

DECISION AND ORDER

Decision Issue Date Monday, April 25, 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): POONAM THERESE DHIR

Applicant(s): STUDIO FOUR INC.

Property Address/Description: 6 SANWIN COURT

Committee of Adjustment File

Number(s): 21 185260 NNY 17 MV (A0512/21NY)

TLAB Case File Number(s): 21 224561 S45 17 TLAB

Hearing date: April 4, 2022

Deadline Date for Closing Submissions/Undertakings:

DECISION DELIVERED BY TLAB Vice Chair A. Bassios

REGISTERED PARTIES AND PARTICIPANTS

Appellant	Poonam Therese Dhir
Appellant's Legal Rep.	Raj Kehar
Applicant	Studio Four Inc.
Participant	Nick Servinis
Participant	George Servinis
Participant	Rosamaria Servinis
Participant	Frank Tsimidis

Participant	Mike Tsimidis
Participant	Kostas Kokkinakis
Expert Witness	Sean Galbraith

INTRODUCTION

This is an Appeal of the North York panel of the City of Toronto (City) Committee of Adjustment's (COA) refusal of an application for variances for the property known as 6 Sanwin Crt (subject property). The purpose of the application is to construct a two-storey front addition, a second storey addition and other exterior alterations.

The subject property is located in the Pleasant View neighbourhood of the former City of North York. It is designated *Neighbourhoods* in the City Official Plan (OP) and zoned RD (f15.0; a550) x5 under Zoning By-law 569-2013.

In attendance at the Hearing were:

- Raj Kehar, legal counsel for the Owner, Expert Witness Sean Galbraith (Land Use Planning) and Susan Mintz;
- The Owner/Appellant Poonam Dhir and Luann Pereira were in attendance but did not address the TLAB.

BACKGROUND

The proposal is to construct a two-storey front addition to the existing dwelling and garage; a second storey addition over the existing garage; and a two-storey side yard/rear addition. Other interior and exterior alterations are also proposed, including legalization of construction in the rear that has occurred without benefit of a building permit.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAWS:

1. Chapter 10.5.40.70.(1)

The minimum required front yard setback is 8.01 m.
The proposed front yard setback is 6.0 m.

2. Chapter 10.20.40.70.(2)

The minimum required rear yard setback is 7.53m.
The proposed rear yard setback is 6.39 m.

3. Chapter 900.3.10.(5)

The minimum required side yard setback is 1.80m.
The proposed south side yard setback is 0.65m.

MATTERS IN ISSUE

The proposal has been revised from that which was refused by the COA. The evidence of the Appellant was uncontested and therefore the matter at issue is the application of the TLAB's mandate that the four statutory tests of the *Planning Act* have been met.

JURISDICTION

Provincial Policy – S. 3

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2020 Provincial Policy Statement ('PPS') and conform to the Growth Plan for the Greater Golden Horseshoe for the subject area ('Growth Plan').

Variance – S. 45(1)

In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the Act. The tests are whether the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

EVIDENCE

A summary of evidence is presented here for the purpose of providing some context for the following sections of this Decision. All of the evidence and testimony in this matter has been carefully reviewed and the omission of any point of evidence in this summary should not be interpreted to mean that it was not fully considered, but rather that the recitation of it is not material to the threads of reasoning that will be outlined in the *Analysis, Findings, Reasons* section below.

Mr. Galbraith (Expert)

Mr. Galbraith described the neighbourhood and context as follows:

- The neighbourhood is a mature, low density residential enclave characterized by large lots, mature trees and vegetation.
- There are a variety of built forms in the neighbourhood, including raised bungalows, backsplits and newer two-storey buildings.
- The subject property is surrounded by low-rise residential uses, parks, schools and municipal facilities.

- The subject property is located on a cul de sac and as such it has an irregular shape with a curving frontage.

