

DECISION AND ORDER

Decision Issue Date Monday, November 21, 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): ROCCANTONIO PARZANESE

Applicant: BAGHERI HAMZEH

Property Address/Description: 5 SHALLICE CRT

Committee of Adjustment Case File Number: 22 150978 ESC 25 MV (A0122/22SC)

TLAB Case File Number: 22 188516 S45 25 TLAB

Hearing date: Monday, December 05, 2022

DECISION DELIVERED BY T. Yao

Moving Party ROCCANTONIO PARZANESE

Responding Party BAGHERI HAMZEH

This is a written motion by the appellant Mr. Parzanese to adjourn the hearing on the basis that vacation, medical and jury duty issues have prevented him from preparing adequately for the hearing.

The Notice of Motion states:

1. Aug 23, 2022 - I enquired with Tlab about dates and timing for hearing, made Tlab aware I was going on vacation.
2. Aug 29, 2022 morning - I again enquired with Tlab about dates and timing for hearing, I was going on vacation.
3. Aug 29, 2022 late afternoon hearing dates were emailed.
4. Sept 8 to Oct 10, 2022 I was away on vacation
5. Oct 13, 2022 I had to attend jury selection, fortunately I was excused after the 1st day
6. Oct 24, 2022 Spouse went to hospital emergency. She was released from hospital Oct 31
7. just no time to prepare documents and for the hearing.

Decision of Toronto Local Appeal Body Panel Member: T. Yao
TLAB Case File Number: 22 188516 S45 25 TLAB

In August 2022, Mr. Mr. Parzanese filed an appeal¹ against the granting of variances to Mr. Hamseh, alleging six grounds. On August 29, 2022, as he states, the TLAB set October 28, 2022 as the date for filing witness statements and other documents, and December 5, 2022 as the hearing date. His motion is undated and the TLAB staff did not date stamp it, but it appears to have been filed in early November. On November 14, 2022, Mr. Hamseh refused to consent to an adjournment and wishes the Dec 5, 2022 hearing date to proceed as scheduled.²

The very first two TLAB Rules in our Rules of Practice and Procedures are:

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.

¹ We appeal the proposed two storey front addition and a rear 2nd floor balcony with extended roof for the following reasons: 1. The proposed rear 2nd floor balcony compromises the privacy of all our residences backyards. None of the existing residences have balconies. This is a real disruptive change. The balcony would be overlooking all the private spaces we have at the back of our residences. 2. The shadow impact of the proposed oversized extended rear roof (approx. 11 feet x 11 feet) over the proposed 2nd floor balcony cannot be ignored by any of us. It is very visible with shadow extending over many of our backyards. 3. The columns supporting the proposed extended rear roof are structural and should be considered for the setback variance allowable. The columns are over 10 feet out, the encroachment to the rear yard setbacks is substantial. 4. The proposed 2 storey addition at the front will create a narrow canyon between it and the neighbouring residence on the south side. This space and look are totally foreign in appearance and unacceptable for the area. A blank wall jutting out from the existing built by over 20 feet deep and 20 feet high. It is basically at the property line and an eye sore to all of us. 5. Overall, the proposed front façade of the addition does not respect or reinforce the neighbourhood character. a. The roof is higher than any existing roofs b. The proposed addition overshadows all other residences by the sheer bulk and mass. c. It will detract from all surrounding residences. 6. The plans submitted for the proposed addition are contradictory in it's detailing on what is proposed. We really don't know which version will be built. The drawings show absolutely no effort in making the proposed addition fit in existing neighbourhood. Our neighbourhood character is well established and has managed to maintain the streetscape since developed in 1980's. We all have a garage extending out to the street from the main entrance. This proposal would set a very dangerous inappropriate precedence. The problem is we would be looking at the proposed addition everyday, affects us everyday, it can't be avoided.

² We have a hearing scheduled for December 5th, 2022 for appeal of the variance approved by the committee of Adjustment. Our neighbour has requested an adjournment of the hearing. We were already prepared to do the construction after we received the approval from the committee of adjustment. Due to the appeal, all has been put on hold and everything is in backlog and delayed. My project price has been tremendously increased within this delayed time and the adjournment will continuously increase more cost for my construction. I do not wish to postpone the scheduled hearing date. We do not wish to drag this for a long period of time. I do not wish to delay this further due to the careless behaviour of the Appellant. The date was issued more than 90 days prior to the hearing date. If he feels that he does not have enough time to prepare, he would have initiated the motion lot sooner. Waiting until the last minute to request an adjournment shows he is purposely delaying our construction. The notice was issued on August 29, 2022. He left the country on September 8, 2022 (he had around 9 days). He came back into the country on October 10, 2022. Our deadline for Document Disclosure as per Rule 16 DUE no later than October 28, 2022 (he had 18 days). I believe he had sufficient time to do all that required and the request is very unreasonable. Given the reasons for the adjournment, I believe it is not fair for anyone to take advantage like this. thank you

I interpret that these two rules as supporting a fixed hearing date, but allowing some flexibility when “a level playing field” and expedition are facilitated. Fairness is for both parties, not only Mr. Parzanese, and I do not consider that any of the reasons for lack of preparation satisfy those objectives in the Rules.

Mr. Parzanese had a pretty good idea of what he wished to say at the hearing and set them out clearly in his Appeal letter. There is nothing in his affidavit that suggests why he could not have researched his case between Aug 29, 2022 and September 8 when he went on vacation. He also had time in the three weeks or so, after he was excused from jury duty and before his wife suffered her medical emergency.

In my view, the hearing should proceed as scheduled. I will alter the time for exchange of documents in view of the fact that both parties may have misunderstood the TLAB deadlines, as I see no filings to date.

DECISION AND ORDER

The motion is dismissed. The hearing of December 5 2022 will proceed as scheduled. The previous are cancelled and replaced with the following:

Document disclosure as per rule 16 due no later than 4:30 pm Friday December 2, 2022

Witness Statement as per rule 16.4 (form 12) due no later than 4:30 pm Friday December 2, 2022

X



T. Yao
Panel Chair, Toronto Local Appeal Body