

DECISION AND ORDER

Decision Issue Date Wednesday, November 21, 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): City of Toronto

Appellant's Legal Rep: Adrienne DeBacker, Matthew Longo

Applicant: Culmone & Associates Ltd

Property Address/Description: 32 Thirty Sixth St

Committee of Adjustment Case File: 16 270501 WET 06 CO (B0090/16EYK),
16 270507 WET 06 MV (A0988/16EYK), 16 270506 WET 06 MV (A0987/16EYK)

TLAB Case File Number: 18 152429 S53 06 TLAB, 18 152431 S45 06 TLAB,
18 152430 S45 06 TLAB

Hearing date: Monday, November 05, 2018

DECISION DELIVERED BY S. Makuch

APPEARANCES

Appellant	City of Toronto
Appellant's Legal Rep	Adrienne deBacker, Matthew Longo
Applicant	Culmone & Associates Ltd
Party/ Owner	Jessica Ieraci
Party's Legal Rep.	John Alati
Party	Alexander Donald
Party	Long Branch Neighborhood Association
Party's Rep.	Judy Gibson

Participant	David Godley
Participant	Donna Sandy Donald
Participant	John MacDonald
Participant	Robert Davis
Participant	Sheila Marie Carmichael
Participant	Kathy Puzic
Participant	Fraser Carmichael
Participant	Ben Puzic
Participant	Christine Mercado
Participant	Ron Jamieson

INTRODUCTION

This is an appeal by the City of Toronto of an approval of a consent and minor variance applications for the above property. In a letter dated October 30, 2018, the solicitor for the owner of the property advised that his client “will not be attending or participating in the upcoming hearing” which was scheduled for November 5, 2018.

BACKGROUND

At the hearing of this matter neither the owner of the property nor a representative of the owner attended. The City solicitor attended as did a number of participants and a party, Alexander Donald, who was a neighbouring resident.

MATTERS IN ISSUE

The only issue raised was the manner in which the appeal should be disposed of since the owner/applicant was not in attendance. The City Solicitor argued that the appealed must be allowed and the applications before the Committee denied since there was no evidence upon which to find that they met Provincial policy, including the Growth Plan, and no evidence that they met the four tests under s. 45 of the Planning Act.

JURISDICTION

Under s. 3 of the Planning Act, 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').

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

No evidence was presented to enable me to reach the conclusion that the applications met any of the requirements of the Planning Act set out above.

ANALYSIS, FINDINGS, REASONS

In the absence of anyone being in attendance to provide any evidence supporting the application I cannot make a finding that the application meets the requirements under the Planning Act set out above. In support of the need to present evidence in support of an application under appeal I refer to two decisions of the Ontario Municipal Board: Julie s. Wong et al v City of Toronto, [2008] OMBD 1220, and Pebe Construction and Consulting Company Ltd. [2017] OMBD PL170078.

DECISION AND ORDER

The appeal is allowed and the consent and variances are denied.

X 

S. Makuch
Panel Chair, Toronto Local Appeal