

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: February 20, 2015

CASE NO(S): PL140260

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Julie (Nini) Cohen
Appellant: Siobhan Devlin
Appellant: Jerzy Jurewicz
Appellant: Amelia Mendonca
Appellant: Alan Nymark
Subject: By-law No. D02-02-13-0070
Municipality: City of Ottawa
OMB Case No.: PL140260
OMB File No.: PL140260

Heard: January 13, 2015 in Ottawa, Ontario

APPEARANCES:

Parties

Counsel

2200619 Ontario Inc.

J. Bradley

City of Ottawa

T. Marc

A. Mendonca, J. Cohen, R. Leclaire

R. Leclaire

J. Jurewicz

Self-represented

S. Devlin

Self-represented

A. Nymark

Self-represented

DECISION DELIVERED BY M.C. DENHEZ AND ORDER OF THE BOARD

INTRODUCTION

[1] This dispute arose when the City of Ottawa ("the City") agreed with 2200619

Ontario Inc. ("the developer") to zone for an apartment project on an irregularly-shaped lot.

[2] The Council-adopted changes would not affect the use (the zoning already allowed apartments), but would affect height, setbacks, and parking. Neighbours complained of overbuilding, in terms of both height and footprint. "They're stuffing this property like a bratwurst." The neighbours appealed the rezoning to the Ontario Municipal Board ("the Board").

[3] At the hearing, the City and the developer defended the new By-law. The City was represented by counsel, with the support of planner Kersten Nitsche. The developer, also represented by counsel, had the support of planner Brian Casagrande and the current project architect, Anthony Bruni.

[4] Two appellants, Amelia Mendonca and Julie (Nini) Cohen, were represented by Ms. Cohen's lawyer husband, Roger Leclaire, also an appellant. The other appellants (Siobhan Devlin, Alan Nymark, and architect Jerzy Jurewicz) were self-represented, with the support of John Dance, President of the Old Ottawa East Community Association. The Board refers to the appellants collectively as "the neighbours". The Board also heard from participant Paulette Martel, who supported the project.

[5] The Board has carefully considered all the evidence, and the submissions of both sides. The Board makes four main findings. First, it concludes that the Board will not intervene in non-contentious parts of the zoning, notably the parking. Second, it will not intervene in the proposed four-storey height, because the latter does not digress significantly from the overall planning vision for the area.

[6] On the third point, the Board finds that the proposed west side of the project would be overbuilt, with negative consequences in terms of blank walls and restricted sideyards, inconsistent with the planning documents. The Board applies a west setback of 1.5 metres ("m").

[7] Finally, the Board will not intervene in the setback on the northeast side. The details

and reasons for the above findings are set out below.

THE PROPERTY

[8] The subject property is at 99 Greenfield Avenue, described as an arterial road by the City's Official Plan ("OP"). It is at the corner with Concord Street North ("Concord").

[9] There was much discussion of the site's arrowhead shape. There are two long sides, meeting at a northern point, and two short sides at the south. The two long sides are:

- The west side facing Kings Landing Private (a private road accessing Kings Landing, the abutting complex of 60 townhouses). That road is 9 m wide, similar to the travelled portion of a conventional street. Across Kings Landing Private is the unit of the appellant, Ms. Devlin, with windows facing the site. Her unit is set back 1.5 m from Kings Landing Private.
- The northeast side of this arrowhead abuts the property of another Kings Landing resident, the appellant Mr. Jurewicz.

[10] The two shorter sides are at the south and southeast:

- to the south is Concord Street.
- To the southeast is Greenfield Avenue. Since this is the shortest side, it is technically called the "front" of the lot (though the project's door and garage entrance would face Concord on the south side). There is a shallow angle where the Greenfield side meets the Concord side. The frontage along this stretch of Greenfield was less than the minimum frontage specified in the pre-existing zoning. In front of this frontage, a large City-owned sight triangle occupies the corner of Greenfield and Concord.

[11] In short, the project would be plainly visible (to a passerby) from three sides:

- Greenfield Avenue, along the southeast side,
- Concord Street, along the south side,
- and Kings Landing Private, along the west side.

