

Order

Decision Issued: Tuesday, November 23, 2021

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

Appellant(s): Cheryl Tredgett

Applicant: Michael Grisch

Ian Robertson

Property Address/Description: 20 Woodland Park Rd

Committee of Adjustment Case File Number: A0279/20SC

TLAB Case File Number: 21 163972 S45 20 TLAB

Teleconference Date: Thursday, November 18, 2021

ORDER DELIVERED BY Dino Lombardi

APPEARANCES

Applicant's Legal Counsel

Tara Piurko

Appellant's Legal Counsel

Alan Heisey

Party

Michael Sean Gaudet

Party

City of Toronto

Party's Legal Representative

Gabriela Dedelli

Observer

David Igelman (Miller Thomson LLP)

Observer
LLP)

Sandra Luna-Martinez (Miller Thomson

INTRODUCTION AND BACKGROUND

On May 12, 2021, the Scarborough Panel of the City of Toronto (City) Committee of Adjustment (COA) conditionally approved the Application, submitted on behalf of Todd and Vanessa Burdon (Owners) of 20 Woodland Park Road (subject property). The Owners received approval for eight (8) variances in total in order to construct a new, two-storey residential dwelling on the subject property.

Ms. Cheryl Tredgett, the abutting neighbour, and Mr. Michael Sean Gaudet, an adjacent neighbour, appealed the COA decision to the Toronto Local Appeal Body (TLAB) and the Tribunal issued a Notice of Hearing (Form 2) pursuant to the TLAB's Rules of Practice and Procedure (Rules) setting a return 'virtual' Hearing date of October 19, 2021, to hear the appeal.

On the 'return-to' Hearing Day, the Parties agreed to participate in TLAB-led confidential and non-binding Mediation which consumed most of the day. Unfortunately, no settlement was reached on the issues in dispute in this matter and the matter was adjourned.

As a result, the presiding Member directed that a new Hearing date to hear the matter be scheduled. After consulting with TLAB staff, four (4) possible dates were provided to the Parties – November 4th, November 29th, November 30th, and December 1st, 2021. All the Parties, apart for the City, indicated their availability for the latter three dates.

Ms. Piurko suggested that since a second Hearing date may be required to hear this appeal, a second date should be secured at this time as well. The Parties agreed, were canvassed for their availability, and November 29th and 30th were the two dates tentatively identified for Hearing Day 1 and 2, respectively.

I advised the Parties that TLAB staff would secure those dates and then issue a new Notice of Hearing for the two dates. I also advised that due dates for document disclosure advanced in the previous Notice of Hearing issued July 6, 2021, would remain the same.

However, following the conclusion of the Mediation session, I realized that I was unavailable to preside on the return Hearing date of November 29, 2021 (Hearing Day 1) because of a previous commitment. Consequently, I requested that TLAB staff again canvas the Parties to determine whether the two Hearing dates could be rescheduled as follows – November 30, 2021 (Hearing Day 1) and December 1, 2021 (Hearing Day 2).

After a further canvassing, these two dates were acceptable.

On November 1, 2021, Mr. Guadet contacted the TLAB by email and advised that he was unable to attend the December 1st Hearing Day due to a scheduling conflict. I immediately directed TLAB staff to, again, reschedule Hearing Day 2 and canvas the

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Parties for their availability providing six (6) possible dates in December 2021: December 2nd, 3rd, 6th, 7th, 14th, and 15th.

On November 8th, Ms. Piurko advised that the Applicant was ready to proceed with the Hearing on November 30th and December 1st as scheduled and further that *“the Applicant **DOES NOT** consent to a change of hearing dates,”* referencing Rule 17.2 of the TLAB’s Rules.

I asked TLAB staff to schedule a Telephone conference Call with the Parties to ascertain from Ms. Piurko and the Applicant as to why they were unwilling to consider the alternate dates offered by the Tribunal.

MATTERS IN ISSUE

The only matter in issue is whether the Parties are available for any of the alternate Hearing dates put forward by the TLAB to accommodate Hearing Day 2.

JURISDICTION

Rules 2.1, 2.2, and 2.3 of the TLAB’s Rules of Practice and Procedure:

Rule 2.1 - The TLAB is committed to fixed and definite dates. These Rules shall be interpreted in a manner which facilitates that objective.

Rule 2.2 – These Rules shall be liberally interpreted to secure the just, most expeditious and cost-effective determination of every Proceeding on its merits.

Rule 2.3 – The TLAB may exercise any of its powers under these Rules or applicable law, on its own initiative or at the request of any Person.

EVIDENCE

The TLAB had before it the email from Mr. Gaudet dated November 1, 2021, stating his unavailability to attend Hearing Day 2 on December 1st. Also in evidence was the chain of emails between Ms. Piurko and Mr. Gaudet, including the email from Ms. Piurko dated November 8, 2021, advising of the Applicant’s reluctance to agree to rescheduling Hearing Day 2.

In addition, my email to TLAB staff case manager for this file, dated November 5, 2021, directing that staff contact the Parties and Participants to apologize for my unavailability on November 29th, and my direction to canvas the Parties to reschedule Hearing Day 2 for any one of the six alternate dates I provided.

ANALYSIS. FINDINGS, REASONS

It became apparent that the direction I provided to TLAB staff in my email of November 5th to contact the Parties in this matter and canvas their availability for any of the six possible, alternate Hearing 2 dates was not executed.

The Parties stated that they were not made aware of those dates by Tribunal staff and, therefore, did not respond nor provide their availability. Following further discussion, the Parties in attendance agreed that December 3, 2021, was the best date to reschedule Hearing Day 2.

I apologized for TLAB staff's error and the misunderstanding in this regard and confirmed my availability for December 3rd as well. I advised the Parties that I would direct staff to issue a new Notice of Hearing (Day 2) for the date agreed to.

ORDER

Hearing Day 1 in this matter will remain as scheduled for November 30, 2021.

The Hearing date of December 1, 2021, previously scheduled as Hearing Day 2 in this matter, is cancelled.

Hearing Day 2 will take place at 9:30 am on Friday, December 3, 2021, by WebEx. TLAB staff is directed to issue a new Notice of Hearing for Hearing Day 2. The due dates previously established will remain in place.

2021-11-22

X 

Dino Lombardi
Panel Chair, Toronto Local Appeal Body
Signed by: dlombar