

ISSUE DATE:

November 15, 2013



PL120223

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Jouko and Paivi Salokari, appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal to enact a proposed amendment to the Official Plan for the City of Thunder Bay to amend the City of Thunder Bay Official Plan to permit a rural road extension of 817 metres west of the terminus of Law Road.

OMB File No.: PL120223

APPEARANCES:

Parties

Counsel

Jouko and Paivi Salokari

Rene Larson

City of Thunder Bay

Patty Robinet

DECISION DELIVERED BY H. JACKSON AND ORDER OF THE BOARD

[1] Jouko and Paivi Salokari (the "Applicants") applied for an Official Plan Amendment ("OPA") on July 14, 2010 to permit a rural road extension of 817 metres ("m") west of the terminus of Law Road in the City of Thunder Bay ("City"). The City refused the application in their Notice of Refusal of October 26, 2011, which was appealed by the Salokaris on November 14, 2011, pursuant to section 22(7) of the *Planning Act*.

[2] At the commencement of the hearing, the Applicants advised that they wished to modify the OPA to reduce the requested permission to extend the road from 817 m to 126.9 m as measured on the north side of the road allowance and 169.87 m as measured on the south side. The City indicated that they did not support this amended application.

BACKGROUND

[3] The Applicants are seeking the OPA to allow the extension of Law Road, which is a dead end rural road. The OPA will allow an extension of the road onto lands which are privately owned. The purpose of the amendment is to allow the Applicants to seek

consents to divide their lands. These lands do not currently front on a municipal road, which is a necessary requirement for land division in this municipality. This OPA is a first step towards this ultimate objective, to divide lands by consent. There were no consent appeals before this Board however the Applicants readily discussed their future development plans.

[4] With this municipal road extension, the Applicants propose to sever two lots each with 60 m frontage, and with the retained lot, this would provide three lots on the south side of Law Road. The proposal also includes the construction of an up-to-date terminus for efficient and safe turnaround at the new end of Law Road. Exhibit 1, Tab 2 indicates the details of the proposal. This plan and the plan in Exhibit 1, Tab 1 show the properties on the south side of Law Road that are owned by the Applicants' and their family, from east to west, being; 367 Law Road; 445 Law Road; 501 Law Road; and 585 Law Road.

[5] The Applicant submits that should the OPA be approved, the total number of potentially buildable lots with the extended road is five, as there would also be two potentially buildable lots on the north side of the road on lands owned by Mauri Ronkko. Mr. Ronkko has agreed to dedicate land along the road allowance to complete this proposal, although he has not indicated whether he intends to sever any lands.

[6] The Applicants contend that there was prior approval to extend Law Road 815 m granted through site specific By-law 247-1994 that should be respected, and in any event, the amended request for a shorter extension represents good planning and should be allowed in the circumstances.

[7] The City's position is that the Official Plan of 2002 prohibits the extension of rural roads: that is, municipal roads within areas designated rural and rural residential in the City Official Plan. The City does not wish to assume an extension to this road. The City contends that the requested OPA is not consistent with the general policies of the Provincial Policy Statement ("PPS"), and does not conform to the general policies and intent of the City's Official Plan.

[8] The Applicants retained Donald Manahan to provide land use planning opinion evidence. Victoria Kosny, a planner with the City, provided opinion evidence on behalf of the City.

ISSUE

[9] The Board must answer whether the requested OPA represents good planning and whether it is in the public interest. A significant factor in this consideration is that the City has jurisdiction over its public roads and the Board is not authorized to require a municipality to assume a private roadway.

EVIDENCE

[10] Mr. Salokari spoke on behalf of himself and his wife, Paivi. He explained the extent of the lands that his family owns in the area, and the timing and circumstances of when each parcel was acquired. The following represents the testimony of Mr. Salokari in regard to his family's holdings:

- 367 Law Road: This is the most easterly lot and was purchased in 1997 by Paivi and Jouko Salokari. The house is rented to tenants.
- 445 Law Road: This is a 4.96 acre lot that was severed from 367 Law Road in 1999, and is owned by Paivi Salokari. This is where the Salokaris live. The maintained municipal road terminates at the westerly edge of this property. As a requirement of the severance, there was a portion of the property deeded to the City for the road allowance, Pt. 1, 55R-10788. The northern half of the road allowance PIN 62239-0056 is owned by the City. This difference in ownership of the road allowance accounts for the difference in the requested lengths for the road extension.
- 585 Law Road: This property is west of 501 Law Road and has 318 m of frontage on the unmaintained portion of the road. It was sold by Jack Berglund to Jouko Salokari in 2005. Mr. Salokari testified that he purchased this property with the intent to sever up to three building lots for his children. At the time of purchase Mr. Salokari understood that there was a by-law in place allowing the extension of Law Road to this location.
- 501 Law Road: This property is between 445 Law Road and 585 Law Road and has 499 m of frontage on the unmaintained portion of the road. Elizabeth Beckingham sold the property to Jouko Salokari and his son, Thomas Daniel

in 2011. The old home on the property was torn down by the City in 2009, but the foundation for the garage remains. Mr. Salokari testified that he purchased this lot because Mrs. Beckingham indicated that she had a prospective purchaser who did not wish to have the road extended. In order to not jeopardize the plan to extend the road to 585 Law Road, Mr. Salokari purchased the lot. Mr. Salokari explained that he had been interested in purchasing 501 Law Road much earlier and had entered into discussions with Mrs. Beckingham. However, he stated that he had been informed by the City that this property was not buildable because it did not have municipal road frontage, and therefore he postponed purchasing the lot. However in August 2011, the City provided a letter to Mrs. Beckingham indicating that 501 Law Road is a buildable lot (Exhibit 1, Tab 8).

Law Road History

[11] Prior to 1970, Law Road was in MacIntyre Township, one of three geographic townships that made up the municipality of Shuniah. MacIntyre Township was amalgamated into the new City of Thunder Bay in 1970 and thereafter was under the City's jurisdiction.

[12] Mr. Manahan described the location and setting of Law Road and entered into evidence photos showing the various features of the road. Law Road is about 12 km from the west end of the built-up area of the City, and goes south from the intersection with Highway 102, otherwise known as Dawson Road, about 0.9 km and then turns westerly and goes for about 0.8 km, for a total length of 1.7 km. There are seven residences on the first section of Law Road from the intersection with Dawson Road, and five residences on the east-west section. The entire length of road westerly to Townline Road is about 2.7 km. The unmaintained portion of the road is rough and not currently traversable with ordinary vehicles. In addition, there was evidence that the City has placed two barriers on their lands at the westerly section of the road to prevent through access.

[13] Three individuals testified on behalf of the Applicants regarding the use of Law Road in the past. Markku Peuhkurinen testified that he lived at 501 Law Road when he was a child in the 1960's, and he recalls that while he lived there the road was plowed

and graded by Shuniah Township beyond the house all the way to the driveway to the barn. He also testified that, at the time, the road was passable westerly all the way to Townline Road.

[14] Bonard Whatley testified that he lived at 367 Law Road as a child in the 1940's and 50's, and that it was his father who was the grader and snow plow operator who worked on Law Road for Shuniah Township before it became part of the City in 1970. He testified that his Aunt Mary and Uncle Frank Law lived at 501 Law Road, though he said it was called Whatley Road at the time. He recalled driving with his family westerly along Law Road to Townline Road to visit friends.

[15] Eljas Rossi testified that he has lived at 3871 Dawson Road since 1959. His property is 50 acres extending from Dawson Road to Law Road, and is identified as PIN 0017 on the composite PIN map in Exhibit 1, Tab 1. He testified that Law Road used to extend to the corner of his property, and he would haul logs east on Law Road to Dawson Road and then to town. He stated that he also grew hay along Law Road for a few years. He testified that the barriers that have been placed at the west end of Law Road now prevent travelling in that direction.

[16] The parties accept that the City does not own the road allowance beyond the current terminus, with the exception of lands at the western section near Townline Road where the City has placed barriers.

Road Access Policy Relating to Law Road

[17] Mr. Manahan described By-law 239-1984, the Road Access Policy that was previously in place for requests to undertake rural road extensions in non-urban areas of the City. This by-law established the mechanism for agreement at the staff level, and included the road standards, and that the costs and insurance were to be borne by the applicant until the road was assumed by the municipality. Mr. Manahan testified that this by-law was in place to facilitate severances and was in conformity with the Official Plan in force at the time. Evidence was (by Ms. Kosny) that the by-law did not have a termination date, but could be repealed by Council at any time.

[18] On the basis of the Road Access Policy, Mr. Berglund petitioned the City for approval to extend Law Road 815 m from its current terminus to his property at 585 Law

Road so that he could haul logs out of his property. He was granted approval, and as a result, site specific By-law 247-1994 was passed on September 12, 1994 (Exhibit 2, Tab 3) that amended By-law 239-1984 and allowed the extension of Law Road.