[12] The area is relatively central. The upscale Kings Landing complex faces the Rideau Canal to the west, and is only one block from the University of Ottawa. It is at the northernmost tip of a neighbourhood called Old Ottawa East. The area is governed by the City's OP, and by the Old Ottawa East Secondary Plan ("Secondary Plan"). Like Kings Landing, the site is zoned R4M, but is abutted by two other zones, R4S to the south, and R4T to the southeast; the three zones converge at the intersection.

[13] Kings Landing is a 1990's Planned Unit Development north of the corner. It abuts both the northeast and west sides of the site. It comprises some sixty units, in a flat-roofed but neo-traditional style of townhouses, characterized by red brick and bay windows. Most units have three storeys, including those of Mr. Jurewicz, Ms. Devlin, and Mr. Nymark; but the northernmost units back onto Greenfield Avenue, with a walkout arrangement on the Greenfield side, giving them the appearance (from Greenfield) of four storeys.

[14] The subject property was not included in the Kings Landing development, apparently because this site at the corner was already occupied by an older two-storey farmhouse-type building, used by a branch of the Royal Canadian Legion. At that time, the lot measured some 348 square metres ("m²"). Its "driveway" was actually City property (a road allowance for a would-be "Redmond Place"). Eventually, both the Legion property and Redmond Place were acquired by the developer, to produce a lot with a combined area of 464.8 m².

[15] King's Landing and the subject property are zoned "R4M", which would usually allow four-storey apartment buildings – if the lot were about 75 m² larger. The City's

Comprehensive Zoning By-law No. 2008-250 says four-storey apartment structures in this zone must have lots measuring at least 540 m².

[16] This is in contrast to the R4S zone across Concord, and the R4T zone across Greenfield Avenue. Both of those zones permit four-storey apartment buildings on lots measuring a minimum of 450 m², i.e. smaller than the subject property. The City's planner was able to offer no historical policy rationale for the different treatment in the three zones.

[17] Townhouses were recently built on the corner diagonally across from the subject property, at 3½ storeys.

THE PROJECT

General

[18] The developer's architectural firm proposed a four-storey, eight-unit apartment building, of "contemporary" design. The Board was told it should not be a "fabric" building (i.e. one that blended into the backdrop), but rather "an inflection in the fabric of the urban environment." "The building should be unique in its form and in its expression. The building should respond to that in a unique way."

[19] The project would have five sides – to the south, west, north, northeast, and southeast. It would also have a rooftop terrace.

[20] The various façades would be checkered with three different materials: red brick, white cement board ("a nice clean Modern product"), and metal sheeting. A previous project architect was said to have told neighbours to expect large expanses of black corrugated metal, but now the Board was told that this sheeting would be neither corrugated nor black.

[21] The west side had originally had some mature trees at each end, but the developer had removed them or was about to. As for another mature tree at the northeast corner,

and other landscaping, the developer's planner insisted that, as a normal part of the Site Plan process, the developer would retain an arborist "to guide in the preservation of trees."

The South Side

[22] As mentioned, the front door and garage entrance would be on the south side, facing Concord. No changes to zoning setbacks were proposed on this side. However, Ms. Devlin expressed concern that south-facing balconies would also have lateral (westward) sightlines, directly toward her property (and she expressed the same concern about the rooftop terrace).

The West Side

[23] On the west side, there would be a windowless three-storey projection or bump-out, modestly cantilevered above grade, facing the entrance to Kings Landing Private. This large expanse would be finished in metal sheeting, for a "nice horizontal line", with a "very clean nice look."

[24] The original Planning Justification Report, filed by the developer's planning firm, had described that west side (twice) as the "rear yard" (on the apparent premise that it was opposite the short "front" side along Greenfield Avenue). The Comprehensive Zoning By-law usually requires a rear setback of 7.5 m, though in certain cases it could be reduced (e.g. to 4.5 m). Here, however, the developer's planners and City staff later came to the view that the real "rear yard" was not there, but rather in a small triangle at the northernmost tip of the arrowhead. They concluded that the west side was (by default) only a sideyard.

[25] The normal zoning requirement for a sideyard depends on the height of the building:

- the required setback for a four-storey building is 2.5 m, flaring to 6 m at the point where the side wall exceeds 21 m in length;

- the sideyard requirement is 1.5 m in the case of a three-storey building.

