

DECISION AND ORDER

Decision Issue Date Monday, February 24, 2020

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): JOSE BARROS

Applicant: VICTOR HIPOLITO

Property Address/Description: 169 DAY AVE

Committee of Adjustment Case File: 19 150794 STE 09 MV

TLAB Case File Number: 19 222389 S45 09 TLAB

Hearing date: Tuesday, January 07, 2020

DECISION DELIVERED BY STANLEY MAKUCH

APPEARANCES

Name	Role	Representative
Victor Hipolito	Applicant	
Jose Barros	Owner/Appellant	Russell Cheeseman
Rosa Barros	Primary Owner	
TJ Cieciora	Expert Witness	

INTRODUCTION

This is an appeal of a decision of the Committee of Adjustment refusing one of three variances. The variance refused was with respect to a deficiency of soft landscaping in the rear yard of a corner lot. Of the two variances granted one related to the area of the lot covered by an existing rear detached garage and the other to the distance of the rear detached garage from the side lot line. The variances are set out in Appendix 1.

BACKGROUND

The variances sought were to legalize and maintain a rear detached garage that was constructed beyond the variances approved in Minor Variance decision A0624/16EYK. The garage was constructed in error by the contractor. There was no opposition to the appeal. Expert evidence was provided on behalf of the applicant/owner by Mr. Cieciora, who has been qualified numerous times to give land use planning opinion evidence..

MATTERS IN ISSUE

There were no matters in issue.

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 for 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.

EVIDENCE


It was Mr. Cieciora's uncontradicted evidence that the variances did not conflict with the PPS or the Growth Plan. Moreover, his evidence was clear that the variances met the four tests of the Planning Act. In his opinion: The variances have no adverse impact and are not visible from the street. The side yard set back variance and the variance related to the lot coverage of the garage are not discernable. The variance respecting the rear yard landscaped open space is hidden from view by a fence and was compensated for by the large amount of landscaped open space maintained at the front of the dwelling. Finally his evidence was that this configuration of a corner lot with a garage and driveway accessing a flanking street was common in the area.

ANALYSIS, FINDINGS, REASONS

Based on Mr. Cieciora's evidence, the lack of any contradictory evidence and the commonality of such corner access in the area, I find that there is no reason to refuse the appeal. The variances should, therefore, be granted.

DECISION AND ORDER

The appeal is allowed and the three variances in Appendix 1 are granted.

X 

S. Makuch
Panel Chair, Toronto Local Appeal

APPENDIX 1

1. Chapter 10.5.60.70.(1), By-law 569-2013

The area of the lot covered by all ancillary buildings and structures may not exceed 10.0% of the lot area (17.63 m²).

Decision A0624/16EYK permitted all ancillary buildings to have a lot coverage of 17.5% of the lot area (30.78 m²).

In this case, the rear detached garage will have a lot coverage of 18.21% (32.1 m²).

2. Chapter 10.5.60.20.(3)(C)(iii), By-law 569-2013

The minimum required side yard setback for an ancillary building or structure located in the side yard is 0.3 m.

Decision A0624/16EYK permitted a side yard setback for the detached garage of 0.05 m from the north side lot line.

In this case, the rear detached garage will be located 0.0 m from the north side lot line.

3. Chapter 10.5.50.10.(3)(A), By-law 569-2013

A minimum of 50.0% (38.46 m²) of the required rear yard landscaped open space shall be in the form of soft landscaping.

Decision A0624/16EYK permitted 32.09% (24.68 m²) of the rear yard to be maintained as soft landscaping.

In this case, 8.8% (6.77 m²) of the required rear yard landscaped open space will be in the form of soft landscaping.