

MEDIATION SUMMARY

Mediation Summary Date: Friday, December 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): WAYNE LONG ARCHITECT

Applicant: WAYNE LONG ARCHITECT

Property Address/Description: 401 HILLSDALE AVE E

Committee of Adjustment Case File Number: 19 148676 NNY 15 MV

TLAB Case File Number: **19 201365 S45 15 TLAB**

Mediation Date: Tuesday, December 03, 2019

MEDIATION SUMMARY DELIVERED BY DINO LOMBARDI

APPEARANCES

Name	Role	Representative
Wayne Long Architect	Applicant/Appellant	
Janet Lee Avey	Owner	
Tedd Avey	Primary Owner	
Michael Joseph Ladanyi		

INTRODUCTION

On July 18, 2019, the North York Panel of the Committee of Adjustment (COA) refused the application submitted by Wayne Long Architect (Applicant/Appellant) requesting approval of three variances to the new harmonized Zoning By-law 569-2013 (new By-law) to permit the construction of a front second storey addition to the existing dwelling at 401 Hillsdale Avenue East (subject property).

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The Applicant appealed the COA decision to the Toronto Local Appeal Body (TLAB) on behalf of the owners of the subject property, Janet Lee and Tedd Avey. The TLAB issued a Notice of Hearing (Form 2) pursuant to the TLAB's Rules of Practice and Procedure (Rules) setting a Hearing date for December 3, 2019.

The subject property is a semi-detached dwelling and connected by a party wall to 405 Hillside Avenue East, the abutting, attached dwelling to the east. That dwelling is owned by, Michael Ladanyi, a Party to this proceeding in opposition to the application and the variances.

BACKGROUND

In their pre-filed submission to the TLAB, the Aveys outlined the reason for the application to the COA, noting that the renovation and proposed addition to the existing dwelling is required to provide suitable accommodation for their son and two grandchildren who have moved into the home as a result of an unfortunate family situation. This new living space is to be provided through the introduction of additional bedrooms as part of the proposed front second storey addition.

In reviewing all of the pre-filed materials in this matter, it quickly became apparent that dialogue between the Owners of the subject property and the neighbour, Mr. Ladanyi, had been either non-existent or inconsequential since the application was heard at the COA. However, in his rather voluminous and thorough Witness Statement dated October 15, 2019, Mr. Ladanyi intimated that he was not against the subject proposal but rather found the proposed size, massing, and orientation of the proposed addition vis-a-vis the dwelling to be unprecedented and unacceptable and, therefore, would negatively impact the enjoyment of his property. He noted that he was sympathetic to the lifestyle change thrust upon his neighbors and was not opposed to the Owners constructing an addition above the garage to achieve the necessary bedrooms.

As the presiding Member and sensing an opportunity for continued dialogue between the two neighbours, I queried the two Parties as to whether there was an appetite to investigate and possibly narrow issues through Mediation and explained that there was interest then the proceeding could be adjourned in order to undertake a TLAB conducted Mediation session pursuant to TLAB Rule 20. I explained that Mediation is encouraged where the TLAB is satisfied that there is good reason to believe one or more of the issues in dispute can be resolved, and I believed that to be the case in this matter.

The two Parties expressed immediate interest in participating in a non-binding, confidential Mediation session in order to engage in meaningful and constructive dialogue to narrow the outstanding issues in the hope of arriving at a settlement of the issues in dispute. As a result, I adjourned the Hearing and the Parties proceeded to a Mediation session under the guidance of the presiding Member.

CONFIDENTIALITY

At the commencement of the Mediation session, the Parties, the Aveys and Mr. Ladanyi, were advised that the respective interests and positions on matters discussed in Mediation would remain confidential as per Rule 20.2 and 20.6.

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Specifically, under Rule 20.6, “any information or documents provided or exchanged during a Mediation and any discussion or exchange relating to the resolution of issues or offer to settle are and shall remain confidential and shall not be disclosed or entered into evidence in the same or any other proceedings. Any notes of a Mediation made by a Member shall remain confidential and shall not be released to any Person or admitted into evidence in any proceeding.”

Furthermore, the Applicant was advised that whether or not the mediation was successful, as the Applicant, he remains responsible at the “Hearing” of the appeal to carry the burden of demonstrating that all of the variances currently being sought meet the statutory tests, due to the obligations of the TLAB.

The Parties acknowledged this TLAB duty to confidentiality but acquiesced to allow some of the information to be noted in any Mediation Summary prepared by the presiding Member.

STATUS OF MATTERS DURING THE MEDIATION

Rule 19.1 of the TLAB’s Rules of Practice and Procedure underscores that the TLAB is committed to encouraging Parties to settle some or all of the issues by informal discussion, exchange and Mediation. Under Rule 19.2, Parties who arrive at a settlement shall serve the terms of the proposed settlement on all other Parties and Participants and File same with the Toronto Local Appeal Body at the earliest possible date.

The Parties in attendance participated in productive and very civil dialogue and two relatively brief ‘in camera’ breakout sessions.

It became apparent very early in this session that there were only two outstanding issues remaining and that those did not appear to be insurmountable or unprecedented. As a result, and after a very brief caucus that included the Owners, the Applicant, and Mr. Ladanyi, the Parties advised the Member that a settlement had been reached and all of the outstanding issues had been resolved to the satisfaction of the Parties.

The Parties agreed to exchange additional documentation to memorialize the matters agreed to and the issues resolved at this Mediation session, and the Applicant agreed to revise the drawings accordingly and obtain a new Zoning Review. The Parties were canvassed for a new Hearing date to conduct an expedited Settlement Hearing on the terms of the proposed settlement. After consultation with TLAB staff, a February 3, 2020 was secured.

Consequently, the new Hearing is now set for February 3, 2020 and the TLAB will issue a new Notice of Hearing (Form 2) as required.

I must thank the Parties for their civility and cooperation throughout this process and their willingness to work towards resolving the issues that had arisen in this matter.

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Upon consent, the Parties agreed orally that I would be the presiding Member at the Settlement Hearing, and they agreed to do so in writing to the TLAB. Therefore, I am seized on the matter.

X 

Dino Lombardi

Panel Chair, Toronto Local Appeal Body