

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: February 14, 2018

CASE NO(S): PL170089

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

Appellant: 1486563 Ontario Inc.
Subject: By-law No. 149-16
Municipality: County of Brant
OMB Case No.: PL170089
OMB File No.: PL170089
OMB Case Name: 1486563 Ontario Inc. v. Brant (County)

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

Appellant: 1486563 Ontario Inc.
Subject: By-law No. 150-16
Municipality: County of Brant
OMB Case No.: PL170089
OMB File No.: PL170090

Heard: August and December 2017

APPEARANCES:

Parties

Counsel*/Representative

Brant Terra Homes Ltd.

James Hitchon*

1486563 Ontario Inc.

Andrea Skinner* and Jasmine Chung (Summer Student)

County of Brant

Nancy Smith*

MEMORANDUM OF ORAL DECISION DELIVERED BY J. V. ZUIDEMA

INTRODUCTION

[1] Brant Terra Homes Ltd., (“Brant Terra”) filed an application for a Zoning By-Law Amendment (“ZBA”), specifically proposed Zoning By-Law No. 149-16, being a By-Law to amend Zoning By-Law No. 110-01 for its property located at 98 Oak Avenue (“subject property”) in the Town of Paris in the County of Brant (“County”).

[2] Brant Terra also filed an application for a ZBA, specifically Zoning By-Law No. 150-16, being a By-Law to amend Zoning By-Law No. 61-16 for the same property.

[3] Brant Terra also filed an application for a plan of subdivision along with associated conditions. The ZBAs and plan of subdivision are to realize a 56 to 58 unit rowhouse dwelling condominium development with site-specific development standards.

[4] The County approved the development applications after the planning instruments went through the standard public and agency circulation.

[5] 1486563 Ontario Inc. (“1486563”) is the owner of 836 Watts Pond Road, which is located directly north and abutting the subject property. 1486563 appealed to this Board concerning the ZBAs, draft plan of subdivision and draft plan conditions.

[6] The approved draft plan of subdivision showed the extension of Woodsley Avenue which is a municipal road immediately along the north boundary of the subject property. According to 1486563, the ZBAs and plan of subdivision ignored the planned public road and did not conform with polices 3.2.1 and 3.2.5 in the Growth Plan for the Greater Golden Horseshoe (“Growth Plan”) which encourages efficient development and efficient utilization of public infrastructure.

[7] Further, 1486563 maintained in their appeal that the proposed development did

not conform to the County's Official Plan ("OP"), including policy 2.7.5.1b(ii) that requires efficient development and cost effective design patterns. It suggested that how the proposed development was configured was a form of reverse lotting, which it argued was not appropriate and did not represent good planning.

[8] The hearing began in August and resumed in December 2017. During the August session, I heard from Mr. John Ariens, who was qualified and accepted as an expert in land use planning. He testified on behalf of 1486563.

[9] I also heard from Mr. Matt Johnston on behalf of Valery Homes Paris Limited, which had been granted Participant status.

[10] When the matter reconvened, the Board was advised that the parties had been involved in settlement negotiations during the interim period. As a result of their dialogue, the parties were able to reconcile their differences. As such, Ms. Ruchika Angrish was proffered as an expert witness to testify in support of the settlement. Ms. Angrish is the in-house Planner at the County and she was qualified and accepted as an expert in land use planning.

[11] She methodically reviewed the revisions and opined that the proposed draft Zoning By-Law Amendment (to be filed as Exhibit 25) represented good and proper land use planning, was consistent and conformed, respectively, with the Provincial Policy Statement and the Growth Plan, conformed to the County's OP and was in the public interest.

[12] Her testimony was not challenged by either Brant Terra or 1486563.

[13] Because of her uncontested evidence, I relied upon it to provide an oral decision allowing the appeal in, part in, order to bring into effect the settlement achieved by the parties.

[14] Because the parties required some time to finalize certain aspects of their

settlement, the Board was asked to withhold its Order on this matter.

[15] Therefore, the Board will release its Order once confirmation has been received by the parties that the settlement has been finalized. Further, the Board will attach a copy of the proposed ZBA (which was to be marked as Exhibit 25) for ease of reference with the Order.

[16] The Board was advised that the parties would complete the above within three months of its oral decision. Should the parties have difficulty in providing confirmation to the Board by mid-March 2018, the parties should contact the Board so that a follow-up telephone conference call can be arranged.

“J. V. Zuidema”

J. V. ZUIDEMA
VICE-CHAIR

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