

DECISION AND ORDER

Decision Issue Date Friday, February 05, 2021

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): YONGE STREET ANIMAL HOSPITAL

Applicant(s): CALVIN LANTZ

Property Address/Description: 2586 YONGE STREET

Committee of Adjustment File

Number(s): 20 164330 NNY 08 MV

TLAB Case File Number(s): 20 211208 S45 08 TLAB

Motion hearing date: **February 2, 2021**

DECISION DELIVERED BY JUSTIN LEUNG

APPEARANCES

Name	Role	Representative
Calvin Lantz	Applicant/Appellant's Legal Rep	
Paul Nanoff	Owner	
Yonge Street Animal Hospital	Appellant	

INTRODUCTION AND BACKGROUND

This is a Motion filed on January 13, 2021 by Calvin Lantz, legal counsel from Stikeman Elliott LPP, on behalf of Yonge Street Animal Hospital. The Committee of Adjustment (COA), on October 7, 2020, refused a variance which related to required parking spaces for a proposal to convert below grade and first storeys of a building into a veterinary hospital. This COA application was refused which was then appealed by the applicant on October 26, 2020. It is noted that there are no other parties to this matter.

The Motion requests that the Toronto Local Appeal Body (TLAB) allow a delay in disclosure dates, which are stipulated by *TLAB Rules*. The appellant's lawyer Mr. Lantz explains that this request is due to a concurrent process being undertaken to obtain Payment in lieu of parking (PILOP) with the City. If this request is approved by North York Community Council (NYCC), then the appeal which has been filed would be redundant and they would then act to withdraw it. This Motion request is being made as Mr. Lantz contends that they would have to incur significant work and costs to prepare material for the TLAB appeal which would be 'moot' if the PILOP was approved by NYCC prior to the scheduled TLAB hearing date of May 19, 2021.

This Motion to amend the deadlines to submit material to the TLAB was considered in written form on February 2, 2021.

MATTERS IN ISSUE

Would amending TLAB procedural deadlines, as outlined in this requested Motion, act to harm or prejudice others? In addition, could it act to negatively impact the appellant?

JURISDICTION

The TLAB may hear Motions by way of written submissions, in accordance with Rule 17.5 of the Rules of Practice and Procedure.

The TLAB, as per Extension or Reduction of Time Rules 4.4, 4.5 and 4.6 of the *TLAB Rules of Practice and Procedure* (May 6, 2019), is free to extend or reduce a time limit on such conditions as the TLAB considers appropriate.

EVIDENCE

Evidence was presented to the tribunal in a legal document 'Notice of Motion for Delay of Disclosure Dates'. Within this document is an Affidavit of Rachel Woon which affirms that the material contained herein is accurate. In reference to the PILOP as described earlier, the Affidavit states that although NYCC had initially supported this initiative for this property, it describes that:

“10. The summary of Agenda Item No. NY21.9 states that “This item will be considered by North York Community Council on January 13, 2021. It will be considered by City Council on February 2, 2021, subject to the actions of the North York Community Council. [...] City Council approval is required as this matter has not been delegated”.”

The attached Exhibit 'G' in this same document shows that this item had been brought to NYCC for their review and consideration. However, and as customary in municipal governance, decisions of 'subordinate' committees, boards or similar entities must then be ratified by the City Council. On cursory review of the City's Toronto Meeting Management Information System (TMMIS) website, a webpage has been found (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.NY21.9>) which confirms that this item had been heard and was recommended for adoption for NYCC. This webpage further explains that NYCC has not been granted 'delegated authority' for PILOP initiatives. As such, the final decision-maker here would continue to be City Council. The webpage also specifies the staff recommendation for the amount which staff have determined the property-owner should pay to permit a reduction in required parking spaces. The money provided to the City would then be used to address the maintenance of current parking facilities and also to obtain additional parking facilities in the City.¹

ANALYSIS, FINDINGS, REASONS

In considering the Motion associated Affidavit and attached Exhibits, I find that the request to revise the submission deadlines for documents relating to the TLAB appeal to be reasonable and appropriate. This can be attributed to the facts which have been submitted. It has been demonstrated that the NYCC, as an entity within the City, has approved the PILOP initiative, in principal. Although this matter will now have to be referred to City Council for their final ratification, there does not appear to be any preliminary indication that it would be refused by Council. However, while that may be the case, the appellant's legal counsel has found it prudent to concurrently submit a TLAB appeal so as to afford their client alternative means to remedy the COA decision that refused this variance application, if Council does not permit the PILOP initiative. The appellant has also presented a rational explanation as to why the deadlines for submitting documents to the TLAB should be altered.

¹ City of Toronto (July, 2004). Harmonization of the Fee Schedules for Payment-in-Lieu of Parking (All Wards). Retrieved from <https://www.toronto.ca/legdocs/2004/agendas/council/cc040720/plt5rpt/cl011.pdf>

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Finally, the issue of the public interest must be assessed, even if there are no other parties to the matter. Even with the alteration of the submission deadlines to March 2021, the TLAB hearing is scheduled in May 2021. That should still provide sufficient time for me to review and prepare for the hearing, if the appellant elected to proceed with their appeal due to a potential refusal of their PILOP. It would be consistent with other TLAB matters, such as 1 York Road which was presided over by Member John Tassiopoulos, which also related to parking variance but for a daycare facility use. Here, the applicant/property-owner requested an adjournment and altering of submission deadlines as they needed to wait for confirmation of funding for the daycare facility from the City. Here, the Member acquiesced and allowed this request recognizing cost and time considerations for the applicant/property-owner. This is pertinent as it is similar to the situation of the appellant here and the reasoning behind the extension in the deadlines.

I have also considered that since the filing of the appeal, no parties or participants have registered in relation to this matter. While that may be the case, it has been seen in other TLAB matters such as 574 Hillsdale Avenue East, also presided over by me, that there can be persons that could request to be party to the matter even after the deadlines had been exceeded, as per *TLAB Rules*. Acting in a precautionary manner, I would also find it prudent to extend the deadlines for the election to be a party or participant to provision for potential additional interested parties to this matter. Using the written motion date of February 2, 2021 as a reference point, I set 30 days from that date to March 4, 2021 as a revised deadline to register as a party or participant, if a person intended to. This would still provide them sufficient time to prepare and orient themselves to this appeal scheduled in May 2021.

The appellant's lawyer contends that it would be cost prohibitive for them to prepare the necessary documents for the TLAB if they subsequently were granted the PILOP. This extension would provide them time to await the outcome of the PILOP from Council. If the PILOP were approved, then the TLAB appeal would become a 'moot' point and they would not pursue it. However, if the PILOP were refused, then they would look to proceed with the TLAB appeal while having the additional time to prepare said documents. Even if the latter scenario did occur, it would not impede the scheduled May 2021 hearing date. It is found that here, the interests of both the broader public and of the appellant will continue to be upheld in allowing this motion request. It will not act to prejudice or harm others, nor will it incur any financial cost to the appellant.

DECISION AND ORDER

The Motion is allowed, and the following submission deadlines have been revised to:

- March 4, 2021 for submission of Notice of Intention to be a Party or Participant
- March 29, 2021 for Witness Statement and Document Disclosure
- April 12, 2021 for Response to Witness Statement
- April 21, 2021 Reply to Response to Witness Statement

The Appellant, Yonge Street Animal Hospital, shall notify the TLAB forthwith upon confirmation of its decision as to whether or not to proceed to a hearing on the appeal.



Justin Leung
Panel Chair, Toronto Local Appeal Body
Signed by: Leung, Justin