

# DECISION AND ORDER

**Decision Issue Date**      Wednesday, March 31, 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): SABIHA PATEL

Applicant(s): NOBLE ELITE SOLUTIONS LTD

Property Address/Description: 74 KNOWLES DR

Committee of Adjustment File

Number(s): 19 255702 ESC 25 MV

**TLAB Case File Number(s): 20 114188 S45 25 TLAB**

**Hearing date: February 25, 2021**

**DECISION DELIVERED BY S. GOPIKRISHNA**

## APPEARANCES

Name	Role	Representative
Noble Elite Solutions Ltd.	Applicant	
Abdul Razak Patel	Owner	
Sabiha Patel	Appellant	Tanvir Rai/Jivtaresh Bhaila

## INTRODUCTION AND BACKGROUND

Sabiha Patel and Abdul Razak Patel are the owners of 74 Knowles Dr., located in Municipal Ward No 25 ( Scarborough- Rouge River) of the City of Toronto (City). They applied to the Committee of Adjustment (COA) to seek relief from the provisions of Zoning By-law 569-2013 to permit interior alternations to the basement to convert it into a secondary suite. The COA heard the application on 23 January, 2020 and refused the application in its entirety. The Applicants appealed the COA's decision to the Toronto Local Appeal Body (TLAB) on 10 February, 2020. The TLAB ordered a Hearing to be

held on 11 December, 2020. There were no other Parties or Participants involved in this Appeal.

The Hearing to be held on 11 December, 2020 could not be completed, because of incomplete document disclosure by the Appellants. The Hearing was adjourned and rescheduled for February 25, 2021.

## **MATTERS IN ISSUE**

### **By-Law. 569-2013**

1. To permit the side walk out entrance stairs to be 0 metres from the side lot line; whereas the Zoning By-law requires stairs to be no closer to a lot line than 0.6 metres.

## **JURISDICTION**

### **Provincial Policy – S. 3**

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2014 Provincial Policy Statement ('PPS') and conform to the Growth Plan for the Greater Golden Horseshoe for the subject area ('Growth Plan').

### **Variance – S. 45(1)**

In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the Act. The tests are whether the variances:

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

## **EVIDENCE**

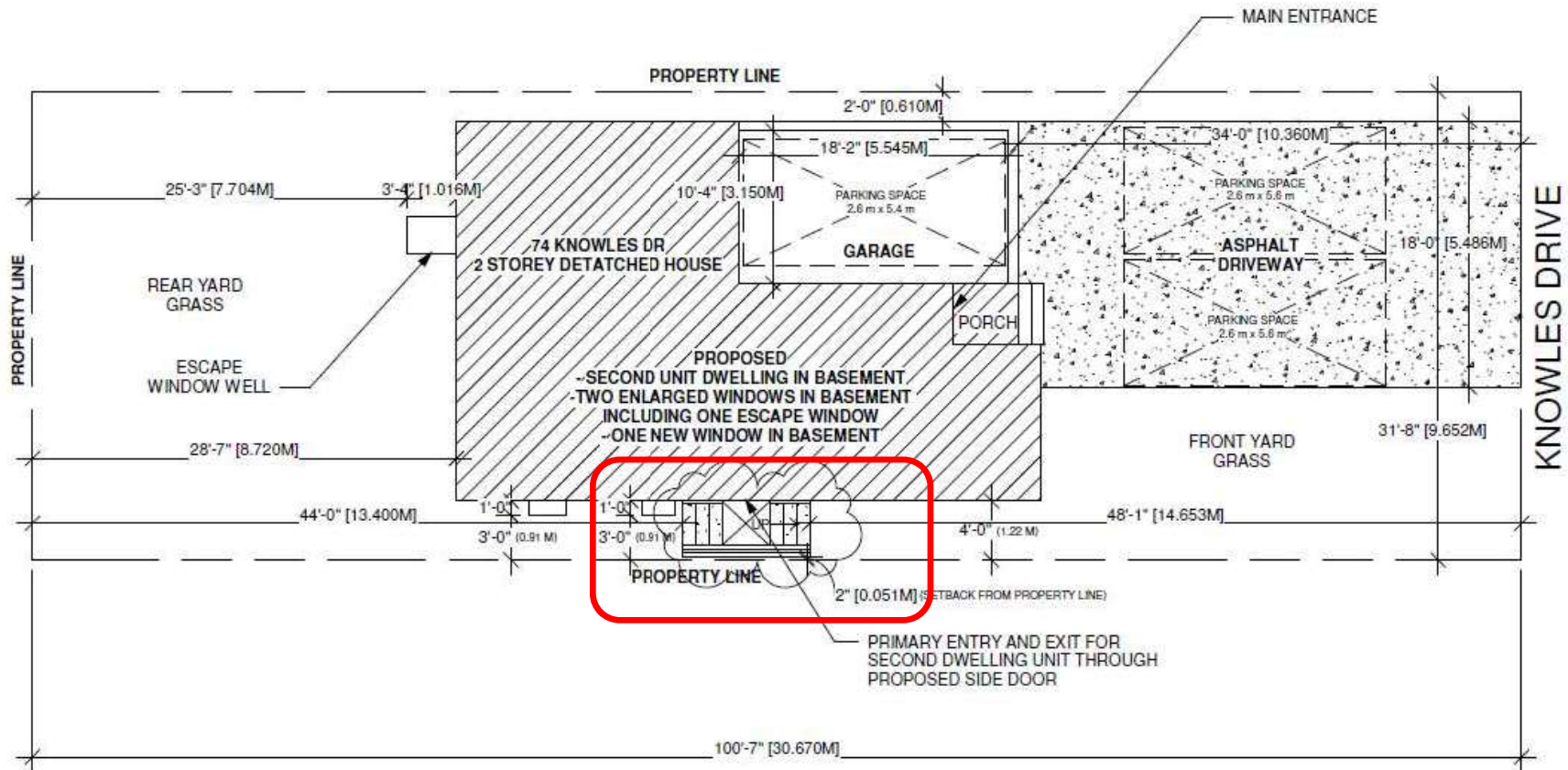
At the Hearing held on February 25, 2021, the Appellant was represented by Mr. Jivtaresh Bhaila, who introduced himself as the Agent for the Appellants, and a Mechanical Engineer, with a P.Eng. qualification. As stated earlier, there were no Parties or Participants involved in this Appeal.