- Two storey additions are proposed for the front of the house (marked green on figure 1).
- A rear/side two storey addition is proposed (green), stepping to a small ground floor addition with a balcony above (brown).
- A second floor addition is proposed for over the garage (yellow).
- A covered porch is proposed for the front of the house, a covered porch is proposed for the side/rear and a second floor balcony is proposed in conjunction with the rear addition (brown).
- A ramp is proposed for the front of the house.



ANALYSIS, FINDINGS, REASONS

I accept Mr. Galbraith's evidence that the proposal is consistent with the Provincial Policy Statement and conforms to the Growth Plan.

Previously requested variances have been eliminated in the revised proposal that is before the TLAB. The revised proposal requires variances for front, rear and side yard setbacks, but is otherwise compliant.

Official Plan - Setbacks

The Official Plan requires that development and redevelopment within *Neighbourhoods* should be respectful of the existing neighbourhood context and should reinforce the existing physical character of buildings, streetscapes and open space patterns.

The "fit" of the proposal in the neighbourhood primarily engages the policies of s. 4.1.5 of the Official Plan.

4.1.5 Development in established Neighbourhoods will respect and reinforce the existing physical character of each geographic neighbourhood, including in particular:

- a) patterns of streets, blocks and lanes, parks and public building sites;*
- b) prevailing size and configuration of lots;*
- c) prevailing heights, massing, scale, density and dwelling type of nearby residential properties;*
- d) prevailing building type(s);*
- e) prevailing location, design and elevations relative to the grade of driveways and garages;*
- f) prevailing setbacks of buildings from the street or streets;*
- g) prevailing patterns of rear and side yard setbacks and landscaped open space;*
- h) continuation of special landscape or built-form features that contribute to the unique physical character of the geographic neighbourhood; and*
- i) conservation of heritage buildings, structures and landscapes.*

Criteria 4.1.5 f) (front yard) and 4.1.5 g) (rear and side yard) are the criteria most pertinent to this application.

Front Yard Setback

The curvature of Sanwin Court is pronounced and therefore the front yard setback requirement is similarly angled. The addition to the front of the house maintains the general alignment of houses around the cul de sac and the proposed front addition will not project in front of the neighbouring house at 4 Sanwin Crt. The neighbouring house at 8 Sanwin Crt is set back and at an angle from the subject property, following the curvature of the cul de sac.

I agree that the proposed front addition respects the existing streetscape. I find that the proposed variance for front yard setback maintains the general intent and purpose of the Official Plan.

Mr. Galbraith advised that the general intent and purpose of the Zoning By-law is to ensure a consistent streetscape as well as allowing front yard space for vehicular access and front yard landscaping.

I accept Mr. Galbraith's evidence that the original positioning of the houses on the curve of Sanwin Crt dictates, to some extent, the magnitude of the front yard setback required and the positioning of the existing house additionally constrains development on the site.

