

# DECISION AND ORDER

**Decision Issue Date** Friday, July 08, 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: NEIL MICHAEL SELFE  
Applicant: MICHAEL GOLDBERG

Property Address/Description: 21 VALLEY VIEW  
Committee of Adjustment File  
Number(s): 20 195518 STE 11 MV (A0813/20TEY)

TLAB Case File Number(s): **22 108489 S45 11 TLAB**

**Hearing date: June 3, 2022**

**DECISION DELIVERED BY** Panel Member T. Yao

## REGISTERED PARTIES AND PARTICIPANTS

Name	Role	Representative
Neil and Chrisula Selfe	Owners (did not appear at hearing)	David Bronskill
Michael Goldberg	Expert Witness (planning)	
City of Toronto	Party	Cameron McKeich
Kevin Hurburt	Participant, neighbour	
Cynthia Thorburn	Observer, neighbour	
Talia Ocean	Observer	
Morgan Dundas	Observer, member of Goldberg Group	

## INTRODUCTION AND SUMMARY

The Selfes wish to construct two additions: a kitchen/gym and a smaller "bump-out" (labelled "sitting room" by the architect), both in the rear yard of their house at 21 Valley View Drive. In order to build these, they seek the variances in Table 1.

<b>Table1. Variances sought for 21 Valley View</b>			
		Required	Proposed
<b>Variances from Zoning By-law 569-2013</b>			
1	Rear yard setback	10.81 m	4.56 m (originally 2.22 m)
2	Building length	17 m	24.25 m (originally 26.59 m)
3	Building depth	19 m	23.64 m (originally 25.98 m)
4	TRCA setback from stable top of bank	10 m	2.36 m (this refers only to the sitting room bump-out)

The Committee of Adjustment refused the application on January 12, 2022. The Selfes appealed and so this matter came to the TLAB.

Summary: The variances are refused because I was not of the opinion that the first three variances respect and reinforce the physical character of this area of Moore Park, based on the evidence and findings in this decision. As a result, they failed to comply with the general intent of the Official Plan and zoning by-law and are not minor.

## **THE LEGISLATIVE AND POLICY FRAMEWORK**

Policy Statement and the Greater Golden Horseshoe Growth Plan must be considered, but they contain a high level of generality. For example, the Provincial Policy Statement discourages lot creation on prime agricultural land and prefers municipal water and sewage over private systems and so on. Except for policies relating to municipal water and sewage, they do not offer much guidance for this case, which involves only the most appropriate placement and massing of a house on a lot in an urban settlement area.

The variances in Table 1 must comply with s. 45(1) of the *Planning Act* and must cumulatively and individually:

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

With respect to the Official Plan, s. 3.2.1 Housing and s. 4.1.5 Neighbourhoods are key. Both sections require the physical form of the development to “fit in” with the

surrounding neighbourhood, and to “respect and reinforce” the physical character of the neighbourhood.

### **Right to develop**

The obligation is on the proponents, the Selfes, to demonstrate to the decision-maker that the tests are met on the balance of probabilities; there is no right to a variance.

### **EVIDENCE**

I heard from Mr. Goldenberg, who I qualified as able to give opinion evidence in the area of land use planning. Mr. Hurlburt, a neighbour, testified on behalf of himself and Ms. Nielsen.

I made a site visit. Although my views are not evidence, they give context to help me understand the testimony of the witnesses.

