

Roman Catholic Episcopal Corporation for the Diocese of Toronto  
v. Scarborough (City)

IN THE MATTER OF Section 34 of the Planning Act, 1983

AND IN THE MATTER OF appeals by the Roman Catholic Episcopal Corporation for the Diocese of Toronto, the Trustees of The Scarborough Chinese Baptist Church, Bendale Bible Chapel, and others against Zoning By-Laws 22286 to 22345, inclusive, of the Corporation of the City of Scarborough

Ontario Municipal Board Decisions: [1989] O.M.B.D. No. 1478  
File No. R 880544

Ontario Municipal Board  
A.B. Ball, C.G. Charron  
August 30, 1989

COUNSEL:

C.J. Williams, for Corporation of the City of Scarborough.  
R. Arblaster, for Scarborough Chinese Baptist Church.  
A. Paton, for Kally's Restaurant Inc.  
P.D. Lauwers, for Roman Catholic Episcopal Corporation.  
R.D. Smith, for Sutter Hill Development.

DECISION OF THE BOARD delivered by C.G. CHARRON:--

Council for the City of Scarborough in 1985 directed planning staff to propose and to report on a zoning amendment to introduce city-wide parking standards and related regulations for commercial uses, services uses, places of worship, places of entertainment, recreation uses and warehouse uses. The amendment was also to standardize the definition of words and the regulations related to format and technical changes.

A public meeting was held on the 11th day of September, 1986 after due statutory notice had been given. In all there were some 11 public meetings held with Council and/or Planning Committee over a two year period at which the parking requirement by-laws were discussed, revised and amended. By-laws 22286 to 22345 all inclusive were finally passed by Council on the 22 day of August, 1988.

Thirteen notices of appeal against some or all of the 60 by-laws have been filed although four appeals were filed outside of the statutory appeal period. Wilmar Heights Baptist Church appeals against By-law 22312 for the Wexford Community.  
Parkway Bible Church appeals against By-law 22308 for the Maryvale Community. Bridlegrove Bible Chapel appeals against By-law 22300 for the L'Amoreaux Community and the Pentecostal Assemblies of Canada appeals on behalf of the Scarboro Gospel

Temple against By-law 22313 for the Woburn Community. All four churches have each asked through their agent to be a party to these proceedings. On the consent of all parties, Wilmar Heights Baptist Church, Parkway Bible Church, Bridlegrove Bible Chapel and the Pentecostal Assemblies of Canada on behalf of Scarboro Gospel Temple are accepted as party Appellants.

Giant Step Realty, the ground lessees of the Guild Inn lands, now owned by Metropolitan Toronto, through its solicitors requested party status at this hearing on the grounds that the new parking requirements sought by the City of Scarborough would severely restrict its development plans.

The City Solicitor objected to this motion on the grounds that Metropolitan Toronto, the landowners, consented to the new parking by-law. Further the lessee has to date given no details of any proposal for the leased lands development so that any relief sought at this time would be premature.

The Board agrees. The motion is denied.

Mr. I. Shachter agent for Mr. M. Brickman, one of the principals of Brickman Developers Limited of 1920 Ellesmere Road, seeks party status for his client at this hearing with respect to By-law 22327.

The City Solicitor objects to this motion being entertained on the grounds that neither a notice of appeal nor reasons for appealing have been filed within the statutory appeal period. Further Mr. Brickman's status as a landowner is unclear.

The Board agrees. The motion is denied.

Bendale Bible Chapel and Associated Gospel Churches with respect to By-law 22300 have abandoned their objections to the By-law. Bendale Bible Chapel however concurs with the objections made on behalf of the Bridlegrove Bible Chapel.

George Atkinson, agent for and on behalf of the Pentecostal Assemblies of Canada and Scarborough Gospel Temple has withdrawn the objection filed with respect to By-law 22313 for the Woburn Community as the church is expecting to relocate in the Tapscott Community which is subject to its own parking control By-law 22330. The church nevertheless concurs with the objections made on behalf of the Bridlegrove Bible Chapel.

The Parkway Bible Chapel objecting with respect to By-law 22303 for the Maryvale Community was neither specifically represented at the hearing nor was there any specific evidence adduced with reference to it. The Board accepts that this objection is abandoned. From its notice of appeal however the Board can deduce that the Parkway Bible Church concurs with the objections made by the agent for the Bridlegrove Bible Chapel.

The Roman Catholic Episcopal Corporation of the Diocese of Toronto through its solicitor withdraws its objections to By-laws 22286 to 22345 all inclusive. Notice of withdrawal is filed as Exhibit No. 37 to this hearing.

Mr. R.I. Smith, solicitor on behalf of Sutter Hill Development has withdrawn the objection filed with respect to By-law 22303. Notice of Withdrawal is filed as Exhibit No. 38 to this hearing.

On consent the objection to By-law 22301 brought by Sutter Hill Development is adjourned sine die to be brought on for hearing by the City of Scarborough if such hearing is required in the future.

