

AMENDING DECISION AND ORDER

Decision Issue Date Monday, July 23, 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): JONATHAN BALFOUR

Applicant: ROBERT SPEKTOR

Property Address/Description: 171 WILLOW AVE

Committee of Adjustment Case File Number: 17 156767 STE 32 MV (A0515/17TEY)

TLAB Case File Number: **17 231497 S45 32 TLAB**

Hearing date: Thursday, April 19, 2018

DECISION DELIVERED BY Ian James LORD

INTRODUCTION

On April 25, 2018, I issued a decision on applications for variances under appeal in respect of the above noted matter.

As a result of submissions received, some directed to the Toronto Local Appeal Body (TLAB), a question has arisen respect of an aspect of the decision related to parapet height.

It appears my Decision was not sufficiently clear to communicate the direction I had intended to give to the Applicant and the Buildings Department as a result of the approvals granted.

No Review of the decision was requested and no appeal was pursued.

BACKGROUND AND JURISDICTION

The clarification of a Decision is a public interest service where a genuine difference in interpretation exists.

In this case, the Appellant entered into an exchange with the City of Toronto (City) Building's Department in respect of the intent OF construction plans FILED by the Applicant for building permit purposes, in compliance with the Decision.

A permit may have issued for these plans.

The City in its correspondence confirmed compliance with the Decision; the Appellant disagreed. The details of the interpretive dispute are fully explored in correspondence between the personages, including multiple considerations by City Staff.

These latter communications were brought to the attention of the TLAB by the Appellant.

For my purposes, I see no need to detail the exchanges other than to observe that they may identify an area of my Decision, parapet height, in which I was not clear as to my intent.

A significant component of the Decision dealt with conflicting evidence on area character, building 'attractiveness', the role of design in area character and impact, the observed 10 m height limit under zoning and the then proposed parapet height of .66 m.

The TLAB Rules provide as follows:

30. CORRECTING MINOR ERRORS IN DECISIONS AND ORDERS

Correcting Minor Errors

30.1 The Local Appeal Body may at any time and without prior notice to the Parties correct a technical or typographical error, error in calculation or similar minor error made in a Decision or order. There is no fee if a Party requests such corrections.'

Several other Rules obligate the TLAB to provide a just, fair and expeditious determination of matters on appeal before it.

MATTERS IN ISSUE

The issue raised by the Appellant (and in the exchanges referenced and on file with the TLAB) relates to the approved height of the parapet proposed in the Applications building permit construction drawings.

EVIDENCE

The exchange of communications referenced suggest a discrepancy between my Decision on parapet height at .15 m above finished roof level and the definition or delineation of what constitutes the level of the roof, on the approved third storey.

I accept that I contributed to the issue by the use of language that could be clearer, both in the reasons and the formal Order.

I agree with the City Building Inspector that the plans before the TLAB and those presented for building permit issuance may differ, likely with the latter providing greater specificity.

I make no findings on the interpretation of building permit plans as that is neither the prerogative of the TLAB nor was there any trial of that issue.

The exchanges indicate that the shape and top of the roof, for building permit purposes, may not be flat but rather, for proper drainage, may have a raised profile.

This aspect was not recognized nor dealt with fully in my Decision.

ANALYSIS, FINDINGS, REASONS

The Decision as issued, on the discrete aspect of parapet height, contained the following language:

“I agree with the argument of Mr. Balfour (Sn) on his point that Willow Avenue has some distinctive attributes, including a reduced street width and, in this section, a pitched grade to the south. While I do not consider the proposal to be a ‘large new dwelling’ at a tipping point for area character, I do agree that its appearance of height in its on-site circumstance is unnecessarily accentuated by the vertical lines, absence of roof level fenestration and a monolithic parapet above the third floor. I would like to see this modified and will include a condition reducing the parapet to a level extending no more than six inches (0.15 m) above the finished roof level of the third floor only...

DECISION AND ORDER

The appeal is allowed in part. The variances and conditions of approval contained in Attachment 1 are approved with the following additional condition:

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4. Despite Condition 1, the parapet depicted on the third floor roof shall be no higher than six inches (0.15 m) above the finished roof level of the third floor roof only. For greater certainty, the plans referenced in Condition 1 are attached as Attachment 2 hereto.”

I accept that the plans for building permit issuance may be the same or have changed in respect of roof configuration. My intention was that the parapet be present but constitute and be a minimal contributor to the appearance of height of the finished building.

To the extent that roof design could have the effect of varying the apparent height of the parapet, clarity is required. I therefore consider it appropriate, technical and a clarification to confirm my intention that the height of the parapet extend no more than .15 m above the **lowest elevation** of the third floor finished roof.

By this clarification, no portion of any sloped roof design should be considered in setting for building permit purposes the required height of the parapet.

I will direct that this intention be communicated to the City Chief Building Official for any action considered appropriate.


DECISION AND ORDER

Paragraph 4 of the Decision and Order dated April 25, 2018 is hereby modified and replaced as follows:

4. Despite Condition 1, the parapet depicted on the third floor roof shall be no higher than six inches (0.15 m) above the lowest elevation of the finished roof level of the third floor roof only. For greater certainty, the plans referenced in Condition 1 are attached as Attachment 2 hereto.

TLAB Staff are directed to provide the foregoing attempt at clarification to the Parties, the Participants, the City Inspector and to the City Chief building Official for any action considered appropriate.

If difficulties arise, the TLAB may be spoken to.

X 

Ian J. Lord
Chair, Toronto Local Appeal Body
Signed by: Ian Lord