

ISSUE DATE:

May 6, 2003

DECISION/ORDER NO:

0582



PL020670

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

468 Avenue Road Holdings Inc. has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c, P.13, as amended, from Council's refusal or neglect to redesignate lands located at 151, 153 and 165 St. Clair Avenue West in the City of Toronto (Toronto) to increase the height and density to permit a 28 storey residential condominium
O.M.B File No. O020115

468 Avenue Road Holdings Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c, P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 438-86 of the City of Toronto to rezone lands respecting 151, 153 and 165 St. Clair Avenue West in the City of Toronto (Toronto) to permit the development of a 28 storey residential condominium with 148 units
O.M.B. File No. Z020091

468 Avenue Road Holdings Inc. has referred to the Ontario Municipal Board under subsection 42(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, determination and settlement of details of a site plan for lands located at 151, 153 and 165 St. Clair Avenue West in the City of Toronto (Toronto)
O.M.B. File No. M020069

APPEARANCES:

Parties

468 Avenue Road Holdings Inc.

City of Toronto

South Hill Homeowners' Inc.

Counsel

A. Brown

W. Hawryliw

K. M. Kovar

MEMORANDUM OF ORAL DECISION FROM A PREHEARING CONFERENCE HELD APRIL 11, 2003 DELIVERED BY N. M. KATARY AND R. C. KAY AND PROCEDURAL ORDER OF THE BOARD

With the consent of and at the request of the parties, the following Procedural Order is appended hereto as Attachment "1".

"N. M. Katary"

N. M. KATARY
MEMBER

"R. C. Kay"

R. C. KAY
MEMBER

ATTACHMENT “1”

PROCEDURAL ORDER

468 Avenue Road Holdings Inc. has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. c.P13, as amended, from Council’s refusal or neglect to redesignate lands located at 151, 153, 165 and 169 St. Clair Avenue West in the City of Toronto (Toronto) to increase the height and density to permit a 24 storey residential condominium
O.M.B. File No: O020115

468 Avenue Road Holdings Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. c.P13, as amended, from Council’s refusal or neglect to enact a proposed amendment to Zoning By-law 438-86 of the City of Toronto to rezone lands respecting 151, 153, 165 and 169 St. Clair Avenue West in the City of Toronto (Toronto) to permit the development of a 24 storey residential condominium with 140 units
O.M.B. File No: Z020108

468 Avenue Road Holdings Inc. has referred to the Ontario Municipal Board under subsection 42(12) of the *Planning Act*, R.S.O. c.P13, as amended, determination and settlement of details of a site plan for lands located at 151, 153 165 and 169 St. Clair Avenue West in the City of Toronto (Toronto)
O.M.B. File No: M020069

1. The Board may vary or add to these rules at any time, either on request or as it sees fit. It may alter this Order by an oral ruling, or by another written Order.

Organization of the Hearing

2. Three (3) weeks have been set aside for the hearing, which hearing will commence on **July 28, 2003** at 10:00 a.m. at Ontario Municipal Board Hearing Rooms, 16th Floor, 655 Bay Street, in the City of Toronto.
3. The length of the hearing will be 14 days.
4. The parties and participants identified at the prehearing conference are as shown on **Schedule 1** to this Order.
5. The Issues are those set out in **Schedule 2** to this Order. There will be no changes to this list unless the Board permits, and a party who asks for changes may have costs awarded against it.
6. Any person intending to participate in the hearing should provide a telephone number to the Board as soon as possible (preferably before the prehearing conference.) Any such person who will be retaining a representative should advise the other parties and the Board of the representative’s name, address and phone number as soon as possible.

Requirements Before the Hearing

7. An expert witness shall prepare an expert witness statement which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in section 9. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Board may refuse to hear the expert's testimony.
8. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence, as in section 9.
9. On or before **April 25, 2003**, the Applicant/Appellant shall provide the other parties to the hearing with the following materials:
a full set of plans and elevations (including a survey);
a traffic report;
a wind study; and
a shadow study.
On or before **May 28, 2003**, the applicant/appellant shall provide copies of their expert witness statements to the other parties.
On or before **June 27, 2003**, the other parties shall provide copies of their expert witness statements to the appellant/applicant.
On or before **July 11, 2003**, the applicant/appellant shall provide copies of any response to the other parties witness statements to the other parties.
10. All materials, witness statements and reports provided in accordance with section 9 shall be provided both in hard copy and in electronic form.
11. A person wishing to change written evidence, including witness statements, must make a written motion to the Board.
(see Rules 34 and 35 of the Board's Rules, which require that the moving party provide copies of the motion to all other parties 10 days before the Board hears the motion.)
12. A party who provides a witness' written evidence to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Board at least 7 days before the hearing that the written evidence is not part of their record.
13. Documents may be delivered by personal delivery, facsimile or registered or certified mail, or otherwise as the Board may direct. The delivery of documents by fax shall be governed by the Board's Rules [26 - 31] on this subject. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.
14. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Board's Rules 61 to 65 apply to such requests.
15. The Order of Proceedings shall be as follows:

Appellant/Applicant
City of Toronto
South Hill Homeowners' Association Inc.
Participants
Appellant/Applicant (Reply).

16. At the commencement of the hearing, the Member shall schedule an evening session for Participants and members of the public to testify.
17. On or before **July 21, 2003**, each party shall provide copies of their visual evidence to all other parties. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
18. On or before **July 11, 2003**, each party shall provide to the other parties a list of the expert witnesses they intend to call and the order in which they will be called.

The Members are not seized.

So orders the Board.

