



## Toronto Local Appeal Body

40 Orchard View Blvd, Suite 253  
Toronto, Ontario M4R 1B9

**Date:** 2023-06-05  
**File Number(s):** 21 250427 S45 14 TLAB  
**Citation:** 1299298 Ontario Ltd v. Toronto (City), 2023 ONTLAB 98

### DECISION AND ORDER

**Issuance Date:** June 5, 2023

PROCEEDING COMMENCED UNDER Section 53, subsection 53(19), Section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

**Appellant(s):** 1299298 ONTARIO LTD. (Soul Mutts Toronto Ltd)  
**Applicant(s):** C2 PLANNING LAND USE PLANNERS  
**Property Address:** 818 EASTERN AVE  
**COA File No.:** 21 161035 STE 14 MV (A0706/21TEY)  
**TLAB Case File No.:** 21 250427 S45 14 TLAB

**Hearing Date(s):** Jan 20, 24, 30, March 30, 31, May 3, 2023  
**Decision Delivered By:** TLAB Panel Member T. Yao

### REGISTERED PARTIES AND PARTICIPANTS:

|                             |   |
|-----------------------------|---|
| Applicant                   | C2 Planning Land Use Planners (C. Chan)   |
| Soulmutts Toronto Ltd.'s    | D. Koev (for both the Applicant and Appellant)  |
| Legal Representative        |   |
| Planner for Soulmutts       | C. Chan   |
| Toronto Ltd                 |   |
| Noise Witness for           | T. Busch  |
| Soulmutts Toronto Ltd       |   |
| Appellant                   | 1299298 Ontario Ltd (Soulmutts' landlord, who did not take an active part in the hearing) |
| Soulmutts representative    | A. Fodero   |
| Observer                    | J. Steinman   |
| Party                       | City of Toronto   |
| City of Toronto's legal     | A. Abimbola and J. Dexter   |
| Representatives             |   |
| Planner for City of Toronto | S. Guenther   |
| Noise Witness for City of   | T. Copeland   |
| Toronto                     |   |
| Party                       | T. Fagan  |
| Party                       | J. van Wyck (did not appear)  |

Participant  
Participant

L. Hancock  
N. Ngo (observed)

## INTRODUCTION AND CONTEXT

[1] Soulmutts seeks a variance for a “doggie daycare” and boarding use at 818 Eastern Ave, Unit 2. The City argues that this is not permitted, but this is true of any variance application. The City and some of Soulmutts’ neighbours wrote negative letters to the Committee of Adjustment and on December 1, 2021 the Committee refused Soulmutts’ application. Soulmutts appealed and so the application came to the TLAB.

## THE LEGISLATIVE AND POLICY FRAMEWORK

[2] The development must be consistent with the Provincial Policy Statement and conform to the Greater Golden Horseshoe Growth Plan. These documents must always be considered but they contain a high level of generality and may not have practical application in every case. Neither planner referred extensively to these documents, the City’s planner saying these documents were “not particularly relevant”. I agree that they do not offer guidance here.

[3] The variances must comply with s. 45(1) of the *Planning Act* and applicable case law and must cumulatively and individually:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- be desirable for the appropriate development or use of the land; and
- be minor.

### Right to develop

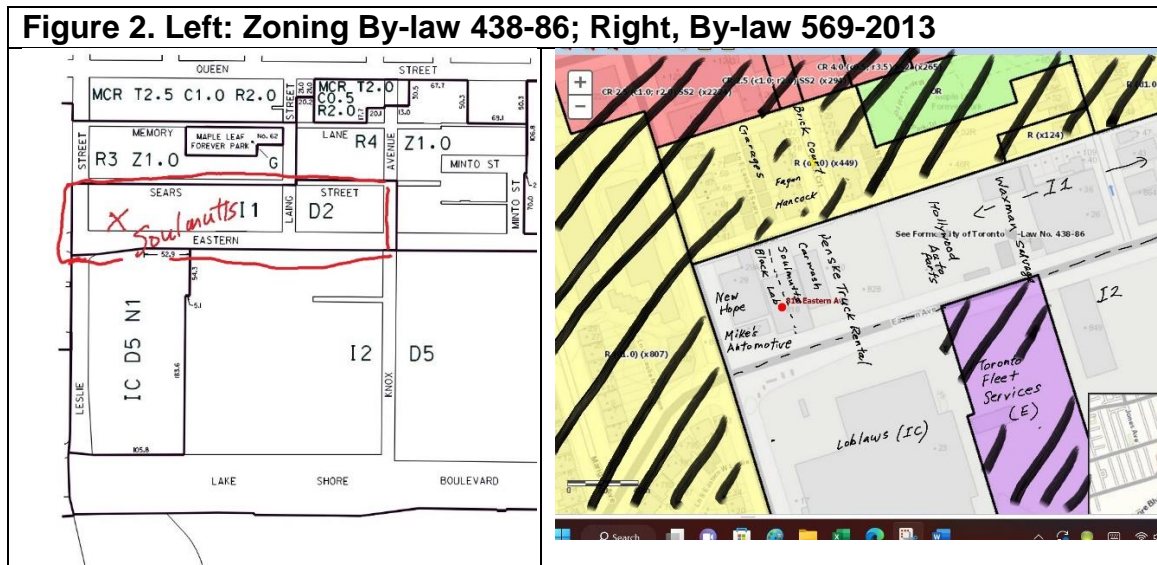
[4] The obligation is on Soulmutts to demonstrate to the decision-maker that the tests are met on the balance of probabilities; there is no right to a variance.

## EVIDENCE

[5] I heard from Ms. Fodero, Mr. Busch and Mr. Chan, testifying on behalf of Soulmutts and Mr. Guenther and Mr. Copeland testifying on behalf of the City. I qualified Messrs. Chan and Guenther as able to give opinion evidence in land use planning, and Messrs. Busch and Copeland as able to give opinion evidence in acoustical engineering (noise).

[6] Mr. Fagan and Mr. Hancock testified on their own behalves. Mr. van Wyck (a participant) did not appear at the hearing and Mr. Ngo (a party) observed some of the proceedings but did not seek to speak.

[7] I made a site visit. Although my views are not evidence, they give context to help me understand the testimony of the witnesses.



## ISSUES AND ANALYSIS

### Overview

[8] Soulmutts, a dog daycare provider, leased a former drycleaning shop in late 2020 and complaints of dogs barking soon followed, resulting in one conviction for excessive noise in early 2021. There have been no charges since. In late 2021, Soulmutts sought a variance, and nine letters of opposition were sent to the Committee of Adjustment based on those incidents. The City Planning Department (Mr. Guenther) also commented negatively, and the Committee refused Soulmutts' application.

[9] The premises are in an enclave of lands zoned under the former Toronto by-law passed in **1983** (By-law 438-86). The enclave is shown in the right box in Figure 1. Most of the rest of the City (covered with heavy lines in the same box) is zoned under the new zoning By-law 569-2013, passed in **2013**. The City argued that the later by-law should supersede whatever 438-86 said, even though 438-86 it is still on the books as the "legal" by-law. Mr. Guenther also notes 438-86 doesn't allow dog daycares in any event.

[10] The Official Plan designation adds another layer of complexity. It designates the block "Mixed Use Areas", a classification that is used for commercial-type areas.

- [11] Other dog daycare establishments are, for the most part, in commercial zones with a Mixed Use Area) designation, the same as Soulmutts’.
- [12] Soulmutts retained a noise expert who testified that an acoustical barrier would lower noise to an acceptable level. The City’s noise expert did not displace Soulmutts’ noise expert’s evidence.
- [13] On the basis of all the evidence and balancing various interests, I find the variance should be granted.

