

DECISION AND ORDER

Decision Issue Date Friday, December 14, 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): ROSE GREENSPAN

Applicant: GLENN RUBINOFF DESIGN GROUP

Property Address/Description: 14 CARNWATH CRES

Committee of Adjustment Case File Number: 18 108042 NNY 25 MV

TLAB Case File Number: **18 203085 S45 25 TLAB**

Hearing date: Monday, December 10, 2018

DECISION DELIVERED BY T. YAO

APPEARANCES

Name	Role	Representative
Glenn Rubinoff Design Group	Applicant	
Maziar Momeni	Owner	
Rose Greenspan	Appellant	Brian Greenspan

INTRODUCTION

Mr. Momeni seeks the following five variances.

Table 1. Variances sought from Zoning By-law 569-2013			
		required	proposed

1	Front yard setback	Minimum 8.58 m	7.97 m
2	Building length	Maximum 17 m	17.7 m
3	Front yard landscaping	Minimum 60% of front yard	56%
4	East side yard setback	Minimum 1.8 m	1.5 m
5	Building height	Maximum 8.8 m	9.42 m

MATTERS IN ISSUE

I must be satisfied that the variances meet the four tests under the *Planning Act*, that is, whether they:

- 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.

I find the Provincial Policy Statement and Growth Plan have no applicability here.

ANALYSIS, FINDINGS, REASONS

Mr. Momeni did not appear. The following information was recounted by the appellant Brian Greenspan.

Mr. Greenspan grew up at 16 Carnwath Crescent. Carnwath is an east west street sloping at both ends, well treed and numbers 14 and 16 are in the centre, at roughly the highest point on the street.

One day a representative of Mr. Monemi came to 16 Carnwath and asked if Mr. Greenspan's parents would object to a renumbering of their house from 16 to 16 B so that 14 Carnwath could become 16A and thus avoid a street number thought by some buyers to be unlucky. They did not agree and heard nothing further until receiving a Committee of Adjustment notice for a hearing, on April 18, 2018. The Committee had before it a staff report from Joe Nanos, Director Community Planning, North York District, dated April 10, 2018. That report indicated that Planning Staff was opposed to variances related to the third storey, as they were not desirable, nor minor in nature. The Committee adjourned the matter to July 12, 2018 at which time the five variances In

Table 1 were approved. Mr. Greenspan appealed and so this matter comes to the TLAB.

The original application appears to have changed. There are no references to variances needed under the former North York By-law 7625 (old #8 to #12). The 569-2013 variances have been reduced to the five mentioned in Table 1. There is no longer any request for variances related to number of stories (old #3), second floor front platform (old #5); nor for the width of the front stairs (#6). However, there is a new building height variance (new #5) and the requested variance is for exactly the same building height as was previously requested (9.42 m in old #11).

Mr. Greenspan asked me not to grant any variances, particularly the height and front yard setback. The street curves so 14 Carnwath 'overhangs' 12 Carnwath and 14 overhangs 16 at the front. This will have a disproportionate effect on the look of the street as well as his mother's home. He also criticized the general tendency of builders of new homes to extend the exterior envelope of homes without regard to their physical context. He felt there was an affordability crisis in Toronto that was not addressed by policy makers. Speaking particularly to the Official Plan test that new development must respect and reinforce the existing physical character of the neighbourhood, he said:

If we take a look at a new structure that was built, I believe at 8 Carnwath Crescent, which was a two storey home, it shows significant design respect to the property next door, which is a bungalow, by tailoring its roofline, and garage structure, to absolutely comply with what was already the look of the streetscape, in terms of elevation [i.e. building height].

The rest of the houses at Carnwath are not like this new structure, in terms of design. There have been some new constructions, um, they have not, I believe, requested the amount of minor variances from front lot lines and rear lot lines ... both side yards to roof line that this particular property has. Without respect and without sensitivity, to what was in the neighbourhood, and [he] decided to make an application and sailed ahead.

This is a hearing de novo and since Mr. Momeni has not appeared and the onus is on him to prove all the matters in issue, I find that there is no evidence in support of the variances and none of the statutory tests has been met.

DECISION AND ORDER

The appeal is allowed and the decision of the Committee of Adjustment of July 12, 2018 is set aside. None of the variances is authorized.

X



Ted Yao
Panel Chair, Toronto Local Appeal Body
Signed by: Ted Yao