

ISSUE DATE:

October 20, 2008



PL080152

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

Appellant: Ramesh & Suman Nayar
Applicant: Ramesh & Suman Nayar
Subject: Consent
Property Address/Description: 16 Long Hill Drive
Municipality: Town of Richmond Hill
OMB Case No.: PL080152
OMB File No.: PL080152, PL080153
Municipal No. B053/07, B054/07

APPEARANCES:

Parties

Ramesh & Suman Nayar

Counsel

A.M. Heisey

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. P. ATCHESON ON
OCTOBER 10, 2008 AND ORDER OF THE BOARD**

This was a hearing in the matter of appeal by Ramesh and Suman Nayar from a decision of the Committee of Adjustment (Files B-053/07 and B-54/07), for the Town of Richmond Hill that refused to grant Provisional Consents for the creation of two new residential lots on a property municipally known as 16 Long Hill Drive.

CONTEXT

Counsel for the Appellants at the commencement of the hearing advised the Board that his clients had reached a settlement of the appeals with the Municipality. Part of the settlement resulted in the applications being amended such that the lot depth of the proposed new lots was reduced from approximately 60 metres to 36.6 metres as shown on plans found at Exhibit 3, tab 2 and the frontage of the proposed new lots as shown on the same plans is 15.24 metres. Notice of these amendments was sent to

those individuals and agencies prescribed by the Board in its original notice of this hearing. An Affidavit of this service is found at Exhibit 2.

The Municipality as part of the settlement has rezoned the new lots to Single Detached Six (R6) Zone, and has modified the existing Rural Residential One (RR-1) Zone on the retained lands to reflect the existing lot area and frontage by By-law 108-08. This By-law was passed on June 24, 2008, was not appealed and is in full force and effect.

Counsel for the Appellants requested that the Board amend the application as noted.

The Board's authority to consider an amended application is found at Sections 53 (35) and (35.1) of the *Planning Act* which state

Amended application

[\(35\)](#) On an appeal, the Municipal Board may make a decision on an application which has been amended from the original application if, at any time before issuing its order, written notice is given to the persons and public bodies prescribed under subsection (10) and to any person or public body conferred with under subsection (11) on the original application. 1994, c. 23, s. 32.

No written notice

[\(35.1\)](#) The Municipal Board is not required to give written notice under subsection (35) if, in the opinion of the Board, the amendment to the original application is minor. 1996, c. 4, s. 29 (13).

The Board finds, after considering the submissions of Counsel that the amendments being proposed by the Appellants are minor and in keeping with the requirements of the Zoning By-law recently passed by the Municipal Council (By-law 108-08). The Board notes that no individuals were present at this hearing in opposition to the proposal and that notice of the changes being proposed was given when the Municipality considered the Zoning By-law Amendment earlier this year and that additional notice of the amendments and this hearing was given in the manner found at Exhibit 2. The Board finds no prejudice would result to any party by granting the amendments without further notice.

Accordingly, The Board orders that the consent applications under appeal are amended such that the lot depth for the new lots shall be 36.6 metres and the lot frontage shall be 15.24 metres.

No further notice is required.

THE EVIDENCE

The Board then heard from a Mr. Allan Ramsay, a qualified land use planner, who was retained by the Appellants to assist them in their appeal to this Board. Mr. Ramsay advised the Board that the original parcel was about one acre in size and is located east of Yonge Street and North of the 19th Line. The existing lot has a frontage of about 220 feet on Long Hill Drive and a depth of about 200 feet. This property was developed with one single family dwelling on private services. The area to the north of the subject property has been developed with a single family home on full municipal services. Mr. Ramsay advised the Board that there was municipal service capacity for the proposed development. Mr. Ramsay in his evidence confirmed that there were no conformity issues with either the Regional or Town's Official Plans. He further opined that the proposed development was consistent with the Provincial policy directions found in the 2005 Provincial Policy Statement, The Oakridge's Moraine Conservation Plan and the Places to Grow legislation.

