

DECISION AND ORDER

Decision Issue Date Friday, September 03, 2021;

Revised on Tuesday, September 28, 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): MARGARET ELEANOR SMITH

Applicant: EILEEN COSTELLO

Property Address/Description: 100 WILLCOCKS STREET

Committee of Adjustment Case File: 18 269666 STE 11 MV

TLAB Case File Number: 19 222040 S45 11 TLAB

Hearing date: Monday, March 02, 2020

DECISION DELIVERED BY JUSTIN LEUNG

APPEARANCES

NAME	ROLE	REPRESENTATIVE
Eileen Costello	Applicant	
Margaret Eleanor Smith	Appellant	Eileen Costello
City of Toronto	Party	Daniel Elmadany Lauren Pinder
Susan Dexter Young	Party	
Timothy Andrew Grant	Participant	
Kurt Reuss	Participant	
Deborah Black	Participant	
Carmen Gauthier	Participant	
Alan Levy	Participant	

Anthony Greenberg	Expert Witness
Gary Davidson	Expert Witness
Philip Evans	Expert Witness

INTRODUCTION

This matter relates to a proposed two storey addition and a one storey detached garage to an existing heritage designated dwelling for 100 Willcocks Street.

An Interim Decision and Order was issued on March 16, 2020 whereby it was indicated that a Final Decision and Order would be issued once a plan examination had been completed satisfactorily by City staff. In addition, and as cited in said Interim Decision, the Appellant/Property-owner would, due to substantive work related to this, also begin preliminary tasks to complete the conditions which were also prescribed in said Decision document. Once these were completed, and with the issuance of Final Decision and Order, they would then proceed to obtain a heritage permit.

On December 14, 2020, I sent correspondence to the Appellant/Property-owners legal counsel Eileen Costello requesting an update on this matter. Ms. Costello responded that, due to the current emergency period, that it was taking a protracted amount of time to complete work relating to the conditions. I acknowledged their reply and indicated that it was understood that standard municipal operations have been affected due to the emergency period. I further communicated that they should continue their work on these matters and attempt to address them in a timely manner.

Ms. Costello was contacted again in April 16 2021 to provide an update to the Tribunal. She responded that they were continuing to attempt to address the conditions of said Interim Decision and Order. As approximately one (1) year has passed since the issuance of the Interim Decision and Order, and to ensure the continuity of Tribunal operations and the public interest were upheld, an additional Interim Decision and Order was issued on May 31, 2021 which stipulated that the Appellant/Property-owner now had three (3) months from the date of issuance of this Interim Decision and Order to complete the beforementioned conditions. If that was not achieved within this defined timeframe, a Final Order would be issued refusing the Variances requested.

On Monday, August 9, 2021, Ms. Costello contacted the TLAB to indicate that such work on the conditions had now been completed satisfactorily. Related materials demonstrating this had also been submitted to the Tribunal. As such, they requested that I issue a Final Decision and Order to now close this matter.

BACKGROUND

The Interim Decision and Order approved a set of variances (Appendix 1) which was subject to conditions that plans and elevations depicting this be reviewed and approved by the City. The approval would also be related to an approved set of drawings and plans (Appendix 2) to be contained within this document.

MATTERS IN ISSUE

This Final Decision and Order will need to make a determination if the Plans examination as conducted by the City has been completed appropriately. In addition, the TLAB will also have to determine if the work, as related to the conditions, has been completed thus far in a comprehensive manner which will logically result in the issuance of a heritage permit.

JURISDICTION

Provincial Policy – S. 3

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2014 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

Eileen Costello provided correspondence to the TLAB that she had with City staff relating to Plans examination process and its outcome. This was presented to materially demonstrate that her client has acted to conclusively meet the requirements that had been proffered in the Interim Decision and Order.

The other Parties to the matter were notified of these developments and requested to provide input if necessary. There was no substantial input provided by them and they raised no further concerns/issues which they wanted addressed by the Tribunal at this juncture.

ANALYSIS, FINDINGS, REASONS

Ms. Costello has provided a City Zoning and Applicable Law document to the TLAB. She indicated that this document demonstrates that the conditions, as stipulated in the Interim Decision and Decision, have now been achieved. The City Solicitor Lauren Pinder indicated that the City now believed the conditions had been satisfied and they had no concerns with the issuance of a Final Decision and Order.

