

INTERIM DECISION AND ORDER

Decision Issue Date Friday, July 30, 2021

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

Appellant(s): SMRITEE NEHRU

Applicant(s): ROCKIM DESIGN INC

Property Address/Description: 435 MEADOWVALE RD

Committee of Adjustment File

Number(s): 20 134443 ESC 25 MV (A0092/20SC)

TLAB Case File Number(s): 20 205955 S45 25 TLAB

Hearing date: May 3, 2021 & June 28, 2021

Deadline Date for Closing Submissions/Undertakings:

DECISION DELIVERED BY S. GOPIKRISHNA

REGISTERED PARTIES AND PARTICIPANTS

Applicant	ROCKIM DESIGN INC
Appellant	SMRITEE NEHRU
Expert Witness	AIMEE POWELL
Participant	NORMA ANNE BROWN
Participant	MOHAMMED CHOWDHURY
Participant	CLAIRE MCMANUS
Participant	MINORA COUTINHO

INTRODUCTION AND BACKGROUND

The purpose of this Interim Decision is to respond to the proposal put forward by the Appellant/Applicant at the end of the Hearing held on June 28, 2021, to submit a

shadow Study to demonstrate the impact of the planned additions to the existing semi-detached housing at 435 Meadowvale Road. Ms. Aimee Powell, the planner representing the Appellant, suggested that should the TLAB choose to approve the proposal, and allow the Appeal, the Panel Member could impose a condition that a shadow study be submitted.

From the evidence given to me by the Planner, Ms. Powell, I understood that the surrounding community had experienced a considerable amount of change, allowing the community to evolve without being destabilized. However, this evidence was not substantiated by way of photographs, or COA decisions to demonstrate that such an evolution had taken place in the community. When I asked if a semi-detached house in the vicinity of the Subject Site, had experienced the kind of change that was contemplated through the Appeal in front of me, I was informed that the answer was “no” i.e.- no semi-detached house had undergone the change contemplated in this proposal.

MATTERS IN ISSUE

This Interim Decision analyzes the following questions:

- 1) Is it feasible for a shadow study to be submitted in response to a condition imposed by the Toronto Local Appeal Body, (as suggested by the Appellant) and undergo a fulsome analysis at the Site Plan Approval stage?.
- 2) The necessity to understand what change has taken place in the neighbourhood in the recent past to contextualize the change proposed in the application.

ANALYSIS, FINDINGS, REASONS

At the very outset of this Section, it is important for me to state that I have insufficient information to come to a supportable Decision regarding the approval, of the variances requested by the Appellant at 435 Meadowvale.

As stated in the “**Introduction and Background Section**” above, the Appellant asserted that the community in which the Subject Site was located had undergone considerable change, as is expected in any community. However, there was nothing to substantiate this assertion by way of a photo-study or a photo-tour, notwithstanding a specific question from me regarding this matter. I also learnt that this proposal, if approved, would be the first example of a semi-detached home’s being enlarged through additions, in this community.

I find that approving the proposal can result in an exemplar being established for significant change in the community

In order to better understand what change has already taken place in the community, I direct the Appellant to submit a neighbourhood study- they need to choose a Geographic Neighbourhood, (as defined in the Official Plan), and demonstrate what changes that have taken place in their neighbourhood of choice through a photo-tour,

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and/or analysis of previous Committee of Adjustment decisions, from within this area. Adjacent and Immediate Neighbourhoods (as defined in the Official Plan) may be identified within the Geographic Neighbourhood, and analyzed to demonstrate that the changes in question have not destabilized the community.

As regards the submission of shadow studies, I would like to begin by commending Ms. Powell for her suggestion, about providing such a study. A shadow study is necessary to understand the impact of a given proposal on its neighbours, with specific reference to shadows cast on neighbouring properties, and access to light, both of which are crucial to sound planning principles, and Decision making purposes. While shadow studies are not required of buildings less than four floors under the City of Toronto guidelines, they are valuable for understanding the impact of potential impacts of a new building on its neighbours.

