

DECISION AND ORDER

Decision Issue Date Monday, August 09, 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): ROBERT LONGO

Applicant(s): GORAL DESIGN

Property Address/Description: 202 LIPPINCOTT ST

Committee of Adjustment File

Number(s): 20 120833 STE 11 MV (A0259/20TEY)

TLAB Case File Number(s): 20 226598 S45 11 TLAB

Hearing date: May 25, 2021

DECISION DELIVERED BY S. KARMALI

REGISTERED PARTIES AND PARTICIPANTS

Applicant	GORAL DESIGN
Appellant	ROBERT LONGO
Appellant's Legal Representative	IAN FLETT
Expert Witness	MICHAEL MANETT

INTRODUCTION & BACKGROUND

On November 18, 2020, the Committee of Adjustment (COA) Toronto and East York Panel considered the Appellant's variance application to alter the two-and-a-half-storey mixed-use building, known as 202 Lippincott Street, containing five secondary suites. The proposed development would have a basement walkout on the south side, leading to a new secondary suite in the basement. As well, the existing rear yard garage would have a second-storey addition containing a laneway suite.

The COA record reveals that some area residents indicated opposition to all renovation projects on Lippincott Street. In contrast, other residents indicated their support for this development's overall purpose provided that all zoning by-laws are complied with.

The variances associated with the addition of the secondary basement suite within the existing mixed-use building were granted. However, the variances related to ancillary building height and angular plane penetration of the proposed laneway house were refused.

Although several interested parties were stated on the Toronto Local Appeal Body's (TLAB) Notice of Hearing Mailing List, only Mr. Flett and Mr. Manett appeared at the TLAB hearing.

I visited the subject site and familiarized myself with the surrounding Harbord Village neighbourhood context. In the immediate and adjacent contexts, I observed a stable neighbourhood consisting of row house attached dwellings, single detached homes, and instances of redevelopment in the form of additions.

MATTERS IN ISSUE

Do the following variances meet the policy and legal tests outlined in the *Planning Act*, RSO 1990, Chapter P 13?

V1. Chapter 150.8.60.40.(1), By-law 569-2013

The maximum permitted height of an ancillary building containing a laneway suite is 4.00 m.

In this case, the ancillary building containing a laneway suite will have a height of 5.85 m.

V2. Chapter 150.8.60.30.(2), By-law 569-2013

The front main wall of an ancillary building containing a laneway suite may not penetrate a 45-degree angular plane projected towards the rear lot line beginning from a height of 4.0 m at a distance of 7.5 m from rear main wall of the residential building.

The ancillary building containing a laneway suite will penetrate the angular plane.

V3. Chapter 150.10.20., By-law 569-2013

A secondary suite is not a permitted use within mixed-use building.

In this case, a secondary suite will be located within a mixed-use building.

V4. Chapter 150.10.40.1.(2)(A), By-law 569-2013

An addition or exterior alteration to an existing building to accommodate a secondary suite is permitted if it does not alter or add to a front wall, or roof that faces a street.

In this case, the basement walkout leading exclusively to the basement secondary suite will alter the front wall that faces a street.

V5. Chapter 10.10.40.1.(3), By-law 569-2013

The maximum permitted number of dwelling units on the lot is one.

In this case, the altered mixed-use building will contain six dwelling units.

JURISDICTION

Provincial Policy – S. 3

A decision of the Toronto Local Appeal Body must be consistent with the applicable Provincial Policy Statement (PPS) and conform to the applicable 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-law (ZBL 569-2013);
- are desirable for the appropriate development or use of the land; and
- are minor.

EVIDENCE, ANALYSIS, FINDINGS, REASONS

I accepted the following items as exhibits for the evidentiary record:

Exhibit 1 – Applicant Disclosure – Existing and Proposed Plans

Exhibit 2 – Photo Book

Exhibit 3 – Neighbourhood Map

Exhibit 4 – CV, Duty Form, and Expertness Witness Statement of Mr. Manett

Mr. Manett is a Member of the Canadian Institute of Planners and a Registered Professional Planner with the Ontario Professional Planners Institute. He has many years of professional planning experience, according to his curriculum vitae. I qualified him to provide me with expert opinion evidence in land use planning.

He explained the proposed development: to build a laneway suite on top of the existing rear garage, which is accessed using Antonio Fernandes Lane. He stated that the development would provide one dwelling unit and two parking spaces and would be 6.71 metres in length, 6.1 metres in width, and 5.85 metres in height.

Mr. Manett indicated that the proposed development is consistent with the PPS and conforms to the Growth Plan. He elaborated that the proposed development respects provincial direction to provide housing and the efficient use of land. I accept his opinion about these broad-level policies in respect of the proposal.

Mr. Manett testified it is common for properties to include multiple dwellings within one building. He stated that there are fifteen laneway suites nearby and parallel to Croft Street between Harbord Street and College Street. He highlighted 178R Lippincott Street as a current example similar to the proposal.

