

# INTERIM DECISION AND ORDER

**Decision Issue Date**      Monday, July 29, 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): MAHDY GANDOVANI SHEIDAEI

Applicant: ALI SHAKERI

Property Address/Description: 14 Brookfield Rd.

Committee of Adjustment Case File: 18 266685 NNY 15 MV (A0841/18NY)

**TLAB Case File Number: 19 119013 S45 15 TLAB**

**Hearing date:**      Monday, July 08, 2019

**DECISION DELIVERED BY S.GOPIKRISHNA**

## APPEARANCES

| NAME                             | ROLE        | REPRESENTATIVE |
|----------------------------------|-------------|----------------|
| Ali Shakeri                      | Applicant   |                |
| Mahdy Gandovani Sheidaei         | Appellant   | Amber Stewart  |
| D. HUGH REDELMEIER               | Participant |                |
| STEPHEN MORSON                   | Participant |                |
| YORK MILLS VALLEY<br>ASSOCIATION | Participant |                |
| CHRIS HEWAT                      |             |                |
| SUSAN LIPCHAK                    | Participant |                |
| CHRISTINE ACCONCIA               | Participant |                |

|   |                |                 |
|---|----------------|-----------------|
| JACQUES KONIG   | Participant    |                 |
| TORONTO AND REGION<br>CONSERVATION AUTHORITY<br>STEVEN HEUCHERT | Participant    |                 |
| DIANA SABINA BLANK  | Party (TLAB)   |                 |
| DOMENIC DIMANNO   | Party (TLAB)   |                 |
| DANIEL MIDA   | Party (TLAB)   | WILLIAM ROBERTS |
| JAMIE SAMOGRAD  | Party (TLAB)   |                 |
| CITY OF TORONTO   | Party (TLAB)   | MICHAEL MAHONEY |
| TERRY MILLS   | Expert Witness |                 |
| SIMONA RASANU   | Expert Witness |                 |

## **INTRODUCTION AND BACKGROUND**

Mahdy Gandovani Sheidaei is the owner of 14 Brookfield Rd, located in Ward 15 (Don Valley West) of the City of Toronto. He applied for variances to the Committee of Adjustment (COA) to construct a house at the Subject Property. The COA heard the application on February 7, 2019, and refused the variances. Mr. Gondovani Sheidaie appealed the Decision of the COA to the Toronto Local Appeal Body (TLAB) on February 25, 2019; the TLAB scheduled a hearing on July 8, 2019.

Some of the neighbours elected for Party, and Participant status. The City of Toronto elected for Party status, while the Toronto Regional Conservation Authority (TRCA), elected for Participant Status. Mr. Daniel Mida, one of the neighbours also elected for Party status, and was represented by Mr. William Roberts, a lawyer, and Mr. Terry Mills, a planner.

Mr. Michael Mahoney, a lawyer for the City of Toronto, sent out emails in May 2019, and June 2019, pointing out that the Appellants had not submitted a Witness Statement, or made any submissions, even well after the deadline. He suggested that the hearing be adjourned if the submissions were made closer to the date of the hearing, in order to enable the Parties and Participants to review the submissions.

Late in the afternoon of July 5, 2019, a request for an adjournment, was made by Ms. Amber Stewart, Counsel for the Appellants. However, I was not aware of the request till a few minutes before the commencement of the Hearing on July 8, 2019.

## **MATTERS IN ISSUE**

- 1) Declaration of peremptory dates for hearing the Appeal.
- 2) Identification of a specific Hearing date on which the Participants can come forward to give evidence

## **JURISDICTION**

### **Provincial Policy – S. 3**

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

### **Minor Variance – S. 45(1)**

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**

At the Hearing held on the morning of July 8, 2019, the other Parties, agreed (somewhat reluctantly) with the Appellants' request for an adjournment, and expressed their lack of satisfaction at how the Appellants' approach to the Appeal. I granted the adjournment, because no witness statement had been submitted by the Appellants, and there was interest in a mediation between the Parties.

Before the Hearing was completed, it was agreed that the Parties would continue to mediate a Settlement amongst themselves, while preparing for a contested proceeding, should the mediation not be successful. It was also agreed that a minimum of three days would be needed to complete the Hearing, in case of an unsuccessful mediation

It was also agreed that after suitable dates for the continuation of the Hearing, the Chairperson hearing the Appeal, would issue a Decision recognizing the new

peremptory dates for the Hearing, as well as set a date on which the Participants, and other self-represented Parties may attend, in order to give evidence. The Parties also agreed to identify dates for exchange of witness statements through mutual discussion, after the Hearing dates were determined, and provide information to the TLAB about the identified dates.

## **ANALYSIS, FINDINGS, REASONS**

The decisions below assume that the Hearing scheduled to commence on November 12, 2019, is of a contested nature.

The TLAB staff canvassed the Parties and identified the Hearing dates as November 12, 2019, November 13, 2019, and November 15, 2019.

The above dates are declared as peremptory; November 13, 2019 is designated as the day on which unrepresented Parties, and Participants may come forward to give evidence. The reason behind choosing this date is that it would be reasonable to assume that the Appellants would have completed their examination-in-chief on Day 1 of the hearing, thereby laying out the planning rationale behind the proposal, allowing for appropriate contextualization of the Participants' evidence.

Should the unrepresented Parties and Participants not be able to complete their evidence on November 13, 2019, they may continue to give evidence on November 15, 2019.

The designation of a specific date on which unrepresented Parties and Participants can give evidence reflects the TLAB's efforts to minimize inconvenience to these individuals in terms of taking time off work, and consequently be inclusive, and respectful, of all individuals and organizations, who have elected for Party, or Participant status.

In the event that the Parties are able to come to a Settlement, but there are unrepresented Parties and Participants who are still opposed to the Settlement, the Participants may still come forward on November 13, 2019, to discuss why they disagree with the Settlement, and be cross examined by the Parties who have arrived at a Settlement, even if the evidence supporting the Settlement is completed on November 12, 2019. This decision is again made to minimize inconvenience to unrepresented Parties, and Participants.

It was also suggested at the Hearing, that the Parties would identify dates for exchanging witness statements through mutual discussion. I herewith request that the TLAB be informed of the dates for the Appellants' filing witness statements, and Replies from the other Parties (if any)- the deadline for this information is determined to be August 9, 2019.

## INTERIM DECISION AND ORDER

1. The Appeal respecting 14 Brookfield Ave. will be heard on November 12, 2019, November 13, 2019, and November 15, 2019. It is important that these dates are peremptory.
2. Unrepresented Parties and Participants may give evidence on November 13, 2019, and continue on November 15, 2019, where necessary
3. The Parties are asked to update the TLAB about dates identified for exchange of statements through mutual discussions amongst themselves. They may provide this information to the TLAB by the end of day, August 10, 2019.

So orders the Toronto Local Appeal Body

X



---

S. Gopikrishna  
Panel Chair, Toronto Local Appeal Body