

DECISION AND ORDER

Decision Issue Date Tuesday, January 02, 2018

PROCEEDING COMMENCED UNDER subsection 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant(s): ALEX AIDAN

Applicant: TAES ARCHITECTS INC

Property Address/Description: 23 SUNCREST DR

Committee of Adjustment Case File Number: 17 165450 NNY 25 MV/ A0533/17NY

TLAB Case File Number: **17 221581 S45 25 TLAB**

Motion Hearing date: Tuesday, January 02, 2018

DECISION DELIVERED BY L. McPherson

INTRODUCTION AND BACKGROUND

On August 3, 2017, the Committee of Adjustment (“the Committee”) approved a minor variance application for 23 Suncrest Drive to permit the construction of a new two-storey dwelling. On August 23, 2017, Alex Aiden Furney appealed the decision of the Committee to the Toronto Local Appeal Body (“TLAB”). The TLAB scheduled a hearing for January 17, 2018. The Notice of Hearing, sent September 29, 2017, included certain dates for the required filings. These include:

- **Document Disclosure** as per Rule 16 **DUE** no later than October 30, 2017
- **Witness Statement** as per Rule 16.4 (Form 12) **DUE** no later than November 13, 2017
- **Participant Statement** as per Rule 16.5 (Form 13) **DUE** no later than November 13, 2017
- **Expert Witness Statement** as per Rule 16.6 (Form 14) **DUE** no later than November 13, 2017

- **Notice of Motion** as per Rule 17 (Form 7) **DUE** no later than December 04, 2017

Other than the Applicant/Owner, there were no other Parties or Participants disclosed. After filing the Notice of Appeal, the Appellant did not file any other materials. The Applicant disclosed their documents on October 31, 2017 and the required Expert Witness Statement on November 13, 2017. The Appellant did not disclose documents or a Witness Statement.

On December 4, 2017, the Appellant filed a Notice of Motion with the TLAB requesting a 45 day extension to the hearing date of January 17, 2018 due to medical reasons which prevented him from his day to day business. The Motion included certain medical documents to provide verification of the medical condition. The original Notice of Motion was not properly served and therefore a revised Motion dated December 18, 2017 was served on the other Party and a Motion "hearing" date of January 2, 2018 was set. As of January 2, 2018, there was no Form 8 - Notice of Response to Motion filed by the Applicant.

MATTERS IN ISSUE

Under Rule 2.10, the TLAB is empowered to grant exceptions or other relief to the Rules as it considers appropriate, to enable it to effectively and completely adjudicate matters in a 'just, expeditious and cost-effective manner'. In addition, under Rule 4.4, the TLAB may extend or reduce the time limits provided by the Rules. The availability of parties and their ability to adhere to the filing dates when scheduling a hearing is an issue of procedural fairness and natural justice that the TLAB must take into consideration. In this instance, the Appellant has requested an extension based on health reasons. The hearing is scheduled in 15 days, and as of this late date there is no opportunity for the Appellant to file the relevant documents and provide the Applicant with a reasonable response time. The issue is whether to adjourn the original hearing date and reschedule the hearing with a new deadline for the Appellant to disclose the applicable documents.

ANALYSIS, FINDINGS, REASONS

The Applicant/owner has filed the required materials in preparation for a January 17, 2018 hearing and any delay would prejudice the Applicant. However, the Applicant has not responded to the Notice of Motion to reschedule the hearing. Rule 23.3 provides matters to be considered in deciding whether or not to grant an adjournment. On the basis that the Applicant has not advised of any prejudice or hardship as a result of a later hearing date, the TLAB will agree to an adjournment of approximately 6 weeks as a courtesy. Given the length of time that has elapsed since the Notice of Hearing was sent, the timelines for submission of materials warrant consideration.

DECISION AND ORDER

The Motion for Adjournment is granted. TLAB staff is requested to canvas the Parties for a new hearing date approximately 6 weeks from the original hearing date of January 17, 2018.

The hearing exchange dates for disclosure and Witness Statements by the Appellant is January 31, 2018 failing which the Applicant may seek further relief.

The hearing scheduled for January 17, 2018 is cancelled and no appearances or attendances are required.

The undersigned member is not seized for the hearing in order to facilitate rescheduling.

X 

Laurie McPherson
Panel Chair, Toronto Local Appeal Body