

ISSUE DATE:

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Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL070019
C070006

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: Bertilla Zanesco, Corado Zanesco,
Diane Howarth, Doris McGuire and
David Zanesco

Subject: Consent

Property Address/Description: 1496 Upper Gage Avenue

Municipality: City of Hamilton

Municipal File No.: B-169/06

OMB Case No.: PL070019

OMB File No.: C070006

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: Bertilla Zanesco, Corado Zanesco,
Diane Howarth, Doris McGuire and
David Zanesco

Subject: Consent

Property Address/Description: 1496 Upper Gage Avenue

Municipality: City of Hamilton

Municipal File No.: B-170/06

OMB Case No.: PL070019

OMB File No.: C070007

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: Bertilla Zanesco, Corado
Zanesco, Diane Howarth, Doris
McGuire and David Zanesco

Subject: Consent

Property Address/Description: 1496 Upper Gage Avenue

Municipality: City of Hamilton

Municipal File No.: B-171/06

OMB Case No.: PL070019

OMB File No.: C070008

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant:	Bertilla Zanesco, Corado Zanesco, Diane Howarth, Doris McGuire and David Zanesco
Subject:	Consent
Property Address/Description:	1496 Upper Gage Avenue
Municipality:	City of Hamilton
Municipal File No.:	B-172/06
OMB Case No.:	PL070019
OMB File No.:	C070009

APPEARANCES:

Parties

Counsel

Bertilla Zanesco, Gina Zanesco, David Richard Zanesco, Corado Paolo Zanesco, Doris Gilda McQuire and Federico Zanesco (“Appellants”)

Manfred Rudolph

City of Hamilton (“City”)

John Doherty

MEMORANDUM OF ORAL DECISION DELIVERED BY STEVEN STEFANKO ON JANUARY 31, 2014 AND ORDER OF THE BOARD

[1] The Appellants are the owners of property municipally known as 1496 Upper Gage Avenue, Hamilton, Ontario (“Subject Property”).

[2] Four severance applications were submitted in relation to the Subject Property in 2006 and those applications were approved subject to conditions. Condition 6 (“Condition 6”) which read “That the Owner pay all outstanding servicing costs to satisfaction of the Manager of Development Engineering” was common to all the approved applications. That condition was appealed to the Ontario Municipal Board.

[3] At this teleconference the Parties advised that they have settled this matter and, in that regard, Minutes of Settlement (“MOS”) have been duly executed.

[4] In support of the settlement reached, the affidavit of Daniel Barnett, a planner with the City, was filed. In that affidavit he stated, among other things, that the changes made to Condition 6 represent good land use planning.

[5] Based on the planning evidence of Mr. Barnett, the MOS and the submissions of counsel, it is ordered that Condition 6 is hereby deleted from each of the approved applications and replaced in each of such applications with the following:

6. (a) The City acknowledges that no development costs will be imposed for the Elmore St. flankage in the servicing costs as agreed below;
- (b) The Appellants acknowledge that contributions to the development servicing costs of Royal Vista Drive include flankage for the second lot (retained) fronting on Upper Gage Avenue;
- (c) The Appellants acknowledge that the daylight triangle provided for in Condition 5, is included within the calculation of the City development costs to be borne by the developer as per standard City policy;
- (d) The City and the Appellants jointly agree that the total outstanding servicing costs for Royal Vista Drive to be paid hereunder, which include the costs for storm and sanitary sewers, watermains, sewer and water connections and road works, but excluding any land acquisition cost for Royal Vista Drive, is to be paid at the January 2007 rate in the sum of \$130,278.04 based upon 6 connections, and shall be paid on a pro-rated basis for those connections actually used. In the event that the City requires that the Appellants decommission any laterals not used, the cost of decommissioning may be deducted from the payment schedule.

“Steven Stefanko”

STEVEN STEFANKO
VICE CHAIR