

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: April 11, 2018

CASE NO(S): PL170877

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Referred by:	Yonge & Mapleview Developments Ltd.
Subject:	Site Plan
Property Address/Description:	20 St. Paul's Crescent
Municipality:	City of Barrie
OMB Case No.:	PL170877
OMB File No.:	PL170877
OMB Case Name:	Yonge & Mapleview Developments Ltd. v. Barrie (City)

Heard: February 12, 2018 in Barrie, Ontario

APPEARANCES:

Parties

Counsel

Yonge & Mapleview Developments
Ltd.

R. D. Cheeseman

City of Barrie

P. Krysiak

**MEMORANDUM OF ORAL DECISION DELIVERED BY L. M. BRUCE ON
FEBRUARY 12, 2018 AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] Yonge & Mapleview Developments Ltd. (“Applicant”) has appealed the failure of the City of Barrie (“City”) to make a decision in respect of an application for site plan approval within 30 days.

[2] The Board was advised at the start of the hearing that a settlement between the City and the Applicant has been reached.

[3] The Applicant’s lands are located at 20 St. Paul’s Crescent (“subject property”), a triangular parcel near the intersection of Yonge Street and Mapleview Drive. The subject property is located immediately south of the Barrie GO Station. The subject property is designated General Commercial in Schedule A of the City’s Official Plan (“OP”) and General Commercial (C4) in the City’s Zoning By-law No. 2009-141. The C4 zoning permits commercial uses with the exception of an Arcade. Access to the subject property will be from St. Paul’s Crescent and from Yonge Street. The proposed development consists of three separate buildings, parking and a refuse collection area.

[4] The Tribunal qualified and heard expert land use opinion evidence from Theodore J. Cieciora. Neither further evidence nor submissions were offered by the City.

[5] Mr. Cieciora provided evidence that the proposed development is appropriately placed on the site in accordance with the applicable zoning standards. A traffic impact study was undertaken which provided for access (right in and right out) from Yonge Street and from St. Paul’s Crescent. The site plan provides for the protection of 3.5 m for the potential future widening of Yonge Street. He stated that a site plan agreement would be entered in to with the City.

[6] It was Mr. Cieciora’s evidence that the approval of the site plan and elevations subject to conditions (included here as Attachment 1) is good planning. The Tribunal adopts and relies upon the opinion of Mr. Cieciora that the site plan should be approved

substantially in accordance with the site plan provided as Exhibit 2 but with a minor eastward shift of the parking spots located on the northern side of the site to provide better access to the refuse enclosure. In addition, the proposed development will be in accordance with the elevations provided in Exhibit 3.

ORDER

[7] The Local Planning Appeal Tribunal orders that the site plan and elevations prepared by Maged Basilious, Architect dated April 6, 2017 is approved subject to the conditions set out in Attachment 1 to this Order.

“L. M. Bruce”

L. M. BRUCE
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.

Local Planning Appeal Tribunal

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

ATTACHMENT 1

SITE PLAN CONTROL REQUIREMENTS FOR PROCESSING

Section 41(13) b of *The Planning Act* allows Council to delegate by By-law Council's authority to approve site plans to an appointed officer of the Municipality.

Council By-law 99-312, as amended, has delegated Site Plan Approval authority to the Director of Planning Services, Manager of Development Control and Manager of Policy Planning. This authority permits the appointed officer(s) to recommend that the City Clerk prepare site plan agreements for execution and registration on title.

The appointed officer hereby grants Preliminary Approval to Site Plan Application File **D11-018-2017** located at **20 St. Paul's Crescent, Barrie Ontario** on lands owned by **Yonge & Mapleview Developments Ltd.** upon registration of the development agreement for the above noted property to be prepared and completed in accordance with the following requirements:

This approval shall relate to the following plans as amended, if necessary:

