

DECISION AND ORDER

Decision Issue Date: Wednesday, May 31, 2018

PROCEEDING COMMENCED UNDER section 53, subsection 53(19), and section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): Jennifer Rachel Kirby

Applicant: Cantam Group Ltd

Property Address/Description: 64 Poplar Rd

Committee of Adjustment Case File Number: 17 213249 ESC 43 CO (B0046/17SC), 17 213262 ESC 43 MV (A0300/17SC), 17 213266 ESC 43 MV (A0312/17SC)

TLAB Case File Number: 18 112946 S53 43 TLAB, 18 112948 S45 43 TLAB, 18 112950 S45 43 TLAB

MOTION DATE: FRIDAY, MAY 18, 2018

DECISION DELIVERED BY S. Makuch

INTRODUCTION

This is a motion in writing for an adjournment of the hearing of above matter.

BACKGROUND

The hearing of this matter was first scheduled for July 4 2018 and then for administrative reasons rescheduled on consent to June 18, 2018. The owner/applicant whose applications were approved by the Committee of Adjustment now seeks an adjournment of that new hearing date because his planner is not available on that date. There was some confusion as to when notice of the new date was received by legal counsel. The appellant opposes the adjournment.

MATTERS IN ISSUE

The matter in issue is whether the adjournment will prejudice the appellant so that the adjournment should not be granted.

JURISDICTION

TLAB has the authority to grant adjournments under its Rules of Practice and Procedure.

EVIDENCE

It is clear from the affidavit evidence that the request for the adjournment is not made for the purposes of delay or for a frivolous reason. Indeed the evidence is that: the adjournment will be costly for the owner; that selection of a new date for the hearing when his planner was not available was not his fault; and, this planner has been retained on the file since its inception.

The appellant opposes the motion for the following reasons:

“The original trial date has already been moved once. A second move poses a number of concerns and challenges for our group. We have already had to reschedule our time off with our employers, and also have had to make alternate child care arrangements, due to the first date shift. To shift again will reflect poorly on us with our employers, and we will be challenged to once again make child care arrangements for a third date.”

ANALYSIS, FINDINGS, REASONS

Although adjournments are not to be granted easily, I believe there would be significant prejudice to the owner/appellant if he had to retain a new planner at this stage and time in the proceedings. Moreover, a new planner may not be able to provide the same informed assistance to the TLAB's decision making as he/she would not have the same context, understanding and background as the current planner.

The evidence of the sole appellant and the only party opposing the adjournment is not persuasive. The first change of date was not requested by the owners and is not relevant, except that a notice of the new date may have not been received by the owner's legal counsel at the necessary time. The concern that the change in dates would reflect poorly on the appellant or participants as employees, can be addressed by providing the employer with this written decision. I am confident that a reasonable employer will understand that fairness and access to the planner of record supports the need for the date change. Re-arranging child care, while of concern, may not be inordinately difficult if the new date is far enough in the future. I note, as well, that the evidence in opposition to the adjournment is submitted by the one appellant, but in the plural. None of the participants have objected the adjournment.

DECISION AND ORDER

The hearing in this matter is adjourned to 9:30 am, Monday August 27, 2018.

X 

S. Makuch
Panel Chair, Toronto Local Appeal