

ISSUE DATE:

**April 13, 2012**



PL070395

Ontario  
Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 51(34) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: Silverwood Homes Limited  
Subject: Proposed Plan of Subdivision No. 25T-200621  
Municipality: City of Hamilton  
Property Address/Description: Part of Lot 11, Concession 4  
OMB Case No.: PL070395-0070054  
OMB File No.: PL080150

Silverwood Homes Limited has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law ZAC-07-039 of the City of Hamilton to rezone lands respecting Part of Lot 11, Concession 4 to rezone the land from Agricultural to Residential to permit the development of a subdivision.

OMB Case No.: PL070395-0070054  
OMB File No.: PL080167

**APPEARANCES:**

**Parties**

**Counsel\*/Agent**

City of Hamilton

M. Kovacevic\*

Silverwood Home Limited.

M. McQuaid\* and P. Chronis

Amedeo DiMarco

A. Stewart\*

Landmart Realty Corp.

R. Cheeseman\*

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. P. ATCHESON ON  
MARCH 23, 2012 AND ORDER OF THE BOARD**

This was a hearing by way of telephone conference call in the matters arising from a decision of the Board dated December 11, 2008 under Board file PL070395. At that time Silverwood Homes Limited (the Appellant) had appealed a portion of Official Plan

Amendment No.109 to the Official Plan of the Town of Flamborough now in the City of Hamilton. The Appellant had also appealed the City of Hamilton's failure to make a decision with respect to a proposed Draft Plan of Subdivision (File 25T-200621) composed of lands in Part Lot 11 Concession 4 (former Township of East Flamborough now in the City of Hamilton) and the City's failure or neglect to enact Zoning By-law Amendments to Zoning By-law 05-200 of the City of Hamilton and Zoning By-law 90-145-Z of the former Town of Flamborough to rezone the draft plan of subdivision lands from Agricultural to Residential to permit the development contemplated by the Draft Plan of Subdivision.

The Board in the disposition of the appeals approved the required planning documents which included a portion of Silverwood's Draft Plan of Subdivision and the conditions of the Draft Plan of Subdivision most of which were on a consent basis that allowed the development to proceed on a phased basis.

The Board's determination with respect to Silverwood's Draft Plan of subdivision was as follows:

**THE BOARD ORDERS** that the appeal is allowed and the draft plan shown on the plan prepared by Metropolitan Consulting Inc. dated November 17, 2008 being Part of Lot 11 Concession 4 formerly the Township of East Flamborough now in the City of Hamilton is approved subject to the fulfilment of the conditions set out in Attachment "4" to the Board's Order;

**AND THE BOARD ORDERS** that pursuant to subsection 51(56.1) of the *Planning Act* the City of Hamilton shall have the authority to clear the conditions of draft plan approval and to administer final approval of the plan of subdivision for the purposes of subsection 51(58) of the *Act*. In the event that there are any difficulties implementing any of the conditions of draft plan approval, or if any changes are required to be made to the draft plan, the Board may be spoken to.

It now appears that Silverwood and the Municipality are unable for the second phase to agree upon a revised condition with respect to secondary access for the second phase of the Silverwood development.

Counsel for Mr. DiMarco and Landmart Realty Corp. indicated that they had no specific interest in this matter, but wished to continue to monitor the appeal.

The parties indicated that they would need two days to present this outstanding matter.

The Board set a two day hearing to commence:

Tuesday June 19, 2012

10 a.m.

Stoney Creek Council Chambers  
777 Hwy #8, Stoney Creek  
City of Hamilton, Ontario

The Board further directed the parties to exchange witness' statements no later than Friday, May 18, 2012 and that any reply statements be exchanges one week later.

No further notice is required.

The member is seized of the hearing.

This is the Order of the Board.

"J.P. Atcheson"

J.P. ATCHESON  
MEMBER