Ontario Land Tribunal
Tribunal ontarien de l'aménagement du territoire

ISSUE DATE: October 31, 2024 **CASE NO(S).:** OLT-24-000823

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant/Appellant:	Spruce Rose Inc.
Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description:	To address the creation of seven residential lots
Reference Number:	Z-1631.66
Property Address:	304 & 318 Spruce Street (Part of Block A, Plan H121, Part 1,2 & 3, 20R10208)
Municipality/UT:	Oakville/Halton
OLT Case No.:	OLT-24-000823
OLT Lead Case No.:	OLT-24-000823
OLT Case Name:	Spruce Rose Inc. v. Oakville (Town)

PROCEEDING COMMENCED UNDER subsection 51(39) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant/Appellant:	Spruce Rose Inc.
Subject:	Proposed Draft Plan of Subdivision - Refusal by Approval Authority
Description:	To permit the creation of seven residential lots
Reference Number:	24T-24003/1613
Property Address:	304 & 318 Spruce Street (Part of Block A, Plan H121, Part 1,2 & 3, 20R10208)
Municipality/UT:	Oakville/Halton
OLT Case No.:	OLT-24-000824
OLT Lead Case No.:	OLT-24-000823
OLT Case Name:	Spruce Rose Inc. v. Oakville (Town)

Heard:	October 17, 2024

APPEARANCES:

Parties	**Counsel/Representative***
Spruce Rose Inc.	Russell Cheeseman Stephanie Fleming
Town of Oakville	Nadia Chandra James Potma* (student at law)

MEMORANDUM OF ORAL DECISION DELIVERED BY D. CHIPMAN ON OCTOBER 17, 2024 AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] This event was the first Case Management Conference ("CMC") convened for an Appeals brought by Spruce Rose Inc. ("Appellant"). The Appeals arise pursuant to s. 34(11) and s. 51(39) of the *Planning Act* following the refusal by the Town of Oakville ("Town") on Applications concerning a Zoning By-law Amendment ("ZBA") and Draft Plan of Subdivision ('PoS") on the property municipally known as 304 and 318 Spruce Street ("Subject Property").

[2] The proposed development consists of seven lots, each with a detached dwelling with attached garage and individual driveway from Spruce Street or Reynolds Street. This proposal includes rezoning the land from CU – Community Use to RL5 – Residential Low 5 with site-specific regulations for minimum front yard setbacks and maximum lot coverage.

PROCEDURAL MATTERS

[3] The Affidavit of Service sworn by Darlene Hornsby dated September 19, 2024, was filed prior to the hearing confirming that proper Notice of this CMC had been served. The Affidavit was marked as Exhibit 1.

PARTICIPANT STATUS REQUESTS

[4] The Tribunal received two Participant Status requests. Having reviewed the requests and on the consent of the Appellant and Town, the Tribunal granted Participant Status to the following individuals: Cody Cornale and Jeremy Hammond.

PARTY STATUS REQUEST

[5] No Party Status requests were received.

MEDIATION

[6] The Parties indicated that they had contacted and secured a preliminary meeting with a Tribunal-led Mediator for later on the same day as this CMC. They will be requesting assistance in an effort to resolve the outstanding issues. Pending these efforts, the Parties will advise the Case Coordinator whether any or all of the outstanding issues have been resolved.

PROCEDURAL ORDER ("PO") AND ISSUES LIST ("IL")

[7] The Parties submitted a first draft of a PO and IL in advance of the CMC, which was reviewed by the Tribunal. Following the CMC, the Parties submitted a final PO and IL attached as Schedule 1 to this Decision, which the Tribunal has reviewed and approved, and by which the merit proceedings shall be governed. Resolution to any of the issues through mediation will be identified by the Parties on the first day of the Merit Hearing. Should the Parties resolve all of the outstanding issues they are directed to contact the Case Coordinator to convert the Merit Hearing to a one-day Settlement Hearing.

HEARING DATE

[8] The Parties jointly requested that the Tribunal schedule a five-day Hearing for

the Appeals**.** Upon hearing the submissions of the Parties, the Tribunal agreed with the proposed number of hearing days required, and scheduled a **five-day** Video Hearing commencing on **Monday, March 31, 2025, at 10 a.m.**

[9] Pending the outcome of the mediation, this matter may require less than the five days requested. The Parties are directed to keep the Case Coordinator apprised of any settlement or reduction in the number of days required.

[10] Parties and Participants are asked to log in to the Video Hearing at least **15 minutes** before the start of the event to test their video and audio connections:

GoTo Meeting: https://global.gotomeeting.com/join/660145013

Access Code: 660-145-013

[11] Parties and Participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at **GoToMeeting** or a web application is available: https://app.gotomeeting.com/home.html

[12] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling in to an audio-only telephone line: **Toll-Free 1(888) 299-1889** or **+1 (647) 497-9373**. The **Access Code** is indicated above.