### **The site and Soulmutts’ renovations**

- [14] The premises are on the north side of Eastern Avenue; Soulmutts occupies the right half of a one-storey industrial-style building. The residents, who raised noise issues, live in townhouses on Brick Court, a short north-south street running north from Sears Lane. This divides their back yards from Soulmutts’ back yard, where there is a dog play area, used for periods during the day, mostly during weekdays. Only two of the residents appeared at the hearing to say they were currently affected, although more wrote to the Committee of Adjustment about past noise.
- [15] Soulmutts is largely a dog “daycare” provider, that is, it looks after dogs, mostly during the day, but sometimes overnight. Seventy-five percent of its business is self-drop off, on the way to work or on the way home. In the pet care trade, day-time minding is called “daycare”; overnight is called “boarding”. Mr. Guenther, the City’s planning witness, acknowledged that the planning department is studying other cities’ handling of this issue with a view to possibly recommending to Council changes to the zoning by-law and/or business licensing regimes.
- [16] Soulmutts also has a van that picks up and drops off dogs from their homes for half day clients. The dogs arrive in the morning around 10 AM and are transferred to the interior. Once they are inside, the dogs go to interior rooms. I do not find inside noise a current issue and this is confirmed by the report of Mr. Busch, Soulmutts’ acoustical expert. Interior noise was an issue for residents in the past, as will be discussed below.
- [17] Dogs are allowed to run outside for periods in the morning where they also defecate; staff are instructed to scoop droppings immediately and place them in garbage bins where they are removed through a private waste disposal company.
- [18] Soulmutts is aware of neighbour issues and has instituted dog handling measures to minimize barking. Ms. Fodero, the operator, wrote:

We generally limit the amount of dogs that are outside at any given time to approximately 6-10. This number will vary depending on the temperament of the dogs. For example, if there are a number of more senior dogs staying with us (they tend to be much more low energy and well-trained), then I may use my discretion to allow more dogs outside. A pack is typically only outside for 10-15 minutes, subject to the discretion of staff. For example, if the weather is bad, we may have dogs out for a shorter period of time. If a dog starts to bark they are brought inside immediately.

**Figure 2. Aerial photo of site and surrounding land uses (Chan oblique photo)**



She emphasized that outdoor play privileges have to be “earned”.

[19] This is Ms. Fodero’s fourth or fifth location. Her last place of business was at 39 Commissioners St, at the corner of Commissioners and Munition St, a two-storey building with heritage value.

[20] Ms. Fodero said #39 Commissioners was her “dream location”. It was a two-storey building with a residential house form, with a play area to one side next to a building occupied by Port of Toronto office workers. The City or an arm of the City expropriated her leasehold in the furtherance of the Port Lands’ revitalization.

[21] Soulmutts’ present site is located near the corner of Leslie and Eastern, sandwiched between the Black Lab Brewing on the left and a car wash /car detailing on the right. At the back of the car wash is a Submarine Sandwich shop. The building’s landlord owns both halves of the building, and her co-tenant, Black Lab was seen by Ms. Fordero as a “plus”.

[22] Black Lab's website shows happy people drinking, accompanied by their dogs. It is also used by patrons of Soulmutts who may have just picked up their dogs. According to Ms. Fodero, its patrons have never complained about either noise or smells, even though the pub's patio is separated from the play yard by only a wire fence with some opaque plastic netting.

[23] As well as Black Labs, the north side of Eastern Ave, contains industrial-type uses, beginning on the left, Mike's Garage, the Black Labs/Soulmutts building, then a car wash, Penske Truck Rental, and a large auto wrecking type business.<sup>1</sup> There is also a Salvation Army shelter, New Hope, north of Mike's Garage. All these lands except the garage abut Sears Lane. To the south is a big box store, Loblaws, and to the east of Loblaws, is the City Fleet services yard. The residents live in townhouses, half have Leslie St addresses and half have Brick Court addresses. In the interior of the complex is a north south lane servicing each homeowner's garage. For most, the rear garages shield the homes to some extent from noise coming from the south.

[24] Soulmutts moved into the premises in November 2020, more than a year before the Committee of Adjustment hearing. There were immediate complaints about barking dogs, and the City laid three charges under the Noise By-Law. Soulmutts pleaded guilty to one charge and was fined \$1,000. The other two charges were withdrawn pursuant to a plea bargain.

[25] The relevant timeline is follows:

|                 |   |
|-----------------|---|
| Approx Nov 2019 | Expropriation of 39 Commissioners leasehold                                       |
| Nov 2020        | Soulmutts enters into lease at 818 Eastern <sup>2</sup>                           |
| Nov – Feb 2021  | Interior renovations made by landlord.  |
| Feb-March 2021  | The Fagan household and others make noise complaints.                             |
| May 2021        | Soulmutts seeks a variance to operate dog daycare;                                |
| Dec 2021        | Committee of Adjustment refusal; Soulmutts appeals to the TLAB                    |
| April 2022      | TLAB sets hearing date of July 2022 (adjourned twice; ultimately to January 2023) |

[26] Ms. Fodero stated that when she took possession, Toronto was experiencing the height of the Covid pandemic. Soulmutts' initial clientele at the new location were existing customers, who migrated along with it to the Eastern Ave site. Most customers like all of us, either did not work, or worked from home or had to work at the jobsite because their work was deemed essential. Thus, at this pandemic time,

<sup>1</sup> See Figures 1 (right box) and 2 (aerial view)

<sup>2</sup> The unit is actually 826 Eastern; but it is difficult to change the internal TLAB reference address once a file is opened.



Soulmutts' clientele were mainly front line responders (e.g., nurses, firefighters etc.), and in Ms. Fodero's mind, her business was supportive of larger societal efforts to support workers needed to provide essential services.

[27] The physical unit was in a basic state when Soulmutts took over. The renovations required new flooring, plumbing, heating and air conditioning.

[28] A garage door at the rear had to be closed off. At present this door is sealed shut permanently. During construction, it was required to be open for delivery of construction materials, which meant the dogs' interior barking was open to the neighbourhood. In particular, there was at least one day when the door had to be open the entire day, exposing the neighbourhood to unfiltered indoor noise. This led to the guilty plea. Ms. Fodero said: "And for us, we had so much going on at that time, it didn't make any sense not to settle that out and move forward with our construction plans."

### **Jurisdiction to grant a new "use"**

[29] In final submissions, the City objected to the TLAB's jurisdiction to grant a "new use", that is, the TLAB member's right to even hear this case on the merits. At the end of the day, it asks for a finding the Soulmutts should apply to City Council to rezone its land. This is a far-reaching argument as the Committee of Adjustment and the TLAB have the same jurisdiction, and if I do not have authority, neither does the Committee. Since it is a high volume tribunal, I would have expected that there be standing instructions from staff to save parties from costly hearings that would have to be corrected by the Courts. As well, the applicant should be told of this at the outset; not after it has attended a long hearing, six days in this case.

[30] S. 45(1) of the Planning Act states that the Committee can grant a variance to the zoning by-law if the intent of the zoning by-law is maintained.<sup>3</sup> The zoning by-law explicitly states that one of its purposes is to regulate the use of land.<sup>4</sup>

[31] In support of its jurisdiction argument, the City submitted a recent TLAB case, *Urros Investments Inc v. Bergler Development Corp*<sup>5</sup> and in response, Soulmutts

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<sup>3</sup> 45 (1) The committee of adjustment, upon the application of the owner of any land, building or structure . . . the owner, may, . . . authorize such minor variance from the provisions of the [zoning] by-law, in respect of the land, building or structure or the **use** thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the committee the general intent and **purpose of the by-law** and of the official plan, if any, are maintained.

<sup>4</sup> The Purpose and Intent section of the Zoning By-Law 569-2013 reads: 1.5.2(1) This By-law regulates the **use** of land, the bulk, height, location, erection and use of buildings and structures, the provision of parking spaces, loading spaces . . .

<sup>5</sup> 110 Industry St, March 15, 2023 The operative part of that decision is," 53. Introducing a use which is not permitted by the terms of the by-law does not represent a variance. **It constitutes an amendment**

submitted the Divisional Court case of *Fred Doucette Holdings Ltd. v. Waterloo (City)*.<sup>6</sup> Since a Court case is binding on a lower tribunal and a tribunal decision of a TLAB member is not binding on other members<sup>7</sup>, I accept the Divisional Court's conclusions. The majority opinion said:

I conclude that in light of the terms of the official plan, the zoning by-law and the terms of the statutory power conferred upon the Committee, it cannot be said that the Committee exceeded its jurisdiction in finding this to be a "minor variance" within the meaning of the Planning Act. (Justice Sharpe, with Justice Southey concurring)

[32] The Court decided that the Committee of Adjustment has the jurisdiction to deal with a variance for a new use— which in the Doucette case was a grocery store specializing in meat, where the by-law permitted only a "factory outlet store", where meats for sale had to be processed on the premises.

