

MOTION DECISION AND ORDER

Decision Issue Date Tuesday, June 07, 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): DAVID MATHESON

Applicant: VFA ARCHITECTURE AND DESIGN INC.

Property Address/Description: 35 ADMIRAL ROAD

Committee of Adjustment Case File Number: 21 157248 STE 11 MV (A0671/21TEY)

TLAB Case File Number: 22 117902 S45 11 TLAB

Hearing date: Wednesday, July 06, 2022

DECISION DELIVERED BY TLAB Panel Member G. Swinkin

REGISTERED PARTIES AND PARTICIPANTS

Appellant	David Matheson
Appellant's Legal Rep.	David Bronskill
Applicant	VFA Architecture and Design Inc.

INTRODUCTION

An appeal was filed by the applicant/owners (the "Appellants") of 35 Admiral Road (the "Property") from the decision of the Toronto Committee of Adjustment with respect to the refusal of the Committee to grant certain heads of requested relief with respect to the Property. The Toronto Local Appeal Body (the "Tribunal") issued a Notice of Hearing fixing the hearing of the appeal for July 29, 2022. The Tribunal has been informed by counsel for the Appellants that this hearing date presents a problem for the Appellants as the land use planner retained by them to give testimony in the hearing will not be available on this date.

BACKGROUND

The Tribunal has received a Notice of Motion for Adjournment of this hearing to an alternate date in order to accommodate the evidence of the land use planner. It is also a fact that the prescribed date for filing an election to become a Party or Participant in this Tribunal proceeding was May 26, 2022 and that apart from the Appellants and their counsel, no persons have filed elections to be a Party or Participant. As such, the Tribunal will be hearing the evidence of the Appellants alone.

JURISDICTION

Rule 23 of the Tribunal's Rules of Practice and Procedure governs the matter of requests for adjournment, the considerations thereon and the powers of the Tribunal in the exercise of its discretion.

EVIDENCE

In support of the Motion for Adjournment, the Tribunal had the affidavit of Sean Galbraith, the land use planner retained by the Appellants. The affidavit confirmed that Mr. Galbraith will not be available to attend the hearing on the originally scheduled hearing day of July 29, 2022. Mr. Galbraith confirmed that both he and counsel for the Appellants, Mr. David Bronskill, would be available for this hearing on July 6, 2022.

Mr. Galbraith also advised that to his knowledge there was no filing of any requests by third parties for status as a Party or Participant in this proceeding by the date fixed in the Notice of Hearing for that purpose, May 26, 2022. As such, the Appellants will be the only Party before the Tribunal.

Mr. Galbraith asserted his willingness to file the necessary materials for the Tribunal to adjudicate this appeal on such date as the Tribunal may prescribe.

ANALYSIS, FINDINGS, REASONS

Rule 23.3 of the Tribunal's Rules of Practice and Procedure sets out various considerations that the Tribunal may consider in dealing with requests for adjournment, amongst which are the reasons for the adjournment, the interests of the Parties in having a full and fair proceeding, the timeliness of the adjournment, the position of other

Parties on the request and whether an adjournment will cause or contribute to any existing or potential harm or prejudice to others .

As there are no other Parties or Participants of record, the Tribunal does not discern any potential harm or prejudice in what the Tribunal treats as a timely request. The Tribunal further appreciates the reason for the request, which is to ensure that the Appellants are afforded a full and fair opportunity for their case to be heard.

DECISION AND ORDER

The Motion for Adjournment will thus be allowed and the hearing will be adjourned to July 6, 2022, to commence at 9:30 a.m. by electronic means. The Tribunal case manager will advise the Appellants and their counsel of the link to use to connect to the hearing.

In order to adhere to the expectations of the Tribunal for hearing purposes, the dates for the filing of witness statements and document disclosure will remain as in the originally issued Notice of Hearing, being June 27, 2022. As there are no other Parties or Participants in this proceeding, the balance of the dates in that Notice are academic and are suspended.



X

G. Swinkin