

DECISION AND ORDER

Decision Issue Date Friday, October 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

Applicant: BRANDON KASHIN

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: Friday, October 20, 2017

DECISION DELIVERED BY LAURIE MCPHERSON

INTRODUCTION AND BACKGROUND

A hearing date of November 7, 2017 has been scheduled by the Toronto Local Appeal Body ("TLAB") to hear the appeal by the owner of 5 Pine Street ("the subject site") of the Committee of Adjustment's refusal of the application for minor variance.

On October 3, 2017 the Representative for one of the Parties, Francis Lapointe, filed a Notice of Motion with the TLAB requesting that the hearing be adjourned, sine die, until certain documents have been provided by the Appellant and the Parties have had sufficient time to review such documents. The documents relate to the establishment of the stable top-of-bank for the subject site and correspondence with the Toronto Region Conservation Authority ("TRCA") and the City of Toronto related thereto.

The Responding Parties requested the motion for an adjournment be denied and that the hearing proceed on November 7, 2017. Further, they requested an Order that the hearing proceed on its merits based on the variances identified by the City zoning examiner and no evidence should be called to re-argue the issue of the location of the top-of-bank. They further assert that the Motion should be dismissed on the basis it is not supported by proper evidence.

MATTERS IN ISSUE

At the Motion hearing, the lawyer for the Responding Party, Ms. Amber Stewart, advised the TLAB that recently received correspondence may affect the top-of-bank location and, as a result, the requested variances.

As a result, Ms. Stewart requested that the TLAB continue to hold the November 7, 2017 date while her client undertook the necessary actions to confirm the top-of-bank with the TRCA. She suggested that one week prior to this date she would advise the TLAB and other Parties concerning the status of the issue. A determination would then be made by the TLAB on whether or not to proceed with the November 7, 2017 date. In the event that the hearing did not proceed on November 7, 2017, Ms. Stewart requested that the TLAB provide alternative dates.

The Moving Party agreed to this request.

JURISDICTION

Rule 23.4 of the TLAB's Rules of Practice and Procedure allows the TLAB to grant or deny the Motion and make any other appropriate orders.

ANALYSIS, FINDINGS, REASONS

Based on the agreement of all the Parties, the TLAB agrees with Ms. Stewart's request. This is the most expeditious approach to ensure the appropriate variances are before the TLAB at the hearing.

DECISION AND ORDER

The TLAB orders as follows:

1. The Motion by Francis Lapointe dated October 3, 2017 is allowed in part. On the consent of the Parties, the scheduled Hearing Date is maintained, subject to the following procedure.
2. Ms. Stewart is to advise the Parties and TLAB at the earliest available time of any definitive developments respecting the determination of the top-of-bank delineation.
3. A teleconference hearing, to be organized by TLAB Staff, will be held on October 31, 2017 at 9:00 am at which time the Parties will advise, with submission, as to whether the required information is available to proceed with the November 7, 2017 Hearing Date. Any other matters that arise related to this issue will also be dealt with.
4. Alternative dates canvassed at the hearing will be confirmed, if required.

X 

Laurie McPherson
Chair, Toronto Local Appeal Body