By-law 22307, being a by-law to further amend By-law 10010 for the Scarborough Village Community is amended on the request of Sutter Hill development by deleting from Section 8(203) the words "recreational uses" and "places of worship".

On the request of Scarborough Chinese Baptist Church and Bridletowne Park Church, By-law 22300 a by-law which amends By-law 12466 for L'Amoreaux Community is amended by adding Section 15 thereto which is attached to this decision as Schedule A and is part of this decision.

On the request of Kally's Restaurant Inc. By-law 22313 which amends By-law 11986 for the Marshalling Yard Industrial District is amended by adding Section 15 thereto which is attached to this hearing as Schedule B and forms part of this decision.

Kally's Restaurant Inc. withdraws its objection to By-law 22323 with a proviso as to the date of the coming into force of the by-law as it affects existing development on site. The notice of withdrawal is filed as Exhibit No. 16 to this hearing.

To correct a typographical error By-law 22307 which amends By-law 10010 for the Scarborough Village Community the letters "opace"; found on page 4, in subsection 1.2.2 under some of requirements are replaced with the word "space".

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To correct a typographical error By-law 22328 which amends By-law 16175 for The Rouge Industrial District is corrected by replacing the words "exception 8 enacted by By-law 21390" found on page 7 in Section 12, with the words "exception 11 enacted by By-law 22029".

To comply with Council's direction, the Scarborough Planning Department conducted a detailed survey of the parking situation in the City during the years 1985-86. This survey was

divided into five categories: retail/services, office, restaurant, retail in industrial district and recreational/entertainment/other. Although place of worship use was not detailed as a specific category in the parking survey, the planners included such use in the commercial use category since place of worship use is a legal use within the commercial zoning by-law in each of the various planning communities in the city.

The parking by-laws before us have adopted a uniform standard of 7.7 parking spaces for each 100 square metres of gross floor area to apply to places of worship. This standard has been used by the City of Scarborough for the past eight years for determining the parking requirements in site specific applications. This standard represents one parking space for every four seating spaces in the church. It is the opinion of the City Planner that this standard is a good average approach but it does not meet all specific needs and as such is used as a base only subject to flexibility for specific sites and proposals. This new city wide standard is only applicable to new church development and neither affects the existing parking situation nor does it require that the existing parking space shortfall be made up in the event of expansion. Expansion merely requires sufficient parking space to satisfy the increase in the gross floor area. Exhibit No. 5 is a list of 15 locations of various places of worship in the City of Scarborough for which the parking space requirements were determined either by site-specific application or by variance. Eleven of these sites were approved at 7.7 parking spaces for each 100 square metres, the balances were approved at a lower rate. The 7.7 parking space for each 100 square metres as a standard for places of worship in the City of Scarborough has been previously accepted by this Board in the redetermination by the Ontario Municipal Board of its decision to approve the amendment to the Official Plan in accordance with directions of the Divisional Court on August 6, 1987.

The objections of the representatives of Wilmar Heights Baptist Church with respect to By-law 22312 and of Bridlegrove Bible Chapel with respect to By-law 22300 are similar and generally overlapping. The concerns are that the parking requirements are too restrictive, that they will obstruct or impede planned expansion, and that they are unfair to places of worship being included in the commercial use when they are in fact charities. There is a consensus that use of the gross floor area of the facility as an indication of parking needs should be revoked and that the peak time of use of the sanctuary should be recognized instead as the true indicator of parking needs for each specific place of worship. Further, the availability of on street parking, according to the objectors, should be acceptable and allowed.

There is no compelling evidence of a positive master plan of development for either of the objections of the objecting places of worship. There is a vague suggestion of future

expansion should financing allow and church membership warrant.

There is however no definitive plan to be acted upon within a determined time frame. The City's evidence has been that when a specific application for development is made the parking standard is sufficiently flexible for specific sites and proposals. As stated the standard proposal for place of worship has been in use in the City of Scarborough for some eight years on a site specific basis.

Using the gross floor area as an indicator of need for parking space according to the Planner, is the only practical and fair way of taxing the site's usage by the owner given that places of worship can and do change use patterns of their facility depending on their individual service to the community and depending on the intensity of such service. The Planner stated that it is not feasible for the City to constantly monitor every church site for every change of use or is it feasible or right for the City to dictate and control the Church's internal uses. The evidence indicated that with various groups and organizations within the church with meetings as well as daycare, with weddings and social functions and study groups the facility is occupied much more frequently than the few hours of religious services held on Sundays.

Exhibit No. 36 is the result of a survey taken of actual parking supply ratio and demand ratio at specific dates and times taken at 48 places of worship within the city. Exhibit No. 35 already referred to indicates that the proposed standard is approximately one half of the demand. The planning evidence is that on street parking is not deemed to be acceptable as the public streets were not designed for public parking and such parking as is presently permitted can be denied to all at any time. Whatever on-street parking is available is deemed by the Planning Committee to be a bonus.

The proposed standard creates no hardship to any existing place of worship and no existing facility is penalized since the standards are to apply only to new development. Specific development application on a site specific basis can and will be considered as said and modifications to the parking or other requirements can then be made at the time when there is a definite proposal from which the reasonable parking standards can be evaluated.

