

DECISION AND ORDER

Decision Issue Date Monday, August 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(s): SIVAGHANESAVERL SANGARAPPILLAI

Applicant(s): CANTAM GROUP LTD

Property Address/Description: 32 LAMONT AVENUE

Committee of Adjustment File

Number(s): 21 171059 ESC 22 MV (A0216/21SC)

TLAB Case File Number(s): 22 108760 S45 22 TLAB

Hearing date: Tuesday, July 26, 2022

Deadline Date for Closing Submissions/Undertakings:

Decision Delivered By TLAB Panel Member C. Wong

REGISTERED PARTIES AND PARTICIPANTS

Appellant Sivaghanesaverl Sangarappillai

Appellant's Legal Rep. Martin Mazierski

Applicant Cantam Group Ltd

BACKGROUND

The Appellant wishes to maintain the existing side yard circular driveway abutting the property of 32 Lamont Avenue. This property is designated *Neighbourhood* in the City Official Plan (OP) and is zoned RD (x271) by By-law No. 569-2013, as amended.

At the Committee of Adjustment (“COA”), the Appellant requested a variance from **Chapter 10.5.50.10.(2)(A), By-law 569-2013** for side yard landscaping for certain types of residential buildings, requiring “A minimum of 60% of the side yard abutting a street for landscaping”. The Appellant requested a total of 24% of the side yard abutting Lamont Avenue to be maintained as landscaping. Although the COA approved of other requested variances for floor area, height, front yard setback, and garage dimensions, it refused this side yard landscaping variance application.

On January 26, 2022, the Appellant filed a Notice of Appeal of the COA decision with the Toronto Local Appeal Body (“TLAB”), citing concerns that the By-law requirement would not allow for the desired driveway on the lot.

On April 14, 2022, TLAB issued a Notice of Hearing with a hearing scheduled for July 26, 2022. According to form, the Notice of Hearing included a comprehensive overview of the requirements, deadlines, and contact information for any accessibility or other concerns in the Appeal process.

Prior to the Hearing, the Appellant did not file any disclosure or Witness Statements with the TLAB.

On July 25, 2022, the day before the scheduled Hearing, the Appellant’s Legal Representative filed an Authorized Representative Form, and requested an Adjournment via email, citing Rule 17.2. I did not grant the Adjournment because Rule 17.2 applies when all Parties consent *and the Party has obtained an adjourn-to date*. Although no one had elected opposing Party status, without an adjourn-to date, the Appellant or its Legal Representative must make a request for Adjournment through a motion, 15 days before the Hearing.

Further, according to Rule 23, Hearing dates are fixed. Although the presiding Member has discretion to grant an Adjournment administratively with sufficient reasons, the Legal Representative’s email did not provide any reasons for an Adjournment that respond to Rule 23.

JURISDICTION

Provincial Policy Statement – *Planning Act 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 – *Planning Act 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

At the Hearing, only the Appellant's Representative and one observer attended to support or observe the variance request.

The observer provided no confirmation of their identity but had a WebEx name of "Dave". The observer also kept their video and microphone off and also gave no comments of any sort.

The Appellant's Representative did not provide any evidence to support the Appellant's requested variance. The Representative explained that the Appellant's site plans were not accurate, and that a new Zoning Notice from an Examiner was required to proceed with the Appeal. Even upon further questioning, no explanation was given as to why this issue was not identified or addressed closer to the time when the Notice of Appeal was filed on January 26, 2022.

ANALYSIS, FINDINGS, REASONS

An Appeal of the Committee of Adjustment's decision is privilege. If one appeals a Committee of Adjustment decision, one has a duty to fulfill and comply with the requirements of the Toronto Local Appeal Body in a manner that is efficient and respectful of City resources. One need not be a legal or planning expert, but one must avail oneself of the support one needs and communicate one's needs with the TLAB in a timely manner.

Late filing and late requests for Adjournment without sufficient reasons, contribute to a backlog in the system, which reduces the accessibility of justice. If one accepts a scheduled hearing date and does not use it, this deprives other members of the public of the opportunity to have their matter heard and decided. The TLAB has a very high case load. Appeals to TLAB that are frivolous, vexatious, or not in good faith, are not tolerated.

As TLAB strives to be highly transparent, accessible to all people, and to serve the broad public interest. Thus, in its Notice of Hearing it provides an overview of the steps and dates that are required under the *Planning Act*, as well as clear

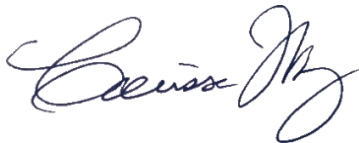
email and phone information for those who have accessibility or other concerns. TLAB has also issued Practice Directions, linked to our main webpage: <https://www.toronto.ca/city-government/planning-development/committee-of-adjustment/appeals/>.

To ensure the public understands the importance of their responsibilities in undertaking an Appeal, it has provided Practice Direction 7 – Late Filings: <https://www.toronto.ca/city-government/planning-development/committee-of-adjustment/appeals/toronto-local-appeal-body-practice-directions/>

It is not fair to those who do comply with these Rules, which are legally required under the *Planning Act* to ensure a smooth and efficient planning process, if unjustified exception is made for those who do not comply.

DECISION AND ORDER

The Appeal is dismissed. The Committee of Adjustment decision noted above is final and binding, and the file of the Toronto Local Appeal Body is closed.



X

C. Wong

Panel Chair, Toronto Local Appeal Body