

# ORDER

**Decision Issue Date**      Wednesday, September 07, 2022

PROCEEDING COMMENCED UNDER Section 53, subsection 53(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): HASSAN JALILIAN

Applicant: AMIR HOSSEIN FARROKHKISH

Property Address/Description: 186 ELLERSLIE AVE

Committee of Adjustment Case File Number: 20 104294 NNY 18 CO (B0001/20NY)

**TLAB Case File Number: 20 175363 S53 18 TLAB**

**DECISION DELIVERED BY TLAB Panel Member JUSTIN LEUNG**

## REGISTERED PARTIES AND PARTICIPANTS

Appellant / Owner	HASSAN JALILIAN
Appellant's Legal Rep.	AMBER STEWART
Applicant	AMIR HOSSEIN FARROKHKISH
Participant	STEVEN BIGGS
Participant	JIM GRATSAS
Participant	MARCO DRUDI
Party	CITY OF TORONTO
Party's Legal Rep.	DERIN ABIMBOLA

## **INTRODUCTION AND BACKGROUND**

This relates to an Appeal matter from the North York Panel of the City of Toronto Committee of Adjustment (COA) which refused application for the severance (Consent) of 186 Eilerslie Avenue (subject property) and associated Variances to permit construction of two lots which would have a new dwelling built on each.

The originally scheduled Hearing was adjourned so that the Appellant could address an administrative issue as it relates to inadvertently not appealing the associated Variance Applications, in conjunction with the Consent Application.

Following the adjournment, the Appellant has intermittently communicated to the Tribunal that the Variance Applications will eventually be filed with the City. This was communicated via electronic correspondence (e-mail) and at two subsequent Tele-conference meetings. A third and final Tele-conference meeting was held on July 29, 2022 to provide an update on the matter. The Appellant was instructed to provide information on the status on the Minor Variance Applications within one (1) month time. At the conclusion of this timeframe, said update has not been provided to the Tribunal.

Therefore, this final Order acts to provide closure on this Appeal matter, in recognizing that exhaustive efforts have been made to address relevant issues as this Appeal has progressing within approximately one and a half (1.5) year timeframe.

## **MATTERS IN ISSUE**

The TLAB will, at this point, and in accordance with direction provided at the previous Tele-Conference meeting, need to make a final determination on the status of this Appeal matter.

## **JURISDICTION**

2.1 The TLAB is committed to fixed and definite dates. These Rules shall be interpreted in a manner which facilitates that objective.

2.2 These Rules shall be liberally interpreted to secure the just, most expeditious and cost-effective determination of every Proceeding on its merits.

2.3 The TLAB may exercise any of its powers under these Rules or applicable law, on its own initiative or at the request of any Person.

2.4 Where any of these Rules or any order issued by the TLAB conflicts with any statute or regulation, the provisions of the statute or regulation prevail.

*Extension or Reduction of Time*

4.4 The TLAB may on its own initiative, or, on a Motion by a Party, extend or reduce a time limit provided by these Rules on such conditions as the TLAB considers appropriate.

4.5 The TLAB may exercise its discretion under Rule 4.4 before or after the expiration of a time limit and with or without a Hearing.

4.6 Nothing in this section alters or amends a time limit established by statute.

The TLAB may hear Motions by way of written submissions, in accordance with Rule 17.5 of the Rules of Practice and Procedure.

The TLAB, as per Extension or Reduction of Time Rules 4.4, 4.5 and 4.6 of the *TLAB Rules of Practice and Procedure* (May 6, 2019), is free to extend or reduce a time limit on such conditions as the TLAB considers appropriate.

## **EVIDENCE**

A series of Tele-Conference meeting have been held with the Parties to discuss the Appeal matter and when an Appeal Hearing would be re-scheduled to hear the Consent and prospective Minor Variance Applications. At the July 29, 2022 final Tele-Conference meeting, the Appellant's legal representative Ms. Amber Stewart stated that they have had issues with scheduling the Minor Variance Applications to a Committee of Adjustment (COA) meeting, and attribute this to a backlog at the North York COA office. Ms. Stewart requested the Tribunal provide additional time for her to communicate North York COA to see if these applications could be scheduled forthwith. The other Parties raised no objections and, as such, I requested that Ms. Stewart provide an update on the status of the Minor Variance Applications within one (1) month timeframe from the date of the Tele-Conference meeting to the TLAB. It was further stated that if an appropriate response is not provided at that time, that the Tribunal will consider the Appeal matter withdrawn.

With one (1) month now having elapsed, no further communication has been provided to the Tribunal regarding this matter.

## **ANALYSIS, FINDINGS, REASONS**

As had been stated at the previous Tele-Conference meeting, all Parties in attendance were made aware that if a sufficient explanation on the anticipated appeal of the Minor Variance Applications was not provided in one (1) month timeframe, that the Tribunal would act to bring closure to this Appeal matter by determining the Appeal of the Consent Application now being considered withdrawn. The Parties acknowledged and accepted this determination.

In consideration of the issues herein, the Tribunal finds that this Appeal matter is now deemed withdrawn. It is noted that this decision does not impede any Party from re-

applying for a substantially similar Consent and Minor Variance Applications for the subject property to the COA. While so, this should not be interpreted as the TLAB taking a position on whether this proposed development should occur on this property or not.

In furtherance to this, it is noted that it is approximately one and a half (1.5) year timeframe that has elapsed throughout this Appeal process. As such, the Tribunal finds it necessary to now bring closure to this Appeal matter, in consideration of the public interest.

## **DECISION AND ORDER**

The Tribunal to the Appeal of the Consent Applications to now be withdrawn.

Here, the Appeal is now considered dismissed.

**X**



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Justin Leung  
Panel Chair, Toronto Local Appeal Body