

ISSUE DATE:

Feb. 17, 2009



PL081091

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Fred Dyer
Subject:	Minor Variance
Variance from By-law No.:	438-86
Property Address/Description:	152 Annette Street
Municipality:	City of Toronto
OMB Case No.:	PL081091
OMB File No.:	PL081091
Municipal No.:	A97/08EYK

APPEARANCES:

Parties

Victoria Lofts Inc.

Warren Copnick

Counsel

M. Vaughan

DECISION DELIVERED BY J. G. WONG AND ORDER OF THE BOARD

Background

Victoria Lofts Inc. (the "Applicant") is appealing a decision by the City of Toronto, Committee of Adjustment, Etobicoke York Panel (File No. A97/08EYK) refusing approval to convert a listed heritage building (Church) located at 152 Annette Street, Toronto (the "Subject Property") into a 34-unit residential condominium building with 22 underground parking stalls and with a new rooftop addition containing approximately 270m² at the rear portion of the building.

The Subject Property is located at the northwest corner of Annette and Medland Streets. The neighbourhood contains a mix of single, detached homes and converted dwellings along with some commercial and institutional uses.

The Subject Property was formerly operated as the Victoria Royce Church and it consists of three distinct parts including a church structure, accessory school and a

manse (with a street address of 194 Midland), which are all contiguous. The Subject Property stopped operating as a church several years ago and is currently vacant. The church was placed in the City of Toronto's (the "City") Inventory of Heritage Properties by City Council on April 5 and 8, 1983.

At the outset of the hearing, Mr. Warren Copnick whose property abuts the Subject Property and who is opposing the application, requested party status. The Board considered the request and agreed to add Mr. Copnick as a party.

The Applicant requests the following variances to City of Toronto By-law 438-86 and By-law 494-2007:

1. Section 2(1), By-law 438-86

Required: An apartment building must be originally constructed for that use.

Requested: The existing building was not originally constructed as an apartment building.

2. Section 2(1), By-law 438-86

Required: Each principal building shall be assigned a defined part of the parcel of land.

Requested: The existing buildings (Church at 152 Annette Street and House at 194 Medland Street) have not been assigned their own parcel of land.

3. Section 6(3) Part IX 1.(b), By-law 438-86

Required: One building shall be erected on a lot that is capable of being conveyed in accordance with the provisions of the *Planning Act*.

Requested: More than one building will be located on the lot.

4. Section 6(3) Part I 1, By-law 438-86

Required: The maximum permitted gross floor area shall equal 0.6 times the area of the lot (1553.6sqm).

Requested: The altered Church and existing House will have a gross floor area equal to 1.25 times the area of the lot (3239.75sqm).

5. Section 6(3) Part II 4, By-law 438-86

Required: The minimum required rear yard setback is 7.5m.

Requested: The altered Church will be located 0.9m from the north rear lot line.

6. Section 6(3) Part II 5(1), By-law 438-86

Required: The maximum permitted building depth is 14m.

Requested: The buildings, with the additions, will have a depth of 55.5m.

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

Required: The maximum permitted building height is 10m.

Requested: The altered Church will have a height of 13.7m.

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

Required: The minimum required outdoor residential amenity space is 78m².

Requested: No outdoor amenity residential amenity space will be provided.

9. Section 4(16), By-law 438-86

Required: An unobstructed, hard surfaced driveway that serves an entrance to the building and that is so laid out that motor vehicles can enter and leave the lot while driving forward in one continuous movement.

Requested: The said hard surfaced driveway has not been provided.

10. Section 4(4)(b), By-law 438-86

Required: 55 on-site parking spaces are required.

Requested: 22 on-site parking spaces will be provided.

11. Section 2, By-law 494-2007, By-law 494-2007

Required: 9 parking spaces shall have a minimum width of 2.6m and 13 parking spaces shall have a minimum width of 2.9m.

Requested: 22 parking spaces will be provided on Level One of the altered building (Church). Of these 22 parking spaces, 16 parking spaces will have a width of 2.6m and 6 parking spaces will have a width of 2.44m.

12. Section 4(6)(c), By-law 494-2007

Required: One loading space (Type G) measuring 3.5m by 11m with a vertical clearance of at least 4m is required.

Requested: No loading space (Type G) will be provided.

Evidence

At the hearing the Applicant was represented by Counsel and a land use planner. The City was not in attendance. Mr. Copnick was self-represented. There were several local residents present who intended to participate including Ms Cheri DiNovo, MPP for Parkdale-High Park.

Mr. Julius De Ruyter, a qualified planner, appeared on behalf of the Applicant. Mr. De Ruyter indicated that the City is in the process of designating the subject building under the *Ontario Heritage Building Act*. Mr. De Ruyter testified that there is no change to the building footprint except for a small partial third-level addition on the school wing containing approx. 270m², which he considers insignificant in the context of the entire building. Parking is being provided below grade. Mr. De Ruyter informed the Board that the City's Planning Department and the local Councillor for Ward 13 both support the application.

