

# DECISION AND ORDER

**Decision Issue Date**      **November 18, 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): ABC Residents Association, Robina Jane Teed

Applicant: Michael Cogan

Property Address/Description: 15 Berryman St

Committee of Adjustment Case File: 17 277292 STE 27 MV (A1393/17TEY)

**TLAB Case File Number: 18 171921 S45 27 TLAB**

**Hearing date:**      Monday, September 17, 2018

**DECISION DELIVERED BY S. Makuch**

## REGISTERED PARTIES AND PARTICIPANTS

Applicant	Michael Cogan
Appellant	ABC Residents Association
Appellant's Legal Rep.	Andrew Biggart
Appellant	Robina Jane Teed
Party	Shaun Levy
Party's Legal Rep.	Amber Stewart
Expert Witness	Michael Cogan
Expert Witness	John Lohmus
Expert Witness	Jane McFarlane

## **INTRODUCTION**

This was an appeal of the granting of minor variances to permit the conversion of a two story detached dwelling into a triplex by constructing a third story addition with a rear deck. There would be a basement unit.

## **BACKGROUND**

Both an adjacent neighbour and the ABC Residents Association were appellants, while a number of neighbours were participants in opposition. The City, however, did not appear in opposition to the variances and Heritage Preservation Services (HPS) stated that the proposal met the Yorkville-Hazelton Heritage Conservation District Guidelines, subject to certain conditions. The variances were approved on an appeal to the Toronto Local Appeal Body (TLAB) on November 30, 2018. That approval was conditional upon construction being substantially in accordance with plans filed and appended to the decision.

## **MATTERS IN ISSUE**

The matters in issue on the appeal related largely to the impact of the proposed addition on the neighbouring appellant's dwelling and on the use of the triplex for short term rentals. Correspondence has now been received basically requesting a change in the rear basement wall and rear access to the basement unit. The issue before me is whether I have jurisdiction to amend the plans to provide the requested rear access. There is no request to revise the approved variances.

## **JURISDICTION**

The applicant's solicitor has submitted a request in writing for an amendment on the grounds that such an amendment would be allowed under Rule 30.1 in order to "correct a technical or typographical error, error in calculation or similar minor error made in a decision or order." The appellants' solicitor opposes the requested amendment on the grounds that no error has been made.

## **EVIDENCE**

There is no formal motion or sworn evidence before me but rather simply written correspondence

## **ANALYSIS, FINDINGS, REASONS**

In the absence of any sworn evidence, formal request for relief, and consent of the opposing parties I am not prepared to amend the plans even though Rule 30.1 allows me to correct errors without notice.

**Decision of Toronto Local Appeal Body Panel Member: S. Makuch  
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It appears to me, however that I may be able to do so. Rule 29.2 states “if a condition is not satisfied... the Local Appeal Body may on its own initiative, or by Motion, require the Parties to re-attend before it.” If the condition referred to above has not been satisfied in that construction has not been carried out in accordance with my condition a motion could be brought under this section. However, in the absence of Hearing argument regarding the appropriateness of using this Rule in these circumstances and in the absence of evidence regarding what construction has occurred, if any, I am not prepared to act on my own initiative under this section.

**DECISION AND ORDER**

The request to change the plans under Rule 30.1 is refused. The applicant may bring a Motion under Rule 29.2 to address the request for a change in the plans.

X 

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S. Makuch  
Panel Chair, Toronto Local Appeal