

DECISION AND ORDER

Decision Issue Date: Thursday, October 14, 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): FADI HAJ-OBEID

Applicant(s): BAMDAD BAGDADI

Property Address/Description: 117 LAURENTIDE DR

Committee of Adjustment File

Number(s): 21 131619 NNY 16 MV

TLAB Case File Number(s): 21 165894 S45 16 TLAB

Hearing date: September 29, 2021

Deadline Date for Closing Submissions/Undertakings: N/A

DECISION DELIVERED BY S. MAKUCH

REGISTERED PARTIES AND PARTICIPANTS

ROLE	NAME
APPLICANT/APPELLANT'S LEGAL REP	BAMDAD BAGDADI
OWNER	RANA KARAM
APPELLANT	FADI HAJ-OBEID
EXPERT WITNESS	MICHAEL MANETT

INTRODUCTION

This is an appeal of the refusal of variances by the Committee of Adjustment. The variances are to permit a circular driveway access to the front door of a dwelling located on a lot at a sharp curve on a residential street.

BACKGROUND

The reason for the request is that the current driveway access is to built-in garages at the side of the dwelling at the basement level. The garages are at a lower level than the front door and at the side of the house. The front door is around the corner at the front of the house and at an elevation higher than the garage. . The garages are much more visible than the front door. Interior access through the garage is at a distance from the living quarters of the house. The owners are elderly and there are many deliveries because of the Covid pandemic. As a result of this unusual access most deliveries are to the garage at side of the house. It is difficult for the owners to get their deliveries. They, therefore, would like a circular drive at the front of the house for easier delivery and access for themselves.

MATTERS IN ISSUE

The issue is whether an additional driveway should be permitted when the bylaw requires access to a parking space to be from a flanking street and further that there be no parking in the front yard. No one objected to the variances.

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;
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- 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

Mr. Manett, a qualified land use planner, gave expert evidence in favour of the appeal. In his opinion the variances were technical for two reasons: 1) The sharp curve on which the dwelling was located gave the appearance of a flanking street, and 2) The additional circular drive was to be used for delivery and access and egress only and not for the parking of vehicles. There are to be no spaces for the parking of vehicles in the circular driveway and the garage will to be used for that purpose. The City staff erroneously thought a protected tree would have to be destroyed, but this was an error. There are numerous other homes the area with circular drives at the front of the properties. Mr. Manett gave evidence that the variances met the four tests and in particular respected and reinforced the character of the neighbourhood. His witness statement sets out his opinion in detail.

ANALYSIS, FINDINGS, REASONS

I find based on Mr. Manett's uncontradicted evidence that the variances should be permitted and the appeal allowed.

DECISION AND ORDER

The appeal is allowed and the variances set out below are granted:

1. Chapter 10.5.80.40(3)(B), By-law No. 569-2013. In the Residential Zone category, vehicle access to a parking space on a lot must be from a flanking street that is not a major street. The proposed vehicle access is not from a flanking street.
2. Chapter 10.5.80.10, By-law No. 569-2013. In the Residential Zone category, a parking space may not be in a front yard abutting a street. The proposed driveway and subsequent parking space(s) are in the front yard.

X 

S. Makuch
Panel Chair, Toronto Local Appeal