

SAHRA



South Armour Heights Residents' Association

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June 8, 2106

Committee of Adjustment
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Councillor C. Carmichael Greb (councillor_carmichaelgreb@toronto.ca)

File Number: A0186/16NY; Property Address: 1780 Avenue Road on June 9, 2016

The South Armour Heights Residents' Association ("SAHRA") is an incorporated non-profit association founded in 1988 that represents 850 households in the area from the 401 down to Brooke/Yonge Blvd over to Avenue Road.

SAHRA is writing to advise of our concerns with this application, asking that it be **Deferred or Refused**.

The application to the Apr 21, 2016 Hearing of the Committee of Adjustment was submitted under Waiver and, in our opinion, as outlined in our Apr 19, 2016 letter, we believed that there were missing variances. SAHRA also felt that some of the variance requests were not Minor in nature – they were Major and as such, would require review by parties other than the Committee of Adjustment.

At the Apr 21, 2016 CofA hearing, Cresford Developments requested a Deferral so that they could have an opportunity to meet with SAHRA and any other concerned residents about the proposal. A meeting was held on May 20th with representatives from SAHRA and the Old Orchard Grove Residents' Association (OOGRA).

Cresford Developments has obtained a PPR, although they did not want to take the additional time to obtain a complete Zoning Examination. The list of variances has been modified since the original submission on Apr 21.

This proposed development is intended to host a major restaurant operation which is over 1000m² (approximately 12,000 square feet) **plus** an outdoor patio area as well as a large balcony restaurant area on the third floor, overlooking Melrose which is a residential street. These outdoor areas will invade residents' privacy. Could the balcony area not be positioned facing Avenue Road?

This size of restaurant seems out of scale for this *Neighbourhood*. The by-laws that control restaurants need to be reviewed. Type of restaurant, noise, patio curfews, parking, traffic, hours of operation, signage and lighting are also issues of concern for a restaurant operation that could accommodate up to 400 customers. The community is concerned that this could be anything from a fine dining restaurant to a karaoke bar.

SAHRA and the community are also concerned about the patio operation on the ground floor and the balcony restaurant area on the third floor, overlooking Melrose. What are the sizes of these areas? What by-laws control the various issues listed above?

1500 Avenue Road, PO Box 1373, Toronto, Ontario M5M 0A1



There is a by-law related to an outdoor patio above the first storey which states:

“An outdoor patio located above the first storey of the building must be at least 40.0 metres, measured horizontally, from a lot in the Residential Zone category or Residential Apartment Zone category.”

The rear property lot line is approximately 11m from the first residential home as 367 Melrose, the first home, is zoned commercial. However the variance requests states that it is set back **22.5m** from a lot in a Residential Zone category. We would ask that this measurement be verified.

Whether the correct distance is 11m or 22.5m, this is not a minor variance – it is a **Major** variance which likely calls for by-law/zoning review and amendments. It will have a major impact on the adjacent residents and the community.

A new variance is now listed for a by-law related to outdoor patio (ground floor) requirements which states:

“An outdoor patio must be at least 30.0 metres, measured horizontally, from a lot in the Residential Zone category.”

The rear property lot line is approximately 11m from the first residential home as 367 Melrose, the first home, is zoned commercial. However the variance requests states that it is set back 22.5m from a lot in a Residential Zone category. We would ask that this measurement be verified.

Again, whether the correct distance is 11m or 22.5m, this is not a minor variance – it is a **Major** variance impacting the adjacent residents and the community.

A variance was included in the CofA application on April 21 related to By-law No. 569-2013 and 7625 but it has been removed from the June 9th list of variances:

An eating establishment with an interior floor area greater than 1000m² must be at least 300m from a lot in the Residential Zone category.

The application states that an eating establishment will be located less than 300m from a Residential Zone category. In fact, the rear property lot line is approximately only 11m from the first residential home (367 Melrose, the first home, is zoned commercial).

We consider this to be a **missing variance**. This is not a minor variance – it is a **Major** variance which likely calls for by-law/zoning review and amendments.

At the May 20th meeting, SAHRA and OOGRA were told by the developer that they had reworked the restaurant/office configuration such that the restaurant operation would now be under 1000 m² and they were therefore eliminating the variance request. But the plans presented at that meeting show (using By-law 569-2013 definitions) GFA values of 283.63 on the lower level, 590.47 on the ground floor and 128.42 on the third level for a total of **1002.52**. **These measurements are exclusive of the ground floor patio (perhaps ~100 m²) and third floor terraces (shown as 138.2 m²).** At the May 20th meeting, we were told by Planning that the 1000 m² measurement included patio and terrace areas so this means that the variance is even greater (possibly at **1240.72**)! **So the variance By-law 569-2013 Chapter 150.100.30.1 should still apply! The developer should provide information on the m² measurement including the patio and third floor terrace.**



We are concerned that even if the developer reworks the interior and exterior restaurant areas to somehow be under the 1000 m2 requirement (perhaps by allocating more to Office space) that at any time during or post construction the interior could be altered to re-allocate more space to the restaurant. We would want some form of assurance that this would not happen.

