

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: October 31, 2017

CASE NO(S): PL160745
PL130372

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

Appellant: Charles deSorcy
Appellant: Barry Glaspell
Appellants: Richard Hart and Margaret Hart
Appellant: Marion Minty
Appellant: Ambrose Moran
Appellant: Michael Whelan
Subject: By-law No. 2016-061
Municipality: Township of North Kawartha
OMB Case No.: PL160745
OMB File No.: PL160745
OMB Case Name: deSorcy v. North Kawartha (Township)

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

Appellant: Barry Glaspell
Appellant: Ambrose Moran
Subject: By-law No. 26-2013
Municipality: Township of North Kawartha
OMB Case No.: PL130372
OMB File No.: PL130372
OMB Case Name: Glaspell v. North Kawartha (Township)

Heard: October 20, 2017 in Apsley, Ontario

APPEARANCES:

Parties

Michael James Whelan

Counsel*/Representative

Self-represented

Marion Lee Minty	Self-represented - (Absent)
Richard and Margaret Hart	B. Neligan*
Charles Lee DeSorcy	Self-represented
Barry Glaspell	Self-represented - (Absent)
Ambrose Moran	Self-represented
Township of North Kawartha	John Ewart*

MEMORANDUM OF ORAL DECISION DELIVERED BY M. A. SILLS ON OCTOBER 20, 2017 AND ORDER OF THE BOARD

[1] This was the third pre-hearing conference (“PHC”) respecting appeals of the passing of Zoning By-law Amendment No. 2016-61 by the Council of the Township of North Kawartha (the “Township”).

[2] Mr. Ewart reported that he received notification from Mr. Glaspell that he would not be in attendance at this PHC due to his involvement in another hearing. Mr. Whelan advised that he received a call from Ms Minty the previous day advising that she was unable to attend this PHC because she was away and would not be able to get back in time.

[3] At the last PHC (August 23, 2017) the parties indicated their support for Board-assisted mediation services. Mr. Ewart subsequently formalized the request and has been advised by the Case Coordinator that the Board will consider conducting a mediation assessment once an issues list is submitted and reviewed.

[4] The primary purpose of this PHC was to finalize the Issues List. In advance of this PHC the Board was provided with the respective issues list of each of the Appellants, the Township and the Participant. In total, these lists comprised 92 issues, several of which do not pertain to land use planning issues or policies, but rather, reflect

argument or amount to commentary about the manner in which the Township Council conducts its proceedings and the circumstance by which By-law No. 2016-61 was passed.

[5] In this respect, the Board explained that the order of proceedings and the decision-making processes of a municipal council do not constitute legitimate land use grounds upon which the Board could allow all or part of the appeals. Moreover, these are not matters that are within the jurisdiction of the Ontario Municipal Board. Likewise, matters involving compliance with the *Building Code Act* is not within the purview of the Board.

[6] In review of these lists it is the Board's observation that the Issues List provided by the Township generally encapsulates the requisite planning approval considerations. With this in mind, the parties are directed to submit a policy-specific Issues List to Mr. Ewart by **no later than Monday, October 30, 2017**, thereafter to be submitted by Mr. Ewart to the Board for consideration and approval. If the Board deems it necessary, a follow-up PHC by telephone conference call will be convened. Once the Issue List is approved it will be advanced in consideration of the request for mediation services.

[7] In terms of notification to the absent appellants of the deadline for submission of revised Issues Lists, Mr. Ewart has agreed to contact Mr. Glaspell and Mr. Whelan has agreed to contact Ms Minty.

[8] Notably, as a participant is not entitled to contribute to the Issue List, the list submitted by Evan Rodgers is struck.

[9] Mr. Ewart and Mr. Neligan are requesting that the hearing of the appeals proceed in two phases; Phase 1 being the site-specific appeal of Richard and Margaret Hart, and Phase 2 being all remaining appeals. In the interest of procedural efficiencies, the Board will consent to the phasing and sequencing of the proceedings, as requested.

[10] Mr. Moran stated that it has been known for some time that he will not be available between November 1, 2017 and the end of March 2018. In response, the Board suggested to Mr. Moran that he should not hope that either the mediation or the hearing will be delayed in order to accommodate his personal schedule. It is well documented that the Board expects an appellant be ready to proceed to a hearing at any time after their appeal has been launched. More importantly, in this case there are several other appellants involved in this matter, many of whom have told the Board that it is necessary to proceed expeditiously.

[11] Subject to availability, this Member is seized of the ongoing case management of this file.

"M. A. Sills"

M. A. SILLS
MEMBER

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Ontario Municipal Board

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