

DECISION AND ORDER

Decision Issue Date **Friday, August 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): ROBERT ULICKI

Applicant: LEA WILJER

Property Address/Description: 459-461 SACKVILLE ST

Committee of Adjustment Case File: 17 253383 STE 28 MV

TLAB Case File Number: **18 150889 S45 28 TLAB**

Motion Hearing date: Friday, August 17, 2018

DECISION DELIVERED BY S. MAKUCH

APPEARANCES

NAME	ROLE	REPRESENTATIVE
SHERRY D'COSTA CORREIA	Owner	
LEA WILJER	Applicant	
ROBERT ULICKI	Primary Owner	
ROBERT ULICKI	Appellant	IAN FLETT
MICHAEL TEDESCO	Expert Witness	
DAVID SAJECKI	Expert Witness	
CITY OF TORONTO	Party	ALEXANDER SURIANO MATTHEW LONGO

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PATRICIA MILNE	Party	JANE PEPINO
BLAINE PEARSON	Party	JANE PEPINO
HASAN URAN	Party	JANE PEPINO
ALUN LLOYD	Expert Witness	
RYAN SANKAR	Expert Witness	
PAUL STAGL	Expert Witness	
LORRAINE MACKENZIE-BUTLER	Party	
MICHAEL BUTLER	Party	
CHARLES FAHLENBOCK	Party	
JIM MCNAMARA	Party	
JUTTA POLOMSKI	Party	
MARK ALBOINO	Party	
JANE ROFFEY	Party	
ERIN BLAIR	Party	
ALASTAIR DADDS	Party	
KATHERINE TOZER	Party	
MARK STEPHEN DE ANGELIS	Party	
HOWARD BORTENSTEIN	Party	
GABRIELLE SHALOM MCINTIRE	Party	
DEIRDRE SADLER	Party	
RUSSELL GOODFELLOW	Party	
JASON VAN BRUGGEN	Party	
PATRICK DANIEL ROBERTSON	Party	
ABDURRAHMAN AL-HESAYAN	Party	
DOUGLAS WOODALL	Party	
TRUDY MACNEILL	Party	

GREGORY TURCOT	Party
ALEXANDRA VANDELLE-GILLESPIE	Party
NARA JUNG	Party
ROBERT JERRARD	Party
LILLIAN MANISCOLE	Party
GARY JAMES HILL	Party
COLETTE HEGARTY	Party
DAVID CECIL COLE	Party
GLEN WOODIN	Party
JUDY WOODIN	Party
PATRICIA LEE BRUBAKER-POULIN	Party
CAROLINE DE ANGELIS	Party
SAULIUS JASKUS	Party
SHAUNA ANDREA MACDONALD	Party
LINNEA OBERN	Participant
JUDY LU	Participant
ALEXANDRA CONLIFFE	Participant
CHRISTOPHER WIRTH	Participant
ALLEN ZHANG	Participant
DEREK SWEENEY	Participant
LINDSAY MATHESON	Participant
DOUGLAS WILSON	Participant
JANICE WILLIAMS	Participant
LEE ANNE ROGERS	Participant
RONAN ROGERS	Participant
JOCELYN RICHARDSON	Participant

CATHERINE STEINMANN	Participant
MARC COTE	Participant
MAGGIE O'CONNOR	Participant
THORBEN WIEDILZ	Participant
SARA ELIZABETH JOSSELYN	Participant
SUSANNE HUDSON	Participant
BRANDEIS DENHAM JOLLY	Participant
LOUISE JULIA GARFIELD	Participant
JOHANNE LAPERRIERE	Participant
ELIZABETH REYNOLDS	Participant
BEVERLEY JENKINS	Participant
KENNETH MATHIESON	Participant
CHRISTINA MARGARET BEST	Participant
RANDY BROWN	Participant

INTRODUCTION

This is a motion brought at the commencement of the hearing of an appeal of a Committee of Adjustment decision for the adjournment of the hearing respecting variances to permit a day care centre in the Cabbagetown area.

BACKGROUND

There were three counsel representing parties: Mr. Flett represented the owners/appellants, Mr. Longo represented the City of Toronto, and Ms. Pepino represented three parties in opposition to the application. In addition fourteen unrepresented parties and eleven unrepresented participants were present at the hearing.

MATTERS IN ISSUE

At issue was whether an adjournment should be granted at the commencement of the hearing; particularly when an adjournment request had already been denied.

JURISDICTION

There is no doubt that TLAB has jurisdiction to grant adjournments under Rule 23 of its Rules of Practice and Procedure.

EVIDENCE

The request for the adjournment was brought by Ms. Pepino on the basis of affidavit evidence. It was not opposed by Mr. Longo and was supported by Mr. Flett. The evidence was based on numerous factors, including: notice not being given of all of the hearing days; late filing of documents by Mr. Flett; the unavailability of witnesses; and difficulty in the filing of documents. No non-represented parties opposed the motion.

ANALYSIS, FINDINGS, REASONS

I did not find the evidence compelling, particularly given that I had already refused an adjournment. That adjournment was requested by Mr. Flett for time to permit the preparation of a traffic report. The traffic report was presented at the hearing and was clear evidence that the first adjournment was not necessary.

Moreover, I was not sympathetic to Mr. Flett's reasons for supporting a second adjournment when his traffic engineer could have given evidence if his planner was not ready to proceed. I was reluctant to lose two days of hearing time.

Nevertheless I have concluded that an adjournment should be granted for the following reasons.

1. The hearing is unlikely to be concluded in two days; thus the amount of time currently allocated to the matter is insufficient and additional time will be needed. There will be a delay and it is best to have hearing days scheduled consecutively, if possible.
2. No represented parties objected to the adjournment and no unrepresented parties or participants objected to it.
3. Legal counsel for the party most at risk of being prejudiced by delay, the appellant/owner, unequivocally supported the adjournment.

DECISION AND ORDER

The hearing is adjourned to 9:30 a.m. December 7, 2018 with the following dates, as necessary, for the continuation of the hearing: January 14, 2019, January 16, 2019, and January 25, 2019. No new notice is required. The City must file all expert

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witness statements by October 15, 2018. The appellant/owners must file all reply
witness statements by October 25, 2018.

X 

S. Makuch

Panel Chair, Toronto Local Appeal