

# INTERIM DECISION AND ORDER

**Decision Issue Date**      Tuesday, October 05, 2021

PROCEEDING COMMENCED UNDER Section 53, subsection 53(19), Section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): CITY OF TORONTO

Applicant(s): DENNIS WOOD

Property Address/Description: 84 NORTH DR; PARTS 1 & 2; PARTS 5, 6, 7, 8, 11 & 12

Committee of Adjustment File

Number(s): 20 158548 WET 02 CO (B0024/20EYK), 20 158552 WET 02 MV

(A0243/20EYK), 20 158553 WET 02 MV (A0242/20EYK)

**TLAB Case File Number(s): 20 230446 S53 02 TLAB, 20 230447 S45 02 TLAB, 20 230450 S45 02 TLAB**

**Hearing date: June 17, 2021 – September 13, 2021 and September 14, 2021**

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

**DECISION DELIVERED BY S. GOPIKRISHNA**

## REGISTERED PARTIES AND PARTICIPANTS

Owner	HALINA KRZYWUCKA
Applicant	DENNIS WOOD
Appellant	CITY OF TORONTO
Appellant's Legal Rep.	MICHAEL MAHONEY CITY OF TORONTO
Participant	GIULIO CANCELLI
Participant	M JUDITH ORR
Participant	ADA ZRADO
Participant	JOSEPHINE COMELLA
Participant	SUSAN YIP
Participant	LORA CANTARUTTI
Participant	TATIANA SAMILA
Participant	DARIA OLYNYK
Participant	BUTTONWOOD HILL RESIDENTS' A
Participant	MARK NOTTEN
Participant	LORETTA NOTTEN
Participant	ELIZABETH BURLACOFF
Participant	LAURINDA ANDERSON
Participant	RASHA BASSYOUNI
Participant	IAN ANDERSON
Participant	CHRISTOPHER WALTER LEM
Participant	IRINA PASECHNIK
Participant	NANCY ROPER
Participant	PAULINE SALIBA
Participant	DIANA MURRAY
Participant	RICARDO ALCOLADO PEREZ
Participant	ANNE ANDERSON
Participant	JUDY SUSAN SMITH

Participant	MARIA SHOSTAK
Participant	MATTHEW VETTESE
Participant	GEORGE MCKETTON
Participant	COSIMO COSTA
Participant	PIETRO COSTA
Participant	SAM TEHRANCHI
Participant	FRANCA RACCO
Participant	MARLA VETTESE
Participant	MICHAEL TKACH
Participant	ANNE BARNES
Participant	MARK COUTTS
Participant	GEOFFREY COUTTS
Participant	TAMRA COLANGELO
Participant	MARIA GALATI-MATAR
Participant	LARA ARMOUR
Participant	IRENE KREMBLEWSKI
Participant	ADRIANA LEES
Participant	JOYCE MCCUTCHEON
Participant	SALLY ROPER
Participant	BARBARA KNECHTEL WILDS
Participant	JOSEPH CHU
Participant	FRANCESCO PLASTINA
Participant	GARRY YIP
Participant	JEFFREY LEM
Participant	TED KULAR
Participant	SHARON KULAR
Participant	RON ZRADO
Participant	GAIL COOK-BENNETT

Participant	MURRAY SMITH
Expert Witness	FRANCO ROMANO
Expert Witness	TRISTA JAMES
Expert Witness	CELINE BATTERINK
Party (TLAB)	PIOTR KRZYWUCKI
Party's Legal Rep.	DENNIS WOOD
Party's Legal Rep.	ANGELA FANG
Participant's Legal Rep.	MURRAY SAMUEL SMITH

## **INTRODUCTION AND BACKGROUND**

Halina Krzywucka and Piotr Krzywucki are the owners of 84 North Drive, located in Municipal Ward Etobicoke Centre (Ward 2) of the City of Toronto. They applied to the Committee of Adjustment (COA) to obtain consent to sever the lot into two residential lots, and build a two storey detached dwelling, on each of the resulting lots. The COA heard the application on December 3, 2020 and approved the severance, as well as the construction of the dwellings.

On December 18, 2020, Ms. Adrienne deBacker, a lawyer with the City of Toronto, appealed the COA's decision to the Toronto Local Appeal Body (TLAB). A number of community members elected for Participant status.

The Proceeding commenced on June 17, 2021 and continued on September 13, 2021 and September 14, 2021. Ms. Celine Batterlink and Mr. Romano testified for the Applicant in the areas of Natural Heritage Matters, and Land Use Planning respectively. On the afternoon of September 14, 2021, Ms. Trista James, the City of Toronto's Expert Witness in the area of land use planning, began her testimony.