[33] The case was by way of judicial review, that is, Doucette was asking for a specific ruling on jurisdiction. I acknowledge that in *Urros*, the TLAB member interpreted specific prohibitory language in the former City of York Zoning By-Law 1-83: "No outdoor storage is permitted", whereas in 438-86 and 569-2023, both Toronto By-laws, enumerated uses are "permitted". If a use isn't in the list of permitted uses, it is inferred not to be permitted. By-law 438-86 is silent about dog daycare, so the *Urros* case is distinguishable.

[34] Thus, I decline to refuse jurisdiction and will continue to address the issues on their merits.

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**to the by-law.** And if it goes beyond characterization as a variance, it cannot therefore be considered minor.

54. [discussion about *Convenience Store v Barrie* omitted]

56. Counsel for the Appellant acknowledges that this decision remains good law but tries to distinguish it on the basis of subsequent decisions such as *Fred Doucette Holdings Ltd. v. Waterloo (City)*,...leave to appeal to Ont. C.A. refused,...and various other decisions of the former Ontario Municipal Board, and *Re Kogan*,... of this Tribunal

<sup>6</sup> 1997 CanLII 16235 (ON SC). This case was brought by Doucette, who operated a conventional M and M Meat Stores in a commercial plaza. The variance seeker Meats Galore had opened a grocery store in an industrial area, contrary to the zoning which permitted only "factory outlet stores", that is selling meats that had been processed on the premises. Meats Galore did no processing.

There were two questions before the Court: whether there was jurisdiction to vary the zoning bylaw by allowing a new use [a non factory retail outlet] and second, whether this new use met the Planning Act tests. Both questions were answered with a "yes". Both the majority and dissenting judge relied in part on the decision *London (City) v. London (City) Committee of Adjustment* (1994), 30 O.M.B.R. 494 in which I allowed a vehicle repair garage to expand its business to sell used cars (a new use). This was a decision that I wrote as a former member of the Ontario Municipal Board in which I took jurisdiction to deal with a new use and received extensive planning evidence.

<sup>7</sup> Although members strive to make consistent rulings in similar fact situations.



## The planning evidence

[35] I now set out the two opposing planning arguments. Mr. Guenther, for the City, took note of the residents' complaints, from which he concluded that the use created unacceptable adverse impacts, and thus was not minor nor desirable for the appropriate use of the land. As well, he also concluded the intent of the Official Plan requiring "minimal" noise impacts on residents was also not maintained.<sup>8</sup>

[36] Mr. Chan, Soulmutts' planner, said:

12.2 Though not contemplated as a use in the specific zoning of By-law 438-86, multiple dog day care facilities and overnight kennels operate in different Official Plans designations, predominantly being in Mixed Use Areas.

Mr. Chan came to the conclusion that dog day care most resembles dog grooming (technically called "pet services"), and that the market had "voted with their feet" (my words) by locating in suitable areas, and the City's zoning simply hasn't caught up.

## The complicated zoning and OP nomenclature

[37] As set out in the Overview, there are two applicable **zoning** by-laws. The current **Official Plan designation** also complicates the situation because the previous 1986 Official Plan (not furnished) probably applied "industrial" land use policies — now replaced by "Mixed Use Areas".. A further complication is that the word "Industrial", in both zoning and Official Plan language has been replaced by "Employment".

[38] The site is zoned I1 (that is, a letter "i", and the number "one") — a form of light industrial, from former City of Toronto By-law 438-86<sup>9</sup> The notation for Soulmutts in 569-2013 states "See former City of Toronto By-law 438-86", so that it is correct to say that 569-2013 "zones" the land, albeit once removed. This obscures the fact that 438-86 was a self-contained entity, with its own definitions<sup>10</sup> and back in 1986 was subject to a different official plan context. Since a by-law has to be interpreted by reading the whole of it, and I was not furnished with the whole by-law, I am handicapped in ascertaining its intent. By-law 438-86 is also not on the City website, so to some extent my task has an element of historical research.

<sup>8</sup> To maintain the residential amenity of Neighbourhoods, new small scale retail, service, and office uses will: have minimal noise, parking or any other adverse impacts upon adjacent or nearby residents.

<sup>9</sup> Throughout this decision I will refer to the older By-law as "438-86" and the current by-law as "569-2013".

<sup>10</sup> I1 permitted a "brew-on premises establishment", this use is discontinued in 569-2013.

[39] By-law 569-2013 contains four Employment Industrial zones:

EL Employment Light,

E permitting all manufacturing uses except the most intense, and placed in order between EL and EH;

EH Employment Heavy, and

EO, Employment Office.<sup>11</sup>

These replace the 6 former zones of (I1, I2, I3, I4, T, and Tr), where I1 is the lightest of the manufacturing etc. uses.

[40] By-law 569-2013 also contains five commercial type zones, for example CL, Commercial Local and CR Commercial residential uses, as well as R Residential. R permits all types of residential uses, including townhouses. Because of the multiplicity of similar words, I will put brackets after classifications, for example E(zone), CR(zone) and Mixed Use Areas(OP).

[41] The change from the word “**Industrial**” to the word “**Employment**” was an attempt by Council to emphasize how lands so designated are the motor of Toronto’s economy. Employment Industrial(OP) lands policies are tightly integrated with their underlying permitted uses and they are the only Official Plan categories to have more than one specific colour. The two colours are Core Employment Areas(OP), dark purple, and General Employment Areas(OP), light purple, which names I will shorten in this decision. The two-colour scheme is simplified for the zoning by-law that colours all four Employment-type zones are light magenta. In Figure 3 (par 55), one finds magenta E(zones) under the OP umbrella of both light and dark purple.

[42] Reflecting Provincial Policy, the Official Plan states Council's intention was that the darker purple would be in the interior of Business Parks, surrounded by lighter

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<sup>11</sup> S. 1.40.60 of 569-2013 states: (3) Purpose of the Zones in the Employment Industrial Zone Category The purpose of each zone in the Employment Industrial Zone category is as follows: (A) Employment Light Industrial (EL) The purpose of the EL zone is to provide areas for light manufacturing, industrial and other employment uses that co-exist in close proximity to sensitive land uses, such as residential and open space. (B) Employment Industrial (E) The purpose of the E zone is to provide areas for general manufacturing, industrial and other employment uses that co-exist in relatively close proximity **to other manufacturing and industrial uses without major impacts on each other.** (C) Employment Heavy Industrial (EH) The purpose of the EH zone is to provide areas for heavy manufacturing, industrial and other employment uses that may have impacts on adjacent lands. (D) Employment Industrial Office (EO) The purpose of the EO zone is to provide areas for a mix of light manufacturing and office uses that co-exist with each other in a "business park" setting.

purple, as a kind of buffer and to prevent excessive through traffic.<sup>12</sup> This was not discussed much by either planner; I make observations about Employment Industrial Areas(OP) from my specialized knowledge, which I am entitled to do under the Statutory Powers Procedure Act.<sup>13</sup> I find these policies are relevant — Mr. Guenther maintained the proper place for dog daycares was in an E(zone), which in turn is governed by Employment(OP) policies.

[43] To repeat the historical context::

|        |  |
|--------|--|
| 1986   | The Soulmutts block is zoned I1(zone) under By-law 438-86.   |
| 2003-6 | It is designated Mixed Use Areas (OP), and coloured red.   |
| 2019   | The Employment Industrial Areas(OP) policies are updated City-wide to create Core Employment(OP) or General Employment(OP); dark and light purple. |

[44] Section 26(1.1) of the Planning Act requires municipalities to update their Official Plans every five years. Toronto's present OP was adopted in 2003-2006 and so is technically due for major overdue for updating. Section 26(9) of the Planning Act requires that municipalities amend their zoning by-laws to conform with their newly amended official plan within three years. Toronto's zoning by-law was adopted in 2013, but since these lands were excluded from 569-2013, they haven't been brought into conformity as directed by 26(9).

