

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: July 16, 2014

CASE NO(S): PL130269
PL130280

PROCEEDING COMMENCED UNDER subsection 17(24) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: 1429036 Ontario Inc. & Benisasia Funeral Home Inc.
Appellant: Orlando Corporation
Subject: Proposed Official Plan Amendment No. OPA 7
Municipality: City of Mississauga
OMB Case No.: PL130269
OMB File No.: PL130269

PROCEEDING COMMENCED UNDER subsection 34(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: 1429036 Ontario Inc. & Benisasia Funeral Home Inc.
Subject: By-law No. 0028-2013
Municipality: City of Mississauga
OMB Case No.: PL130269
OMB File No.: PL130270

1429036 Ontario Inc. & Benisasia Funeral Home Inc. have 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 neglect to enact a proposed amendment to the Official Plan for the City of Mississauga to redesignate land at 3263 Derry Road East from "General Commercial" to "General Commercial Special Site" to permit a crematorium in addition to the existing funeral home

Approval Authority File No. OZ 09/012 W5
OMB Case No. P130280
OMB File No. PL130280

1429036 Ontario Inc. & Benisasia Funeral Home Inc have 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 neglect to enact a proposed amendment to Zoning By-law 0225-2007 of the City of Mississauga to rezone lands respecting 3263 Derry Road East from "C-3" (General Commercial) to "C3-Exception" (General Commercial) to permit a

crematorium in the existing funeral home
OMB Case No. P130280
OMB File No. PL130279

PROCEEDING COMMENCED UNDER subsection 85(1) of the *Funeral, Burial and Cremation Services Act*, S.O. 2002, CHAPTER 33

Appellant: 1429036 Ontario Inc. & Benisasia Funeral Home Inc.
Subject: Application to establish a crematorium
Municipality: Mississauga
OMB Case No.: PL130280
OMB File No.: MM130082

Heard: July 7 and 10, 2014 by telephone
conference call

APPEARANCES:

Parties

Counsel

Orlando Corporation (“Orlando”)

Leo Longo

City of Mississauga (“City”)

Paul DeMelo and Raj Kehar

1429036 Ontario Inc. and Benisasia
Funeral Homes Inc. (“Appellants”)

**MEMORANDUM OF ORAL DECISIONS DELIVERED BY STEVEN STEFANKO
ON JULY 7, 2014 AND JULY 10, 2014 AND ORDERS OF THE BOARD**

[1] At the commencement of this proceeding, the City moved for a dismissal of all the appeals (“Appellants’ Appeals”) by the Appellants in these matters. These appeals relate to Official Plan Amendment 7 (“OPA 7”), Zoning By-law Amendment . 0028-2013 (“ZBA 0028”), the private official plan amendment and zoning by-law amendment applied for by the Appellants and s. 85 (1) of the *Funeral, Burial and Cremation Services Act, 2002*.

[2] On the basis that the Appellants did not appear at this proceeding, failed to

comply with the provisions of the Procedural Order and failed to respond to Mr. Kehar's email of July 3, 2014, the Appellants' Appeals are hereby dismissed.

[3] In relation to Orlando's appeals of OPA 7 and ZBA 0028, agreement has been reached between the City and Orlando and a settlement hearing was conducted by teleconference ("TCC") on July 10, 2014. The settlement reached reflects modifications to OPA 7 and ZBA 0028. These modifications, *inter alia*, clarify terminology used and the operation of the policy itself.

[4] During the TCC, a revised OPA 7 ("Revised OPA") and a revised ZBA 0028 ("Revised ZBA") were presented and expert land use testimony was provided by Paulina Mickicich, a planner with the City. The Revised OPA is annexed hereto and marked as Attachment 1 and the Revised ZBA is annexed hereto and identified as Attachment 2.

[5] According to Ms. Mickicich, the settlement reached is consistent with the Provincial Policy Statement, 2014, conforms to the Growth Plan for the Greater Golden Horseshoe, 2006 and the Region of Peel Official Plan and represents good planning.

[6] Based on the testimony of Ms. Mickicich, the submissions of counsel and the agreement reached, it is ordered that:

(a) the Revised OPA is hereby approved; and

(b) the City's Zoning By-law Number 0225-2007, as amended, is hereby amended in accordance with the Revised ZBA.

