

MOTION DECISION AND ORDER

Decision Issue Date Friday, November 25, 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): WEN LE

Applicant: PROJEKT STUDIO ARCHITECTS

Property Address/Description: 108 ALBERTUS AVE

Committee of Adjustment Case File Number: 20 116500 NNY 08 MV (A0138/20NY)

TLAB Case File Number: **21 116616 S45 08 TLAB**

Hearing date: Tuesday, November 29, 2022

DECISION DELIVERED BY Panel Member G. Swinkin

REGISTERED PARTIES AND PARTICIPANTS

Applicant	PROJEKT STUDIO ARCHITECTS
Appellant	WEN LE
Party	CATHERINE MANOUKIAN
Party's Legal Rep.	DAVID BRONSKILL
Expert Witness	JANE MCFARLANE
Expert Witness	MICHAEL BARTON

INTRODUCTION AND CONTEXT

The Toronto Local Appeal Body (the "Tribunal") has before it an appeal by Wen Le (the "Appellant") with respect to the decision of approval of the Committee of Adjustment (the "Committee") regarding various requests for variance relief with respect to the property municipally known as 108 Albertus Avenue (the "Property").

**Decision of Toronto Local Appeal Body Panel Member: G. Swinkin
TLAB Case File Number: 21 116616 S45 08 TLAB**

This appeal is scheduled to be heard on November 29, 2022, which is a rescheduled date resulting from a prior Motion for Adjournment.

The Appellant has filed a request for Motion arising out of a late filing of an expert witness statement, a request for resetting of filing dates and an adjournment of the hearing presently scheduled for November 29, 2022.

The fresh Notice of Hearing stipulated October 31, 2022 as the date for the filing a expert witness statements. The Appellant's planning witness, Michael Barton, filed his expert witness statement on October 31, 2022. Counsel for the applicant's planning witness, Jane McFarlane, filed her expert witness statement on November 4, 2022. This was a late filing.

The Notice of Hearing stipulated November 14, 2022 as the date for the filing of any Responding Witness Statements. Mr. Barton filed a Responding Witness Statement on November 21, 2022. This was a late filing.

The Notice of Hearing stipulated November 24, 2022 as the date for the filing of any Reply Witness Statements. The information which the Tribunal has to this point is that no Reply Witness Statements have been filed.

The Appellant makes her requests on the basis that the late filing of the McFarlane witness statement prejudices her planner's ability to respond with the time that he would otherwise have had, and that Ms. McFarlane would have had an unfair advantage in seeing Mr. Barton's witness statement before completing hers.

Based upon the foregoing chronology, it appears that Mr. Barton was able to formulate a Response, and actually had slightly more time to do so. Thus, it does not appear to the Tribunal that any actual prejudice has occurred to either party provided that these actions are regularized by the Tribunal.

Consequently, under the authority of Rules 2.12 and 2.13(a), which authorizes the granting of exceptions and relief that the Tribunal considers appropriate to enable it to effectively and completely adjudicate matters before it in a just, expeditious and cost-effective manner, the Tribunal will permit the late filing of the McFarlane Expert Witness Statement and the late filing of the Barton Responding Witness Statement.

The request for adjournment of the hearing is refused. The hearing will take place on November 29, 2022 as presently scheduled.

DECISION AND ORDER

The Tribunal **ORDERS** the foregoing disposition.



X

G. Swinkin
Panel Chair, Toronto Local Appeal Body