

DECISION AND ORDER

Decision Issue Date Wednesday, November 07, 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): ELIZABETH NEJASMIC, ALLAN LEUNG

Applicant: DESIGN PLAN SERVICES INC

Property Address/Description: 4 WILKET RD

Committee of Adjustment Case File Number: 17 158037 NNY 25 CO, 17 158041 NNY 25, 17 158045 NNY 25 MVMV

TLAB Case File Number: **18 215889 S53 25 TLAB, 18 215883 S45 25 TLAB, 18 215888 S45 25 TLAB**

Motion Hearing date: Monday, November 05, 2018

DECISION DELIVERED BY Ian James LORD

INTRODUCTION

This is a matter that comes on consent. It is a request by way of Written Motion for an adjournment of a Hearing scheduled for January 29, 2019 applicable to consent and variance appeals for 4 Wilket Road (subject property).

The request was initiated by Notice of Motion (Form 7) with supporting affidavit of Michael Manett, land use planner.

BACKGROUND AND EVIDENCE

The Manett affidavit sworn October 16, 2018 identifies a week long conflict with the Notice of Hearing appointment date arising from a previously scheduled appointment, being a Hearing before the Local Planning Appeal Tribunal, a provincially constituted administrative tribunal. The Motion requests a close rescheduling to February 5 and 6, 2019.

A Notice of Response to Motion (Form 8) dated October 26, 2018 on behalf of the City consents both to the adjournment and the rescheduled dates.

By correspondence dated October 29, 2018, Brad Teichman, counsel for Marilyn Walton and Rami Younes, also consented on behalf of the Party clients to the adjournment and the rescheduling for two (2) days to February 5 and 6, 2019.

There were no other responses to the Motion request for a Written Motion, the adjournment request or the dates and rescheduling for two (2) days.

There is a parallel proceeding before the Toronto Local Appeal Body (TLAB) on a neighbouring property with many of the same persons involved, as in the subject property appeals. However, no reference was made to this fact, thereby requiring and permitting the Written Motion to be dealt with as a discrete request on apparent consent.

MATTERS IN ISSUE

The substance of the request is as to whether an adjournment should be granted to facilitate the presence of the owners land use planner, who has a concrete scheduling conflict before another administrative tribunal.

JURISDICTION

The TLAB Rules and Practice Directions permit the consideration of consent adjournment requests by Written Motion within the ambit of conducting, Rule 2, a 'just, fair, expeditious and cost-effective' dispute resolution process.

ANALYSIS, FINDINGS, REASONS

I find the scheduling conflict of the Applicant's planner to be a compelling basis for the adjournment in this circumstance. Not only is there consent to the adjournment, but the timely rescheduling dates are also agreed. Moreover, the Parties have recognized that with three counsel and associated witnesses they are unlikely, in the one day set, to complete the appeal Hearing. There is agreement to the two (2) day appointment.

A Party should not lightly be deprived of their primary witness and it is appropriate that the three Files, herein engaged, be afforded an adequate time for their consideration.

The TLAB appreciates the co-operation demonstrated to achieve consent on these matters.

DECISION AND ORDER

The request for a Written Motion is allowed.

The Hearing event for the subject property scheduled for January 29, 2019 is cancelled and no attendance is necessary.

The Hearing of these appeal matters is rescheduled for two (2) days commencing February 5 and 6, 2019.

There will be no change to the any other dates identified in the original Notice for Hearing.

The TLAB Staff are requested to post a revised Notice of Hearing.

This Member is not seized.

X



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