### **ANALYSIS, FINDINGS, REASONS**

#### **Amendment from the original application**

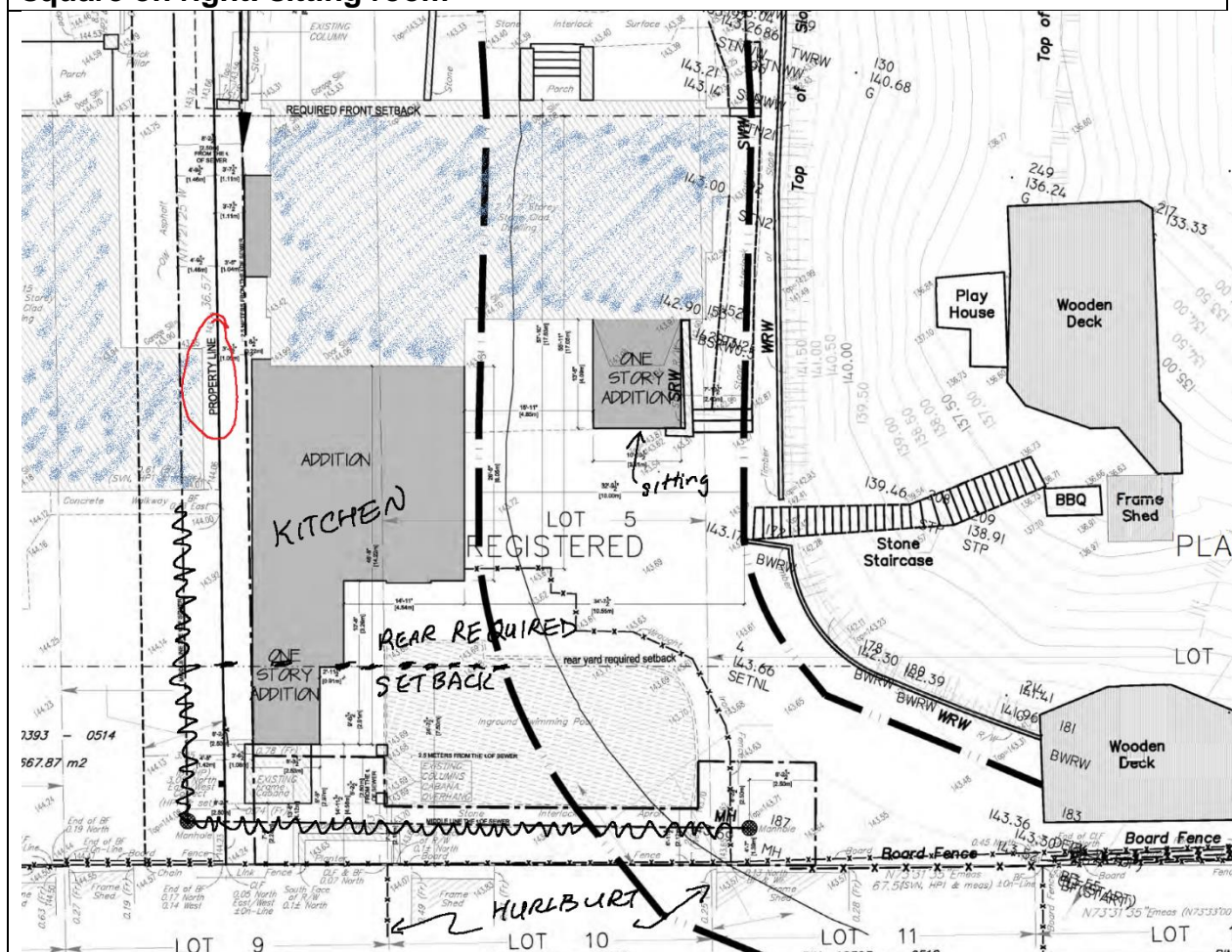
The project<sup>1</sup> as shown in Figure 2 below: The existing houses at 15 Valley View and 21 (subject) are shown with soft hash marks and I have circled the property line between them in red. The heavy dotted lines represent the top of bank (right heavy broken line) and a line 10 m back of the top of bank. The smaller sitting area expansion lies between those lines and for the purposes of this decision, the heavy lines are not an issue. I adopt the position of the Toronto Region and Conservation Authority in respect of the top of bank line issues.

The rear yard setback line, which cuts the kitchen/ gym expansion, is labelled “rear required setback” and triggers the rear yard setback variance. Length and depth variance are separate requests but also a function of the L shaped design.

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<sup>1</sup> The proposal seeks to expand the lot area of 21 Valley View to facilitate the construction of a new one storey addition with a carport on the west side of the lot. The new addition to 21 Valley View will require minor variances to Zoning By-laws 569-2013 with respect to minimum side yard setback, location of a parking space, building length and depth, minimum required rear yard setback, area of a platform at or above the second storey, and proximity of an ancillary structure to the rear lot line. (Goldberg letter to Committee of Adjustment, Sept 16, 2020)

