

# DECISION AND ORDER

**Decision Issue Date**      Tuesday, August 20, 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): Mary Kruk

Applicant: Nelson Espinola

Property Address/Description: 43 Hocken Ave

Committee of Adjustment Case File: 17 275255 STE 21 MV (A1370/17TEY)

**TLAB Case File Number: 18 173024 S45 21 TLAB**

**Hearing date:**      Thursday, September 20, 2018

**DECISION DELIVERED BY** s. Gopikrishna

## REGISTERED PARTIES AND PARTICIPANTS

Applicant	Nelson Espinola
Appellant	Mary Kruk
Party	Barbara Gaye McDonald
Party	Roderick Macivor
Party's Legal Rep.	David Neligan/Ajay Gajaria
Treehouse Capital Ltd	Martin Mazierski
Expert Witness	TJ Cieciora

## **INTRODUCTION AND BACKGROUND**

This Decision is a follow up to my earlier Decision dated February 11, 2019, respecting 43 Hocken, in which some of the variances requested by the Applicants were allowed, and other variances were refused. I reproduce below Paragraph 5 b) of the aforementioned Decision, since this best explains the reasons behind my making the Final Decision, on this Appeal.

*5 b) The variances approved by this decision are subject to the Applicant providing revised Site and Elevation Plans, and an associated plans examination review showing any required FSI variance for the project within six (6) months of the date of this Decision, failing which the appeal will be allowed in its entirety, and all the variances are refused. Such plans, upon receipt, shall form part of the Decision and Order as an Attachment.*

It is important to note that the six month period referred to in the paragraph above, was scheduled to expire on August 11, 2019.

In July 2019, I was made aware of communication between Mr. Ajay Gajaria, Counsel for the Parties living at 41 Hocken Ave, and Mr. Marcin Mazierski, Counsel for the Applicant, where the former requested an update about the Applicant's intentions to submit Plans and Elevations, reflecting the Decision dated February 11, 2019. Mr. Mazierski replied a few days later, stating that his client " will not be submitting revised plans to the TLAB prior to the deadline."

On August 1, 2019, I requested the TLAB staff to send an email reminder to Mr. Mazierski, with a copy to other Parties, where I reminded him about the approaching deadline, and asked for an update about his client's plans.

On August 7, 2019, the TLAB received the following communication from Mr. Mazierski, Counsel for the Applicants:

"I wanted to thank Member Gopikrishna for reaching out to me and for affording me the time extension to file the revised Site and Elevation Plans, however, I wanted to inform the member that my client has chosen not to file any revised Site Plans and Elevation Drawings"

Mr. Mazierski provided brief reasons for his client making this decision.

## **ANALYSIS, FINDINGS, REASONS**

Given that no updated Plans and Elevations will be submitted, all the variances requested by the Applicant for the property respecting 43 Hocken Ave., are herewith refused. The Appeal brought forward by Ms. Mary Kruk is thereby, effectively allowed in its entirety.

## DECISION AND ORDER

1. The Appeal herein respecting 43 Hocken Ave., dated June 6, 2018, is allowed in its entirety. All the variances requested by the Applicant are refused.
2. This Decision replaces the earlier Decision dated February 11, 2019, with respect to 43 Hocken Ave, in accordance with its terms.

So orders the Toronto Local Appeal Body.

X 

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S. Gopikrishna  
Panel Chair, Toronto Local Appeal Body