

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: February 15, 2018

CASE NO(S): PL161056

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

Appellant:	Maisa Hadid and Issa Bulbul
Subject:	By-law No. BL 0193-2016
Municipality:	City of Mississauga
OMB Case No.:	PL161056
OMB File No.:	PL161056
OMB Case Name:	Benoit v. Mississauga (City)

Heard: February 13, 2018 by telephone conference call

APPEARANCES:

Parties

Counsel*/Representative

Maisa Hadid and Dr. Issa Bulbul

Anas Al-Bulbul

City of Mississauga

Lia Magi*

MEMORANDUM OF ORAL DECISION DELIVERED BY M. A. SILLS ON FEBRUARY 13, 2018 AND ORDER OF THE BOARD

[1] This was a Settlement hearing held by telephone conference call (“TCC”) in the matter of the appeal of Maisa Hadid and Dr. Issa Bulbul (the “Appellants”) from the passing of Zoning By-law (“ZBL”) No. 0193-20169 by the Council of the City of Mississauga (the “City”), insofar as it pertains to the lands municipally known as 1450 Hurontario Street (the “subject property”).

[2] By way of background: on June 24, 2015, City Council passed Zoning By-law Amendment No. 0171-2015, here referred to as the Flat Roof By-law (the “FRB”). The purpose and effect of the FRB is to restrict the height of flat roof detached and semi-detached dwellings to 7.5 metres (“m”) in low density residential zones in Ward 1 that were not already subject to infill housing regulations. The FRB has been in force and effect since April 4, 2016.

[3] Subsequent to the passing of the FRB, City staff reviewed similar undesirable impacts resulting from the height of sloped roofs and eaves for the same areas of Ward 1 which are subject to the FRB. On September 28, 2016, City Council passed Zoning By-law Amendment No. 0193-2016, here referred to as the Sloped Roof By-law (the “SRB”). The SRB introduced regulations to substantially the same lands within Ward 1 that are subject to the FRB.

[4] The SRB fundamentally limits the maximum height of sloped roof dwellings to 9.5 m measured to the highest ridge of the roof, imposes a maximum eaves height of 6.4 m and a maximum dwelling unit depth of 20 m, and limits the maximum height of flat roof dwellings to 7.5 m for selected properties not included in the FRB. In effect, the SRB harmonizes the height restrictions of sloped roof dwellings in Ward 1 with the height restrictions on flat roof dwellings previously imposed by the FRB, and the building depth regulations previously imposed by the infill housing regulations.

[5] The Appellants appealed the passing of the SRB on a site-specific basis.

Affidavit Evidence of David Ferro

[6] Mr. Ferro, a Development Planner employed by the City, is a Full Member of the Ontario Professional Planners Institute. He provided contextual and land use planning evidence via Affidavit in support of the Settlement, and participated in the TCC.

[7] The subject property is located within the Mineola Neighbourhood Character Area (the “MNCA”) and is designated Residential Low Density 1, which permits detached dwellings. The property is zoned R2-46 (Detached Dwellings – Typical Lots) which permits a Detached Dwelling, Office or Medical Office – Restricted, and is subject to the “Special Site 2” policies of the MNCA that also permits office and medical office uses and some commercial uses.

[8] The subject property currently maintains an office use located within a converted detached dwelling structure. Most properties along Hurontario Street and south of this section of the Queen Elizabeth Way have been developed into office and medical office uses, some of which are newly constructed buildings and others, utilizing the existing detached dwelling structure.

[9] The intent and purpose of the SRB is to mitigate massing, overlook and shadowing impacts and to ensure compatibility of new detached dwellings and existing detached dwellings within the mature neighbourhoods of Ward 1 that are experiencing redevelopment pressures. The SRB applies to over 5,000 properties.

[10] Given that the subject property could be redeveloped as a detached dwelling use, it was included in the SRB jurisdiction. However, the properties along this corridor are unique in that they have site-specific zoning with varying permissions, and as a result, not all of these properties are subject to the SRB regulations. Essentially, those properties that did not have residential permission were excluded from the SRB. The result is that there are properties similar in lot shape, size, and function in the immediate vicinity of the Appellants property that are not subject to the SRB regulations; these other properties could be developed to a much larger building envelope than those properties that are subject to the SRB.

[11] The Settlement results in the subject property being excluded from the SRB regulations. On September 13, 2017, the Settlement proposal for this site-specific appeal was endorsed by City Council.

[12] It is Mr. Ferro's opinion that removing the subject property from the lands affected by the SRB represents good planning because it will provide for a more harmonious immediate streetscape. In this regard, there are office uses not subject to the SRB restrictions immediately north and south of the subject property and the recent development along this section of Hurontario Street has been non-residential. Moreover, the City may wish to revisit the Official Plan policies for this area of Hurontario Street at some point in the future due to significant upcoming changes, such as Light Rail Transit servicing.

[13] It was the evidence of Mr. Ferro that allowing the appeal would restore the original zoning permissions under the City's comprehensive Zoning By-law No. 0225-2007, which in his opinion, are consistent with the Provincial Policy Statement, 2014, and conform to the Growth Plan for the Greater Golden Horseshoe, 2017.

[14] The Board, having had regard for the decision of Council and in consideration of the Affidavit evidence of Mr. Ferro, is satisfied that the Settlement proposal is appropriate. The Board finds that the land use permissions derived from the terms of the Settlement proposal are in conformance with the policy intent and directives of the prevailing Provincial and local planning regime, and align with the principles of good land use planning.

ORDER

[15] The Board orders that the appeal is allowed and Zoning By-law No. 0193-2016 is hereby rescinded to the extent of lands municipally known as 1450 Hurontario Street. For all other intents and purposes, Zoning By-law No. 0193-2016 continues to be in full force and effect.

"M. A. Sills"

M. A. SILLS
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