In review of the material that has been presented to me, I find that the Appellant/Property-owner has completed the necessary work to address the requirements as prescribed in the Interim Decision and Order. This work has resulted in this proposal now proceeding to a stage in which a Final Decision and Order can be contemplated to be issued. There does not appear to be discernable difficulties in a heritage permit being issued for this property. Furthermore, the opposing Parties, who had reached a settlement proposal with the Appellant/Property-owner and offered no contestation to this proposal at the Hearing, also indicated here that they had no comments to raise relating to issuance of Final Decision and Order. The TLAB recognizes once more the collegial environment which has been fostered with all the interested Parties here to reach a resolution to this matter.

DECISION AND ORDER

The Interim Decision and Order is confirmed and approval of the Variances (attached herein as Appendix 1) is final, subject to the Plans contained (attached herein as Appendix 2), and to the following conditions:

1. The owner shall build the proposed addition(s) to the dwelling substantially in accordance with the plans and drawings for 100 Willcocks Street dated November 21, 2019 (the "Plans and Drawings") which shall be subject to modifications as may be required as a result of any subsequent City permit process which do not result in any additional variances.
2. The approval of the Plans and Drawings is conditional on the following:
 - a. The owner shall submit to the City's Heritage Preservation Services, building permit drawings, including plans, elevations, details and a landscape plan satisfactory to the Senior Manager, Heritage Preservation Services, and the owner has applied for alterations under Section 42 of the Ontario Heritage Act;
 - b. The owner shall have obtained approval from City Council for alterations under section 42 of the Ontario Heritage Act, and such decision is final and binding under the Ontario Heritage Act;

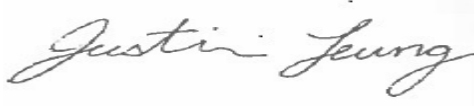
c. Prior to the issuance of a building permit, building permit drawings, including plans, drawings, the owner shall have obtained approval under section 42 of the Ontario Heritage Act for the alterations to the Part V designated building at 100 Willcocks Street;

d. The owner shall submit a complete application for a permit to injure or remove a City owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees Article II Trees on City Streets; and

e. The owner has either:

i. obtained the necessary approval(s) from right-of-way management from the City, satisfactory to the General Manager, Transportation Services in consultation with General Manager, Parks, Forestry and Recreation, for any proposed encroachment(s) and/or structure(s) proposed on the City's lands; or

ii. modified their Plans and Drawings in Condition 1, to remove any or all encroachment(s) and/or structure(s) not authorized by the City and such revisions satisfactory to the City.

X 

Justin Leung
Panel Chair, Toronto Local Appeal Body

Appendix 1

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

1. Chapter 10.5.40.60.(6), By-law 569-2013

A bay window, or other window projection from a main wall of a building which increases the floor area or enclosed space and does not touch the ground, is permitted to encroach provided that they are no closer to the side lot line than 0.6 m. The altered townhouse will have a west side, ground floor oriel window that will be located 0.0 m from the west side lot line.

2. Chapter 10.5.60.70.(1), By-law 569-2013

The total area on a lot covered by ancillary buildings or structures may not exceed 10% of the lot area (19.69 m²). The new rear one-storey detached garage will have a lot coverage of 15.77% of the lot area (31.05 m²).

3. Chapter 10.10.40.30.(1)(B), By-law 569-2013

The maximum permitted building depth for a townhouse is 14.0 m. The altered townhouse will have a building depth of 19.0 m.

4. Chapter 10.10.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index is 1.0 times the area of the lot (196.93 m²). The altered dwelling will have a floor space index will be 1.02 times the area of the lot (202.2 m²).

5. Chapter 10.10.60.20.(1)(A), By-law 569-2013

The minimum required rear yard setback and side yard setback for an ancillary building or structure containing a parking space is 1.0 m from a rear lot line or side lot line abutting a street or lane, subject to regulation 10.5.60.20.(4). The new rear one-storey detached garage will be located 0.0 m from both the east and west side lot lines.

6. Chapter 200.5.1.10.(2)(A), By-law 569-2013

The minimum required parking space must have a length of 5.6 m and a width of 2.9 m. The new rear one-storey detached garage will contain two parking spaces each 5.0 m in length and 2.6 m in width.

1. Section 4(17)(a), By-law 438-86

The minimum dimensions of a parking space accessed by a one-way or two-way drive aisle having a width of 6.0 m or more measured at the entrance to the parking space, shall be 5.6 m in length and 2.9 m in width. The new rear one-storey detached garage will contain two parking spaces each 5.0 m in length and 2.6 m in width.