

DECISION AND ORDER

Decision Issue Date Thursday, March 04, 2021

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

Appellant(s): BRADLEY SELLORS

Applicant(s): MATTHEW KONIUSZEWSKI

Property Address/Description: 367 HOWLAND AVE

Committee of Adjustment File

Number(s): 19 208800 STE 12 CO, 19 209007 STE 12 MV, 19 209008 STE 12 MV

TLAB Case File Number(s): 20 194299 S45 12 TLAB, 20 194329 S45 12 TLAB, 20 196319 S53 12 TLAB

Written Motion Date: February 11, 2021

DECISION DELIVERED BY TED YAO

APPEARANCES

Name ¹	Roles	Representative
Matthew Koniuszewski	Applicant	
367 Howland Avenue Inc.	Owner/Party	Amber Stewart
Bradley Sellors	Appellant	
Mike Dror	Expert Witness	
Priscilla McAuliffe	Participant	
Geoff Sas	Participant	
Michael Mastrangelo	Participant	

¹ There may be some errors owing to the fact that the TLAB website currently has some technical problems.

Andrea Watson	Participant
Emily Proctor	Participant
Maureen Irish	Participant
Shael Kerbel	Participant
Paul Alves	Participant
Lorraine Proctor	Participant
Dora Sung	Participant
Joseph Mastrangelo	Participant

INTRODUCTION

Ms. Stewart represents 367 Howland Avenue Inc., which obtained a severance from the Committee of Adjustment for 367-9 Howland Ave on August 25, 2020, as well as 13 variances for Part 1 and 15 variances for Part 2. Mr. Sellors appealed and so this matter came to the TLAB. On October 28, 2020, a hearing date was set for one day for April 7, 2021. A great deal of material was filed in timely fashion by the due date of December 29, 2020. On February 11, 2021 Ms. Stewart brought a written motion to:

- add two days to the hearing;
- request that Mr. Sellors' evidence be "focused"; (my word; Ms. Stewart used the word "restrict"); and
- explore the possibility of a prehearing conference

From Mr. Sellors' response, I do not detect that he consents:

Our concern is that two (2) particular sections of the Motion, paragraphs 6 and 5 (sic.) are being used for improper purposes: 1) To restrict the proper purview for the TLAB Review - by stating that the 10 year Variance Request Study documents provided by the City of Toronto, is not "proximate to the site"; and 2) To try and unfairly discredit the Applicant prior to the TLAB Appeal even taking place, by diverting the focus of the TLAB Appeal away from legitimate issues such as the FS Index for Howland Avenue and what has been granted by the City in the past.

Paragraphs 5 and 6 refer to the Affidavit of Leonid Kotov, president of Green Street Flats²

² I am unsure as to the relationship between Green Street Flats and 367 Howland Avenue Inc.

5. Since the appeals were filed, I have attempted to discuss Mr. Sellors' concerns with a view to understanding if a resolution is possible. Some of those communications were without prejudice. A resolution has not been achieved, but I continue to hope that clarification of Mr. Sellors' specific concerns may assist in narrowing the issues and make the hearing more efficient. To date, I have not been able to clearly discern the nature of Mr. Sellors' concern from the communication.

6. Given the delay that is occasioned by the filing of the appeal together with the onset of the pandemic, the viability of this project (if it is ultimately approved) is at risk. I do not wish to disclose personal financing details but suffice to say that there are substantial costs associated with carrying this property and COVID has resulted in increased building costs and delays in permitting and contractor availability. As such, in order to ensure that the project remains feasible, I hope to have the hearing completed in spring of 2021 as scheduled.. . .

I think it is difficult to do more via a written motion than simply add the two days. If Mr. Sellors does not consent to a prehearing, it does not appear to be helpful to impose it. Of course, the parties are always free to exchange timetables for evidence-scheduling and either side may raise preliminary issues on the morning of April 7, 2021 before the hearing commences. I am seized with this matter. I do not see any reason why it should not be completed within the three days allotted.

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The following days are added to this hearing: April 8 and 12, 2021. No further notice will be given.

X



Ted Yao
Panel Chair, Toronto Local Appeal Body