[19] As provided by the evidence, Mr. Berglund spent \$10,000 to \$15,000 on clearing and grubbing for the road, and for a survey in April 1997 to show the requested extension (Exhibit 2, Tab 11). Mr. Berglund ran into difficulties obtaining easements for drainage along Mrs. Beckingham's property (501 Law Road), and he eventually abandoned the project due to cost and the easement problems.

[20] Mr. Salokari testified that he asked the City engineering department whether he could take over Mr. Berglund's approval to build the road extension. In November 2004, a letter from Mr. McKay to Mr. Salokari indicated that the City engineering department had no objections (Exhibit 1, Tab 13). The letter states: "The Engineering Division considers the approval to extend Law Road as continuing to exist."

[21] On that basis, Mr. Salokari bought 585 Law Road in 2005. He assumed that he could build the road to obtain municipal road frontage, and with the frontage, he intended to sever lots from 585 Law Road. He had surveying done to identify the easements that would be required for the road to be deeded to the City and also prepared agreements with the numerous property owners that would be affected, and secured agreement that each would deed the requisite land to the City. The amended request for a road extension of 126 m only requires agreement from Mr. Ronkko, who Mr. Salokari testified would be amenable to a modified agreement.

[22] Mr. Salokari testified that in July 2007 he received a letter from the City solicitor advising him that By-law 239-1984 conflicted with the City's new 2002 Official Plan, and that Council was considering repeal of the by-law. Mr. Salokari testified that this was the first that he was aware that there was a problem with his rural road extension.

[23] Mr. Salokari testified that the City solicitor sent a letter to his lawyer August 17, 2007 with legal clarification regarding the issue. The letter indicated that the new Official Plan adopted by the City in March 2002 has the following section:

10.20 New Roads

The opening of new roads and the extension of existing roads within areas designated as "Rural" and "Rural Residential" will not be permitted

except as shown on Figure 2, Transportation Plan and Figure 3, Protected Rights-of-Way. Elsewhere in the City, the opening of new roads and the extension of existing roads will typically only occur as a result of the development of plans of subdivision.

The letter goes on to state that By-law 239-1984 (and therefore the site specific By-law 247-1994) is in direct contravention of the Official Plan and should have been repealed when the Official Plan was adopted.

[24] Mr. Salokari and his lawyer made a deputation to Council at the meeting of the Committee of the Whole, on August 27, 2007, requesting that the by-law not be repealed. A copy of the deposition materials are in Exhibit 1, Tab 18. Mr. Salokari testified that Council was sympathetic to their situation, however the City planner and solicitor strongly objected, and were adamant that the by-law be repealed.

[25] By-law 239-1984 was finally repealed on February 9, 2010, as provided in By-law 015-2010 confirming the proceedings of a meeting of Council (Exhibit 8, Tab D17).

[26] The City solicitor provided a letter to the Applicants dated February 17, 2010 stating that any development of lots on the planned extension of Law Road would not be approved by Council without an amendment to the Official Plan that would provide an exemption to Policy 10.20 New Roads (Exhibit 2, Tab 15).

[27] Mr. Manahan testified that on July 4, 2010, an OPA request was submitted to allow the extension of Law Road, consistent with the 1994 by-law, and as indicated to be necessary by the City solicitor in her letter of February 17, 2010.

[28] At the public meeting of October 17, 2011, Council voted that no changes would be made to the Official Plan. The refusal of the request was appealed by the Applicants.

Planning Context

[29] Mr. Manahan testified as to the planning merits of the proposal. He testified that in his opinion the Law Road extension could have been accepted by the City as a work in progress and not a new road needing a new decision. Mr. Manahan testified that the decisions had been made and the surveying and clearing had begun, though it had not

proceeded very far. He testified that the City should have recognized this as a transition situation and should have accommodated the request to continue with the work.

[30] Mr. Manahan testified that the area of the proposed road extension is designated rural in the new Official Plan of 2002, and there are small watercourses designated as natural corridor, wetland area and some provincially significant wetlands in the vicinity, as shown in Schedule B to the Official Plan (Exhibit 1 Tab 8). Mr. Manahan testified that the portion of Law Road that is proposed to be extended falls outside of the natural corridor area.

[31] Mr. Manahan testified that the objectives 16.1 a) and b) stated in the Official Plan for rural areas are to “limit the amount of residential development so as to preserve the rural character and protect the natural environment” and “to ensure that the amount of new residential development does not necessitate the extension of municipal services into the rural area, nor unduly require increases to the level of services currently provided”.

