

# DECISION AND ORDER

**Decision Issue Date**      Tuesday, May 08, 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): LISA SWIMMER

Applicant: LORNE ROSE ARCHITECT INC (LORNE ROSE)

Property Address/Description: 201 ARMOUR BLVD

Committee of Adjustment Case File Number: 17 269909 NNY 10 MV (A1053/17NY)

TLAB Case File Number: **18 117776 S45 10 TLAB**

**Hearing date:**      Friday, April 13, 2018

**DECISION DELIVERED BY S. Gopikrishna**

## REGISTERED PARTIES AND PARTICIPANTS

| <b>Name</b>              | <b>Role</b>      | <b>Representative</b> |
|--------------------------|------------------|-----------------------|
| Lorne Rose Architect Inc | Applicant        |                       |
| Lisa Swimmer             | Appellant/ Owner | Aaron Platt           |
| Steven Caplan            | Owner            |                       |

## INTRODUCTION AND BACKGROUND

It is important to understand the context of the Appeal in order to understand the nature of relief sought from the Toronto Local Appeal Body (TLAB):

The Appellant, together with her partner (the “Applicants”) submitted, an application for minor variances to the North York Panel of the Committee of Adjustment (COA) on November 30, 2017 regarding the lands at 201 Armour Boulevard, within the City of Toronto, to permit the construction of a new, 2-storey home at the Property. The Appellants submit that the variances requested were based on confirmation from a City Zoning Examiner as to the relief required to permit the new home as identified on plans submitted to the City for review. The Application was scheduled for a Committee hearing on February 8, 2018.

On February 6, 2018, two days prior to the Committee Hearing, a memorandum from the City’s Transportation Services Department (the “Transportation Dept.”) was issued recommending refusal of the variance sought to permit vehicular access, not from a flanking street (By way of information, vehicle access to a parking space on a corner lot must from a flanking street that is not a major street).

The Applicants/Appellants submit that, notwithstanding the lack of any objection or concern from the neighbourhood, community members, owners/occupants of the neighbouring homes, or the Ward Councillor and in the face of the only oral submissions made at the Committee Hearing which responded to the City staff report, the Committee approved the Amended Application (the “Committee Decision”) but:

- a) reduced the relief to be granted for lot coverage from the requested 40.6% to 35%; and
- b). denied the variances sought for:
  - i. vehicular access not from a flanking street; and
  - ii. the projection of a porch into the side yard.

Following the Committee Decision, the Applicant communicated with the Transportation Dept. to discuss the contents and position outlined in the Transportation Memo. As a result of this discussion, the Transportation Dept. conducted a further examination of the Amended Application and determined that they “*would not object to the variance for vehicle access from a flanking street*”. However, the Transportation Non-Objection Letter was provided to the Applicants approximately 2 weeks following the COA Hearing and Decision.

The applicants then decided to launch an Appeal to the Toronto Local Appeal Body (TLAB). As part of this process, they retained Mr. Oz Kemal, an Expert Land Use Planner, as a consultant. Mr. Kemal, uncovered a variance that the City had missed and was advised of the same in so many words when a clarification was sought from the City.

The Appellants have brought forward a Motion to accelerate the hearing of this application, including hearing the application with the Motion itself. The Motion is described in the “Matters in Issue” Section.

## **MATTERS IN ISSUE**

**The Motion is For:**

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna  
TLAB Case File Number: 18 117776 S45 10 TLAB**

