

**NOTICE OF DECISION
MINOR VARIANCE/PERMISSION
(Section 45 of the Planning Act)**

File Number: A1136/19TEY
Property Address: 861-863 ST CLAIR AVE W
Legal Description: PLAN 738 BLK A PART
Agent: LOUIS TINKER
Owner(s): 2558961 ONTARIO LTD
Zoning: MCR T5.5 C2.0 R4.5 (ZZC)
Ward: Davenport (09)
Community: Toronto
Heritage: Not Applicable

Notice was given and a Virtual Public Hearing was held on **Wednesday, July 15, 2020**, as required by the Planning Act.

PURPOSE OF THE APPLICATION:

To construct a 10-storey mixed-use building containing three levels of below grade parking, ground floor retail space, 76 residential units and rooftop amenity space.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

- 1. Section 12(1) 479(4)(a)(ii), By-law 438-86**
The maximum permitted building height is 30.00 m.
The mixed-use building will have a height of 34.36 m.
- 2. Section 12(1) 479(4)(a)(ii), By-law 438-86**
The maximum permitted number of storeys is nine.
In this case, the mixed-use building will be ten storeys.
- 3. Section 12(1) 479(4)(a)(ii), By-law 438-86**
The maximum permitted building height, including building elements, such as stair towers, elevator shafts and the like, is 35.00 m.
In this case, the mixed-use building, including building elements, will have a height of 36.28 m.

- 4. Section 12(1) 479(4)(e)(i)(a)(ii), By-law 438-86**
Building elements, such as stair towers, elevator shafts and the like, shall not penetrate the rear angular plane.
In this case, the building elements will penetrate the rear angular plane.
- 5. Section 12(1) 479(4)(e)(i)(a)(ii), By-law 438-86**
Building elements, such as stair towers, elevator shafts and the like, shall not penetrate the front angular plane.
In this case, the building elements will penetrate the front angular plane.
- 6. Section 12(1) 479(5)(a)(i), By-law 438-86**
No person shall erect or use a building or structure on a lot in a MCR district having any part of the building or structure closer to the curb line of the travelled portion of St. Clair Avenue West than 4.5 m.
In this case, the balconies and underground parking structure of the mixed-use building will be located 2.99 m from the curb line.
- 7. Section 12(1) 479(5)(a)(i), By-law 438-86**
No person shall erect or use a building or structure on a lot in a MCR district unless the building or structure is setback a minimum distance of 7.5 m from any portion of any lot or portion of any lot in an R or G District.
In this case, the mixed use building will be setback 4.5 m from a lot in the R District.
- 8. Section 12(1) 479(6)(a)(i), By-law 438-86**
Any building greater than five storeys or 16.5 m in height, whichever is the lesser, shall have a minimum 1.5 m step-back of the main external building wall facing a lot line abutting a street located at a height above 16.5 m or five storeys, whichever is the lesser, measured from the face of the external wall of the storey directly below and an additional 1.5 m step-back, at a height above 22.5 m or seven storeys.
In this case, the mixed-use building will have a step-back facing St. Clair Avenue West of 0.82 m at 16.5 m in height and an additional step-back of 0.23 m at 22.5 m in height.
- 9. Section 12(1) 479(6)(a)(i), By-law 438-86**
Any building greater than five storeys or 16.5 m in height, whichever is the lesser, shall have a minimum 1.5 m step-back of the main external building wall facing a lot line abutting a street located at a height above 16.5 m or five storeys, whichever is the lesser, measured from the face of the external wall of the storey directly below and an additional 1.5 m step-back, at a height above 22.5 m or seven storeys.

In this case, the mixed-use building will have a step-back facing Winona Drive of 0.76 m at 16.5 m in height and an additional step-back of 0.20 m at 22.5 m in height.

10. Section 12(1) 479(7)(b)(i), By-law 438-86

All parts of the building or structure must be contained within a 60 degree angular plane projected over the lot from the 7.5 m setback from the lot in the R District, at an elevation of 10.5 m above the average elevation of the ground directly above such setback.

In this case, the mixed-use building will penetrate the angular plane.

11. Section 12(1) 479(7)(b)(ii), By-law 438-86

Where the height of the building or structure exceeds 30 m, measured above the average elevation of the ground abutting St. Clair Avenue West, all parts of such building or structure shall be contained within a 45 degree angular plane projected of the lot from the required setback required by paragraph (6)(a), at an elevation of 30 m above the average elevation of the ground abutting St. Clair Avenue West.

In this case, the mixed-use building will penetrate the angular plane.

12. Section 12(1) 479(8)(a)(ii), By-law 438-86

Where the height of a building or structure is greater than three storeys, the main external building wall of the first five storeys or 16.5 m, whichever is the lesser, shall be built at the build-to-line (4.5 m from the St. Clair Avenue West curb line). In this case, the main external walls of the first five storeys or 16.5 m, whichever is the lesser, will not be built at the build-to-line.

13. Section 12(1) 479(9)(a), By-law 438-86

A minimum 1.5 m landscaped open space to be used for soft landscaping shall be provided along a lot line abutting an R District.

In this case, no soft landscaping will be provided along the lot line abutting an R District.

14. Section 12(1) 479(12), By-law 438-86

Where a lot abuts a flanking street, all vehicle access shall be restricted to the flanking street.

In this case, the vehicle access will be from the front street (Winona Drive).

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

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 m.

In this case, the mixed-use building will contain rooftop outdoor amenity space located 0.0 m from an adjacent wall or projection thereof.