[13] Individuals are directed to connect to the event on the assigned date at the correct time. It is the responsibility of the persons participating in the Video Hearing to ensure that they are properly connected to the event at the correct time. Questions prior to the hearing event may be directed to the Tribunal's Case Coordinator having carriage of this case.

[14] The Tribunal inquired as to whether there were any other matters to be addressed, which might assist in the fair, just and expeditious resolution of this matter. The Parties indicated that there were none.

ORDER

[15] **THE TRIBUNAL ORDERS** that:

a) The directions set out above are so ordered; and,

b) The Procedural Order and Issues list attached as **Schedule 1** is approved and shall govern the merit proceedings. Any changes to Schedule 1 would be solely at the approval of the Tribunal.

[16] This Member is not seized but will continue to manage this file and remains available through the Case Coordinator should the need arise.

[17] No further notice will be given.

"D. Chipman"

D. CHIPMAN
MEMBER

SCHEDULE 1

Ontario Land Tribunal
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Web Site: olt.gov.on.ca

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PROCEDURAL ORDER

1. The Tribunal may vary or add to the directions in this procedural order at any time by an oral ruling or by another written order, either on the parties' request or its own motion.

Organization of the Hearing

2. The video hearing will begin on **Monday, March 31, 2025,** at **10: 00 a.m**.

3. The parties' initial estimation for the length of the hearing is 5 days. The parties are expected to cooperate to reduce the length of the hearing by eliminating redundant evidence and attempting to reach settlements on issues where possible.

4. The parties and participants identified at the case management conference are set out in Attachment 1 (see the sample procedural order for the meaning of these terms).

5. The issues are set out in the Issues List attached as Attachment 2. There will be no changes to this list unless the Tribunal permits, and a party who asks for changes may have costs awarded against it.

6. The order of evidence shall be as set out in Attachment 3 to this Order. The Tribunal may limit the amount of time allocated for opening statements, evidence in chief (including the qualification of witnesses), cross-examination, evidence in reply and final argument. The length of written argument, if any, may be limited either on the parties' consent, subject to the Tribunal's approval, or by Order of the Tribunal.

7. Any person intending to participate in the hearing should provide a mailing address, email address and a telephone number to the Tribunal as soon as possible – ideally before the case management conference. Any person who will be retaining a representative should advise the other parties and the Tribunal of the representative's name, address, email address and the phone number as soon as possible.

8. Any person who intends to participate in the hearing, including parties, counsel and witnesses, is expected to review the Tribunal's Video Hearing Guide, available on the Tribunal's website.

Requirements Before the Hearing

9. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal and the other parties a list of the witnesses and the order in which they will be called. This list must be delivered on or before **Friday, December 20, 2024** and in accordance with paragraph 23 below. A party who intends to call an expert witness must include a copy of the witness' Curriculum Vitae and the area of expertise in which the

witness is prepared to be qualified.

10. If the applicant intends to seek approval of a revised proposal at the hearing, the applicant shall provide copies of the revised proposal, including all revised plans, drawings, proposed instruments, updated supporting documents and reports, to the other Parties on or before **Monday, January 6, 2025**. The applicant acknowledges that any revisions to the proposal after that date without the consent of the Parties may be grounds for a request to adjourn the hearing.

11. Expert witnesses in the same field shall have a meeting on or before **Friday, January 10, 2025** and use best efforts to try to resolve or reduce the issues for the hearing. Following the experts' meeting the parties must prepare and file a Statement of Agreed Facts and Issues with the OLT case co-ordinator on or before **Friday, January 24, 2025**.

12. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in paragraph 14 below. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Tribunal may refuse to hear the expert's testimony.

13. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence as in paragraph 14 below. A party who intends to call a witness who is not an expert must file a brief outline of the witness' evidence, as in paragraph 14 below.

14. On or before **Friday, February 14, 2025**, the parties shall provide copies of their witness and expert witness statements to the other parties and to the OLT case co-ordinator and in accordance with paragraph 23 below.

15. On or before **Friday, February 14, 2025**, a participant shall provide copies of their written participant statement to the other parties in accordance with paragraph 23 below. A participant cannot present oral submissions at the hearing on the content of their written statement, unless ordered by the Tribunal.

16. On or before **Friday, February 28, 2025,** the parties shall confirm with the Tribunal if all the reserved hearing dates are still required.

