

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: January 29, 2016

CASE NO(S): PL150852

PROCEEDING COMMENCED UNDER subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Cytec Canada Inc.
Applicant: Heartland Forest Ministries
Subject: Consent
Property Address/Description: 8215 Heartland Forest Road
Municipality: City of Niagara Falls
Municipal File No.: B-2015-011
OMB Case No.: PL150852
OMB File No.: PL150852
OMB Case Name: Cytec Canada Inc. v. Niagara Falls (City)

PROCEEDING COMMENCED UNDER subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Cytec Canada Inc.
Applicant: Heartland Forest Ministries
Subject: Minor Variance
Variance from By-law No.: 79-200, as amended by By-law Nos. 2005-198 and 2012-042
Property Address/Description: 8215 Heartland Forest Road
Municipality: City of Niagara Falls
Municipal File No.: A-2015-034
OMB Case No.: PL150852
OMB File No.: PL150853

Heard: January 19, 2016 in Niagara Falls, Ontario

APPEARANCES:

Parties

Cytec Canada Inc.

Counsel/Representative*

Jeffrey Wilker

Heartland Forest Ministries

Doug Darbyson*

City of Niagara Falls

K.L. Beaman

**MEMORANDUM OF ORAL DECISION DELIVERED BY C. HEFFERON ON
JANUARY 19, 2016 AND ORDER OF THE BOARD**

BACKGROUND

[1] This was the first pre-hearing into this matter.

[2] On August 11, 2105, Heartland Forest Ministries (“Heartland”), a non-profit corporation that is the Applicant in this matter received approval from the City of Niagara Committee of Adjustment (“Committee”) for consent to sever approximately 6.6 hectares (“ha”) from its total approximately 113 ha land holdings (“subject lands”) at 8215 Heartland Forest Road. Heartland proposes to develop a recreational trailer camp on the severed 6.6 ha.

[3] In the same Committee decision, Heartland also received minor variances from the provisions of Zoning By-law No. 2005-198 to permit a reduced lot area from the minimum required. The approval of the consent and minor variances was contingent on Heartland’s fulfilling a number of conditions.

[4] The Committee’s decision was appealed by Cytec Canada Inc., which operates a large plant adjacent to the subject lands where it produces phosphene. Phosphene was described as a “colourless, very toxic and flammable” chemical used in the manufacture of cellphones and computers.

FUTURE EVENTS

[5] The Board was informed that the Parties have been in negotiation for some time but have not, as of the date of the subject prehearing conference, arrived at a

settlement. However, all Parties expressed confidence that one is attainable given the progress made so far.

[6] With the consent of and at the request of all the Parties, the Board has scheduled a **10-day hearing to start at 11 a.m. on Monday, August 8, 2016 at:**

**Municipal Building (Niagara Falls)
4310 Queen Street
Niagara Falls, ON L2E 6X5**

[7] The Board directed the Parties to prepare a Procedural Order in a timely manner for the hearing in the event that a settlement proves impossible to reach.

[8] No further notice is required.

[9] This Member is not seized but will continue to direct management of this case file up to but not including the hearing itself.

“C. Hefferon”

C. HEFFERON
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

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