

MEDIATION SUMMARY

Mediation Summary Date: Thursday, June 27, 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): INES FERRI

Applicant: AJT DESIGN

Property Address/Description: 362 RUSTIC RD

Committee of Adjustment Case File: 18 262105 WET 12 MV

TLAB Case File Number: 19 114668 S45 05 TLAB

Mediation Date: Wednesday, June 19, 2019

MEDIATION SUMMARY DELIVERED BY D. LOMBARDI

APPEARANCES

NAME	ROLE	REPRESENTATIVE
CAROLINA FIORINO	OWNER/PARTICIPANT	ALISSA WINICKI
ED RIBEIRO	OWNER/PARTICIPANT	
AJT DESIGN	APPLICANT	
INES FERRI	APPELLANT	FRANK DI GIORGIO
DIANA FERRI	PARTY	
DINO FERRI	PARTY	
AJT DESIGN	PARTY	ALISSA WINICKI

INTRODUCTION AND BACKGROUND

This was a Mediation concerning an appeal of the Committee of Adjustment (COA) approval of a total of two (2) variances, with conditions, to permit the construction of a new detached garage in the rear yard and to convert the existing attached garage to habitable space at 362 Rustic Road (subject property). In a decision dated January 24, 2019, the COA approved the variances with the condition that:

- The existing driveway (leading to the attached garage to be converted into habitable space) shall be restored with soft landscaping.

The Appellant, Ms. Ines Ferri, who resides at 5 Blue Springs Road, immediately to the north of the subject property, appealed the decision of the COA to the Toronto Local Appeal Body (TLAB). A Notice of Hearing was issued pursuant to the TLAB's Rules of Practice and Procedure (Rules) setting a Hearing date for June 19, 2019.

At the commencement of the Hearing, it became apparent that communications between the Appellant (Ms. Ferri), her son (Dino Ferri) and daughter-in-law (Diana Ferri), and the owners, Carolina Fiorina and Eddie Ribeiro, had been inconsistent and insufficient since Ms. Ferri had become aware of the COA application.

As the presiding Member, I opined that after reviewing the pre-filed material related to this matter, and listening to opening remarks from the two Parties, this seemed the type of matter that could have benefited from mediation as envisaged in the TLAB Rules, if such a session had been requested. At this juncture, the Appellant agreed and submitted that she was open to mediation to address several issues she had raised with the Applicant regarding the subject proposed. Ms. Winicki, the Applicant's counsel, expressed a similar sentiment noting that the owner was also willing to engage in a mediation process if one could be accommodated by the TLAB.

She questioned the Panel Member whether the Hearing could be adjourned, and the mediation session commenced immediately, given that the Parties were present.

In response, I advised the Parties that mediation, as a dispute resolution strategy, is contemplated in the TLAB Rules (Rule 20) and is encouraged where the TLAB is satisfied that there is good reason to believe one or more of the issues in dispute can be resolved. I believed that to be the case in this matter.

Since the Parties expressed an interest in non-binding mediation in order to narrow the outstanding issues in the hope of arriving at a settlement of the issues in dispute, and upon oral consent from both Parties agreeing that I would be the Member conducting the mediation (pursuant to Rule 20.4), I adjourned the Hearing so that a Mediation session could be undertaken.

CONFIDENTIALITY

At the outset of the Mediation session, I explained the logistics and parameters of conducting a Mediation and I advised the Parties that the respective interests and

**Mediation Summary of Toronto Local Appeal Body Member: D. Lombardi
TLAB Case File Number: 19 114668 S45 05 TLAB**

positions on matters discussed in the Mediation would remain confidential, as per Section 20.6 of the Rules.

Specifically, under that Section, the Rules state that “Any information or Documents provided or exchanged during a Mediation and any discussions or exchanges relating to the resolution of issues or offers to settle are and shall remain confidential and shall not be disclosed or entered as evidence in the same or any other proceeding. Any notes of a Mediation made by a Member shall remain confidential and shall not be released to any Person or admitted into evidence in any proceeding.”

Furthermore, the Applicant was advised that whether or not the Mediation was successful, as the Applicant, Ms. Fiorino remains responsible at the hearing of the appeal to carry the burden of demonstrating that the variances currently being sought meet all the statutory tests, due to the obligations of the TLAB. This was understood.

STATUS OF MATTERS DURING THE MEDIATION

Rule 19.1 of the Rules underscores that the TLAB is committed to encouraging Parties to settle some or all of the outstanding issues by informal discussion, exchange and mediation. Under Rule 19.2, Parties who arrive at a settlement shall serve the terms of the proposed settlement on all other Parties and Participants and file same with the TLAB at the earliest possible date.

The Appellant and Applicant were provided with an opportunity to provide a brief opening statement in which the main issues could be identified and ranked in importance. This allowed each Party, as well as the presiding Member, to establish the matters of most import to each Party in order to focus further discussion. The Parties were then separated and a series of ‘in camera’ breakout sessions were conducted with each, with the Member specifically leading those sessions.

It became apparent very early in these caucus sessions that there were really only a few outstanding issues between the Parties and that those did not appear to be insurmountable. In the proceeding ‘in camera’ sessions, both Parties engaged in what I would characterize as productive dialogue and constructive debate. In the end, although I was optimistic that a settlement of the matter appeared conceivable, the Parties ultimately conceded that a narrowing or settlement of the issues was unlikely, the Mediation should be concluded and the Hearing recommenced.

Given that the Mediation session had taken most of the allotted day and had ended late in the afternoon on June 19th, I suggested that a second Hearing date be agreed to in order to complete the Hearing. After consultation with TLAB staff, September 5, 2019 was secured as the date for the continuation of this proceeding. As a result, I directed staff to issue a new Notice of Hearing (Day 2) for this matter.

Pursuant to TLAB Rule 20.5, I advised the Parties that as the Member who conducted the Mediation in which one or more of the issues have not been resolved I may not preside over any Hearing related to those unresolved issues unless all of the Parties

Mediation Summary of Toronto Local Appeal Body Member: D. Lombardi
TLAB Case File Number: 19 114668 S45 05 TLAB

consent and the Member agrees. Both the Applicant and the Appellant requested that I continue to be the presiding Member, a request to which I agreed. However, in agreeing to continue as the presiding Member in this matter I expressly requested that the Parties acknowledge their consent in writing and file same with the TLAB.

I can confirm that those consents have been received by TLAB staff.

I would like to thank the Parties for their civility and cooperation throughout this process and their willingness at least attempt to work towards resolving the issues resulting from this appeal.

X 

Dino Lombardi

Panel Chair, Toronto Local Appeal Body