After listening to Ms. James' testimony with respect to the lot study, I stated that I would require more information about the prevailing type with reference to frontages and areas in order to come to supportable conclusions. The Parties requested me for instructions on what information I needed so that Ms. James could complete the requisite analysis, and submit the requested information to the TLAB, in advance of the next Hearing date.

The next question that came up for discussion was the reconvening of the Proceeding. We agreed that in order to respect the request from the Neighbourhood Association looking to make a presentation after hearing both the Parties (the Applicants and the Appellants), it would be necessary to have **two more days of Hearing** ( my emphasis). It is hoped that Ms. James' Examination-in-chief, Cross-Examination, and Re-examination would be completed on one day, while the last day of Hearing would

include a Presentation from the Residents, followed by Reply evidence from Mr. Romano, and Oral Argument.

Mr. Wood requested that no Hearings be held in the month of October and November for personal reasons, of which he provided details. I assured Mr. Wood that I was sensitive to his situation, and would not schedule a Hearing till December 2021.

After some discussion, it was agreed that the Buttonwoods Residents' Association would be given a week ( 1 week) after the completion of Ms. James' evidence to submit their presentation to the TLAB. The last day of the Proceeding would commence a week after the Residents' Association submitted their presentation- in other words, there would be a two week gap between days 3 and 4 of the Proceeding. I informed the Parties that the TLAB staff would be in touch with them to identify Hearing dates in December 2021, for completing the Proceeding.

The Hearing held on September 14, 2021 adjourned with my stating that I would send out an Interim Decision in early October 2021, which would discuss the information that I needed Ms. James to provide in her submissions, as well as identify Hearing dates to complete this Proceeding, as well as the date by which the Buttonwoods Residents Association would have to submit their presentation.

On September 15, 2021 I was informed by the TLAB Staff that the Parties were available on December,2, 2021 and December 16, 2021.

## **ANALYSIS, FINDINGS, REASONS**

Given that "prevailing" is one of the important issues canvassed, I would encourage the City to identify the "prevailing" type with respect to the lot frontage, as well as the lot area, both at the Geographic Neighbourhood level, as well as the Immediate Context. In other words, The Witness has the ability to categorize the frontages and areas into groups as she deems appropriate- frontages less than 15 m constituting one group, frontages between 15-19.99 m constituting a different group, as seen in her existing Witness Statement), or count each lot frontage and area individually ( i.e. where a frontage of 17 m is distinguished from a frontage of 17.2 m, which in turn is distinguished from a frontage of 17.5 m)..

It is important that the Witness demonstrate that she counted both the frontages, and the lot areas to determine the "prevailing" type, and explain her rationale for the categorization, and identify the prevailing type based on her analysis.

Lastly, I also instruct the Witness to complete a "Street Study" in her Geographic Neighbourhood- it would be helpful to know the lengths of various streets, number of houses on each street, number of blocks on every street, and the number of houses on every block, and present the information in a tabular form. The Witness may include any commentary she deems appropriate regarding the street pattern, distribution and categorization of the streets.

This information can be made available to the TLAB, as well as the Applicants by the **end of the day on November 12, 2021** ( My emphasis). Any Response from the Applicants to the information provided by the City needs to be completed by the end of the day on November 19, 2021, while the City can provide a Response ( where needed and appropriate) by November 26, 2021.

Based on the information provided by the TLAB Staff after the Hearing, I understand that the Parties and Participants are able to participate in Hearings scheduled for **December 2, 2021 and December 16, 2021**, and that Hearing Notices have been issued for these dates.


The Buttonwood Hills Residents Association is instructed to submit its presentation to the TLAB, as well as the Parties, **by the end of the day on December 9, 2021**.

## **INTERIM DECISION AND ORDER**

1. The City is instructed to submit the following studies to the TLAB, and the Applicants by the end of the day on November 12, 2021:
  - a) Statistical information about the frequency of lot frontages, both within their Geographic Neighbourhood, and their Immediate Context. The data needs to be compiled in a tabular form, and the Prevailing type needs to be established through a counting exercise based on the information in the tabular form.
  - b) Statistical information about the frequency of lot areas of properties within the Geographic Neighbourhood, and the Immediate context. The data needs to be compiled in a tabular form, and the Prevailing type needs to be established through a counting exercise based on the information in the tabular form.
  - c) A Street Study with information about the lengths of streets in the Geographic Neighbourhood of choice, no of houses on each street, number of blocks on each street, and the number of houses in each block. This information has to be provided in a tabular format
2. The City is given time till the end of the day on November 12, 2021, to submit this information
3. The Proceeding will resume on December 2, 2021 and conclude on December 16, 2021. The Buttonwoods Residents Association is instructed to submit their presentation to the TLAB, and the Parties by the end of day on December 9, 2021.

The TLAB may be spoken to in case should any clarification be required.

So orders the Toronto Local Appeal Body.

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S. Gopikrishna  
Panel Chair, Toronto Local Appeal Body