

MEMORANDUM OF PROCEDURAL ORDER

Decision Issue Date Tuesday, January 11, 2022

PROCEEDING COMMENCED UNDER section 45(12), subsection 45(1) of the Planning Act

Appellant: Cheryl Tredgett

Applicants: Michael Grisch, Ian Roberson

Property Address/Description: 20 WOODLAND PARK RD

Committee of Adjustment Case File Number: 20 217523 ESC 20 MV

TLAB Case File Number: 21 163972 S45 20 TLAB

Hearing Dates: Oct 19, Nov 30, Dec 3, 2021, Jan 6, 2022

DECISION DELIVERED BY Ted Yao

REGISTERED PARTIES AND PARTICIPANTS

Vanessa Burdon, Todd Burdon	Owner/Party	Tara Piurko, Sandra Luna
T. J. Cieciora	Expert Witness	
Cheryl Tredgett, Dennis Rushforth	Appellants	Alan Heisey
Michael Manett	Expert Witness	
Michael Sean Gaudet, Catherine Gaudet	Parties	
City of Toronto	Party	Gabriela Dedelli, Marc Hardiejowski
Peter Rinas	Participant	
Patrick Smith, Laura Smith	Participants	

Jackie Mazur, Jeff Gastman	Participants
Dave Beal	Participant

Background

The Burdons wish to tear down the house at 20 Woodland Park Rd and build a new residence. To do so they requested 8 variances. The Committee of Adjustment granted the variances on May 12, 2021 and Ms. Tredgett, the Burdons' next door neighbour appealed to the TLAB. On July 6, 2021, the TLAB set out a schedule with the hearing starting October 19, 2021 (Day 1).

This status conference is the fourth day; Day 1 being an unsuccessful mediation and Days 2 and 3 being hearing days. The previous member heard in full the direct evidence of Mr. Cieciora, the Burdons' planning witness. Ms. Dedelli, lawyer for the City, has completed her cross examination of Mr. Cieciora and Mr. Heisey, lawyer for Ms. Tredgett, has partially completed his cross examination.

After Day 3, the previous member wrote to the parties to advise that he was recusing himself from the hearing and would have no further involvement. I was assigned to complete this case on behalf of the TLAB. I convened a status hearing and asked for submissions as to the path forward.

Analysis

There is no obvious procedural next step and no single course of action is consented to by all. If we recommence from zero, Mr. Cieciora has had the benefit of one entire cross examination and a partial cross examination and could tailor his presentation accordingly. This also adds two days to what appears to be an extensive four or five day hearing.

If I listen to the existing audio and visual tapes, Ms. Piurko will not have the benefit of watching the body language and other indications that the evidence is being understood (or not understood) by the decision maker. Furthermore, since Mr. Cieciora is in cross examination, she was unable to discuss the procedure with him at this critical juncture.

In my view, I should not "go back to zero" but try to move forward, having assessed all options. I should listen to the tapes and give Ms. Piurko the opportunity to address any points on which I need clarification. While I would respect the letter and spirit of previous evidentiary rulings, I have an independent duty to conduct this hearing pursuant to the Rules of Practice and Procedure and to ensure that there is a full

hearing on the merits. I undertake to listen to all of Mr. Ciecura's evidence that has been recorded. I will also give Ms. Piurko wide latitude in Mr. Ciecura's re-examination, which is normally restricted to issues not covered in direct examination.

If any of the above is not consistent with persons' recollection of the status hearing, I invite anyone to raise concerns when we reconvene. Objections should be made immediately; the parties should not wait until after an unfavourable result to register their concerns with the process.

The next hearing days will be January 18, 20 and Feb 7, 2022. I will assure parties that I can sit until 5 pm on those days. I am making an effort to expedite this hearing.

Order

Fresh notices of hearing should be sent out for the days specified above. On January 18, 2022, as a first order of business I should report to Ms. Piurko whether there are issues on which I require special clarification or further explanation, bearing in mind that I do not usually make this determination until the conclusion of re-examination. The hearing will then continue with Mr. Heisey's cross examination of Mr. Ciecura.



X

Ted Yao
Panel Chair, Toronto Local Appeal Body