

INTERIM ORDERS

Decision Issue Date Friday, April 30, 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

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

Hearing Dates: April 7, 8, 12, 27 and 29, 2021

DECISION DELIVERED BY TED YAO

APPEARANCES

Name	Roles	Representative
Matthew Koniuszewski 367 Howland Avenue Inc. (Leo Kotov)	Applicant and summonsed ¹ witness Owner/Party	Amber Stewart
Mike Dror	Expert Witness	
Bradley Sellors	Appellant	
Priscilla McAuliffe	Participant	
Michael Mastrangelo, Joseph and Annette Mastrangelo	Participants	
Geoff Sas	Participant	
Robert Ursini	Summonsed witness	
Phillip Kelly	Summonsed witness	

Background

¹ Mr. Sellors is the issuer of all summonses in this hearing.

This is a written ruling on three matters arising as a result of today's Webex meeting (April 29, 2021). Although I am issuing a written ruling, I have the right to refuse to do so in the future as many points of contention have arisen in this hearing, sometimes in rapid succession, and generally without advance written notice. In my opinion, these do not justify the formal treatment Mr. Sellors requested.

The first issue concerns discussions with Urban Forestry about tree protection with respect to the horse chestnut tree and the other City owned tree at the front of the property. These took place between Mr. Kotov and the City before Mr. Dror (the planner) was involved. Mr. Kotov, the proponent, is Ms. Stewart's client and she has offered to make him available for questions on these discussions.

The second issue is Mr. Sellors' request that the hearing be continued in writing, by which I infer he means that the hearing be converted to a written one. I am refusing this request because witnesses for both sides have already testified orally and been cross examined and I do not see how I could fairly balance evidence that is partly orally given and partly in writing.

The next hearing dates are May 21 and May 26, 2021. It is my understanding that both these return dates are agreed to by the parties and normally such a simple matter would not need to be ordered. However, the date of May 3, 2021 (which is in the future at the time of this order) was agreed to by Mr. Sellors, but later rejected in his email of April 19, 2021. He advised me this morning that he is now committed to organizing a charity function on May 3, 2021. It was his understanding that we would only be picking the next continuation date this morning and he had only allowed 30 minutes to speak to this issue. This misunderstanding is why he is not making himself fully available today (April 29, 2021), despite my written request for him to be prepared to give evidence today.

Orders

1. I order the attendance of Mr. Kotov on May 21 or May 26, 2021, the timing of his examination to be agreed upon by the parties, and if they cannot agree, then I will decide when Mr. Kotov should give evidence. The examination will be limited to the discussions described in the body of this decision.
2. I deny Mr. Sellors' request that this hearing be turned into a written hearing.
3. I order Ms. Stewart and Mr. Sellors to attend the Webex meetings on May 21 and May 26, 2021. Attendance is peremptory and for each full day.
4. Mr. Sellors will complete his evidence by the end of May 21, 2021. Cross examination will be completed by noon on May 26, 2021 and submissions by the close of May 26, 2021.

X

Ted Yao

Ted Yao
Panel Chair, Toronto Local Appeal Body