

ISSUE DATE:

March 26, 2014



PL131164

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

IN THE MATTER OF subsection 34(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: Mick Jain
Subject: By-law No. 0203-2013
Municipality: City of Mississauga
OMB Case No.: PL131164
OMB File No.: PL131164

APPEARANCES:

Parties

Counsel*/Agent

Mick Jain

R. Mateljan

Corporation of the City of Mississauga

R. Kehar*

**MEMORANDUM OF ORAL DECISION DELIVERED BY H. JACKSON ON
MARCH 19, 2014 AND ORDER OF THE BOARD**

BACKGROUND

[1] The Corporation of the City of Mississauga ("City") enacted a Zoning By-Law Amendment (the "ZBLA") for the Hiawatha Parkway Neighbourhood of Port Credit following a public engagement process in response to the issue of replacement houses and large additions that are not in keeping with the character of this established neighbourhood. The ZBLA was enacted September 18, 2013. Three separate appeals were filed with the City by Mick Jain, Dan Zita, and Evan and Shelley Steed.

[2] A prehearing conference ("PHC") was held on March 19, 2014, with notice provided by the City. Prior to the PHC, Mr. Zita and Mr. and Mrs. Steed withdrew their appeals, as they each had resolved their site specific concerns with the City. That left one appellant, Mr. Jain, who appeared at the PHC.

[3] At the start of the PHC, counsel for the City indicated to the Board that Mr. Jain had not attended the statutory public meeting on February 25, 2013 and did not make an oral submission, nor had he provided any written submission to Council with respect to this matter. The City provided affidavit evidence to support this claim. The City's position is that Mr. Jain is not entitled to be an appellant to this matter, according to the requirements of s. 34(19) of the *Planning Act*. Further, the City holds that Mr. Jain cannot be a party to an appeal of the ZBLA, as there is no longer a valid appeal due to the withdrawal of the appeals of Mr. Zita and Mr. and Mrs. Steed.

[4] Mr. Jain owns lands at 7 and 9 Carlis Place. Mr. Jain's position is that the ZBLA should not apply to his lands, as the character of Carlis Place is different than the remainder of the lands covered by the ZBLA. Mr. Jain's representative indicated that the homes on Carlis Place were developed at a different time and the street is isolated from the rest of the community. He contends that there is no benefit to the community in applying the standards of the ZBLA to this area, and that such imposition makes it difficult to redevelop these lands. Mr. Jain's representative indicated that the building at 9 Carlis Place has been demolished in preparation for redevelopment of the property; however plans for the redevelopment have not been finalized. He also indicated that 7 Carlis Place is occupied as an income property duplex.

[5] The representative for Mr. Jain confirmed that Mr. Jain did not attend the public meeting on February 25, 2013, nor did he provide any written submission to Council with respect to this matter. Nevertheless, Mr. Jain wishes to proceed with a hearing in this matter, as it is his position that there are legitimate planning issues to be resolved.

FINDINGS AND ORDER

[6] The evidence was clear that Mr. Jain did not make oral submissions at the statutory public meeting on February 25, 2013, nor did he provide written submissions to Council in regards to this ZBLA. Consequently, he cannot be an appellant in light of the strict requirements found in s. 34(19) of the *Planning Act*. There are no other remaining appellants and therefore there is no valid appeal under which Mr. Jain can seek party status.

[7] The Board Orders that the appeal by Mick Jain against By-law 0203-2013 is dismissed. The Board will close its file.

"H. Jackson"

H. JACKSON
MEMBER