**Figure 2. Proposed additions: Left, L-shaped addition (Kitchen/ gym); smaller square on right: sitting room**

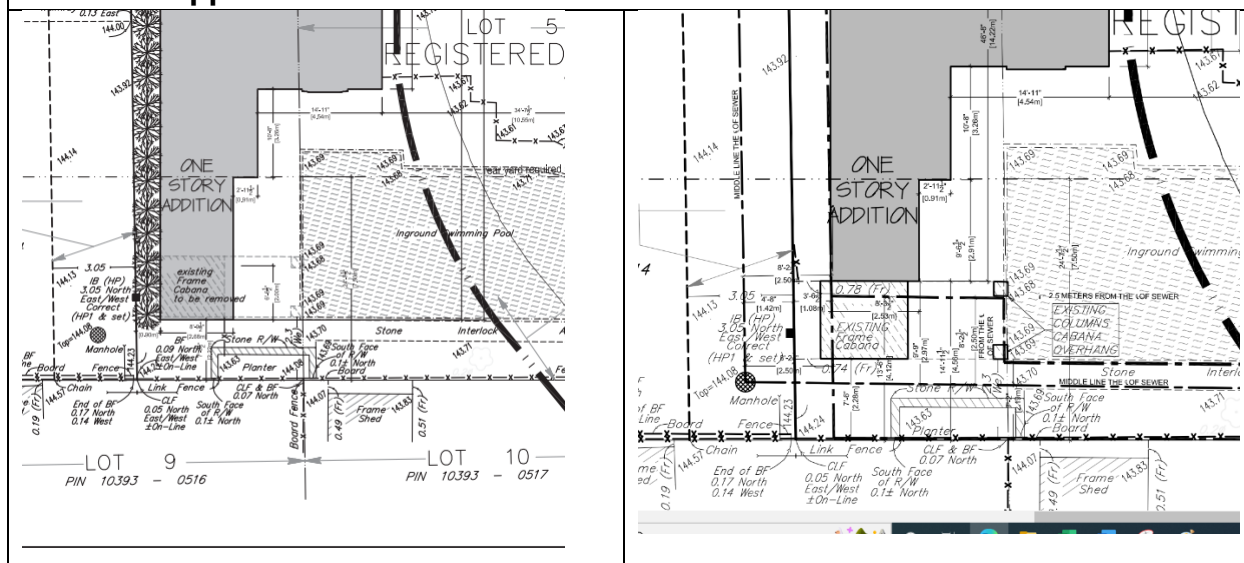


The third feature is a City owned 300 m (one foot) common storm and sanitary sewer, which I have indicated with a wavy line. It runs under the east wing of the house next door (15 Valley View) crosses right for a short length behind the Selfes' swimming pool and continues south to Inglewood Drive. The sewer was not discussed by either of the witnesses. If I am wrong on any of the details of the sewer, it does not matter because this is not a factor in this decision. I did not determine the outcome based on any consideration of the sewer.

In small writing at the bottom of Figure 2 is "Lot 10". This is #355 Inglewood, owned by the Hurlburt/Nielsen family and Mr. Hurlburt was the sole opponent to the Selfes at this hearing. At the end of hearing all the evidence, I feel Mr. Hurlburt's opposition was based largely on the fact that the adult Selfe children make noise in the swimming pool at night and on weekends, sufficient to cause Mr. Hurlburt to call the police on occasion. This is not to trivialize this concern. However, they were not planning considerations.

I considered Mr. Goldbergs evidence, but I have set out below, I found his evidence insufficient to support the variances. I did not refuse the variances because of neighbour noise complaints as these are not applicable to the tests under the *Planning Act*.

**Exhibit 3. Left: rear one storey addition (cabana to be removed); Right amended application**



This application has had two amendments: one in 2021 and one in 2022. Figure 3, above, shows the small change that triggers a request under s 45(18.1) of the *Planning Act*, to make an order that the change the Selfes made late in the process do not need to be recirculated. Since this change was a reaction to negotiations with the City, which was at all times aware of the change, I would have made this order regarding notice if the variances were granted.

The change only affects the kitchen/gym. The south end was shortened. Instead of demolishing their existing cabana, the Selfes will retain it and the addition will stop at the cabana's north wall. The longer addition with the destroyed cabana is the proposal that originally went to the Committee of Adjustment in January 2022 and was refused

### The earlier change

The 2021 "amendment" is somewhat more complicated to explain, and it is ultimately not relevant for this decision. However, because was the subject of testimony and it led to a more complex process, I set out the history.

The Selfes commenced two applications for the same project,

- Application 1 relating to **15** and 21 Valley View, and involving a **consent** (that is a lot line adjustment); and
- Application 2 for variances to **21 Valley View only** and **no** lot line adjustment.

Mr. Goldberg revised Application 1 to become Application 2 on July 8, 2021, which is the subject of this TLAB appeal.<sup>2</sup>

On November 22, 2021, Mr. Bronskill wrote to the TLAB to withdraw an appeal with respect to “21 Valley View”.<sup>3</sup> For Mr. Bronskill this made sense, because he referred to Application 1 as “15 and 21 Valley View”, but since #21 was common to both Applications, it is understandable some document would be placed in the wrong file. For example, the consent application, relevant only to application 1, is in this TLAB file. A person reading this file, Application 2, would have to pick out the July 8, 2021 letter as the significant starting point.

This explains the previous TLAB procedural order in which Chair Lombardi essentially straightens things out. Upon clarification from Mr. Bronskill, he made a special order to staff to send out a notice of hearing for Application 2<sup>4</sup>, normally a

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<sup>2</sup> Re: Revised Consent and Minor Variance Applications 15 and 21 Valley View, City of Toronto File Nos: B0059/20TEY, A0812/20TEY, and A0813/20TEY. . .

In September 2020, on behalf of the owners, we submitted a minor variance for each of the respective lots (File Nos omitted) along with a consent application . . . for a lot addition from 15 Valley View to 21 Valley View to the Committee of Adjustment (COA). We received comments from Development Engineering in January 2021 which were unsupportive of the minor variance application for 15 Valley View. As a result, **we are revised (sic) the original proposal to remove the lot addition and the required minor variances for 15 Valley View.** At this time, we will only be proceeding with the minor variance application for 21 Valley View. In addition, revisions to the previously submitted architectural plans have been made to the proposal for 21 Valley View, as a result, of no longer pursuing the lot addition. (Goldberg letter, July 8, 2021)

<sup>3</sup> Re: 21 Valley View – Withdrawal of Appeal We are counsel for the Appellant in this matter and are writing to withdraw our client’s appeal dated November 17, 2021. We trust this letter is sufficient to enable such a withdrawal. Please let us know if any additional information is required. (Bronskill letter, Nov 22, 2021)

<sup>4</sup> On October 28, 2021, the Committee of Adjustment (COA) deferred the Application above referenced as Case File No. 20 195518 STE 11 MV (A0813/20TEY). The Application requested four (4) variances to permit the alteration of the existing two storey detached dwelling by constructing a rear one-storey addition at 21 Valley View (subject property). An appeal was submitted by David Bronskill (Goodmans LLP) on behalf of Neil and Chrisula Selfe (Owners) on November 17, 2021, by way of a letter to the Committee of Adjustment. In that letter, Mr. Bronskill asserted that in deferring the matter, the COA made a decision as defined under subsection 45(8) of the Planning Act (Act). The COA subsequently heard the deferred matter on January 12, 2022, and refused the variances sought by the Owners. On January 24, 2022, the Applicant appealed that Committee decision to the Toronto Local Appeal Body (TLAB), but the



routine matter.

