

DECISION AND ORDER

Decision Issue Date Tuesday, November 5, 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): MIR SADEGH TAHERI

Applicant: RUBINOFF DESIGN GROUP

Property Address/Description: 393 BALLIOL ST

Committee of Adjustment Case File: 18 113978 STE 22 MV (A0127/18TEY)

TLAB Case File Number: 18 200958 S45 22 TLAB

Hearing date: Tuesday, April 16, 2019

DECISION DELIVERED BY S. Makuch

APPEARANCES

Applicant	Rubinoff Design Group
Primary Owner	Mohammad Reza Nikravan
Appellant	Mir Sadegh Taheri
Appellant's Legal Rep.	Amber Stewart
Party	City of Toronto
Party's Legal Rep.	Sara Amini
Party's Legal Rep.	Kasia Czajkowski
Party	Catharine Eunice McPherson
Party's Legal Rep.	Michael Hackl

Participant	Greg Russell
Participant	Al Kivi
Participant	Sharon Mourer
Expert Witness	Michael Goldberg
Expert Witness	Terry Mills

INTRODUCTION

This is a decision arising from a motion at the hearing of an appeal from a decision refusing minor variances for the alteration of an existing two storey detached dwelling by constructing: a rear and side two storey addition; an integral garage ; a rear basement walkout; a rear deck; and a rear second story balcony.

BACKGROUND

Evidence was heard from all parties who wished to present evidence with respect to the original application regarding all the variances, and the integral garage in particular. After that evidence was heard the appellants brought a motion, which they requested to be without prejudice, to alter the plans for the addition so that the garage did not have a front door and side wall. The revisions were not opposed by the other parties and revised plans and any revised variances resulting from the altered plans were to be submitted. Neither plans nor revised variances have been submitted.

MATTERS IN ISSUE

In issue is whether the appeal should be dismissed given no revised plans and revised variances have been submitted.

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 of the Greater Golden Horseshoe for the subject area ('Growth Plan').

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.

It is also important to note that there must be evidence that revisions to the variances are minor and no new notice of the revisions is required by virtue of s, 45 (18.1.1) of The Planning Act.

EVIDENCE

No revised plans or variances have been submitted and thus there is no clear evidence of the revised plans and variances.

ANALYSIS, FINDINGS, REASONS

There would be a substantial change to the appearance of the proposed addition as a result of the revisions as described in the motion. However, no revised plans and variances have been submitted to enable a decision to be made. Without revised plans and the revised variances a decision cannot be made.

DECISION AND ORDER

Given the length of time since the motion and the failure to submit revised plans and revised variances the appeal will be dismissed unless a motion is brought to submit the revised plans and and revised variances by November 22, 2019.

X 

S. Makuch
Panel Chair, Toronto Local Appeal