

DECISION AND ORDER

Decision Issue Date: Wednesday, March 21, 2018

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

Appellant(s): LAUREN LINDSAY and CLIVE JACOBSON

Applicant: DREW LASZLO ARCHITECT INC

Property Address/Description: 81 WESTGATE BLVD

Committee of Adjustment Case File Number: 17 148473 NNY 10 MV (A0419/17NY)

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

Hearing date: Tuesday, March 13, 2018

DECISION DELIVERED BY S. MAKUCH

APPEARANCES

T. Ryuck for Lauren Lindsay and Clive Jacobson

INTRODUCTION

The following variances were sought for the construction of a three story detached dwelling in a stable residential neighbourhood east of Bathurst St. and north of Highway 401:

- 1. Chapter 10.5.40.10.(5), By-law No. 569-2013**
An area of 10m² of the first floor must be within 4m of the front main wall.
The proposed is 7.73m² of the first floor (foyer level) is within 4m of the front main wall.
- 2. Chapter 10.20.40.10.(2), By-law No. 569-2013**
The permitted maximum height of all front and rear exterior main walls is 7.5m. The proposed height of the front and rear exterior main walls is 9.19m.

3. Chapter 10.20.30.40.(1), By-law No. 569-2013

The permitted maximum lot coverage is 30% of the lot area. The proposed lot coverage is 34.28% of the lot area.

4. Section 14-A(8), By-law No. 7625

The maximum permitted building height is 8.8m. The proposed building height is 9.57m.

5. Section 14-A(9), By-law No. 7625

The maximum permitted building length is 15.3m. The proposed building length is 17.41m.

BACKGROUND

The Committee of Adjustment approved variances 1, 2, and 5. It modified and approved variances 3 and 4. It did so having received a report from planning staff recommending a reduction in variance 4. The report stated that if the Committee were to approve this application, staff recommend that proposed building height first be modified to be within the range of 9.1 metres and 9.3 metres. It recommended no other modifications.

The modified variances, approved by the Committee of Adjustment, are as follows.

3. Chapter 10.20.30.40.(1), By-law No. 569-2013: The permitted maximum lot coverage is 30% of the lot area. The proposed lot coverage is 32.00% of the lot area.

4. Section 14-A(8), By-law No. 7625: The maximum permitted building height is 8.8m. The proposed building height is 9.10m.

It is only these two modified variances which are under appeal by the owners. There were no parties or participants opposing the appeal and there was only one person attending the hearing, a planner representing the owners.

MATTERS IN ISSUE

As framed, the matters particularly in issue are: whether the unmodified lot coverage (variance 3) should be approved; and whether the unmodified height (variance 4) should be approved.

JURISDICTION

In reaching its conclusions regarding the approval of variances the TLAB has to consider whether the variances are consistent with the 2014 Provincial Policy Statement ('PPS') and conform to the Growth Plan of the Greater Golden Horseshoe for the subject area ('Growth Plan')(s.3 Planning Act).

Moreover, in considering appeals with respect to variances from zoning by-laws, the TLAB Panel must be satisfied that the variances meet all of the four tests under s. 45(1) of the Planning Act. The tests are whether the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

EVIDENCE

In this appeal the only evidence was that of Mr, T. Ryuck, a planner qualified to give expert opinion evidence. Exhibit 1 is his curriculum vitae. His evidence was set out clearly and concisely in his Expert Witness Statement (Exhibit 2) which he summarized in his oral evidence. His evidence also included reference to an Area Context Map and Proposed Plans, both of which he filed on February 16, 2018.

His evidence was that the proposed dwelling unit was compatible with the surrounding residential neighbourhood of single family detached homes of 1-3 stories in height and that the neighbourhood was undergoing regeneration.

His evidence demonstrated that there were a number of homes in the area with a lot coverage of equal to or greater than 34%. He pointed out that the lot coverage did not result in any need for side yard or front yard variances and that the depth variances which was approved by the Committee of Adjustment was technical, arising out of an angle in the road.

With respect to the height variance, his evidence was that it was required only under the North York Bylaw because height was measured from the centre line of the street and not at grade where the dwelling is to be constructed. Because the centre of the street was lower than the grade at the dwelling wall, a 'technical' variance was required.

His evidence opined favourably on the other variances addressed by the Committee and concerning which there was no dispute.

He gave evidence in writing and orally that the appealed variances and proposed dwelling met the requirements of the PPS and the Growth Plan as well as the four tests of section 45(1) of the Planning Act. He concluded that the proposed dwelling would

integrate seamlessly into the neighbourhood, would have no negative impact on neighbouring properties, and represented good planning.

ANALYSIS, FINDINGS, REASONS

This panel member heard and read detailed and undisputed evidence that the variances met all Planning Act requirements. I also read the Planning Staff Report filed February 16, 2018, which not contain any detailed examination of heights in the neighbourhood to support its recommendation of a height reduction and did not recommend a reduction in lot coverage. On the basis described therefore, the variances as originally sought should be approved.

DECISION AND ORDER

The variances originally requested, and set out in the Introduction above as 'proposed', are hereby approved and the TLAB so orders.

X 

S. Makuch
Panel Chair, Toronto Local Appeal