

DECISION AND ORDER

Decision Issue Date **Friday, March 9, 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): DOUG DIXON

Applicant: NADEEM IRFAN

Property Address/Description: 63 INNISWOOD DR

Committee of Adjustment Case File Number: 17 189341 ESC 37 MV (A0250/17SC)

TLAB Case File Number: **17 238413 S45 37 TLAB**

Hearing date: Thursday, March 08, 2018

DECISION DELIVERED BY S. MAKUCH

APPEARANCES

Name	Role	Representative
DOUG DIXON	Appellant	-
NADEEM IRFAN	Applicant/ Expert Witness	-
RAJAT CHAKRABARTY	Party/ Owner	-
APPITA BISWAS	Party/ Owner	-

INTRODUCTION

This is an appeal of the granting of three variances by the Committee of Adjustment to permit the construction of a single family house at 63 Inniswood Dr. The variances are as follows:

By-law No. 569-2013:

1. The proposed dwelling will cover 36.93% of the lot area;

Whereas the maximum permitted coverage is 33% of the lot area.

2. The proposed dwelling will have a length of 18.59 m;

Whereas the maximum permitted dwelling length is 17 m.

By-law No. 9511:

3. The proposed dwelling will cover 38.79% of the lot area;

Whereas the maximum permitted coverage is 33% of the lot area.

BACKGROUND

There was only one appellant, Mr. Dixon, the owner of the adjacent property at 61 Inniswood Dr. City staff made no comment respecting the variances to the Committee of Adjustment and the City did not appear as a party. There were no other parties or participants in opposition.

MATTERS IN ISSUE

Mr. Dixon clearly presented his reasons for the appeal, and thus the issues in the hearing. The reasons can be summarized as follows:

a) The variances were not minor as they did not meet the definition of minor in Webster's dictionary as they were not small enough: the length variance was 9% of the permitted length; and the lot coverage was not small enough as it was 125% of the permitted lot area.

b) The house might be used for business /office purposes, and, therefore, the variances should not be granted.

c) The support of neighbours was unreliable as the neighbours were not necessarily concerned about the neighbourhood and had their own motives for supporting the variances.

d) The lack of any objections demonstrated apathy.

e) There was no demonstrated need for the variances arising out of the applicant's caring for elderly parents.

f) The proposed house would affect the privacy of his porch.

JURISDICTION

As the TLAB attempted to explain at the hearing, its jurisdiction arises out of the Planning Act, applicable provincial policy and particularly the four tests under s. 45(1) 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.

The TLAB attempted to further explain that the test for what is minor is not simply a matter of size, numbers, or percentages. Those tests take into account the impact of the variances and resulting development on neighbouring uses.

EVIDENCE

The evidence for the applicant was presented by Mr. Irfan, a registered Ontario Architect, who designed the proposed house. Because of his work experience, he was qualified to give expert planning opinion evidence on the official plan and zoning bylaw and how they relate to the design of buildings. His evidence was that the variances met the four tests set out above. There were a number examples of variances in the neighbourhood, both with respect to length and lot coverage, which were greater than those sought. He pointed out that the residential character of the neighbourhood would be respected and reinforced. Finally, he noted that the proposed dwelling and variance would not have any adverse impact on his Dixon house as it was separated by a driveway and garage and did not extend beyond the garage. There was no issue that the variances were inconsistent with Provincial Policy.

Mr. Dixon's evidence was clearly put. As set out above under "Issues" it related to the variances not being minor, not being for an appropriate use, not being validly support, and not being necessary. In support of his concerns he presented a number of photos of different houses which had received approval of minor variances (Exhibits 1, 2, 3, 4, and 5).


ANALYSIS, FINDINGS, REASONS

While the TLAB understands Mr. Dixon's view that the variances do not meet the definition of minor, I do not agree that the variances are not minor, even applying the definition, as that is a matter of judgement. In my judgement the variances are small, i.e., minor in all relevant aspects. The TLAB must consider any negative impacts from the variances. In this case there is no negative impact from the variances on the Dixon property. The length variance is small and hidden by the Dixon garage. Any porch impact on privacy is not the result of the variances. There is no variance as to the use, and the 'need' for the variances is not one of the four tests. The examples of similar

variances in the neighbourhood demonstrate that the general intent of the official plan and zoning bylaw are met and that the variances are minor.

DECISION AND ORDER

The TLAB finds that the requested variances meet the four tests of s.45 of the Planning Act and are good planning. Thus the appeal is dismissed and the variances as set out above approved. The TLAB so orders.

X 

S. Makuch
Panel Chair, Toronto Local Appeal