The uncontradicted professional planning opinion is that the proposed city wide standard for parking requirements for all land uses including places of worship is good planning and is more justly and fairly administered given that the standard is considered merely as a good average subject to flexibility to meet specific needs. The planning proposal in our opinion has merit and deserves an opportunity to be tested. In the event that the resulting experience proves unworkable and unjust with respect to places of worship then the bylaws can be amended or they can be replaced with a by-law dealing with places of worship only as has been done in other municipalities.

The appeals against By-laws 22312 and 22300 are dismissed.

In summary the Board's decision is as follows:

1. The objection of the Bendale Bible Church with respect to By-law 22300 is abandoned.
2. The objection Parkway Bible Chapel with respect to By-law 22303 is abandoned.
3. The objection of the Roman Catholic Episcopal Corporation for the Diocese of Toronto with respect to By-laws 22286 to 22345 all inclusive is withdrawn:
4. The objection of the Scarborough Gospel Chapel with respect to By-law 22313 is withdrawn.
5. The objection of Sutter Hill Development with respect to By-law 22303 is abandoned.
6. The objection of Sutter Hill Development with Respect to By-law 22301 is adjourned sine die.
7. The objection of Sutter Hill Development with respect to By-law 22307 is settled with the amendment to Section 8(203) thereto.
8. The objections of the Scarborough Chinese Baptist Church and Bridletown Park Church with respect to By-law 22300 are settled by amending the By-law by adding section 15 thereto with Schedule C Exception List (Schedule A to this decision).
9. The objection of Kally's Restaurant Inc. with respect to By-law 22323 is settled by the amending of the By-law by adding Section 15 thereto (Schedule B to this decision).
10. By-law 22317 is amended to correct a typographical error.
11. By-law 22328 is amended to correct a typographical error.
12. The objection of Wilmar Heights Baptist Church with respect to By-law 22312 is dismissed.
13. The objection of Bridlegrove Bible Chapel with respect to By-law 22300 is dismissed.

[Ed. Note: for maps see paper copy]

A.B. BALL, Member

C.G. CHARRON, Member

SCHEDULE A

PROPOSED MODIFICATION - L'AMOREAUX  
COMMUNITY

SCARBOROUGH CHINESE BAPTIST CHURCH  
BRIDLETOWNE PARK CHURCH

By-law 22300, being a By-law to further amend By-law Number 12466, for the L'Amoreaux Community, is modified by adding the following Section 15.

15. Schedule "C", EXCEPTIONS LIST, is amended by adding Exceptions 86 and 87 as follows:

86. On those lands identified as Exception 86 on the attached sketch, the following provisions shall apply, provided, however, that all the other provisions of the By-law, not inconsistent with this Exception, shall continue to apply:

1. Notwithstanding, Clause VII, GENERAL PARKING REGULATIONS FOR ALL ZONES, a place of worship having

a gross floor area of up to 2782 m2 shall be permitted if the following conditions are met:

a) a minimum of 86 parking spaces shall be provided on the site.

b) Any floor area originally constructed after August 22, 1988, may not be used for any purpose other than Sunday-school classrooms, unless additional parking is provided for that area in accordance with the requirements contained in Clause VII, GENERAL PARKING REGULATIONS

FOR ALL  
ZONES.

2. If the gross floor area used as a place of worship exceeds 2782 m2, additional parking shall be provided for the gross floor area in excess of 2728 m2 in accordance with the requirements of Clause VII, GENERAL PARKING REGULATIONS FOR ALL ZONES.

87. On those lands identified as Exception 87 on the attached sketch, the following provisions shall apply, provided, however, that all the other provisions of the By-law, not inconsistent with this Exception, shall continue to apply:

1. Notwithstanding Clause VII, GENERAL PARKING REGULATIONS

FOR ALL ZONES, a place of worship with a gross floor area of up to 2583 m2 shall be permitted subject to the following condition:

- a minimum of 87 parking spaces shall be provided on

the site.

2. If the gross floor area used as a place of worship exceeds 2583 m2, additional parking shall be provided for the gross floor area in excess of 2583 m2 in accordance with the requirements of Clause VII, GENERAL PARKING REGULATIONS FOR ALL ZONES.

SCHEDULE B

TO THE DECISION OF THE ONTARIO MUNICIPAL  
BOARD

DATED THIS 30th DAY OF AUGUST, 1989

PROPOSED MODIFICATION - MARSHALLING YARD  
IND.DIST.

KALLY'S RESTAURANT

By-law 22323, being a By-law to further amend By-law Number 11986 for the Marshalling Yard Industrial District, is modified by adding the following Section 15:

15. Schedule "C", EXCEPTIONS LIST, is amended by adding the

following Exception 63:

63. On those lands identified on the attached sketch, the following provisions shall apply, provided, however, that all the other provisions of the By-law, not inconsistent with this Exception, shall continue to apply:

1. The parking requirements of this By-law shall apply collectively to the lands encompassed by this Exception, notwithstanding its division into two or more parcels.