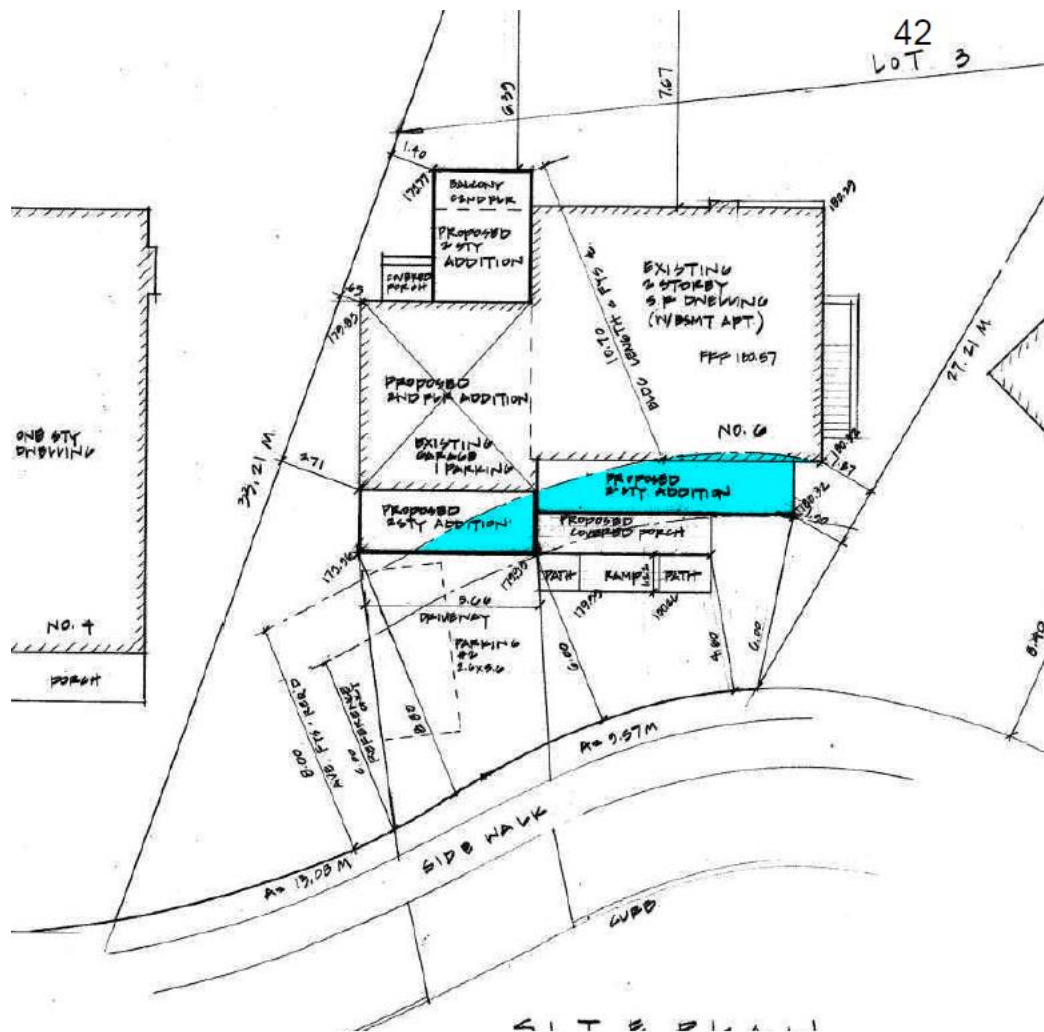


Figure 2: Front Yard Setback. Ex 2, Tab 9

I concur with Mr. Galbraith's opinion that the proposed front yard variance maintains the general intent and purpose of the Zoning By-law. I find that the proposed front yard variance is desirable for the development of the land and is minor.

Rear Yard Setback

I agree with Mr. Galbraith's opinion that the proposal respects the prevailing pattern of rear yard setbacks and landscaped open space, as required by OP Policy 4.1.5 g).

The rear yard setback variance is required only for the ground floor portion of the rear addition. It projects 1.26m beyond the staggered existing rear wall of the house.

The proposed floor space implicated by the variance is on the ground floor, mitigating visibility, overlook and impacts on privacy from the neighbouring houses. I note that there are existing mature trees that further screen views to and from the proposed balcony and that no rear yard soft landscaping variance is required.

I concur with Mr. Galbraith's opinion that the proposed rear yard variance meets the four statutory tests.

Side Yard Setback

The necessity for a side yard setback variance is precipitated by the second storey addition above the existing footprint of the garage and by the corner of the rear ground floor addition.

The original positioning of the houses around Sanwin Crt show that there is a pattern of close side yard setbacks coupled in some cases with wider space on the other side. The rear corner of the two storey addition impacts the side yard setback requirement to the greatest degree. I note that in this position the neighbouring house is presently set well away from the mutual side lot line.

