

DECISION AND ORDER

Decision Issue Date **Thursday, May 06, 2021**

PROCEEDINGS COMMENCED UNDER section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant(s): SADETE BEJDO

Applicant(s): EKP DESIGNS INC

Property Address/Description: 14 ELDER AVE

Committee of Adjustment File Number(s): 19 220843 WET 03 MV

TLAB Case File Number(s): 20 177748 S45 03 TLAB

Hearing date: Friday April 30th, 2021

DECISION DELIVERED BY S. Makuch

REGISTERED PARTIES AND PARTICIPANTS

Applicant	EKP Designs Inc
Owner	Besnik Bejdo
Appellant	Sadete Bejdo
Appellant's Legal Rep.	Russel Cheeseman
Party	Besnik Bejdo
Expert Witness	Theodore Cieciura

INTRODUCTION

This is an appeal of the refusal of five minor variances to construct a detached dwelling with an integral garage in the Long Branch Neighbourhood of the City. The

variances relate to FSI, side yard set back, building length, building height, and driveway width. The details of the variances are set out in Appendix 1. There is no opposition to the any of the variances, singularly or cumulatively, or the development as a whole.

BACKGROUND

This is neighbourhood in which there are a number of applications for consents and variances which are often opposed. It is worthy of note that this appeal has no opposition from the City, residents in the area, or the Long Branch Neighbourhood Association.

MATTERS IN ISSUE

As a result of there being no opposition, there were no specific matters or issues in dispute. Nevertheless, since this is a hearing *de novo* it must be shown that provincial requirements are met and that the four tests of the *Planning Act* for variances are also met.

JURISDICTION

Provincial Policy – S. 3

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 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

The evidence with respect to provincial conformity and meeting the four tests was presented by an excellent land use planner, Mr. T. Cieciora in a very detailed witness statement filed with TLAB on January 18, 2021. Mr. Cieciora also gave evidence in person confirming his written evidence. That unchallenged and uncontradicted evidence in his witness statement describes in detail how the variances are consistent with the PPS and conform with the Growth Plan. The evidence also details how the variances meet the four tests of the *Planning Act*. It does not need to be related here as it is in the TLAB file.

It should be noted that Mr. Cieciora did state that he did not object to an approval be subject to two conditions: one related to the plans on file and the other related to tree preservation.

ANALYSIS, FINDINGS, REASONS

The evidence is clear that the appeal should be granted and the variances set out in Appendix 1 should be approved for the reasons set out in Mr. Cieciora's witness statement as filed with TLAB. They meet the requirements outlined above. Moreover, I find that the approval should be subject to two conditions: (1) that construction is substantially in accordance with the plans in Appendix 2 and (2) that this order does not take effect until the requirements of Urban Forestry are met.

DECISION AND ORDER

The appeal is allowed and the variances set out in Appendix 1 are approved subject to the following conditions: (1) construction is substantially in accordance with the plan set out in Appendix 2, and (2) prior to this order coming into effect the requirements of Urban Forestry are met.

X 

S. Makuch
Panel Chair, Toronto Local Appeal

APPENDIX 1

1. Section 10.20.40.40.(1)(A), By-law 569-2013 The maximum permitted floor space index is 0.35 times the area of the lot (162.55 m²). The proposed dwelling will have a floor space index equal to 0.71 times the area of the lot (327.49 m²).
2. Section 10.20.40.70.(3)(C), By-law 569-2013 The minimum required side yard setback is 1.2 m. The proposed dwelling will be located 0.91 m from the east side lot line.
3. Section 10.20.40.10.(1)(A), By-law 569-2013 & Section 330-23.A.(10) The maximum permitted height of a building is 9.5 m. The proposed dwelling will have a height of 9.98 m.
4. Section 10.20.40.10.(2)(A)(i), By-law 569-2013 The maximum permitted height of all front exterior main walls is 7 m. The exterior front main walls of the proposed dwelling will have a height of 7.78 m.
5. Section 10.5.100.1.(1)(C), By-law 569-2013 The maximum permitted driveway width is 5.94 m. The proposed driveway will have a width of 6.41 m.

APPENDIX 2

Add the following plans at Tab 3 of Doc. Disc. Part 1-7 filed by D. Hornby January 18, 2021: Site Plan A1, Roof Plan A5, South Elevation A6, North Elevation A7, West Elevation A8 and East Elevation A9.