

DECISION AND ORDER

Decision Issue Date Monday, November 06, 2017

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

Appellant(s): LAUREN LINDSAY

Applicant: DREW LASZLO ARCHITECT INC

Property Address/Description: 81 WESTGATE BLVD

Committee of Adjustment Case File Number: 17 148473 NNY 10 MV

TLAB Case File Number: **17 205654 S45 10 TLAB**

Motion date: Monday, November 06, 2017

DECISION DELIVERED BY T. Yao

INTRODUCTION

The motion in writing seeks an adjournment on the grounds that the appellants believe they had a miscommunication between their urban planner and themselves as to who is to prepare for the hearing.

BACKGROUND

Lauren Lindsay and Clive Jacobsohn, owners of 81 Westgate, appealed a decision of the Committee of Adjustment modifying and approving two variances (maximum lot coverage and building height) that were less than what they had sought. The moving party Lauren Lindsay's Notice of Motion states in part:

1. . . .

2. I am a lay person – The entire process of the Appeal is not clear to me and I was under the opinion and impression that the Urban Planner would be attending to this.
3. My father was also assisting me with this matter and he has undergone surgery and is still recuperating at home.
4. Unfortunately due to a misunderstanding between us and the Urban Planner, the Urban Planner did not attend to the various requirements. This was only brought to my attention on Thursday, October 19th.

On Oct 30, 2017, Ronald Lindsay filed a further document, stating that he instructed the urban planner “to attend to all matters necessary”, especially since he was due for surgery.

MATTERS IN ISSUE

Whether the hearing date should be adjourned and if so, to what date.

ANALYSIS, FINDINGS, REASONS

The grounds in the Notice of Motion are silent on what attempts were made by Ms. Lindsay, Mr. Jacobsohn and Mr. Ronald Lindsay, the father, to educate themselves as to the process. In my opinion the three grounds listed in paragraphs 2, 3, and 4 are insufficient to justify an adjournment. The Notice of Hearing, issued August 15, 2017 states, “Hearing dates are firm”, and Witness Statements are “Due no later than September 29”. A lay person would understand the meaning of these sentences, especially an appellant, who should recognize that he or she was initiating a complex legal process involving a valuable piece of property.

Additional information was supplied by Mr. Lindsay in an affidavit on October 30, 2017 – that he in good faith told his planner to deal with the appeal with full knowledge that he, Ronald Lindsay, the planner’s client, would be unavailable because of his surgery. This merits an adjournment, especially since there are no other parties or participants.

Practice Direction 2 states that when a party seeks an adjournment, the TLAB will supply alternative new dates so that an adjournment may be made smoothly to the new date. The owners have indicated that they can commit to a hearing date of Tuesday March 13th, 2018.

DECISION AND ORDER

The motion is allowed. The hearing date of December 4, 2017 is cancelled and the new hearing date is 9:00 a.m., Tuesday **March 13th, 2018** at 40 Orchard View Blvd, Suite 211, Toronto. The new deadlines are as follows:

Decision of Toronto Local Appeal Body Panel Member: T. Yao
TLAB Case File Number: 17 205654 S45 10 TLAB

Applicant Disclosure as per Rule 11 (Form 3); **Document Disclosure** as per Rule 16; **Witness Statement** as per Rule 16.4 (Form 12); **Expert Witness Statement** as per Rule 16.6 (Form 14); all due no later than February 16, 2018.

February 16, 2018 will also be the deadline for the hearing of any **motion** and since Rule 17 requires that 15 days' notice be given before the hearing of the motion, any Notice of Motion must be drafted and filed by February 2, 2018.

X

Ted Yao

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