

# DECISION AND ORDER

**Decision Issue Date** Monday, June 03, 2019

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): CITY OF TORONTO

Applicant: GUS STAVROPOULOS

Property Address/Description: 25 MANHATTAN DR

Committee of Adjustment Case File Number: 18 242732 ESC 37 MV

**TLAB Case File Number: 18 270711 S45 21 TLAB**

**Hearing date:** Wednesday, May 22, 2019

**DECISION DELIVERED BY SHAHEYNOOR TALUKDER**

## APPEARANCES

Name	Role	Representative
Gus Stavropoulos	Applicant/Party	
City of Toronto	Appellant	Marc Hardiejowski
Bruna Nigro	Expert Witness	

## INTRODUCTION

1. This is an appeal by the City of Toronto (City) of the decision of the Committee of Adjustment (COA), which approved the variances requested for the property at 25 Manhattan Drive (subject property). The approved variances relate to the width of the driveway at the front of the subject property.
2. The subject property is in a residential neighbourhood north of Lawrence Avenue East and west of Warden Avenue in Scarborough.

3. There are only two parties in this appeal – the City and the Applicant.
4. The subject property is owned by Eftaxia Tassia Stavropoulos and her son, Gus Stavropoulos. The latter is the Applicant Ms. Stavropoulos's representative at the hearing.
5. The parties had informed the Toronto Local Appeal Body (TLAB) that they had entered into a settlement. Accordingly, the hearing proceeded as a settlement hearing.
6. At the hearing, I informed the parties that I visited the site of the subject property and the surrounding area.

## **MATTERS IN ISSUE**

7. At issue is the width of the driveway at the front of the subject property. The current width of the driveway is at 5.1 m while only 3.7 m width is permitted.
8. The variances approved by the COA and described in the Notice of Decision are as follows:

### **By-law No. 569-2013**

1. To permit the portion of the widened driveway in the front yard which does not lead to a parking space behind the front main wall;

whereas the Zoning By-law requires the vehicles to be parked on a private portion of the driveway leading to a parking space.

2. To permit the 5.1 metres wide driveway;

whereas the Zoning By-law permits maximum 3.7 metres wide driveway.

### **By-law No. 9511**

3. To permit the 5.1 metres wide driveway;

whereas the Zoning By-law permits maximum 3.7 metres wide driveway.

9. The parties settled on the following terms:

The width of the driveway shall be 3.7 m and remaining portion of the expanded driveway, which is 1.4 m in width, shall be a walkway where no vehicular parking shall be allowed. The driveway of 3.7 m and connected walkway of 1.4 m shall be maintained as per the site plan submitted as Exhibit 2 and attached to this decision as Attachment 1.

10. If the settlement is approved, the Applicant will not require any approval of the zoning by-laws as the width of the driveway will be of the permitted width.

11. The settlement of matters between parties is encouraged. However, despite the presence of a settlement proposal, which should be given great weight, the TLAB must still be satisfied that the considerations raised by provincial policy and subsection 45(1) of the *Planning Act* (as set out below), are satisfactorily met by the settlement proposal and that the public interest is served.

## **JURISDICTION**

### **Provincial Policy – S. 3**

12. A decision of the TLAB must be consistent with the 2014 Provincial Policy Statement ('PPS') and conform to the Growth Plan of the Greater Golden Horseshoe for the subject area ('Growth Plan').

### **Minor Variance – S. 45(1)**

13. In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the Act. The tests are whether the variances:

- 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.

## **EVIDENCE**

14. The City called Ms. Bruna Nigro, who is employed by the City as an Assistant Planner. She was qualified to give professional land use planning opinion evidence. There was no contrary evidence presented.
15. Ms. Nigro stated that the subject property has a single one-storey detached dwelling with a driveway that extends along the north of the property line to the rear garage. The front yard consists of a single car width driveway and 1.4 m expanded area near a mature tree. The Applicant sought permission to legalize and maintain this expanded driveway which was constructed without a building permit.
16. Ms. Nigro testified that the subject property is in a neighbourhood that is bounded by Bucannan Road/Manhattan Drive to the north, Lilian Drive to the east, Honey Drive to the south and Tower Drive to the west. Ms. Nigro chose these boundaries for her study area as residents in this area would experience it daily when walking the street and because of the natural boundary with the Hydro Corridors to the west of Tower Drive.

17. Ms. Nigro stated that the physical character of the neighbourhood is dominated by one prevailing building type, which is single detached houses. The majority of these houses access parking via a driveway that extends along the side of the property line adjacent to the house. The prevailing description of the street is defined by front yards that include narrow driveways and landscaped open space. The properties have driveways of 3.7 m or less, while a small number of properties have wider driveways.
18. Ms. Nigro opined that the variances that were approved at the COA do not satisfy the four tests, as follows:
- a. All the variances allowed for driveways in the neighbourhood do not extend the width of the driveway. The previous approved variances maintain the current character of the neighbourhood, which consists of a narrow driveway of 3.7 m or less extending into the rear garage.
  - b. The extended driveway can be viewed as a two-car driveway which is not visually appealing from the street and will result in a decreased quality of experience by the pedestrian.
  - c. The extended driveway will allow a car to park at the front of the subject property, which is not consistent with the prevalent characteristics of the properties in the neighbourhood, which are narrow driveways with garages at the rear of the properties.
19. Ms. Nigro further opined that the revised proposal will not require any zoning by-law approvals and is consistent with the existing lot pattern in the neighbourhood.
20. Mr. Stavropoulos provided some clarification on the history of the extended driveway. Mr. Stavropoulos stated that the extended driveway was constructed about nineteen years ago. They did not know that approval from the City was required to extend the driveway. He indicated that the extended driveway is useful, as his mother (the owner) and his stepfather have mobility issues. They cannot change the extended portion of the driveway with potted plants because the space is needed for the owner's mobility issues.

