

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: August 03, 2018

CASE NO(S): MM170081

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 114(15) of the *City of Toronto Act*, 2006, S.O. 2006, c. 11, Sched. A

Applicant and Appellant: 260-264 Finch Avenue East Inc.
Subject: Application to amend Zoning By-law No. 7625 -
Refusal or neglect of the City of Toronto to make a
decision
Purpose: To permit the development of twenty three (23) 3 -
storey townhouses
Property Address/Description: 260-264 Finch Ave. E.
Municipality: City of Toronto
Municipality File No.: 16 205578 NNY 24 OZ
OMB Case No.: MM170081
OMB File No.: MM170081
OMB Case Name: 260-264 Finch Avenue East Inc. v. Toronto (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: 260-264 Finch Avenue East Inc.
Subject: Application to amend Zoning By-law No. 7625 -
Refusal or neglect of the City of Toronto to make a
decision
Existing Zoning: "One-family Detached Dwelling Third Density
Residential Zone (R3)"
Proposed Zoning: Site specific – to be determined
Purpose: To permit the development of twenty three (23) 3 -
storey townhouses
Property Address/Description: 260-264 Finch Ave. E.
Municipality: City of Toronto

Municipality File No.: 16 205578 NNY 24 OZ
 OMB Case No.: MM170081
 OMB File No.: PL171336

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: 260-264 Finch Avenue East Inc.
 Subject: Request to amend the Official Plan - Failure of the City of Toronto to adopt the requested amendment "Neighbourhoods", Neighbourhood 'A', Neighbourhood 'B'
 Existing Designation: Site specific – to be determined
 Proposed Designated: To permit the development of twenty three (23) 3 - storey townhouses
 Purpose: 260-264 Finch Ave. E.
 Property Address/Description: City of Toronto
 Municipality: 16 205578 NNY 24 OZ
 Approval Authority File No.: MM170081
 OMB Case No.: PL171335
 OMB File No.:

Heard: July 10, 2018 in Toronto, Ontario

APPEARANCES:

Parties

Counsel

260-264 Finch Avenue East Inc.	Kim Kovar
City of Toronto	Alexander Suriano
Kathryn McBey	Self-represented

MEMORANDUM OF ORAL DECISION DELIVERED BY PAULA BOUTIS AND JOHN DOUGLAS ON JULY 10, 2018 AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] This appeal relates to a proposal by 260-264 Finch Avenue East Inc. (the “Applicant”) for the development of twenty-three (23) three storey townhouses at 260-

264 Finch Avenue (“Subject Site”). To implement the proposal, the Applicant sought an official plan amendment (“OPA”), zoning by-law amendment (“ZBLA”) to Zoning By-law No. 7625 and approval of a site plan.

[2] The Tribunal entered the Affidavit of Service as Exhibit 1.

[3] At the outset of the pre-hearing conference, the parties advised they had reached a settlement and the parties intended to present that for approval of the Tribunal. The revised proposal brought the application into conformity with the Official Plan (“OP”). As a result, Kim Kovar advised that an OPA was no longer required by the Applicant and the OPA application was therefore withdrawn.

[4] Kathryn McBey advised she was seeking party status and had been given authorization by thirteen residents to speak on their behalf. Ms. McBey advised that she and the residents were supportive of the settlement.

[5] Ms. Kovar advised that she was consenting to Ms. McBey seeking party status in respect of the ZBLA application, to allow her the opportunity to review and comment on the final form of the ZBLA, in the event the Tribunal granted approval in principle. The Tribunal granted Ms. McBey party status in respect of the ZBLA application on the understanding that she could address issues that the other residents may have concerns about. However, the other residents would have no formal standing at the hearing.

[6] In support of the settlement, the Tribunal heard evidence from the Applicant’s planner, Mike Dror. The Tribunal qualified Mr. Dror for the purposes of providing opinion evidence in the area of land use planning. There were no other witnesses.