1. An Order of the TLAB, made pursuant to Rule 2.10 of the *Rules*, as well as Sections 2, 4(1) 25.0.1(a) of the *SPPA*, to accept, *in lieu* of filing Document Disclosure and an Expert Witness Statement, the Affidavit of Mr. Oz Kemal sworn March 29, 2018 (the “Oz Kemal Affidavit”);
2. An Order of the TLAB, pursuant to Rules 2.2, 2.5 and 2.10 of the *Rules* as well as Sections 2, 4.1 and 25.0.1(a) of the *SPPA* to dispense with the requirement to hold a complete Hearing in-person and instead determine the outcome of the Appeal on its merits at the Motion;
3. An Order of the TLAB, pursuant to Sections 45(18.1.1) of the *Planning Act* (the “*Act*”), dispensing with the requirement for notice to be circulated as a result of one additional variance for a reduced side yard setback for the flanking side yard on a corner lot;
4. In the event the relief in paragraph 3 is not granted by the TLAB at the Motion, an Order of the TLAB pursuant to section 45(18.1) of the *Act* amending the subject application but directing that the Applicant circulate written notice advising of the additional relief sought and adjourning this Motion *sine die*, with a return date of June 29, 2018 or such earlier date that the TLAB deems just where no persons raises any issues with the additional variance;
5. An Order of the TLAB, pursuant to Rules 2.2, 2.5 and 2.10 of the *Rules*, Section 45(18) and 45(18.1) of the *Act* and Section 115(6) of the *City of Toronto Act*, granting the Appellant’s appeal and approving the minor variance application assigned file number A1053/17NY, (the “Application”) as amended with the variances to the applicable zoning by-laws as identified in Exhibit “17” to the Oz Kemal Affidavit;
6. In the event the relief in paragraphs 3-5 are not granted by the TLAB at the Motion, an Order of the TLAB pursuant to Rules 2.10, 4.4 and 4.5 of the *Rules*, as well as Sections 4(1) and 25.0.1(a) of the *SPPA* allowing the appeal to proceed as scheduled on June 29, 2018 and to treat the Oz Kemal Affidavit as an Expert Witness Statement pursuant to Rule 16.6 of the *Rules*, and
7. Such further and other relief as counsel may advise and the TLAB may permit.

## **EVIDENCE**

The Motion hearing, held on 13 April 2018, was attended by Mr. Platt and Mr. Kemal.

Mr. Platt explained the circumstances behind the Appeal. The principal facts of the case, including the unusual trajectory of the application as it was adjudicated by the COA and modifications before being appealed to the TLAB, appear in the Introduction section. In addition to reviewing these facts, Mr. Platt also provided commentary on the reasoning behind the various components of the motion, which are captured below.

Mr. Platt emphasized that the date for making an election to be a Party or a Participant had elapsed on March 28, 2018. No individual or entity has made an election for status as a Party or Participant, including the City of Toronto, pursuant to the Rules. These circumstances, according to Mr. Platt, would essentially allow the TLAB to waive the oral hearing which would be attended only by the Appellants without any opposing or contrary opinion. The sworn affidavit of the Expert Witness may substitute for the actual Witness Statement.

Providing some more detail about the application, Mr. Platt said that prior to the COA Hearing, the Applicant's architect consulted with City staff to review various comments and amended the original version of the Application by:

- a) reducing the magnitude of relief requested for a variance to the building's height;
- b) eliminating a variance for the building's height as a result of the reduced magnitude of relief
- c). reducing the magnitude of relief requested for a variance to the height of the building's exterior main wall.

As a result, City staff issued a report to the Committee, recommending approval of the Application as revised by the Application Amendments, save for recommending the following condition be imposed (the "Condition")

*"The proposal be developed in accordance with the site plan and north elevation drawing submitted to the Committee of Adjustment, date stamped as received by the City of Toronto Planning Division, January 29, 2018."*

The Appellant raised no issue with that condition. However, on February 6, 2018, two days prior to the Committee Hearing, a memorandum from the City's Transportation Services Department (the "Transportation Dept.") was issued recommending refusal of the variance sought to permit vehicular access from Armour Blvd. As the Transportation Memo was provided only two days before the COA Hearing, neither the Applicants, nor their architect, were able to resolve this concern in advance of the COA Hearing.

Mr. Platt emphasized that no single person filed any objection at the COA, nor did any person in neighbourhood, including the local Municipal Councillor. Given these circumstances, Mr. Platt said that the COA panel did something "unusual" because the COA:

- a. reduced the relief to be granted for lot coverage from the requested 40.6% to 35%; and
- b. denied the variances sought for:
  - i. vehicular access not from a flanking street; and
  - ii. the projection of a porch into the side yard

Mr. Platt emphasized that no reasons were provided to the Applicant/Appellant for the reduction in (a) above.

