

DECISION AND ORDER

Decision Issue Date Tuesday, May 18, 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): BLUEBIRD INGRAM STORAGE CORP

Applicant(s): JOEL FARBER FOGLER, RUBINOFF LLP

Property Address/Description: 7-15 INGRAM DR

Committee of Adjustment File

Number(s): 19 155319 WET 05 MV (A0275/19EYK)

TLAB Case File Number(s): 19 185715 S45 05 TLAB

Hearing date: Monday March 1, 2021

DECISION DELIVERED BY J. Tassiopoulos

REGISTERED PARTIES AND PARTICIPANTS

NAME	ROLE	REPRESENTATIVE
JOEL FARBER, RUBINOFF	APPLICANT	
BLUEBIRD INGRAM STORAGE CORP. OWNER/APPELLANT		JOEL FARBER MAX REEDIJK
CITY OF TORONTO	PARTY	LAURA BISSET / MARC HARDIEJOWSKI
DAVID CAPPER	EXPERT WITNESS	

INTRODUCTION & BACKGROUND

The Hearing for 7-15 Ingram Drive took place on March 1, 2021. The Appellant's counsel Messrs. Joel Farber and Max Reedijk and the City of Toronto's counsel Marc Hardiejowski advised the Chair that they had arrived at a settlement regarding the

application for 7-15 Ingram Drive and variances to permit the construction of a self-storage warehouse building (Application) on the subject property. The Minutes of Settlement (MOS) were submitted to the TLAB on February 22, 2021.

The Committee of Adjustment (COA) on June 20, 2019 had previously approved the self-storage warehouse use on the condition that the proposal be constructed substantially in accordance with the site plan submitted and held on file by the COA office. The appeal was made to delete the condition imposed by the COA that tied the approval to the existing plans.

During the Hearing, there were two items identified by the presiding Chair that had not been addressed during presentations by Mr. Reedijk or the land use planning evidence provided by the Mr. David Capper who was qualified to provide expert evidence, namely:

- The property address identified in the Settlement was for 7-15 Ingram Drive, however, the property address in the TLAB file was for 7-11 Ingram Drive; and,
- The site plan submitted to the COA, dated January 9, 2019, and upon which the condition for COA approval was based (Exhibit #1, Tab7) differed from the site plan, dated September 9, 2019, (Exhibit #1, Tab16). Given that the appeal and the MOS were premised on these new architectural plans and site plan, there was a concern that a recirculation of the Application by way of a new Notice had not been undertaken pursuant to S.45(18.1.1) of the *Planning Act (Act)*.

MATTERS IN ISSUE

Do the revisions to the plans as submitted necessitate the recirculation of Notice as per Section 45 (18.1) of the *Act* or are the revisions considered minor in nature and an improvement to the Application therefore not requiring further Notice as per Section 45 (18.1.1)?

JURISDICTION

Amended Application – S. 45 (18.1)

On an appeal, the Tribunal may make a decision on an application which has been amended from the original application if, before issuing its order, written notice is given to the persons and public bodies who received notice of the original application under subsection (5) and to other persons and agencies prescribed under that subsection. 1993, c. 26, s. 56; 1994, c. 23, s. 26 (7); 2017, c. 23, Sched. 5, s. 80.

Exception to Notice Requirement – S. 45 (18.1.1)

The Tribunal is not required to give notice under subsection (18.1) if, in its opinion, the amendment to the original application is minor. 2017, c. 23, Sched. 5, s. 98 (5)

Notice of Intent - S. 45 (18.2)

Any person or public body who receives notice under subsection (18.1) may, not later than thirty days after the day that written notice was given, notify the Tribunal of an intention to appear at the hearing or the resumption of the hearing, as the case may be. 1993, c. 26, s. 56; 1994, c. 23, s. 26 (8); 2017, c. 23, Sched. 5, s. 98 (6).

Order - S. 45 (18.3)

If, after the expiry of the time period in subsection (18.2), no notice of intent has been received, the Tribunal may issue its order. 1993, c. 26, s. 56; 2017, c. 23, Sched. 5, s. 98 (6).

