

DECISION AND ORDER

Decision Issue Date Thursday, September 23, 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): DONNA JOY STEINECKE

Applicant(s): JACK STANLEY KRUBNIK

Property Address/Description: 14 FIELDSTONE RD

Committee of Adjustment File

Number(s): 20 152304 WET 02 MV (A0336/20EYK)

TLAB Case File Number(s): 21 133315 S45 02 TLAB

Hearing date: August 18, 2021

Deadline Date for Closing Submissions/Undertakings:

DECISION DELIVERED BY A. Bassios

REGISTERED PARTIES AND PARTICIPANTS

**Decision of Toronto Local Appeal Body Panel Member: A. Bassios
TLAB Case File Number: 21 133315 S45 02 TLAB**

Applicant/ Party	Jack Stanley Krubnik
Owner	Christine Krubnik
Appellant	Donna Joy Steinecke
Appellant's Legal Rep.	Richard Helmut Steinecke
Participant	Pasquale Piazza

INTRODUCTION

This is an Appeal of the Etobicoke York panel of the City of Toronto (City) Committee of Adjustment's (COA) approval of an application for a variance at 14 Fieldstone Rd (subject property). The purpose of the application is to facilitate the construction of a new basement walkout. The subject property is located in the Markland Woods neighbourhood in the former City of Etobicoke. It is designated *Neighbourhoods* in the City Official Plan (OP) and zoned RD (f13.5; a510; d0.45) under Zoning By-law 569-2013 (By-law).

In attendance at the Hearing were: Richard Steinecke, legal counsel for the Appellant, and Donna Steinecke, the Appellant, and Jack Krubnik, the Owner/Applicant.

I advised those present at the Hearing that I had attended at the site and the surrounding area and had reviewed the pre-filed materials but that it is the evidence to be heard and referenced that is of importance.

BACKGROUND

The Applicant proposes to convert a portion of the existing basement at the subject property to create a secondary suite, including the construction of a basement walkout.

REQUESTED VARIANCE TO THE ZONING BY-LAW:

Section 10.5.40.60.3(A)(iii), By-law 569-2013

Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no closer than 0.6 m to a lot line.

The proposed stairs will be located 0.2 metres from the west side lot line.

MATTERS IN ISSUE

The Appellant's primary concern was that the variance would affect water drainage from the surrounding back yards. There is a drainage swale between the houses of the Applicant and that of the Appellant that drains water from adjacent yards.

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

A substantial part of Mr. Krubnik's evidence was focused on justification of the second suite which he intends to establish in his existing basement. The Appellant did not object to or contest the creation of the second suite.

In the process of Mr. Krubnik's provision of evidence, he referenced an engineering report that had been commissioned by the Appellant from Haddad Geotechnical Inc. The engineering report proposed that there could be two measures to minimize the flow of excess surface water on to the property owned by the Appellant:

- a. to move the proposed basement walkout entrance for the west side to the north side of the house on the subject property
- b. to install an area drain or catch basin on the 14 Fieldstone Rd property, to the north of the proposed basement entrance to intercept surface water, which would then be directed into a buried drain pipe located along the west side of the walkout, within the limit of the 14 Fieldstone property, to outlet in the existing drainage swale along the property line south of the houses.

In referencing the two options outlined in the engineering report, Mr. Krubnik affirmed that the Haddad report regarding the catch basin would work, and he would accept that solution.

I confirmed with Mr. Krubnik that he was prepared to accommodate the second option, and that he was prepared to install a catch basin as suggested. Mr. Steinecke and Ms. Steinecke agreed that if Mr. Krubnik was prepared to commit to this solution, they would have no further objection. (Mr. Steinecke noted that he had suggested mediation prior to the Hearing and Mr. Krubnik had not agreed).

On the basis of this commitment from both Parties, the Hearing was converted to a Settlement Hearing.

After a break, during which the Parties discussed the language of a condition to be attached to the approval of the variance, the Hearing reconvened. The following condition was agreed to by the Parties.

That the Applicant, Mr. Krubnik, construct the stairwell in accordance with a sealed design and specifications by a licensed professional engineer, which written design and specifications shall be provided to the Appellant, Ms. Steinecke, at least eight weeks in advance of the commencement of construction, which design and specifications shall include:

- a. An appropriately sized catchment basin north of the stairs with a suitable below grade drainage pipe draining southwards; and
- b. Specifications on how to construct the stairwell to prevent collapse of earth during the construction, such as with shoring.

ANALYSIS, FINDINGS, REASONS

I find that the requested variance maintains the general intent and purpose of the OP in that it supports small scale intensification and does not offend any of the policies of the OP. I find that the requested variance maintains the intent and purpose of the Zoning By-law as the reduced side yard setback will still not compromise access into the rear yard of the subject property and drainage will be improved. I find, for the same reasons, that the variance is desirable for the development of the land and that it is minor. I find therefore, that the tests set out by s.45(1) of the *Planning Act* have been met and the variance is approved subject to the agreed-to condition.

DECISION AND ORDER

1. The appeal from the decision of the Committee of Adjustment is allowed, in part. The requested variance is authorized subject to the condition as set out below.

Variance:

Section 10.5.40.60.3(A)(iii), By-law 569-2013

Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no closer than 0.6 m to a lot line.

The proposed stairs will be located 0.2 metres from the west side lot line.

Condition:

That the Applicant, Mr. Krubnik, construct the stairwell in accordance with a sealed design and specifications by a licensed professional engineer, which written design and specifications shall be provided to the Appellant, Ms. Steinecke, at least eight weeks in advance of the commencement of construction, which design and specifications shall include:

- a) An appropriately sized catchment basin north of the stairs with a suitable below grade drainage pipe draining southwards; and
- b) Specifications on how to construct the stairwell to prevent collapse of earth during the construction, such as with shoring.

X



A. Bassios
Panel Chair, Toronto Local Appeal Body