

## DECISION AND ORDER

**Decision Issue Date** Thursday, March 03, 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): EITAN BARBALAT

Applicant: AJT DESIGN

Property Address/Description: 587 DELORAINE AVE

Committee of Adjustment Case File Number: 21 188518 NNY 08 MV (A0518/21NY)

TLAB Case File Number: 21 225426 S45 08 TLAB

**Date of Scheduled Hearing:** Wednesday, March 30, 2022

**DECISION DELIVERED BY:** S.Gopikrishna

### INTRODUCTION AND BACKGROUND

Stephen Miller and Jessica Mari Cooperman are the owners of 587 Deloraine Avenue, located in Ward 08 (Eglinton-Lawrence) of the City of Toronto. They applied to the Committee of Adjustment (COA), for the approval of variances, to construct a new deck at the rear of the existing dwelling. The COA heard the application on September 23, 2021, and approved the variances with conditions.

On October 10, 2021, Eitan Barbalat, the owner of 589 Deloraine Avenue, appealed the COA's decision to the Toronto Local Appeal Body (TLAB), which scheduled a Hearing, to be held by way of a videoconference, for March 30, 2022. On February 3, 2022, I was informed by the TLAB Staff, that a Settlement had been reached between the Parties, followed by a request for the Hearing to be brought forward, and heard as soon as possible. However, I was also informed that no Witness Statement, nor any other documents, with the exception of the Plan for the deck, had been submitted by the Applicants.

I requested the TLAB Staff to reach out to the Parties, to see if we could have a short meeting on any day, between March 1, 2022, and March 3, 2022, in order for me to explain what needed to be done by the Applicants, before the Settlement Hearing. However, I was informed that the Parties were not available to meet on any of the aforementioned dates.

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna  
TLAB Case File Number: 21 225426 S45 08 TLAB**

On March 2, 2022, I was informed by the TLAB Staff that the Appeal had been withdrawn.

It is important to note that from a jurisdictional perspective, the only option available to the TLAB, upon the withdrawal of an Appeal, is to restore the original order made by the Committee of Adjustment. The TLAB cannot substitute the decision of the Committee of Adjustment, with any other documentation sent in by the Parties, including Plans and Elevations reflecting any Settlement they may have reached..

In practice, what this means that the decision of the COA, made on September 23, 2021, is now restored. The list of approved variances is recited in the COA decision attached to this Order.

## **DECISION AND ORDER**

1. The Appeal respecting 587 Deloraine Ave has been withdrawn . The Committee of Adjustment decision, dated September 23, 2021, and attached to this Decision is final and binding, and the file of the Toronto Local Appeal Body is closed.
2. The Hearing scheduled for March 30, 2021, is now vacated and no attendance or further submissions are required.

So orders the Toronto Local Appeal Body



**X**

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S. Gopikrishna  
Panel Chair, Toronto Local Appeal Body

**Michael Mizzi**  
Director, Zoning and Secretary-Treasurer  
Committee of Adjustment  
City Planning Division

416-395-6446  
coa.ny@toronto.ca

Thursday, September 23, 2021

**NOTICE OF DECISION  
MINOR VARIANCE/PERMISSION  
(Section 45 of the Planning Act)**

**File Number:** A0518/21NY  
**Property Address:** 587 DELORAINE AVE  
**Legal Description:** PLAN 2370 W PT LOT 88 E PT LOT 89  
**Agent:** AJT DESIGN  
**Owner(s):** JESSICA MARI COOPERMAN STEPHEN MILLER  
**Zoning:** RD [ZZC]  
**Ward:** Eglinton-Lawrence (08)  
**Community:** North York  
**Heritage:** Not Applicable

Notice was given and a Public Hearing was held on Thursday, September 23, 2021, as required by the Planning Act.

**PURPOSE OF THE APPLICATION:**

To construct a new deck to the rear of the existing dwelling.

**REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:**

- 1. Chapter 10.5.40.50.(4)(C), By-law No. 569-2013**  
Platforms attached to or within 0.3 metres of a rear main wall, which are greater than 1.2 metres above the ground at any point below the platform, are limited to projecting 2.5 metres from the rear wall and may be no higher than the level of the floor from which it gains access.  
The proposed rear deck projects 4.27 metres from the rear wall.
- 2. Chapter 10.20.30.40.(1)(A), By-law No. 569-2013**  
The maximum permitted lot coverage is 30.00% of the lot area.  
The proposed lot coverage is 43.41% of the lot area.
- 3. Chapter 10.5.40.60.(1)(C), By-law No. 569-2013**  
A platform without main walls, attached to or less than 0.3 metres from a building, with a floor no higher than the first floor of the building above established grade may encroach into the required rear yard setback, if it is no closer to a side lot line than 1.96 metres.

