

ORDER

Decision Issue Date Monday, April 25, 2022

PROCEEDING COMMENCED UNDER Section 53, subsection 53(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): HASSAN JALILIAN

Applicant: AMIR HOSSEIN FARROKHKISH

Property Address/Description: 186 ELLERSLIE AVE

Committee of Adjustment Case File Number: 20 104294 NNY 18 CO (B0001/20NY)

TLAB Case File Number: 20 175363 S53 18 TLAB

Last submission date:

DECISION DELIVERED BY TLAB Panel Member JUSTIN LEUNG

REGISTERED PARTIES AND PARTICIPANT

Appellant / Owner	HASSAN JALILIAN
Appellant's Legal Rep.	AMBER STEWART
Applicant	AMIR HOSSEIN FARROKHKISH
Participant	STEVEN BIGGS
Participant	JIM GRATSAS
Participant	MARCO DRUDI
Party	CITY OF TORONTO
Party's Legal Rep.	DERIN ABIMBOLA

INTRODUCTION AND BACKGROUND

This relates to an Appeal matter from the North York Panel of the City of Toronto Committee of Adjustment (COA) which refused application for the severance (Consent) of 186 Ellerslie Avenue (subject property) and associated Variances to permit construction of two lots which would have a new dwelling built on each.

The originally scheduled Hearing was adjourned so that the Appellant could address an administrative issue as it relates to inadvertently not appealing the associated Variance Applications, in conjunction with the Consent Application.

Following the adjournment, the Appellant has intermittently communicated to the Tribunal that the Variance Applications will eventually be filed with the City. This was communicated via electronic correspondence (e-mail) and at two subsequent Tele-conference meetings. However, at this point, the requisite Variance Applications have not been filed with the COA.

Therefore, this Order provides additional direction on this Appeal matter, at this juncture, and further structure for all Parties on how this Appeal matter should proceed.

MATTERS IN ISSUE

The TLAB will, at this point, need to make a determination on how this Appeal matter should be addressed due to significant inactivity as it relates to the re-filing of the related Variance Applications, and insufficient responses from the Appellant pertaining to this issue.

JURISDICTION

The TLAB may hear Motions by way of written submissions, in accordance with Rule 17.5 of the Rules of Practice and Procedure.

The TLAB, as per Extension or Reduction of Time Rules 4.4, 4.5 and 4.6 of the *TLAB Rules of Practice and Procedure* (May 6, 2019), is free to extend or reduce a time limit on such conditions as the TLAB considers appropriate.

EVIDENCE

At the first Teleconference on August 23, 2021, Participant Marco Drudi expressed concern with the situation and raised a potential 'abuse of process' which was occurring here. The issue that was being raised was whether the Tribunal should entertain such a request. I responded that the relevant rules and legislation, such as the *Planning Act* and *TLAB Rules*, do not prohibit the Appellant from acting in such a manner. I did state to Ms. Stewart that her client could look to withdraw their Consent Application Appeal and then

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re-apply for the Consent Application to the COA, concurrent with their Variance Applications.

Ms. Stewart acknowledged this but stated her client would not be pursuing such an approach. I directed Ms. Stewart to provide an update on the status of the Variance Applications to the TLAB in a timely matter, which she acknowledged she would do. I noted that if the Variance Applications were refused by the COA, and then appealed to the TLAB, I would look to combine the Consent and Variance Applications as a joint Appeal matter and that TLAB staff would provide further updates to all relevant Parties on a new Hearing Date.

With approximately 4 months passing from the first Teleconference, and no further updates from the Appellant, I requested a second Teleconference which was held on January 21, 2022. At that event, Ms. Stewart stated that the Variance Applications had been filed, but additional material needed to be submitted to the COA.

She anticipated the Variance Applications would be brought to a COA meeting within the next few weeks and agreed to provide an update, through email, to the TLAB in the following 1-2 weeks on the status of the Variance Applications. City Solicitor Derin Abimbola raised no objections to this. As a result, I noted that I would direct TLAB staff to advise me as to when updates from Ms. Stewart were received to ensure this Appeal matter is handled in an expeditious manner.

Since this last Teleconference meeting, the TLAB has yet to receive an appropriate response from Ms. Stewart as requested. Therefore, I requested the TLAB staff to contact her to obtain an update; Ms. Stewart responded that she needed additional time to address issues related to the Variance applications.

ANALYSIS, FINDINGS, REASONS

In considering the Appeal matter and the series of teleconferences and correspondences which have transpired over a one year timeframe, I deem it appropriate at this point to establish further parameters as to how to address the unique situation which has occurred herein, to ensure the public interest is upheld.

I find it would be suitable at this point in the appeal process to direct the Appellant and their representative to, within two (2) weeks from the date of issuance of this Order, to provide a written response to be filed with TLAB and served on all Parties on the status of this matter as it relates to their position and their intentions on how to proceed. This response would also assist the other Parties in this matter in further defining their participation moving forward.

However, if within a two week time period as cited above a proper written response is not received by the TLAB offices, then that the TLAB will assume the Appellant is no longer intending to pursue their Appeal for the Consent Application, unless informed otherwise.

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Therefore, it is incumbent on the Appellant and their legal counsel to advise the TLAB of their intentions going forward, as directed by the presiding Member and agreed to at the last Teleconference meeting in January.

DECISION AND ORDER

The Appellant is directed to provide written submission to the TLAB, within two (2) weeks from the date of this Order's issuance, specifically outlining how they will be proceeded with this Appeal matter, notably in relation to the absence of a Variance Application associated with the Consent Application.

If said written submission is not received by the prescribed timeframe, TLAB staff are directed to canvass the Parties and Participants for a third and final Teleconference meeting, to be scheduled no later than two weeks following the due date for the above cited submission, at which point the Appellant will be required to confirm their intended actions to the TLAB regarding this matter.

If problems arise in the implementation of this Order the TLAB may be spoken to.

X



Justin Leung
Panel Chair, Toronto Local Appeal Body