He concluded his evidence by stating that the proposed development met all the applicable tests of Section 51 (24) of the *Planning Act* and that in his opinion, the amended development represented good planning for this part of the Town of Richmond Hill and should be approved. He noted for the Board that the revised applications had been reviewed by the Town and were being recommended to the Board subject to a number of conditions found at Exhibit 3, tab 8 and that the Town preferred that each lot be approved individually subject to the Conditions identified at Exhibit 3, tab 8.

FINDINGS AND CONCLUSIONS

The Board, after carefully reviewing the evidence, the Exhibits filed, and the

submissions made by the Appellants, makes the following findings.

The Board accepts and adopts the uncontradicted evidence of Mr. Ramsay that the amended applications represent good planning for this part of the Town of Richmond Hill and should be approved. The Board further concurs with the request of the Town that each lot be considered individually and that the consent be granted conditionally subject to the conditions found at Exhibit 3, tab 8.

Accordingly

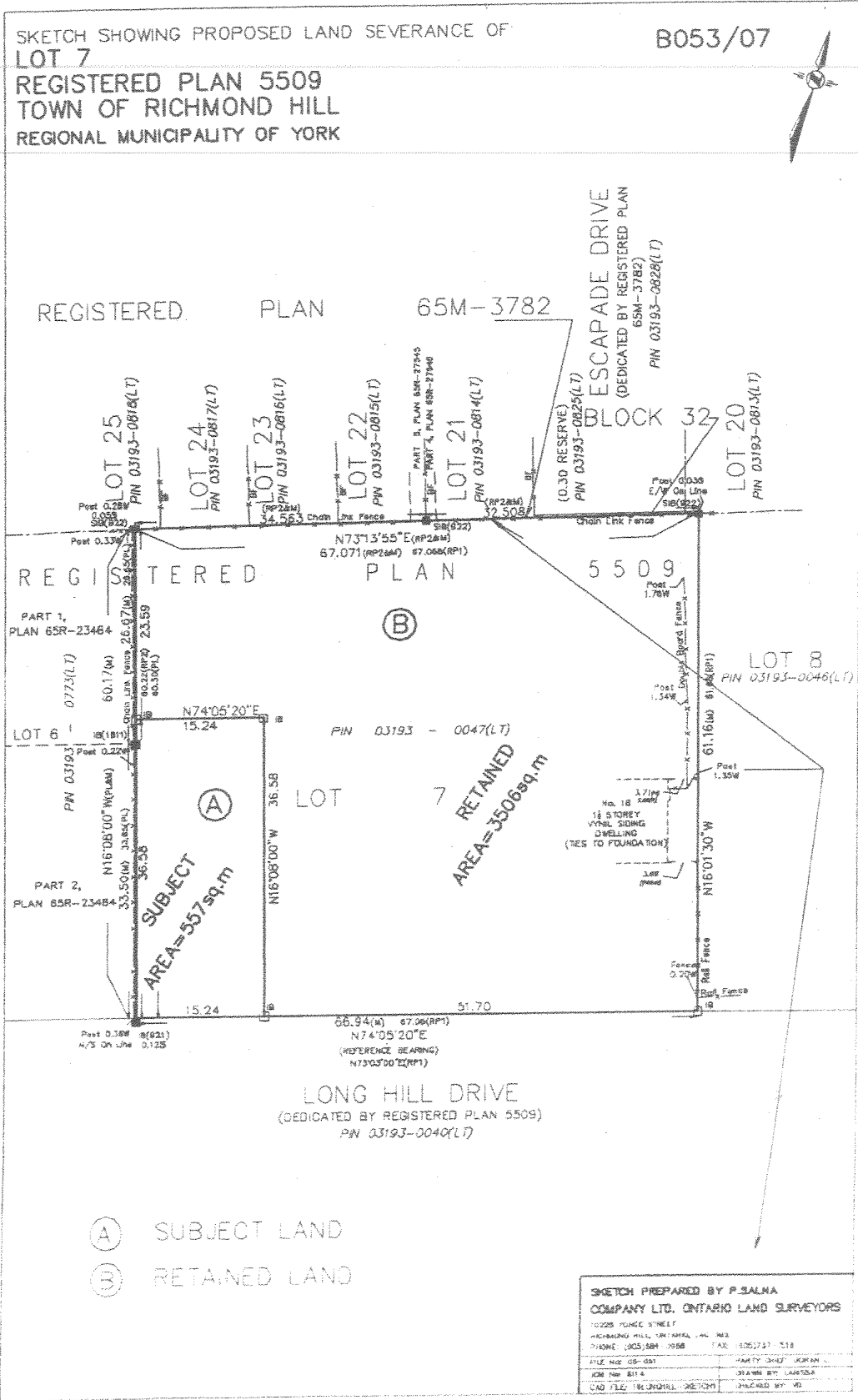
1. **The Board Orders** that the appeal to the amended application (file No. B53/07 of the Town of Richmond Hill Committee of Adjustment) is allowed and the provisional consent is to be given subject to the conditions set out in Attachment 1 to this Order.
2. **The Board Orders** that the appeal to the amended application (file No. B54/07 of the Town of Richmond Hill Committee of Adjustment) is allowed and the provisional consent is to be given subject to the conditions set out in Attachment 2 to this Order.