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna  
TLAB Case File Number: 18 117776 S45 10 TLAB**

Following the COA Decision, the Applicant directed their architect to revise the design for the Proposal to ensure it would meet the reduced coverage relief provided by the COA's Decision, which accomplished by removing the proposed rear deck. A corollary of this revision, according to Mr. Platt, was abandoning certain variances relating the rear deck, as they would no longer be required.

Following the COA Decision, the Applicant communicated with the Transportation Dept. to discuss the contents outlined in the Transportation Memo. The Transportation Dept. then conducted a further examination of the Amended Application and determined that they "*would not object to the variance for vehicle access from a flanking street...*" Mr. Platt pointed out that the new position was a complete reversal of the position taken in the Transportation Memo and was provided by way of a letter from the Transportation Dept. dated February 23, 2018, a copy of which is enclosed with the Oz Kemal Affidavit.

Mr. Platt stated that the apparent reason for the complete reversal of position taken by the Transportation Dept. was because the requested variance was not unique or precedent setting in the neighbourhood. In fact, the corner property across the street, at 207 Armour Boulevard, had already obtained the exact same relief. Mr. Platt felt that if the position in the Transportation Non-Objection Letter been provided prior to the Committee Hearing, it would have been likely that the variance for "A vehicle access not from a flanking street" would have been granted by the Committee

Following the COA Decision, the Applicants/Appellants reviewed the situation with their local Ward Councillor's office, including the further amendments made to the Proposal to bring it closer to compliance with the Committee Decision. As a result of the discussions with the Ward Councillor's office, the Ward Councillor prepared a letter in support of the Second Amended Application and Appeal, dated March 27, 2018 a copy of which was annexed to the Oz Kemal Affidavit.

Addressing the TLAB directly, the Councillor stated that::

*The main issue at the hearing was the letter of objection submitted by Transportation Services which essentially led to the refusal of variance 11. Shortly after the meeting Transportation Services pulled their letter of objection and according to their correspondence to the TLAB they state that "under the circumstances, Transportation Services would not object to the variance for vehicle access from a flanking street". I am familiar with the property and I have discussed the matter at length with the owner and neighbours. This proposal fits in with the character of the neighbourhood and I believe that the proposed variances maintain the general intent and purpose of the Official plan and Zoning By-law, are minor, and are considered desirable for the appropriate development of the land. Thank you for your attention to this matter and I hope that you will agree to approve this appeal.*

In preparing for this Motion, the Appellant's land use planner, Mr. Oz Kemal, identified an additional variance that was not identified by the City's Zoning Examiner in any of the zoning notices, commissioned in order to identify relief required to permit the Proposal

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna  
TLAB Case File Number: 18 117776 S45 10 TLAB**

.This variance, for a reduced side yard setback for the flanking side yard for a corner lot, is identified as the variance to Chapter 10.20.40.70(6) of By-law 269-2013 in the “clean” list of revised variances at Exhibit 17 of the Oz Kemal Affidavit. Upon identifying the additional variance, Mr. Kemal sought confirmation from the City’s Zoning Examiner as to whether the former had misinterpreted the applicable zoning by-law or if the latter had inadvertently omitted the necessary relief when she prepared the Examiner’s Notice.

In response, Mr. Kemal was advised that the City had, in fact, “missed” the Corner Setback Variance in every review and staff apologized for the error and inconvenience. A corrected version of the Zoning Notice was provided to Mr. Kemal that added the Corner Setback Variance. As a result, the Appellant now seeks the approval of the Application, as amended, to include the Variances (the “Subject Application”). Mr. Platt also advised that the variance for Building depth was listed as 21.26 m, but should be actually 21.4 m because of the technical issues in measuring building depth on a perpendicular line. There was an increase of 14 cm in the requested variance.

