

DECISION AND ORDER

Decision Issue Date Wednesday, March 10, 2021

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

Appellant(s): BETULA DEVELOPMENTS INC

Applicant(s): BERNARD H WATT ARCHITECT

Property Address/Description: 60 WINCHESTER ST

Committee of Adjustment File

Number(s): 20 149777 STE 13 CO (B0034/20TEY)

TLAB Case File Number(s): 20 220478 S53 13 TLAB

Written Motion Date: March 2, 2021

DECISION DELIVERED BY C. Kilby

REGISTERED PARTIES AND PARTICIPANTS

NAME	ROLE	REPRESENTATIVE
BERNARD H WATT ARCHITECT	Applicant	
BETULA DEVELOPMENTS INC	Appellant/Owner	IAN FLETT

INTRODUCTION AND BACKGROUND

This is the decision on a Motion filed by Ian Flett on behalf of Betula Developments Inc. (**Appellant**). The Appellant is appealing an October 27, 2020 decision of the Deputy Secretary-Treasurer of the Committee of Adjustment, Toronto and East York District (**COA**) relating to the property known as 60 Winchester Street. The COA refused an application for consent to sever a portion of the rear yard for the purpose of a lot addition to the north abutting property.

The Motion requests an Order extending the deadline for filing the Appellant's Document Disclosure (Rule 16), Witness Statement (Rule 16.4) and Expert Witness Statement (Rule 16.6), on the basis that more time is needed to prepare and file the materials. The extension sought is from February 15, 2021 to March 15, 2021.

The Motion was considered in written form on the date provided, March 2, 2021.

MATTERS IN ISSUE

Will any prejudice result from granting an extension of time for the Moving Party to submit its disclosure documents? Will the Moving Party suffer from any prejudice if the extension is not granted?

JURISDICTION

The Toronto Local Appeal Body (**TLAB**) may hear Motions by way of written submissions, in accordance with Rule 17.5 of the TLAB Rules of Practice and Procedure (**Rules**) as constituted prior to December 2, 2020.

Rule 4.4. grants TLAB the authority to extend a time limit provided by the Rules. Rule 4.5 provides for TLAB to exercise its discretion under Rule 4.4 before or after the expiration of a time limit and with or without a Hearing.

Rule 2.2 provides for a liberal interpretation of the Rules to secure the just, most expeditious and cost-effective determination of every Proceeding on its merits.

EVIDENCE

In compliance with Rule 17.1, the Appellant's legal representative submitted the subject Motion more than 15 days before the Hearing Date of April 13, 2021. The materials filed included a Notice of Motion dated February 11, 2021 and a supporting Affidavit of Sarah Quildon, a legal assistant at Eric K. Gillespie Professional Corporation, sworn February 10, 2021.

Ms. Quildon's affidavit states that both the land use planner and the solicitor for the Appellant were retained in late January/early February 2021, and each has a heavy caseload.

The Notice of Motion submits that an extension to March 15, 2021 would give the Moving Party's consultants adequate time to prepare materials that will assist the TLAB in the hearing of this appeal. Moreover, the Notice of Motion states that there would be prejudice against the Moving Party if its consultants did not have adequate time to prepare.

The Motion does not request a change in the date of the Hearing.

The Motion materials refer generally to the entire TLAB file as evidence in support of the Motion, but with particular emphasis on the absence of other Parties or Participants to this appeal. Ms. Quildon's affidavit advises that Mr. Flett, having reviewed the TLAB file, found two letters in support of the application under appeal, no letters in opposition, and no indication that any person has an interest in seeking party or participant standing before the TLAB in this matter.

Having reviewed the TLAB People List on file, which I accept as an Exhibit for the purposes of this Motion, I note that there are no opposing Parties or Participants to this appeal. It also appears from the TLAB file that there are no individuals seeking participant or party status as of the date of the Motion. The deadline for filing a Notice of Intention to be a Party or a Participant (Form 4), is 30 days after the Notice of Hearing was served. The Notice of Hearing, which I also accept as an Exhibit for the purposes of this Motion, was issued on December 16, 2020. Accordingly, the deadline to file a Form 4 has passed.

The Applicant, though served with the Motion materials, has not filed any Response to the Motion.

ANALYSIS, FINDINGS, REASONS

The Moving Party's arguments in favour of an extension of the deadline for filing disclosure documents are: (a) there are no opposing Parties who would be prejudiced by such an extension; (b) the Moving Party would be prejudiced if the Motion were not allowed, and (c) an extension will allow the Moving Party's solicitor and planning consultant time to prepare materials that will assist TLAB in hearing this appeal, which will allow for a more efficient Hearing.

(a) Prejudice to Other Parties

Having reviewed the TLAB file, I found no Parties or Participants to this appeal, and the deadline for filing a Notice of Intention to be a Party or a Participant has passed. The Applicant, having been served with this Motion, has not filed any response in opposition to the relief sought. Accordingly, I find that the requested extension of the disclosure submission deadlines will not result in prejudice to another party.

(b) Prejudice to the Appellant

If the extension is not granted, the Moving Party, the Appellant, will not have the opportunity to file its disclosure documents in advance of the hearing of its appeal. I find that this will affect the Appellant's ability to fully present its case and may result in prejudice to the Appellant.

(c) Efficient Appeal

Rule 2.2 provides: "These Rules shall be liberally interpreted to secure the just, most expeditious and cost-effective determination of every Proceeding on its merits." The

Appellant submits that its case will be more efficiently presented given additional time to prepare. Considering the interests of the Appellant in the conduct of a just and timely proceeding, and the interests of TLAB in receiving carefully prepared materials which may assist with an expeditious consideration of the appeal, I find that granting an extension of the deadline for filing the Appellant's disclosure documents would be consistent with Rule 2.2.

DECISION AND ORDER

The Motion is allowed; TLAB staff is directed to issue a revised Notice of Hearing with the following changes to the requisite filing due dates:

Document Disclosure as per Rule 16 DUE no later than March 15, 2021

Witness Statement as per Rule 16.4 (Form 12) DUE no later than March 15, 2021

Response to Witness Statement as per Rule 16.5 (Form 19) DUE no later than March 29, 2021

Reply to Response to Witness Statement as per Rule 16.5 (Form 20) DUE no later than April 6, 2021

Expert Witness Statement as per Rule 16.6 (Form 14) DUE no later than March 15, 2021

Response to Expert Witness Statement as per Rule 16.9 (Form 21) DUE no later than March 29, 2021

Reply to Response to Expert Witness Statement as per Rule 16.10 (Form 22) DUE no later than April 6, 2021

Notice of Motion as per Rule 17 (Form 7) DUE no later than March 29, 2021

The TLAB may be spoken to if any difficulties occur.

X 

Christine Kilby
Panel Chair, Toronto Local Appeal Body