This is the Order of the Board.

“J. P. Atcheson”

J. P. ATCHESON
MEMBER

ATTACHMENT "1"



TOWN OF RICHMOND HILL
 CONSENT APPLICATION B053/07 *Certified to be a true copy.*
 CONDITIONS OF APPROVAL *X Harvey*

FINANCE - MUNICIPAL:

- [1] THAT THE APPLICANT ENTER INTO AN AGREEMENT ACKNOWLEDGING THAT THE TOWN WILL REQUIRE LAND TO BE CONVEYED TO IT FOR PARK OR OTHER PUBLIC RECREATION PURPOSES OR, AT THE OPTION OF THE TOWN, A PAYMENT OF CASH-IN-LIEU OF SUCH LAND, PURSUANT TO SECTION 42 OF THE PLANNING ACT, PRIOR TO THE ISSUANCE OF A BUILDING PERMIT. SUCH AGREEMENT MUST BE REGISTERED ON TITLE TO THE SEVERED PARCEL FOR THE PURPOSE OF NOTICE. FURTHER, THE APPLICANT SHALL BE REQUIRED TO PAY THE SUM OF \$100.00 TO REIMBURSE THE TOWN FOR THE COST OF REGISTRATION OF THE AGREEMENT (PLEASE CONTACT THE LEGAL DEPARTMENT). (IF THE APPLICANT DOES NOT WISH TO ENTER INTO THE ABOVE AGREEMENT, HE OR SHE MAY VOLUNTARILY PAY ANY CASH-IN-LIEU OWING UNDER SECTION 42 AT AN EARLIER DATE. THE APPLICANT (OWNER) MAY DETERMINE THE AMOUNT OF CASH-IN-LIEU REQUIRED BY CONTACTING THE FINANCE DEPARTMENT.)
- [2] THE APPLICANT WILL BE REQUIRED TO COMMUTE LOCAL IMPROVEMENT CHARGES ON BOTH THE SUBJECT AND RETAINED LANDS IN THE AMOUNT OF \$7,741.13. THE ABOVE AMOUNT REPRESENTS THE CURRENT COMMUTE PAYABLE AND IS SUBJECT TO CHANGE. THE APPLICANT WILL BE REQUIRED TO PAY THE PREVAILING RATE AT THE TIME OF FULFILLING OTHER FINANCIAL CONDITIONS. THIS CONDITION IS TO BE MET FOR EITHER B053/07 OR B054/07, NOT BOTH.
- [3] THAT THE APPLICANT PAY ALL CURRENT AND OUTSTANDING TAXES TO DATE OF CONSENT.
- [4] THAT THE APPLICANT/OWNER ENTER INTO AN AGREEMENT PROVIDING FOR THE PAYMENT OF AREA SPECIFIC DEVELOPMENT CHARGES AT THE TIME OF EXECUTION OF THE AGREEMENT.

