

ISSUE DATE:

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PL110090

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

Harmanjit S. Khattrra has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Comprehensive Zoning By-law z-1 of the Town of Orangeville to rezone lands respecting 302 Broadway Avenue from Residential Second Density (R2) to Restricted Commercial/ Residential (C5) to permit the conversion of the existing dwelling with a taxi dispatch office being operated as a home business to a wholly commercial use to operate a taxi business with no residential component

Township's File No. Z 3/10

OMB Case No. PL110090

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APPEARANCES:

Parties

Town of Orangeville

Harmanjit Singh Khattrra

Counsel

Jason Self

Ellen Pefhany and Neil Davis

**MEMORANDUM OF ORAL DECISION DELIVERED BY C. HEFFERON ON
AUGUST 22, 2011 AND ORDER OF THE BOARD**

Background

Harmanjit Singh Khattrra ("appellant") operates a 26-car taxi fleet as a home business from his single detached home at 302 Broadway Avenue on the west side of Orangeville ("subject property"). Broadway Avenue is the main business street in Orangeville, but a number of single detached homes – many used solely as residences - remain in vicinity of the subject property.

Mr. Khattrra applied to the Town of Orangeville ("Town") for a site specific rezoning for the subject property from R2 (residential second density) to C5 (restricted commercial/residential), which is a wholly commercial use. The rezoning would permit

the conversion of the single detached dwelling to a commercial use, specifically a taxi dispatch office.

Matter before the Board

Mr. Khattra has appealed the January 6, 2011 decision of the Council of the City of Orangeville refusing his application for a site specific rezoning from R2 to C5 to permit the use of the subject property as a taxi dispatch office.

The Participants' Position

Messrs K. Haus and B. Hollenbeck as well as Ms. M. Scott were granted participant status. They expressed the concerns of a number of the surrounding property owners to the proposed site specific rezoning application. The objectors were mainly those owning and occupying neighbouring single detached dwellings. These residents' objections to the proposal centred on the volume of cars that used (and would continue to use) the subject property. They also expressed concern about the impact on public safety and air quality that these vehicles present not only while idling on site, but also while moving around and exiting the site.

Settlement Reached

The subject proceeding was scheduled to be a pre-hearing conference. However, it was converted to a hearing when the Board learned that the parties had reached a settlement.

Evidence

Uncontested testimony was given by Mr. J. Stiver, whom this Panel qualified to present opinion evidence on land use planning on behalf of both the appellant and the Town.

He told the Board that the appellant had agreed to an amended site specific zoning by-law application, which would see the subject property re-zoned to C5 (H) – the (H) signifying a holding category. The site specific rezoning would prohibit the use of the site as a “taxi dispatch office”, a term that is defined in the zoning by-law

amendment (“ZBLA”). In the settlement, Mr. Khattra’s taxi dispatch office would be re-located to a nearby industrial park and the subject property offered for sale.

Mr. Stiver stated under oath the proposed ZBLA conforms to the provisions of the Town of Orangeville Official Plan, which designates the subject area as “transitional”. The Official Plan envisions the area moving from pure residential to residential/commercial, with the detached dwelling built form generally being maintained. In the immediate vicinity of the subject property on the south side of Broadway are located a café/restaurant and a dental office. Both are set in what had been single detached residences.

He confirmed that the draft ZBLA and the proposed use is consistent with the provisions of the Provincial Policy Statement (2005) particularly Policies 1.1.1 (a) to (c) and 1.1.3.2 (b) that deal with the creation of “healthy, safe and liveable communities”. He also stated under oath that the proposal conformed to the provisions of the Growth Plan for the Greater Golden Horseshoe, particularly policies 1.2.2, 2.1 and 2.2.2 (d) dealing with the creation of “complete” communities with a range of employment and housing choices.

The Board’s Findings

After consideration of the evidence of Mr. Stiver, the Board finds that the proposed ZBLA represents good planning and the proposed site specific rezoning is in the public interest.

In response to a query from the Board regarding the earlier decision of Council to refuse the proposed ZBLA application, Mr. Stiver stated that that proposal had been modified and the modifications presented to Council. He testified that proposed site specific zoning by-law amendment (as modified by Exhibit 3) was endorsed by City Council prior to being presented to the Board. The Board finds that this satisfies the intent of subsection 2.1 of the *Planning Act*.

Disposition & Order of the Board

The Board Orders the appeal as amended is allowed and the comprehensive Zoning By-law Z-1 is hereby amended in the manner set out in Exhibit 3.

The Board also authorizes the Municipal Clerk to assign a number to the ZBLA for records keeping purposes.

So Orders the Board

"C. Hefferon"

C. HEFFERON
MEMBER