

DECISION AND ORDER

Decision Issue Date Wednesday, November 06, 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): Aphrodite Rubello

Applicant: Veronique Allard-Bufferet

Property Address/Description: 49 Chester Ave

Committee of Adjustment Case File Number: 19 104435 STE 14 MV (A0036/19TEY)

TLAB Case File Number: 19 198659 S45 14 TLAB

Written Motion Date: Monday, October 21, 2019

DECISION DELIVERED BY J. Tassiopoulos

REGISTERED PARTIES AND PARTICIPANTS

Applicant	Veronique Allard-Bufferet
Appellant	Aphrodite Rubello
Party	Parvin Ghorayshi
Party's Legal Rep.	Robert Brown
Participant	John Robert Dales

INTRODUCTION

This is a decision on a Motion filed on October 4, 2019 by Leah Weller on behalf of Aphrodite Rubello. Aphrodite Rubello is an Appellant to the Committee of Adjustment (COA) decision for 49 Chester Avenue, dated July 11, 2019. The COA refused the variances sought for the alteration of an existing two-storey semi-detached dwelling. Aphrodite Rubello's Motion requests an extension of the deadline date for the

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submission of disclosure documents of two weeks, extended from October 7, 2019 to October 21, 2019. In the written Motion, it is explained that the reason for the

extension was due to Ms. Rubello's difficulty in engaging a Planner to help represent her at TLAB and to address the concerns that her neighbour, and Party to the hearing, Parvin Ghorayshi had expressed.

BACKGROUND

The subject property is located on the east side of Chester Avenue, north of Danforth Avenue. The variance application to the COA requested 11 variances to By-law 569-2013 and 2 variances to By-law 438-86 to permit the proposed alteration of the existing two-storey semi-detached dwelling.

The Appellant's representative, Leah Walker, requires additional time in order to submit documents of disclosure. Amongst the material to be submitted according to the Affidavit filed with the Notice of Motion, are the preparation of visual materials by Ms. Rubello's Architect for presentation to her neighbour, and other Party, Parvin Ghorayshi. The visual materials are to serve as a visual aide for the appellant to discuss the variances associated with the alterations being proposed for 49 Chester Avenue and require an extension of time to be prepared. The Affidavit filed with the Notice of Motion also included an email from the Party's representative Robert Brown, dated October 3, 2019, which indicates support for the Motion's extension of the deadline for disclosure of documents and that they would also consider the possibility of a TLAB supervised mediation. There were no responses filed to the Notice of Motion.

The Motion was considered in written form on the date provided, October 21, 2019. This is authorized by TLAB's Extension or Reduction of Time Rules 4.4, 4.5 and 4.6 of the TLAB Rules of Practice and Procedure (May 6, 2019).

MATTERS IN ISSUE

Is the extension of time for submission of disclosure documents, by the Appellant, unduly prejudicial to the other Party with respect to hearing procedures?

If the extension of time is not granted to the Appellant will it compromise their ability to present their Appeal and possibly lead to an objection, by the other Party, to disallow documents to be entered as evidence at the Hearing?

JURISDICTION

The TLAB may hear Motions by way of written submissions, in accordance with Rule 17.5 of the Rules of Practice and Procedure. The TLAB, as per Extension or Reduction

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of Time Rules 4.4, 4.5 and 4.6 of the TLAB Rules of Practice and Procedure (May 6, 2019), is free to extend the dates for the submission of disclosure documents.

EVIDENCE

Evidence in the form of an affidavit sworn by Aphrodite Rubello was submitted indicating that the reason for the request of extending deadlines for the document disclosure and witness statement submissions. It also indicated that additional time was sought to allow for further discussion with the other Party and potential resolution of their concerns. She further mentioned in her affidavit that she had identified in her discussion with the other Party that she should engage a qualified Land Use Planner. Furthermore, on a request by the other Party for more visual information of the proposed alterations, she had engaged her Architect to provide visual materials related to illustrating the height and depth of the rear yard additions proposed. The request for the two-week extension would allow additional time for discussions with their neighbor and the possibility of arriving at a resolution or to seek mediation through TLAB.

As part of the evidence the Affidavit also included an email, dated October 3, 2019, from the Party's legal representative Robert Brown which indicates support for the Motion's extension of the deadline for disclosure of documents and that they would also consider the possibility of a TLAB supervised mediation.

ANALYSIS, FINDINGS, REASONS

The principal argument in favour of accepting the Motion extending the deadline for the extension of deadlines for disclosure of documents is that it allows the Appellant to provide, through her Architect and Planner, visual evidence that not only may lead to a resolution of matters with her neighbor but would also provide TLAB with materials at the Hearing that could more fully inform a resulting Decision.

The neighbor through their representative are in favour of the extension and the potential of mediation and there were no responses filed opposing the Motion.

I have considered the Motion with respect to conducting a just and timely proceeding, whether the extension of the deadline for disclosure of documents, as permitted by TLAB Rules 4.4, 4.5 and 4.6, will cause potential harm or prejudice to the Party. Noting that responses were not filed to this Notice of Motion, that materials have indeed been submitted by the appellant prior to this decision, and that an email was provided in support of the deadline extension by the other Party, I accept the Motion in favour of the deadline extension for the disclosure of documents.

DECISION AND ORDER

The Motion is allowed and the two-week extension of the deadline for Document Disclosure and Witness Statement and are now due no later than October 21, 2019.

Given this extension the following changes will also be made to the Notice of Hearing:

- **Response to Witness Statement** due no later than November 13, 2019;
- **Reply to Response to Witness Statement** due no later than November 18, 2019;
- **Participant Statement** due no later than November 13, 2019;
- **Expert Witness Statement** due no later than November 13, 2019;
- **Response to Expert Witness Statement** due no later than November 18, 2019;
- **Reply to Response to Expert Witness Statement** due no later than November 22, 2019; and,
- **Notice of Motion** due no later than November 24, 2019.

X

John Tassiopoulos
Panel Chair, Toronto Local Appeal Body