## **ANALYSIS, FINDINGS, REASONS**

21. I have accepted Ms. Nigro's uncontradicted testimony.
22. Based on the evidence submitted, I am satisfied that an extended driveway of 5.1 m width at the front of the subject property as approved at the COA does not fit the prevailing characteristics of the neighbourhood where the subject property is located. The prevailing characteristic of this neighbourhood with respect to driveways is that of a narrow driveway extending into the rear garage. The front extended portion of the driveway in the subject property will allow a car to park. This result is not appealing from the street given that the prevailing characteristic

is to have garages at the rear of the properties. Therefore, the variances for a driveway of 5.1 m width should not be granted.

23. The proposed settlement allows the owner of the house to retain the extended portion of the driveway as a walkway, which is a cost-effective solution and does not require an approval of any variance.

24. I am satisfied that the settlement proposal satisfies the tests set out in the Act and serves the public interest.

## **DECISION AND ORDER**

25. The appeal is allowed and the following is ordered as per the parties' settlement proposal:

The width of the driveway of the subject property shall be 3.7 m and remaining portion of the expanded driveway, which is 1.4 m in width, shall be a walkway where no vehicle parking shall be allowed. The driveway of 3.7 m and connected walkway of 1.4 m shall be maintained as per the site plan attached to this decision as Attachment 1.

X 

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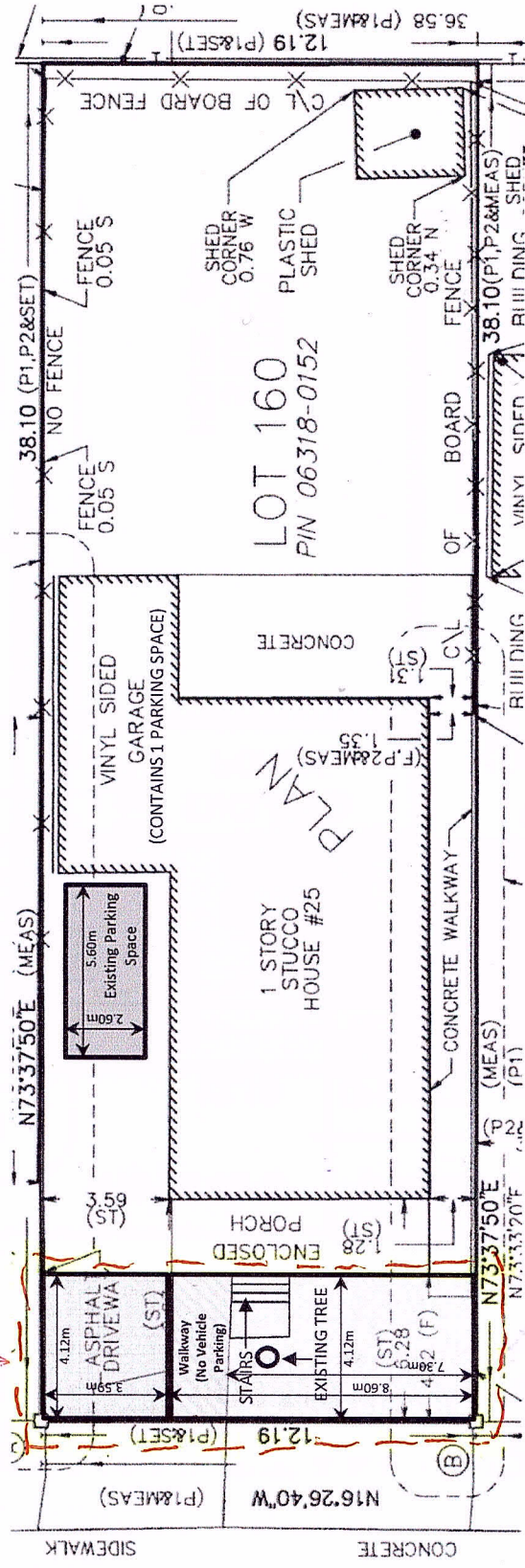
Shaheynoor Talukder  
Panel Chair, Toronto Local Appeal Body  
Signed by: Shaheynoor Talukder

25 Manhattan Drive - Site Plan for PPR Review

February 27, 2019



SCOPE OF WORK



MANHATTAN DRIVE -0423 PIN 06318

- Total Front Yard Area: 12.19m x 4.12m = 50.22m
- Landscaped Area (including walkway): 8.60m x 4.12m = 35.60m2 (71% of Front Yard)
- Soft Landscaping Area: 7.30m x 4.12m = 30.10m2 (84% of Landscaped Area)
- Existing Asphalt Walkway: 5.47 sq.m
- Driveway Area: 3.59m x 4.12m = 14.80m2 (29% of Front Yard)

LOT FRONTAGE: 12.19m → 50% LANDSCAPING REQUIRED

50.22 x 0.5 = 25.11 sq.m OF FRONT YARD LANDSCAPING REQUIRED

50.22 - 14.80 = 35.42 sq.m LANDSCAPING PROVIDED

SOFT LANDSCAPING

25.11 sq.m x 0.75 = 18.83 OF FRONT YARD SOFT LANDSCAPING PROVIDED

35.42 sq.m provided

35.42 - 5.47 = 29.95

SOFT LANDSCAPING IS PROVIDED WHEREAS 18.83 sq.m is