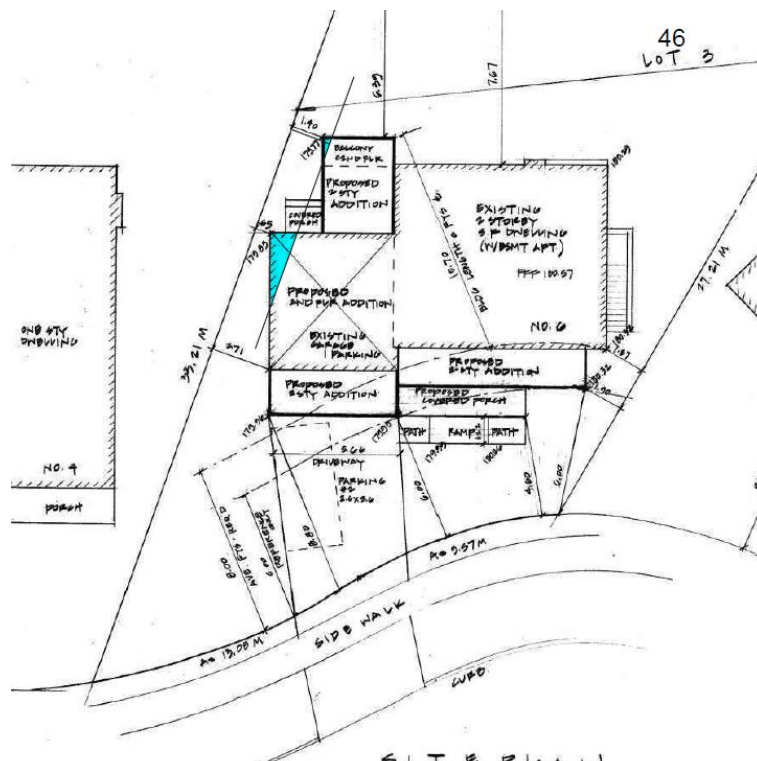


Figure 3: Side Yard Setback, Ex 2, Tab 11

I accept Mr. Galbraith's evidence that side yard setback variances are common in the neighbourhood and I concur that the proposal respects the prevailing patterns of side yard setbacks in the neighbourhood.

The side yard setback on the east side of the property provides ample access to the rear yard of the property and recognizing that the greater variance is triggered by an addition above an existing footprint, I find that the proposed variance maintains the general intent of the Zoning By-law.

I find that the proposed side yard variance meets the four statutory tests.

Conclusion

I find that the revised proposal requiring front yard, side yard and rear yard variances is supportable and that the proposed variances, individually and cumulatively, maintain the general intent and purpose of the Official Plan and the Zoning By-law, are desirable for the development of the land and are minor.

I find that the revisions that have been made to the application that was previously considered by the COA to be beneficial. Previously requested variances for lot coverage, platform setback and platform area have been eliminated and the variances requested for front and rear setbacks have been reduced. I therefore find that no further notice is required in accordance with s.45(18.1.1) of the *Planning Act*.

DECISION AND ORDER

The Appeal is allowed, in part. The variances listed in Appendix A are authorized, subject to the condition contained therein.

X 

A. Bassios
Panel Chair, Toronto Local Appeal Body

APPENDIX A

APPROVED VARIANCES AND CONDITIONS OF VARIANCE APPROVAL:

VARIANCES:

1. Chapter 10.5.40.70.(1)

The minimum required front yard setback is 8.01 m.

The approved front yard setback is 6.0 m.

2. Chapter 10.20.40.70.(2)

The minimum required rear yard setback is 7.53m.

The approved rear yard setback is 6.39 m.

3. Chapter 900.3.10.(5)

The minimum required side yard setback is 1.80m.

The approved south side yard setback is 0.65m.

CONDITION:

1. The proposed dwelling shall be constructed substantially in accordance with the Site Plan, East Elevation Facade, West Elevation Rear, South Elevation, and North Elevation drawings prepared by Just Drafting Ltd., attached hereto.
 - Site Plan dated December 27, 2021
 - East Elevation undated (Exhibit 1, Tab 11A)
 - West Elevation undated (Exhibit 1, Tab 11A)
 - South Elevation undated (Exhibit 1, Tab 11A)
 - North Elevation undated (Received by TLAB April 19, 2022)

Any other variances that may appear on these plans that are not listed in this decision are NOT authorized

DRAWING NUMBER:
1 OF 3

