

DECISION AND ORDER

Decision Issue Date **Tuesday, April 30, 2019**

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

Appellant(s): TATIANA ATKINSON

Applicant: OBP CONSULTANTS INC

Property Address/Description: 32 MARKHAM RD

Committee of Adjustment Case File: 18 156069 ESC 36 MV

TLAB Case File Number: **18 206166 S45 36 TLAB**

Hearing date: Wednesday, November 28, 2018

DECISION DELIVERED BY S. MAKUCH

APPEARANCES

NAME	ROLE
REPRESENTATIVE	
LIHUA PANG	OWNER
XIAOZHI CHANG	PRIMARY OWNER
OBP CONSULTANTS INC	APPLICANT
TATIANA ATKINSON	APPELLANT

INTRODUCTION

By my decision of November 29, 2018, this matter was adjourned until April 9, 2019 to enable the applicant to obtain professional help to present his case. The applicant was to file witness statements and document disclosure on or before March 11, 2019 and the appellant and participants on or before March 25, 2019.

BACKGROUND

On April 9, 2019, the applicant, Xiaozhi Chang, once again appeared with his daughter who was his translator and representative. The applicant and his daughter had no clear evidence and were unaware of the process before TLAB. No planner was retained to assist them. The evidence was insufficient to enable me to understand the proposal, the nature of the variances and the impact of the variances on the neighbourhood and/or the neighbours in attendance. One of those neighbours was the appellant and was uncertain as to what was occurring. As no Zoning Notice had been obtained it was not clear that the variances were appropriate, and I could not make a finding of whether the application met the four tests or conformed to relevant provincial policy documents.

EVIDENCE

There was no formal evidence presented or admitted at the April 9, 2019 Hearing that enabled an understanding of variances or the proposed development. There had been no filing of a witness statement and no one was present who could adequately explain the application. The parties and participants agreed that the matter should be adjourned once again to enable the applicant to obtain professional help and present evidence so that the proposed development and variances could be clearly understood. It appeared that the applicant may not have received proper notice of my previous decision and thus had failed to comply with my decision of November 29, 2018.

MATTERS IN ISSUE

The only matter in issue was whether the appeal should be allowed or another adjournment granted to enable the applicant to obtain professional help.

JURISDICTION

TLAB has jurisdiction to grant adjournments under its Rules of Practice and Procedure

ANALYSIS, FINDINGS, REASONS

The Hearing could not proceed as there was insufficient evidence and disclosure and no witness who understood the requirements for approval, although, at the first hearing of this matter, the appellant had undertaken to retain professional help. Rather than allowing the appeal and requiring the applicant to recommence the application, it was appropriate to adjourn the Hearing once again to allow the applicant to obtain the help of a professional to represent him. The appellant and participants did not object. The applicant's daughter stated the applicant would seek the services of a planner this time and that they were unaware of the requirements in my previous decision.

DECISION

This matter is adjourned to November 1, 2019. At the continuation of the Hearing, the applicant is to present, through a professional planner, evidence of the variances based on an Examiner's Notice, the conformity of the variances with relevant provincial policy documents, and compliance with the four tests of the Planning Act. An expert witness statement must be filed on or before October 15, 2019.

X 

S. Makuch

Panel Chair, Toronto Local Appeal