

DECISION AND ORDER

Decision Issue Date Wednesday, December 20, 2017

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

Appellant(s): HEATHER ELIZABETH GOODCHILD

Applicant: HEATHER ELIZABETH GOODCHILD

Property Address/Description: 302 GLADSTONE AVE

Committee of Adjustment Case File Number: 17 119746 STE 18 MV

TLAB Case File Number: **17 194225 S45 18 TLAB**

Hearing date: Tuesday, November 07, 2017

DECISION DELIVERED BY S. Ruddock

APPERANCES

Heather Goodchild

INTRODUCTION AND BACKGROUND

This is an appeal to the Toronto Local Appeal Body (“TLAB”) of a Committee of Adjustment (“COA”) decision, dated July 4, 2017, which refused the variance applications of Heather Goodchild (the “applicant”) for associated variances related to the garage located in the rear of a semi-detached dwelling. The proposal was to demolish the existing garage and construct a new rear detached garage with sanitary facilities.

A site visit by the panel was disclosed at the outset as consistent with Council’s direction in the constitution of TLAB. The site visit provide an appreciation of the general characteristics of the neighbourhood, all of which was reinforced by other evidence of the witness.

The variances considered by the COA were as follows:

1. Chapter 10.10.60.20.(1)(A), By-law 569-2013

The minimum required rear yard setback is 1.00 m.

The rear detached garage will be located 0.30 m from the west rear lot line.

2. Section 2(1), By-law 438-86

A private garage is defined as a building or a portion of a building, or a carport, not over one-storey and/or four metres in height, that is used principally for the sheltering of not more than three motor vehicles.

In this case, the sanitary facilities in the rear detached garage are not permitted as part of the principal use for the garage.

3. Section 6(3) Part XI 1(2), Bylaw 438-86

An accessory building is not permitted in the rear yard of a residential lot where both the front and rear lots lines adjoin a street.

The rear detached garage will be located in the rear yard and rear lot line adjoins Macklem Avenue.

At the appeal to TLAB the Applicant revised the variances by deleting the request related to the sanitary facilities (#2 above). To the extent that the variances requested differ from those before the COA, TLAB accepts that the Applicant's proposed revision is a reduction of the original application. As such, TLAB finds that no further notice is required pursuant to s.45 (18.1.1) of the Act, and the revision can be considered.

JURISDICTION AND MATTERS

On an appeal, the TLAB must be satisfied that each of the variances sought meets the tests in subsection 45(1) of the Act. This involves a reconsideration of all the variances considered by the Committee, in the physical and planning context. The subsection requires a conclusion that each of the variances, individually and cumulatively:

- is desirable for the appropriate development or use of the land, building or structure;
- maintains the general intent and purpose of the official plan;
- maintains the general intent and purpose of the zoning by-law; and
- is minor.

These are usually expressed as the “four tests”, and all must be satisfied for each variance. In addition, TLAB must have regard to matters of provincial interest as set out in section 2 of the Act, the variances must be consistent with provincial policy statements and conform with provincial plans, as set out in s. 3 of the Act. A decision of the TLAB must therefore be consistent with the 2014 Provincial Policy Statement (‘PPS’) and conform to any provincial plan such as the Growth Plan for the Greater Golden Horseshoe (‘Growth Plan’) for the subject area. Under s. 2.1 of the Planning Act, TLAB is also to have regard for the earlier Committee decision and the materials that were before that body.

EVIDENCE

The Applicant, Heather Goodchild was the only person in attendance at the TLAB hearing. Ms. Goodchild is the owner of the property and gave evidence of the disposition of the case at the COA and steps she has taken since then. Ms. Goodchild stated that the COA rejected her application because she was trying to put a sanitary facility in her garage. It was Ms. Goodchild evidence that she was told that her application would have been approved without the request for the sanitary facility.

After the COA decision, Ms. Goodchild removed the requested variances to add a sanitary facility from her plan. Ms. Goodchild obtained and filed updated Plans and an updated Zoning Notice from the City.

With respect to the revised variances requested, Ms. Goodchild stated that the subject property is located on a block on Gladstone Avenue that is unique in that all the garages back unto Macklem Avenue. She stated that none of the garages on her block comply with these bylaws. Ms. Goodchild referred to photos showing views of the row of rear garages on Gladstone Avenue all abutting Macklem Avenue, as seen in Exhibit 3. It was Ms. Goodchild’s submission that given that the existing garage and every garage (both original and newly built) on Gladstone Avenue have been built right up to the property line, having a setback of 1 meter would disrupt the streetscape and be inconsistent with this specific urban condition. Ms. Goodchild submitted that what would seem most in keeping with the urban condition is to setback the garage from the sidewalk the depth of the footing as per her requested variance.

With respect to the second variance, Ms. Goodchild relied on the same submission as above. She referred to the photos showing views of the Gladstone Avenue rear garages abutting onto Macklem Avenue, as seen in Exhibit 3. Ms. Goodchild submitted that the existing urban conditions of this street is entirely in conflict with the by-law.

Ms. Goodchild added that the garage at 308 Gladstone Avenue went through COA for similar minor variances and they were approved.

Ms. Goodchild filed letters of support for the variance request from eleven of her neighbours, including one on Macklem Avenue. There was also a letter of support filed from her City Councillor. Ms. Goodchild stated that there was initially one objection

filed at the COA from a neighbour on Macklem Avenue, who mistakenly thought that the proposal was to encroach further onto Macklem Avenue than at present. Ms. Goodchild stated after seeing this objection she cleared this misunderstanding up with this neighbour, explaining that the proposal was for a new garage that would be parallel to the existing one and she did not appear to have any further objections.

It was Ms. Goodchild's position that the variances requested meet the four tests under s.45(1) of the Act. The variances proposed are minor and are desirable for the appropriate use of the land. The proposed rear garage is consistent with the other rear garages on Gladstone Avenue and reflects the existing physical character of the neighbourhood. The application maintains the general intent and purpose of the Official Plan and the Zoning Bylaws.

ANALYSIS, FINDINGS, REASONS

TLAB agrees with the evidence of the Applicant that the variances meet the four tests under s.45(1) of the Act. The variances proposed are minor and are desirable for the appropriate use of the land. The neighbourhood is unique in that the rear garages surrounding the subject property, all abut onto Macklem Avenue with a similar set back. The proposed garage respects and reinforces the existing physical character of the neighbourhood.

TLAB agrees that the variances are consistent with the standards of the Zoning By-laws and the policies of the Official Plan, and therefore maintain the general intent and purpose of both By-laws and the Official Plan. From a streetscape perspective the proposed garage seamlessly integrates into the neighbourhood and is consistent with the adjacent rear garages along Gladstone Avenue. The proposal respect and reinforces the existing characteristic of the neighbourhood.

DECISION AND ORDER

For all the reasons expressed above, the appeal as revised is allowed. The TLAB orders:

1. The variances to Zoning By-law No. 569-2013 and No. 438-868 as listed below are authorized.

1. Chapter 10.10.60.20.(1)(A), By-law 569-2013

The minimum required rear yard setback is 1.00 m.

The rear detached garage will be located 0.30 m from the west rear lot line.

2. Section 6(3) Part XI 1(2), Bylaw 438-86

An accessory building is not permitted in the rear yard of a residential lot where both the front and rear lots lines adjoin a street.

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The rear detached garage will be located in the rear yard and where the rear lot line adjoins Macklem Avenue.

X



Sophia Ruddock
Chair, Toronto Local Appeal Body
Signed by: sruddoc