

# DECISION AND ORDER

**Decision Issue Date** Monday, May 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): ZAMAL HOSSAIN

Applicant(s): ARC DESIGN GROUP DEVELOPMENT SERVICES INC

Property Address/Description: 68 SUNNYPOINT CRES

Committee of Adjustment File

Number(s): 20 111903 ESC 20 MV

**TLAB Case File Number(s): 20 200787 S45 20 TLAB**

**Hearing date: April 28, 2021**

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

**DECISION DELIVERED BY JOHN TASSIOPOULOS**

## APPEARANCES

Name	Role	Representative
ARC Design Group Development Services Inc.	Applicant	
Zamal Hossain	Owner/Appellant	Amber Stewart
City of Toronto	Party	Marc Hardiejowski
Janice Lanigan	Party	
Alan Burt	Party	
Susannah Cheung	Party	
James Musselman	Party	

**Decision of Toronto Local Appeal Body Panel Member: J. TASSIOPOULOS  
TLAB Case File Number: 20 200787 S45 20 TLAB**

Name	Role	Representative
Alan Young	Expert Witness	
Jonathan Benczkowski	Expert Witness	
Vera Iwanow	Participant	
Doug Colby	Participant	
Wendy Hooker	Participant	
Roman Sokolowski	Participant	
Ann Grosse	Participant	
Sharon Sinclair	Participant	
Dave Allen	Participant	
Maura Kirby	Participant	
Martin Zielinski	Participant	
Donna Davis	Participant	
Aaron Rinzler	Participant	
Paul Wilson	Participant	
Kimberly Fawcett	Participant	
Amanda Thomas	Participant	
Grace Trentadue	Participant	
Peter Hogg	Participant	
Ron Jones	Participant	
Justin Craig	Participant	
Eddison Shoon	Participant	
Ross Webster	Participant	
Cheryl Carr	Participant	
Tom Kasanda	Participant	
Natasha Taylor	Participant	

**Decision of Toronto Local Appeal Body Panel Member: J. TASSIOPOULOS  
TLAB Case File Number: 20 200787 S45 20 TLAB**

Name	Role	Representative
Paul Steinberg	Participant	
Ethel McAuley	Participant	
Brook Stoiko	Participant	
Marcia Vandebossche	Participant	
Leah Sokolowski	Participant	
Matthew DeBeaupre	Participant	
Gary McAuley	Participant	
Anthony Lombardi	Participant	
Isabel Barclay	Participant	
Marilyn Macleod	Participant	
Dianne Riccio	Participant	

## **INTRODUCTION & BACKGROUND**

This is a decision on Ms. Amber Stewart's request to adjourn the April 28, 2021, Hearing date and the consent by the City of Toronto and the attending Parties in support of the adjournment request. This Hearing date was to address the appeal of the Committee of Adjustment (COA) September 23, 2020 decision to refuse the requested variances to construct a new three storey residential dwelling at 68 Sunnypoint Crescent (subject property).

At the beginning of the Hearing the presiding Chair undertook a roll call of the Parties and Participants in attendance. In addition to all those present, Mr. Kasanda, President of the Cliffcrest Scarborough Village SW Residence Association, mentioned that besides himself, many of the Participants listed had not attended the Hearing as they had agreed to have their views represented by him and, another Participant, Mr. Paul Steinberg. During introductions, Mr. Steinberg confirmed Mr. Kasanda's statement and indicated that he would be speaking on behalf of some of his neighbours.

Following the introductions, Ms. Amber Stewart, counsel for the Owner/Appellant, Zamal Hossain, requested that the Hearing be adjourned to allow for the opportunity to further engage with the Parties and Participants in this matter. Ms. Stewart explained that many of the residents who had elected Participant status had also participated in a recently concluded Hearing for nearby 11 Brooklawn Avenue. In that matter, an agreement was reached on many of the issues and resulted in the submission of a revised proposal to the TLAB. She noted that Mr. Hossain wanted to try the same approach with respect to the proposal for the subject property.

In addition, she asked that a future Hearing date, four to six weeks from the assigned date, be provided for a formal mediation meeting. She noted that if in this time period a resolution of the matters related to the proposal is not reached, then three Hearing days be set aside for this matter due to the number of Parties, numerous Participants and the two expert witnesses to be called to provide land use planning evidence. Ms. Stewart was concerned that a single day Hearing would not suffice and that three days would be more appropriate.

She further suggested that if a settlement was reached by the first date, the future Hearing dates requested, could be vacated. She concluded by stating that if the presiding Chair for this Hearing would oversee a mediation session that he also preside over the Hearing event. This would require the consent of all Parties pursuant to Rule 20 of the TLAB's Rules and Procedures (Rules).

The City's Counsel, Mr. Marc Hardiejowski, confirmed that he had undertaken discussions with Ms. Stewart, community members, and neighbours regarding the proposal and the potential for resolution, and that he was in support of adjourning the Hearing to have the opportunity to explore mediation in order to reach a settlement regarding the proposal.

Mr. Steinberg asked that if there should be no agreement reached between the Parties, would a mediation meeting still be possible; the presiding Chair confirmed it would.

Mr. Kasanda asked if he and the Participants needed to confirm at this Hearing whether they wanted a mediation session as he would need to consult with the Participants and residents further to determine their willingness to undertake a mediation session. As the presiding Chair, I explained that a future date could be identified and that prior to that date I would expect the Parties to indicate whether that day should be held for and undertaken as a mediation, the Hearing be converted to an expedited settlement or the matter proceed as a contested Hearing of this matter.

There were no objections expressed from the Parties and Participants present regarding the adjournment request.

## **MATTERS IN ISSUE**

Does the adjournment of the Hearing prejudice the interests of the Parties in having a full and fair proceeding?

Does the adjournment cause or contribute to any existing or potential harm or prejudice to Participants or others?

Does the adjournment affect the ability of the TLAB to conduct a proceeding in a just, timely and cost-effective manner?

## JURISDICTION

The TLAB may consider Adjournments in accordance with Rules 17.2, 23.3 and 23.4, Extension or Reduction of Time Rules 4.4, 4.5 and 4.6, and Relief and Exceptions to the Rule 2.11 in the TLAB Rules of Practice and Procedure.

## ANALYSIS, FINDINGS, REASONS

Following the presentations and queries from the Parties and Participants, I asked if any of the other Participants present and who had not spoken, had anything to add to the discussion or objected to the adjournment. There were questions regarding clarification of the TLAB's Rules, however, there were no objections indicated regarding the adjournment.

I did not hear anything in the presentations that suggested that the adjournment of the April 28, 2021 Hearing posed a concern for the Parties and Participants in attendance.

Prior to adjourning the Hearing, I confirmed to all in attendance that June 4, 2021 was available for either a future mediation meeting, settlement or as a Hearing date. The Parties were asked to provide an update by May 28, 2021, or earlier, as to whether agreement had been reached and whether the date of June 4, 2021, would be utilized for mediation or a Hearing day.

For these reasons, the Hearing was adjourned and new dates are to be set for this matter, as required.

## DECISION AND ORDER

The request for adjournment of the Hearing for April 28, 2021 is granted.

TLAB staff should hold the date of June 4, 2021 for the purpose of a mediation session or Hearing day and that the Parties to this matter update TLAB by May 31, 2021 on how that date will be utilized and/or whether a settlement has been reached.

Should June 4, 2021 be used as a Hearing date, the Parties and Participants be canvassed by TLAB staff for two additional Hearing dates.

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J. Tassiopoulos  
Panel Chair, Toronto Local Appeal Body