“Steven Stefanko”

STEVEN STEFANKO
VICE- CHAIR

Ontario Municipal Board

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DETAILS OF THE AMENDMENT AND POLICIES RELATIVE THERETO

1. Chapter 6.6 Air Quality of Mississauga Official Plan, is hereby amended by adding the following subsection:

6.6.6 Development proposals for a crematorium may be considered subject to the following:

- air, noise, dust, odour and other fugitive emissions will be appropriately mitigated at the source in accordance with Provincial requirements;
 - permitted land uses which may be subject to adverse effects arising from the proposed crematorium use are not located within the area of influence of the proposed crematorium as determined by appropriate studies acceptable to the City;
 - there is no impact to the permitted land uses, planned function or viability of the surrounding lands;
 - the proposed crematorium is not located within a multi-unit building;
 - the scattering or interment of human remains is not permitted, except in cemeteries;
 - the development is appropriately screened from adjacent uses and the public realm; and
 - the site is appropriately buffered and landscaped.
2. Section 17.5 Gateway Employment Character Area is amended by adding the following subsection:

17.5.1.3 Notwithstanding the Industrial policies of this Plan, the following use will also be permitted subject to a rezoning:

- a. crematorium.

3. Section 17.8 Northeast Employment Character Area is amended by adding the following subsection:

17.8.1.3 Notwithstanding the Industrial policies of this Plan, the following use will also be permitted on lands west of Airport Road subject to a rezoning:

- a. crematorium.

4. Section 20 Glossary is amended by adding the following definition:

Crematorium means a building, structure or part thereof fitted with a retort(s) for the purpose of cremating human remains and may include a processing area and body storage area.

ATTACHMENT 2

BY-LAW 0028-2013

A by-law to amend By-law Number 0225-2007, as amended.

WHEREAS pursuant to section 34 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, the council of a local municipality may pass a zoning by-law;

NOW THEREFORE the Council of The Corporation of the City of Mississauga ENACTS as follows:

1. By-law Number 0225-2007, as amended, being a City of Mississauga Zoning By-law, is amended by deleting the words "From Residential Zones" from the title to Article 2.1.2.1 contained in Subsection 2.1.2 of this By-law.
2. By-law Number 0225-2007, as amended, is further amended by adding to Table 2.1.2.1.1 contained in Article 2.1.2.1 of this By-law the following:

Column A		B
Line	Use	Minimum Separation Distance From a Residential Zone
15.0	Crematorium	300.0 m

3. By-law Number 0225-2007, as amended, is further amended by adding Sentence 2.1.2.1.3 to Article 2.1.2.1 of this By-law as follows:

All **buildings and structures** containing a use in Table 2.1.2.1.3 - Minimum Separation Distance from other Zones, shall comply with the applicable minimum separation distance required.

Table 2.1.2.1.3 - Minimum Separation Distance from other Zones

Column A		B
Line	Use	Minimum Separation Distance from other Zones
1.0	Crematorium	300.0 m from a C4 zone or a City Centre zone or any exception zone permitting residential uses

4. By-law Number 0225-2007, as amended, is further amended by adding Sentence 2.1.2.1.4 to Article 2.1.2.1 of this By-law as follows:

2.1.2.1.4 The minimum separation distance contained in Table 2.1.2.1.3 - Minimum Separation Distance from other Zones, shall be measured in a straight line from the nearest part of the **building** or **structure** or portion of the **building** or **structure** containing the **use**, to the closest **lot line** of the other Zone.

5. By-law Number 0225-2007, as amended, is further amended by adding the following words to the end of Subsection 11.1.2 of this By-law as follows:

"except that a **crematorium** shall not be permitted."

6. This By-law shall not come into force until Mississauga Official Plan Amendment Number 7 is in full force and effect.

ENACTED and PASSED this _____ day of _____ 2013.

MAYOR

CLERK

APPENDIX "A" TO BY-LAW NUMBER _____

Explanation of the Purpose and Effect of the By-law

This By-law amends Mississauga Zoning By-law 0225-2007 by introducing a minimum 300.0 m separation distance for crematorium facilities from Residential, C4 (Mainstreet Commercial) and City Centre Zones or exception zones permitting residential uses. The amendment also removes permission for a crematorium on lands zoned PB2 (Parkway Belt). The purpose of the amendment is to ensure that the expansion of existing or development of new crematorium facilities does not impact nearby sensitive land uses or the long-term planned function of adjacent lands.

Location of Lands Affected

All lands in the City of Mississauga.

Further information regarding this By-law may be obtained from Paulina Mikicich of the City Planning and Building Department at 905-615-3200 ext. 5514.