[7] There were no participants.

EVIDENCE AND ANALYSIS

Issues

[8] The Tribunal, in making decisions under the *Planning Act* (“Act”), must ensure that proposals are consistent with the Provincial Policy Statement, 2014 (“PPS”) and conform to the Growth Plan for the Greater Golden Horseshoe, 2017 (“2017 Growth Plan”).

[9] Similarly, the Tribunal must have regard to items of provincial interest enumerated at s. 2 of the Act. These matters include the supply, efficient use and conservation of energy and water; adequate provision of sewage and water services and waste management systems, the orderly development of safe and healthy communities, and the adequate provision of a full range of housing.

[10] The proposal must also conform to the City’s OP and the Central Finch Secondary Plan (“Secondary Plan”).

[11] At the time of the applications, the Subject Property was also subject to the Infill Townhouse Guidelines. On March 26, 2018, the City replaced these with the Townhouse and Low-Rise Apartment Guidelines. Collectively, these will be referred to as the “Townhouse Guidelines”. The Tribunal would consider if applicable guidelines have sufficiently been regarded to.

Planning, Site Context and the Proposal

[12] Mr. Dror confirmed that no OPA was required following revisions to the proposal and settlement proposed for the Tribunal’s consideration.

[13] The Subject Site is subject to Zoning By-law No. 7625, but not to City-Wide Zoning By-law No. 569-2013.

[14] The Subject Site, in an L shape, is located on the northwest corner of Finch Avenue East and Winlock Park, about 300 metres (“m”) west of Bayview Avenue. It is about 1.5 kilometres east of North York Centre, a high rise area, from north of Finch Avenue to south of Sheppard Avenue.

[15] The Subject Site is approximately 2,345 square metres (“sq m”) and frontage along Finch Avenue is about 51.8 m. Both 262 and 264 Finch Avenue have a depth of 39.62 m and, to the west, 260 Finch Avenue has a depth of 58.85 m. It is the greater depth at 260 Finch Avenue that creates the “L” configuration.

[16] Currently, the Subject Site is occupied by three-and-a-half or two-storey detached dwellings with integral garages and rear additions. The driveways are from Finch Avenue.

[17] A row of spruce trees exists in the public right-of-way (“ROW”) along the east lot line of 264 Finch Avenue East. On 262 and 260 Finch Avenue East there are a total of seven private trees. Two of the trees on 262 Finch Avenue are mature Black Walnut trees.

[18] The Subject Site slopes down towards the northeast corner. Immediately north of 262 and 264 Finch Avenue East is 43 Winlock Park, which is occupied by a split-level, one-storey single detached home, with an integral below grade garage. North of 260 Finch Avenue is the rear yard of 41 Winlock Park, which is occupied by a one-storey single detached dwelling with an integral garage.

[19] To the west is a recently completed 58-unit, residential townhouse development, which assembled nine lots. To the east are single detached residential dwellings and a two-storey seniors’ residence. To the north and south generally are single detached residential dwellings. There are also other nearby townhouse developments.

[20] Finch Avenue is a major arterial road. It is identified as an Avenue on the City's Urban Structure Map (Map 2) within the City's OP. Avenues are one of four areas targeted for growth in the City. The Subject Site and area is well serviced by transit.

[21] The proposal has been revised to reduce the overall height from 11.06 m to 9.96 m, removing 3 m tall rooftop penthouses entirely. The Gross Floor Area has been reduced from 3,353.52 sq m to 2,847.94 sq m, reducing the Floor Space Index ("FSI") from 1.43 to 1.21. It is these changes that eliminated the need for an OPA.

[22] A car elevator was introduced to replace the majority of the surface parking with an underground parking garage. Parking supply was also increased to meet the parking requirements for both residents and visitors. The car elevator also avoided the need for a large ramp with associated retaining walls and hard surfaces. The revised proposal has allowed for the balance of the rear yard to be made up of soft landscaping and also employs permeable paving. Access to the garage will be from Winlock Avenue.

