

# DECISION AND ORDER

**Decision Issue Date** Friday, September 16, 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): BRIAN ABRAHAM BLUMENTHAL

Applicant: RICHARD WENGLE ARCHITECT INC

Property Address/Description: 42 GLENAYR RD

Committee of Adjustment Case File Number: 21 176953 STE 12 MV (A0846/21TEY)

TLAB Case File Number: **22 133794 S45 12 TLAB**

**Hearing date:** Friday, August 26, 2022

**DECISION DELIVERED BY** *TLAB Panel Member S. Makuch*

## REGISTERED PARTIES AND PARTICIPANTS

Appellant Brian Blumenthal

Appellant Legal Rep Amber Stewart

Applicant Richard Wengle Architect Inc.

Party (TLAB) Ilan Philosophie

Party's Legal Rep Zachary Fleisher

## INTRODUCTION AND CONTEXT

The Committee of Adjustment approved the following variances to construct a new three-storey detached dwelling with an integral garage, a front porch, and a rear deck:

**1. Chapter 10.20.40.10.(2)(A)(i), By-law 569-2013**

The maximum permitted height of all front exterior main walls is 8.5 m. In this case, the height of the front exterior main walls will be 10.55 m.

**2. Chapter 10.20.40.10.(2)(A)(ii), By-law 569-2013**

The maximum permitted height of all rear exterior main walls is 8.5 m.  
In this case, the height of the rear exterior main walls will be 10.55 m.

**3. Chapter 10.20.40.10.(6), By-law 59-2013**

The elevation of the lowest point of a main pedestrian entrance through the front wall or a side main wall may be no higher than 1.2 m above established grade.  
The proposed height of the main pedestrian entrance through the front wall is 1.3 m above established grade.

**4. Chapter 10.20.40.20.(1), By-law 569-2013**

The maximum permitted building length is 17 m.  
The new dwelling will have a building length of 26.06 m.

**5. Chapter 10.20.40.30.(1), By-law 569-2013**

The maximum permitted building depth is 19 m.  
The new dwelling will have a building depth of 26.52 m.

**6. Chapter 10.20.40.40.(1), By-law 569-2013**

The maximum permitted floor space index is 0.65 times the area of the lot (500.26 m<sup>2</sup>).  
The new dwelling will have a floor space index equal to 0.73 times the area of the lot (562.81 m<sup>2</sup>).

**7. Chapter 10.20.40.70.(3), By-law 569-2013**

The minimum required side yard setback is 1.2 m.  
The new dwelling will be located 1.11 m from the side (north) lot line and 0.91 m from the side (south) lot line.  
The rear deck will be located 1.14 m from the side (north) lot line and 0.91 m from the side (south) lot line.

**8. Chapter 10.5.40.60.(3)(A)(i), By-law 569-2013**

Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no longer than 1.5 horizontal units for each 1 vertical unit above grade at the point where the stairs meet the building or structure.  
The front stairs will be 1.62 horizontal units for each 1 vertical unit above grade at the point where the stairs meet the building or structure.

**9. Chapter 10.5.40.60.(3)(A)(iii), By-law 569-2013**

Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no closer to a lot line than 0.6 m.  
The front stairs will be located 0.09 m from the front (east) lot line.

**10. Section 4(2), By-law 438-86**

The maximum permitted height of a building or structure is 11 m.  
The new dwelling will have a height of 11.23 m.

**THE DECISION OF THE COA WAS APPEALED BY A NEXT DOOR  
NEIGHBOUR.**

**LEGISLATIVE AND POLICY FRAMEWORK**

**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.

### **SUMMARY OF EVIDENCE**

There was no evidence presented because at the commencement of the hearing the appellant's legal representative withdrew the appellant's appeal. No one else appeared in support of the appeal.

### **ISSUES AND ANALYSIS**

As a result of the withdrawal there was no appeal before TLAB and the decision of the Committee is final and binding and the variances are granted and come into force.

### **DECISION AND ORDER**

The appeal having been withdrawn the Committee of Adjustment decision is final and binding, the Committee's decision stands, the variances are in force and the TLAB file in this matter is closed.

**X** 

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S. Makuch  
Panel Chair, Toronto Local Appeal