Mr. Bhaila presented the following information about the proposal:

The purpose of the Application is to permit the side walk out entrance stairs with 0 Metre Setback from the side lot line whereas the Zoning By-Law requires stairs to be no closer to a lot line than 0.6 m.

With the help of the diagram on the next page, Mr. Bhaila described what the proposal entailed on the group- it meant the creation of a step from the ground level to the entrance of the Secondary suite, which is below ground:

# SITE PLAN



The evidence given in support of the proposal discussed how the City Council adopted an Official Plan Amendment 418, with the intention of increasing the supply, and availability of Rental Housing within neighbourhoods across the City. Mr. Bhaila said that the proposed Secondary suite fit with the intention of OPA 418, and that the proposal would enable the future tenant to access the proposed below grade entrance, which would be the primary entrance to the Secondary Suite. He added that the proposal “was in keeping with the physical character of the neighbourhood”, which “had a number of similar arrangements involving steps to access below grade entrances” When asked about specific policies in support of the proposal, Mr. Bhaila referred to Chapter of the Official Plan with specific reference to Policy 3.2.1, which supports the creation of affordable, rental housing, as recited below :

*A full range of housing, in terms of form, tenure and affordability, across the City and within neighbourhoods, will be provided and maintained to meet the current and future needs of residents. A full range of housing includes: ownership and rental housing, affordable and mid-range rental and ownership housing, social housing, shared and/or congregate-living housing arrangements, supportive housing, emergency and transitional housing for homeless people and at-risk groups, housing that meets the needs of people with physical disabilities and housing that makes more efficient use of the existing housing stock*

He reiterated that the proposal would facilitate the creation of the very type of affordable rental housing advocated by Policy 3.1.2, and concluded that the proposal maintained the intention and purpose of the Official Plan.

The Zoning By-Law was discussed next- the entrance is proposed such that access to the backyard of the house would not be blocked, because there would be steps on both sides of the entrance i.e. as one walked from the front of the house to the backyard, they would have to descend the proposed steps on one side to arrive at the entrance of the Secondary suite, and walk up two steps to get to the backyard. By-Law Chapter 150.40.1(1) was recited to demonstrate that an entrance was permitted in the side yard to access a Secondary suite. By-Law Chapter 150.10 was also recited to demonstrate that the front wall of the house could not be used to access a Secondary suite. Mr. Bhaila concluded that the intent and purpose of By-Law 569-2013 was being fulfilled because the steps would help access the below grade entrance, which was built on the side wall, in accordance with the stated By-Law Chapters. Based on this evidence, Mr. Bhaila concluded that the proposal maintained the intention and purpose of By-Law 569-2013.

