

DECISION AND ORDER

Decision Issue Date Wednesday, January 30, 2019

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): HONGYU ZHANG

Applicant: GOLDBERG GROUP

Property Address/Description: 37 WILKET RD

Committee of Adjustment Case File Number: 18 139777 NNY 25 CO, 18 139770 NNY 25 MV

TLAB Case File Number: 18 243170 S53 25 TLAB, 18 243167 S45 25 TLAB

Motion Service date: Tuesday, January 15, 2019

DECISION DELIVERED BY Ian James LORD

INTRODUCTION

This is a Motion for adjournment and a request that the matter to be heard in writing. The moving party, represented by Mr. Teichman on behalf of the Party J. Vincent and 1531750 Ontario Limited, recites a scheduling conflict on one of the scheduled Hearing Dates set for the return of the appeal, all in respect of a severance refusal respecting 37 Wilket Road (subject property).

BACKGROUND

The matter of this appeal is scheduled to be heard April 3, and 4, 2019. The Motion is timely and was served on the three Parties, but apparently not on the several Participants. The Rules do not require service on Participants. Where there are as many as 12 Participants, as here, consideration as to their time receipt of information is warranted.

**Decision of Toronto Local Appeal Body Panel Member: I. LORD
TLAB Case File Number: 18 243170 S53 25 TLAB, 18 243167 S45 25 TLAB**

Responding material was received from the Applicant Appellant on January 22, 2019, consenting to the matter proceeding in writing and to the adjournment. An exchange as late as January 29, 2019 was received by the Toronto Local Appeal Body (TLAB) as between the Parties, or some of them, suggesting available dates and evolving conflicts of dates.

It appears that there was no response to the Motion on behalf of M. Mahoney for the City of Toronto.

The specific issue identified is a conflict with the availability of a planner, Mr. Romano, scheduled to appear in another TLAB proceeding on the commencement date of this appeal. It appears that that other matter is proceeding and a genuine conflict in representation is presented in respect of the subject property.

Some of the Parties appear to have exchanged available dates and while there has been considerable and recent movement in that availability, there is a current agreement on rescheduling to June 27 and 28, 2019.

MATTERS IN ISSUE

At issue is whether an adjournment should be granted to accommodate a conflict in representation availability by a Party's witness.

JURISDICTION

The TLAB Rules of Practice and Procedure provide for Motions (Rule 17) and relief in appropriate circumstances (Rule 2), including adjournments on consent (Practice Direction).

EVIDENCE

From the Affidavit in support of the Motion, the presence of a conflict in witness representation is uncontested; specific or implied consent and agreement to the rescheduled dates of June 27 and 28, 2019 is in hand. The TLAB has confirmed the availability of Hearing Room facilities and a Member for the rescheduled dates.

ANALYSIS, FINDINGS, REASONS

The TLAB is committed to fixed Hearing Dates both to encourage Parties and Participants to contemporaneously assess settlement options and to ensure a timely disposition of matters on appeal to the TLAB.

Adjournments are not to be assumed as a matter of course but are materially assisted when on consent and with the co-operation of the Parties.

The rescheduling of dates on an adjournment request, while instructive as to dates agreed to as between the Parties, must first be preceded by dates recognized as available through TLAB Staff, in the event an adjournment is granted, and in the circumstance of a Motion for adjournment on consent and in writing.

The TLAB is also cognizant of the cost and timing efficiencies of assisting a Party to counsel and professional representation of their choice.

In this circumstance, the Parties are largely in agreement on the implementation of this preferred approach.

DECISION AND ORDER

The request for a written Hearing consideration and an adjournment of the Hearing scheduled for April 3 and 4, 2019 in the matter of 37 Wilket Road, is granted.


The Hearing is rescheduled to June 27 and 28, 2019.

The TLAB will issue/post a revised or new Notice of Hearing. **The Parties are encouraged to bring the rescheduled Hearing Dates to the attention of all Participants.**

There are to be no other changes to the Notice of Hearing.

If there are issues, the TLAB may be spoken to.

X



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