

ISSUE DATE:

May 24, 2013



MM130003

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 40.1(4) of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18,
as amended

Appellant: Nezih Gamsiz and Ann McMenemy
Subject: By-law 0238-2012 Heritage Conservation Study Area
Municipality: City of Mississauga
OMB Case No.: MM130003
OMB File No.: MM130003

APPEARANCES:

Parties

City of Mississauga

Nezih Gamsiz
Ann McMenemy

Counsel

Marcia Taggart

Denise Baker

DECISION DELIVERED BY R. ROSSI ON MAY 22, 2013 AND ORDER OF THE BOARD

[1] This pre-hearing conference was convened in respect of the appeals of Nezih Gamsiz and Ann McMenemy ("Appellants") who have appealed to the Ontario Municipal Board ("Board") the decision of the City of Mississauga ("City") to pass Heritage Conservation District Study Area By-law No. 0238-2012. The by-law encompasses the Appellants' lands. The Appellants contend that the Study Area runs contrary to the intent and purpose of the *Ontario Heritage Act* ("OHA") and they are appealing the by-law pursuant to s. 49.1(4) of the OHA.

[2] On file is a notice of withdrawal from the former Appellants Martin Boeykens and Meaghan Kerrigan. The Board accepted the withdrawal notice.

[3] The Meadowvale Village Heritage Conservation District Review would set limitations for development of properties within the Study Area for one year. The Study Area includes lands currently within the existing Meadowvale Village Heritage

Conservation District and which are subject to Meadowvale Village Heritage Conservation District Plan.

[4] Nezh Gamsiz and Ann McMenemy reside at 1125 Willow Lane and argue that City Council does not have jurisdiction to pass a by-law to prohibit or set limitations with regard to the alteration or demolition of property currently situated within the existing Meadowvale Village Heritage Conservation District for the period in which the City is undertaking the study. They laid out their specific concerns in their December 21, 2012 Notice of Appeal (on file) and are asking the Board to amend the by-law by excluding those lands currently under the protection of Part V of the OHA. They recently submitted a development application to the City and are awaiting the Notice of Receipt from the City as provided for in the OHA.

[5] The Board conferred with Marcia Taggart, counsel for the City and Denise Baker, counsel for the Appellants and agreed that a teleconference call ("TCC") would prove useful in order to update the Board on how this matter progresses. The Board is aware that the City's new Heritage Coordinator is reviewing the file for completeness and there is a commitment from the City to have an answer on the availability of the Notice of Receipt within 30 days of the Appellants' May 13, 2013 submission to the City to erect a two-storey addition to their residence.

ORDER

[6] On consent, the Board will schedule a TCC on **Thursday June 13, 2013 at 9 a.m.**

The individuals shall call **(416) 212-8012** or Toll Free **1(866) 633-0848**. When prompted, enter the **code 4779874#** and you will be connected to the call. If assistance is required at any time, press '0' for the operator. Cellular telephones are not permitted to be used for the call. It is the responsibility of the persons participating in the call to ensure that they are properly connected to the call and at the correct time.

If you have any questions, please contact the Case Coordinator, Nazma Ramjaun at 416-326-6796.

[7] No further notice will be given and the Member remains seized for administrative carriage of this file.

"R. Rossi"

R. ROSSI
MEMBER