

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: February 20, 2015

CASE NO(S): PL140792

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: 7838794 Canada Inc.
Subject: Request to amend the Official Plan - Failure of the City of Mississauga to adopt the requested amendment
Purpose: To permit the redevelopment of the southwestern portion of the property
Property Address/Description: 2700 Aquitaine Avenue
Municipality: City of Mississauga
Approval Authority File No.: OZ 13 /013 W19
OMB Case No.: PL140792
OMB File No.: PL140792

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: 7838794 Canada Inc.
Subject: Application to amend Zoning By-law No.0225-2007 – Neglect of application by the City of Mississauga
Existing Zoning: "R4A-32" (Apartment Dwellings)
Proposed Zoning: "RA5-Exception" (Apartment Dwellings)
Purpose: To permit the replacement of three existing 3 storey rental apartment buildings with three rental apartment buildings with heights of 19, 22 and 25 respectively
Property Address/Description: 2700 Aquitaine Avenue
Municipality: City of Mississauga
Municipal File No.: OZ 13 /013 W19
OMB Case No.: PL140834
OMB File No.: PL140792

Heard: February 11, 2015 in Mississauga, Ontario

APPEARANCES:

Parties

7838794 Canada Inc.

City of Mississauga

Counsel

Mary Flynn-Guglietti

Marcia Taggart

Participants

Rita Nugent

William Foote

Lesley Wormald

Jean Lloyd

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. P. ATCHESON ON
FEBRUARY 11, 2015 AND ORDER OF THE BOARD**

[1] This was a prehearing in the matter of an appeal by 7838794 Canada Inc. ("Applicant/Appellant") from the failure or neglect of the Council for the City of Mississauga ("City") to make a decision with respect to an Official Plan Amendment ("OPA") for a property known municipally as 2700 Aquitaine Avenue ("subject property").

[2] The Applicant is requesting an amendment to the Mississauga Official Plan ("OP") policies for the Meadowvale Neighbourhood Character Area from "Residential High Density" - Special Site 1 to "Residential High Density - Special Site".

[3] The substance of the proposed OPA is to permit the redevelopment of the southwestern portion of the property by replacing three of the existing three-storey garden apartment rental dwelling units with three new buildings with heights of 19, 22

and 25 storeys. A total of 837 rental dwelling units are proposed on the entire property of which 223 existing rental dwelling units will be retained.

[4] The Applicant has also appealed the failure or neglect of the Council for the City of Mississauga to make a decision with respect to a Zoning By-law Amendment ("ZBA") for the subject property.

[5] The change in zoning being requested for the subject lands is from "R4A-32" (Apartment Dwellings) to "RA5-Exception" (Apartment Dwellings) which would permit the replacement of the three existing three storey rental apartments with three new rental apartment buildings with heights of 19, 22, and 25 storeys respectively.

[6] The Board at the commencement of the prehearing granted participant status on consent of counsel to the following individuals:

1. Rita Nugent
2. William Foote
3. Lesley Wormald
4. Jean Lloyd

[7] The Board advised the participants that they should keep advised of how the matter was proceeding and that prior to the hearing they would be required to exchange a brief outline of their participants' statement with the parties.

[8] The Board then heard submissions from Counsel present regarding next steps.

[9] Counsel for the Applicant submits that this matter has been outstanding since 2013 and that after a public hearing process, her client in April 2014 submitted a revised

application which has not been dealt with by the municipality and which triggered her client's appeals in July 2014. She seeks hearing dates for a three-week hearing in order that the matters proceed.

[10] She submits that the issues are well understood and that she would be calling at least six witnesses.

[11] The Board indicated a reluctance to set a three-week hearing date without a final Procedural Order in place to govern the hearing but understands the concerns expressed by counsel and the impact of delay on her client.

[12] Counsel for the municipality indicated that she needed to get instruction from her Council and that this would not occur until May 13, 2015.

[13] The Board finds that the City at least at a staff level, considering the time they have had the revised application, must understand the outstanding planning issues. The Board further understands that the final issues may differ after City Council has given its directions to Counsel.

[14] However this should not stop the parties from working on a Procedural Order in accordance with the Board *Rules of Practice and Procedure*.

[15] The Board directs the parties to file, on consent, a draft Procedural Order on or before March 30, 2015 with the Board's Case Coordinator. Alternatively if the parties cannot agree on a Procedural Order by that time they are to file their outstanding concerns with the Case Coordinator on or before March 30, 2015 in the manner prescribed by the Board's *Rules of Practice and Procedure*.

[16] The Board set a one day prehearing **commencing on Thursday, April 9, 2015 at 10 a.m. at:**

**City of Mississauga City Hall
300 City Centre Drive
Mississauga ON L5B 3C1**

[17] The purpose of this prehearing will be to provide the Board with a progress report and to make a determination on any outstanding issues.

[18] Counsel for the municipality is directed to confirm the venue with the Board's Case Coordinator.

[19] The Board understands that Counsel for the City needs time to secure her instruction from Council.

[20] If the parties, on March 30, 2015, file a draft Procedural Order on consent, they may relinquish the second prehearing or convert it to a telephone conference call or convert it to another prehearing to be set after May 13, 2015. This should be done through the Board's Case Coordinator.

[21] The purpose of the final prehearing will be to confirm the final Procedural Order and to confirm the tentative two week hearing date set by the Board to hear the appeals.

[22] In this regard, the Board has set a tentative **two week hearing to commence on Tuesday, November 3, 2015 at 10 a.m. at:**

**City of Mississauga City Hall
300 City Centre Drive
Mississauga ON L5B 3C1**

[23] Counsel for the municipality is directed to confirm the venue with the Board's Case Coordinator.

[24] No further notice is required.

[25] The Member is not seized but will be available for case management purposes.

[26] The Board would commend to the parties that they seek the mediation services of the Board.

"J. P. ATCHESON"

J. P. ATCHESON
MEMBER

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario

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