

DECISION AND ORDER

Decision Issue Date Friday, February 18, 2022

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: November 18, 2021, November 24, 2021, January 13, 2022, February 16, 2022

DECISION DELIVERED BY PANEL CHAIR D. LOMBARDI

REGISTERED PARTIES AND PARTICIPANT

| | |
|-----------------------|---------------------------|
| Appellant | Robert Singer |
| Appellant's Legal Rep | Kristie Jennings |
| Applicant | Jonathan Weizel Architect |
| Party | Sten Homes Inc |
| Party's Legal Rep | Meaghan McDermid |
| Expert Witness | Martin Rendl |

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.

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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. However, in the intervening period, the Parties requested an adjournment of five (5) additional days to November 24, 2021. This request was granted by the presiding Member.

On the return-to November 24th Hearing Date, the presiding Member made a ruling regarding interlocutory relief on the admissibility of late filings without a Motion. The Applicant's legal counsel, Ms. Meaghan McDermid, explained the request noting that since the Parties had agreed to the Hearing extension and all late filings were served on the Parties, no Motion was necessary.

In a decision dated November 29, 2021, I consented to allowing the documents cited in that Order to be entered into evidence without a Motion pursuant to the TLAB's Rules of Practice and Procedure (Rules) on the reconvening of the matter on Hearing Day 2.

The second Hearing Day was subsequently scheduled for February 15, 2022.

However, prior to the adjournment of Hearing Day 1, Mss. McDermid and Jennings, solicitors for the Applicant and Appellant respectively, indicated that the Parties were interested in pursuing TLAB-led mediation to hopefully resolve the issues still in dispute. I agreed and convened a confidential mediation session

The mediation session consumed much of the Hearing Day following which the Parties advised the Member that a tentative settlement had been reached and the issues in dispute had been resolved to the satisfaction of the Applicant and the Appellant.

Additionally, the Parties agreed to exchange additional documentation to finalize and memorialize the matters established at this Mediation session, as well as to serve the Terms of Settlement and revised Site Plan drawings on the Parties and file same with the TLAB prior to an expedited Settlement Hearing.

As to the scheduling of an expedited Settlement Hearing, the TLAB set January 13, 2022, for the expedited Settlement Hearing in this matter. The Parties also formally agreed following the conclusion of the Mediation session that I would continue to be the presiding Member in the Settlement Hearing pursuant to TLAB Rule 20.5. I agreed and, therefore, I remained seized on the matter.

On January 11, 2022, three days before the scheduled Hearing, I advised that Parties that I was unavailable to attend the January 13th Hearing because of an unexpected family matter. As a result, the Hearing was rescheduled for February 15, 2022, on the consent of the Parties.

In the early evening of February 14, 2022, on the eve of the rescheduled Hearing, I became aware of an email from Ms. McDermid dated February 11, 2022, forwarded to me by Tribunal staff. In that correspondence, Ms. McDermid advised that the Parties had been unable to reach a final settlement of this appeal and requested

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that the February 16th Hearing be cancelled and that a contested 2 Day Hearing be scheduled before a different TLAB Panel Member.

Given the late date of Ms. McDermid's email relative to the Hearing date, I directed staff to not cancel the Hearing and to advise the Parties to attend in the morning where they would be provided with an opportunity to further update me on the failed settlement discussions.

On the morning of February 15th, the following Persons attended the Hearing: Meaghan McDermid and Martin Rendl, expert planning witness, on behalf of the Applicant; and, Kristie Jennings, the Appellant's legal representative.

Ms. McDermid spoke first and advised that since filing her February 11th email with the TLAB, the Parties had continued discussions and had now reached a settlement of all the issues in dispute. She requested on behalf of the Applicant that the TLAB schedule an expedited Settlement Hearing in this matter.

JURISDICTION

Rule 19 of the TLAB's Rules addresses Settlements before final determination of an appeal matter. More specifically, Rule 19.2 requires Parties who arrive at a settlement to serve the terms as soon as possible, Rule 19.3 outlines the requirement for Notice of a Settlement Hearing, and 19.4 gives the TLAB authority to issue an order giving effect to the settlement and any necessary amendments.

ANALYSIS, FINDINGS, REASONS

The TLAB's Rules, specifically Rules 19 and 20, encourage mediation between Parties and the settlement of some or all the issues in dispute. The Rules also allow the Tribunal to conduct an expedited Settlement Hearing on the terms of the proposed settlement and to issue an order giving effect to the settlement where no Persons at the Hearing oppose the proposed settlement and if the Applicant has satisfied the statutory tests in the *Planning Act*.

Given that the Parties had previously consented that I continue to be seized as the presiding Member at the Settlement Hearing and that I had agreed, no further formal acknowledgement from the Parties is required in this regard. I will preside at the expedited Settlement Hearing.

DECISION AND ORDER

The Hearing scheduled for February 15, 2022, is adjourned on the consent of the Parties.

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TLAB staff are directed to canvas the Parties for their availability and to schedule an expedited Settlement Hearing. A new Notice of Settlement Hearing will be issued once a date is secured.

The Parties are directed to serve the terms of the proposed settlement on all the Parties and Participants and to file same with the TLAB at the earliest possible date but no later than five (5) days prior to the scheduled Hearing.

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