

ISSUE DATE:

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PL081507

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Lori-Ann Sigrist
Subject: By-law No. 2008-086
Municipality: Township of Middlesex Centre
OMB Case No.: PL081507
OMB File No.: PL081507

APPEARANCES:

Parties

Counsel

Lori-Ann Sigrist

Municipality of Middlesex Centre

London District Catholic School Board

Andrew C. Wright

Paul Morrisey

**MEMORANDUM OF ORAL DECISION DELIVERED BY M.A. SILLS ON
FEBRUARY 24, 2009 AND ORDER OF THE BOARD**

Ms Lori-Ann Sigrist has appealed the passing of Zoning By-law No. 2008-086 by the Council of the Municipality of Middlesex Centre.

The subject lands are described as Part of Park Lot 13, Registered Plan No. 47, and municipally known as 113 Wellington Street, in the Village of Delaware. The purpose and effect of the Zoning By-law amendment is to rezone a portion of these lands from Existing Use (EU) Zone to Institutional (I) Zone, to facilitate the establishment of a new elementary school. This parcel has a frontage of 143.91 metres on Wellington Street, a lot depth of 253.63 metres and a lot area of 4.94 hectares. The remaining lands have been rezoned from Existing Use (EU) Zone to site-specific Community Residential First Density (CR1) Zone in order to recognize an existing single, detached dwelling and accessory buildings. This parcel has a frontage of 54.54 metres, a lot depth of 93.64 metres and a lot area of 0.51 hectares. The subject property is located on the north side of Wellington Street between Victoria Street and

Martin Road and is designated Community Settlement Area in both the Middlesex County and the Middlesex Centre Official Plans.

These lands are subject to an Application for Consent for which the Committee of Adjustment has given conditional approval to sever a 4.94-hectare parcel from the 5.45-hectare property. The Consent application has not been appealed.

The severed parcel is to accommodate the new school and the retained parcel contains the existing dwelling and accessory buildings. Currently, this property is used as a private residence with the remainder of the lands being used for growing of field crops, with the exception of the northeast corner, which contains a woodlot. These lands have been identified by the London District Catholic School Board (LDCSB) for the redevelopment of the Our Lady of Lourdes Elementary School, which is currently located on floodplain lands on Gideon Drive, in the Village of Delaware. The Upper Thames River Conservation Authority (UTRCA) will no longer support the continued use of portables or further intensification of the current school site. As a result of the position of the UTRCA, the Ministry of Education has provided special funding to relocate the school facility, subsequent to their review of the condition of the existing school through their "Prohibitive to Repair" policy.

The new school is proposed to be developed with frontage along Wellington Street with the playing fields and open space being located at the north end of the site. There will be no changes to the woodlot area of the property. The lands to the east, west and north of the site contain residential dwellings. Interior lands to the east are the subject of a Draft Plan of Subdivision application and severed lots have been created through consent adjacent to both Wellington Street and Martin Road frontages. Timing for the development of the subdivision will be dependent upon municipal servicing. Lands to the south are vacant and are currently used for the cultivation of field crops.

These lands are serviced currently with an existing 200mm water main on the north side of Wellington Street extending from Victoria Street to Martin Road. As there are no sewers currently available in Delaware, the school is proposed to be developed on a private septic system until such time that public sanitary sewers become available, which is expected to occur within the next ten to fifteen years. Storm water

management is currently handled through roadside ditches and it is anticipated that on-site storm water management will be required.

Objections of the Appellant

Ms Sigrist resides at 42 Victoria Street in the Village of Delaware. Her property does not abut the subject site. She told the Board her objections to the proposed development of the school result from concerns related to increased traffic, air quality, water and sewer servicing infrastructure, maintenance of roads systems and loss of parkland and natural features. It is worthy of note that these concerns are very different from the Nature of Objections listed on the appeal application, which specifically included:

fundamental / essential information / reports lacking including current school feasibility and alternate site / new vs. existing facility analysis – public unaware of details – How is the School Board able to proceed or the Municipality able to make a prudent and informed decision?

It was the evidence of Ms Sigrist that the School Board did not conduct an appropriate site selection process and “provided no accountable substantiation of this significant expenditure of taxpayer dollars.” She further contended, “the (School) Board did not substantiate plans, present community benefits or address concerns (of the public).” Ms Sigrist said the relevant information has not been shared with the public and she questions how the Municipality could approve the rezoning without having all the information necessary to make a sound land use planning decision.

Ms Sigrist’s concerns with respect to adverse impacts included increased traffic on Wellington Street and the resulting reduction in air quality and increased road maintenance requirements, the loss of parkland and natural features, increased pressure on existing water servicing infrastructure and the wisdom of developing the school on property that is not equipped with sanitary sewers. It is her opinion that the proposal does not conform to the Provincial Policy Statement (PPS) because it does not represent an efficient use of land and resources.

Planning Evidence

Mr. Marc Bancroft, the Municipal planner, gave expert opinion evidence in support of the proposal.

The planner provided the Board with a detailed outline of the subject lands and surrounding area, and the application process, which included an extensive review of the proposal's conformity with Municipal and Provincial planning policies. He told the Board the subject lands are within a Settlement area and the proposed development is an efficient use of land and resources. He said the subject lands are within a designated growth area and the establishment of the school will serve to accommodate the current and projected needs of the community. Mr. Bancroft contended that the requirements of site plan approval would address the impact concerns expressed by Ms Sigrist and will provide sufficient protection for the interests of the public. He testified the Municipality has been provided with a report from Development Engineering (London) Limited, which confirms that an on-site septic system is feasible. He said that Ministry of the Environment approval is required and an Environmental Assessment will need to be completed. A Storm Water Management Plan, a Hydro-Geological Study and a Traffic Study will be required as part of the site plan approval process. He told the Board the site is designated currently for residential development and the establishment of the school will result now in the creation of playing fields and open space which will be available for public use, which he considers to be "a significant benefit to the public".

It was Mr. Bancroft's opinion that the proposed development is consistent with the PPS, it is in conformity with the Township and Municipal OP's, and it represents good planning.

Disposition

In reviewing the reasons listed for the appeal and when considering the *viva voce* evidence of Ms Sigrist, it becomes apparent that this dispute arises from the Appellant's dissatisfaction with the London District Catholic School Board's site selection process. It was evident that Ms Sigrist does not accept that the LDCSB has complied with provisions of the *Education Act* in this regard. However, it is not within the purview of this Member to adjudicate such matters. The Board's authority respecting this appeal

extends to matters of land use planning only. Consequently, in arriving at a decision on this matter, the Board has examined the planning merits of the application in accordance with Municipal and Provincial planning policies.

In that regard, the Board relies on the expert planning evidence of Mr. Bancroft, which is the only professional evidence before the Board, in support of the rezoning. While Ms Sigrist did express some legitimate land use planning concerns, she did not provide any evidence to substantiate these concerns; in fact, she stated she simply did not know what the adverse impacts might be as all the necessary information has not been made available. The Board cannot make a decision based simply on an apprehension of impact. The Board is satisfied that the requirements of site plan approval will effectively address the adverse impact concerns of the Appellant and serve to protect the public interest.

Accordingly, the Board finds the proposed rezoning meets the provisions of the relevant Provincial and Municipal planning policies and represents good planning.

THE BOARD ORDERS the appeal is dismissed.

So Orders the Board.

“M.A. Sills”

M.A. SILLS
MEMBER