### The easement issue

In both Applications 1 and 2, the question of whether the City was entitled to an easement arose and was debated, but on May 6, 2022, Mr. Selfe and Mr. McKeich (lawyer for the City) signed Minutes of Settlement, so this issue is “off the table”. In view of the result, I make no comment on any of the issues in the Settlement or about the easement.

### The planning issues

I now turn to the planning issues. The key provision of the Official Plan is the “respect and reinforce” test:

4.1.5 Development in established Neighbourhoods will respect and reinforce the existing physical character of each geographic neighbourhood, including in particular, . . .c) prevailing heights, **massing, scale**, density and dwelling type of nearby residential properties; . . .g) **prevailing patterns of rear and side yard setbacks** and landscaped open space;

Mr. Goldberg delineated the geographic neighbourhood as roughly the four or five blocks in a square south and east of St Clair Ave East. I accept this as one appropriate neighbourhood for determining existing physical character. Another appropriate neighbourhood might have concentrated on the properties adjacent to the ravine and railway, given his emphasis on the uniqueness of properties with a valley feature.

### Whether “garage-type” setbacks can be applied to living space

The zoning by-law is more lenient when considering the location of garages than for living quarters. Mr. Goldberg asked me to consider the number and location of garages in his area as a contextual argument in favour of the variances and also to defeat Mr. Hurlburt’s complaint of overlook.<sup>5</sup> He said I should look more favourably on

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Tribunal has yet to set a Hearing date to hear the appeal. In the instance of the first COA hearing in which the Application was deferred, Mr. Bronskill filed an email with the TLAB on behalf of the Owners/Appellants, dated November 22, 2021, withdrawing their appeal of this matter; however, no Notice of Hearing (Form 1) was formally filed with the Tribunal. (TLAB decision, Feb 2022)

<sup>5</sup> So, sir, this is governed by By-law 569 um it’s a single detached residential neighbourhood and the one point I want to make is, there is a presence in the neighbourhood of a lot of accessory structures in rear yards, which include rear yard garages and rear yard sheds. I also want to say that um the by-law specifically permits a rear um a rear shed um or a rear accessory structure, which could be a garage in the rear yard and um the only purpose of me pointing [this] out is that it forms part of the um fabric of this community, that they exist. They

the Selfes' rear addition coming close to Mr. Hurlburt's lot line because a garage could be within 2 m of a lot line "as-of-right".

I reject this argument. The comparison, even for "context", is not appropriate as the following sections of the zoning by-law show:

- Reg.10.5.60.1 (2) "An ancillary building cannot be used for living accommodation."
- Reg.10.5.60.1 (3)(B): an ancillary building can have food preparation or sanitary facilities, but not both.
- Mr. Goldenberg mentions that there is "as-of-right" permission for a 4 m (13.1 ft) high garage; but the rear portion of the gym addition is 5.48 m (18 ft).

Accordingly, I find the occurrence of rear accessory buildings being in some cases close a lot line is irrelevant for determination of fitting into the physical character of the neighbourhood in this case. The proposed addition is not a garage and I find that that as an addition which has direct access to the existing building, it is not an "ancillary building". The way in which garages and accessory buildings are used is different than living space and I find Mr. Goldberg's equivalency proposition is not founded.

### **Valley lots v "internal lots**

Number 21 Valley View is one of two dead-end properties on Valley View Drive, a short street that, along with St Clair Avenue East, Harper Gardens, and Inglewood Drive, contain lots with large unusable ravine lands (the Moore Park Ravine). Mr. Goldenberg suggested that certain "valley lots", i.e., containing a "valley feature" were different and larger than others (called "internal lots"). He then invited me to conclude that variances requests for valley lots would more easily meet the tests in Official Plan 4.1.5.<sup>6</sup>