[32] Mr. Manahan testified that this area of the City has a typical rural character, and that rural development is extensive in this area. He testified that the addition of new residential lots through consent would maintain the rural character.

[33] Mr. Manahan testified that the nearest public school is seven kilometres away, and about four kilometres away is a gas station, a rural fire station, a greenhouse, and golf course. He testified that the new development would not necessitate the requirement for municipal services as the expectation of four to five new dwellings would not drive the need for any new municipal services in this case.

[34] Mr. Manahan notes that in s.16 of the Official Plan the City identifies that rural areas contain “limited residential use”. He referred to a City Corporate Report regarding lot inventory for January 2012 (Exhibit 2, Tab 23) that identifies that there are “additional opportunities beyond the urban area” that provide development potential through vacant lots and potential severances. The report identifies that there are 365 potential lots in areas within the Rural designation in the City. Mr. Manahan testified that the proposed addition of three new lots is negligible as it is only about a 1% addition to the lot inventory, and therefore it fits within the Official Plan provision for limited residential development in the City.

[35] Mr. Manahan testified that with respect to the Roads policies in the Official Plan, section 10.8 b) states that it is an objective to maximize the efficiency of existing services by “limiting” the development of new roads in rural areas. He testified that that the word “limit” implies that it is slowed down, and restrained, but not necessarily prohibited.

[36] Mr. Manahan testified that the proposed turning ball and 126 m of additional road would not add appreciably to road costs, and the bulb will allow the road to operate as it should. This would allow snow storage and turning of the snow plows without the need to use the Applicants’ property, which the Applicants allege currently occurs. Mr. Manahan contends that construction of the proper terminus is a public benefit, and is in the public interest.

[37] In s.10.20 of the Official Plan, new roads are only permitted in rural and rural residential areas if shown on Figures 2 and 3, or in a plan of subdivision. Mr. Manahan testified that this introduces the concept that there could be exceptions to this policy, and that Official Plans are documents that are intended for amendment when appropriate. This implies that there is the opportunity to add new roads as an exception to the policy, through an OPA, such as this request.

[38] Mr. Manahan testified that it is his opinion that the lands that abut the proposed Law Road extension appear to be capable of supporting the proposed severances according to the criteria outlined s. 22.8 Implementation of the Official Plan. The land area exists for the minimum frontage of 60 m for a dwelling and there is sufficient lot area being a minimum of 20,000 sq m for each of the three lots. Mr. Manahan testified that because there are small areas identified as natural corridor and wetland, there may be a requirement for environmental studies related to the consents, but this can be undertaken as conditions of consent.

[39] Mr. Manahan also testified that the proposed consents meet the criteria of s. 51(24) of the *Planning Act*, and comply with s. 2 of the *Planning Act*.

[40] Mr. Manahan testified that with respect to the PPS, s.1.1.3.1 Settlement Areas, these are identified as the focus of growth, but that this does not negate growth in rural areas beyond the settlement area. He also stated that s.1.1.4.1 of the PPS permits “limited residential development” in rural areas, however the PPS does not define what

this is. He testified that Law Road could be contemplated as existing as it had prior approval and the proposed four to five lots could be lots that are part of the limited rural development.

[41] In regards to s.1.1.1c) of the PPS that relates to the avoidance of development that may cause environmental or public health and safety concerns, Mr. Manahan testified that the lands for the road extension are not in areas that are environmentally sensitive, but are in areas designated as rural.

[42] Mr. Manahan testified as to the issue of potential for flooding in low lands identified by the Lakehead Region Conservation Authority ("LRCA") along a portion of the existing stretch of Law Road, and explained that elevation measurements that he undertook to have done by a surveyor indicated that the area of concern met the applicable criteria in regards to the potential for flooding, and though he had not yet provided this information to the LRCA, Mr. Manahan anticipated that this would be relevant to the possible future conditions for consent to sever, and indicated that the proposed development should not be a concern in regards to public health and safety with respect to the potential for flooding on the road.

[43] Mr. Manahan testified that it is his opinion that the by-law permitting the extension of Law Road does not conflict with the 2002 Official Plan and it is consistent with the PPS.

[44] In contrast, Ms. Kosny testified that the proposed extension does not meet the requirements of the Official Plan and is not consistent with the PPS. She described the PPS as a guideline document that provides the policy framework for implementing the provincial interest in planning, specifically the efficient development of resources, the use of land, the financial well-being of municipalities, and the reinforcement of strong communities. She testified that the PPS is focussed on intensifying and directing growth to settlement areas and maximizing existing infrastructure.