[26] Here, the proposed west setback *at grade* would be smaller, i.e. uniformly 1.2 m, while the setback of the cantilevered projection would be smaller still, at 0.61 m. The Board will return to this "rear yard" debate later.

[27] The developer's exhibits illustrated this remaining "sideyard" in green. However, it became clear at the hearing that it would not actually be very green: it was instead intended to accommodate a walk, leading from one of the building's exits.

[28] Parenthetically, the developer also proposed a fence on the west side – located one metre onto Kings Landing property. The project architect insisted that it had been knowingly proposed in good faith – not because it would give the new building an extra metre of space, but because it would be "decorative."

The North Side

[29] This would be the shortest side of the building, facing the northern tip of the arrowhead. It elicited relatively little comment.

The Northeast Side

[30] On the northeast side, the setback would also be reduced along the property line of the appellant Mr. Jurewicz. As mentioned, the zoning usually requires a setback of 2.5 m, flaring to 6 m at the point where the sidewall exceeds 21 m in length. Here, the proposed setback was uniformly 1.52 m. Again, that 1.52 m had been illustrated in green, but was actually intended to accommodate another walk from a building exit.

The Southeast ("Front") Side

[31] The southeast façade, facing Greenfield Avenue and the sight triangle, would have an asymmetrical window profile, but would not be "as playful and dynamic" as the Concord

façade. The Board was also told that the developer and the City intended the developer to undertake landscaping and ongoing maintenance for the sight triangle, under an anticipated Site Plan Agreement.

[32] That southeast side would also have balconies. Although those balconies faced the sight triangle, Mr. Jurewicz expressed concern that they would have oblique sightlines northward toward his amenity space.

Rezoning

[33] This project would require some fifteen modifications to R4M performance standards. The developer sought site-specific rezoning accordingly. Over the objections of the local Ward Councillor, a majority of Council agreed, and adopted Zoning By-law No. 2014-56. The main effects were:

- To permit a four-storey apartment building (14.4 m in height), despite a lot size under 540 m² (464 m²).
- To reduce or remove the setback on the southeast side, facing Greenfield Avenue and the sight triangle, from 3 m to 0.71 m at grade, and to allow front balconies to project all the way to the property line.
- To reduce the frontage requirement at the "front".
- To reduce the setback on the northeast side, abutting Mr. Jurewicz's property, from 2.5 m to 1.52 m.
- To reduce the west setback, along Kings Landing Private, to 0.61 m (which the neighbours said should normally have been a "rear yard" measuring 7.5 m).
- To reduce the overall requirement for "landscaped open space" (which could still include hard surfaces) from 30% to 25.8%, and to eliminate the requirement that

corner sideyards be “softscaped”.

- To change driveway requirements and parking arrangements for vehicles and bicycles.

[34] At the Board hearing, there was essentially no dispute concerning the proposed reduction in setback on the southeast side facing Greenfield Avenue. Debate focused on the west and northeast setbacks.

[35] The Board heard no evidence disputing the proposed arrangements for parking and the driveway, nor the proposed reduction in corner “softscaping.”

[36] The developer's planner concluded that this project should proceed. The Board was told, more than once, that it was an intensification, supported by Provincial policy and the OP. "This is a site that demands extra density."

[37] Indeed, he said the spacing between buildings was already too large. Unless sideyards were reduced, he said, the project would "fail to meet the objectives of the OP."

[38] The Board's attention was drawn to the following opinion in the Planning Justification Report, which said this project would produce no “undue adverse impact”:

Impacts are mitigated through the placement of the existing building relative to the interior lot line and the rear to front yard relationship (the rear yard of the proposed development interfaces with the front yard of the existing dwelling) where the neighbours rear amenity area is not impacted through additional sunshadowing or overlook due to the buildings proximity to shared property lines.

[39] The developer's planning witness added that the correct test for the project was whether it had any undue adverse impact. "There is no adverse impact whatever." The architects, he said, understood infill projects, and had designed a project that fit. "They get it." He added that "the development profoundly complies with the (City's) Infill Design Guidelines."

