

DECISION AND ORDER

Decision Issue Date Thursday, December 27, 2018

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

Appellant(s): KUNAL ADHIKARI

Applicant: SEAN GALBRAITH

Property Address/Description: 821 CARLAW AVE

Committee of Adjustment Case File Number: 17 194352 STE 29 MV

TLAB Case File Number: s): **17 267941 S45 29 TLAB**

Hearing date: Thursday, May 03, 2018

DECISION DELIVERED BY Ian James LORD

INTRODUCTION

By decision issued June 5, 2018 (Decision), Member L. McPherson allowed an appeal in part and authorized certain variances subject to eight (8) conditions.

The Decision provided that if difficulties arose, "the TLAB may be spoken to."

BACKGROUND

In the Decision, the Member required that "exterior work on the building be completed by December 31, 2018". (Condition 5).

Further, that the application or repair of exterior finishes on the exterior walls "shall be completed during a consecutive three-week period" (Condition 6).

MATTERS IN ISSUE

In correspondence dated December 24, 2018, Ms. Amber Stewart, counsel for the Owners, chronicled a five-page record of reasons for delay in the fulfillment of the foregoing conditions imposed by the Member.

This documentation is on file with the TLAB.

The essence of the reasons for delay appear to stem from a lack of co-operation from the adjacent neighbour to facilitate access. A 'right-of-entry' permit has reportedly been applied for.

It is regretful that co-operation on needed access for improvements could not be facilitated as a matter of common enterprise. The proximity of neighbours in Toronto's neighbourhoods is a reality that requires a degree of recognition, as a matter of common interest. Even where those interests diverge, respect for the institutions and their decisions that try to build a better City is incumbent on all.

JURISDICTION

The Rules of Practice and Procedure of the Toronto Local Appeal Body (TLAB) permit the granting of relief that is technical, minor, clerical and is just and expeditious.

EVIDENCE

On the strength of the correspondence received and the representations of counsel therein, I am not disposed to a further opening up of the Hearing or its disposition for further argument in the circumstances. Counsel for the City has been contacted and is agreeable to a modest extension of the time lines to accommodate the application and, presumably, the work.

By an extension of the dates contemplated in Conditions 5 and 6, a further timeframe would permit completion of the matters without risk or injury to the intent of the Decision, should there be a failure to comply.

Given the time of year and the potential for inclement winter weather conditions for the completion of exterior work, I am not disposed to the agreed time frame under discussion by counsel.

In my view, it is inappropriate to further engage counsel and the TLAB in a matter which should be able to be self-regulated and completed, albeit in a more generous time line than agreed.

ANALYSIS, FINDINGS, REASONS


On the basis of the request, the advice of counsel, having in mind the reasons for the practical delay in meeting the Member's direction and the desirability of completing exterior work required by the Decision, I find it just, expedient and appropriate to vary Conditions 5 and 6 of the Decision.

Such variation should be long enough to reasonably complete all outstanding matters and to avoid the necessity of a further reconsideration, but not so long as to amount to a license for delay or to create inconvenience during high summer months.

DECISION AND ORDER

Conditions 5 and 6 to the Decision are varied; the date for compliance is extended to Saturday, June 1, 2019.

All other terms and conditions of the Decision remain unchanged.

X 

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