Mr. Platt then referenced the TLAB Rules (Rules) which support the Motion. With reference to the Relief under Paragraph 1, Mr. Platt submitted that the Oz Kemal Affidavit is more detailed and comprehensive than what would be expected to be provided in due course under Rules 16.2 and 16.6-16.9 of the *Rules* for Document Disclosure and/or Witness Statements. The contents of the Oz Kemal Affidavit, prepared in support of this Motion, can effectively be treated as an Expert Witness Statement. He submitted that the Appellant would not be tasked with the additional and, in light of the absence of any opposition to the Appeal, the unnecessary cost of preparing and filing separate Document Disclosure and an Expert Witness Statement.

Moving onto the relief requested in Paragraph 2, Mr. Platt referenced the Rules to point out that nobody had elected for Party or Participant status under the Rules. Given the circumstances, according to Mr. Platt, the Appeal could be addressed in a more efficient fashion, dispensing with the need for a complete oral hearing. Instead, hearing the Appeal by way of a written motion with an associated TLAB Motion appearance, will provide the TLAB with sufficient evidence to address the merits of the Appeal. The absence of Parties and Participants meant that that there would be no prejudice caused if the TLAB heard the Motion in writing, with an opportunity to ask questions and seek clarifications in person. Mr. Platt argued that this approach would be consistent with Rule 2.5 of the Rules which discusses efficiency in adjudication matters and Rule 25.0.1(a) of the SPPA, which allows a Tribunal to determine its own procedures and practices, and make orders to such procedures.

Moving onto the relief requested in Paragraphs 3 and 4, Mr. Platt discussed the impact of the additional variance identified by Mr. Kemal, and then requested by the Appellant. Mr. Platt explained that the Site Plans and other material for the Application before the COA, was available to the community at large and always reflected the side yard setback for which the additional variance was now being sought; in other words, there is no change to the Plans. Mr. Platt stated the new variances addresses an exterior side lot condition of the Property to the front lot line condition at 251 Sandringham Drive, located at the rear of the Property. He then went onto point out that there is extensive natural vegetation dividing the shared property line of the Property and 251

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna  
TLAB Case File Number: 18 117776 S45 10 TLAB**

Sandringham Drive, in addition to an existing opaque fence located in the boulevard that flanks the Property. These two existing conditions, coupled with the ample depth of the Property, already create a visual break that disrupts the establishment of a continuous street-wall condition in this context. In summary, Mr. Platt said, the fact that the side yard setback distance for the flanking side yard has always been shown on the plans for the Proposal, coupled with the existing on-the-ground conditions noted in Paragraph 76 which will mitigate or eliminate any undue adverse impact to 251 Sandringham Drive, the Corner Setback Variance is minor and should not require additional notice.

After Mr. Platt finished making oral submissions, I asked him a few questions. My first question was about why they had applied to the TLAB for relief when the updated application could have been adjudicated by the COA itself. Mr. Platt's response was that there was a 6 month backlog before the COA, which meant that the application wouldn't be heard for quite some time. Mr. Platt also indicated to me that they had lost confidence in the COA's ability to adjudicate their proposal in a reasonable fashion given the arbitrary reduction in coverage without discussion or explanation.