[40] In response to the neighbours' argument (particularly from Ms. Devlin) that the

proposed balconies and rooftop terrace encroached on their privacy, this planner replied that Ms. Devlin could address her apprehensions, about sightlines to her own roof terrace, by installing planters. "A potted plant could probably achieve the desired level of comfort."

[41] At the hearing, counsel for the City and the developer advised that there were editorial changes to be made to the new By-law, to reflect the proposal more accurately. Those changes did not modify the proposal or the debate.

THE NEIGHBOURS

[42] With degrees in architecture and planning, Mr. Jurewicz was fluent in the Zoning By-law and various OP provisions. The other neighbours had also come prepared. They said the project was exaggerated in both height and footprint.

[43] Mr. Jurewicz pointed to the abutting Kings Landing, which is predominantly three storeys. He concluded that the project was out of character with its surroundings, contrary to the OP.

[44] He added that, although rooftop projections are permitted under the Comprehensive Zoning By-law, even these were exaggerated.

[45] Mr. Jurewicz, Ms. Devlin and Mr. Leclaire emphasized building height, but added that if the project were reduced by a storey, they were prepared to make compromises on the subject of footprint. Mr. Jurewicz, for example, maintained that the west side was rightfully the project's "rear yard", which would normally measure 7.5 m – but that he would accept 3.75 m, if the fourth storey were removed. He would similarly accept the proposed reduction in setback along the northwest side, abutting his own property, from 2.5 m to 1.52 m, on condition that the fourth storey be removed. However, if that condition were unfulfilled, then his opposition to the new setbacks would remain. Ms. Devlin and Mr. Leclaire took similar positions.

[46] Mr. Nymark approached the discussion slightly differently, focusing primarily on the

west side. Though he agreed with the other neighbours about height, he placed particular emphasis on the windowless metal projection facing Kings Landing Private.

[47] The developer's architect had said the west wall would have large windowless expanses because of the Ontario Building Code ("OBC"). The OBC does not normally permit windows at less than 1.2 m from the property line. Though exceptions are permitted when neighbours sign a Limiting Distance Agreement, there was no expectation of any such Agreement here. It follows that, at a distance of only 0.61 m from the property line, the metal projection would not be allowed to have windows.

[48] As mentioned, there was much discussion of the pre-existing status of the west yard. Both the initial Planning Justification Report and the neighbours said it had been a "rear yard." Mr. Jurewicz pointed to the Comprehensive Zoning By-law, which defined "rear yard" as the yard along the "rear lot line", which in turn was defined as "furthest from and opposite the front lot line." Since it was undisputed that the short Greenfield side on the southeast was the "front", he reasoned that the west side – furthest from and opposite the front lot line – was therefore the "rear."

[49] The City countered that, according to Schedule 15 of the Comprehensive Zoning By-law, entitled "Determining Yard Location on Irregularly Shaped Lots", the "rear yard" of a triangular lot would be at the point of the triangle. Although that Schedule did not discuss arrowhead-shaped lots, the City analogized that the "rear yard" would be at the very tip of the arrowhead.

APPLICABLE CRITERIA

[50] A challenge to such a By-law may involve several factors, notably whether it complies with the *Planning Act* (the "Act"), the Provincial Policy Statement ("PPS"), the applicable Official Plan(s), and the fundamentals of good planning. In the course of that assessment, the Act specifies that the Board must "have regard" not only for Council's decision, but also the "supporting information and material" on which it was based.

[51] Project proponents reminded the Board, several times, that the PPS and OP support intensification, e.g. the OP provisions "promoting opportunities for intensification." The neighbours, for their part, pointed to OP Policy 2.5.1, on "compatibility", meaning a project which:

enhances an established community and coexists with existing development without causing undue adverse impact on surrounding properties. It "fits well" with its physical context and "works well" among those functions that surround it.

[52] OP Policy 4.11 and the OP Annexes go on to describe those compatibility factors in detail. The Secondary Plan also specifies that its policy is to "maintain the general character of these neighbourhoods." The neighbours argued that those policies were being undermined.