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

The minimum required main window setback from a non-street lot line for a residential or mixed-used building containing more than five dwelling units is 5.50 m.

In this case, the west side main windows of the mixed-use building will be located 1.26 m from the non-street lot line.

17. Section 8(3) Part XI 2(ii), 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 m on Winona Drive.

In this case, the main floor level of the mixed-use building used for commercial purposes will have a width equal to 46.23% (9.92 m) of the Winona Drive street frontage.

18. Section 4(12), By-law 438-86

The by-law requires indoor residential amenity space be provided in a multi-purpose room or contiguous multi-purpose rooms.

In this case, the mixed-use building will contain indoor residential amenity space which will not be located in contiguous rooms.

19. Section 4(13)(a) to 2(1), By-law 438-86

Bicycle parking spaces should either be parked on a horizontal surface, having horizontal dimensions of at least 0.6 m by 1.8 m and vertical dimensions of at least 1.9 m, or in a vertical position, having horizontal dimensions of at least 0.6 m by 1.2 m and vertical dimensions of at least 1.9 m.

In this case, the required bicycle parking spaces will be located in 0.45 m centre to centre stacked spaces and in bicycle lockers.

The Committee of Adjustment considered the written submissions relating to the application made to the Committee before its decision and oral submissions relating to the application made at the hearing. In so doing, **IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:**

The Minor Variance Application is Approved on Condition

It is the decision of the Committee of Adjustment to approve this variance application for the following reasons:

- The general intent and purpose of the Official Plan is maintained.
- The general intent and purpose of the Zoning By-law is maintained.
- The variance(s) is considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance(s) is minor.

- (1) The owner of 861-863 St. Clair Avenue West shall enter into and register on title a section 45(9) agreement, to the satisfaction of the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning, to secure the following:
 - (a) Preserving the owner of 861-863 St. Clair Avenue West right in the easement over the entire 3.05 m wide strip of land abutting the south lot line of the property;
 - (b) The declaration of condominium for 861-863 St. Clair Avenue West shall provide notice to future owners that the easement over the entire 3.05 m wide strip of land abutting the south lot line of the property shall be continued and preserved; and
 - (c) A cash contribution in the amount of \$235,000.00, to be allocated toward local community projects including parks, recreation facilities, and streetscape and open space improvements, to be determined in consultation with the Ward Councillor and the Chief Planner and Executive Director, City Planning. The contribution amount shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date that the approval of the minor variances is final and binding to the date of payment.
- (2) The building shall be constructed in accordance with the requested variances and substantially in accordance with the plans submitted and held by the Committee of Adjustment office, date stamped May 13, 2020, to the satisfaction of the Director, Community Planning, Etobicoke York District. Any other variances that may appear on these plans but are not listed in the written decision are not authorized.

SIGNATURE PAGE

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LARRY CLAY



YIM CHAN



LISA VALENTINI



DONADONALD GRANATSTEIN (CHAIR)

DATE DECISION MAILED ON: **TUESDAY, JULY 21, 2020**

LAST DATE OF APPEAL: **TUESDAY, AUGUST 4, 2020**

CERTIFIED TRUE COPY



Anita M. MacLeod
Manager & Deputy Secretary-Treasurer
Committee of Adjustment, Toronto and East York District

Appeal Information

All appeals must be filed by email with the Deputy Secretary-Treasurer, Committee of Adjustment to coa.tey@toronto.ca and Anita.Macleod@toronto.ca by the last date of appeal as shown on the signature page.

Your appeal to the **Toronto Local Appeal Body (TLAB)** should be submitted in accordance with the instructions below unless there is a related appeal* to the Local Planning Appeal Tribunal (LPAT) for the same matter.

TORONTO LOCAL APPEAL BODY (TLAB) APPEAL INSTRUCTIONS

To appeal this decision to the TLAB you need the following:

- A completed TLAB Notice of Appeal (Form 1).
- \$300 for each appeal filed regardless if related and submitted by the same appellant.
- Fees are payable to the **City of Toronto**. Once your appeal has been received by e-mail by the Deputy Secretary –Treasurer you will receive payment instructions.

To obtain a copy of the Notice of Appeal Form (Form 1) and other information about the appeal process please visit the TLAB website at www.toronto.ca/tlab.

LOCAL PLANNING APPEAL TRIBUNAL (LPAT) INSTRUCTIONS

To appeal this decision to the LPAT you need the following:

- A completed LPAT Appellant Form (A1) in digital format on a USB stick and in paper format.
- \$400 with an additional reduced fee of \$25 for each connected appeal filed by the same appellant.
- Fees are payable to the **Minister of Finance** by certified cheque or money order (Canadian funds).
- Due to the Covid-19 Emergency please contact the Deputy Secretary-Treasurer to make arrangements in submitting the appeal.

To obtain a copy of Appellant Form (A1) and other information about the appeal process please visit the Environmental & Lands Tribunals Ontario (ELTO) website at <http://elto.gov.on.ca/tribunals/lpat/forms/>

*A **related appeal** is another planning application appeal affecting the same property. To learn if there is a related appeal, search community planning applications status in the [Application Information Centre](#) and contact the assigned planner if necessary. If there is a related appeal, your appeal to the **Local Planning Appeal Tribunal (LPAT)** should be submitted in accordance with the instructions above.

NOTE: Only individuals, corporations and public agencies may appeal a decision. The appeal may not be filed by an unincorporated association or group. However, the appeal may be filed in the name of an individual who is a member of the association or group on its behalf.