

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): GEOFF KETTEL

Applicant(s): HOMELAND

Property Address/Description: 120 RANDOLPH RD

Committee of Adjustment File

Number(s): 20 145775 NNY 15 MV

TLAB Case File Number(s): 20 191352 S45 15 TLAB

Settlement Hearing date: February 3, 2021

DECISION DELIVERED BY TED YAO

APPEARANCES

Name	Role	Representative
Homeland	Applicant	
Faraz Shirvani-Ghomi	Owner/Party	Martin Mazierski
Geoff Kettel	Appellant	
City of Toronto	Party	Lauren Pinder
Leaside Residents' Association	Party	Geoff Kettel
Rob Holme	Participant	
Peggy Chiu	Participant	

INTRODUCTION

Mr. Shirvani-Ghomi wishes to tear down a bungalow in the Leaside neighbourhood and build a new house. He needs five variances and was successful before the Committee of Adjustment on August 12, 2020. The Leaside Residents' Association appealed and so this matter came to the TLAB.

Table1. Variances sought for 120 Randolf Ave			
		Required	Proposed
Variances from Zoning By-law 569-2013			
1	Building height	8.5 m	8.85 m
2	Building length	17 m	17.58 m
3	FSI	0.60 times area of the lot	0.69 times area of the lot
Variances from Zoning By-law 1916¹			
4	Building height	8.5 m	8.85 m

MATTERS IN ISSUE

The variances must be consistent with and conform to higher level Provincial Policies. However, I did not find these were helpful in deciding this case, in that issues such as major infrastructure investments, air and water quality, agricultural land and climate change were not involved.

S. 45 of the *Planning Act* requires that the variances must individually and cumulatively:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- be desirable for the appropriate development or use of the land; and
- be minor.

¹ Because not all appeals against By-law 569-2013 have been dealt with, the former by-law is still in force and the Buildings Department requires compliance with both by-laws.

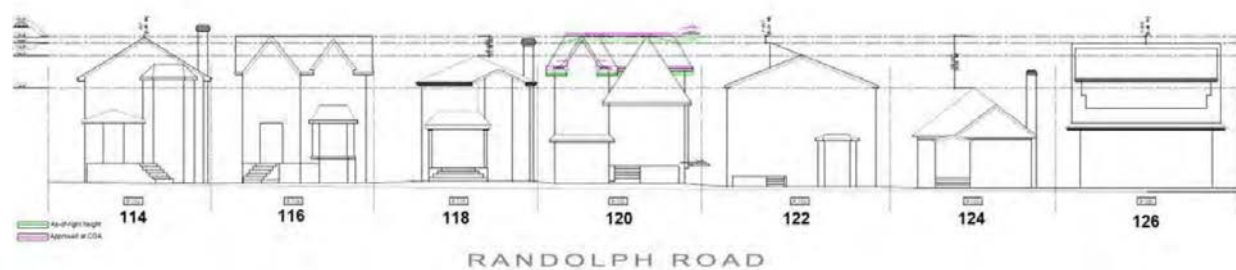
EVIDENCE

I qualified the sole witness, Mr. Romano, to give opinion evidence in the area of land use planning.

ANALYSIS, FINDINGS, REASONS

This is a settlement so I will not review the evidence. The participants to the settlement include the Leaside Residents' Association members Geoff Kettel and Peggy Chiu and Mr. Shirvani-Ghomi and his team of professionals for the owner. The height was lowered, and some modifications were made to the roof line and the gable. With the Residents' Association input, I feel the building reflects some of the architectural character of Leaside.

Mr. Romano requested the architect to produce a streetscape which I reproduce here.



Reading from left to right:

- Number 114 is 3 inches lower than the common roof line as noted by the architect Homeland;
- Number 116 is exactly even;
- Number 118 is 3 feet 10 inches below;
- Number 120 (the subject) is even, after the modification;
- Number 122, is 1 foot, 3 inches below;
- Number 124, a bungalow, is 10 feet one inch below;
- Number 126 is 1 foot, five inches below. The next closest house, in the block after Lea Ave is number 128 Randolph, which obtained a height variance in 2012 for 8.81m (versus the present application for 8.85 m).

This case is very similar to 248 Sutherland Drive, in the same study area, which would be part of the broader context. Both were the subject of some negotiation, and both resulted in façade alternations through the TLAB process. In both instances, the Leaside Residents' Association played an important part. Number 128 Sutherland and 120 Randolph represent redevelopment of an "original" house, when many others on the street have at the time of application established an eclectic, modern form of redevelopment. In my view, the results are reasonably consistent.

