

DECISION AND ORDER

Decision Issue Date Friday, August 17, 2018

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

Appellant(s): TOURAJ MALAKIAN

Applicant: MEHDI MARZYARI ARCHITECTS INC

Property Address/Description: 2968 BAYVIEW AVE
2970 BAYVIEW AVE

Committee of Adjustment Case File Number: 16 245615 NNY 23 CO
16 245621 NNY 23 MV
16 245628 NNY 23 MV
16 245638 NNY 23 CO
16 245642 NNY 23 MV
16 245645 NNY 23 MV

TLAB Case File Number: 17 174552 S53 23 TLAB
17 174569 S45 23 TLAB
17 174570 S45 23 TLAB
17 174556 S53 23 TLAB
17 174535 S45 23 TLAB
17 174563 S45 23 TLAB

Hearing date: Tuesday, October 24, 2017

DECISION DELIVERED BY L. McPherson

INTRODUCTION AND BACKGROUND

On November 24, 2017, the TLAB approved applications for consent and variance to create 4 lots from 2 lots and construct 4 single detached dwellings. There were conditions imposed to both the consent and variance approvals. Condition 11 to the consent approval required the proposed buildings to be built substantially in accordance with certain drawings. The Applicant's counsel (Mr. D. Bronskill) has advised that the TLAB that his client has been working with various departments to fulfill the conditions; however, the Building Department advised his client that it cannot clear Condition 11 and as such, his client cannot fulfill the condition and risks the consent lapsing. City of

Toronto Committee of Adjustment staff advised Mr. Bronskill to request the TLAB to revise the conditions to delete Condition 11 and the planner on the file, Ms. V. Fusz, has consented to the deletion of Condition 11. It is noted that the condition is still imposed for the approval of the variances and the Applicant will still be required to build in substantial accordance with the drawings at the appropriate time in the process. Mr. Bronskill submits that the inclusion of Condition 11 in Attachment 1 represented a technical error on behalf of the Parties as such a condition should only have been included as a condition to the authorized variances. City of Toronto counsel was copied on this request.

MATTERS IN ISSUE

The issue is the need to resolve the condition related to the drawings imposed on the consent approval which the Building Department is unable to clear. The same condition is imposed on the minor variance approval and will be maintained.

JURISDICTION

The TLAB has the jurisdiction to impose conditions on the granting of a consent. Further, under Rule 30 of the TLAB's Rules of Practice and Procedure, the TLAB may correct a minor error.

ANALYSIS, FINDINGS, REASONS

The TLAB agrees that the condition requiring that the proposed buildings be built substantially in accordance with certain drawings is properly applied to the minor variance approvals and not the consent approval. The condition will continue to apply to the minor variance approvals and therefore the request is considered technical in nature as the condition is maintained.

DECISION AND ORDER

The consent granted in the above matter by Decision and Order of the TLAB for 2968 and 2970 Bayview Ave issued on November 24, 2017 is amended by removing Condition 11 from the Conditions of Approval for Consent to Sever (Attachment 1 to the original Order).

Decision of Toronto Local Appeal Body Panel Member: L. McPherson
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X 

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Panel Chair, Toronto Local Appeal Body