

DECISION

Decision Issue Date Monday, April 06, 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")

Applicant SSQ, SOCIETE D'ASSURANCE-VIE INC THE BIGLIERI GROUP LTD

Property Address/Description: 110 SHEPPARD AVE E

Committee of Adjustment Case File: A0616/19NY) 19 225619 NNY 18 MV

TLAB Case File Number: 19 250930 S45 18 TLAB

Hearing date: Wednesday, April 22, 2020

DECISION DELIVERED BY T. YAO

APPEARANCES

| NAME | ROLE | REPRESENTATIVE |
|---|-------------|-----------------|
| SSQ, SOCIETE D'ASSURANCE-VIE INC THE BIGLIERI GROUP LTD | Party/Owner | Andy Margaritis |

DECISION

This is a decision in response to Mr. Margaritis' motion:

1. That the existing In-person Hearing event currently scheduled to commence on April 22, 2020 be converted to an Electronic Hearing . . . ;
2. That the Electronic Hearing be scheduled on an expedited basis, as soon as possible and prior to April 22, 2020; and
3. That the Expert Witness Statement prepared by Mr. Michael Pettigrew, the expert land use planner to SSQ, also be accepted as an Affidavit.

An electronic hearing (that is, a telephone call) cannot be scheduled because a Toronto Local Appeal Body person must host and record the call at our offices and no such person is available for the foreseeable future.

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This is an unopposed hearing where the owner wishes to be permitted to conduct a private school on the ground floor of 110 Sheppard Avenue East. The tenant is “a (50 student) private school offering high school credits through an English as a second language program to international students.” I assume this means credits like grade 12 algebra. Number 110 Sheppard is a ten storey office building.

I am treating this motion as a request for a written hearing, which I am prepared to grant. The following are my expectations, should Mr. Margaritis wish to proceed as requested in the motion, instead to awaiting a new hearing date to be set some indefinite time after April 22, 2010.

1. The written hearing would be in lieu of an oral hearing. In other words, Mr. Margaritis cannot have both. He should advise me of his election by April 13, 2020.
2. If he elects a written hearing, he can pick any day he wishes for the written “hearing,” since there is no need for a hearing room. His election decision should set this out this “hearing date”, so we will know when the filings are considered complete and I can commence writing and issuing the decision.
3. The TLAB offices are closed so no packages can be accepted. Furthermore, there is no telephone service at 416-392-4697.
4. Mr. Margaritis may supplement the written materials already filed, if he wishes. My preference would be for him to recreate an unopposed “hearing” minus the ability for me to question Mr. Pettigrew at the close of his evidence. For example, he could file an audio tape of Mr. Pettigrew who will set out, in a conversational way, the history of the school use, the owner’s expectations and its difficulty with the two-year limitation, as if Mr. Pettigrew was the witness in a hearing room setting. When he refers to a document, he can assume I will stop the tape and find the proper page; he does **not** have to introduce lengthy periods of silence.

Mr. Pettigrew should begin his testimony with the following words:

I, Mike Pettigrew, affirm that this recording will be the truth, the whole truth and nothing but the truth, and I say this as if I were physically present before a TLAB Member”.

5. I do not want a video of Mr. Pettigrew pointing to the various documents.
6. Mr. Margaritis should carefully examine everything that is already filed; for example, the affidavit in support of this motion states that there is a witness statement attached, but I do not see any. This can now be done, if Mr. Margaritis desires.
7. Just because the hearing is unopposed, it should not be expected that the TLAB will “rubber-stamp” Mr. Pettigrew’s planning conclusions.

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8. I will deal with the filed materials on the proposed hearing date selected by Mr. Margaritis. It would be helpful if he could file a list of the new materials (if any) so that nothing is missed.
9. I cannot undertake to get back to Mr. Margaritis if there are questions arising out of Mr. Pettigrew's testimony, but I will act reasonably and not arbitrarily.
10. The normal tests for a variance under s. 45 of the Planning Act apply.

If any difficulties arise or if anything is unclear, I would ask Mr. Margaritis to email me at tlab@toronto.ca.

X 

Ted Yao
Panel Chair, Toronto Local Appeal Body