

DECISION AND ORDER

Decision Issue Date Thursday, November 07, 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): DANNY SCULAC

Applicant: WEISS ARCHITECTURE AND URBANISM LIMITED

Property Address/Description: 1 YORK RD

Committee of Adjustment Case File: 19 150752 WET 01 MV

TLAB Case File Number: 19 177237 S45 01 TLAB

Motion Hearing date: Friday, October 18, 2019

DECISION DELIVERED BY JOHN TASSIOPOULOS

APPEARANCES

Name	Role
Weiss Architect & Urbanism Ltd.	Applicant
Etobicoke Board of Education	Owner
Toronto District School Board	Primary Owner/Party
Danny Sculac	Appellant

INTRODUCTION & BACKGROUND

This is a decision on a Motion filed on October 3, 2019 by Yvonne Choi on behalf of Primary Owner / Party, the Toronto District School Board (TDSB). The COA, on June 6, 2019, approved the variance for a reduction of parking spaces associated with the TDSB application for the construction of a one-storey addition to the Kingsview Village Junior Public School, for a daycare. The COA approval was then appealed by the Appellant, Danny Sculac on June 24, 2019. Prior to seeking the adjournment, Yvonne

Choi sought the consent of Danny Sculac to adjourn the Hearing but did not receive a response to the request.

The Motion requests an adjournment of the scheduled hearing date of November 8, 2019 and an extension of associated TLAB deadlines because the funding for the daycare addition (Proposed Kingsview Child Care Project) is contingent on City of Toronto operating budget funding. The City has not advised TDSB if there are funds for the operation of the Proposed Kingsview Child Care Project and they expect to be advised by October 31, 2019. Should funding not be secured there would be no need for the TDSB to continue to seek approval of the parking variance and the application would be withdrawn.

The Motion was considered in written form on the date provided, October 18, 2019. This is authorized by TLAB's Rule 23 Adjournments of the TLAB Rules of Practice and Procedure (May 6, 2019).

MATTERS IN ISSUE

Does the requested Motion to adjourn the Hearing and extend of associated TLAB procedural deadlines cause or contribute to any existing or potential harm or prejudice to others, including possible expense to the appellant?

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 Rule 23.4, is free to alter hearing dates if convinced of the merits of the arguments in favour of the adjournment.

The TLAB, as per Extension or Reduction 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 or reduce a time limit on such conditions as the TLAB considers appropriate.

EVIDENCE

Evidence in the form of an affidavit sworn by Viktor Kuslikis, an Architectural Coordinator with Facilities Services at the TDSB, was submitted and indicated confirmed that the request for adjournment was due to budgetary uncertainty with respect to the Proposed Kingsview Child Care Project explaining:

“the Province has instructed school boards to minimize and/or cease incurring any additional costs where there is a decision to defer or a decision to not proceed with a project. As there is uncertainty in the City's decision, and therefore uncertainty of

funding or approval, I have instructed the Toronto Lands Corporation (TLC), a subsidiary of the TDSB responsible for all land use planning matters on behalf of the TDSB, to request adjournment of the hearing scheduled for November 8, 2019.”

The Affidavit’s Attachment 4 provided a copy of the memorandum that confirmed this Provincial direction.

Mr. Kuslikis further mentioned in his affidavit that

“Starting August 12, 2019, Yvonne Choi of TLC made four requests to the appellant, Danny Sculac, for his consent to adjourn the hearing until January 2020 (see Attachment 7) ...I have been advised by Ms. Choi that she has not received any response from Mr. Sculac to her multiple requests for consent to adjournment. I have also been advised by Ms. Choi that there are no additional materials were filed by Mr. Sculac with the TLAB.”

Attachment 7 includes a trail of emails documenting that Yvonne Choi had emailed Mr. Sculac on four separate occasions, from August 12 to September 12, 2019, seeking his consent to adjourn the Hearing but did not receive a response.

ANALYSIS, FINDINGS, REASONS

Having reviewed the Motion and the accompanying Affidavit and its attachments, I believe there is merit in the TDSB’s request for adjournment. Should the budgetary funding being sought not be available to the TDSB there will be no need to proceed with the Hearing. I therefore believe it is prudent to adjourn the hearing and await confirmation of whether the Proposed Kingsview Child Care Project has received City funding.

This adjournment of the hearing and extension of associated TLAB due dates for submissions will not contribute to any existing or potential harm or prejudice to others, or expense to the appellant. In my review of the case file I did not see a response to this Notice of Motion filed by the Appellant. I also note that with the exception of the Notice of Appeal, I was not able to identify any other submissions from by Mr. Sculac regarding this matter. I believe the adjournment and extension of time limits will be of benefit to the Appellant and provide additional time, should the Hearing proceed in January 2020, for Mr. Sculac to disclose any documents he intends to rely on at the Hearing or other submissions with respect to this matter.

Given these reasons, I accept the Motion in favour of adjourning the Hearing and extending the associated procedural time limits for submissions.

DECISION AND ORDER

The Motion is allowed, and the Hearing date of November 8, 2019 is adjourned to a date in the new year, preferably in January or early February 2020. TLAB staff will canvas the Parties in order to confirm the new Hearing date and related submission deadlines.

The Primary Owner/Party, TDSB, shall advise any Party, any Participant and the TLAB forthwith upon confirmation of its decision as to whether or not to proceed to a hearing on the appeal.

X



John Tassiopoulos
Panel Chair, Toronto Local Appeal Body