### Animal related nomenclature

[45] By-law 438-86 only contained one relevant pet-related zone: "pet shop". Mr. Guenther wrote:

A "pet shop" is defined in Zoning By-law 438-86 as "a shop or place where animals or birds for use as pets are sold or **kept for sale or groomed** but does not include a shop or place for the breeding or overnight boarding of pets." [the wording for kennel in the later by-law, my interpolation] Pet servicing has licensing requirements whereas kennels do not.

<sup>12</sup> GENERAL EMPLOYMENT AREAS 3. General Employment Areas are places for business and economic activities generally located on the peripheries of Employment Areas. In addition to all uses permitted in Policies 4.6.1 and 4.6.2, permitted uses in a General Employment Area also include restaurants and all types of retail and service uses.

<sup>13</sup> Statutory Powers Procedure Act:

Notice of facts and opinions

16. A tribunal may, in making its decision in any proceeding,

(a) take notice of facts that may be judicially noticed; and

(b) take notice of any generally recognized scientific or technical facts, information or opinions within its scientific or specialized knowledge.

Pet shops were permitted in IC(zones). Here IC(zone) refers to 438-86. The present term “kennel” did not exist in 1986, which is the date of passage of 438-86.

[46] By-law 569-2013 has two possible specific pet-related permissions:<sup>14</sup>

(565) Pet Services means premises used to provide for the grooming of domestic animals. A veterinary hospital or a kennel are not pet services.

(380) Kennel means premises used for boarding, training or breeding of dogs, cats or other domestic animals.

[47] Although “grooming” sounds clear enough, Mr. Chan said that, based on his first summer job, pets brought in to be clipped were usually left for the day so pet services may also include some daycare. I accept his evidence on this point.

[48] “Pet services” are permitted in all commercial and commercial residential type zones:<sup>15</sup> and the E(zone), “Employment Industrial”. **Kennels are only permitted in an E(zone).** Mr. Guenther argues that the lack of “boarding language in 438-86 plus the creation of the kennel terminology for the non-438-86 parts of the City should govern the intent.

[49] To sum up: 438-86 permitted only pet sales and no boarding anywhere. By-law 569-2013 continued pet sales as a possible use (“retail store”) and also recognizes grooming as specific land use under the term “pet services”. Both are permitted in commercial areas. If, however, the business has a component of boarding, breeding or training, these become a “kennel” and must locate in an E(zone), along with other manufacturing uses. The E(zone) is a “general purpose” (my word) zone permitting all manufacturing uses, except the most intense.<sup>16</sup> Evidence as to why this decision was made was not supported by any background papers or reports to

<sup>14</sup> The others are veterinary hospital, animal shelter (e.g., the Humane Society), and retail store, which can sell any merchandise, including animals.

<sup>15</sup> CL(zone), “commercial local”, CR(zone) “Commercial Residential”, RAC(zone) “Residential Apartment Commercial”, CRE(zone) “Commercial Residential Employment”

<sup>16</sup> E(zone) permits all Manufacturing Uses except: 1) Abattoir, Slaughterhouse or Rendering of Animals Factory; 2) Ammunition, Firearms or Fireworks Factory; 3) Asphalt Plant; 4) Cement Plant, or Concrete Batching Plant; 5) Crude Petroleum Oil or Coal Refinery; 6) Explosives Factory; 7) Industrial Gas Manufacturing; 8) Large Scale Smelting or Foundry Operations for the Primary Processing of Metals; 9) Pesticide or Fertilizer Manufacturing; 10) Petrochemical Manufacturing; 11) Primary Processing of Gypsum; 12) Primary Processing of Limestone; 13) Primary Processing of Oil-based Paints, Oil-based Coatings or Adhesives; 14) Pulp Mill, using pulpwood or other vegetable fibres; 15) Resin, Natural or Synthetic Rubber Manufacturing; 16) Tannery

Council. Indeed, the City's position was that the variance should be denied because it is not permitted, which is a tautological statement applicable to any variance application.

## The intent of the Official Plan

[50] Mr. Guenther said that in Mixed Use Areas(OP) development should “minimize” noise impacts on adjacent neighbours. I agree this is one goal, but not the only one. The Official Plan starts off with:

Policy 4.5.2 . . .states that Mixed Use Areas should: (a) create a balance of high quality commercial, residential, institutional and open space uses that reduces automobile dependency and meets the needs of the local community; . . .

[51] The first line says “balance”, which is the task before me— how to balance various interests.

[52] Moving to “reduction in auto dependency”, I find automobile usage is not reduced by denying this application. Later discussion in this decision will show that there are only two legally zoned dog daycare establishments in an area from Parkside Drive to Victoria Park Ave (Mr. Guenther's catchment area). I find it is not good planning to compel a large number of dog owners to use only two “legal” establishments.

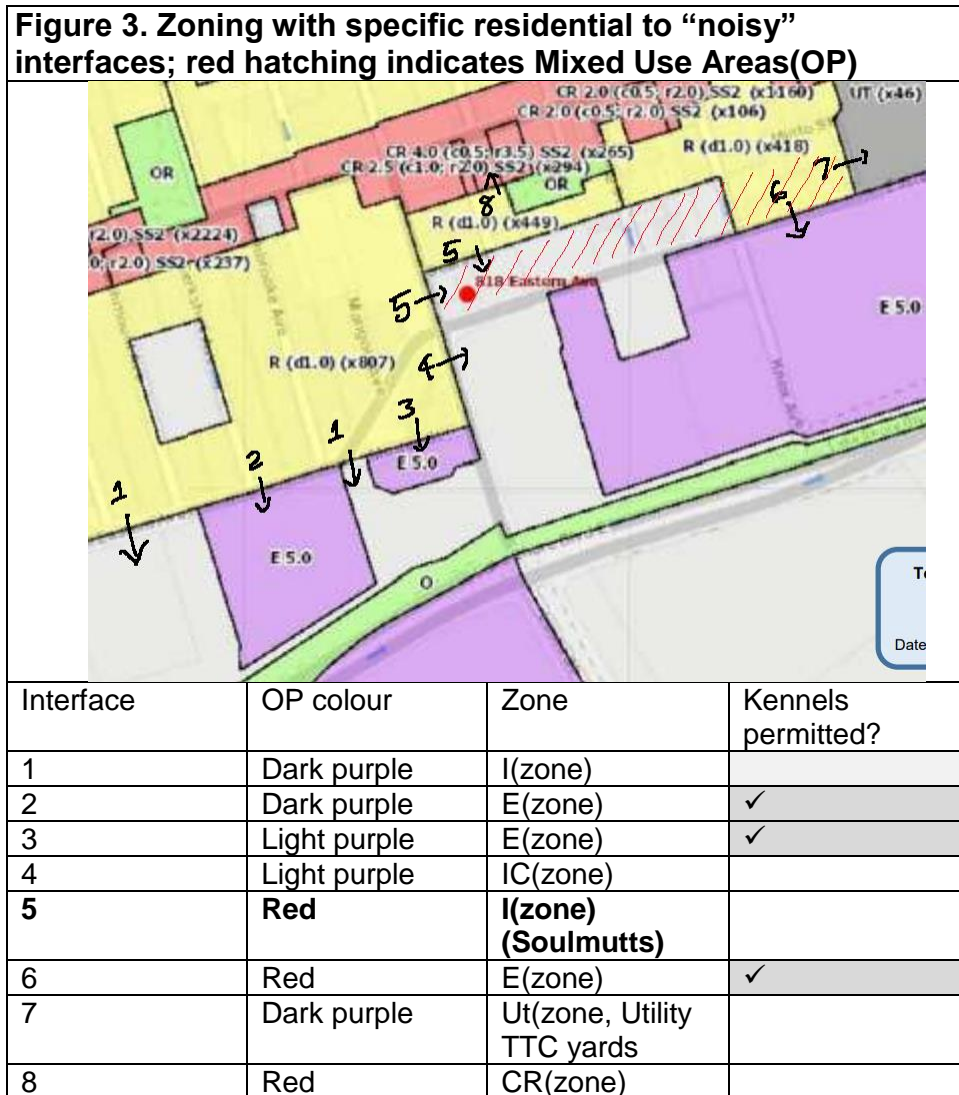
[53] As far as the “needs of the local community” are concerned, I footnote the letter of a customer, Ms. Loeb, who says that this is a convenient location and I accept that this is also the case for many others living downtown.