Speaking to the test of Minor, Mr. Bhaila said that the steps and the entrance would not be visible from the main street, and did not result in any privacy concerns for the neighbours because there were no windows facing sideward in the wall through which the Secondary suite would be accessed. The following picture was submitted to demonstrate that there would be no sidewall windows:

# PHOTOS

PROPOSED SIDE DOOR



NO WINDOW ON THIS SIDE FOR NEIGHBOURS  
MAINTAINS PRIVACY

Mr. Bhaila also submitted pictures of how a similar arrangement of steps had been approved by the COA at 12 Point Rouge Drive, which was less than 100 metres away from the Site. Based on this evidence, he stated that the proposal satisfied the test of minor

Lastly, Mr. Bhaila addressed the test of appropriate development by stating that the proposal would help the creation of a Secondary suite, which would contribute to the stock of rental housing to address the “shortage of affordable housing across the City”. The proposal did not create any adverse impact, and fulfilled the intent and purpose of the By-Law, and the Official Plan. Based on this evidence, Mr. Bhaila concluded that the proposal satisfied the test of appropriate development.

When asked to comment on the compatibility between the proposal, and higher level Provincial Policies, Mr. Bhaila made a submission which focused on how the Growth Plan for the Greater Golden Horseshoe ( 2020) promoted the creation of “ a range and mix of housing options including additional residential units and affordable housing to serve all sizes, incomes and ages of households”. He stated that the proposal fit the Growth Plan’s direction by facilitating the creation of a Secondary suite.

## **ANALYSIS, FINDINGS, REASONS**

The proposal to permit the side walk out entrance stairs to be 0 metres from the side lot line; instead of the steps on the stairs being at least 0.6 metres away, is to permit access to a Secondary suite being created in the basement of the house. The creation of an affordable, rental basement unit is consistent with the promotion of affordable rental housing units in the Growth Plan (2020).

The intent and purpose of the Official Plan is satisfied in a very general way the proposal contributes to the creation of an extra residential unit in the basement. While the discussion by the Appellants focused on Policy 3.2.1 is adequate to demonstrate that the intent and purpose of the OP is being maintained, there could have been a richer, and fulsome discussion through a demonstration of how the proposal satisfied Policies in Chapter 4 (Neighbourhoods), because this proposal is in the neighbourhoods category. Notwithstanding this area of improvement, I find that the proposal maintains the intent and purpose of the OP

The intent and purpose of the Zoning By-Law is met because the proposal facilitates access to a below grade entrance for the proposed Rental Suite, whose entrance has to be in the sidewall in accordance with Zoning By-Law 569-2013.

As the pictures of the sidewall ( in which the entrance to the Secondary suite exists) demonstrated, there are no privacy impacts, or unacceptable adverse impacts being created on the neighbours if the proposal were approved. The steps and entrance to the Secondary suite will not be seen from the main street. This conclusion is buttressed by letters of support submitted by the neighbours to the COA. Consequently, I find that the proposal satisfies the test of minor.



**Decision of Toronto Local Appeal Body Panel Member: S. GOPIKRISHNA  
TLAB Case File Number: 20 114188 S45 25 TLAB**

The proposal is appropriate for the development of the land because it creates no adverse impacts, and maintains the intent and purpose of the applicable OP, and By-Law. On the basis of this evidence, I find that the proposal satisfies the test of appropriate development.

Given that the variance satisfies all the four tests under Section 45.1, I find that the variance may be approved. The only condition to be imposed is the standard condition that it be built in substantial conformity with the Plan, as submitted by the Applicant.- it may be noted that this Plan is appended to this Decision.

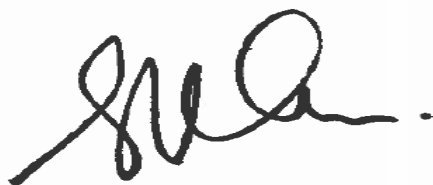
I would like to acknowledge Mr. Bhaila's succinct and fulsome presentation, as well as his efforts to follow up to proffer information critical to my reaching this Decision.

## **DECISION AND ORDER**

1. The decision of the Committee of Adjustment, respecting 74 Knowles Drive, dated 23 January, 2020 is set aside.
2. The following variance is approved:
  - 1) To permit the side walk out entrance stairs to be 0 metres from the side lot line; whereas the Zoning By-law requires stairs to be no closer to a lot line than 0.6 metres.
3. The approval of the above variance is subject to the condition that construction take place in substantial conformity with the Plan, submitted by the Applicants, which is attached to this Order:

So rules the Toronto Local Appeal Body

**X**



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S. Gopikrishna  
Panel Chair, Toronto Local Appeal Body



# SITE PLAN

