

DECISION AND ORDER

Decision Issue Date: Wednesday, March 21, 2018

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

Appellant(s): MOHAMED HANIF LOREDANA HANIF

Applicant: JR DESIGN AND CONSTRUCTION

Property Address/Description: 62 FENWOOD HTS

Committee of Adjustment Case File Number: A0303/17SC

Property Address: Legal Description: PLAN 3757 LOT 16

TLAB Case File Number: **17 252400 S45 36 TLAB**

Hearing date: Friday March 16 2018

DECISION DELIVERED BY S. Makuch

INTRODUCTION

The applicant is seeking relief from the provisions of the Zoning By-law for recently constructed additions to a single family dwelling. A second storey addition over an existing dwelling and a two-storey side and rear addition, complete with interior and exterior alterations were constructed illegally.

The following variances to the zoning bylaw were requested:

By-law No. 9396:

1. The altered dwelling has a height of 9.67 m;
Whereas the maximum permitted dwelling height is 9 m.
2. The proposed dwelling has a basement height of 1.67 m, as measured from the average grade at the front main wall to the ceiling of the basement;

Whereas the maximum permitted basement height is 1 m.

BACKGROUND

The appellant applicants purchased the property not knowing of the illegal construction. Neighbours objected to the variances at the Committee of Adjustment but now support the variances as does the local councillor. No one appeared in opposition to the variances.

MATTERS IN ISSUE

There being no one appearing in opposition to the variances there are no matters in issue.

JURISDICTION

TLAB's jurisdiction arises out of the Planning Act, applicable provincial policy and particularly the four tests under s. 45(1) of the Planning Act, which 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

Mr. D. Hannam was qualified to give opinion planning evidence based on his degree in Environmental and Resource Planning, his twenty years of practicing as a planner in Ontario and his membership in relevant planning organizations, as well as his past employment as a planner by the City of Etobicoke. He is currently employed as a planner by Zelika Priamo Ltd., Planning Consultants.


His evidence was clear and concise: the variances singularly and cumulatively met the four tests of the Planning Act and the dwelling fit well with the physical character of the neighbourhood in terms of massing, scale, type, and lot configuration. Approximately forty other dwellings in the neighbourhood were similar. He also stated that the variances were minor and had no impact on surrounding uses. He noted the relief sought was modest, 65cm in building height, resulting from a similar height increase in the basement. His conclusion was that the development represented good planning and was consistent with all relevant Provincial Policy and plans and recommended approval.

ANALYSIS AND FINDINGS

The TLAB accepts the uncontradicted evidence of Mr. Hannam, both as to the history of the construction and as to variances meeting the requirements of the Planning Act and Provincial policy.

DECISION AND ORDER

The TLAB allows the appeals, approves the variances as set out above and so orders.

X 

S. Makuch
Panel Chair, Toronto Local Appeal