

INTERIM DECISION AND ORDER

Decision Issue Date Friday, March 27, 2020

PROCEEDING COMMENCED UNDER Section 53, subsection 53(19), and Section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): MAHDY GANDOVANI SHEIDAEI

Applicant: ALI SHAKERI

Property Address/Description: 14 Brookfield Rd.

Committee of Adjustment Case File: 18 266685 NNY 15 MV (A0841/18NY)

TLAB Case File Number: 19 119013 S45 15 TLAB

Hearing date: Monday, February 03, 2020

DECISION DELIVERED BY S.GOPIKRISHNA

APPEARANCES

NAME	ROLE	REPRESENTATIVE
ALI SHAKERI	Applicant	
MAHDY GONDOVANI SHEIDAEI	Appellant	Amber Stewart
D. HUGH REDELMEIER	Participant	
STEPHEN MORSON	Participant	
YORK MILLS VALLEY ASSOCIATION	Participant	
CHRIS HEWAT		
SUSAN LIPCHAK	Participant	
CHRISTINE ACCONCIA	Participant	
JACQUES KONIG	Participant	

TORONTO AND REGION CONSERVATION AUTHORITY STEVEN HEUCHERT	Participant	
DIANA SABINA BLANK	Party (TLAB)	
DOMENIC DIMANNO	Party (TLAB)	
DANIEL MIDA	Party (TLAB)	WILLIAM ROBERTS
JAMIE SAMOGRAD	Party (TLAB)	
CITY OF TORONTO	Party (TLAB)	MICHAEL MAHONEY
TERRY MILLS	Expert Witness	
SIMONA RASANU	Expert Witness	

INTRODUCTION AND BACKGROUND

This case has had an unusual trajectory from a timing perspective- the reasons for the numerous adjournments granted, are discussed in my Interim Decisions dated July 29, 2019, and January 22, 2020 respectively.

As stated in my Decision dated January 22, 2020, a teleconference to obtain updates about the case was scheduled for 11 AM on February 3, 2020. The purpose of the teleconference held on February 3, 2020 was to

- a) Obtain the status of the Zoning Notice
- b) The status of discussions, amongst the Parties, intended to arrive at a possible Settlement.
- c) If the case was to proceed by way of a contested proceeding, how many more days would be required to complete the Hearing.

The teleconference scheduled on February 3, 2020, began at 11:00 AM. The teleconference was attended by Ms. Amber Stewart, Counsel for the Appellant, Mr. Michael Mahoney, Counsel for the City, Mr. William Roberts, Counsel for Mr. Daniel Mida, Mr. Daniel Mida himself and Mr. Jamie Samograd.

I began the teleconference by asking Ms. Stewart for an update on the status of the Zoning Notice, to which she said that the Zoning Notice was ready, and had been emailed to the other Parties the previous day i.e. February 2, 2020. She said that the changes between the variances requested of the COA, and the updated notice were as recited below:

- Removal of the length related variance
- Reintroduction of the height variance, which had been removed at the beginning of the COA hearing held on February 25, 2019, albeit at a lower height

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 19 119013 S45 15 TLAB**

- Removal of the variance respecting the third floor balcony

I then asked Ms. Stewart if she had had an opportunity to discuss the variances with other Parties, to see if there was scope for mediation. She replied in the negative, and suggested that Hearing dates be set assuming a contested Hearing, and added that the variances resulting from the Zoning Notice, were comparable to the original application, as submitted to the COA. She opined that while the chances of reaching a Settlement were slim, she was “nevertheless optimistic about mediation”, and suggested that a second teleconference be convened between the Parties, to gauge their interest in mediation, after allowing sufficient time to familiarize themselves with the new Zoning Notice, and its implications.

Ms. Stewart also added that while she “wasn’t sure about the need for new Notice”, she was nevertheless prepared to “send out Notice because it is the best practice”.

When I asked the other Parties to respond to Ms. Stewart’s comments, Mr. Mahoney said that he was supportive of discussions between the Parties, and that he agreed with the need for Notice. Mr. Roberts expressed his frustration with receiving the updated Notice only on the previous day, “on a Sunday at that”, leaving him with no opportunity to have a discussion with his client, or his planner, about how it would impact his client. He wondered “when the Notice would have been received, if a teleconference had not been scheduled on February 3, 2020”, and expressed concern about the loss of Hearing dates, as a result of repeated adjournments. Mr. Roberts concluded by saying that that he concurred with Ms. Stewart’s suggestion about identifying Hearing dates on the assumption that it would be a contested Hearing.

