

# DECISION AND ORDER

**Decision Issue Date**      Friday, May 28, 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):                      WENDY ORBACH

Property Address/Description: 85 ALBERTUS AVE

Committee of Adjustment File

Number(s):                         20 143461 NNY 08 MV

**TLAB Case File Number(s): 20 185509 S45 08 TLAB**

**Hearing date: Wednesday April 20<sup>th</sup>, 2021**

**Deadline Date for Closing Submissions/Undertakings:**

**DECISION DELIVERED BY S. Gopikrishna**

## REGISTERED PARTIES AND PARTICIPANTS

Owner                                 PAUL JOSEPH MACEROLLO

Appellant                             WENDY ORBACH

Party                                    FRANK MILLER

Party                                    PAUL JOSEPH MACEROLLO

Party's Legal Rep.                 ANDY MARGARITIS

Participant                            CHRISOULA LUCAS



- Mr. Miller and Ms. Lucas may be given a total of 1 (one) hour for presenting their evidence, as well as being asked questions (both by way of cross examination and clarification, where appropriate) by Mr. Margaritis, and Ms. Orbach.
- Mr. Margaritis and Mr. Cieciora may then be given ten (10) minutes for Reply.

Ms. Orbach and Ms. Lucas asked if they could update their submissions with new photographs for evidentiary purposes. Mr. Margaritis objected to new submissions being filed “because it would prejudice their (i.e. Appellant’s) case”, and I upheld the objection for reasons discussed in the Analysis, Findings, and Reasons Section.

I also ruled that in the interests of completing the Hearing on Day 2 of the Proceeding, Participants who did not attend on Day 1, would not be allowed to present evidence on Day 2 of the Hearing.

The TLAB subsequently canvassed the Parties and identified July 26, 2021, as the earliest date on which the Proceeding can continue. I request the TLAB Staff to send out a Notice of Hearing be sent out to this effect, with a copy of this Interim Decision.

## **MATTERS IN ISSUE**

The question before the TLAB is to establish a time-line for completing the Proceeding respecting 85 Albertus Avenue, on July 26, 2021.

## **JURISDICTION**

The TLAB relies on its Rules of Practice and Procedure to make decisions on administrative questions.

## **ANALYSIS, FINDINGS, REASONS**

The purpose of issuing this Interim Decision is to establish time-lines to ensure that the Proceeding respecting 85 Albertus Ave can be completed on July 26, 2021. It is important to note that the TLAB recommends that a Proceeding restricted exclusively to a discussion of variances needs to be completed in two days of Hearing time.

The suggested timelines provided in this Interim Decision is to ensure that the Parties and Participant be given an adequate opportunity to present their case, while simultaneously making sure that the judicious use is made use of the one extra day made available for completing this Proceeding

The reason behind my Ruling about not accepting any new photographs for evidentiary purposes is to ensure that the Hearing can be completed in a reasonable period of time, while minimizing allegations of prejudice. While a picture may be worth a thousand words, I believe that Parties and Participants had ample opportunities before the commencement of this Proceeding to complete their submissions, however extensive, and exhaustive. Given the volume of photographs submitted, I would

encourage the Opposition to utilize the submitted pictures that have already been submitted, to demonstrate how they would be impacted by the proposal at 85 Albertus. .

With respect to the frustrations expressed about having to allocate a second day of Hearing, I believe that had both Parties presented their evidence succinctly, the Hearing would have been completed in one day.

I emphasize that the timelines suggested for completing this Hearing on July 26, 2021, are recited below in Paragraph 2 of the Interim Decision and Order Section.

## **INTERIM DECISION AND ORDER**

1. The Proceeding respecting 85 Albertus Avenue will be completed on July 26, 2021.

2. The proposed timelines for completing the Proceeding on July 26, 2021, are as follows:

- Ms. Orbach may be given 1 (one) hour to complete her cross examination of Mr. Cieciora, while Mr. Margaritis may be given 10 minutes to complete his re-examination.
- Mr. Barton may be given 2 (two) hours to complete his Examination-in-chief, while Mr. Margaritis may be given an hour to complete his cross-examination of Mr. Barton
- Both Mr. Margaritis and Ms. Orbach may be given 10 ( ten) minutes for re-examination of their respective witnesses.
- Mr. Miller and Ms. Lucas may be given a total of 1 (one) hour for presenting their evidence, as well as being asked questions (both by way of cross examination and clarification, where appropriate) by Mr. Margaritis, and Ms. Orbach.
- Mr. Margaritis and Mr. Cieciora may be given ten (10) minutes for Reply.

3. No Submissions made after April 20, 2021, will be accepted for evidentiary purposes.

4. The list of Parties and Participants who can present evidence on July 26, 2021, is restricted to the Appellant, the Applicant, Mr. Frank Miller, and Ms. Chrisoula Lucas.

So orders the Toronto Local Appeal Body

X 

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S. Gopikrishna  
Panel Chair, Toronto Local Appeal Body