, we note this condition has already been adopted and approved for the Nest Condominium at 835 St Clair Avenue West to the east of the site.

Commercial Space

The by-law requires the main floor level used for commercial purposes to have a width of at least 60% (12.98 metres) of any street frontage of the building, whereas the proposed commercial use has a width of 46.23% (9.92 metres) along Winona. Although there is a minor deficiency along the Winona Drive frontage, we note that along the St. Clair Avenue West frontage, the proposal provides an excess in commercial width of 61.7% (27.4 metres) which assists in offsetting the loss and provides ample retail space on the mainstreet frontage which in our opinion meets the intent of the by-law and *Mixed Use Areas* policies.

Rooftop Amenity Fence setback

The minimum setback of a roof structure, above the permitted height, used for outside or open air recreation, safety or wind protection purposes from an adjacent wall or projection thereof is 2.0 metres. Whereas, the proposed roof outdoor amenity space fence setback from an adjacent wall or projection thereof is 0 metres. As contemplated the proposed guards/wind screens are at the building perimeter to achieve the maximum usable space for the amenity level. This is a commonly accepted practice in the City and does not jeopardize the safety of the amenity level as all safety elements are built in accordance with the Ontario Building Code and appropriate wind mitigation measures are included in the design of the building.

3. Minor in Nature

In our opinion, the consideration of whether a variance is minor in nature is not simply a numerical calculation; rather, it is based on an analysis of fit and impact on the immediate context and surrounding neighbourhood.

We note that the design of the building has not significantly changed since the original minor variance application submission. The proposed built form and design features will not result in any significant or undue impacts to the surrounding area, and will have the effect of introducing a unique, high quality design.

4. Desirable for the Appropriate Development and Use of the Land

In our opinion, the proposed redevelopment and associated minor variances are desirable and appropriate for proposed use of the land, as they will allow for the mixed use development on the subject site, which will achieve the policy objectives of the Official Plan, as well as Provincial policies. The variances will provide for the efficient use of the land, a design that continues to be sensitive to the residential dwellings immediately abutting the subject site.

The variances will allow for necessary and appropriate revisions that were missed in error during the initial Committee of Adjustment application.

Should you require any additional information or clarification, please do not hesitate to contact me or Ashley Varajão of our office at (416) 947-9744.

Yours very truly,

Bousfields Inc.



Louis Tinker, MCIP, RPP