ANALYSIS

Introduction and Non-Contentious Items

[53] The Act vests municipal councils with the authority to amend zoning by-laws. However, the Act also directs that such decisions be within certain parameters established by the Province and the OP to favour good planning. Here, the appellant neighbours essentially argued that "the lot size can't support the extent of development."

[54] To be clear,

- No one argued about setbacks on the south side, facing Concord , because the street setbacks there already complied with the zoning.
- Though the southeast side facing Greenfield Avenue would undergo a dramatic reduction in street setback (bringing parts of the building essentially to the property line), this elicited no objection from the neighbours either. There was apparent agreement with the observation, by the developer's planner, that visually, the City-owned sight triangle *looked* like a kind of front yard; and

assuming that it were kept in attractive landscaped condition (as promised under an anticipated Site Plan Agreement), then it would function much like a front yard. The Board finds no reason to disagree.

[55] Certain other aspects of the rezoning, such as the Greenfield frontage, the driveway, and parking for vehicles and bicycles, were also undisputed. The Board finds no reason to disagree with those aspects of the rezoning either.

[56] Other ideas were also relatively uncontroversial. For example, the developer said it could improve the privacy aspects of its balconies and rooftop terrace. This would involve further screening and "pulling the (adjoining) walls forward", in order to "hide even more of the balcony", and "provide full visual privacy."

[57] On another front, the Board was told that the façade materials of the west side bump-out were negotiable, and that "if we do move forward to the Site Plan process, you (the neighbours) will be able to get involved." However, there were no details about what involvement was being offered.

[58] The neighbours acknowledged that improvements had been suggested at the hearing, but called them "lipstick on a pig."

[59] The Board responds as follows. First, this decision is not the place for the Board to comment on the aesthetics of this project. The Board withholds any observations on the merits of checkerboard façades, metallic projections (corrugated or otherwise), tree removal, or how "playful" or "dynamic" the design is. It is, however, in the Board's mandate to make findings about "fit", if the OP so instructs. In Ottawa's case, it does, notably at Policies 2.5.1 and 4.11.

[60] As for the repeated references to intensification, the Board acknowledges that it is fashionable, in some circles, to presume that intensification takes priority over all other planning principles. At one Board hearing, a supposed expert testified that "this is an intensification, so the Provincial interest has been addressed." In other appeals,

comparable opinions have been expressed about municipal official plans. They are incorrect.

[61] As important as intensification may be, it does not operate to the exclusion of all other stated policies, including the PPS policy “encouraging a sense of place, by promoting well-designed built form... and by conserving features that help define character.” Indeed, the PPS itself emphasizes “the need to read the Provincial Policy Statement as a whole.” Intensification does not reduce other Provincial and OP priorities to insignificance. Some of those factors are addressed below.

Height

[62] Though the neighbours argued eloquently that four storeys would be out of character with the regulatory vision for this area, the Board was not convinced:

- The OP clearly specifies that the height limit here, at the subject property and surrounding area, is four storeys, not three.
- The OP adds that it favours density along arterial roads. This site is at the corner of an arterial road – with a 3½ storey building already right across the street.
- The Board finds that the incremental shadow implications, of four storeys versus three, were inconclusive.
- There are parts of the Kings Landing development itself, north of the subject property, which plainly look (from Greenfield Avenue) like four storeys.

[63] The Board found no compelling evidence that the planning framework directed a different outcome than the height approved by Council. Indeed, if this lot had been mirrored across Concord to the south, four storeys would be buildable as of right, under the R4S zoning there. Similarly, if the lot had been mirrored across Greenfield Avenue to the southeast, four storeys could similarly be built as of right, under its R4T zoning.

[64] As for the argument that the proposed height was a threat to privacy, the Board was not shown how the proposed distances between buildings, and the sightlines from one to another, were significantly different from those which commonly prevail elsewhere in the central areas of Ottawa or other Ontario cities.

[65] In short, the neighbours did not persuade the Board that the proposed four-storey height was out of keeping with the planning vision for the area, such that it warranted Board intervention in Council's decision.

The West Side

[66] When the developer's planning firm filed its Planning Justification Report, it identified the west setback along Kings Landing Private as the lot's "rear yard." That topic elicited considerable debate. The developer expressed willingness to change the west wall's materials, but not its location. This would have several consequences, including the OBC requirement that the wall remain windowless.

