

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: January 22, 2015

CASE NO(S): PL140602

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

Appellant: Joseph Staibano
Subject: By-law No. ZAC-13-033
Municipality: City of Hamilton
OMB Case No.: PL140602
OMB File No.: PL140602

Heard: January 8, 2015 in Hamilton, Ontario

APPEARANCES:

Parties

1892610 Ontario Inc.

City of Hamilton
Sonoma Homes Inc.
1804482 Ontario Limited

Counsel

R. Cheeseman

D. Baker

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. V. ZUIDEMA ON
JANUARY 8, 2015 AND ORDER OF THE BOARD**

[1] A hearing scheduled for two days was reduced as the parties had reached a settlement. The background is as follows:

[2] Sonoma Homes Inc. ("Applicant") filed a site-specific application to amend Zoning By-law No. 3581-86 for the City of Hamilton ("City") by changing the zoning from the Existing Residential "ER" Zone to the General Commercial "C3-655" Zone in order to accommodate a 500 square metre Business Office and Medical Clinic having four practitioners served by 18 parking spaces with two drive aisles providing ingress and

egress to 125 Wilson Street East (“subject property”) in Ancaster.

[3] The application was circulated and went through all of the required processes under the *Planning Act*. The City passed Zoning By-Law No. 14-106.

[4] A neighbouring owner of lands, 1892610 Ontario Inc. (“Appellant”), at 144 Wilson Street East, located on the south side of Wilson Street East and directly south of the subject property, appealed the City’s decision.

[5] The Appellant set out his reasons for appeal in the materials filed with the Board. They were as follows:

- a. The City’s Corridor Management staff stated only one driveway access onto Wilson Street would be permitted and a second access would not be granted. The entire development proposal relied on two access points. Given the firm position of Corridor Management staff, it would be premature to consider the proposed zoning by-law as the appropriateness and functionality of the proposal would be compromised as a result of a reconfigured site plan having only one access.
- b. The configuration of the parking layout and the resulting 18 spaces were dependent on two drive aisles to Wilson Street. Reducing the number of drive aisles from two to one will require the concept site plan to be reconfigured in a manner that will require additional on-site turning movements and drive aisles that might result in the reduction in the number of available on-site parking spaces.
- c. The Zoning By-law modified the required parking ratio for the Business Office use to one space for each 25 square metres of floor area. As such, the required parking ratio for a Medical Clinic is one space for each doctor and as the by-law limited the use to having four practitioners, 16 parking spaces are required. In the event four practitioners operate within the

proposed 500 square metre building, the remaining two parking spaces provided on the conceptual site plan could serve 50 square metres of a Business Office. The proposed 18 parking spaces was not sufficient to support a 500 square metre Business Office Medical Clinic building; and further, the 18 parking spaces would not be available with a reconfigured site plan as noted in first concern raised above.

- d. Through the site plan approval process, a road widening would be required as shown on the conceptual site plan. The concept plan illustrated parking abutting the widened portion of Wilson Street right-of-way with no maneuvering space to the throat of the drive aisle to the street. As result, the parking concept needed to be revised to accommodate a setback from the ultimate road allowance for landscaping visibility triangle purposes.
- e. Finally, as considered in the 2011 Ancaster Transportation Master Plan, accesses to properties on Wilson Street required careful consideration. Access consolidation, turning movements, visibility triangles, site lines and queuing requirements on Wilson Street for each proposed Wilson Street driveway must be considered to ensure future access points were not prejudiced by the two proposed access points on the conceptual site.

[6] Through dialogue between the parties, the concept plan reduced the two access points to only one. Revised site plans were provided to me along with a proposed revised draft zoning by-law.

[7] I heard undisputed expert evidence from Glenn Wellings, who was qualified and accepted as an expert in land use planning. His evidence was provided on consent.

[8] He provided opinion evidence [8] to support the revised draft zoning by-law indicating that the minor amendments to recognize that only one access point, not two, onto Wilson Street, represented good land use planning and was in the public interest.

[9] Mr. Wellings had prepared a planning justification report which supported the original zoning. His opinion did not materially change from that expressed in his earlier planning report.

[10] He further testified that he agreed with the City Planning Staff's earlier recommendation to support the rezoning. Currently the subject property is a vacant parcel of land; it will be redeveloped and this represented an efficient use of existing infrastructure. There were no provincial issues.

[11] The proposed rezoning conformed to the Urban Hamilton Official Plan along with the Secondary Plan for this area.

[12] Given this unchallenged evidence, I provided an oral decision allowing the appeal in part in order to give effect to the settlement achieved. Therefore the Board Orders that the City's Zoning By-Law is amended in accordance with the revised proposed zoning by-law amendment which was found at Tab 5 of Exhibit 2 to these proceedings. In all other respects, the appeal is dismissed.

"J. V. Zuidema"

J. V. ZUIDEMA
VICE CHAIR

Ontario Municipal Board

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Website: www.elfto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248