He referred to and expounded on the Official Plan's policies related to Healthy Neighbourhoods, Housing, and Development Criteria for Neighbourhoods. Mr. Manett testified that the proposed development and its helpful corner lot situation would allow it to be compatible with the existing and planned context. He added that the massing and scale would be in keeping with both contexts. Mr. Manett referred to his photobook. He highlighted nearby laneway suites at 50 Croft Street, 54 Croft Street, and 92-96 Croft Street, all of which seem to have more significant massing and size than the proposed development.

Mr. Manett opined that the proposal would provide housing in a secondary rental unit, consistent with the City's Official Plan housing policies.

He generally defined the broad and immediate contexts to analyze the proposal in terms of neighbourhood policies. For example, he said the proposed laneway suite would be consistent with the heights, massing, scale and dwelling type of the nearby properties. The proposed secondary suite, Mr. Manett said, would be consistent with other developments of rear detached garages in the neighbourhood that are being used for housing or office and professional uses.

Mr. Manett testified that the 2018 City of Toronto Laneway Suites report posits that the angular plane and height permissions are "purposefully connected and intended to preserve the existing massing of the laneway and the openness of rear yards." He further testified that the existing rear yard is relatively closed and limited in size.

His overall Official Plan opinion given the proposal is that there would be no impact on adjacent properties or the laneway's existing physical character. He concluded that the application would maintain the general intent and purpose of the City of Toronto Official Plan. I accept his opinion.

Mr. Manett elaborated on all the variances that make up the proposal and why he believes they should be approved. In his zoning by-law analysis, he provided sufficient land use planning opinion evidence for Height (V1) and Angular Plane Penetration (V2), which were the variances refused by the COA. He opined that height and angular plane standards related to laneway suites are based on separation distance. He further opined that the purpose is to preserve the laneway's existing massing and character and limit the impact on adjacent properties.

The permitted height of a laneway suite that is part of an ancillary building is a maximum of 4 metres, while the height proposed is 5.85 metres. Mr. Manett confirmed that massing and character would be preserved with the proposal despite the box-like appearance.

The angular plane projected towards the rear lot line beginning from a height of 4.0 metres is at a distance of 4.8 metres from the rear main wall of the residential building, and the angle is 50 degrees. Mr. Manett opined that the rear main wall is measured from the one-storey extension located at the rear of the main building and not the main building's rear wall. According to the proposed site plan, this measurement is related to the proposed cubic structure and the existing units attached to the main building. Mr. Manett testified that the rear yard setback of the building has been reduced significantly, which has triggered the requirement for this variance.

The subject property is zoned Residential, and the City Zoning Notice indicates the subject site is a mixed-use building. A secondary suite is not a permitted use in a mixed-use building. However, Mr. Manett said that a secondary suite should be permitted given the residential built form, the proximity to transit of the proposed development and the neighbourhood context of multi-unit buildings.

The proposed walkout is on a front wall that faces a street. Mr. Manett said that the alteration would occur along the Ulster Street frontage and rear laneway.

The permitted maximum number of dwelling units on the lot is one. There are, however, five existing dwelling units and another is proposed in the basement. Mr. Manett said that many former single-detached houses had been converted into multiple-unit buildings within the neighbourhood. He added that previous COA decisions regarding laneway and secondary suites had permitted increases of up to as many as five units on one property. He further added that to permit one additional unit on the subject property, through the creation of one laneway suite, would be in keeping with prior decisions deemed consistent with the purpose and intent of the ZBL 569-2013.

Mr. Manett testified that the proposal would fit comfortably into the immediate and broader neighbourhood. He further testified that allowing an additional unit on the subject property is consistent with prior quasi-judicial decisions. As well, the additional unit is an appropriate type of development that further implements the direction of the City to make efficient use of land through the development of laneway suites.

Mr. Manett again confirmed that properties adjacent to the proposed laneway would not be adversely impacted. These properties already have compact rear yards. He pointed out that the laneway garage across the laneway to the west of the subject site is greater in height and massing than what is proposed.

Mr. Manett's summary planning opinion is that the proposed variances individually and cumulatively meet the general intent and purpose of the Toronto Official Plan and ZBL 569-2013, are desirable for the appropriate development and use of the land and are minor in nature.

I generally accept Mr. Manett's uncontroverted evidence and agree with his summary planning opinion.

DECISION AND ORDER

1. The appeal is allowed. The Committee of Adjustment decision is set aside.
2. The variances identified in **Attachment A** are approved in substantial compliance with the proposed plans identified in **Attachment B**.
3. Should there be any difficulty in implementing this Decision and Order, the TLAB may be spoken to.

X

Sean Karmali
Panel Chair, Toronto Local Appeal Body

ATTACHMENT A:

APPROVED VARIANCES TO ZONING BY-LAW 569-2013:

1. Chapter 150.8.60.40.(1), By-law 569-2013

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ATTACHMENT B:

PROPOSED PLANS