[67] The Board finds the proposed west setback inappropriate, for several different reasons.

[68] It is not because of the arguments over whether that setback was properly a "rear" yard or a "side" yard. In the Board's view, that debate is largely moot. The pre-existing technical status of that space – under a previous by-law which Council is now trying to supersede – is less important than the applicable principles emanating from the governing documents and good planning.

[69] The real issue is whether the proposed footprint there represents overbuilding. According to the pre-existing zoning, even a sideyard arrangement would require at least 1.5 m for a three-storey building, and 2.5 m for four-storey one.

[70] On one hand, the Board has little difficulty in agreeing to a setback reduction, to under 2.5 m:

- Unlike the rear yard for townhouses, the Board heard no compelling evidence that the apartments here needed this area for exterior amenity space.
- This space's closest counterpart, namely Ms. Devlin's side setback immediately across Kings Landing Private., is 1.5 m.
- For that matter, if the pre-existing zoning had already deemed 1.5 m setbacks appropriate for three-storey buildings, the Board heard no compelling argument that it would be functionally inappropriate for four-storey ones.

[71] The proposal here, however, is for a setback that is smaller still. The proposed west setback would be 1.2 m at grade, and 0.61 m for the cantilevered projection.

[72] As mentioned, this is so tight to the property line that the OBC compels the wall to be windowless. The proposed outcome here would be comparable to a large blank wall at a street corner. The fact that title to Kings Landing Private is in the hands of joint tenants, rather than the City, makes the site no less visible to the public realm.

[73] The Board was advised of no other substantial blank walls anywhere in the area. Large blank walls, in plain public sight, are not normally supported by the OP.

[74] This is the direct result of building so snug to the property line. For that matter, it is not every day that project proponents knowingly propose fences fully one metre into neighbouring property: as a general rule, when a developer plans for space separating its project from a proposed fence, that space is on its *own* property.

[75] Parenthetically, the Board was shown no evidence that the above two aspects of the project were brought to Council's attention.

[76] The Board is compelled to find that the proposed development, on the west side, is

indeed exaggerated. It does not "enhance the community" or the streetscape. It is not what the OP anticipated.

[77] There is another factor, relating to the proposed greening of the walkway area. The developer's experts said the developer could not only make the walkways more porous; it could also "provide greenery in the leftover space", notably along the west property line. "That would be a good suggestion – we will sit down with Mr. Nymark and discuss what can be done." However, there was essentially no evidence indicating *where*, on the developer's property, there would even be room to plant, in the almost non-existent space beside the walk. The only way that this offer could be meaningful would be to provide the space necessary.

[78] Yet another consideration is that, on the opposite side of the building, the developer itself proposed a setback of 1.52 m. The Board heard no compelling reason why about 1½ m would be appropriate on one side, whereas the other side would have a figure less than half that.

[79] In the opposite direction, on the other side of Kings Landing Private at Ms. Devlin's property, the setback is also 1½ m. The Board was again shown no compelling reason why, for the sake of symmetry, it should be any different here.

[80] For all the above reasons, the Board concludes that it would be more consistent – with the planning principles and the immediate environs – to apply a setback of 1.5 m.

The Northeast Side

[81] The above describes the Board's reasons for applying a 1.5 m setback to the west side of the building. For the same reasons, it will not intervene in the rezoning for the northeast side, which is at essentially the same figure of 1.52 m.

CONCLUSION

[82] The Board has reviewed the rezoning By-law No. 2014-56:

- A number of aspects were non-contentious, notably the "front" of the project along Greenfield Avenue, and the arrangements for the driveway and parking. The Board does not intervene.
- The Board will not intervene either in Council's decision pertaining to the proposed four-storey height. The Board finds no significant digressions from OP expectations.
- The Board finds the west setback inappropriate. The Board does not endorse the overbuilding there, and finds that the setback should be set at 1.5 m.
- The Board is not intervening in the 1.52 m setback on the northeast side.

