

# DECISION AND ORDER

**Decision Issue Date**      Friday, February 12, 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): Leaside Residents Association

Applicant: Reflect Architecture Inc

Property Address/Description: 67 Sutherland Drive

Committee of Adjustment Case File Number: 20 110397 NNY 15 MV (A0068/20NY)

TLAB Case File Number: 20 167121 S45 15 TLAB

**Hearing date:**      Tuesday, February 09, 2021

DECISION DELIVERED BY S. Karmali

## APPEARANCES

Appellant	Leaside Residents Association
Appellant's Representative	Geoff Kettel
Applicant	Trevor Wallace of Reflect Architecture Inc
Owner	Jane Emery
Party	City of Toronto
Party's Legal Rep.	Jason Davidson
Party	Michael John Booth Wood
Participant	Ian Dunbar Tytler

## **MATTERS IN ISSUE**

The Applicant was successful at the North York Committee of Adjustment (COA) in securing variances to build a new dwelling based on the submitted site plan and north elevation drawings.

The Appellant, Mr. Geoff Kettel, on behalf of the Leaside Residents Association, filed a Notice of Appeal to the Toronto Local Appeal Body (TLAB) on July 13, 2020. The Appellant, who prepared a witness statement, requests that the TLAB grant the appeal and set aside the COA's decision.

The City of Toronto filed for party status and prepared document disclosure supportive of the appeal. The City also retained an outside land-use planner, Mr. John Lohmus, who prepared and filed an Expert Witness Statement.

Mr. Wood and Mr. Tytler, who reside in the subject area, also prepared witness statements.

On January 25, 2021, approximately fifteen days before the scheduled hearing date, Mr. John Robert Emery<sup>1</sup> filed a Notice of Motion seeking an order to dismiss the appeal on the basis that the secured variances are no longer needed.

At the hearing, I asked Mr. Emery the reason he seeks the order as outlined in his motion. He confirmed that the Owner does not require the variances that were approved at the COA. He indicated that he is exploring options on how to proceed with development.

Since it was not clear whether Mr. Emery, the moving party, had obtained the consent of the other parties, I invited those who appeared at the hearing to try to work together and develop a draft order for me to consider.

The parties seemed to work together. Mr. Davidson was gracious to capture the draft order in an email, which he had sent to Mr. Emery, Mr. Kettel, Mr. Wood, Mr. Tytler as well as the TLAB. The draft order was agreed to by all of its recipients; that is, it was agreed to orally at the hearing and/or by email reply. I did not hear any concerns at the hearing or in any subsequent correspondence.

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<sup>1</sup> Mr. Emery is attorney under power of attorney of Ms. Jane Emery, who is the owner of the subject property.

The draft order reads as follows:

Whereas the applicant submitted an application for minor variances to the Committee of Adjustment on January 29, 2020 (the "Application").

Whereas the Application was heard by the Committee of Adjustment on June 23, 2020 and approved on condition by written decision issued on June 30, 2020 (the "Notice of Decision").

Whereas the Notice of Decision was appealed by the Leaside Residents' Association on July 13, 2020 to the Toronto Local Appeal Body (the "Appeal").

Whereas the City of Toronto, and Michael Wood sought party status and Ian Tytler sought participant status in the Appeal.

The following relief is sought on consent of all parties to the Appeal:

An Order pursuant to 45(18) of the *Planning Act*, allowing the Appeal and setting aside the Notice of Decision; the variances requested in the Application are not approved.

## **JURISDICTION**

TLAB Rules, Effective Date May 6, 2019, Revised December 2, 2020:

### RULE 17

- |                 |   |
|-----------------|---|
| 17.1            | Date by which Motions will be Heard                         |
| 17.3            | Notice of Motion  |
| 17.4            | Date for Motion   |
| 17.5 and 17.6   | TLAB may Require Motions to be in Writing or Electronically |
| 17.7            | Content of Motion Material                                  |
| 17.8            | Service of Notice of Motion                                 |
| 17.9 and 17.10  | Notice of Response to Motion and Service                    |
| 17.11 and 17.12 | Notice of Reply to Response to Motion and Service           |

The hearing was procedural in nature. I make no statements about the merits of the substance of the matter. There is no need to do so now.

## **DECISION AND ORDER**

I allow the Appeal and set aside the Committee of Adjustment decision dated June 23, 2020 and mailed on June 30, 2020. Accordingly, the variances requested in the Application are not approved.

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**X**

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S. Karmali  
Panel Chair, Toronto Local Appeal Body