[54] I turn now to jobs, a goal of both Mixed Use Areas(OP) and Employment(OP). It speaks of “sustaining . . . well paid jobs”,<sup>17</sup> which applies, since those who have pets, like Soulmutts' customers during the pandemic, likely had well paid jobs and dog daycare “sustained” those important workers. Soulmates also has employees so it directly creates jobs.

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<sup>17</sup> (4.5.2.(a)) In *Mixed Use Areas* development will: . . . ; provide for **new jobs** and homes for Toronto's growing population on underutilized lands in the *Downtown and Central Waterfront, Centres, Avenues* and other lands designated *Mixed Use Areas*, creating and sustaining well-paid, stable, safe and fulfilling **employment** opportunities for all Torontonians; (OP, 4.5.2.(b))

[55] Clause 4.5.2.(i) (Mixed Use Areas(OP)) requires new developments provide “adequate parking for visitors”.<sup>18</sup> There is no parking on Eastern Ave. We are all familiar with parents arriving at schools in cars during the morning drop off period. Soulmutts has arranged with Penske Truck Rental to allow dog “parents” to park briefly on Penske’s lands because the two businesses have staggered peak parking demand periods. This is of course an informal arrangement subject to change at any time.



[49] Returning to Mr. Guenther’s concern, both Employment Areas(OP) and Mixed Use Areas(OP) use language of “minimizing”, not eliminating noises,<sup>19</sup> However,

<sup>18</sup> Developments . . . provide good site access and circulation and an adequate supply of parking for residents and visitors; . . . ; (Mixed Use Areas policies, OP, 4.5.2.(i))

<sup>19</sup> locate and screen service areas, ramps and garbage storage to minimize the impact on adjacent streets and residences; (OP, 4.5.2.(j))

neither the words “noise” nor “mitigation” appear in the Mixed Use Areas(OP) policies. Mr. Guenther was forced to look at the Neighbourhoods(OP) section, that he said was “also relevant to my [i.e., Mr. Guenther’s] analysis.” He said this section “provides context” to Mixed Use Areas(OP) located next to Residential(OP):

small scale retail, service, and office uses that support, are compatible with, and **do not adversely impact adjacent residences** in Neighbourhoods may be permitted through an amendment to the Zoning By-law.

In other words, Mr. Guenther is saying that the residential language should be “read into” the OP. I do not agree, particularly when the underlying zoning has not been changed to less intrusive uses. As well, Council could have put in place more robust noise language in its 2003 OP, but it did not. I conclude that it meant what it said; the Plan does not anticipate all noises will be eliminated; some may remain for new developments in Mixed Use Areas(OP).

[50] Before concluding, I wish to refer to Figure 3 (previous page). This is a zoning map with a chart underneath with OP colours correlated with zones and the purpose is to show how the zoning is cut up with respect to both the purple and red OP designations. Two arrows, 2 and 3, are transitions from Residential(zone) to E(zones) where residents would be across Eastern Ave from a legal kennel. There is even one such interface in the red hatching (arrow 6). In other words, as Mr. Chan pointed, Council has already created interfaces like this one, with the exception that those residents could not object, and the TLAB would have no ability to impose a noise barrier. Arrow 7, is a Res/ adjacent to Ut(zone), standing for “Utility. The Utility lands are the TTC yards on Queen St and can be expected to be noisy at times.

[51] To conclude on OP intent, it is my task, like that of Justice Keenan in Doucette, to ascertain the overarching goal of the Mixed Use Area(OP) policies. They are to have a livable, “complete” community with local services, that provide “new” and “well paid” jobs. Service areas should be “screened”. The OP language is asking for substantial public interest benefits, but I find Soulmatts maintains this intent by providing employment, local services and parking.

[52] In short, I find the intent of the Official Plan is maintained.

### **The intent of the zoning by-law**

[53] As I stated previously, Mr. Chan concluded from his inventory of existing dog daycares, his summer job experience and Paws Playground, another day care



facility, that daycare is similar to pet grooming. Grooming is permitted as of right in commercial-type areas, such as on Bloor St.

[54] Both planners made inventories of dog daycare establishments across a large part of the City. Mr. Chan looked at 56, Mr. Guenther 21. More than 95% are in CRE(zones) or CR(zones), and on Mr. Guenther's view, are "illegally zoned". A scattering are in R(zones) and IC(zones). The applicable designations are Mixed Use Areas(OP), Regeneration Areas(OP) or General Employment(OP). Some businesses explicitly mention "daycare" or "hotel", so I find that those are in business of daycare or boarding, not grooming. There is a lack of clear congruence between the zoning map and observed locational pattern of establishments.

| <b>Figure 4. Mr. Guenther's inventory of dog play areas</b> |      |                   |                                |                       |
|---|------|-------------------|--------------------------------|-----------------------|
|   | Zone | Complaints?       | Distance to Res(zone) lot line | In operation since    |
| D1  | CR   | Yes 2019 and 2021 | More than 25 m                 | 2011-12               |
| D2  | CRE  | No                | More than 25 m                 | Not known             |
| D3  | R    | No                | 0 m                            | Not known             |
| Soulmutts   | I1   | Yes, Jan 2021     | 15.43 m                        | 2021 at this location |

[55] I only find only two properly zoned dog daycare establishments. One is "Uber Dogs", 40 Research Road, East Leaside Business Park, and the other is "Paws Playground", on Carlaw Ave north of Lakeshore.

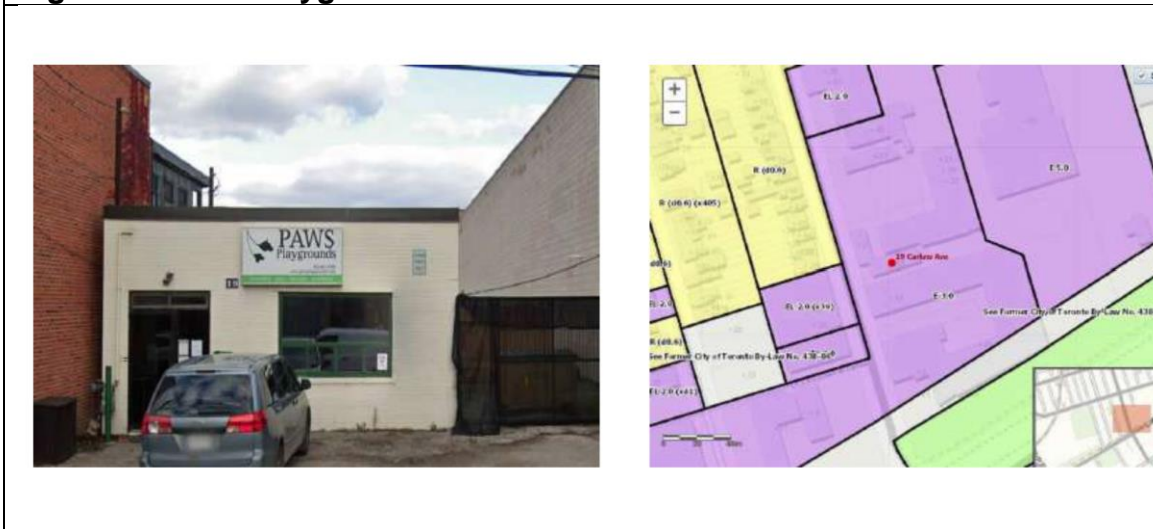
[56] Mr. Guenther singled out on outdoor play areas as being the most problematic aspect of dog daycares. This use is not specifically mentioned in the zoning by-laws and apparently most daycares do not have play areas, although Ms. Fodero said some utilize parking surfaces as informal play areas, and I would imagine, defecating areas. Mr. Guenther found four dog daycares with play areas, (Figure 4, above), including Soulmutts'.<sup>20</sup> Since publishing their names and addresses could cause them damage, I am anonymizing them.

[57] I do not find there is enough data to see any correlation between distances to residential areas and noise complaints. In particular, D3 is in a R(zone), next to an R(zone), and has not generated any complaints.

<sup>20</sup> There was a fourth, Paws Playground, that was omitted due to clerical error. Since it is "correctly" zoned I assume it does not cause unacceptable adverse impact to any residents. The presence or absence of play areas was from online research only.