A new variance has appeared on the April 21 application:

Section 900.11.10(1543)(M), By-law 569-2013

Any building or structure 3 storeys or great in height must have a minimum 2.0 step-back at the top of the second storey from all main walls facing a lot line which abuts a street, measured from the exterior of the main wall.

*The proposed setback to the 'brise soleil' is **0m** on both Avenue Road and Melrose Avenue.*

We do not understand from the drawings what this means. It is a very important guideline established by the Avenue Road Avenue Study and recently clarified by a by-law amendment by City Council to clarify the intention that a 2metre step-back be done at the top of the second storey both facing Avenue Road and Melrose Avenue.

If this is not done in the manner intended by the bylaw, this would again be a **Major** variance that it is contravention of the Avenue Road Avenue Study and the associated bylaws.

Parking for such a large restaurant operation is a very major concern for both local businesses and residents, in combination with the other major developments on Avenue Road.

The Parking and Loading Study prepared by MMM Group Limited does **not** provide any projection of the demand during various hours of the day and night that the restaurant operation will create nor the number of office workers and their parking requirements.

They rationalize using existing transit services but it is unlikely that a large number of the customers for this restaurant operation will use the bus service. They have used other developments with reduced parking with only one instance on Avenue Road. They state that the commercial parking lots which are located 3 and 4 blocks north of Melrose can deal with the demand of this development (further away than many customers will want to walk). But 1912-1914, Benjamin Paints and Tutto Pronto expansions are also dependent on these two lots. We expect that the bulk of the parking demand will end up being met by parking on the residential side streets both on the east and west sides of Avenue Road.

The parking requirement in By-law No. 569-2013 for an eating establishment in policy area 4 are as follows:(C) in Policy Areas and 3 (PA3) and 4 (PA4):(i) at a minimum of 0; and(ii) at a maximum rate of 5.0 for each 100.

Why are they seeking the minimum and not something like at least 2.5 spaces per 100 square metres? Given the size of this restaurant operation (over 1000m2 plus patio and balcony areas), the limited public transportation (not on a subway line) and the fact that parking lots are located 3 and 4 blocks north of Melrose, further away than many customers will want to walk. They should provide some parking spaces for the restaurant operation.

Only 6 parking spaces have been provided although the requirement for the Office space alone is 13 spaces. If they cannot provide parking, Payment-in-Lieu of Parking should be applicable for 7 spaces. This could be somewhere in the neighbourhood of \$200K to \$300K.



We have asked for the Staff Report by Transportation Services but the CofA was not able to provide it prior to the CofA hearing. The CofA should not consider this application if the Transportation Report is not available. The Report should recommend Payment-in-Lieu of Parking and the CofA should make this a condition of any approval. It states in the Harmonization of the Fees Schedules for Payment-in-Lieu of Parking “advise Committees of Adjustment that relieving an applicant of a payment in lieu of parking is not considered a minor variance and is considered by Council to be entirely within the prerogative of Council.”

At the May 20th meeting, Ben DiRaimo committed to involving SAHRA and OOGRA with the Site Plan Application reviews. We would like this agreement formalized as a condition by the CoA for any approvals.

Test 1: General Intent and Purpose of the Official Plan

Test 2: General Intent and Purpose of the Zoning By-law

SAHRA considers the lack of a Step-back abutting Avenue Road as well as Melrose Avenue, the excessive Restaurant area designation so close to a Residential Zone, the lack of proper distancing of the ground floor patio and third storey terrace to a Residential Zone and Gross Floor Area variance requests to not be in keeping with the general intent and purpose of the Official Plan, the Avenue Road Study Guidelines and the associated Zoning and By-law changes.

Test 3: Appropriateness and Desirability

The Avenue Road Study and the associated By-law changes recognize that the existing storefronts are going to be modified/replaced over time to the allowed 2 to 5-storey buildings but these replacements are intended to adhere to the *vision* defined in the Avenue Road Study. This proposed development does not follow that *vision*.

Test 4: Minor in Nature

SAHRA does not consider the lack of a Step-Back at the 3rd floor abutting Avenue Road as well as Melrose Avenue, the excessive Restaurant area designation so close to a Residential Zone, the lack of proper distancing of the ground floor patio and third storey terrace to a Residential Zone and Gross Floor Area variance requests to be ‘minor’ in nature – we consider them to be **Major**.

We would ask the Committee to **Defer** or **Refuse** these variances as this development does not meet the guidelines stipulated by the Avenue Road Study and the associated By-laws.

We would appreciate receiving a copy of the Decision.

Yours truly

Sheila Dunlop, Secretary

Email: Jennifer Keesmaat, Chief Planner & Executive Director, City of Toronto
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