17. On or before **Friday, March 14, 2025**, the parties shall provide copies of their visual evidence to all of the other parties in accordance with paragraph 23 below. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.

18. Parties may provide to all other parties and the OLT case co-ordinator a written response to any written evidence within ten (10) days after the evidence is received and in accordance with paragraph 22 below.

19. The parties shall cooperate to prepare a joint document book which shall be shared with the OLT case co-ordinator on or before **Friday, March 14, 2025**.

20. A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal. *See Rule 10 of the Tribunal's Rules with respect to Motions, which requires that the moving party provide copies of the motion to all other parties 15 days before the Tribunal hears the motion.*

21. A party who provides written evidence of a witness to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Tribunal at least 7 days before the hearing that the written evidence is not part of their record.

22. The parties shall prepare and file a preliminary hearing plan with the Tribunal on or before **Monday, March 24, 2025** with a proposed schedule for the hearing that identifies, as a minimum, the parties participating in the hearing, the preliminary matters (if any to be addressed), the anticipated order of evidence, the date each witness is expected to attend, the anticipated length of time for evidence to be presented by each witness in chief, cross-examination and re-examination (if any) and the expected length of time for final submissions. The parties are expected to ensure that the hearing proceeds in an efficient manner and in accordance with the hearing plan. The Tribunal may, at its discretion, change or alter the hearing plan at any time in the course of the hearing.

23. All filings shall be submitted electronically and in hard copy. Electronic copies may be filed by email, an electronic file sharing service for documents that exceed 10MB in size, or as otherwise directed by the Tribunal. The delivery of documents by email shall be governed by the *Rule* 7.

24. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Tribunal's Rule 17 applies to such requests.

This Member is not seized.

So orders the Tribunal.

Summary of Procedural Dates

Date	Event
Friday, December 20, 2024	Witness List
Friday, January 17, 2025	Final day for expert witness meeting
Friday, January 24, 2025	Statement of Agreed Facts and Issues filed
Friday, February 14, 2025	Expert witness and witness statements due
Friday, February 14, 2025	Written participant statement due
Monday, Friday 24, 2025	Response to written evidence due
Friday, February 28, 2025	Hearing date confirmation
Friday, March 14, 2025	Visual evidence due
Friday, March 14, 2025	Joint Document Book due
Monday, March 24, 2025	Preliminary hearing plan due
Monday, March 31, 2025	Hearing

Attachment 1

List of Parties and Participants

Parties

1. Russell D. Cheeseman & Stephanie Fleming
   Municipal Law Chambers
   rdcheese@aol.com
   sfleming@mlawc.com

2. Town of Oakville
   Nadia Chandra
   nadia.chandra@oakville.ca

Attachment 2

Issues List

Town of Oakville Issues List

Spruce Rose Inc.

24T-24003/1613 and Z.1631.66

1. Are the proposed applications consistent with the Provincial Planning Statement 2024 policy 4.6.3 (Cultural Heritage)?

2. Do the proposed applications demonstrate conformity to the Livable Oakville Official Plan by providing for intensification within a stable residential neighbourhood that preserves the neighbourhood character as set out in Section 2 (Guiding Principles) policy 2.2.1 (a), Section 3 (Urban Structure) policy 3.9, Section 4 (Managing Growth) policy 4.3, Section 5 (Heritage) policy 5.1.1(a), 5.3.5, 5.3.6, 5.3.7, Section 6 (Urban Design) policies 6.1.2, 6.9.2, 6.9.7, 6.9.8, and 6.9.9, and Section 11 (Residential) policies 11.1.4, 11.1.8 and 11.1.9.

3. Do the proposed applications conform to the Livable Oakville Official Plan by preserving the existing urban forest canopy to the maximum extent possible through grading, strategic driveway placement, and dwelling placement as set out by Section 6 (Urban Design) policy 6.10.2 and Section 10 (Sustainability) policy 10.1.1?

4. Do the proposed applications conform to the Livable Oakville Official Plan by implementing stormwater management strategies for the proposed site work including water quality, water quantity, and water balance, more specifically set out by Section 10.10 (Stormwater Management)?

5. Do the proposed applications implement the Town of Oakville Development Engineering Procedures and Guidelines Manual by providing adequately sized stormwater management infrastructure and associated easements to operate and maintain in order to prevent increased risk of flooding onto adjacent properties and surrounding areas?

6. Do the proposed applications conform to the Region of Halton Official Plan related to Site Contamination, as set out by Section 147 (17)?

7. Do the proposed applications conform to the Region of Halton Official Plan related to Urban Services as set out by Section 72?

Attachment 3

Order of Evidence

1. Spruce Rose Inc.
2. Town of Oakville
3. Spruce Rose Inc., in reply.