

DECISION AND ORDER

Decision Issue Date Tuesday, November 07, 2017

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

Appellant(s): GIULIA FALBO AHMADI

Applicant: WESTON CONSULTING

Property Address/Description: 512 JARVIS ST

Committee of Adjustment Case File Number: 17 141837 STE 27 MV

TLAB Case File Number: 17 224461 S45 27 TLAB

Motion date: Wednesday, November 01, 2017

DECISION DELIVERED BY Gillian Burton

Parties

Giulia Falbo Ahmadi

Emily Mathew

Leah Eichler

City of Toronto

Counsel

Sean Gosnell

Isaiah Banach

Isaiah Banach

Jessica Braun

Participants

Kira Heineck, COTA Health

Mark Aston, Fred Victor Centre

Keith Hambly, Fife House Foundation

Paul Dowling, HomeComing

INTRODUCTION

This is a decision on a Motion dated October 17, 2017, filed by the solicitor for the appellant, Ms. Ahmadi. The Toronto Local Appeal Body (TLAB) had set down one day, January 12, 2018, for the hearing of an appeal from the decision of the Committee of Adjustment (COA) which had refused to authorize variances required for the use of the subject property, 512 Jarvis Street, for the purpose of a residential care facility. The appellant requested in its Motion that the hearing date of January 12 be extended by one day.

The TLAB determined to conduct this motion by written submissions, to be filed by November 1, 2017, as permitted under its Rule 17.4. A submission on the request to extend the hearing time was received on October 25 from Mr. Eldon Theodore, the Planner retained by the parties Emily Mathew and Eichler Management Group, who both oppose the appeal. Ms. Jessica Braun responded on behalf of the City of Toronto, supporting the extension of a day, and providing her availability. A Reply to the Response to the Motion was filed by Mr. Gosnell on October 30, all as permitted by the TLAB's Rules.

BACKGROUND

This is an appeal from the refusal by the COA to authorize variances required by the appellants to utilize an existing large home on north Jarvis Street for a purpose not permitted by the applicable zoning by-laws. In addition, the proposal would require variances related to the fact that the building is an existing one, and other specified variances. As stated by Mr. Gosnell in the appellant's motion, four entities have elected to have Party status, and four have chosen to be Participants. As of today's date, the TLAB has had notice that there will be three professional witnesses, and four participants.

THE ISSUE

Permission of the TLAB is required to extend any time under its Rules. Rule 2 requires their liberal interpretation, and Rule 4 permits a time extension, although it does not address specifically a request to extend the time for a hearing. If another hearing day is to be added, there must be sufficient reason to do so, and all parties must be accommodated to the extent possible.

ANALYSIS, FINDINGS, REASONS

The TLAB finds that this is a case in which the motion should be granted, and an additional day should be added to the one day now fixed for the hearing.

All of the parties and participants have pointed to the complicated history of the current zoning requirements for "residential care homes", as this proposal would be categorized. Many arguments have already been raised in the materials as to whether this is the appropriate location for such a use. It is clear even after reading the motion

materials that there will be much evidence adduced both for and against such a proposal.

In Mr. Theodore's Affidavit in Response to the Notice of Motion dated October 25, he opines that at least five days will be required for the hearing, and informs that he will be unavailable in the period of January 8 to 17, 2018 but could accommodate a January 15 appearance. Mr. Gosnell in his Reply to the Response to a Motion dated October 30, rejects the estimate of five days as far too great. There is some urgency evident in many of the statements from both the applicants and the participants, that the target homeless population be appropriately housed as rapidly as possible. Those who require such supportive housing will not have it available after the end of this year, that is, even before the scheduled hearing of the appeal. Clearly the TLAB cannot make the decision on the merits of the proposal before hearing all of the evidence. Thus in its opinion, there should be at least an extra day provided for the hearing so that it can be presented to the extent possible, as early as possible.

Ms. Braun for the City has provided her consent, and is available January 15, as is Mr. Gosnell. Therefore there will be another day added to the date of January 12, 2018, being Monday, January 15, 2018.

If this poses any difficulties, the TLAB may be spoken to.

DECISION AND ORDER

The TLAB orders that the hearing for this appeal will begin on Friday, January 12, 2018, as specified, and will continue on Monday, January 15, 2018, as required. All parties and participants are expected to attend at the commencement of the Hearing. If there are any matters to be addressed by way of further Motion beforehand, they are to be addressed now in accordance with the Notice of hearing and the TLAB Rules.

X 

G. Burton
Chair, Toronto Local Appeal Body