My next question was about waiving notice for the new variance which was not identified as well as another variance which was being changed. I asked Mr. Platt if waiving notice on a variance which was being changed and had "increased" from what was of right, was tantamount to determining that that variance was minor, early in the hearing, instead of hearing all the subsequent evidence. Mr. Platt said that the answer was "yes and no, simultaneously". He said that there were 2 aspects to this question, the first being procedural and the second being substantive. With respect to the procedural issue, Mr. Platt said that there were 2 issues that had to be balanced against each other, the first being prejudice to the public and the second being prejudice to his client. In terms of the prejudice to the public, Mr. Platt said that the Site Plan had been circulated and that the building hadn't "moved" physically. The City staff, who had expertise in planning matters, hadn't "caught" the variance. Mr. Platt interpreted this to mean that the variance in question was a feature common enough in larger lots that it didn't cause any concern. The neighbours, who had access to the Site Plan before the Committee of Adjustment hearing, had no issue with this feature, which eventually became the subject of a variance. He added that the "threshold for agitating neighbours is very low", and that the lack of response pointed to the fact that the proposal is something that the neighbours "probably" expect and that if "people are not complaining, it is probably not much of an issue". Based on this, Mr. Platt opined that there was no prejudice to the public but there would be prejudice to his client as a result of the costs incurred in waiting for the hearing as scheduled. On the substantive part, Mr. Platt drew my attention to the size of the lots and the separation distances between houses to state that there would substantively be no impact. He then pointed me to the fact that even the Councillor supported the application and that this had happened only twice in his career. Mr. Platt then concluded that the TLAB needn't be concerned about prejudice in this case, though there were other cases where prejudice to neighbours would be a concern.

I then asked Mr. Platt if what I had heard from him regarding waiving Notice on a new, increased variance could be summed up as that there was a grey zone here. He agreed

that there was a grey zone and that there was case law from the OMB which allowed for variances to be added at the hearing without further notice, if the impact was deemed to be minor.

I then asked Mr. Platt if he was aware of the recommendation from the Integrity Commissioner to Municipal Councillors regarding communication with TLAB from 2016, which stated there must be no communication between the offices of Municipal Councillors and the TLAB regarding specific proposals. Mr. Platt stated that he was aware of the recommendation and pointed out that Councillor Pasternak's letter did not suggest anything inappropriate.

I then raised my concern about proceeding with the hearing on 13 April, 2018, and making a decision when the last date for a Motion was 15 May, 2018. Mr. Platt reiterated the argument about the elapsing of the last date for interested parties to elect for Party status. I then drew Mr. Platt's attention to cases that I had adjudicated where the City had introduced a Motion to elect for Party status a few days before the proposal was to be heard. Mr. Platt's response was to question the need for establishing dates if that were the case. He also said that his client shouldn't have to be prejudiced as a result of the "negligence" of others in electing for Party status, nor should the TLAB have to fetter its authority as a result of possible prejudice to a potential Party.

I then asked Mr. Platt to identify "buckets" or groupings of the relief that he requested to ensure that there was logical clarity and consistency. Mr. Platt identified Paragraphs 1, 2,3 and 5 as "full relief" and 1,4 and 6 together as "alternate relief".

I then adjourned for half an hour so that I could analyze the case and come back with a decision.

I returned and told Mr. Platt that I would grant the relief in Paras 1, 5 and 6 and refuse the others. Mr. Platt asked if the order could be modified to include a teleconference in place of a face to face hearing, and a Notice for 2 weeks. I told Mr. Platt that I agreed in principle and that he could submit suggested wording for an order reflecting our discussion

## **ANALYSIS, FINDINGS, REASONS**

I would like to make a few observations before addressing the specific relief sought in the Motion.

This Appeal and the associated Motion argued on April 13, 2018 are the result of an unusual trajectory after the Applicants applied to the COA. The requested approval for the whole application, according to Counsel, was marred by a number of unanticipated and unfortunate developments, including the about face by the Transportation department, a COA decision that reduced one of the requested variances without prior discussion and a variance not being identified through the Zoning Review process. *Prima Facie*, one sympathizes with the Appellants on the basis of the recitation of the circumstances underlying this appeal to the TLAB.



**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna  
TLAB Case File Number: 18 117776 S45 10 TLAB**

Notwithstanding my sincere sympathy for the Appellant, it is pertinent to observe that:

1) The TLAB can provide relief of an administrative and substantive nature from the application of its own Rules. The specific and narrow jurisdiction of the TLAB prevents it from providing relief to Appellants because of prejudice resulting from the processing of the application by the COA or other City departments.

2) Protecting the Public Interest, and the insurance of a fair process to protect Public Interest, is of paramount importance to the functioning of any tribunal, including the TLAB. The threshold to determine that an Appellant is more prejudiced than prejudice to public is consequently high, and would have to involve demonstration of a nexus with the Appellants' rights. Significant inconvenience caused to an Appellant is different from demonstration of the violation of an individual's legal rights; inconvenience may not warrant intervention by the TLAB by itself.