Hearing (18.4)

If a notice of intent is received, the Tribunal may hold a hearing or resume the hearing on the amended application or it may issue its order without holding a hearing or resuming the hearing. 1996, c. 4, s. 25 (2); 2017, c. 23, Sched. 5, s. 98 (6).

EVIDENCE

During the Hearing, Mr. Capper provided evidence with respect to the application and referred to the subject property as 7-15 Ingram Drive. Mr. Reedijk spoke to the address discrepancy between 7-11 and 7-15 Ingram Drive indicating that the Application and filings have always been submitted for 7-15 Ingram Drive and that the TLAB file address was noted in error. He further indicated that the COA Decision of June 20, 2019, which is the decision being appealed, indicates the property address incorrectly as 7-11 Ingram Drive. Following the Hearing, on March 29, 2021, Mr. Reedijk provided correspondence providing further clarification and references to Exhibit #1, regarding the correct address of the subject property noting that:

- the 2019 COA application, dated May 7, 2019, indicated 7-15 Ingram Drive (Exhibit #1, Tab 6);
- the Notice of Appeal to TLAB in Form 1, dated July 19, 2019, also indicates the address as 7-15 Ingram Drive (Exhibit #1, Tab 10); and,
- the original COA Public Hearing Notice dated June 10, 2019 also indicated the property address as 7-15 Ingram Drive.

With respect to the site plan and associated architectural plans, both Mr. Reedijk and Mr. Hardiejowski indicated during the Hearing that the architectural plans and site plan presented at TLAB had not been recirculated and Notice had not been provided regarding the proposed revised plans.

ANALYSIS, FINDINGS, REASONS

The property address appears to have been indicated as 7-11 Ingram Drive COA decision notice, and this error has been carried over into the property address reference in the TLAB file. Given the historical references of the original COA application, the public hearing notice, and the Notice of Appeal to TLAB, the subject property has been referred to with the correct address of 7-15 Ingram Drive. This property address reference should be corrected within the TLAB file and any online reference in the Development Applications found within the Application Information Centre.

With respect to whether the revisions to the plans as submitted to TLAB require recirculation and a new Notice as per Section 45 (18.1) of the *Planning Act*, the proposed plans alter the site plan by introducing a building footprint and parking areas in the southeast corner of the property. Given that these plans were finalized in discussions with the City and as part of the MOS, and in view of the fact that the original notice would not have included this information, I find that the changes to the site plan indicating the location of a self-storage warehouse building at the southeast corner of the property are not minor.

Surrounding property owners who did not have the benefit of receiving information regarding the revised proposal must be given the opportunity to review the proposed new plans and for the Application to satisfy notice requirements under Section 45 (18.1). Whereas there may not have been concern previously expressed from the original site plan, the surrounding property owners may have concerns regarding the proposed new site plan, and they must be made aware of this change and given the opportunity to respond to the proposal should they choose to do so within 30 days of Notice.

For these reasons, I am directing that the proposed building elevations and site plan shall be recirculated and the property address reference should be corrected.

DECISION AND ORDER

As per the requirements of section 45 (18.1) of the *Act*, before issuing a final decision on the Application the amended plans shall be circulated and Notice given to those who received notice of the original application, by the Owner / Appellant. The Owner/Appellant will provide the TLAB with an affidavit that this has been undertaken in a timely fashion.

Those who receive this Notice shall not later than 30 days after the day that the Notice was given, notify the TLAB of their intention to elect Party or Participant status and appear before the Tribunal, following which the TLAB will schedule a date for a new Hearing.

If no notice of intent is received by the TLAB within the time period prescribed in S. 45(18.3) of the *Act*, the TLAB will issue its final decision and order including any associated conditions if required, following the expiry of the requisite timeframe.

**Decision of Toronto Local Appeal Body Panel Member: J. Tassiopoulos
TLAB Case File Number: 19 185715 S45 05 TLAB**

TLAB staff are directed to correct the property address for TLAB Case File Number 19 185715 S45 05 on TLAB documents and online references to indicate 7-15 Ingram Drive, a copy of this Decision and Order shall be provided to the COA Secretary-Treasurer for their information.

X

John Tassiopoulos
Panel Chair, Toronto Local Appeal Body

A handwritten signature in blue ink, appearing to be 'J. Tassiopoulos', is written over a horizontal line. The signature is stylized and somewhat illegible.