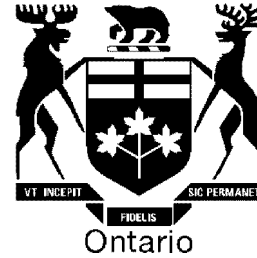


Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: May 29, 2014

CASE NO(S): PL100732
PL100869

Applicant and Appellant: Lafarge Canada Inc.
Subject: Consent – Conditions of provisional consent
Legislative Authority: Subsection 53(19) of the *Planning Act*, R.S.O.
1990, c. P.13, as amended
Property Address/Description: 16033 Medway Road
Municipality: Municipality of Middlesex Centre
Municipal File No.: B-7/10
OMB Case No.: PL100732
OMB File No.: PL100732

Applicant and Appellant: Lafarge Canada Inc.
Subject: Consent – Conditions of provisional consent
Legislative Authority: Subsection 53(19) of the *Planning Act*, R.S.O.
1990, c. P.13, as amended
Property Address/Description: 2538 Sunningdale Road East
Municipality: City of London
Municipal File No.: B-010/10
OMB Case No.: PL100869
OMB File No.: PL100869

APPEARANCES:

Parties

Counsel

Lafarge Canada Inc.

R. Haber
J. Morley

County of Middlesex

W. Meagher

Municipality of Middlesex Centre

W. Meagher

City of London

N. D. Hall

HEARING EVENT INFORMATION:

Hearing: Held in Toronto, Ontario on May 15, 2014

**MEMORANDUM OF ORAL DECISION DELIVERED BY SUSAN de AVELLAR
SCHILLER ON MAY 15, 2014 AND ORDER OF THE BOARD**

[1] These matters proceeded by way of a teleconference appearance.

[2] Lafarge Canada Inc. ("Lafarge") has an existing aggregate operation that spans the border between the Municipality of Middlesex Centre ("Middlesex Centre") and the City of London ("City"). The lands within Middlesex Centre are known as the Bere Lands; the lands within the City are known as the Stead Day Lands.

[3] Extraction has ceased on the Bere Lands and this site has now been rehabilitated as required by the *Aggregate Resources Act*, R.S.O. 1990, c. A.8.

[4] Extraction continues on the Stead Day Lands.

[5] The Bere family wishes to re-acquire the Bere Lands.

[6] The Stead Day Lands and the Bere Lands merged previously. Lafarge needs consent to sever the Stead Day Lands from the Bere Lands in order to convey the Bere Lands.

[7] Appropriate applications were made to the Committee of Adjustment ("COA") for Middlesex Centre and to the City of London Consent Authority ("LCA"), each of which granted provisional consent subject to conditions.

[8] Discussions between the parties have resulted in Minutes of Settlement and an agreed upon course of action now comes to the Board on consent.

[9] The Board had the affidavit evidence of Brent Clarkson, a full Member of the Canadian Institute of Planners and a Registered Professional Planner in Ontario. Mr.

Clarkson was also available at this teleconference to answer any questions the Board might have.

[10] With regard to the appeal of conditions imposed by the Middlesex Centre COA, Lafarge scoped its appeal to Condition 4 and has confirmed that its appeal of this condition should now be dismissed.

[11] With regard to the conditions imposed by the LCA, Lafarge has scoped its appeal to Conditions 6, 7, and 8 and has confirmed that its appeal of Conditions 7 and 8 should now be dismissed.

[12] Condition 6 of the LCA decision included the following language:

The Consent Application being filed for the portion of the subject lands located within the municipality of Middlesex Centre (B7/10) be in full force and effect.

[13] While Lafarge appealed Condition 6 of the LCA, Lafarge did not appeal Conditions 2 and 3 of the Middlesex Centre COA. These two conditions together stipulate that all conditions of the LCA must be satisfied and the LCA decision be “approved, final and binding” before a Certificate of Consent is issued on the Middlesex Centre application.

[14] The COA Conditions 2 and 3 cannot be met at the same time that Condition 6 of the LCA is met. The language of these three conditions makes it impossible for Lafarge to ensure that the Middlesex Centre consent in is “full force and effect” at the same time that the City consent is “final and binding”.

[15] To resolve this technical challenge, the parties have agreed to the following modified wording for the LCA Condition 6:

The Secretary-Treasurer of the Committee of Adjustment for the Municipality of Middlesex Centre advise the London Consent Authority that Lafarge has submitted the necessary documentation to allow the Consent Certificate for Middlesex Centre File B-7/10 to be issued.

ORDER

[16] The Board orders that:

1. The appeal by Lafarge Canada Inc. of Condition 4 of the Municipality of Middlesex Committee of Adjustment decision in file B-7/10 is dismissed. In all other respects the decision of the Municipality of Middlesex Centre Committee of Adjustment to give provisional consent stands.
2. The appeal by Lafarge Canada Inc. of Condition 7 and Condition 8 of the City of London Consent Authority decision in file B-010/10 is dismissed.
3. The appeal by Lafarge Canada Inc. of Condition 6 of the City of London Consent Authority decision in file B-010/10 is allowed and Condition 6 is modified to read:

The Secretary-Treasurer of the Committee of Adjustment for the Municipality of Middlesex Centre advise the London Consent Authority that Lafarge has submitted the necessary documentation to allow the Consent Certificate for Middlesex Centre File B-7/10 to be issued.

Except for the dismissal of the appeal of Condition 7 and Condition 8, and the modification to Condition 6, the decision of the City of London Consent Authority in file B-010/10 to give provisional consent stands.

“Susan de Avellar Schiller”

SUSAN de AVELLAR SCHILLER
VICE CHAIR

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario

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