[83] The Board is aware that the above finding, concerning the west side, will force a redesign of the project. The Board offers no comment on whether such a redesign would have been desirable anyway; however, the Board notes parenthetically that at the hearing, the project proponents offered to explore:

- changes to materials on the west side,
- extensions to walls next to balconies, to improve privacy;
- additional screening for the same purpose;
- arranging porous walkways to make them more "green";
- input from a professional arborist;

- insertion of greenery “in the leftover space” on the west and northeast sides; and
- "involvement" of neighbours at the Site Plan stage.

[84] The above are indeed matters that belong more appropriately to the Site Plan stage. Similarly, although "softscaping" is mentioned in the rezoning (a significant subject for runoff etc.), it is a subject which can also be addressed at the Site Plan stage. The Board therefore considers it unnecessary for all of those details to be enumerated in this zoning decision. The Board would nonetheless expect that, in the normal course, those undertakings would be honoured, particularly as they affect green buffers. It would also be the Board's expectation that the Site Plan process would address windows on the west side.

[85] The changes in the west setback will necessarily affect the calculation of overall open space. The Board authorizes the City to insert the exact figure in the resulting Zoning By-law.

ORDER

[86] The Board orders that:

1. The appeal against By-law No. 2014-56 of the City of Ottawa is allowed in part.
2. Subject to paragraph 3 below, Comprehensive Zoning By-law No. 2008-250 of the City of Ottawa is amended by Zoning By-law No. 2014-56, which is itself amended in accordance with "Attachment 1" hereto.
3. In By-law No. 2014-56's provision for "lot area to be landscaped", the Board authorizes the City to insert a figure of 25.8%, which the City will then adjust upward mathematically, specifically to incorporate the expansion of the west sideyard as provided herein.

4. In all other respects, the appeal is dismissed.

"M.C. Denhez"