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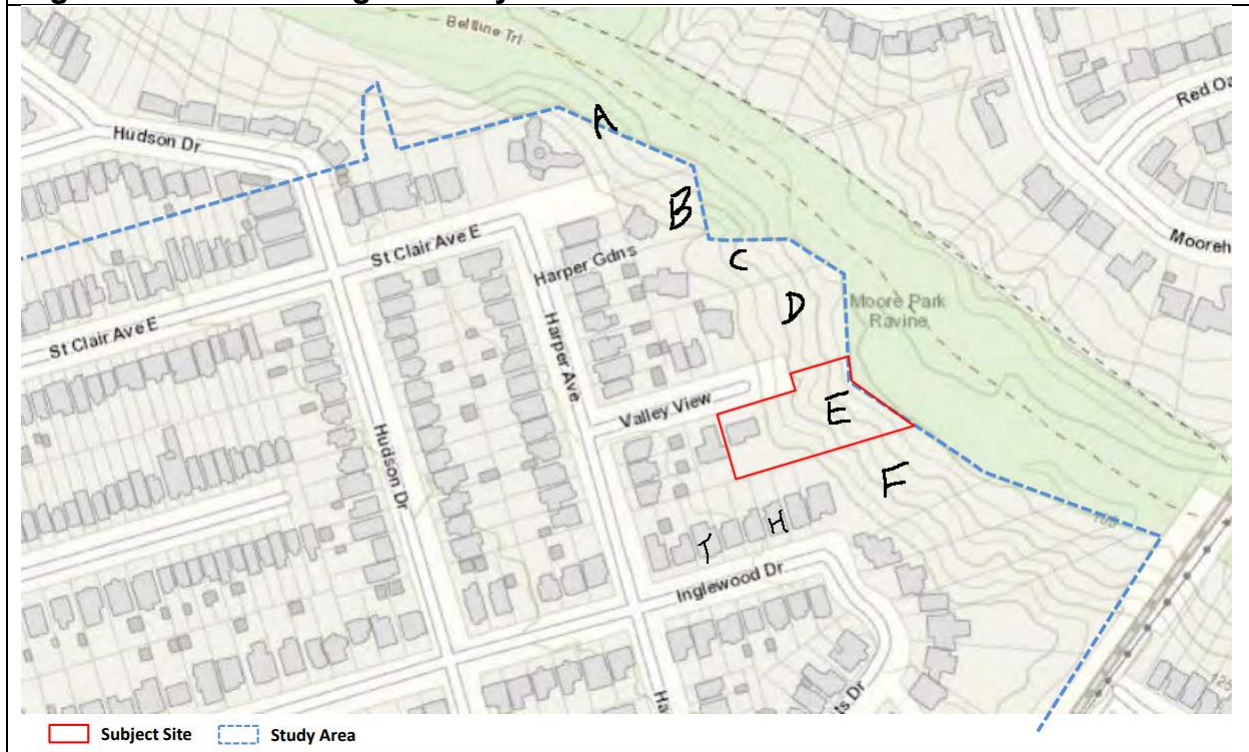
are permitted to be close to the rear lot line, the maximum height of an accessory structure which could include a garage, um could be 4 metres high and 2 metres off the lot line. And it could be a two-car garage back there, which would be 7 metres wide and 2 metres off the lot line. . . .So, that what I wanted to raise to you, both the as-of-right and, for your note taking [refers to exhibit reference] are the as-of-right zoning permissions for accessory structures. And I just quickly summarize what they say, but they basically permit --they don't limit the size of it -- they limit the height of it to 4 metres and the setbacks to both the side lot lines and north lot lines is half the height of the accessory structure, which could be a garage.

<sup>6</sup> The lots that are adjacent to the valley feature and actually form part of the valley feature, 'cause the lots that actually go down into the valley are quite distinct lots as compared to what I'm going to call the remainder of the lots, or the "internal" lots, that don't back onto the valley feature. And the subject site, of course, is one of those valley lots, which is a very very large lot, in context. . . .

You can see the size of the property um in relation to the size of the adjacent properties. Even the size of the property that is completely table land, is a, is a very large property.



Figure 4. Mr. Goldberg's "valley lots"



I have added letters to his map; "E" is the subject, Mr. Hurlburt's house is marked as "H" and Ms. Thorburn's house as "T"<sup>7</sup>).

Here are Mr. Goldberg's planning comments:

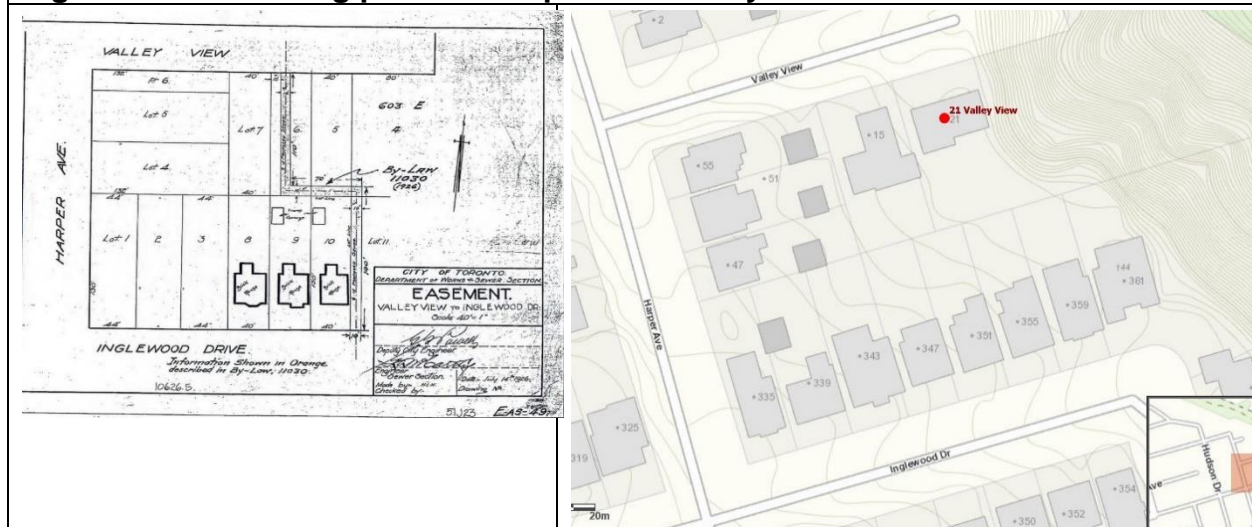
- The house at A is a ravine lot "very very large" property; the dwelling, which has two long wings, is "characteristic of the valley homes but uncharacteristic of the other homes";
- The B house's footprint appeared to be on the rear lot line of a Harper Ave property;
- The C house is located similar to B.

