

ORDER

Decision Issue Date Monday, November 29, 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 Singer

Applicant: Jonathan Weizel Architect

Property Address/Description: 466 Fairlawn Ave

Committee of Adjustment Case File Number: A0341/21NY

TLAB Case File Number: 21 180306 S45 08 TLAB

Hearing date: Wednesday, November 24, 2021

DECISION DELIVERED BY D. Lombardi

REGISTERED PARTIES AND PARTICIPANT

Appellant	Robert Singer
Appellant's Legal Rep	Kristie Jennings
Expert Witness	Nick Pileggi
Applicant	Jonathan Weizel Architect
Owner	Noah Tenser
Expert Witness	Martin Rendl
Party	Sten Homes Inc
Party's Legal Rep	Meaghan McDermid

INTRODUCTION AND BACKGROUND

This is an appeal of a decision of the City of Toronto (City) Committee of Adjustment (COA) dated June 17, 2021, conditionally approving seven (7) variances to permit the construction of a new residential dwelling at 466 Fairlawn Avenue (subject property) in the former City of North York.

Mr. Robert Singer, the abutting neighbour, appealed the COA's decision to the Toronto Local Appeal Body (TLAB) which set a Hearing date of November 18, 2021.

In the intervening period, the Appellant's solicitor, Ms. Jennings, contacted the TLAB to advise that the Parties had consented to adjourning the Hearing date to November 24, 2021, and to a corresponding extension in the established deadline dates outlined in the original Notice of Hearing issued August 18, 2021, by five (5) additional days. Ms. Jennings explained that since no other Parties or Participants had elected status in the appeal matter, they sought to avoid filing a Motion to recognize the agreed upon extension.

Those extension dates were identified as follows:

- *Expert Witness Statements – due October 25, 2021;*
- *Responding Expert Witness Statements – due November 8, 2021;*
- *Reply Witness Statements – due November 17, 2021.*

In an email response from the TLAB to Ms. Jennings and carbon copied to the Applicant, dated October 5, 2021, staff advised the requesting Parties that interlocutory relief for late filings was permissible only by the Tribunal's written Motion process pursuant to the TLAB's Rules of Practice and Procedure (Rules). No response was received from either Party in this regard.

On the return-to November 24th Hearing date, this matter was raised by the presiding Member and the Parties were requested to explain why no Motion was filed with the TLAB. The Applicant's legal counsel, Ms. Meaghan McDermid, explained that since the Parties had agreed to the extensions and all late filings were served on the Parties no Motion was necessary.

MATTERS IN ISSUE

The only matter in issue is whether the TLAB should grant interlocutory admissibility relief to the Parties to permit the documents, above cited, to be entered into evidence in this matter on the consent of the Parties.

JURISDICTION

Rules 2.1, 2.2, 2.3, and 17.2 of the TLAB's Rules which address, respectively, the interpretation of the Tribunal's Rules and Motions on consent.

EVIDENCE

The chain of emails between the Parties and TLAB Administrative staff dealing with the matter of adjourning the rescheduling the Hearing date to November 24, 2021, and the corresponding extension of submission dates, as well as staff's email to the Parties and their legal representatives advising of the Tribunal's Motion process.

I also heard from Ms. McDermid and Ms. Jennings at the commencement of the Hearing.

ANALYSIS, FINDINGS, REASONS

The Parties have consented, in writing, as well as orally at the Hearing to the admission of the materials in question and have stated that they do not object to the TLAB granting interlocutory relief to permit the late filing of the three above-referenced documents.

Given that the documents were filed past the due dates outlined in the Notice of Hearing and that the Parties have consented to this, I am prepared to allow the admission of the documents into evidence when the matter reconvenes on Hearing Day 2 without a Motion as required by Rule 17.2 of the TLAB's Rules.

ORDER

The following documents are admissible into evidence in this matter:

1. Martin Rendl's Expert Witness Statement – received by the TLAB on October 25; 2021.
2. Nick Pileggi's Expert Witness Statement – received by the TLAB on October 25; 2021.
3. Mr. Pileggi's Response to Party Statement (Form 19) dated November 8, 2021; filed by Ms. Jennings.
4. Mr. Rendl's Reply to Response to Witness Statement dated November 17, 2021.

The TLAB may be spoken to if issues arise as a result of this Order.

X



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