Following the recommendation of the Appellant, should the TLAB approve the proposal, and recommend a shadow study to be submitted, the logical forum for examining the submitted shadow study would be the City of Toronto's Office for Site Plan Approval. There are two issues with this process:

- a) After the completion of the Hearing, I learnt that the Site Plan Approval process asks for shadow studies, only if the building is more than six floors in height. The Appeal before me clearly does not fall into that category. There is no clear direction about if, or what level of detail the Office in charge of Site Plan Approval would examine a shadow study submitted by the Appellant, for a building shorter than six floors, even if at the behest of the TLAB Order.
- b) More importantly, there is no scope for input, or comment from community members at the Site Plan Approval stage- in other words, any analysis completed through the Site Plan Approval process, will exclude the very community members that expressed concerns about the alleged loss of sunlight in the first place. Discussions at the Site Plan Approval stage are restricted to the Appellant.

However, the TLAB has the jurisdiction to examine shadow studies, and include them in an analysis about the impact of the proposal, on the neighbouring properties.

I find that the Applicant should be given an opportunity to produce a shadow study, which follows City of Toronto's guidelines for shadow studies, as well as a neighbourhood study, as described above. I believe that it would be appropriate to provide an opportunity to the neighbours who participated in the Hearing, to send Response statements with their comments, and conclusions in response to the studies, as well as give the Appellants an opportunity for any Reply, as they deem appropriate.

An Oral Hearing may then be held by the TLAB, to obtain evidence from the Appellant, and those in Opposition, solely in response to the studies discussed in the previous paragraphs.

The following deadlines are provided for the submission of the Studies requested in this Interim Decision and Order, as well as the Responses from the neighbours, and Reply.

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- 1) The neighbourhood sStudy, which delineates the Geographic Neighbourhood, and Immediate Context, and an analysis of change through a photo-tour, and/or COA decisions, may be submitted by the Appellants by September 3, 2021. This material needs to be served electronically on all the neighbours who elected for Participant status.
- 2) The community members who elected to be Participants can submit Responses to the studies by September 10, 2021. These Responses need to be served on the Appellants, as well as Participants.
- 3) The Appellant can submit a Reply, in response to the Responses by September 15, 2021. The Reply needs to be served on all Participants who responded by, or on September 10, 2021
- 4) The Hearing where oral evidence will be presented on these studies will be scheduled on a priority basis by the TLAB, subject to availability of the Parties and Participants. The TLAB staff will be in touch with the Party, and Participants, to schedule this Hearing.

I emphasize that any evidence collected through the aforementioned process is restricted to the neighbourhood study, and the shadow study. Other aspects of the proposal shall not be commented upon by way of evidence, or submissions at the contemplated Hearing, because that evidence is already available to the TLAB. It is also emphasized that no decision has been reached at this point in time regarding this Appeal- the submissions of these studies is not to be interpreted as the Appeal being allowed.

The TLAB can be spoken to by the Appellant, if there are any issues with the timeline provided above. Should the Appellant not follow through with the requested Studies by September 3, 2021, then I will come to a Decision based on the existing evidence, and submissions that have been made available by the Party and the Participants.

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- 1) The Appellant is directed to provide a neighbourhood study, consisting of a photo tour and/or Committee of Adjustment decisions, in a neighbourhood of their choice, consistent with the City of Toronto's Official Plan. This study needs to be submitted by September 3, 2021, and served on all Participants
- 2) The Appellant is directed to provide a shadow study, which demonstrates the impact of the proposal on the neighbouring properties. The study shall follow the City of Toronto's guidelines regarding shadow studies, and shall be submitted by September 3, 2021, and served on all Participants.
- 3) The Participants in opposition to the proposal can file Responses to the TLAB, corresponding to the studies submitted by the Appellant by September 10, 2021. The Response needs to be restricted to the information provided in the studies referenced in (1) and (2) above, and shall be served on the Appellant, and other Participants

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- 4) The Appellant can file a Reply statement by September 15, 2021- this Reply shall be served on all Participants who responded on, or before September 10, 2021.
- 5) Should no studies be submitted by September 3, 2021, the TLAB will come to a Decision based on the existing evidence, and submissions made available by the Party and Participants, at the Hearing held on June 28, 2021.

The Appellants can speak to the TLAB if there are any issues with the suggested timeline.

So orders the Toronto Local Appeal Body

X



S. Gopikrishna
Panel Chair, Toronto Local Appeal Body