

DECISION AND ORDER

Decision Issue Date Tuesday, October 02, 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): SIFAT ISLAM TAIFUR

Applicant: ARC DESIGN GROUP

Property Address/Description: 525 KENNEDY RD

Committee of Adjustment Case File: 17 238354 ESC 35 CO, 17 238358 ESC 35 MV, 17 238361 ESC 35 MV

TLAB Case File Number: **18 165040 S53 35 TLAB, 18 165049 S45 35 TLAB, 18 165053 S45 35 TLAB**

Hearing date: Friday, September 28, 2018

DECISION DELIVERED BY L. MCPHERSON

APPEARANCES

NAME	ROLE	REPRESENTATIVE
CITY OF TORONTO	Party (TLAB)	ADERINSOLA ABIMBOLA KASIA CZAJKOWSKI
BRUNA NIGRO	Expert Witness	

INTRODUCTION AND BACKGROUND

This is an appeal to the Toronto Local Appeal Body (TLAB) by the owner (Applicant) of the refusal by the Committee of Adjustment for the City of Toronto (Committee) of applications for consent to sever one lot into two lots and associated minor variances to construct two single detached dwellings (the proposal). The City was a Party to the Hearing. No filings were made by the Appellant/Applicant and no representative attended the TLAB Hearing. The City of Toronto was represented by two lawyers and a

planner and a number of residents attended. The Applicant/Appellant did not correspond with TLAB staff advising that they would not be appearing.

MATTERS IN ISSUE

The Appellant did not attend the Hearing and did not provide any submissions other than the letter of appeal to assist in the determination of whether the Committee's decision satisfied the relevant tests set out below.

JURISDICTION

Provincial Policy – S. 3

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2014 Provincial Policy Statement ('PPS') and conform to the Growth Plan of the Greater Golden Horseshoe for the subject area ('Growth Plan').

Consent – S. 53

TLAB must be satisfied that a plan of subdivision is not necessary for the orderly development of the municipality pursuant to s. 53(1) of the Act and that the application for consent to sever meets the criteria set out in s. 51(24) of the Act. These criteria require that " regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2 of the Planning Act;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
 - (d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;

**Decision of Toronto Local Appeal Body Panel Member: L. McPherson
TLAB Case File Number: 18 165040 S53 35 TLAB, 18 165049 S45 35 TLAB, 18
165053 S45 35 TLAB**

(g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;

(h) conservation of natural resources and flood control;

(i) the adequacy of utilities and municipal services;

(j) the adequacy of school sites;

(k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;

(l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and

(m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

Minor Variance – S. 45(1)

In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the Act. The tests are whether the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

EVIDENCE

There was no evidence filed with the TLAB by the Appellant. As a result, there was no evidence provided in support of the appeal.

The City of Toronto requested that costs be awarded against the Appellant as the City attempted on a number of occasions to contact the Appellant to determine his intent. The City advised that they have spent significant time in preparing for the Hearing and filed all documents and witness statements on time.

ANALYSIS, FINDINGS, REASONS

The Applicant/Appellant did not attend the TLAB Hearing. As a result, the appeal was not advanced. I requested that the City provide the request for costs in the form of a

Motion with details relating to the amount of the requested costs as outlined in Section 28 of the Rules.

DECISION AND ORDER

The appeal is dismissed and the Committee of Adjustment decisions of May 10, 2018 stand.

The matter of costs is reserved for consideration by way of Motion in accordance with the Rules of the TLAB.

X 

Laurie McPherson
Panel Chair, Toronto Local Appeal Body