Just so you know sir, the frontage of this property is 42.68 m (140 ft), that's street frontage you can see that umm ah the depth of this property, that's in a north-south direction, is 36.57. And the overall size, and this includes the valley feature is 3409.89 m<sup>2</sup>, which is equivalent to 0.84 acre. That's a very large site. (Goldberg oral testimony)

<sup>7</sup> Mr. Goldberg stated in oral testimony that her house was second from the corner, but her letter is marked "343 Inglewood", which is third from the corner. She attended the hearing as an observer, taking no position because of the City's settlement on the sewer issue.

He indicated the most important comparable was D, for which a 2005 Committee of Adjustment approved a home 37.1 m long with a rear yard setback of 0.28 m instead of 7.5 m.<sup>8</sup>

Figure 5. 1926 lotting pattern compared to today



I differ somewhat with Mr. Goldberg on what may have happened, after reading the Committee's decision for D<sup>9</sup>. The 2005 decision referred to an "existing" garage. The garage is the small projection to the north of the D house (see Figure 4) that touches the common lot line between C and D. Most neighbours would not support a new house 0.28 m from their lot line when the by-law requirement is 7.5 m, so the most

<sup>8</sup> And if you go further south from [C], on the north side of Valley View, and in May 2005, there was a Committee of Adjustment application which authorized, and you can actually see it here, where the original main house was, and then there was an addition to the northwest corner of that house and that's basically next to the west lot line and next to the north lot line. And the variance would allow for a um west lot line setback of .11 m to .18 m. The length of the dwelling is 31.7 m, and from the north lot line, that addition extends to within .28 m o the rear lot line – on this map it looks like it is on the lot line, but it is .28 m and what the by-law requirement was, was 7.5m. So, there are some of these unusual circumstances that are existing that have been authorized to exist on the large valley lots um and what that speaks to sir, is the size of these houses, the length and depth of these houses, and the relationship to some of these lot lines which may be raised, and I will certainly raise it in relation to the proposal on the subject site. (Goldberg oral testimony)

<sup>9</sup> Purpose of the application: The applicant is seeking relief from the provisions of the Zoning By-law 438-86 as amended to renovate the **existing garage**, make alternations and construct an addition on the west side of the building. Requested Variances to the zoning By-law: 1. The proposed addition will have approximately 0.11 metres to 0.18 metres setback on the west side lot line for the total depth of building of approximately 31.7 m instead of the required minimum side lot line setback of 0.9 metres for that portion of the building not exceeding 17.0 metres in depth and 7.5 metres for the portion exceeding 17.0 metres in depth. (Committee of Adjustment decision)

likely reason why there was no objection is that the structure was already existing and was being converted from a detached garage to part of the living quarters of the house.<sup>10</sup>

I feel that examples A to D, are in some respects “cherry picking”. There are houses on Hudson Drive, outside the study area but arguably part of the neighbourhood and also houses south of F (these are in Mr. Goldberg study area) that I find display quite regular side and rear yard setbacks. In any event, I do not accept the A to D examples as being sufficient to create “prevailing pattern of rear and side yard setbacks”. Nor are lengths and depths requested characteristic of the geographic neighbourhood. Indeed, D’s length appears to be an outlier, and not prevailing, a topic I will return to later.

Before leaving this topic I wish to discuss whether the development that meets the “mix of physical characteristics” part of the 4.1.5 test.<sup>11</sup> This is a difficult test to apply for such a short dead-end street like Valley View. I believe the physical characteristics of valley lots, perhaps with the exception of house A are sufficiently similar that I find there is not a “mix of physical characteristics”.

While a “mix of physical characteristics” may occur in the broader neighbourhood, I do not find that this “mix” is represented in the physical character of the valley lots (perhaps with the exception of house A) and therefore I do not find that the characteristics of the proposed development to already have a significant presence in the most obvious, in this case, definition of the immediate context, which is to say, the valley lots. I do not find that the proposal therefore maintains the general intent and purpose of the highlighted section of OP Policy 4.1.5.

### **Further considerations based on the 1926 map**

The Applicants’ materials contain the 1926 by-law that authorizes the building of the sewer, which contains a contemporaneous diagram of the then proposed sewer.