Table 2 comparison of results in two Leaside TLAB hearings.		
	248 Sutherland	120 Randolph
The decision of the Committee of Adjustment	refusal	approval
Starting Building height (8.5 m permitted)	9.63 and 8.9 m	8.85 m
Final Building height	8.81 (decrease of .09) m after discussion with Councillor Burnside	8.72 (decrease of .13 m) after discussion with Leaside RA
Initial FSI	.70	.69
Final FSI	.66	.69 (i.e., unchanged)
Other parameters	Main wall height reduced from 8.45 to 7.52	Building length of 17.58 unchanged; no main wall height variance requested
TLAB decision	Approval	Approval
Time from Committee decision to TLAB decision	Approximately 230 days (two years if deferrals at Committee of Adjustment are counted)	Approximately 150 days

My purpose in comparing these is to note that consensual decision may be superior to an adjudicated one. While considerable deference should be given to a settlement, especially where a public authority is involved, I have an independent obligation to ensure the statutory tests are met². I find that the variances meet individually and cumulatively the tests in s. 45(1) of the *Planning Act*, based on Mr. Romano's uncontradicted evidence. I thank the persons involved who spent many hours to achieve this settlement.

DECISION AND ORDER

I authorize the variances in table 1 on the condition that construction is in substantial conformity with the elevations attached.

