

ISSUE DATE:

Jun. 5, 2008



PL080077

Ontario
Ontario Municipal Board

Commission des affaires municipales de l'Ontario

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

Applicant/Appellant: Antonio Gumiero
Subject: Consent
Property Address/Description: 41 Inglewood Drive
Municipality: City of Hamilton
OMB Case No.: PL080077
OMB File No.: PL080077
Municipal No. B-131/07

APPEARANCES:

Parties

City of Hamilton

Antonio Gumiero

Mr & Mrs. Gould, Mr. & Mrs. Wasserman,
Dr. Witelson, Dr. Treleaven, Dr. Fitzpatrick,
Mrs. McCulloch, Dr. Bethune

Durand Neighbourhood Association

Counsel*/Agent

Art Zuidema*

Scott Snider*

M. Rudolph*

Sarah Matthews

MEMORANDUM OF ORAL DECISION DELIVERED BY J. de P. SEABORN AND ORDER OF THE BOARD

The matters before the Board were scheduled for a Prehearing Conference and relate to an appeal by Antonio Gumiero (Appellant) from a decision of the Committee of Adjustment for the City of Hamilton (City).

At the commencement of the prehearing the parties for the hearing were identified and Counsel advised the Board that they have discussed a number of items relating to the organization and conduct of the hearing. The City and the Appellant have agreed that five (5) days is required for the hearing and that it should be held in September. The Durand Neighbourhood Association (Ratepayers), represented by Ms. Matthews in her capacity as President, sought and was granted party status. The Ratepayers are agreeable to a September hearing. Mr. Rudolph has been retained by a number of individual neighbours only for the purpose of attending the prehearing. Party status was requested on behalf of his clients. Mr. Rudolph undertook to advise the parties and the Board which client should be identified to receive documents during the exchange process prior to the hearing as he is not, at this stage, retained for the hearing.

The parties indicated that a number of matters were agreed to with respect to the conduct of the hearing. Counsel will file an agreed upon Procedural Order no later than Friday, June 12, 2008. The Board will issue the order thereafter and it will delineate the following agreed upon matters:

1. The hearing shall commence at 10am on Monday, September 22, 2008 at the City of Hamilton. No further notice need be given beyond the issuance of the Procedural Order.
2. The parties shall exchange Witness Statements and Expert Reports no later than 45 days prior to the start of the hearing.
3. Evidence in Reply shall be exchanged no later than 10 days prior the start of the hearing.
4. The Procedural Order shall include a list of issues and the order of evidence (the Appellant, the City, the other parties, and the Appellant in Reply).
5. Experts in the same field shall meet one week prior to the start of the hearing to determine if the issues and evidence for the hearing can be narrowed.
6. Witness Statements and Expert Reports need not be pre-filed with the Board.

7. Non-expert witnesses shall prepare brief participant statements, which should be provided to the parties no later than 10 days prior to the commencement of the hearing.

In the event the parties cannot agree on all of the terms of a Procedural Order, the Board will convene a telephone conference call. If the parties believe mediation would assist in resolving the appeal, the Board will set a date if there is consent from all parties. I am seized of the case management of this matter, but I am not seized of the hearing.

This is the Order of the Board.

J. de P. SEABORN
VICE CHAIR