[58] Paws Playground deserves further comment as it is the only example of the application of the variance tests in s. 45(1) of the Planning Act to a dog daycare establishment. Paws is located in an E(zone), but at the time of the 2012 Committee of Adjustment decision, it was I2, in other words, an industrial zone like the subject. The Committee added “overnight boarding” to “pet shop”.<sup>21</sup> (I assume “daytime” boarding was intended to be included in the words “overnight boarding”.) From the photo, I infer it was never a “pet shop”. The case tells me that the Committee was willing on this one occasion to find a boarding or daycare variance can meet the four tests in a case where there was no record of complaints.

**Figure 5. Paws Playground**



[59] What does the I1 zoning permit? In Figure 6, I compare permissions in I1, E and CR(zones). I picked E(zone) because it is the only permissible zone for a kennel and the CR(zone) because it is a typical Mixed Use Areas(OP) category.

[60] Figure 6 (next page) shows a broad range of non-residential uses permitted in the I1 and E(zones), **There is considerable heterogeneity in the range and excluded uses in all of the zones.** None of the actual uses would be permitted in I1(zone), except the New Hope men’s shelter and Black Lab Brewing. Yet I heard no evidence that the present situation in the Soulmatts block is unstable or

<sup>21</sup> PURPOSE OF THE APPLICATION: To operate a pet shop that includes an overnight pet boarding service within the existing one-storey building. No exterior work is being proposed. REQUESTED VARIANCES TO THE ZONING BY-LAW: 1. Section 2(1), By-law 438-86 The definition of a pet shop means a shop or place where animals or birds for use as pets are sold or kept for sale or groomed **but does not include a shop or place for the breeding or overnight boarding of pets.** In this case, the proposed use includes the overnight boarding of pets (dogs) which is not permitted under the definition of a pet shop. 2. Section 9(1), By-law 438-86 The pet shop, including the overnight boarding of pets, is not a permitted use in an I2 zone.

incompatible with the other I1(zone), IC(zone), E(zone) or Residential(zones) that currently exist in the area.

[61] Personal grooming establishments are permitted in I1, but not pet grooming. A winery is permitted but not a distillery. A contractor's yard or carpenter's shop is permitted but not an open air market. Railway tracks are permitted, but not a railway station. A day nursery is permitted but not an office. There are also many uses that are obsolete and newer uses are not mentioned.

[62] Turning to CR(zones), many "lively" uses are permitted, such as public parks, where it is expected that dogs may bark, or sports arenas, ("Sports Place of Assembly"), which may be expected to be occasionally noisy. Although I have not listed them, "night clubs" and "outdoor patios" are also permitted. But the zoning by-law hasn't been changed. What Council may do is at present speculative. In short, I find the zoning intent is a complex, certainly more nuanced than a simple direction from 569-2013 to locate all dog daycares in E(zones).

**Figure 6. List of Permitted uses in three zones under 569-2013 (check mark indicates the use on the same horizontal line is permitted)**

|   | I1(zone)             | E(zone) | CR(zone) |
|---|----------------------|---------|----------|
| <b>Misc. Non Residential</b>  |                      |         |          |
| Crisis care shelter, i.e., New Hope   | ✓                    |         | ✓        |
| Day nursery   | ✓                    |         | ✓        |
| Club  | No, only in IC       |         | ✓        |
| Fire Hall   | No, only in I2, I3   | ✓       | ✓        |
| Gyms  | Not sure             | ✓       | ✓        |
| Park  | ✓                    | ✓       | ✓        |
| Restaurant (Subway next door to Soulmutts)  | No, only in I2,I3,IC | ✓       | ✓        |
| Retail store  | No, only in I3       | ✓       | ✓        |
| Sports arena  | No, only in IC       | ✓       | ✓        |
| <b>Office</b>   | No, only in IC       | ✓       | ✓        |
| <b>Vehicle related</b>  |                      |         |          |
| Vehicle service shop, i.e., Mike's garage   | No, only in I2,I3,IC | ✓       | ✓        |
| Car washing establishment (next door to Soulmutts)  | No, only in I2,I3,IC | ✓       | ✓        |
| Transportation use, e.g., Penske  | No, only in I3       | ✓       |          |
| <b>Manufacturing related</b>  |                      |         |          |
| Bakery, meat products, metal products; i.e., manufacturing, but not a "manufacturing plant" <sup>22</sup> | No, only in I2, I3   | ✓       |          |
| brewery   | ✓                    | ✓       |          |
| "manufacturing plant"   | ✓                    | ✓       |          |

<sup>22</sup> I wasn't given the definition section of the 438-86.

|                                    |                           |     |     |
|------------------------------------|---------------------------|-----|-----|
| Salvage yard, i.e., Waxman salvage | Not permitted in any zone |     |     |
| <b>Animal related</b>              |                           |     |     |
| Kennel                             | n/a                       | ✓   | n/a |
| Pet shop                           | ✓                         | n/a | n/a |
| Animal hospital/veterinarian       | No, only in I2, I3        |     | ✓   |
| Pet services                       | n/a                       | ✓   | ✓   |
| Animal shelter, (Humane Society)   | n/a                       | ✓   |     |

In my view, this complexity points to a struggle to reconcile an older, compartmentalized zoning hierarchy and a more fluid vision of “mixed” uses. I repeat that even this fluid version hasn’t been fully implemented.

[63] I accept Mr. Chan’s argument that Soulmutts daycare business is more similar to “pet services” than “kennels”. I defer an overall assessment of zoning intent until the conclusion, in order to freely draw on the various threads of evidentiary findings.

## Minor

[64] The minor test requires that the impact not be “unacceptably” adverse, not that there be “no” impact. Furthermore, the variance cannot be “too large”<sup>23</sup> and obviously what is “too large” is more complicated than measurement of a height or setback; e.g., 2,0 m might be too large, but 0.02 m might not be. I infer however, that this means that, if the impact can be measured numerically, some reduction in that number could be accepted as reasonable and therefore could qualify as minor.

[65] Mr. Guenther based his conclusions on the guilty plea and residents’ letters. His opinion was not swayed by subsequent evidence. Soulmutts retained a noise expert (Mr. Busch) and so did the City (Mr. Copeland). After hearing both experts<sup>24</sup> I

<sup>23</sup> It follows that a variance can be more than a minor variance for two reasons, namely, that it is too large to be considered minor or that it is too important to be considered minor. Par. 12, *Vincent v. Degasperis*, 2005 CanLII 24263 (ON SCDC), Matlow, J.

<sup>24</sup> Unlike most opposing experts in TLAB hearings, Mr. Copeland was not retained until after his counterpart had testified and left the stand. Ms. Koev brought a motion to strike the substantive conclusions on the grounds that it was case splitting, (that is, it contravened the rules of evidence designed to prevent surprise). Given the result I am dismissing Ms. Koev’s motion; nonetheless I am satisfied that Mr. Copeland’s peer review did not displace Mr. Busch’s findings and opinion. I found Mr. Copeland offered a range of considerations (“on one hand and on the other hand”.) without “drilling down” to any ultimate conclusion on which I could rely to either grant or not grant the variance.

am satisfied that Mr. Busch has established that with a noise barrier constructed according to his expert judgement, barking noises will be reduced to an acceptable level.

[66] This is a novel application of various technical noise policies<sup>25</sup> to a dog barking situation. There are three possible noise levels that could trigger planning impacts:

- The background plus 5 dBA (the standard used by Mr. Busch and somewhat accepted by Mr. Copeland)
- Persistent noise (Noise By-law standard)
- “Audible noise”, that is, anytime any person in their home hears a bark.

[67] “Persistent” noise is defined as:

PERSISTENT NOISE - Any noise that is continuously heard for a period of ten minutes or more or intermittently over a period of one hour or more.