The proposed platform is 1.2 metres from the east side lot line, and 1.23 metres from the west side lot line.

The Committee of Adjustment considered the written submissions relating to the application made to the Committee before its decision and oral submissions relating to the application made at the hearing. In so doing, **IT WAS THE DECISION OF THE COMMITTEE OF ADJUSTMENT THAT:**

**The Minor Variance Application is Approved on Condition**

It is the decision of the Committee of Adjustment to authorize this variance application for the following reasons:

- The general intent and purpose of the Official Plan is maintained.
- The general intent and purpose of the Zoning By-law is maintained.
- The variance(s) is considered desirable for the appropriate development of the land.
- In the opinion of the Committee, the variance(s) is minor.

This decision is subject to the following condition(s):

1. The lot coverage of the dwelling be limited to 35.36% and the lot coverage of the proposed deck be limited to 8.05%.

**SIGNATURE PAGE**

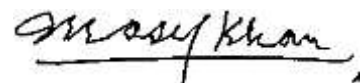
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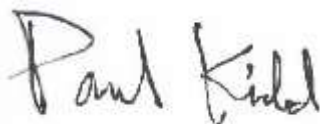
Allan Smithies (signed)



Nadini Sankar (signed)



Asif A. Khan (signed)



Paul Kidd (signed)



Ron Hunt (signed)

DATE DECISION MAILED ON: Thursday, September 30, 2021

LAST DATE OF APPEAL: Wednesday, October 13, 2021

CERTIFIED TRUE COPY

**Daniel Antonacci**  
Manager and Deputy Secretary-Treasurer

## Appeal Information

All appeals must be filed by email with the Deputy Secretary-Treasurer, Committee of Adjustment to [coa.ny@toronto.ca](mailto:coa.ny@toronto.ca) and [Daniel.Antonacci@toronto.ca](mailto:Daniel.Antonacci@toronto.ca) by the last date of appeal as shown on the signature page.

Your appeal to the **Toronto Local Appeal Body (TLAB)** should be submitted in accordance with the instructions below unless there is a related appeal\* to the Local Planning Appeal Tribunal (LPAT) for the same matter.

### **TORONTO LOCAL APPEAL BODY (TLAB) APPEAL INSTRUCTIONS**

To appeal this decision to the TLAB you need the following:

- A completed TLAB Notice of Appeal (Form 1).
- \$300 for each appeal filed regardless if related and submitted by the same appellant.
- Fees are payable to the **City of Toronto**. Once your appeal has been received by e-mail by the Deputy Secretary –Treasurer you will receive payment instructions.
- Due to the Covid-19 Emergency please contact the Deputy Secretary-Treasurer to make arrangements in submitting the appeal.

To obtain a copy of the Notice of Appeal Form (Form 1) and other information about the appeal process please visit the TLAB website at [www.toronto.ca/tlab](http://www.toronto.ca/tlab).

### **LOCAL PLANNING APPEAL TRIBUNAL (LPAT) INSTRUCTIONS**

To appeal this decision to the LPAT you need the following:

- A completed LPAT Appellant Form (A1) in digital format on a USB stick and in paper format.
- \$400 with an additional reduced fee of \$25 for each connected appeal filed by the same appellant.
- Fees are payable to the Minister of Finance by certified cheque or money order (Canadian funds).
- Due to the Covid-19 Emergency please contact the Deputy Secretary-Treasurer to make arrangements in submitting the appeal.

To obtain a copy of Appellant Form (A1) and other information about the appeal process please visit the Environmental & Lands Tribunals Ontario (ELTO) website at <http://elto.gov.on.ca/tribunals/lpat/forms/>.

\*A **related appeal** is another planning application appeal affecting the same property. To learn if there is a related appeal, search community planning applications status in the [Application Information Centre](#) and contact the assigned planner if necessary. If there is a related appeal, your appeal to the **Local Planning Appeal Tribunal (LPAT)** should be submitted in accordance with the instructions above.