

DECISION AND ORDER

Decision Issue Date Friday, November 02, 2018

PROCEEDING COMMENCED UNDER section 53, subsection 53(19), section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): STEFANO OLIVERIO

Applicant: AMBIENT DESIGNS LTD

Property Address/Description: 273 B RANEE AVE

Committee of Adjustment Case File Number: 17 278678 NNY 15 CO, 17 278689 NNY 15 MV, 17 278692 NNY 15 MV

TLAB Case File Number: **18 185466 S53 15 TLAB, 18 185469 S45 15 TLAB, 18 185471 S45 15 TLAB**

Hearing date: Friday, November 02, 2018

DECISION DELIVERED BY Ian James LORD

APPEARANCES

Name	Role	Representative
Ambient Designs Ltd.	Applicant	
Andrea Oliverio	Owner	
Stefano Oliverio	Appellant	Russell Cheeseman
City of Toronto	Party	Laura Bisset/Aderinsola Abimbola
Edwin Mifsud	Party	
Patricia Doe	Party	
David Afonso	Party	
Haricleia Mihele	Party	

Name	Role	Representative
Tracy Stapleton	Party	
Barnet Kussner	Party's Legal Representative	

INTRODUCTION

This is an appeal of a request to sever, with associated minor variances, applicable to two proposed residential lots at 273B Rane Avenue (subject property). The applications (Applications), resulting in three decisions, were refused by the North York Panel of the City of Toronto (City) Committee of Adjustment (COA).

BACKGROUND

The Applications were scheduled for a one day sitting before a Member who became unable to conduct the proceeding. As the only available substitute, this Member agreed to take the file. Regrettably, it was not until file review on the eve of the appointment that it was ascertained that there may be a level of discomfort occasioned by one of the Parties being represented by a former Firm partner of this Member.

As well, it was apparent that with three counsel for separate Parties, three Expert Witness Statements pre-filed and having extensive content and several additional witnesses in queue, the Hearing could not conclude in the time allotted in any event.

This Member and counsel agreed the better and more comfortable course would be to deal only with procedural matters and remit the Hearing on the merits to a panel differently constituted for a three consecutive day hearing event.

MATTERS IN ISSUE

The appeals applicable to the subject property have joined issue with opponents to the relief requested. Who and how the Hearing should be conducted were considered procedural matters to be resolved.

JURISDICTION

The Toronto Local Appeal Body has jurisdiction to govern its own procedure; its Rules provide ample guidance to ensure a 'fair, just expeditious and cost- effective' process for dispute resolution.

EVIDENCE ANALYSIS, FINDINGS, REASONS

On discussion and recognition of the above noted factors, concurrence resulted in a consent continuance of the scheduled Hearing to agreed dates.

No argument or determination was pursued on the issue of Member conflict as consent was present that the proceeding not commence and be broken over an extended period.

As Chair, I apologized to those present, counsel, witnesses and several members of the public for the need for attendance. I explained the circumstance of late assignment and the potential for acknowledged concern of this Member presiding in the circumstances. It was unnecessary to hear argument or decide on the matter of recusal, given the need for scheduling an adequate Hearing event.

I thank counsel for their courtesy. The TLAB has undertaken to institute a policy of two-day assignments for Hearings of contested consent/minor variance matters, effective immediately.

Counsel agreed on an adjourned Hearing date for a 3-day appointment, over the interval April 23, 24, 25 and 26, 2019. A preference was expressed for the first three of these dates.

The dates are subject to confirmation of the availability of a different Member.

Mr. Kussner agreed to work with his clients to ensure a sufficient opportunity is afforded for their evidence, without undue repetition. Counsel agreed a 2-3 day sitting would be adequate.

No commentary was raised in respect of the completion of filings to date. No additional filings are expected or anticipated. The receipt by the TLAB and the Parties of any additional filings will be at the discretion of the Member conducting the Hearing, on any representations heard, as to whether such, if any, can form part of the evidence.

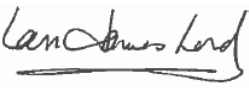
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The Hearing schedule and convened for November 2, 2018 is adjourned following consideration of administrative matters.

The Applications on appeal will be continued April 23, 24, 25, 26, 2019 or any of them, for a three day period, subject to confirmation as to the availability of a Member.

The TLAB will issue and post a new Notice of Hearing upon such confirmation.

There are no changes to the existing and original Notice of Hearing.

X 

Ian Lord
Panel Chair, Toronto Local Appeal Body
Signed by: ilord