

DECISION AND ORDER

Decision Issue Date Monday, May 07, 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): MATTHEW RUDIN

Applicant: LORNE ROSE ARCHITECT INC

Property Address/Description: 403 ELM RD

Committee of Adjustment Case File Number: 17 193474 NNY 16 MV (A0644/17NY)

TLAB Case File Number: **17 278642 S45 16 TLAB**

Motion Hearing date: Friday, May 04, 2018

DECISION DELIVERED BY L. McPherson

INTRODUCTION AND BACKGROUND

On December 7, 2017, the Committee of Adjustment ("the Committee") refused a minor variance application for 403 Elm Road Drive to permit the construction of a new two-storey dwelling. The decision was appealed from the Committee to the Toronto Local Appeal Body ("TLAB") by the Applicant. The TLAB scheduled a hearing for May 4, 2018. No filings were made by the Appellant/Applicant and no representative attended the TLAB Hearing.

MATTERS IN ISSUE

The Committee refused the following variances:

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 7.1m² of the first floor is within 4m of the front main wall.

2. Chapter 10.5.40.50.(2), By-law No. 569-2013

In the Residential Zone category, a platform without main walls, such as a deck, porch, balcony or similar structure, attached to or within 0.3m of a building, must comply with the required minimum building setback of 0.90m.

The proposed portion of the rear deck not encroaching into the required rear yard setback is setback from the south side lot line by 0.82m.

3. Chapter 10.20.40.10.(1), By-law No. 569-2013

The maximum permitted building height is 10m.

The proposed building height is 10.6m.

4. Chapter 10.20.40.10.(2), By-law No. 569-2013

The permitted maximum height of all side exterior main walls facing a side lot line is 7.5m.

The proposed height of the south side exterior main walls facing a side lot line is 9.94m.

5. Chapter 10.20.40.10.(2), By-law No. 569-2013

The permitted maximum height of all side exterior main walls facing a side lot line is 7.5m.

The proposed north side exterior main walls facing a side lot line is 7.98m.

6. Chapter 10.20.40.20.(1), By-law No. 569-2013

The permitted maximum building length for a detached house is 17.0m.

The proposed building length is 17.91m.

7. Chapter 10.20.40.70.(1), By-law No. 569-2013

The required minimum front yard setback is 9.58m.

The proposed front yard setback is 3.5m.

8. Chapter 10.20.40.70.(3), By-law No. 569-2013

The minimum required side yard setback is 0.9m.

The proposed south side yard setback is 0.74m.

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

The maximum permitted lot coverage is 35% of the lot area.

The proposed lot coverage is 44.3% of the lot area.

10. Chapter 10.5.80.40.(3), By-law No. 569-2013

Vehicle access to a parking space on a corner lot must be from a flanking street that is not a major street.

The proposed vehicle access to a parking space is from Elm Road as opposed to Brooke Avenue which is the flanking street.

11. Chapter 10.5.40.60.(1), By-law No. 569-2013

A platform without main walls, attached to or less than 0.3m from a building, with a floor no higher than the first floor of the building above established grade may encroach into the required rear yard setback by 2.5m if it is no closer to a side lot line than 2.15m.

The proposed platform encroaches 2.1m into the required rear yard setback and is 0.91m from the north side lot line and 0.82m from the south side lot line.

12. Chapter 10.5.40.60.(3), By-law No. 569-2013

Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no wider than 2.0m.

The proposed stairs are 2.59m wide.

13. Section 14-B(4), By-law No. 7625

The minimum required lot frontage is 9m.

The existing lot frontage is 6.11m.

14. Section 14-B(5)(a), By-law No. 7625

The minimum required front yard setback is 5m.

The proposed front yard setback is 3.5m.

15. Section 14-B(5)(b), By-law No. 7625

The minimum required side yard setback is 1.2m.

The proposed north side yard setback is 0.91m.

16. Section 14-B(5)(b), By-law No. 7625

The minimum required side yard setback is 1.2m.

The proposed south side yard setback is 0.74m.

17. Section 14-B(8), By-law No. 7625

The maximum permitted building height is 8.8m.

The proposed building height is 9.86m.

18. Section 14-B(9), By-law No. 7625

The maximum permitted building length is 15.3m.

The proposed building length is 18.54m.

19. Section 6(30)a, By-law No. 7625

The maximum finished first floor height is 1.5m.

The proposed finished first floor height is 1.67m.

20. Section 6A(2)a, By-law No. 7625

The minimum required number of parking spaces is 2 spaces.

The proposed number of parking spaces is 1 spaces.

21. Section 14-B(5)c, By-law No. 7625

The minimum required rear yard setback is 9.5m.

The proposed rear yard setback is 7.77m.

22. Section 6(24)(a), By-law No. 7625

All unexcavated porches or decks, attached to or detached from the main building, and located in the side and rear yard, shall not occupy more than 5% of the lot area.

The proposed deck occupies 5.6%.

23. Section 6(24), By-law No. 7625

Decks which are greater than 1m in height above all points of the adjacent ground are limited to projecting 2.1m from the wall and are not to be greater than 50% of the width of the building at the building's widest point.

The proposed deck projects 2.44m and is 100% of the width of the building.

24. Section 6(24)(d), By-law No. 7625

In the rear yard, unexcavated porches or decks attached to or detached from the main building shall not be located closer to the side lot lines than the minimum side yard setback for the main building of 1.2m.

The proposed rear unexcavated deck is setback from the north side lot line is 0.91m and setback from the south side lot line is 0.82m.

25. Section 6(24)(d), By-law No. 7625

In the rear yard, unexcavated porches or decks attached to or detached from the main building shall not be located closer to the side lot lines than the minimum side yard

setback for the main building of 1.2m.

The proposed rear unexcavated deck is setback from the north side lot line is 0.82m.

26. Section 6(9)(f), By-law No. 7625

Porches and decks, either excavated or unexcavated, and canopies shall be permitted to project into the minimum front yard setback not more than 2.1m but not closer to the side lot line than the minimum side yard setback for the main building of 1.2m.

The proposed front porch and the canopy above projects 1.52m and is setback from the north side lot line by 0.91m.

JURISDICTION

Minor Variance – S. 45(1)

In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the 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.

Applicable provincial policy is also a relevant consideration

EVIDENCE

There was no evidence filed with the TLAB. The Member waited until 9:30 am on the day of the Hearing and no one attended. The Applicant/Appellant did not correspond with TLAB staff advising that they would not be appearing. As a result, there was no evidence provided.

ANALYSIS, FINDINGS, REASONS

The Applicant/Appellant did not attend the TLAB Hearing. As a result, the appeal was not advanced or supported by the Applicant.

DECISION AND ORDER

The appeal is dismissed and the Committee of Adjustment decision of December 7, 2017 stands.

X 

L. McPherson
Panel Chair, Toronto Local Appeal Body