

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



**ISSUE DATE:** November 26, 2014

**CASE NO(S):** PL140656

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

Appellant: Midland BIA (Scott Campbell)  
Subject: By-law No. 2014-37  
Municipality: Town of Midland  
OMB Case No.: PL140656  
OMB File No.: PL140656

Heard: November 18, 2014 by telephone conference call

**APPEARANCES:**

**Parties**

**Counsel\*/Representative**

Scott Campbell (Midland BIA)

Self-represented

The Guesthouse Shelter

Robert Sykes

The Town of Midland

Sarah Hahn\*

**DECISION OF THE BOARD DELIVERED BY H. JACKSON AND K. KRAFT SLOAN**

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[1] The Corporation of the Town of Midland (the "Town") Council passed By-law No. 2014-37 on June 4, 2014 to rezone the subject lands at 522 Elizabeth Street, to permit an Emergency Housing Shelter as an additional permitted use within the Downtown Commercial DC-F2 Zone, amending the Town's Zoning By-law No. 2004-90 that regulates the development and use of lands within the Town. By-law No. 2014-37 was appealed by Scott Campbell on behalf of the Midland BIA on the basis that it is not in the Town's best interest to zone commercial buildings to residential, specifically when the rezoning is to the main floor of the commercial building.

[2] Prior to the hearing, the Board was advised that the parties had reached a settlement. Minutes of Settlement were entered into evidence as Exhibit 2. The hearing was converted to a telephone conference call ("TCC"). Wesley Crown, Director of Planning and Building Services for the Town, provided land use planning evidence in support of the settlement. His evidence was provided by way of Affidavit, entered as Exhibit 1, and *viva voce* by TCC.

[3] Mr. Crown explained that the subject property, 522 Elizabeth Street, is adjacent to the Town's main commercial street, being King Street. The subject building is a three storey building, if one considers the basement that is partially out of the ground is the first floor, the second floor is the main floor and the third floor is the top floor. The Guesthouse Shelter currently operates out of a church, located about 120 metres away. Based on a growing need, the organization sought a larger physical space and secured the subject property.

[4] The original proposal was to renovate the first floor and the main floor of the existing building to accommodate the Guesthouse Shelter, which was to accommodate 25 persons for emergency housing.

[5] Following the appeal by Mr. Campbell, the parties had discussions and agreed to revisions of the by-law to incorporate limitations on the Emergency Housing Shelter use of the property at 522 Elizabeth Street. The revised by-law will restrict the temporary housing portion of the Shelter to the third floor or top floor of the building, but will still allow the full range of commercial uses to occur on the main floor. This addresses the BIA's concern about the loss of main floor commercial space on the shoulder area of downtown.

[6] The agreement is reflected in the revised by-law that is included in the Minutes of Settlement as Schedule B and attached to this decision as Attachment 1.

[7] Mr. Crown testified that he supported the original application and that he supports the current application. He testified that in his planning analysis he consulted the planning documents that guide planning in the province, including the Provincial Policy Statement ("PPS") 2014, the Growth Plan for the Greater Golden Horseshoe

("Growth Plan"), the County of Simcoe official plan and the Town of Midland official plan. All these documents have policies that direct that a full range of housing options should be accommodated, including emergency housing, and that this proposal is consistent with that direction.

[8] This settlement allows "emergency housing shelter" as an additional permitted use at the subject location. In his affidavit, Mr. Crown states that the "...use of the subject property conforms to the official plan as an institutional use and as promoting access to safe housing for all residents. In addition, it does not take away from the primary retail and business function of the Downtown as the property is not located on King Street." The revised by-law "maintains floor space in the building for continued office space use on the lower/first and second floor and allows ... the use of the balance of the building in accordance with the full range of permitted uses in the DC-F2 Zone."

[9] The Board accepts Mr. Crown's opinion that the revised zoning by-law conforms to the Town and County official plans and Growth Plan and is consistent with the PPS and represents good planning.

[10] The Board orders that the appeal against By-law No. 2014-37 of the Town of Midland is allowed in part, and By-law No. 2004-90 is amended as set out in Attachment 1 to this order. In all other respects the appeal is dismissed.

*"H. Jackson"*

H. JACKSON  
MEMBER

*"K. Kraft Sloan"*

K. KRAFT SLOAN  
MEMBER

**Ontario Municipal Board**

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# ATTACHMENT 1

SCHEDULE "B"
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## THE CORPORATION OF THE TOWN OF MIDLAND

### BY-LAW 2014-37

A By-law to amend Zoning By-law 2004-90, as amended,  
to rezone 522 Elizabeth Street

**WHEREAS** the Council of the Corporation of the Town of Midland passed Zoning By-law 2004-90, known as the Zoning By-law, on the 22nd day of November, 2004, to regulate the development and use of lands within the Town of Midland; and,

**WHEREAS** the Council of the Corporation of the Town of Midland has received an application to Amend Zoning By-law 2004-90 and has approved the Application; and,

**WHEREAS** the Council of The Corporation of the Town of Midland now deems it expedient to amend Zoning By-law 2004-90, pursuant to the authority given to it under Section 34 of the *Planning Act*, R.S.O. 1990;

### **NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MIDLAND HEREBY ENACTS AS FOLLOWS:**

1. That this By-law applies to the lands described as the West Part of Lot 4, Registered Plan 188 and known as 522 Elizabeth Street in the Town of Midland and as shown on Schedule "A", attached hereto and forming part of this By-law.
2. That the lands as above described and as shown on Schedule "A" attached hereto and forming part of this By-law, are hereby rezoned from the Downtown Core Commercial Zone – DC-F2 to the Downtown Core Commercial Exception Zone – DC-F2-4 on Map 25 of Schedule "A" to Zoning By-law 2004-90, as amended.
3. That Section 2 Definitions is hereby amended by adding the following new definition in Section 2 Definitions alphabetical order:

**"Emergency Housing Shelter**

Shall mean a building or structure containing facilities to provide board, lodging and personal needs to people in crisis seeking temporary housing and supports on a short term infrequent basis. An Emergency Housing Shelter may also include facilities for counselling such persons, appropriate indoor living and recreational amenities and office administration facilities. The Emergency Housing Shelter is to be licensed by the County of Simcoe in accordance with Ontario Statutes/Regulations and shall operate in compliance with all applicable Municipal by-laws."

4. That Zone Exception Section 6.1.4 is hereby further amended by inserting the following new exception as sub-clause 6.1.4.4 as follows:

**"6.1.4.4 DC-F2-4**

Notwithstanding the Permitted Uses of Section 6.1.2, the following additional use shall be permitted on the lands known as 522 Elizabeth Street and Zoned DC-F2-4:

(a) Emergency Housing Shelter

Notwithstanding the Zone Requirements of Section 6.1.3, the following additional regulations shall apply to those lands known as 522 Elizabeth Street and Zoned DC-F2-4:

- (a) Notwithstanding Section 6.1.3, the temporary housing portion of the Emergency Housing Shelter use shall be restricted to the third or top floor of the building and having a floor area of 335 square metres. Office and related administrative uses for the Emergency Housing Shelter may be located elsewhere within the building in accordance with the provisions and regulations of this section."

5. That the By-law shall come into force and effect in accordance with the provisions of Section 34 of the *Planning Act*, R.S.O. 1990 and the regulations thereto.

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 4<sup>th</sup> DAY OF JUNE, 2014.**

**THE CORPORATION OF THE TOWN OF MIDLAND**

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**MAYOR**

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**CLERK**