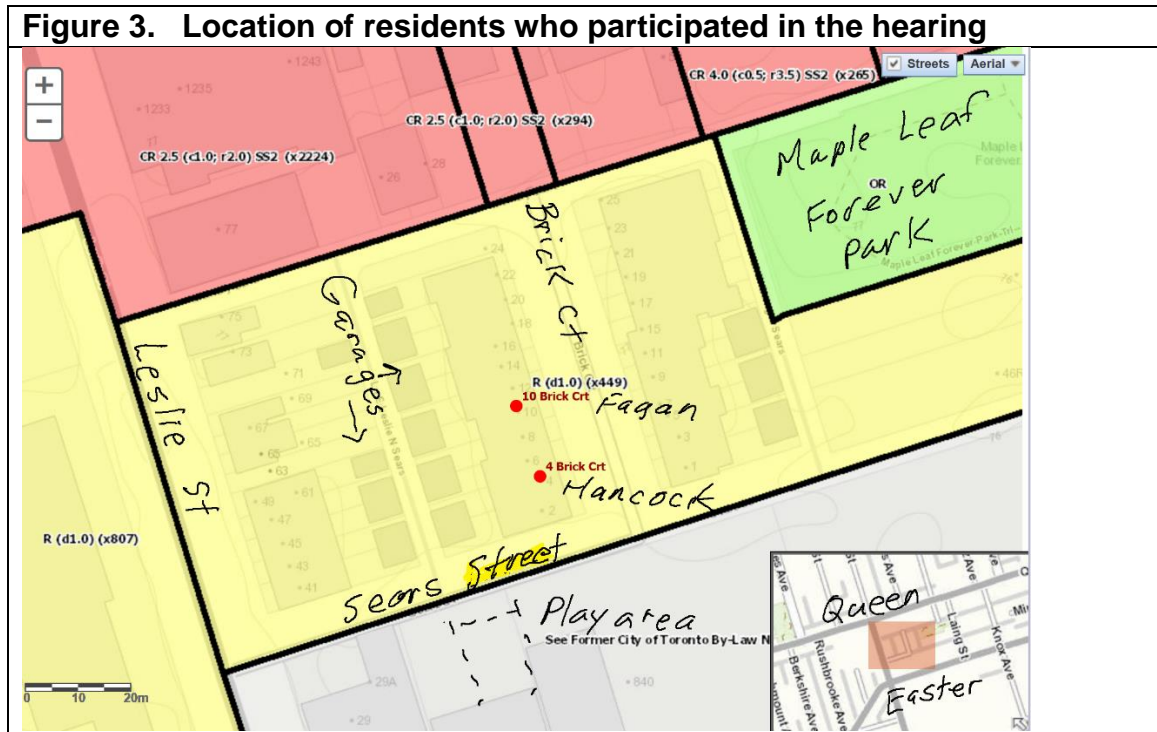
[68] Mr. Busch (Soulmutts) stated that, “You’re taking [municipal noise by-laws] and using that as a land use planning tool. I think that’s [inappropriate]”.

[69] Moreover, it is not measurable. If the “persistent noise” had to be proved in a Court of Law, the prosecution would have to prove one of two branches: continuous over ten minutes, and intermittently over an hour. Both present obstacles; a judge could refuse to accept that the intent of the first branch was to capture dog barking, which by its nature is not “continuous”. The second branch needs a person to listen “continuously for an hour”, and possibly leave the house to make sure that all the barks heard are related to the same dog or group of dogs. The evidence I heard was only about barking “at all times of the day and night” and may not have passed muster with an adversarial defence lawyer. These problems were obviated with the guilty plea in which Soulmutts took responsibility for the construction noise lapse.

[70] The letters also mention garbage, feces, rude behavior, trucks blocking the lane and the illegal zoning, but noise is clearly the number one complaint. C. Fagan observed that owners stop on Eastern which she said is a “very, very heavily travelled thoroughfare”. Mr. Guenther did not comment on other issues besides noise and lack of E(zoning). The City did not adduce traffic evidence and I find there is insufficient evidence on traffic and parking to rebut Ms. Fodero’s testimony on those issues.

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<sup>25</sup> Noise is regulated by NPC-300, (a Provincial guideline) and the City’s Noise By-Law. NPC-300 is titled “Stationary Sources” and explicitly states it is inapplicable to barking dogs



[71] Based on “background plus 5 dBA”, (the first bullet), Mr. Busch measured 7200 minutes of background noise and found it was in “the low sixties”. The barks were 80 dBA measured at the northwest corner of Soulmutts’ lot. This sound declined to 69 dBA at the nearest Leslie Street receptor and 71 dBA at the nearest Brick Court receptor. Assuming a background noise level in the “low sixties”, this means Mr. Busch found barks should not exceed approximately 66 to 68 dBA, and 71 dBA is beyond this range. Mr. Busch calculated that there would be at least an 8 dBA reduction with an acoustical barrier, which brings it to an acceptable level according to his methodology. He equated this reduced noise level to that of a normal conversation. I accept this opinion.

[72] However, in oral testimony and letters, the residents applied the “audible noise” standard. This is too strict. Moreover, there were frailties in their evidence. They did not keep records after March 2021, of if they did, they did not submit them as exhibits. . Of the two nearest neighbours, one did not elect to participate and the other was a party but did not testify. As a result, we do not know what they would have said, particularly in the light of Soulmutts’ evidence.

[73] Mr. Hancock, who is next door to one “nearest noise receptor”, stated:

- “I did move my office to the front basement part of my house because when I was working in the middle bedroom upstairs, I could hear the barking through the skylight, which was very annoying anyway.”
- The noise has been mostly weekdays but “many” times on weekends.
- Whether it is continuous or episodic depends on the time of day; “many” times it has been continuous.
- Some days it is quiet.
- Yapping is several times a minute.
- Sounds like dogs fighting.”

[74] Mr. Fagan, who was the only neighbour to file a witness statement, outlined the events of Feb 2021 from his perspective. (this was Soulmutts’ move-in period). The City’s by-law enforcement section advised him to keep a 14-day log, which he did. Their letter said:

The City’s [Noise Control Bylaw, Municipal Code Chapter 591] is in place to help citizens deal with excessive noise, however we must be able to satisfy the Courts that that the noise is excessive/persistent. Noise in itself is not illegal and barking dogs is an everyday occurrence. And we must exercise a reasonable degree of tolerance.

[75] Mr. Fagan filed a noise log from Feb 26 to Mar 11, 2021:<sup>26</sup>

March 1, 2021    4 min    This ongoing assault on our home is affecting our health I know the pack of dogs is going on longer than I am recording.

March 2, 2021    57 min + 76 min = 132 min    My despair at my failing attempts to find peace and quiet in my own home and my futile attempts to use my kitchen and rear bedroom etc. is my growing frustration of feeling useless before a pack of dogs.

The three charges previously mentioned were laid by the City, but no charges have been laid since, despite several complaints to the enforcement department. Soulmutts then has had no finding of persistent noise by the Courts for over two years. Ms. Fodero testified that Mr. Rosenzweig, a by-law enforcement officer, attended after the logged events earlier in 2021; the officer listened and took notes but did not lay charges.

[76] I agree with Mr. Busch that for planning purposes, I should not make a variance decision on an “audible” standard. Even the City advised that, “. . . We must be able to satisfy the Courts that that the noise is excessive/persistent”.

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<sup>26</sup> I made orders relieving residents from previous filing deadlines to permit this filing.



[77] At the hearing, (March 31, 2023), Mr. Fagan explained the lack of new information on noise was “because the matter was before the courts”.<sup>27</sup> But he also said barking continued right up to the day before he testified. Once he elected to become a party, he could no longer stand aside and let the City would “carry the ball”. I do not expect the residents to have retained their own sound expert, but they could have kept some records documenting recent experience. Since they did not I have to discount their complaints of recent barking.

## Conclusion

[78] The Planning Act says, in addition to the Official Plan and zoning tests, a variance must be minor and “desirable”. Here, I interpret “desirable for the appropriate development of the land” as an invitation to the TLAB to blend the other three tests and come up with an overall conclusion. “Desirable” is not what is simply what is desirable for the owner or for the neighbours.

[79] I consider some disturbance of neighbours’ peace and quiet in this relatively downtown area only one aspect of the Official Plan. Like places of worship, parks and schools, the benefits of these possibly “disturbing” uses have to be balanced against impacts to the immediate neighbours. The minor test is a technical one. TLAB jurisprudence distinguishes between the dictionary definition of “minor”, and a Planning Act “minor”, which measures whether something is minor by reference to the overall purpose of the zoning and Official Plan. Public interest (e.g., local provision of services).may play a part.

