

INTERIM DECISION AND ORDER

Decision Issue Date Monday, March 14, 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): MICHELE ADELE CHANDLER

Applicant: CZC BUILDING CONSULTANTS LTD

Property Address/Description: 67 ALCORN AVENUE

Committee of Adjustment Case File Number: 20 211563 STE 12 MV (A0990/20TEY)

TLAB Case File Number: 21 163306 S45 12 TLAB

Hearing date: Tuesday, February 22, 2022

DECISION DELIVERED BY S. Gopikrishna

REGISTERED PARTIES AND PARTICIPANT

Appellant	Michele Adele Chandler
Appellant's Legal Rep	Robert Gilfoil
Applicant	CZC Building Consultants LTD
Primary Owner	Donald Wong

INTRODUCTION AND BACKGROUND

Donald Wong is the owner of 67 Alcorn Avenue, located in Ward 12 (Toronto-St. Paul's). He applied to the Committee of Adjustment (COA) for the approval of variances to construct a third storey front addition, with a roof top patio, a two-storey rear addition, and a second storey rear balcony. The COA heard the Application on May 11, 2021, and approved all the requested variances. On May 31, 2021, Michele Chandler, the co-owner of 69 Alcorn Avenue, appealed the COA's decision to the Toronto Local Appeal Body (TLAB), which then scheduled a Hearing on February 22, 2022 to be held by way of a videoconference, to obtain evidence from the Parties.

**Decision of Toronto Local Appeal Body Panel Member: S. Gopikrishna
TLAB Case File Number: 21 163306 S45 12 TLAB**

When preparing for the Hearing, I realized that I could not locate any documents submitted by the Applicants, at the TLAB Website. I also found that while Mr. Robert Gilfoil, was identified as the Representative for the Appellant, Ms. Chandler, by way of the Witness Statement, there was no documentation to demonstrate that Ms. Chandler had appointed Mr. Gilfoil as her Representative.

At the Hearing held on February 22, 2022, the Applicant along with his Agent, Mr. Han Zhou, as well as the opposition, represented by Mr. Gilfoil and Ms. Chandler were present. After the Parties identified themselves, I drew the attention of the Parties to the lack of submission of appropriate documentation by the Parties. I informed Messrs. Wong and Zhou that I could not find any submissions regarding their proposal, beginning with the Plans and Elevations, as well as any Witness Statements, which discussed the relationship between the proposal, and the four tests under Section 45.1 of the Planning Act. Messrs. Wong and Zhou asserted that they had submitted the requisite documentation to the TLAB, but had not received any acknowledgment. Mr. Chandler pointed out that he had not been copied by the Applicant, when they had made their submissions to the TLAB, notwithstanding clear instruction from the TLAB's Rules, to ensure that other Parties would be made aware of all submissions.

When I asked Mr. Gilfoil about his involvement with this Hearing, he stated and he and Ms. Chandler were a couple, who lived at 69 Alcorn Avenue. As per my observations in the previous paragraph, I pointed out that the TLAB was not in receipt of a Form 5 (Authorized Representative), completed by the Opposition, and explained the importance of completing this form. Mr. Wong stated that he had not received Mr. Gilfoil's Witness Statement directly, but through another individual who got the email sent out by Mr. Gilfoil. I asked the Parties to ensure that they had each other's updated contact information for exchange of documentation.

I stated to the Parties that we would have to adjourn the Hearing, because of the dearth of documentation, to be filed by both Parties. I explained the *de novo* nature of the Hearing before the TLAB, and how the burden of proof lay with the Applicants. I thanked the Appellants for submitting a Witness Statement, and advised them that they could update their Witness Statement if they wanted, such that there was a demonstrable nexus between their opposition, and the four tests under Section 45.1 of the Planning Act.

I advised the Parties that I would send out an Interim Order with deadlines for submission of various documents. Mr. Wong said that he would want a Hearing as soon as possible, because "this is not a rental property" and that he had "a six member family that was presently living in a condo".

JURISDICTION

The TLAB makes decisions of an administrative matters, including submission of documents on the basis of its Rules of Practice and Procedure (the Rules).

ANALYSIS, FINDINGS, REASONS

It is important for the Parties to be comprehensive in their submissions, and adhere to timelines, so that there are no surprises sprung on each other at the Hearing where witnesses provide evidence. I reiterate that the Hearing before the TLAB is *de novo*, which means that the burden of proof is on the Applicants- what happened at the COA hearing on May 11, 2021, is immaterial to the TLAB.

I have listed a number of documents, with relevant submission dates below, for both Parties- these deadlines are listed with the understanding that the variances requested are identical in nature (from the perspective of intention, and magnitude of the variances) to their Application before the Committee of Adjustment (COA). Should this be the case, there is no need for Notice under Section 45.18.1.1 of the Planning Act, or providing an opportunity to other neighbours, or interested individuals, to become Parties, or Participants. If there is a change in the list of variances, or their magnitude, it is important that they provide an update to the TLAB as soon as possible, so that the TLAB can issue further instructions, where appropriate.

The Applicants are asked to submit the following to the TLAB, while simultaneously copying the Appellants, by way of an email:

- Confirm that the proposal before the TLAB is identical to the Application before the COA, with no changes to the variances- March 31, 2022.
- Submit completed requisite forms (e.g. Representation, Witness Statement), along with Plans and Elevations, reflecting the requested variances, as well as the final list of variances - April 8, 2022
- A written outline of how their proposal (accompanied by any photographs) corresponds to the four tests under Section 45.1 of the Planning Act - April 22, 2022

The Appellants need to submit the following to the TLAB, and copy the Applicants:

- A completed Form 5 to reflect who will represent the Appellant at the Hearing - April 8, 2022
- An updated Witness Statement to demonstrate the nexus between their opposition to the proposal, and the 4 tests under Section 45.1 of the Planning Act- April 22, 2022. However, it may be noted that the submission of the updated Statement is optional, and not mandatory, because a Witness Statement has already been submitted.


The TLAB Staff will contact the Parties after April 8, 2022, to identify a Hearing date that will be convenient for the Parties, myself and the TLAB Staff. The Parties need to come prepared to the Hearing to expand on their Witness Statements by way of an electronic presentation.

INTERIM DECISION AND ORDER

1. The Applicants are instructed to submit the following documents to the TLAB by the deadlines listed against each bullet point below, recognizing that they need to include the Appellants in all correspondence sent to the TLAB:
 - Confirmation to the TLAB by way of an email that the proposal before the TLAB is identical to the Application before the COA, with no changes to the variances- March 31, 2022.
 - Submit completed requisite forms (e.g. Representation, Expert Witness etc.) by, along with Plans and Elevations, as well as a list of variances- April 8, 2022
 - An written outline of how their proposal, accompanied by any photographs, about how their proposal corresponds to the four tests under Section 45.1 of the Planning Act- April 22, 2022

2. The Appellants are instructed to submit the following documents by the deadlines listed against each bullet point, recognizing that they need to include the Applicants in all correspondence sent to the TLAB:
 - A completed Form 5 to reflect who will represent the Appellant at the Hearing by April 8, 2022
 - An updated Witness Statement to reflect the nexus between their opposition to the proposal, and the 4 tests under Section 45.1 of the Planning Act by April 22, 2022- this submission is optional

So orders the Toronto Local Appeal Body.



X

S. Gopikrishna
Panel Chair, Toronto Local Appeal Body