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<sup>10</sup> My authority for this finding and others in this decision is s. 16 of the *Statutory Powers Procedure Act*: [16](#). A tribunal may, in making its decision in any proceeding,

(a) take notice of facts that may be judicially noticed; and  
(b) take notice of any generally recognized scientific or technical facts, information or opinions within its scientific or specialized knowledge.

<sup>11</sup> While prevailing will mean most frequently occurring for purposes of this policy, this Plan recognizes that some geographic neighbourhoods contain a mix of physical characters. In such cases, the direction to respect and reinforce the prevailing physical character will not preclude development whose physical characteristics are not the most frequently occurring but do exist in substantial numbers within the geographic neighbourhood, provided that the physical characteristics of the proposed development are materially consistent with the physical character of the geographic neighbourhood and already have a significant presence on properties located in the immediate context or abutting the same street in the immediately adjacent block(s) within the geographic neighbourhood.

The author is the City of Toronto Department of Works (Sewer Section); it is dated July 14, 1926. It used Plan of Subdivision Plan 603E as the starting point. In Figure 5, I compare the diagram to the present lotting pattern, taken from the zoning map.

The only houses that were built in 1926 were numbers 347, 351 and 355, shown as lots 8, 9 and 10 Inglewood Drive (this last house is Mr. Hurlburt's). From the corner of Harper Ave and Inglewood, the lot that is now #335 (shown as Lot 1) was slightly narrowed and the next two lots 2 and 3 (now #s 339 and 343 Inglewood, Ms. Thorburn's) were given a bit more land. The lots on the east side of Harper (Lots 6, 5, and 4) were re-sectioned to make equal frontage lots. On Valley View, Lot 6 was sectioned, half given to 15 Valley View (lot 7 plus part of 6) and half to lots 6 and 4 to form 21 Valley View. The half given to 15 Valley View contains the sewer: a chunk of land 20 feet wide and 120 feet deep.

I conclude from this review of the history, that there was some plasticity in lot boundaries; adjustments were made both before and after the construction. I find it likely that this same plasticity also occurred for the valley lots outside the diagram. The fact that B and C are close to the rear lot lines of Harper Ave lots may be that they originally gained access by a long driveway from Harper and when lots were created on Harper, this closeness was deemed tolerable by the landowners.

Of course, this is speculation, but it is equally speculative for Mr. Goldberg to consider that just because a few valley lots have atypical footprints, that all valley lots could tolerate or invite some abrogation of setback parameters and still be characteristic of this long-established neighbourhood.

The lots in the study area do not generally show a pattern of 24 metre lengths and 4.6 m rear yard setbacks, a topic I explore in the next section.

But to recapitulate:

- Valley lots on St Clair East and Inglewood do not display tight rear yard setbacks as argued by Mr. Goldberg on the basis of lots A to D;
- Footprints close to a lot line are atypical; they do not form part of the neighbourhood fabric;
- The reasons advanced by Mr. Goldberg are insufficient for me to conclude that the granting of the variances generally maintains the physical character of the neighbourhood.

### **The Committee of Adjustment database**

The proponent has the obligation of showing that the variances individually and cumulatively met the tests under the *Planning Act*, and thus needs to prove on a balance of probabilities that the building length of 24.25 m respects and reinforces the

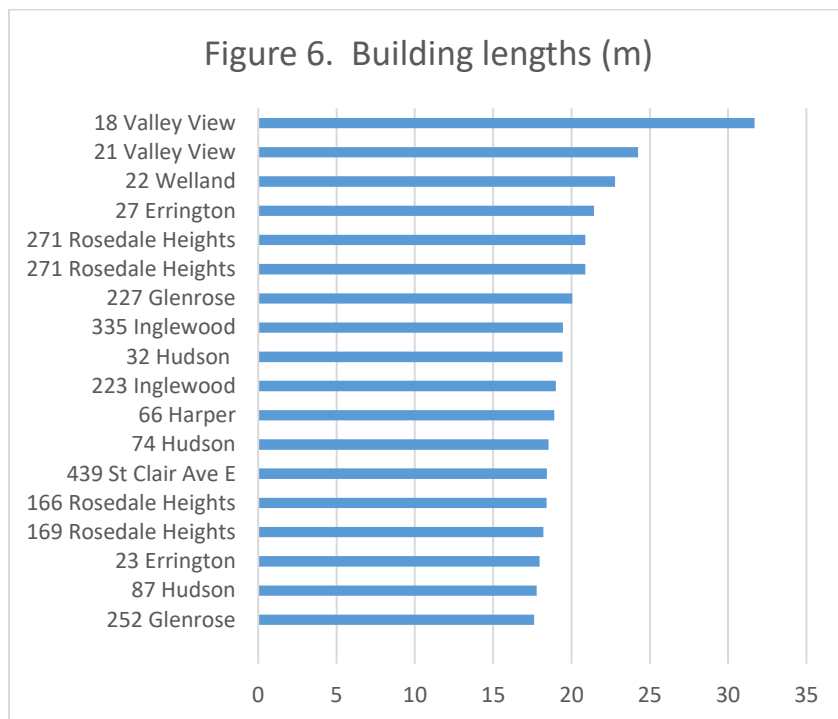
physical character of the area and are minor. The proponent concentrated on the history of the application (which is indeed complicated), the sewer and “top of bank” issues, but gave less consideration to what is happening to houses beyond the Selfe and Hurlburt properties. I was not given in my view, a sufficient “big picture” of how the variances create a development that fits in with the geographic neighbourhood as a whole.