3) It is important that the advice of the Integrity Commissioner's advice about communication between Municipal Councillors and the TLAB be adhered to strictly, including a literal interpretation of "no communication". While a Councillor's letter may not be inappropriate in itself and merely indicates support on behalf of the community, individual letters or a signed petition from the neighbours indicating support could have a greater impact in support of the application without countering any guideline or rule regarding communication.

4) It is important for Tribunals to be efficient and look for novel processes to increase efficiency where possible. However, the efficiency can't come at the cost of the sufficiency of the process; "sufficiency" being defined as the inclusivity of the process and providing adequate opportunity for the community to be informed about changes to applications and express their opinion. Not only should TLAB's processes be transparent and inclusive, it is important that they be perceived as being transparent and inclusive by the community of Torontonians that it serves

With these observations in mind, I now consider the specific sought by the Appellants.

As discussed in the Evidence section, Mr. Platt grouped the requested relief into "buckets" on the basis of mutual connections, at my request. He grouped Paragraphs 1, 2, 3 and 5 of the relief, (as recited earlier in this decision) as "full relief" and the bucket of Paragraphs 1, 4 and 6 as "alternate relief".

## **FULL RELIEF**

- 1) **Treating the Oz Kemal Affidavit as an Expert Witness Statement, hearing the Motion in writing with an opportunity for *viva voce*, waiving the notice for extra variances and granting the Appeal on the basis of hearing it in writing:** I agree with Mr. Platt's argument that the Affidavit, as presented, corresponds to what is expected of an Expert Witness Statement. The Affidavit has all the standard components of what is expected in an Expert Witness

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna  
TLAB Case File Number: 18 117776 S45 10 TLAB**

Statement, including the Witness' education and experience, Acknowledgement of Expert's Duty, and written submissions. It may therefore be considered as Evidence in lieu of a standard Expert Witness Statement. The Affidavit also lists the new variances being sought, with respect to the exterior side yard setback.

The main concern with hearing a Motion in writing is the lack of opportunity to seek clarifications and ask questions; however in this case, the opportunity for *viva voce* evidence accompanying the Written Motion addresses the concern. Given that there is only one Party and no Participants, the fairness of the suggested methodology is comparable to the traditional Oral Hearing.

However, waiving Notice for the extra variances and proceeding to the hearing is a concern. Notice is usually waived at hearings when the variances are reduced from what was circulated in the Zoning Notice. The new variances, in this case, essentially increase the impact, however infinitesimal. Given the observation about Public Interest including the right of the Public to be informed and make informed decisions about participating in a hearing, it is advisable to circulate notice reflecting the updated application before proceeding to a hearing. The Appellants assert inconvenience as a result of carrying costs and prejudice as a result of the nebulous processing of the application by the Zoning Review Examiner and the Department of Transportation. The former has no demonstrable nexus to the Appellants' rights while the TLAB has no basis nor compelling rationale for offering relief on the latter basis, as discussed in my earlier observations. The conclusion about not waiving Notice is consistent with my observation about not sacrificing sufficiency to achieve efficiency.

No weight is attached to the letter from the Municipal Councillor for reasons articulated in my earlier observations. My concern, to reiterate, is secondarily about prejudice to the community if notice was waived, but primarily a question of who is stating the lack of prejudice and on behalf of whom ( my emphasis). It is preferable for the community to be provided the opportunity to indicate their opinion rather than hear it from the Appellants. I therefore conclude that it would be appropriate not to grant the relief requested in terms of waiving Notice.

The last component of Full Relief, namely, granting the Appeal on the basis of the Motion in writing, is the logical consequence of the first three components; it succeeds only if each of the other components is successful and the specific relief requested in that component be granted. Since the relief regarding waiver of notice on variances has not been granted, the relief for granting the appeal can't be granted as a consequence.

