

ISSUE DATE:

Sept. 3, 2008



PL080576

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

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Queenston Road Investments Inc.
Applicant:	Achal Jain
Subject:	Minor Variance
Variance from By-law No.:	6593
Property Address/Description:	68 Centennial Parkway North
Municipality:	City of Hamilton
OMB Case No.:	PL080576
OMB File No.:	PL080576
Municipal No.:	A58/08

APPEARANCES:

Parties

Queenston Road Investments Inc.

Achal Jain

Counsel*/Agent

P. DeMelo*

H. Merling

MEMORANDUM OF ORAL DECISION DELIVERED BY G.C. O'CONNOR ON AUGUST 6, 2008

The Application

Mr. Achal Jain (Applicant) seeks variances from Zoning By-law 6593 to permit the connection of two commercial buildings through the erection of two additions to the existing structures on property municipally known as 68 Centennial Parkway in the City of Hamilton as follows:

1. No landscaped strip adjacent to the street lines shall be provided instead of the requirement for a landscape strip with an average width of 2.0 metres and a minimum of 1.0 metres as required, and
2. A loading space 9.0 metres in length instead of the required length of 18.0 metres.

On April 3, 2008 the Committee of Adjustment (the "COA") authorized the variances. Queenston Road Investments Inc. (the Appellant) owns Eastgate Square Shopping Centre, directly across the street from the subject lands, and appealed the decision of the COA on the basis that their clients will be affected by the appearance of the subject property. The Appellant claims that the existing landscaping requires enhancement are concerned with the lack of a required landscape strip along the public street.

The Agreement

At the commencement of these proceedings Mr. DeMelo informed the Board that an agreement had been arrived at on the landscape issue, subject to a requirement that the owner of the subject lands enter into an Encroachment Agreement with the City for the shrubs and plantings.

Mr. Joe Gravina, a planning technician with the City of Hamilton (City), provided uncontroverted expert planning evidence in support of the variances and agreement. The planner testified that the plans which were submitted with the application did not include an appropriate landscaping sketch. The planner submitted a revised sketch with additional plantings along Centennial Parkway as well as on the subject property (Exhibit 1). Mr. Gravina also submitted two pre-conditions which the proprietor of the subject property is to complete as per Exhibit 2 and Attachment "1" to this decision.

In his opinion the proposal meets the four tests as set out in Section 45(1) of the *Planning Act*.

Board Findings and Conclusion

The Board is satisfied that the amended landscaping sketch and the agreed to pre-conditions have regard to matters of provincial interest. The variances applied for are minor, they are desirable for the appropriate development and use of the land, and they meet the general intent and purpose of the Official Plan and Zoning By-law 6593.

The Board adopts the agreed-to pre-conditions and shall withhold its Order until such time that the Parties inform the Board that the pre-conditions have been satisfied.

“G.C. O’Connor”

G.C. O’CONNOR
MEMBER

ATTACHMENT "1"

1. That the Owner submit an amendment to the approved Landscape Plan dated February 7, 2008 to include additional plantings within the Centennial Parkway North road allowance, to the satisfaction of the Manager of Development Planning.
2. That the Owner enter into an Encroachment Agreement for the proposed shrubs and plantings within the Centennial Parkway North road allowance in accordance with the landscape plan dated February 7, 2008, to the satisfaction of the Manager of Traffic and Engineering Operations. Queenston Road Investments Incorporated to be provided with the opportunity to provide reasonable comments to the Agreement.