

DECISION AND ORDER

Decision Issue Date **Wednesday, May 27, 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): ARTHUR VERWAY

Applicant: GLENN RUBINOFF

Property Address/Description: 262 ST CLAIR AVE E

Committee of Adjustment Case File Number: 18 107867 STE 27 MV

TLAB Case File Number: **18 194278 S45 27 TLAB**

Hearing date: Thursday, November 15, 2018

DECISION DELIVERED BY STANLEY MAKUCH

APPEARANCES

| Name | Role | Representative |
|-------------------|-----------------|----------------|
| Glenn Rubinoff | Applicant | |
| Arthur Verway | Appellant/Owner | Amber Stewart |
| Jeremy Gawen | Party | |
| Franco Romano | Expert Witness | |
| Robert Brown | Expert Witness | |
| Hillary Armstrong | Witness | |
| Samuel Chin | Witness | |
| Kimberly Horvath | Participant | |

INTRODUCTION

On October 24, 2019, I issued an order in this matter. It stated that if the Appellant did not file a Motion by November 8, 2019 for leave to submit the revised variances being sought along with revised plans and conditions (material) to be approved on this appeal, the appeal will be dismissed. The Appellant filed no Motion for leave to submit and failed to file any material at all before November 8, 2019.

BACKGROUND

I required the material to be filed by November 8, 2019, because at the end of the Hearing on the merits on December 3, 2018, it was clear that the Appellant wished to amend the original plans and variances as a result of evidence heard in opposition. By October 24, 2019, no material had been filed.

On November 12, 2019, the Appellants filed a Motion seeking: "Issuance of the final Order pursuant to the attached list of variances and conditions, and the attached revised plans." Also filed on that date was an affidavit by a planner stating that the material reflected the changes which were put forward orally at the Hearing and, further, stating that the revised variances met the four tests of the Planning Act and that new notice was not necessary.

MATTERS IN ISSUE

The matter in issue is whether I should accept the material for use in deciding whether to grant a revised appeal.

JURISDICTION

I have jurisdiction under the TLAB Rules of Practice and Procedure to accept the material. Rule 2.6 provides:

2.6 Where procedures are not provided for in these Rules the TLAB may do whatever is necessary and permitted by law to enable it to effectively and completely adjudicate matters before it in a just, expeditious and cost-effective manner.

EVIDENCE


There was no evidence presented with respect to the seeking of leave itself. In particular, there was no evidence as to why the Motion was out of time and, more importantly, why the Appellant should be allowed to submit material approximately a year after the conclusion of the Hearing. Moreover, there was no evidence that all persons who participated in the Hearing were served with the Motion and the Motion material.

ANALYSIS, FINDINGS, REASONS

I find that the Motion was inadequate to justify allowing revisions to the appeal almost a year after the conclusion of the Hearing. Not all persons who participated in the Hearing were served with the Motion, in particular Ms. Armstrong who was a neighbour in opposition. In the space of a year properties could have been bought and sold and new people could have acquired an interest in the outcome of the application without any knowledge of the original application. Moreover, circumstances could have changed, or decisions could have been made which would affect the outcome of the approval. In brief, there is a risk that after such a long unjustified delay persons could be adversely impacted by any approval of the subject application.

DECISION AND ORDER

The Motion is denied, the appeal is dismissed, and the decision of the Committee of Adjustment affirmed.

X 

S. Makuch
Panel Chair, Toronto Local Appeal