M.C. DENHEZ
MEMBER

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario

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ATTACHMENT 1

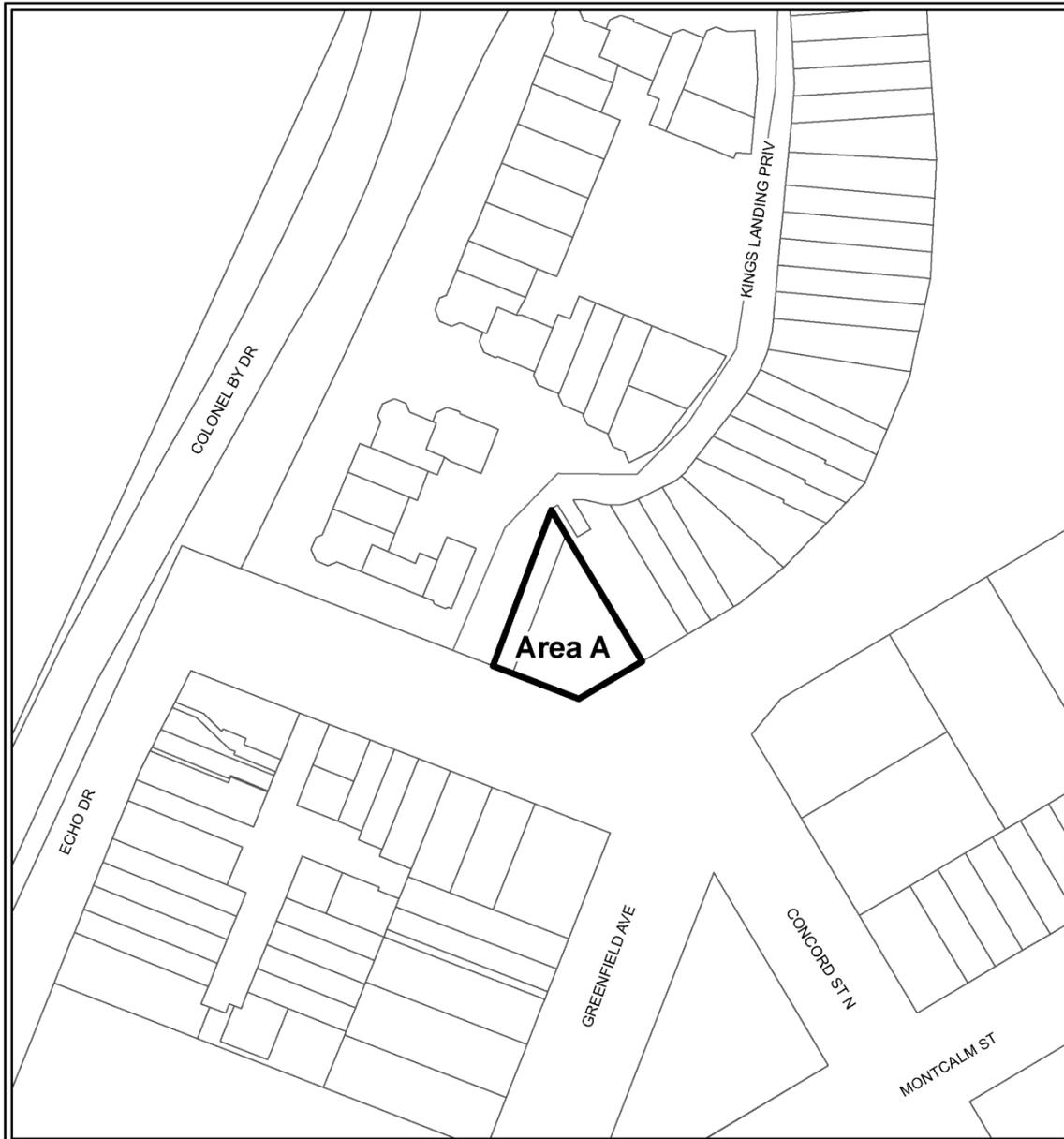
BY-LAW NO. 2014 - 56

A by-law of the City of Ottawa to amend By-law No. 2008-250 of the City of Ottawa to change the zoning of lands known municipally as 99 Greenfield Avenue.

1. The Zoning Map of By-law No. 2008-250, entitled the “City of Ottawa Zoning By-law” is amended by rezoning the lands shown as Area A on Attachment 1 to this by-law from R4M[838] S197 to R4M[2113].
2. Section 239 – Urban Exceptions of the said By-law No. 2008-250 is amended by adding the following exception:

I Exception Number	II Applicable Zone	Exception Provisions		
		III Additional Land Uses Permitted	IV Land Uses Prohibited	V Provisions
2113	R4M[2113]	- Office limited to a diplomatic mission		<ul style="list-style-type: none"> - minimum lot width: 14 m - minimum lot area: 464 m² - minimum front yard setback: 0.71m - minimum corner side yard setback: 0.32 m - minimum westerly interior side yard setback: 1.5 m - minimum easterly interior side yard setback: 1.52 m - minimum rear yard setback: 6 m - Balconies and staircases may project up to a lot line. - A double traffic lane driveway providing access to a parking garage may have a minimum width of 3.45 metres, which may be further reduced to 3.05 metres for a distance of 1 metre at the

				<p>entrance to the parking garage.</p> <ul style="list-style-type: none">- An aisle providing access to bicycle parking may be a minimum of 1 metre in width.- minimum parking space length: 5.1 m- A maximum of 50 per cent of the parking spaces may have a minimum width of 2.4 metres.- Despite Subsection 161(8), at least (X) per cent of the lot area must be landscaped (<i>see Order paragraph 3</i>).- Subsection 109(3)(c) does not apply and the corner side yard, other than areas occupied by a driveway or walkway with a maximum width of 2.6 metres, may be hard landscaped.- Table 137(1) (IV) does not apply.- Maximum of 3 spaces limited to diplomatic missions, with a cumulative total maximum gross floor area of 6,000 m² in a maximum of 3 buildings.- Where residential uses, other than diplomatic mission residential use building, are built in this zone, only 1 office limited to a diplomatic mission permitted, and only 1 building not exceeding 3,000 m² of gross floor area may be built to house that diplomatic mission.
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**Lands Affected Part of
 The Zoning Map
 of By-law No. 2008-250**

This is Attachment 1 to By-law Number 2014-56, passed February 12, 2014

Lands Affected by By-law

Area A to be rezoned from from R4M[838] S197 to R4M[2113]

041250071 Denotes Teranet-Polaris Parcel Identification Number

Échelle
 N.T.S.
 Mètres



Scale
 N.T.S.
 Metres