[45] Ms. Kosny testified that PPS s.1, Part V Policies are designed to achieve efficient development and land use patterns, as noted in policy 1.1.1a), d), and e), and that these are not met by this proposal. With regards to environmental or public health and safety concerns (policy 1.1.1c) the road could be in an area of flooding, as commented

by LRCA. Additionally, the development is heavily dependent on private vehicles, and there is no public transit available nearby.

[46] Ms. Kosny testified that Council supports intensification for transit and that by focussing on optimization and intensification these efficiencies will promote economic prosperity and will avoid higher costs to the municipality in the long term. In this case the rural road development extends infrastructure does not promote efficient development and land use patterns.

[47] Ms. Kosny testified that the Official Plan Policy 10.20 New Roads exists to maintain the objectives of the PPS and is a tool to prevent urban sprawl and limit development. Ms. Kosny testified that as early as 1996 the City identified the importance of the restriction of residential development outside the urban limit in order to curb sprawl.

[48] Ms. Kosny testified that urban sprawl in northern Ontario is like a “sprawl crawl” and consists of more consents, severances, or development on existing vacant lands over time rather than larger scale developments. She testified that the City is attempting to manage urban sprawl through the Official Plan policies that promote land use patterns to efficiently use infrastructure.

[49] She testified that there costs to the City from sprawl as well as lost opportunity costs, such as the lost opportunity to infill a vacant lot in a serviced area, or an area where transit exists.

[50] Ms. Kosny testified that the proposal does not meet numerous policies of the Official Plan, in particular, the statement of principles in section 1.1d) “change must be managed to protect resources, promote efficient, cost-effective development, and land use patterns which stimulate economic growth, protect the environment, and public health.” Nor does the proposal meet the General Goals as outlined in section 1.2a), that promote a pattern of land use, and provision of services and facilities to enhance the health, safety and well-being of all present and future residents of the City; and b) ensure that development occurs in an efficient and cost-effective manner.

[51] Ms. Kosny testified that as set out in s.1.3, the basis of the Official Plan recognizes that the plan is prepared to be “consistent with” the PPS, and that this was

foremost in her mind in her analysis. She testified that in s.1.5 areas designated as “Rural” will continue to provide limited opportunities for an alternative residential lifestyle.

[52] Ms. Kosny testified that there is in excess of 30 years supply when considering both urban and rural lots in the City. She noted that the request of Mr. Salokari for three new lots may seem insignificant, but the cumulative effect is important, and that though the services (schools, community centre, garbage trucks, fire hall, etc.) may be adequate currently, they may not be sufficient with the addition of new lots.

[53] Ms. Kosny testified that it is Council’s objective to encourage the provision of community services and facilities, and is concerned that with an increase in the number of residents in rural areas, then it may be more difficult to supply community services. She also testified that in regards to section 6, Housing, if there is an added demand in rural areas, this may be taking away resources for other areas of the City, and that it is Council’s objective to encourage residential intensification as described in section 6.8.

[54] Ms. Kosny testified that the proposal does not forward the objectives of Council with respect to section 10 of the Official Plan, Transportation, particularly section 10.1 b), h), or i), as the proposed extension is not cost effective or efficient. In particular, the proposal does not meet the intent of section 10.8 b) to maximize the efficiency of existing services by limiting the development of new roads in the “Rural and Rural Residential land use designation.” Ms. Kosny testified that the policies are the tools to characterize the “limits”.

[55] Section 16 Rural Areas, describes Council’s objective to limit the amount of residential development in rural areas. Ms. Kosny testified that s.10.20 is a tool to limit development in rural areas. Section 16.2 a) and c) requires that lots must have 60 m of frontage on an open, travelled and municipally maintained road. The exemption from 10.20 is required in order to have the frontage to create the new lots for the proposal.

[56] With regards to the proposed consent, Ms. Kosny testified that her review of section 22.7 and 22.8 of the Official Plan indicated to her that if the road was extended, then she anticipated that lots could be created.

[57] She also testified that with regards to s. 22.18 Hardship, it was her opinion that this did not apply to the Applicant's situation.

