

# DECISION AND ORDER

**Decision Issue Date**      Wednesday, August 24, 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): Cary Green, Earl Rumm

Applicant(s): Rubinoff Design Group

Property Address/Description: 101 Bidewell Avenue

Committee of Adjustment File Number(s): 21 226154 NNY 06 MV (A0705/21NY)

**TLAB Case File Number(s): 21 249561 S45 06 TLAB**

**Hearing date: Wednesday, July 13, 2022**

**Decision Delivered By TLAB Panel Member S. Makuch**

## REGISTERED PARTIES AND PARTICIPANTS

Applicant	Rubinoff Design Group
Party/Owner	Dayna Michelle Herman
Party's Legal Rep.	Amber Stewart
Appellant	Cary Green
Appellant's Legal Rep.	David Bronskill
Appellant's Legal Rep.	Matthew Lakatos-Hayward
Appellant	Earl Rumm
Appellant's Legal Rep.	Aaron Platt
Expert Witness	Franco Romano
Expert Witness	TJ Cieciora

## **INTRODUCTION**

This is an appeal of minor variances approved by the Committee of Adjustment subject to certain conditions. On July 18, 2022 I issued an order in this matter which adjourned the proceedings as all three parties reached a settlement. That order further provided that:

The minutes of settlement include the following

Revised plans which will be submitted to TLAB. Those plans will include a narrowing of the garage.

A new examiners notice.

Conditions of approval.

Revised variances.

The revised variances and the conditions of approval will be submitted to me with an affidavit by Mr. Romano in support of the approval of the variances without an in person hearing

## **BACKGROUND**

The required material was submitted in accordance with my order and is on file with TLAB.

The variances now requested are as follows:

1. Chapter 10.5.100.1(1), By-law No. 569-2013

In the Residential Zone category, in addition to meeting the landscaping requirements in regulation 10.5.50.10, for a detached house, semi-detached house, or duplex, and for an individual townhouse dwelling unit if an individual private driveway leads directly to the dwelling unit, a driveway that is in the front yard or passes through the front yard may have the following dimensions in the front yard the lesser of: (iii) the width of a single parking spaces behind the front main wall. The proposed driveway is larger than the single parking space inside garage.

2. Chapter 900.3.10(5)(A) Exception RD 5, By-law No. 569-2013 Despite regulation 10.20.40.70 (3), the minimum side yard setback is 1.8m. The proposed south side yard setback is 0.9 m.

3. Chapter 200.5.1.10(2)(A), By-law No. 569-2013 The minimum required parking space must have a minimum width of 3.2 m. The proposed parking space will have a width of 2.96 m.

The conditions agreed to in addition to those imposed by the Committee of Adjustment are as follows:

1. The Owner shall construct and maintain the Proposed Development substantially in accordance with the Revised Plans dated July 15, 2022, provided that:
  - a. at the second storey, the south wall shall be set back a minimum of 1.2 m from the south lot line; and
  - b. this condition shall not apply to the interior of the proposed dwelling.
2. The Owner shall plant twenty columnar European Beech trees or similar species along the north and eastern lot lines, substantially as shown on the Revised Site Plan.
3. The Owner shall install and maintain a frosted glass window on the north-facing second storey window on the rear addition.
4. The Owner shall submit a complete application for a permit to injure or remove a City owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees Article II Trees on City Streets.
5. During construction of the Proposed Development, the Owner or its agents, employees, workers, etc. shall not access, nor seek to access, to 99 Bidewell Avenue for any purpose whatsoever without the prior and express written consent of the owner(s) of 99 Bidewell Avenue, which consent may be provided at such owners' sole discretion.

## **MATTERS IN ISSUE**

There are no matters in issue.

## **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**

The unchallenged affidavit filed in accordance with my order, and the witness statement of Mr. Romano provide clear evidence that the proposed variances meet the four tests of the Planning Act and meet the Provincial requirements. The conditions are appropriate and meet City requirements.

## **ANALYSIS, FINDINGS, REASONS**

Since the uncontradicted and unchallenged evidence supports the granting of the variances and the conditions are agreed to and have been requested by the City and were, in part, imposed by the Committee of Adjustment the appeal should be allowed in part and the variances set out above approved, subject to the conditions also set out above.

## **DECISION AND ORDER**

The appeal is granted in part and the variances set out above are approved subject to the conditions also set out above.

X 

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S. Makuch  
Panel Chair, Toronto Local Appeal