I was given a two-paragraph verbal description of the neighbourhood<sup>12</sup>, a map outlining the study boundaries, the information in Figures 4 and 5, and finally a list of Committee of Adjustment decisions, but was missing a summary. There is an aerial photo, but not sample photos of other houses. I realize that a rear addition presents problems for a planner but in my experience in other cases proponents manage to deal with obtaining good neighbourhood data from aerial photos and other means. The proponents must provide evidence to demonstrate why they should receive the variances particularly variances significantly larger than variances granted by the Committee in the last 14 years.

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<sup>12</sup> The Moore Park neighbourhood, including the Study Area is a neighbourhood originally built in the early years of the last century as a single detached neighbourhood of executive lots/dwellings. The street pattern reflects what I refer to as a modified grid-pattern of streets, modified by the curvilinear pattern of many of its streets, largely due the ravine feature forming the eastern limit of the Study Area. The lots are generous in size with minimum lot frontages generally of 12 – 18 m (39 – 60 ft), although some of the frontages well exceed that amount. Lot depths are generally ununiform with some very deep lots particularly those forming part of the ravine feature. g) Moore Park is a highly desirable, centrally located, and affluent neighbourhood of single detached dwellings. Its dwellings and properties are generally maintained at a very high standard, including professional landscaping. Due to these many attributes, the Moore Park neighbourhood has for the last 2 - 3 decades, experienced considerable reinvestment, in the form of large dwelling additions and commonly, replacement dwellings. Given the amount of time that the replacement dwelling dynamic has been happening and the high level of activity over this time, the new second generation of replacement dwellings in the neighbourhood creates an eclectic pattern of streetscape and property development patterns, reflected by the varied and custom architectural styles, including a mix of architectural vernaculars, roof styles and types, presentation to the street, massing, building depth and building size. (Goldberg Witness Statement, par. 3.2)





Mr. Goldberg assembled recent committee of Adjustment decisions but left me to make a more detailed examination (which he called “quantitative”).

I reject that counting the decisions is inappropriate, given the Official Plan uses the word “prevailing”, which is a counting exercise. In Figure 6, I have counted the length decisions and noted the variances given by the Committee. Except for 18 Valley View, which is lot D, (page 11), they are not in the range of 24 m. I assume there are in several hundred or so lots in Mr. Goldberg’s study area which includes St Clair East, Glenrose, Inglewood, Garfield and Rosedale Heights, all those portions east of Welland Avenue. There are only 18 property owners that have sought length variances and the majority of these are below 20 m. These decisions are from 2017 to 2021, except for D, which is a 2005 decision.

## Conclusion

The information that Mr. Goldberg gave me (Figure 6) shows that except for #18 Valley View, the property across the street, the proposed length will be the longest in the neighbourhood. Undoubtedly, Mr. Goldberg would reply that the two are some of the largest properties but this may be true only by including below top of bank lands. The table land sizes appear to me to be fairly regular, except for the house at A. Even the size of footprints is regular; the coverage for the Selfes’ current house is perhaps equivalent to Ms. Thorburn’s and on the information presented, I would not be prepared to allow her to build within 4.6 m of her rear lot line.

In footnote 6, Mr. Goldberg stated that the Selfes' lot is 0.84 acre, but he failed to state that most of this land cannot be considered for gross floor area purposes under the zoning by-law.<sup>13</sup> In short, the intent of the zoning by-law is to disregard some of the 0.84 acre, and the Planning Act asks me to consider this in coming to my opinion.

While I understand that the Selfes may desire a gym close to their pool and cabana, I do not see a planning basis to create an overlong building close to the rear lot line. I find that at least two of the variances: building length and rear yard setback, do not meet the tests of Official Plan and zoning intent to create homes that "fit in". I do not consider the numbers requested to be minor. Since all of the variances must cumulatively and individually meet all four tests, the variances must be denied.

## **DECISION AND ORDER**

The variances in Table 1 are not authorized.

X



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Ted Yao  
Panel Chair, Toronto Local Appeal Body

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<sup>13</sup> 5.10.40.40 Floor Area (1) Floor Area Calculation Restriction Below a Shoreline Hazard Limit or Stable Top-of-Bank On lands under the jurisdiction of the Toronto and Region Conservation Authority pursuant to the Conservation Authorities Act, R.S.O 1990 c. C.27, as amended, other than in the Open Space Zone category, if the Toronto and Region Conservation Authority determines that a shoreline hazard limit or a stable top-of-bank crosses a lot, the portion of the lot below that shoreline hazard limit or stable top-of-bank is not included in the calculation of the floor space index for that lot.