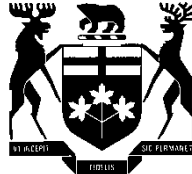


ISSUE DATE:

February 13, 2014



Ontario

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

PL130396

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Jean Grandoni
Appellant: Preservation of Agricultural Lands Society (PALS)
Appellant: Thundering Waters Development Corp
Appellant: Warren Woods Land Corporation
Subject: Proposed Official Plan Amendment No. 106
Municipality: City of Niagara Falls
OMB Case No.: PL130396
OMB File No.: PL130396

APPEARANCES:

Parties

Counsel*/Agent

Regional Municipality of Niagara

P. DeMelo*
S. Chisholm*

City of Niagara Falls

K. L. Beaman*

Club Italia, Niagara, Order of Sons of Italy;
Redeemer Bible Church;
Regency Athletic Resort Ltd.;
FKS, The Real Estate People Inc. and
623381 Ontario Inc.;
Dr. Michael and Margaret Connolly and
Dr. Farouk K. Abou-Keer;
Niagara Sports Centre Limited

J. Wilker*

Thundering Waters Development Corp.;
Warren Woods Land Corporation

T. A. Richardson*

Preservation of Agricultural Lands Society

J. Bacher

Jean Grandoni

Self-represented

**MEMORANDUM OF ORAL DECISION DELIVERED BY SUSAN de AVELLAR
SCHILLER JANUARY 16, 2014 AND ORDER OF THE BOARD**

[1] Thundering Waters Development Corp. (“Thundering Waters”), Warren Woods Land Corporation (“Warren Woods”), Preservation of Agricultural Lands Society (“PALS”) and Jean Grandoni have appealed the City of Niagara Falls (“City”) Official Plan Amendment 106 (“OPA 106”).

[2] OPA 106 applies to approximately 75 ha in the northwest quadrant of the City. OPA 106 expands the Urban Area boundary to include lands located south of Mountain Road, north of the Ontario Hydro corridor, east of Kalar Road and west of Montrose Road which runs parallel to the Queen Elizabeth Way (“QEW”) on its west side.

[3] This is the first pre-hearing in this matter.

MATTERS HEARD TOGETHER

[4] The same appellants have also appealed Regional Municipality of Niagara (“Region”) Regional Policy Plan Amendment 196 (“RPPA 196”). RPPA 196 applies to the same lands and also expands the Urban Area boundary to these lands. RPPA 196 is Board case PL130395.

[5] Similar evidence may be called in these two cases. These matters have been grouped to be heard together at this point but are not consolidated. The Board will issue separate decisions for each of these two cases.

ADDITION OF PARTIES

[6] Several landowners in the northwest quadrant sought party status in this matter.

[7] Hearing no objection and recognizing their direct interest, the Board added the following as parties to this matter:

- Club Italia, Niagara, Order of Sons of Italy
- Redeemer Bible Church
- Regency Athletic Resort Ltd.
- FKS, The Real Estate People Inc. and 623381 Ontario Inc.

- Dr. Michael and Margaret Connolly and Dr. Farouk K. Abou-Keer
- Niagara Sports Centre Limited

[8] For ease of reference, these parties are together known as the Northwest Quadrant Landowners' Group ("NQLG").

POSSIBLE RETENTION OF COUNSEL

[9] Ms. Grandoni is now self-represented in this matter. She advised the Board that she may wish to retain Counsel to represent her but has not done so at this point.

[10] The Board directed Ms. Grandoni to have any Counsel she may retain advise the Board, and all parties, of his/her retainer as Counsel of record in this matter.

[11] The Board, having set a date to hear motions in this matter and a date for a hearing of the merits, requires that any request to adjourn either date shall be done by way of a motion subject to the Board's rules on motions.

[12] The Board will make an exception to this requirement for any adjournment request to be by way of a motion if the request comes on consent of all parties.

[13] Where all parties consent, the Board's normal process and requirements under its rules for adjournments will apply.

MINUTES OF SETTLEMENT

[14] Minutes of Settlement ("MOS") between NQLG and Thundering Waters were filed as Exhibit 2 in these proceedings.

[15] The MOS includes language to modify OPA 106.