ENGINEERING:

- [5] THAT THE APPLICANT:
 - (A) SUBMIT TO THE TOWN'S ENGINEERING & PUBLIC WORKS DEPARTMENT A GRADING PLAN PREPARED BY A PROFESSIONAL ENGINEER OR ONTARIO LAND SURVEYOR DETAILING THE DRAINAGE PATTERN WHILE SHOWING THE EXISTING AND PROPOSED ELEVATIONS FOR BOTH THE SEVERED AND RETAINED LANDS ALONG WITH THE ADJOINING LANDS;
 - (B) OBTAIN THE TOWN'S APPROVAL OF THE GRADING PLAN REFERRED TO IN (A);
 - (C) ENTER INTO AN AGREEMENT WITH THE TOWN (UNLESS NOT REQUIRED BY THE TOWN) FOR EITHER (I) GRADING AND DRAINAGE; OR (II) GRADING AND SERVICING, WHICH ADDRESSES THE PROVISION OF SWALES, EASEMENTS AND/OR CATCH BASINS AND WHICH WILL BE REGISTERED ON TITLE TO THE LANDS IN PRIORITY TO ALL OTHER CLAIMS, ENCUMBRANCES OR OTHER ITEM OR MATTER THAT THE TOWN SOLICITOR DEEMS TO BE AN ENCUMBRANCE OR CLAIM; AND
 - (D) ENSURE THAT ANY EASEMENTS REQUIRED TO BE PROVIDED PURSUANT TO THE AGREEMENT REFERRED TO IN (C) ARE REGISTERED IN PRIORITY TO ALL OTHER CLAIMS, ENCUMBRANCES OR ANY OTHER ITEM OR MATTER THE TOWN SOLICITOR DEEMS TO BE AN ENCUMBRANCE OR CLAIM.

FURTHER GRADING RELATED INFORMATION

THREE (3) PRINTS OF THE ABOVE REQUESTED GRADING PLAN MUST BE SUBMITTED FOR REVIEW AND ANY RELATED INQUIRIES SHOULD BE DIRECTED TO MR. MICHAEL AYERS, GRADING TECHNOLOGIST, AT 905-771-8830.

THE TOWN'S CURRENT FEES FOR SUCH SERVICES ARE AS PER THE CURRENTLY AMENDED TARIFF OF FEES BY-LAW 131-07.

PLAN REVIEW	\$ 375.00 + GST
AGREEMENT PREPARATION	\$ 450.00 + GST
REGISTRATION/ADMIN.	\$ 110.00
INSTALL CATCHBASIN	\$ 6,150.00 (IF APPLICABLE)
SURVEY LAYOUT	\$ 640.00 (IF APPLICABLE)
C.C.T.V. SCAN (\$280.00 + GST) X 2	\$ 588.00 (IF APPLICABLE)
INSTALL 250 MM CATCHBASIN LEAD	\$ 690.00 PER LINEAR METRE (IF APPLICABLE)
INSTALL CLEANOUT	\$ 1,500.00 (IF APPLICABLE)
REMOVE CATCHBASIN	\$ 2,300.00 (IF APPLICABLE)

- [6] THAT THE APPLICANT MAKE ARRANGEMENTS FOR THE INSTALLATION OF SERVICE CONNECTIONS TO RENDER THE SEVERED AND RETAINED PARCELS FULLY SERVICED. SERVICE CONNECTIONS CAN BE ARRANGED BY PAYMENT MADE TO THE TOWN FOR THE INSTALLATION OF THE CONNECTIONS AS PER THE CURRENTLY AMENDED TARIFF OF FEES BY-LAW 131-07. THE TOWN'S CURRENT FEES FOR STANDARD CONFIGURATION SERVICES ARE AS FOLLOWS:

20 MM WATER SERVICE CONNECTION	\$ 1,400.00
125 MM SANITARY SERVICE CONNECTION	\$ 4,100.00
150 MM STORM SEWER CONNECTION	\$ 4,100.00 (IF APPLICABLE)

ARRANGEMENTS AND PAYMENT FOR THESE CONNECTIONS CAN BE MADE THROUGH MR. MARIO DI SALVO OF OUR WORKS DIVISION AT (905) 884-8013.

