

INTERIM DECISION AND ORDER

Decision Issue Date Tuesday, October 11, 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): City of Toronto

Applicant: Peter Del Grosso

Property Address/Description: 3 Hartfield Rd

Committee of Adjustment Case File Number: A0338/20EYK

TLAB Case File Number: 21 137380 S45 02 TLAB

Hearing date: Monday, October 3, 2022

DECISION DELIVERED BY Panel Member S. Makuch

REGISTERED PARTIES AND PARTICIPANT

Appellant	City of Toronto
Appellant Legal Rep	Derin Abimbola (City of Toronto)
Appellant Legal Rep	Marc Hardiejowski (City of Toronto)
Appellant Legal Rep	Gabriela Dedelli (City of Toronto)
Applicant	Peter Del Grosso
Party/Owner	Andrea Giallonardo
Party Legal Rep	Paul Demelo
Party/Primary Owner	Alessia Tonietto
Expert Witness	Laleh Farhadi (City of Toronto)
Expert Witness	Jonathan Sasso
Expert Witness	Dana Keimel
Participant	Elizabeth Zucchiatti

Participant Norbert Knutel

Participant Jessica Knutel

INTRODUCTION AND CONTEXT

This is an appeal by the City of Toronto from a decision the Committee of Adjustment granting a number of variances to permit the construction of a new detached dwelling with an attached garage. In addition there are number of neighbours who are participants in opposition to the variances. As the hearing proceeded the applicant sought to revise the plans and amend the application.

The City consented to the applicant revising the plans and amending the application providing there was proper notice and time prior to the hearing commencing and it was not prejudiced in the presenting of evidence at the recommenced hearing. The City was particularly concerned about being limited to the evidence which it already gave and that the amendment would be made while the City's witness was already under cross examination,

ISSUES AND ANALYSIS

It was agreed by the parties that the application could be amended and the plans revised on the following terms:

- 1) The hearing, upon recommencement, would be treated as a new hearing, a hearing de novo, of the amended application. There would be no continuation of the cross examination of the City's witness.
- 2) The applicant would ensure all parties and participant received copies of the revised plans, site plan and examiner's zoning notice of those plans.
- 3) The recommenced hearing will be in respect of the revised plans and amended application.
- 4) The applicant will present evidence at the hearing of the revised plans and amended application. The City will present evidence on the revised plans and amended application.
- 5) Notice of the hearing and filing of material including witness statements will be in accordance with the TLAB Rules as if this were a new hearing.
- 6) Cross examinations will be conducted as if this were a new hearing

I find that the above terms will ensure that there is no unfair advantage to either party or the participants if the applicant is allowed to amend the application and revise

the plans. It is beneficial to allow such an amendment as it negates the need for the applicant to recommence an application before the Committee of Adjustment with the delay and expense that such a process would entail when the matter is already before TLAB.

CONCLUSION

The applicant should be permitted to file and serve revised plans and an appended application in accordance with the above provisions.

DECISION AND ORDER

This hearing is adjourned until a new date is set for it to recommence. The adjourned hearing will be conducted in accordance with the above provisions.

X 

S. Makuch
Panel Chair, Toronto Local Appeal