I therefore conclude that "Full Relief" cannot be granted.

By way of *obiter dicta* in the context of this discussion, I broadly agree with Mr. Platt's submission that the TLAB cannot consider prejudice to potential Parties in determination of Appeals..

## ALTERNATIVE RELIEF

This grouping requests for granting of relief listed in Paragraphs 1, 4 and 6, as recited on Page 3 of this decision. The relief may be expressed as:

- 2) **Treating the Oz Kemal Affidavit as an Expert Witness Statement, requiring the Appellant to give notice and adjourn the hearing *sine die* to the 29<sup>th</sup> of June and proceeding with the hearing as scheduled on the basis of the Kemal affidavit.**

The requested relief would require the Appeal respecting 201 Armour Blvd. to be treated, and processed, like a regular Appeal, with the exception of substituting the Expert Witness Statement with the Kemal Affidavit, which includes the new and modified variances. Since the reasons for accepting the substitution of the Witness Statement by the Affidavit are discussed, the requested relief would require the Appeal to be processed no differently than other Appeals.

Given the above, the relief referred to “Alternative Relief”, is hereby granted. However, I will request the TLAB staff to see if the Appeal can be heard earlier than the 29<sup>th</sup> of June, based on my schedule, availability of Parties and other resources. I have indicated my willingness to hear the Appeal by teleconference, where appropriate.

Lastly, I wish to commend Mr. Platt for an able argument and suggestions for a novel process to adjudicate a specific group of Appeals.

The Decision and Order below states and discusses the Alternative Relief granted above, with respect to the TLAB’s Rules and a teleconference to hear the Appeal.

## DECISION AND ORDER

The Toronto Local Appeal Body orders that:

1. Pursuant to Rule 2.10, 4.4 and 4.5 of the TLAB Rules of Practice and Procedure, as well as Sections 2, 4(1) 25.0.1(a) of the *Statutory Powers and Procedures Act*, R.S.O. 1990, c. S.22 (the “SPPA”), the TLAB accepts, in lieu of filing Document Disclosure and an Expert Witness Statement, the Affidavit of Mr. Oz Kemal sworn March 29, 2018 (the “Oz Kemal Affidavit”) together with the submissions made at the hearing of the Motion;
2. Pursuant to section 45(18.1) of the *Planning Act*, R.S.O. 1990, c. P.13 (the “Act”, the subject application is amended in accordance with the discussion on April 13, 2018 with the addition of Variance #11 i.e.
  - a) The proposed north exterior side yard setback abutting a street is 1.22 m whereas the required minimum exterior side yard setback for a side lot line abutting a street is 3.0 m; and

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna**  
**TLAB Case File Number: 18 117776 S45 10 TLAB**

- b) An increase of 14 cm in the relief sought for variances #5 i.e. The permitted maximum building depth for a detached house is 19 m while The proposed building depth is 21.4 m.
3. The Applicant/Appellant shall circulate written notice, by personal service or ordinary mail, to every owner of land within 60 metres of the subject lands explaining:
- a. the addition of Variance #11 as a result of the City's failure to include said relief in the Zoning Certificates issued in respect of the Proposal; and
  - b. the additional relief sought for Variance #5 is being made out of an abundance of caution due to the curvature of Armour Boulevard.
4. The balance of the Motion is adjourned *sine die*, with a return date by teleconference to such date that is approximately 2 weeks following issuance of the notice described in paragraph 3 (the "Notice") at which time the Appellant will advise the TLAB as to what written responses, if any, have been provided in respect of said recirculated notice.
5. Prior to issuance of the Notice, through her legal counsel, the Appellant shall:
- a. confirm in writing to the TLAB the date the Notice will be issued; and
  - b. request the scheduling of the above-referenced teleconference on a date that is approximately 2 weeks following the date the Notice will issue.

The TLAB confirms that the teleconference shall not proceed if less than 14 days have elapsed between the date the Notice is issued and the date of the teleconference.

X



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S. Gopikrishna  
Panel Chair, Toronto Local Appeal Body