[16] PALS advised the Board that its preference continues to be that no settlement area boundary expansion is approved. In the alternative if the Board is inclined to approve the boundary expansion, PALS does not object to the proposed modification to OPA 106.

[17] Ms. Grandoni advised the Board that she needed some additional time to determine whether or not her position would be the same as that of PALS. Ms. Grandoni is to advise NQLG by February 14, 2014 of her decision in this regard, with a copy to all parties.

ISSUE LIST

[18] PALS and Ms. Grandoni both brought their draft issue lists to this appearance and circulated copies to all parties.

[19] The lists are not identical but do appear to deal with many of the same points, simply using different language.

[20] NQLG advised the Board that it may wish to challenge certain of the issues on these issue lists.

[21] The Board will deal with any challenge to any issue on the issue lists by way of a motion, returnable at the next appearance.

REQUEST FOR SUMMONS

[22] The Board was advised that both PALS and Ms. Grandoni intended to call some of their evidence through witnesses under summons.

[23] Neither Ms. Grandoni nor PALS have yet submitted a request for summons to the Board.

[24] The Board directed that any requests for summons are to be filed with the Board by noon on Tuesday, January 21, 2014 with copies of the requests to all parties.

REQUEST FOR SITE ACCESS

[25] At this appearance, PALS advised the Board that it would like site access to the subject lands for a site visit in April or May by the ecologist that it intends to call.

[26] NQLG advised the Board that access to its lands could be arranged, subject to scheduling to ensure that the ecologist NQLG intended to call in this matter would be available to accompany the PALS ecologist on any scheduled site visit.

[27] The Board leaves the detail of this scheduling to the respective parties to work out. The Board may be spoken to if difficulties arise.

REQUEST FOR ACCESS TO PUMPING STATIONS

[28] Ms. Grandoni is seeking access for inspection to both public and private pumping stations by a qualified engineer who is also a qualified hydrogeologist.

[29] Parties opposite dispute the relevance of this request and have not agreed to provide access.

[30] If Ms. Grandoni wishes to pursue her request for access for inspection, she is to do so by way of a motion, in accordance with the Board's rules on motions and particularly Board rule 33(e) and returnable at the next appearance.

REQUEST FOR PRODUCTION OF DOCUMENTS

[31] Ms. Grandoni has filed various Freedom of Information requests. She advised the Board that she has not yet received the documents being sought.

[32] The Board was advised that the requests are being processed.

[33] Ms. Grandoni asked the Board to order that the documents be produced.

[34] Ms. Grandoni acknowledged that these requests are related in substance to her reasons for seeking access to pumping stations.

[35] If Ms. Grandoni wishes to pursue her request that the Board order the production of these documents, she is to proceed by way of a motion, in accordance with the Board's rules on motions and particularly Board rule 33(b).

ADDITIONAL REQUIREMENTS GOVERNING MOTIONS

[36] For any motions to be heard at the next appearance, the following requirements apply:

- Notice of motions and motion records are to be served and filed by 4:30 p.m. on Friday, February 14, 2014.

- Responses are to be served and filed by 4:30 p.m. on Wednesday, February 19, 2014.
- Replies are to be served and filed by 4:30 p.m. on Friday, February 21, 2014.
- All materials filed with the Board are to be filed by the deadlines set out above in both hard copy and electronic copy.

NEXT APPEARANCES

[37] The next appearance in this matter will hear any motions and set any further requirements for the hearing of the merits.

[38] The next hearing event for this case will be held on **Tuesday, February 25, 2014 at 10:30 a.m. at:**

**Municipal Building
4310 Queen Street East
Niagara Falls, ON**

[39] The Board has also set the hearing of the merits for eight days to commence **Monday, May 26, 2014 at 10:30 a.m.** at the same location as set out above.

[40] I will remain seized for case management purposes, subject to the requirements of the Board's calendar, but am not necessarily seized of the hearing of the merits.

ORDER

[41] The Board orders that the deadlines and requirements for notice and filings and the addition of parties to this proceeding are as set out in the preceding paragraphs.

"Susan de Avellar Schiller"

SUSAN de AVELLAR SCHILLER
VICE CHAIR