- [7] THAT THE APPLICANT PROVIDE TO THE ENGINEERING DEPARTMENT, TO THE ATTENTION OF MR. ERIK LOORAND, THREE (3) WHITE PRINTS OF THE DEPOSITED PLAN OF REFERENCE WHICH OUTLINES THE NECESSARY REQUIREMENTS OF ALL ENGINEERING CONDITIONS.

COMMITTEE OF ADJUSTMENT

- [8] THAT THE APPLICANT PROVIDE THE SECRETARY-TREASURER WITH EITHER A REGISTRABLE DESCRIPTION OR A DEED CONVEYING THE SEVERED LAND, FOR USE FOR THE ISSUANCE OF THE CERTIFICATE OF CONSENT.
- [9] THAT THE APPLICANT PROVIDE TWO WHITE PRINTS OF A DEPOSITED PLAN OF REFERENCE OF THE ENTIRE LAND WHICH CONFORMS SUBSTANTIALLY WITH THE APPLICATION AS SUBMITTED.

WARNING:

CONDITIONS MUST BE FULFILLED WITHIN ONE YEAR OF THE DATE OF THE GIVING OF THE NOTICE OF DECISION, FAILING WHICH THIS APPLICATION SHALL THEREUPON BE DEEMED TO BE REFUSED

Section 53(4), The Planning Act R.S.O., 1990

FINANCE/REGIONAL AND MUNICIPAL NOTICE:

PLEASE NOTE THAT THE TOWN, REGIONAL AND EDUCATIONAL DEVELOPMENT CHARGES ARE PAYABLE PRIOR TO BUILDING PERMIT ISSUANCE. WATER METER AND TREE CHARGES ARE ALSO APPLICABLE AT THAT TIME.

TOWN OF RICHMOND HILL
CONSENT APPLICATION B054/07
CONDITIONS OF APPROVAL

Certified to be a true copy.

L. Hayes
6/2/07

FINANCE - MUNICIPAL:

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- (B) OBTAIN THE TOWN'S APPROVAL OF THE GRADING PLAN REFERRED TO IN (A);
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- (D) ENSURE THAT ANY EASEMENTS REQUIRED TO BE PROVIDED PURSUANT TO THE AGREEMENT REFERRED TO IN (C) ARE REGISTERED IN PRIORITY TO ALL OTHER CLAIMS, ENCUMBRANCES OR ANY OTHER ITEM OR MATTER THE TOWN SOLICITOR DEEMS TO BE AN ENCUMBRANCE OR CLAIM.

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(Cont'd....2)

ARRANGEMENTS AND PAYMENT FOR THESE CONNECTIONS CAN BE MADE THROUGH MR. MARIO DI SALVO OF OUR WORKS DIVISION AT (905) 884-8013.

[7] THAT THE APPLICANT PROVIDE TO THE ENGINEERING DEPARTMENT, TO THE ATTENTION OF MR. ERIK LOORAND, THREE (3) WHITE PRINTS OF THE DEPOSITED PLAN OF REFERENCE WHICH OUTLINES THE NECESSARY REQUIREMENTS OF ALL ENGINEERING CONDITIONS.

COMMITTEE OF ADJUSTMENT:

[8] THAT APPLICATION B053/07 RECEIVE FINAL CERTIFICATION OF THE SECRETARY TREASURER.

[9] THAT THE APPLICANT PROVIDE THE SECRETARY-TREASURER WITH EITHER A REGISTRABLE DESCRIPTION OR A DEED CONVEYING THE SEVERED LAND, FOR USE FOR THE ISSUANCE OF THE CERTIFICATE OF CONSENT.

[10] THAT THE APPLICANT PROVIDE TWO WHITE PRINTS OF A DEPOSITED PLAN OF REFERENCE OF THE ENTIRE LAND WHICH CONFORMS SUBSTANTIALLY WITH THE APPLICATION AS SUBMITTED.

WARNING:

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Section 53(41), The Planning Act R.S.O., 1990

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