

## DECISION AND ORDER

**Decision Issue Date**      Wednesday, January 03, 2018

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

Appellant(s): MARY LAM

Applicant: NORSEMAN CONSTRUCTION

Counsel or Agent: D. ARTENOSI (APPLICANT)

Property Address/Description: 66 Virginia Avenue

Committee of Adjustment Case File Number: 17 105479 STE 31 MV (A0047/17TEY)

TLAB Case File Number: 17 160622 S45 31 TLAB

**Hearing date:**      Wednesday, December 20, 2017

### ORDER AND DECISION ON A HEARING STATUS BY TELEPHONE CONFERENCE

1. Mr. Artenosi will obtain instructions as to accepting the authenticity of the following documents:
  - a. Deed of purchase for 64 Virginia Avenue including particulars of the Right of Way registered on said property concerning both 64 and 66 Virginia Avenue
  - b. Orders to comply dated January 5, 2017 and November 8, 2016
  - c. Guido Papa survey completed January 16, 2017.
  - d. Interim decision of the Association of Ontario Land Surveyors dated August 23, 2017
  - e. Email from Mary Lam to Avanti Sept 6, 2017

Mr. Artenosi will obtain instructions as to accepting the truth of the following facts:

**Decision of Toronto Local Appeal Body Panel Member: T. Yao**  
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- a. Ms. Lam and family members have lived at 64 Virginia since 1985.
- b. Extinguishment of a right of way is not within the jurisdiction of the TLAB.

At all times, Mr. Artenosi reserves the right to deny any facts and conclusions of law otherwise stated in the Affidavit of Peter Lam.

Mr. Artenosi will advise the TLAB and Ms. Lam whether he has received such instructions by Dec. 29, 2017.

2. Ms. Lam will prepare and file a Statement of Fact and Law regarding the relief she requests by Jan 5, 2018. If the relief does not squarely fall within s. 45(1) of the *Planning Act*, her Statement of Fact and Law should explain how the TLAB has jurisdiction to make the order requested.

Owing to the holidays and very short time lines, it is not expected that Mr. Artenosi will file any documentation in reply. However, he is at liberty to communicate his client's disagreement with anything in the Statement of Fact and Law, together with any caselaw, at any time.

3. Mr. Artenosi states that the zoning examiner's notice of April 6, 2017 supersedes the zoning waivers of Kristofer Potts of January 17, 2017.
4. Ms. Lam will refile a document (file name "TLAB - Party Disclosure filed by M. Lam\_disaug817\_66 Virginia Ave"), as it is upside down.
5. Mr. Artenosi will take under advisement the need to produce a new cross section drawing illustrating encroachments and projections, and lot lines, in relation to variances 3 and 4 (projection of roof eaves, canopies etc.) Ms. Lam's position is that there is a difference between "eaves" and "eavestroughs". Mr. Artenosi's position is that the interpretation of the zoning by-law is solely within the jurisdiction of the Chief Building Official and his or her determination is not challengeable at the TLAB, but by way of application under s. 25(1) of the *Building Code Act*. My suggestion to Ms. Lam was that this should be part of her Statement of Fact and Law and of course it is always open to her to make such a drawing herself.

X

*Ted Yao*

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