Mr. De Ruyter testified that variances 1 to 7 are required to recognize existing conditions relating to the church, school and manse. Variance 8 is required because the outdoor amenity space is off to the side and not directly connected to the indoor space. Variance 9 relates to the driveway drop-off and pick-up area and there is no surface parking in this proposal. Variances 10, 11 and 12 relate to the parking and loading requirements – the proposal includes 22 underground parking stalls. Mr. De Ruyter indicated that the Applicant supports the heritage designation and is working

with the City to designate the building under Part IV of the *Ontario Heritage Act*. When obtained, the heritage designation would exempt the owner from providing on-site parking and loading as per Section 4 in Zoning By-law No. 438-86 and the said variances would be redundant.

Mr. De Ruyter testified that the City's Official Plan ("OP") allows for additional floor space in order to encourage preservation of heritage buildings. The OP encourages a full range of housing types and intensification of infill sites; this proposal is for the conversion of a vacant church into residential condominiums. The subject site is designated Neighbourhoods and this proposal will conserve a heritage building and reinforce the physical character of the neighbourhood. This proposal maintains the existing height scale, height, setbacks and massing with only a small addition to the roof of the school portion.

According to Mr. De Ruyter, the purpose of the Zoning By-law is to guide new development and to deal with anomalies. The variances here reflect existing legal non-conforming uses, the height and setbacks are being maintained and therefore the intent and purpose of the zoning by-law is maintained.

The Planning Department report refers to the proposal as an "adaptive reuse" that preserves heritage elements. Mr. De Ruyter stated that the outward appearance of the Subject Property would not change except for minor alterations (balconies) to reflect residential habitation; therefore this proposal is both desirable and appropriate.

According to Mr. De Ruyter, there is no adverse impact. The proposed roof top addition is setback from the existing parapet and is sensitive to the neighbouring properties. The Applicant intends to add a privacy fence and trees for additional screening.

Mr. Copnick informed the Board that during the course of this hearing he reached a settlement with the Applicants and no longer had any concerns about the proposal and was now in full agreement with it proceeding ahead.

Ms Cheri DiNovo, MPP for Parkdale-High Park, indicated that she was speaking on behalf of her constituents that there was lack of public participation in the process, as

there was no public meeting and therefore no opportunity for public comment on the proposal and the belief that this proposal impinges on the privacy of residents.

Ms Karin Kowalski (308 Pacific Avenue), who lives and works in the neighbourhood, said she is excited about this development and has purchased a unit. She believes that this proposal will add to the neighbourhood and the church is in need of repair.

Brenda Nieves (212 Maverty Street), agreed that the proposal represents a positive change to the neighbourhood and it maintains the existing building and the flavour of the neighbourhood.

John Ricchiuto (33 Harbour Square), grew up in the area and has purchased a unit, said the church is deteriorating quickly and this development is a good addition to the neighbourhood.

Rocco Oppedisano (351 Pacific Avenue), had concerns about privacy and security but they have now been satisfied through an agreement with the Applicant. He also commented on the lack of information and communication forthcoming from the Applicant to the local residents.

Erika Herzig (195 Medland Street), is a long time resident who is representing herself and a neighbour, has concerns about increased traffic, noise, parking congestion resulting from the proposal. She acknowledged that the congregation did not support the former church and therefore it was closed. She also commented on the neglect by the Applicant to inform and to include the neighbours in the process.

Disposition

The Board notes that the only Party in opposition at this hearing, Mr. Copnick, has reached a settlement with the Applicant and no longer has any objections to it proceeding. This proposal also has the support of the City's Planning Staff and the local ward Councillor. In this instance and in the absence of any other planning evidence, the Board accepts the uncontested evidence of the planner, Mr. De Ruyter. Local residents are generally supportive but a common theme was the lack of communication from the Applicant to the residents with regards to the proposed

development. According to Mr. De Ruyter, the concerns about the increased traffic from a small scale development (34 units) with limited parking (22 stalls) are not significant because it is expected that many of the residents will utilize public transit.

Therefore, on the basis of the uncontradicted and unchallenged expert evidence and opinions of planner De Ruyter, the Board is satisfied that the proposed variances meets the four tests of subsection 45 (1) of the Planning Act, are in the public interest, and represent good planning.

The City's Planning Staff Report contained suggested conditions for approval that Mr. De Ruyter agrees with; and with which the Board also agrees and will impose.

THE BOARD ORDERS that the appeal is allowed and the variance to City of Toronto Zoning By-law 438-86 as amended and By-law 494-2007 as amended are authorized subject to the following conditions:

1. Site Plan Approval.
2. Designation of the Subject Property under Part IV of the *Ontario Heritage Act*.

This is the Order of the Board.

"J. G. Wong"

"J. G. WONG
MEMBER