Ms. Stewart added that she was prepared to give 45 day notice “starting sometime soon”, and that Hearing dates could be established after the end of the 45 day notice period.

In response to my next question about how interested the Parties were in TLAB assisted mediation, the Parties stated that they were “open” to TLAB assisted mediation, though Mr. Mahoney said that while the City was generally supportive of mediation, he nevertheless had to “clear it with the City”, given how much time had been invested in this case. Some of the Parties expressed frustration with the length of the Hearing, and asked Ms. Stewart to ensure that her client would attend the mediation session, in order for the latter to be “meaningful”. Ms. Stewart said that she could ensure that her client was available, periodically at the very least, if not continually, by video-conference, if there was a TLAB assisted Mediation.

However, the neighbours in opposition to the Appeal, spoke about their frustration with the process, and the design of the house, and stated that mediation would be useful only if they “saw significant changes to the design of the house”. In response, Ms. Stewart suggested that after sending out the 45 day Notice, she would have a “conversation with her client and architect” to see if an alternate design could be arrived at, and send the same to the other Parties “on a without prejudice basis”. Irrespective of whether or not a new proposal would be sent, Ms. Stewart said that she would be “in touch with the other Parties by the Family Day weekend” with an update.

She reiterated her interest in a teleconference at a later date, where there could be an update on the status of the Settlement discussions, before requesting for TLAB facilitated mediation if necessary.

Mr. Mahoney raised the question of the involvement of Parties or Participants who had self-identified, after the updated Notice had been sent to community members. In response to his question, it was agreed that the proposed teleconference should take place after the completion of the proposed 45 day Notice period, which would end on . March 13, 2020. I informed the Parties that the TLAB Staff would be in touch with them to schedule a Teleconference after March 13, 2020, thereby allowing the new Parties, and Participants to attend the teleconference.

I then summarized the list of actionable items arising out of the teleconference:

- The Appellants were asked to circulate Notice in the requisite neighbourhood for a 45 day period, ending on March 13, 2020.
- Ms. Stewart would circulate alternative plans for the proposed dwelling to the Parties on a “without prejudice basis” by the Family Day weekend, starting February 15, 2020.
- I was to advise the TLAB Staff to contact all the Parties to schedule a teleconference after March 13, 2020.

After being advised by the Parties that the above summary reflected their understanding of what had been agreed upon, I thanked everybody for attending the teleconference, and adjourned the Hearing.

The TLAB staff subsequently canvassed the Parties, and identified March 30, 2020 as the date for the teleconference, with a start time of 11 AM.

ANALYSIS, FINDINGS, REASONS

The teleconference discussion, as recited above, illustrates the process through various issues were identified for discussion at the upcoming teleconference scheduled for 11 AM on March 30, 2020.

I would like to acknowledge the Parties for their patience, and continued engagement with this case, and take this opportunity to thank Mr. Mahoney for his thoughtfulness in raising the question of how to involve Parties and Participants who express an interest for involvement in the case, as a resulted of the updated Notice- this question helped determine when the follow up teleconference would be scheduled.

At the teleconference scheduled on March 30, 2020, the following questions need to be discussed:

- a) An updated list of Parties, or Participants, where appropriate, as a result of the circulation of the new Zoning Notice.
- b) The status of discussions, amongst the Parties, about a possible Settlement.

- c) The number of days required to complete the Hearing, if it proceeds on a contested basis

I reiterate that the Parties should be prepared to discuss how assigning extra Hearing dates for this case, is in the public interest, given its history, where many Hearing dates could not be utilized, notwithstanding their “peremptory” nature. It is important that the Parties come prepared with an accurate estimate of how much time would be required for presenting their case, and cross examining other Parties, where necessary.

INTERIM DECISION AND ORDER

1. A teleconference is scheduled for 11 AM on March 30, 2020 to obtain an update. The date and time is peremptory, and the teleconference requires attendance by the Parties, or their lawyers.
2. At the aforementioned teleconference, the following questions need to be answered:
 - a) An updated list of Parties, or Participants, as a result of the circulation of the new Zoning Notice.
 - b) The status of discussions, amongst the Parties, intended to arrive at a possible Settlement.
 - c) If the case has to proceed by way of a contested proceeding, how many more days are required to complete the Hearing.

So orders the Toronto Local Appeal Body

X



S. Gopikrishna
Panel Chair, Toronto Local Appeal Body