

DECISION AND ORDER

Decision Issue Date: Thursday, August 1, 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): ADRIEL ORTINO

Applicant: CORBETT LAND STRATEGIES

Property Address/Description: 48 & 50 GWENDOLEN CRES

Committee of Adjustment Case File: 17 180192 NNY 23 MV, 17 180203 NNY 23 MV

TLAB Case File Number: 19 119910 S45 18 TLAB, 19 119912 S45 18 TLAB

Motion Hearing date: Tuesday, July 16, 2019

DECISION DELIVERED BY STANLEY MAKUCH

APPEARANCES

Name	Role	Representative
Corbett Land Strategies	Applicant	
Adriel Ortino	Appellant	Eileen Costello
City of Toronto	Party	Roman Ivanov

INTRODUCTION

This is a motion: (1) to dispense with a written hearing of the above appeal, (2) to grant the appeal and approve the variances subject to conditions, (3) to find that no notice is required under section 45(18.1.1) although there are changes to the variances sought, and (4) to issue a notice of decision without further notice.

BACKGROUND

The property in question is made up of two lots upon which is currently situated one dwelling. The appeal is to permit the construction of two detached dwellings on the

property. The City, the only other party to the appeal, consents to all elements of the motion.

MATTERS IN ISSUE

The only matter in issue is whether there is sufficient evidence filed in the motion to support its various elements. The City filed no evidence and relies on the evidence of the appellant.

JURISDICTION

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').

Moreover, in considering the applications for variances to 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.

1. The evidence filed must, therefore, sufficiently address all of the above matters. Moreover since this motion includes a request for relief under s. 45 (18.1.1) there must be planning evidence that the changes to the variances sought are themselves minor and do not require additional notice.

EVIDENCE

The only planning evidence filed was an affidavit of J. Corbett a well qualified planner. His affidavit, however, included insufficient evidence respecting the need for notice of the changes to the variances sought. Similarly, although the relief sought included approval of the revised variances subject to conditions, the affidavit did not provide sufficient evidence respecting conditions to be imposed. Moreover, the affidavit was confusing. It referred to an examiner's notice dated May 21 and 22, 2019. It is unclear to which plans that notice refers. The text of the affidavit refers to plans dated April 16, 2018 but the Exhibit referred to contains plans dated December, 2017, March 21, and plans dated April, 2019. It is unclear if all plans are relevant.

Most importantly, however, the affidavit does not address Official Plan issues of the prevailing character of the street, and the impact of the proposal on the urban forest . While an argument was submitted by legal counsel, such a submission does not amount to evidence. Finally, I point out that the PPS and Growth Plan were not addressed.

ANALYSIS, FINDINGS, REASONS

While it is not my desire to require the same detailed analysis when the City, the only party to the proceedings, consents to a motion as when it is in opposition, it is , necessary that clear and coherent evidence be provided to enable TLAB to render a factually based decision. I find in this case that the evidence is insufficient. Perhaps the evidence is unclear because of the changes to reduce the number of variances sought. If so, a clear explanation by the planner at the hearing may well suffice.

DECISION AND ORDER

The motion is denied in its entirety and the matter will proceed to a hearing as scheduled.

X 

S. Makuch
Panel Chair, Toronto Local Appeal