[58] The City called Pat Mauro, a professional engineer employed with the City since 1994 in the roads department. He testified that it was his opinion that the existing turning basin at the current terminus of Law Road is adequate for the use. He testified as to the requirements for the City to assume a road constructed by others and noted that this normally occurs as a plan of subdivision, and that the engineering department normally reviews the design of the road, and forwards their review on to the planning division. He testified that in a situation such as this, the road would need to be constructed to the City standards, and then inspected by the City before they would take it over.

[59] Mr. Mauro testified that there is no benefit to the City to take on the proposed extension, just the additional cost of maintenance. He testified that it would cost about \$80,000 to construct the 126 m road extension, and about \$630 per year in direct maintenance costs, not including any capital costs.

ANALYSIS AND FINDINGS

[60] The Board is sympathetic to the position the Applicants find themselves in. Prior to their purchase of 585 Law Road they enquired and were advised by the City Transportation and Works department that there was permission in place to extend Law Road 815 m, so they purchased the property with the intent to create lots. However, the City adopted a new Official Plan in 2002 that prohibits the extension of rural roads. The City advised the Applicants of this situation and advised them that the site specific by-law that was in place that provided the permission to extend Law Road should have been repealed when the new Official Plan was adopted. The City then held public meetings where the Applicants made depositions, nevertheless the by-law was repealed by the City on the basis that it does not conform to the Official Plan.

[61] The Board is not persuaded by the opinion of Mr. Manahan that this is a road in transition and therefore the permission is in place and should be grandfathered. The evidence shows that the construction of the road was not advanced to any significant extent by the Applicants. Given that the by-law was repealed, the Board agrees with

the City that therefore there is no existing approval for the road, and that this is a request for an extension that is new.

[62] The requested OPA is for an exception to s.10.20 of the Roads policy that would allow an extension to a rural road, however, the City has clearly stated that they do not wish to assume the road extension. The Board is not prepared to grant an Official Plan amendment to permit a road to be extended along a lot that does not have frontage on a municipal road when the municipality does not wish to assume the road. The Board does not have the jurisdiction to require the City to assume the road. Granting the requested OPA does not represent good planning when the intent of the proposal is to facilitate the division of lands by providing municipal road frontage if the City does not wish to assume the road.

[63] The Applicants have requested this OPA to facilitate future consents. It is clear that there has been rural development in the form of individual lot creation over many years within the vicinity of the subject lands. It does not appear that there has been an attempt to consider all of this development in a comprehensive manner for the current proposal. A plan of subdivision is expressly contemplated in policy 10.20 as the preferred municipal approach (when permitted) to extend rural roads. There is no plan of subdivision before the Board. The Board finds that the current proposal is premature, and does not represent good planning as it would result in the development along Law Road to occur in a piecemeal fashion. The Board notes that the current proposal for lot development also has the effect of further land-locking the property at 585 Law Road, which is a lot of record as far as the Board can determine.

[64] The Board agrees with Ms. Kosny that the main tool that the City has to curb sprawl is s. 10.20 of the Official Plan that limits the extension of rural roads. The Board finds that this proposal does not conform to or meet the underlying objectives of s.10.20 of the City Official Plan, wherein it is clearly stated that there are to be no new rural roads, and is not persuaded by the Applicants' contention that the wording opens the door to permit exceptions to the Official Plan, such as this OPA request.

[65] The Board finds the City planner's opinion that this extension does not conform to the Official Plan and is not consistent with the PPS to be preferred in this circumstance.

[66] The Applicants' proposal is to construct a proper terminus at the new end of Law Road, and in the future they intend to develop three lots on the south side of the road. The Applicants contend that the provision of a proper terminus is in the public interest, as it will provide a safe and efficient turn-around for City vehicles, and they will no longer traverse on the Applicants' private property which they contend the City are now doing.

[67] The Board is of the view that this request for a rural road extension is mainly in the interest of the Applicants, to satisfy their desire to develop lots on property that they own with their family without going through a more rigorous planning assessment that an application for a plan of subdivision would require. Mr. Mauro has testified that the existing turning bulb is adequate for the situation. The Applicants have other avenues to pursue to ensure that the City vehicles do not trespass onto their property. The Board is not persuaded that the construction of a proper terminus at the new end of Law Road is sufficient to establish that the extension is in the public interest.

[68] The Board is not persuaded that the Applicants' situation is reflected under the hardship provisions in the Official Plan under s. 22.18 Hardship. The situations that Council had in mind are for unique, extreme and unnecessary hardship and do not apply in this circumstance.

ORDER

[69] The Board orders the appeal is dismissed.

"Helen Jackson"

HELEN JACKSON
MEMBER