

NOTICE OF REVIEW

Review Issue Date: Thursday, March 17, 2022

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

Appellant(s): ANDRIY DONCHENKO

Applicant(s): PETER HIGGINS

Property Address/Description: 183 CORTLEIGH BOULEVARD

Committee of Adjustment File Number: 19 141885 NNY 08

TLAB Case File Number: 19 183751 S45 08 TLAB

Decision Issue date **February 16, 2021**

William Black	For himself
David Bronskill	Legal representative for Peter Higgins, architect
Gabriela Dedelli	City of Toronto

DECISION DELIVERED BY T. YAO

Introduction

The is a review request by William Black, the owner of 181 Cortleigh Blvd. The decision to be reviewed is by TLAB Member Justin Leung, authorizing 7 variances under the *Planning Act* for Andriy Donchenko, the owner of 185 Cortleigh, Mr. Black's next door neighbour. Mr. Donchenko seeks to tear down his house and build a new one. Mr. Donchenko was partially successful at the Committee of Adjustment; he obtained 6 "perimeter" (Mr. Black's word) variances, but the Committee only granted 0.58 density instead the higher density which Mr. Donchenko sought.

Mr. Black's Notice was followed by an Affidavit of Cynthia Finlay, the co-owner of 181 Cortleigh, and swearing that everything in the Request was "accurate".

Member Leung authorized the variances in two stages: first by an interim decision of September 22, 2020 and then by a final decision of February 16, 2021. Mr. Black does

not take issue with the interim decision but raises other issues with regard to the final decision.

The version of the rules which governs is calculated with respect to date of the Notice of Hearing (i.e., the document that sets out the schedule for parties to exchange documents etc). In this case the Notice of Hearing is dated July 19, 2019, and so the version of the Rules that governs is the one relating to Notices issued between May 6, 2019 to December 1, 2020.

Preliminary matters

Under Rule 31.2¹ the Chair may designate any Member to hear the review and the Chair has recently designated me. A previous designee was unable to complete the review for personal reasons.

There is a 30-day limit to request a review. The decision was issued February 16, 2021; Mr. Black's request is dated March 10, 2021, and so it falls within the time limit. TLAB staff may refuse to process a Request for administrative reasons. Staff do not consider that there is any administrative reason to halt this process. The appropriate fee (zero dollars) has been paid. The Rules then call for "adjudicative screening" for which the Chair or the Chair's designate decides whether the review meets a low threshold of being not frivolous and able to proceed on its merits.

I do not express an opinion on the merits of the review and repeat that the adjudicative screening is a low bar, designed to weed out the most obvious requests and this is not one of those obvious requests.

Rules 31.19 and 31.20 state:

TLAB shall give Notice of Review

31.19 Where a Review request has not been dismissed under Rule 31.17, [Adjudicative Screening] the TLAB shall give a Notice of Review to all Parties.

Response to Review 31.20

If a Party needs to respond to the Review the Responding Party shall Serve a Notice of Response to Review on all Parties and File same with the TLAB no later than 20 Days from the Date the Notice of Review is issued, unless the TLAB directs otherwise.

¹ Rule 31.2 The Chair may in writing designate any Member to conduct any or all of the Review process and make a decision in accordance with the Rules.

Decision of Toronto Local Appeal Body Panel Member: T. Yao
TLAB Case File Number: 19 183751 S45 08 TLAB

I find the request meets the test of being not a frivolous request and other adjudicative screening tests. I ask Mr. Bronskill and Ms. Dedelli to file their Responses, if any, by April 6, 2022.

Rule 31.22 states:

Reply to Notice of Response to Review

31.22 if the Requesting Party needs to reply to any new issues, facts or documents raised in a notice of response to review that Party shall serve on all Parties a Reply to Notice of Response to Review and file same with the TLAB no later than 25 days from the date the Notice of Review is issued, unless the TLAB directs otherwise.

I ask any party wishing not to respond or not take any position to write to me immediately and not leave it up to me to infer their position from their silence.

I modify the timelines in Rule 31.22 pursuant to Rule 2.12. I ask Mr. Black to provide his Reply to Response to Review within five business days after the later of the two filings. I institute these strict timelines, which is within my power, because this matter has been outstanding for some time.

If any questions should arise from this decision, could the parties please write to me at info@tlab.ca.



X

Ted Yao
Panel Chair, Toronto Local Appeal Body