SCHEDULE 1

LIST OF PARTIES

| | |
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| 468 Avenue Road Holdings Inc. Adam J. Brown Sherman, Brown, Dryer, Karol, Gold Lebow 5075 Yonge Street, Suite 900 North York, ON M2N 6C6 | T: (416) 222-0344 adam@shermanbrown.com |
| South Hill Homeowners' Association Inc. Kim M. Kovar Aird & Berlis BCE Place Suite 1800 181 Bay Street Toronto, ON M5J 2T9 | T: (416) 863-1500 kkovar@airdberlis.com |
| City of Toronto William Hawryliw City of Toronto Metro Hall Legal Department 55 John Street, 23 rd Floor Toronto, ON M5V 3C6 | T: (416) 392-7237 whawryli@toronto.ca |

LIST OF PARTICIPANTS

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| Jennifer Baldachin 65 Lynwood Avenue Toronto, ON M4V 1K5 | T: (416) 944-9361 jbaldachin@sympatico.ca |
| Joyce Feinman Sasson and Saya Victor Feinman 85 Old Forest Hill Road Toronto, ON M5P 2R6 | T: (416) 481-1373 joycesasson@rogers.com |
| David Michael 6 Dominion Road Toronto, ON M8W 1J1 | |
| Nicholas S. Geilich & M. Jane Irvine 1C Lynwood Avenue Toronto, ON M4V 1K3 | T: (416) 921-8871 or geilich@rogers.com |
| Michael Levy, President Riva Glade Holdings Inc. 141 Adelaide St. West, Suite 1601 Toronto, ON M5H 3L5 | |

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| First Unitarian Congregation 175 St. Clair Avenue West Toronto, ON M4V 1P7 | Attn: Gillian Burton/Paul Levay gillianburton@sympatico.ca plevay@rogers.com |
| Eric Stevenson, President Foxbar Neighbourhood Association Suite 1905, 120 Adelaide St. West Toronto, ON M4V 2G6 | T: (416) 364-2404 F: (416) 364-0793 |
| Barbara Cooper 195 St. Clair Avenue West, Apt. 102 Toronto, ON M4V 1P7 | T: (416) 485-5787 |
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| William E. Black 2 Lynwood Ave., Apt. 602 Toronto, ON M4V 1K2 | T: (416) 223-8669 |
| M. Tauber 2 Lynwood Ave., Apt. 503 Toronto, ON M4V 1K2 | T: (416) 968-0807 |
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| Virginia Johnson 3 Lynwood Ave. Toronto, ON M4V 1K3 | T: (416) 944-2123 |

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| Elaine Peritz 71 Lynwood Avenue Toronto, ON M4V 1K5 | T: (416) 929-6323 eperitz@bellnet.ca |
| Judith Hinchman North Hill District Home Owners' Association P.O. Box 38025 550 Eglinton Ave. West Toronto, ON M5N 3A8 | T: (416) 322-5789 judith5789@rogers.com |
| Barbara Young Arrowsmith School 245 St. Clair Avenue West Toronto, ON M4V 1R3 | T: (416) 963-4962 F: (416) 963-5017 |
| Michael Visser Oriole Park Association 83 Braemar Avenue Toronto, ON M5P 2L3 | T: (416) 536-7718 mv@michaelvisser.com |
| John McGinnis President Deer Park Ratepayers' Group Inc. 16 Wilberton Road Toronto, ON M4V 1Z3 | T: (416) 486-4185 mcginnisatpanacme@sympatico.ca |
| Federation of North Toronto Residents Associations c/o George Milbrandt, Co-Chair 193 Wanless Avenue Toronto, ON L4N 1W4 | |

SCHEDULE 2

ISSUES LIST

1. Is the proposed development appropriate and does it conform to the relevant Metropolitan Official Plan and Toronto Official Plan policies applicable to the site and in particular to:
 - i. proposed massing in relation to setback, height and density objectives;
 - ii. views and vistas objectives;
 - iii. sunlight objectives including shadow impacts;
 - iv. relationship to neighbouring development and impacts on character of area;
 - v. public (vehicular and pedestrian) safety and convenience;
 - vi. parking, servicing and traffic circulation objectives;
 - vii. wind and pedestrian comfort objectives;
 - viii. adequacy of municipal services including road capacity;
 - ix. infill and intensification policies;
 - x. the hierarchy of centres, corridors, etc.; and
 - xi. residential amenity objectives including light, views and privacy?
2. Is the development proposal consistent with the objectives of the new Official Plan for the City of Toronto?
3. Is the level of intensification appropriate relative to the size, configuration and location of the site?
4. Is the proposed development a proper candidate for increased density and height considerations pursuant to Section 37 of the *Planning Act* and if so what public benefits would be appropriate?
5. Are the proposed zoning performance standards appropriate?
6. Will the proposed height, density, massing and site layout negatively impact on the pattern of development in the area, including the low density residential neighbourhood, the apartment neighbourhood and the transition from the Yonge-St. Clair Centre?
7. Does the design currently proposed which creates a three and six story structure that closely abuts the east wall of First Unitarian Congregation's structure, lead to additional adverse effects on the building and the congregation's use and enjoyment of the building.
8. Is the proposed development consistent with considerations as enunciated in the City's established Urban Design Handbook?

9. Does the proposed development address appropriate Site Plan considerations including:
 - i. massing, setbacks, height;
 - ii. parking facilities and arrangements;
 - iii. loading and servicing facilities and arrangements;
 - iv. on-site amenity space and recreation facilities;
 - v. landscaping and screening;
 - vi. ingress/egress of traffic including traffic flows along Avenue Road and St. Clair Avenue;
 - vii. pedestrian safety;
 - viii. shadow impacts;
 - ix. view corridors;
 - x. wind and pedestrian comfort; and
 - xi. noise and air quality impacts?