

SAHRA Information – August 9, 2015

1912-1914 Avenue Road (at Brooke) proposed development

The Avenue Road Study which was published in 2009 provided guidelines for the renovation/new build of smaller sites for retail/commercial/residential buildings up to 5-storeys in height. By-laws were put in place defining waste, fencing, landscape strip, parking, loading area requirements as well as specifying built-form specifics for height, mechanical structure height, rear lot setbacks, front/side and rear step-backs and gross floor area.

The owner of this 2-storey retail/commercial building on the west side of Avenue Road at Brooke applied to the Committee of Adjustment (CofA) for 15 variances to construct a 5-storey retail/commercial building. The Hearing was held on Aug 6, 2015.

Variances were requested for waste (not providing a wholly enclosed building/will be stored within the individual commercial units); fencing (would not be provided), landscape strip (would not be provided); parking (no parking spaces would be provided); loading spaces (would not be provided).

As well, significant variances were requested for the built-form:

Height – the maximum allowed is 5 storeys or 16.5m, excluding the mechanical penthouse. The mechanical penthouse must not be more than 2m. The developer asked for 19.4m (for the 5 storeys) plus another 4.2m for the mechanical for a total of 23.6m (versus the allowed 18.5m).

Rear setback – the setback minimum is 7.5m from the rear lot line but the proposed setback is only 4.5m from the rear lot line.

Step-backs – Step-backs are also required at the rear of the building to maintain a 45 degree angular plane – this is being done.

2m step-backs are required at the 3rd storey abutting Avenue Road (the developer has incorporated this step-back in the design) but they are not incorporating the step-back required on the side abutting Brooke Avenue.

Gross Floor Area – the maximum gross floor area is 300% lot area, of which no more than 200% shall be used for commercial purposes. The proposed GFA is 368% of the lot area which is entirely for commercial purposes.

SAHRA's submission to the CofA on the built-form variance requests is attached; the Old Orchard Grove Residents' Association and other concerned residents also submitted letters opposing the built-form and other variance requests; we attended the Hearing to present our objections.

One of the questions asked by the CofA is why the developer didn't try to get the bylaw revised to accommodate commercial development. The answer was that it would take 18 months; Planning said they could go to CofA, this strategy negating the need for further public consultation and the 18 months it would take to revise the bylaw.

The developer claimed to have received letters of support from Planning, Councillor Carmichael Greb and Transportation.

The Committee of Adjustment considered the representations and refused the application!

After the hearing Councillor Carmichael Greb stated “It is my job to take the needs and wants of the community as a whole into account. With respect to this particular case, it is important to realize that the City needs office space outside of the downtown core – especially when we are losing existing commercial space (i.e. 250 Lawrence Ave. W.) . Many residents have asked for employment use in this area and have advocated for development that allows people to live and work in the area instead of travelling to their workplaces on transit and roadways that are at or near capacity. While taking this into consideration, I had written to the Committee of Adjustment to ask that should they choose to grant the requested variances that they do so with certain conditions - a 2m setback on Brooke and that it be subject to site plan approval.”

We were not opposing the strictly commercial use for this building and the additional jobs it would house on the 3rd, 4th and 5th floors but the requirements for such a commercial building should work within the built-form specifications and maximums as defined by the Avenue Road Study and the associated By-laws. If they cannot accommodate the commercial requirements for five-storeys within the defined By-laws, their design should be modified. Perhaps it should be a 4-storey building.

We are dismayed that our Ward 16 Councillor would not support the Residents’ Associations and concerned residents in upholding the Avenue Road Study (2009) and the associated By-law changes, for the sake of some additional jobs at 1912-1914 Avenue Road.

This case may just prove planning studies and the associated community consultations are a waste of time. The CofA seemed concerned that Planning allowed an application this complex, with this many significant variances to come to CofA. We feel that Planning’s position is that the ‘guidelines’ (and now the actual By-laws) should be much more ‘flexible’ so they were pushing the applicant to the CofA anticipating that it would get approved or, if not, that it would fast track it on to the OMB. This would indicate that Planning does not want to adhere to the Avenue Road Study definitions. That likely means we are going to have problems with every application that surfaces from hereon, unless we win this one at the OMB.

We believe this issue is bigger than just Avenue Road and the Avenue Road Study - if approved it negates the principles of several studies related to the *Avenues* that have been completed in the last 5-7 years!

We have won the battle but must now prepare to fight the war. We expect that the developer will submit an appeal to the OMB within the next 21 days; a Hearing will then be scheduled likely in one to three months. We now have to prepare our planning and legal arguments for the OMB Hearing. We doubt that the Councillor will put a Motion forward for the City to provide planning and legal support at the OMB for this CofA refusal.

The residents of this area believed that the Avenue Road Study guiding principles and these By-law changes would be enforced as the existing one to three storey buildings were redeveloped or renovated to the now-allowed 5-storeys.

This building, as proposed, does not comply with a significant number of these very specific rules. This cannot be approved as it would make irrelevant years of time and money contributed by the participation of city planners, area residents and the Local Advisory Committee on developing the

master plan for developing the Avenue. If the by-laws are not applied to this instance of a 5-storey renovation/ development, all future developments on Avenue Road will ask for equivalent variances!

Thanks to everyone who worked so hard, under such tight timelines, to submit their opinions to the CofA and/or to hang in (for 6 hours) to present to the CofA!

While there is obviously a great deal of passion surrounding the Avenue Rd Study, the day will only be won with dispassionate arguments based on existing bylaws. There are legitimate points we can use to win this case. We hope everyone will continue to share their ideas and thoughts so these arguments can be further refined and improved.

Now on to the OMB!