

ISSUE DATE:

**Apr. 22, 2008**



PL070016

Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant: Joe De Mora and Patti Gray  
Appellant: David Williamson  
Subject: By-law No. 21-2006  
Municipality: Township of Frontenac Islands  
OMB Case No.: PL070016  
OMB File No.: R070010

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant: Joe De Mora, Patti Gray and BE HIRD Inc.  
Subject: Proposed Official Plan Amendment No. 2  
Municipality: Township of Frontenac Islands  
OMB Case No.: PL070016  
OMB File No.: O070068

**APPEARANCES:**

**Parties**

**Counsel**

Township of Frontenac Islands  
Temper-All Refrigeration Limited

T. Wilkin

Ministry of Municipal Affairs and Housing

P. Matheson-Young

J. De Mora  
P. Gray  
BE HIRD Inc.

M. Rae

**MEMORANDUM OF ORAL DECISION DELIVERED BY M. C. DENHEZ ON  
APRIL 14, 2008 AND ORDER OF THE BOARD**

Minutes of Settlement have been filed in this matter.

Temper-All Refrigeration Limited (Applicant) proposed to re-open a quarry on Howe Island, in the Township of Frontenac Islands (Township). The site had been

quarried, some years in the past; but this application would expand the footprint.

The Township Official Plan (OP) had designated the old location for aggregate extraction, but the enlargement would require an OP Amendment. As for the zoning, a previous By-law had foreseen aggregate extraction, but that had been later superseded, so the reintroduction of quarrying would require rezoning.

The Applicant therefore applied to the Township for an OP Amendment and a new Zoning By-law.

- The Township agreed to the OP Amendment, numbered Official Plan Amendment No. 2 and approved by the Ministry of Municipal Affairs and Housing (MMAH).
- The Township also agreed to new Zoning By-law 21-2006.

Neighbours J. De Mora and P. Gray (who later incorporated a corporation named BE HIRD Inc.) disagreed, and appealed these two sets of amendments to the Board. David Williamson also appealed the OP Amendment.

The question of Licences under the *Aggregate Resources Act* is still in process, and was *not* before the Board at this time.

A Pre-hearing Conference was held by the Board on October 3<sup>rd</sup>, 2007. Subsequently, the Applicant and the Township reached agreement with the Appellants De Mora, Gray and BE HIRD Inc., under terms more fully outlined in their Minutes of Settlement, filed with the Board as Exhibit 1. The focus of their terms related to the Licence process which, as mentioned, was outside the Board's purview. As for what was within the Board's purview, namely the OP Amendment and Zoning By-law themselves, the settlement produced no changes in wording. The Appellant Mr. Williamson, for his part, forwarded a letter to the Board asking that his appeal be "cancelled", i.e., withdrawn.

The Board also heard the expert opinion of the Applicant's planner, Mr. Robert Clark. He explained the background of the proposal, and provided detailed written documentation (Exhibit 2) including his positive assessment of compliance with the

relevant criteria in the *Planning Act*, the Provincial Policy Statement, the overall policy framework of the Township's Official Plan, and the fundamentals of good planning. The Board finds no dispute.

Accordingly, and in accordance with the stated intention of all remaining parties, THE BOARD ORDERS that the appeals are dismissed against Official Plan Amendment Number 2 and Zoning By-law Number 21-2006, of the Township of Frontenac Islands, and the said Official Plan Amendment and Zoning By-law are approved.

It is so Ordered.

"M. C. Denhez"

M. C. DENHEZ  
MEMBER