[80] The Mixed Use Areas(OP) intends that residential uses could even be placed on these very lands, closer than even Mr. Fagan’s and Mr. Hancock’s residences. In other words, the Official Plan envisages a possibly noisy environment and Soulmutts should be permitted to stay.

[81] While By-law 569-2013 does not explicitly permit the use, the intent of the I1 zoning is to permit a range of manufacturing and warehousing uses, clearly impactful. Subsequently the City removed manufacturing from the designation but has not followed through; 569-2013 still says, “See Bylaw 438-86”. If and when new zoning is conferred, these could be noisy. Both planners speculated that

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<sup>27</sup> We had won a Committee of Adjustment. We had thought that was it. So, there was no need to further complete. However, uh, Soul Mutts did resubmit to TLAB once again there was no reason for us to be complaining. If I can switch my law and order the item was before the courts. We did not see, uh, any point being the absence of complaints should not <sup>27</sup>be taken as the absence of noise. (Fagan oral testimony)

Council would choose CR(zoning), but this is unknown in 2023. I have to make a decision today, not wait until Council indicates the ultimate zone.

[82] Accordingly, I conclude that the intent of the zoning by-law is maintained. By-law 569-2013 permits pet grooming in most areas and Soulmutts operation, except for the play area, is very similar. The special circumstances of an outdoor play area are mitigated with the acoustical barrier. It appears as if all but two other City dog daycares cannot fit into 569-2013, and we don't know why. But there are many photos of dog daycares in Toronto with residential on the floor above or right next door.

[83] Mr. Guenther's noise concerns were based on incidents two years ago. The residents who testified have failed to show to my satisfaction that recent barking noises were of the same intensity as during that initial move-in period. I find noise levels are reasonably reduced, based on the acoustical barrier. Based on this I find the minor test is met.

[84] I now bring all these strands together for the "desirable" test. Chapter 3 of the Official Plan states:

All our communities will be planned to support Toronto's **diverse households** with safe and appropriate housing, **services**, environments and streets where we can raise and care for children and others we care for, **earn a living** and transition from one phase in life to another.

[85] The photograph in the Official Plan opposite this text shows a private childcare service, (Squirrels Nest Child Care, Scarborough, which is still in operation). Soulmutts, although not in the same category as human childcare, supports diverse households, and helps people earn a living. Dog daycare is a niche use and if the zoning does not deal with this realistically, then the variance process should be sufficiently elastic to consider it. I find the use is desirable for the appropriate use of the land and conclude the four Planning Act tests are met.

## DECISION AND ORDER

[86] I authorize the proposed dog daycare and boarding use on condition that the acoustical barrier described in the Busch letter of January 25, 2023 is constructed. If the barrier is not constructed before November 30, 2023 the variance is not authorized. In the event of a challenge to this Decision, by means of a request for review or some other unexpected event, the TLAB may on request extend the deadline for implementation of the barrier.

|   |
|---|
| <p><b>Figure 9. Todd Busch letter of January 25, 2023</b></p> |
|---|

|   |   |
|---|---|
| <div data-bbox="695 174 839 191" data-label="Text"><p>Toronto, January 25, 2023</p></div> <div data-bbox="378 207 643 289" data-label="Text"><p><b>Alison Fodero</b><br/><b>SoulMutt's Toronto Ltd. c/o Thomson Rogers</b><br/>826 Eastern Avenue<br/>Toronto, ON, M4L 1A1<br/>T: 416-456-6960</p></div> <div data-bbox="378 306 751 354" data-label="Text"><p><b>Project:</b> Noise assessment of a dog daycare &amp; dog boarding facility<br/><b>Site Location:</b> 826 Eastern Avenue, Toronto<br/><b>Reference:</b> 22-07-12-RD</p></div> <div data-bbox="378 371 444 388" data-label="Text"><p>Ms. Fodero,</p></div> <div data-bbox="378 405 850 464" data-label="Text"><p>Further to your request, please find enclosed a drawing depicting the 8-ft acoustical barrier that I have recommended to control noise from the dog daycare and boarding facility. To be located at 826 Eastern Avenue in Toronto (also known as 818 Eastern Avenue, Unit 2) based on my assessment of the site and surrounding area.</p></div> <div data-bbox="378 480 850 596" data-label="Text"><p>The materials utilized to construct the noise barrier consist of industrial-grade noise blankets which provide a minimum sound transmission class (STC) of 20 (for example, the Isotex-dB-B1 product). This material can be installed in conjunction with a chain link or wooden fence. The maximum percentage of the surface that is open to air flow, surrounding the play area, should be no more than 2.4 cm (1% or less of the overall height of the barrier). It is suggested that the acoustical blankets are installed on the outer side of the fence that surrounds the play area to protect them from wear and tear; however, they can also be installed on the opposite side. See Figure 1.</p></div> <div data-bbox="378 613 850 644" data-label="Text"><p>There are at least two domestic sources of industrial noise-control blankets in Canada, including the following:</p></div> <div data-bbox="378 661 701 693" data-label="Text"><p>Soft dB Active Control Systems<br/>320 Matheson Blvd West #107, Mississauga, ON L5R 3R1</p></div> <div data-bbox="378 709 527 741" data-label="Text"><p>Phone (647) 251-7709<br/>Toll-free: 1 (866) 914-2169</p></div> <div data-bbox="378 758 492 789" data-label="Text"><p>Email<br/><a href="mailto:toronto@softdb.com">toronto@softdb.com</a></p></div> <div data-bbox="378 821 656 837" data-label="Text"><p><a href="http://www.softdb.com">www.softdb.com</a>   437-317-0790   <a href="mailto:ontario@softdb.com">ontario@softdb.com</a></p></div> <div data-bbox="841 823 850 835" data-label="Text"><p>1</p></div> | <div data-bbox="1289 161 1433 191" data-label="Page-Header"><p>Soft dB</p></div> <div data-bbox="974 243 1208 273" data-label="Text"><p>Website<br/><a href="https://www.softdb.com/consulting/soundproofing/">https://www.softdb.com/consulting/soundproofing/</a></p></div> <div data-bbox="974 285 1201 315" data-label="Text"><p>KINETICS CANADA<br/>1670 Bishop, Cambridge, ON, Canada N1R 7J3</p></div> <div data-bbox="974 327 1076 369" data-label="Text"><p>Phone: 905-670-4922<br/>Toll Free Phone:<br/>1-800-684-2766</p></div> <div data-bbox="974 384 1136 413" data-label="Text"><p>Email:<br/><a href="mailto:canadiansales@kineticsnoise.com">canadiansales@kineticsnoise.com</a></p></div> <div data-bbox="974 426 1232 455" data-label="Text"><p>Website:<br/><a href="https://kineticsnoise.com/environmental/sound-curtains">https://kineticsnoise.com/environmental/sound-curtains</a></p></div> <div data-bbox="974 480 1299 497" data-label="Text"><p>Please do not hesitate to contact us if you require further information.</p></div> <div data-bbox="974 510 1050 525" data-label="Text"><p>Yours sincerely,</p></div> <div data-bbox="974 539 1127 625" data-label="Text"><p><br/><b>Todd Busch, M.A.Sc., P.Eng.,</b><br/><b>P.E., INCE Bd. Cert.</b><br/><i>Senior Project Manager</i></p></div> <div data-bbox="974 795 1211 808" data-label="Text"><p><a href="http://www.softdb.com">www.softdb.com</a>   437-317-0790   <a href="mailto:ontario@softdb.com">ontario@softdb.com</a></p></div> <div data-bbox="1370 798 1378 808" data-label="Text"><p>2</p></div> |
| <div data-bbox="581 856 701 882" data-label="Page-Header"><p>Soft dB</p></div> <div data-bbox="345 919 651 1155" data-label="Image"></div> <div data-bbox="415 1155 583 1165" data-label="Caption"><p>Figure 1: Site location (Source: Google Earth)</p></div> <div data-bbox="345 1337 526 1348" data-label="Text"><p><a href="http://www.softdb.com">www.softdb.com</a>   437-317-0790   <a href="mailto:ontario@softdb.com">ontario@softdb.com</a></p></div> <div data-bbox="646 1339 651 1348" data-label="Text"><p>3</p></div>   |   |

T. Yao  
Panel Member