

DECISION AND ORDER

Decision Issue Date Wednesday, September 20, 2017

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

Appellant(s): HELEN GIONTSIS AND BRIAN CORMIER

Applicant: BRANDON KASHIN, AGENT FOR HELEN GIONTSIS

Counsel or Agent: AMBER STEWART

Property Address/Description: 5 PINE CRES

Committee of Adjustment Case File Number: 17 107743 STE 32 MV (A0076/17TEY)

TLAB Case File Number: 17 183067 S45 32 TLAB

Hearing date: Monday, September 18, 2017

DECISION DELIVERED BY T. YAO

INTRODUCTION

This is a decision on a motion for adjournment by Don Bundock, a party and a neighbour of the applicants. The motion, brought at the commencement of a hearing with a date fixed about nine weeks ago, was granted.

BACKGROUND

The owners of 5 Pine Crescent are Ms. Giontsis and Mr. Cormier, On May 30, 2017, the Committee of Adjustment refused to grant to them a number of variances. On June 19, 2017, they appealed, and after the refusal, they modified their plans to reduce or eliminate a number of variances. On June 28, 2017, the TLAB sent a notice of hearing for Sept 18, 2017. This notice advised Ms. Giontsis and Mr. Cormier that: "Applicant

Disclosure as per Rule 11 (Form 3) DUE no later than July 13, 2017" and that "Document Disclosure as per Rule 16 DUE no later than July 28, 2017."

"Form 3, Applicant Disclosure", contemplates that applicants may in some cases choose to revise their plans. In this case, Ms. Giontsis' and Mr. Cormier's Applicant's Disclosure contains a description of these revisions, complete with architectural drawings and a document entitled "5 Pine Crescent – Annotated List of Revised Variances". All were filed July 14, 2017, a day after the deadline, but this delay in itself should not prevent the hearing from proceeding on a timely basis. However, the annotated list contains the proviso:

Please note that the revised plans dated July 14, 2017 have not yet been reviewed by the City of Toronto Zoning Examiner. If any different or additional variances are identified by the zoning examiner, we reserve the right to request that the variances be amended.

It turns out that there is one minor change to the Annotated List, and Ms. Stewart states that this is technical and can easily be explained, or that she is willing to waive the change completely and go forward with the July 14, 2017 drawings and Annotated List. Ms. Giontsis and Mr. Cormier have no control over the plan examiner's timetable.

I am informed that the City's second plan examination arrived a few days ago and was circulated to the parties. Mr. Bundock says he has not had time to study this document. A short recess to permit a without prejudice discussion did not assist in resolving his concerns. He stated he may have to retain an expert witness, a supposition Ms. Stewart strenuously opposed, saying that time is "long gone" and argues that the other parties and participants are not really prejudiced by the arrival of this document so close to the hearing date.

I will now briefly set some of the filings of the neighbours. The deadline for Notice of Intention to be a party or participant was July 18, 2017 and Don Burdock, Nevine and Alnoor Aziz have filed such Notices on or before the deadline. Jeremy Williams and Grant Brock have filed timely Participant Notices. Some persons have filed witness statements, but I am not sure whether they have also complied with Rule 16.2 (Disclosure of Documents).

The deadline for expert witness statements was August 14, 2017, a deadline met by Ms. Giontsis' and Mr. Cormier's planner, Mr. Cieciora. Mr. Francis may or may not be an expert witness on behalf of one of the other parties. He expressed opinion evidence to Mr. Aziz by letter dated May 24. This letter is in the TLAB file and Ms. Stewart is aware of it, as she has filed it herself. The Rules require parties to disclose documents (Rule 16.2), serve and file any expert witness statements they will use (Rule 16.6) and experts to file an acknowledgement of duties as an expert (Rule 16.7). Mr. Francis attended the hearing on September 18, 2017.

MATTERS IN ISSUE

Should this hearing go forward at the appointed time? If not, when should this hearing be held and on what terms?

ANALYSIS, FINDINGS, REASONS

In my opinion, 45 days (from refusal to document disclosure) is a short period of time for an applicant to draw up revised plans and a fresh zoning examination is required. The original plan examiner's notice states:

Subsequent reviews will require the submission of a new Project Review Request along with payment of the applicable fees.

Although the applicants/owners may be confident that the annotated list is an adequate substitute, the official zoning notice is a critical document for the person adjudicating the hearing, and it would be unproductive if this hearing were to go forward today, when one document has not been disclosed in a timely way.

Mr. Bundock is holding Ms. Stewart to her strict obligations under the Rules. It is fair that Ms. Stewart also be permitted to hold all opposing parties and participants to the same standard. Without wishing to interfere with the presiding TLAB member's overall discretion, all parties and participants must now obey all deadlines and requirements strictly and be prepared to proceed at the next hearing date.

The content of filings will be as governed by the Rules, (except for the new time limits imposed here), particularly, Rule 16.2 (disclosure of documents), Rule 16.4 (b) (witness statements of parties), Rule 16.5 (participant statements), and Rules 16.6 to 16.9 (experts).

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Therefore, the hearing is adjourned to 9:00 A.M., Tuesday, November 7, 2017, Hearing Room 40 Orchardview Boulevard, 2nd Floor, Suite 211. A new Notice of Hearing will follow.

Parties and participants and their experts will have until 5 PM, Monday Oct 2, 2017 to disclose new documents, file supplementary documents, amend or withdraw previous documents or file documents for the first time, in accordance with the Rules, with time limits in the Rules replaced by these time limits.

Ms. Stewart will have a similar right, until 5PM, Monday Oct 16, 2017.

X

Ted Yao

Ted Yao
Chair, Toronto Local Appeal Body
Signed by: Ted Yao