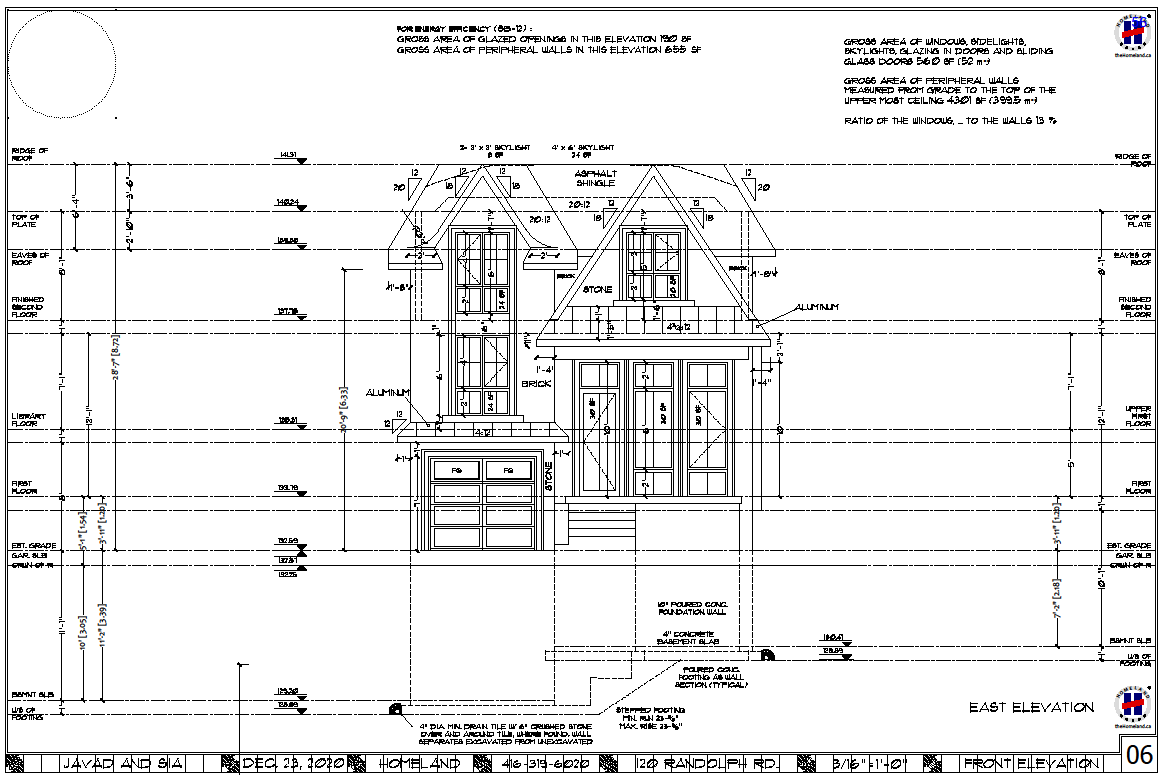
² See 263 Gamble Ave

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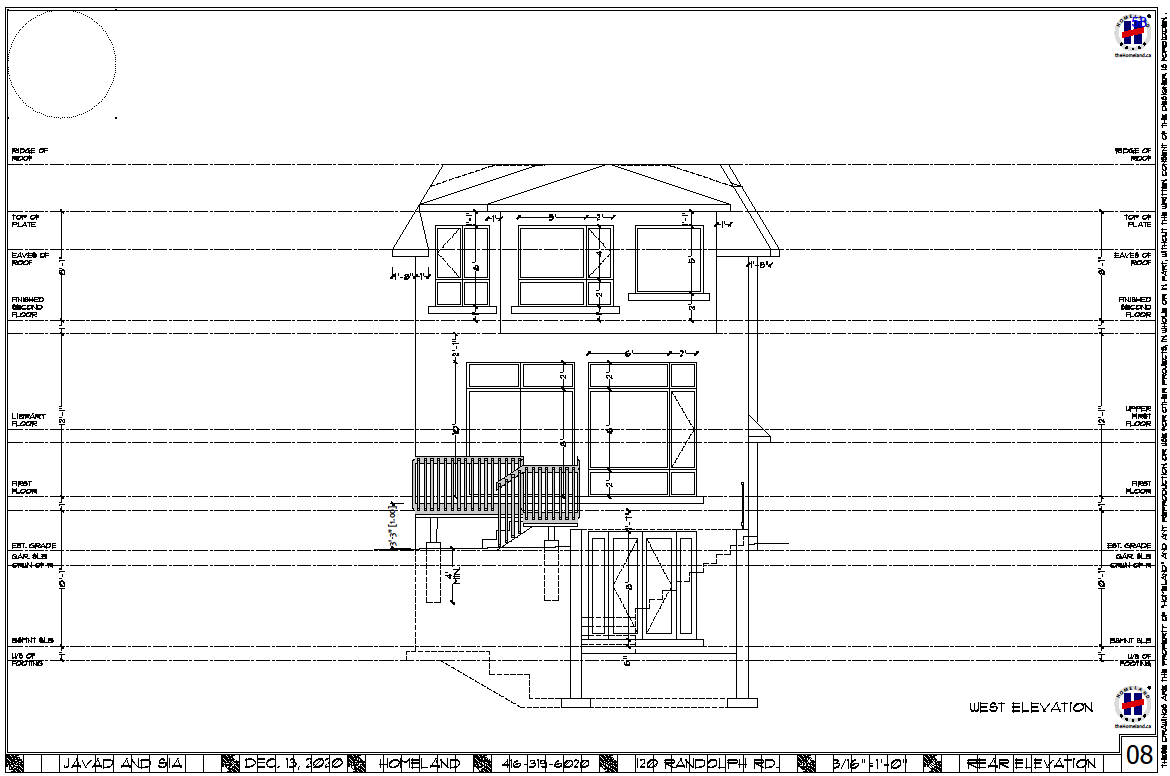
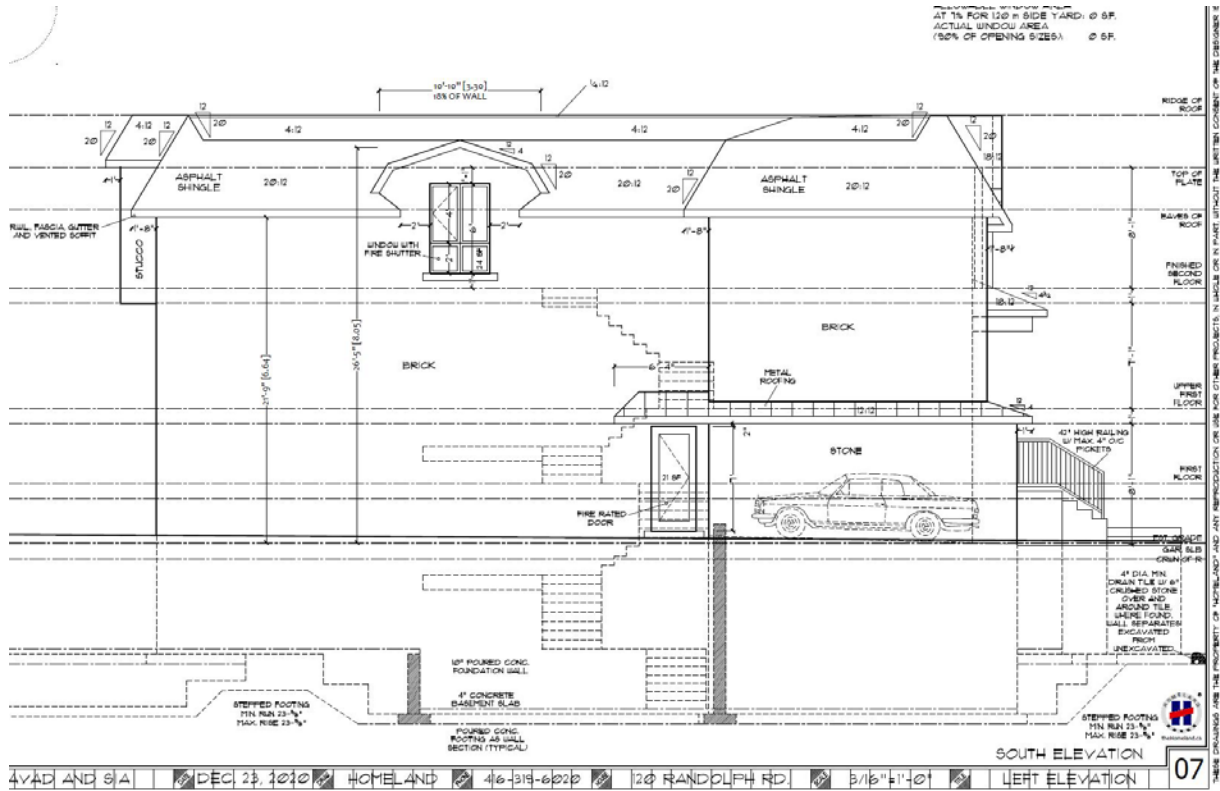
Ted Yao

Ted Yao
 Panel Chair, Toronto Local Appeal Body

Attachments: Elevations 06 to 09, all dated December 2020



Decision of Toronto Local Appeal Body Panel Member: T. YAO
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