

DECISION AND ORDER

Decision Issue Date Wednesday, September 04, 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): PAUL FREDRICKS

Applicant: AIRD & BERLIS LLP

Property Address/Description: 52 BOSWELL AVE

Committee of Adjustment Case File: 18 137390 STE 20 MV

TLAB Case File Number: 18 232830 S45 20 TLAB

Hearing date: Wednesday, March 13, 2019

DECISION DELIVERED BY Ian James LORD

APPEARANCES

Name	Role	Representative
Aird and Berlis LLP	Applicant	
Mary Barber	Owner	
Paul Fredericks	Appellant	Amber Stewart
Thomas Barber	Party	Eileen Costello
Martin Rendl	Expert Witness	
Jane McFarlane	Expert Witness	
Roy Firth	Participant	

INTRODUCTION

By an Interim Decision and Order issued March 15, 2019, I allowed in part an appeal of a decision of the Committee of Adjustment and to permit alterations and additions to an existing three storey detached dwelling at 52 Boswell Avenue (subject property).

The matter had proceeded largely as a settlement calling for revised variances, conditions and plans. However, the Decision and Order was 'Interim' as the revisions warranted a further Plans Examination to define two of the identified variances required and assigned an 'X' in paragraphs 3 and 7 of its **Attachment 1**,

BACKGROUND

By correspondence dated August 30, 2019, Counsel for the Owner wrote the Toronto Local Appeal Body (TLAB) to advise a Plans Examination had been performed and the numeric values for the unknown 'X' quantities identified. The Examiner's Notice dated July 5, 2019 was attached. These materials were said to have been forwarded to Ms. Stewart, counsel for persons opposed on the previous settlement teleconference.

MATTERS IN ISSUE

Ms. Costello's correspondence recites developments post the Interim Decision and Order and identifies the details requested to be substituted in place of the 'X', in variance paragraphs 3 and 7, namely:

- a) Variance 3 (floor space index): 1.07 x (gross floor area of 347.1 sq. m.)
- b) Variance 7 (front yard landscaping): 49% (10.87 sq. m.)

Further, she has indicated the receipt of advice that By-law 438-86 no longer applies as it relates to density; therefore, the sole variance under that by-law has been removed.

The schedule of amended variances attached to Ms. Costello's correspondence as **Attachment 1** is attached as **Attachment A** hereto.

The request is that I issue a Final Decision and Order confirming the variances as set out on **Attachment A**.

JURISDICTION

The jurisdiction applicable to the resolution of this appeal is as set out in the Interim Decision and Order together with the *Rules of Practice and Procedure* of the TLAB. The latter permit adjustments to the Interim Decision and Order to complete the process of the appeal in a just and efficient manner.

EVIDENCE

The evidence I have in this matter is the correspondence of counsel and its attachments. Ms. Stewart is understood to have been copied on both the correspondence and its attachments, inclusive of the Examiners Notice of July 5, 2019.

In respect of that latter document, I note that two additional variances are affected, both by lesser measures than agreed to and supported by the evidence previously supplied by Mr. Rendl. Namely, Variance 1, maximum permitted height of all side exterior walls facing a side lot line: down to 12.61 from 12.95 m; and, Variance 2, maximum permitted building depth (down to 20.72 from 21.50 m).

No comment from any source was made respecting these identified revisions. I find that they are minor, technical, and do not warrant a further revision of **Attachment 1** or **Attachment A**.

ANALYSIS, FINDINGS, REASONS

The Interim Decision and Order left for completion two measures to be resolved through an updated Plans Examination.

That process has now been completed, apparently (in the absence of further comment) to the satisfaction of the Owner and counsel of record.

No other requests for revisions to Conditions or the Plans in the Attachments accompanying the Interim Decision and Order have been made.

I am satisfied that the outstanding matters from the Interim Decision and Order have been satisfied and it is appropriate to issue a Final Decision and Order in this matter.

DECISION AND ORDER

The Interim Decision and Order in respect of this matter is varied by deleting **Attachment 1** thereto and replacing the same with **Attachment A**, hereto as the approved variances.

In all other respects, the Interim Decision and Order is confirmed and incorporated herein, without change, including its **Attachment 2** and **3**.

Attachment A

VariANCES

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

1. Chapter 10.10.40.10.(2)(B)(ii), By-law 569-2013 The maximum permitted height of all side exterior main walls facing a side lot line is 9.5 m. The height of the side exterior main walls facing a side lot line will be 12.95 m.

2. Chapter 10.10.40.30.(1)(A), By-law 569-2013 The maximum permitted depth of a detached dwelling is 17 m. The detached dwelling will have a depth of 21.50 m.

3. Chapter 10.10.40.40.(1)(A), By-law 569-2013 The maximum permitted floor space index of a detached dwelling is 1.0 times the area of the lot (324.0 m²). The detached dwelling will have a floor space index equal to **1.07** times the area of the lot.

4. Chapter 10.5.40.50.(3), By-law 569-2013 The level of the floor of a platform located at or above the second storey of a residential building is not permitted to be higher than the level of the floor of the storey from which it gains access. In this case, the rooftop platform will be higher than the level of the third floor from which it gains access.

5. Chapter 10.5.40.60.(3)(C)(ii), By-law 569-2013 An elevating device providing access to a building or structure may encroach into a required building setback if the elevating device has area no larger than 3.0 m². The elevating device will have an area of 14.3 m².

6. Chapter 10.5.40.60.(3)(C)(iii), By-law 569-2013 An elevating device providing access to a building or structure may encroach into a required building setback if the elevating device is no closer to a lot line than 0.6 m. The elevating device will be located 0.0 m from the front lot line.

7. Chapter 10.5.50.10.(1)(D), By-law 569-2013 A minimum of 75% (6.86 m²) of the required front yard landscaped open space shall be in the form of soft landscaping. In this case, **49%** of the required front yard landscaped open space will be in the form of soft landscaping.

X



Ian Lord

Panel Chair, Toronto Local Appeal Body

Signed by: Ian Lord