[23] A final key revision was preservation of two mature Black Walnut trees as well as the majority of the spruce trees in the ROW.

[24] There will be a total of 30 units, which are all two bedroom units.

Planning Evidence and Analysis

[25] The Subject Site is designated as Neighbourhood under the City's OP (Map 16). Most of the Subject Site - 262 and 264 Finch Avenue East - is designated as Neighbourhoods A under the Secondary Plan. A small notch is under Neighbourhoods B under the Secondary Plan (Exhibit 4, page 6).

[26] Mr. Dror opined that the proposal is consistent with the PPS. In particular, he cited policies promoting residential intensification and efficient use of land and infrastructure (Policies 1.1.3.2, 1.1.3.3, 1.1.3.4, .1.4.3, 1.6.7.4, 1.7.1, and 1.8.1).

[27] He was also of the opinion that the proposal conformed to the 2017 Growth Plan. The Subject Site is located within a strategic growth area, both as an Avenue and because it is along a major arterial with frequent transit service. Mr. Dror noted that it conforms with policy direction to promote growth and intensification in strategic growth areas. In support of his opinion, Mr. Dror referenced the 2017 Growth Plan introductory text and policies under 2.2.2.1, 2.2.2.4, and 2.2.2.6.

[28] Mr. Dror also confirmed that in his opinion the proposal conformed to the OP. Neighbourhoods are considered physically stable sites, made up of residential uses in lower scale building, such as detached houses, semi-detached houses, duplexes, triplexes and townhouses. It was Mr. Dror's opinion that the proposed back-to-back townhouses on an Avenue conform to the permitted uses in the OP.

[29] The policies at 4.1.5 guide how new development should unfold, with the key requirement being that new development will respect and reinforce the existing physical character of the neighbourhood. It was Mr. Dror's opinion that the proposal did so.

[30] Policies at 4.1.7 specifically address intensification proposals. Where more intense forms of residential development than is permitted is proposed, it is to be reviewed in accordance with the policies at 4.1.5. In this case, the Secondary Plan specifically provides for intensification on lands fronting Finch Avenue.

[31] The Secondary Plan permits a maximum of 3 storeys or 10 m, whichever is lesser. A 35 degree angular plane is in effect. Under the Secondary Plan, a blended FSI of 1.22 is permitted. The proposal meets the required FSI and the height limits.

[32] Mr. Dror also opined that the proposal conformed to the built form and streetscape policies of the Secondary Plan, referenced at policies 4.2.1, 4.2.2 and 4.2.3.

[33] Finally, Mr. Dror was of the opinion that the proposal had sufficient regard to the Townhouse Guidelines, both those in force at the time the applications were made and those that have since replaced them.

[34] The Tribunal accepted the uncontradicted opinion evidence of Mr. Dror and concludes that the proposal is consistent with the PPS, conforms to the 2017 Growth Plan, the City's OP and the Secondary Plan, and constitutes good planning.

ORDER

[35] The ZBLA is approved in principle. The final order is withheld until the Tribunal is provided with a final form of the zoning by-law that is satisfactory to the Parties, following review and comment by the City Buildings Department Staff.

[36] The Site Plan is approved in principle. The final order is withheld until:

- a. the Tribunal is provided with final versions of the Notice of Approval Conditions and associated plans and drawings, which, if necessary, may be amended to reflect any revisions arising out of satisfying the Pre-Approval Conditions filed as Exhibit 8 at the hearing; and
- b. the owner has entered into a Site Plan Agreement with the City.

[37] These Tribunal members are seized and may be spoken to should the Parties require assistance in implementing the aforementioned matters.

“Paula Boutis”

PAULA BOUTIS
MEMBER

“John Douglas”

JOHN DOUGLAS
MEMBER

If there is an attachment referred to in this document,
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Local Planning Appeal Tribunal

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248