	<u>Designer/Architect</u>	<u>Plan No.</u>	<u>Date/Rev.</u>
a) Site Plan	Maged Basilious Architect	01	Apr 6, 2017 Updated Feb 5, 2018
b) Building Elevations	Maged Basilious Architect	03	Apr 6, 2017
c) Landscape Plan/Planting Plan	Werner Schwar Landscape Architect	L-1,	Feb 5, 2018
d) Tree Preservation Plan	Heartwood Tree Care	XXX	Jan 28, 2016
e) Site Servicing and Grading	MNT Consulting Group Inc.	SP-1	Oct 26, 2017
f) Erosion Control Plan/Details	MNT Consulting Group Inc.	ESC-1, ESC-2	Oct 26, 2017
g) Pre- Development Stormwater Management Plan	MNT Consulting Group Inc.	SWM-1	Oct 26, 2017
h) Post-Development Stormwater Management Plan	MNT Consulting Group Inc.	SWM-2	Oct 26, 2017
i) Pavement Marking Plan	MNT Consulting Group Inc.	PM-1	Oct 26, 2017
j) Control Monument Plan/Details	MNT Consulting Group Inc.	D-1	Oct 26, 2017

k)	Photometric Plan	Omnilumen Technical Products	XXX	Apr 4, 2017
l)	Electrical Site Plan	XXX	XXX	XXX
m)	General Notes	MNT Consulting Group Inc.	GN-1	Oct 26, 2017
n)	Standard Details	MNT Consulting Group Inc.	D-2, D-3	Oct 26, 2017

A conditional permit under Subsection 8(3) of the *Building Code Act* may be considered on its individual merits prior to the registration of a development agreement provided that in addition to the requirements under the Ontario Building Code the owner shall:

- agree in writing to satisfactorily address all conditions listed below;
- provide all required securities;
- provide all required administration fees, payment of costs associated with the preparation of a development agreement;
- provide a clearance letter or permit from the applicable conservation authority if required;
- comply with zoning by-law requirements;
- pay all applicable fees (i.e. building permit, cash in lieu of parkland, City of Barrie Act, development charges).

Prior to the appointed officer recommending that the City Clerk execute the Site Plan Agreement, the following requirements shall be satisfied and/or addressed:

Revisions

- A. That the site plan drawings be amended as necessary to conform with sections 5, 19-27, 29,33,34, and 42-48 to the Engineering Department's technical requirements and current standards as identified in their comments dated August 8, 2017.

Engineering

- B. The owner/applicant will be required to submit a draft reference plan to reflect required daylighting triangles to be conveyed to the City of Barrie.
- C. The owner/applicant will be required to provide the following drawings in accordance with the City of Barrie's Site Plan Application Manual and Urban Design Manual.
- i) Separate standard detail drawing identifying all the current provincial and municipal standards applicable to the design
- D. The owner/applicant will be required to retain an experienced civil consulting engineer to provide the design, inspection, and certification of the installation of water and sanitary servicing for the proposed development, all to an appropriate connection/outlet. Detailed water servicing requirements are available through the Engineering Department.
- E. The owner/applicant will be required to retain an experienced civil consulting engineer to provide the design, inspection, and certification of the installation of the storm servicing works including parking lot construction and grading, all to the satisfaction of the Engineering Department.

- F. The owner/applicant will be required to retain a licensed experienced civil consulting engineer to provide a detailed Stormwater Management Report. The consultant will also be required to obtain, if necessary, MOE approvals for the implementation of any stormwater management works on-site, all to the satisfaction of the Engineering Department.
- G. Before any site alteration within the subject property, the owner/applicant or his agents will apply for a Site Alteration Permit, as described within By-law 2014-100. Prior to the commencement of any works within the site, all requirements, obligations, and control measures, as described within By-law 2014-100 will be in place and undertaken to the satisfaction of the City of Barrie. Furthermore, it will be the owner/applicant's responsibility, through his professional consultant to maintain the said work for the duration of the subject property.
- H. The water distribution system within the limits of this site plan is privately owned and shall be maintained by the owner/applicant, and any hydrant installed on-site shall be deemed privately owned. All hydrants have to be maintained as per fire code/insurance requirements.
- I. The owner/applicant will be responsible for obtaining a Right-of-Way Activity Permit prior to the commencement of work on the municipal right-of-way.
- J. That the drawings be revised as necessary to reflect the Digital Data Control Requirements. That the drawings be processed in digital format using UTM (Zone 17) NAD83 datum (76 adjustments).
- K. That an Electrical Site Plan be submitted and the owner agree and understand that all site lighting shall be arranged to deflect light away from adjoining properties and adjoining streets, and which will require full cut-off fixtures for exterior parking lot lighting and fully shielded fixtures for wall mounted exterior lighting. Shielded shall mean that 100% of the lumens emitted from the light fixture are projected below an imaginary horizontal plane passing through the highest point on the fixture from which light is emitted; all to the satisfaction of the Engineering Department.
- L. That the owner/applicant will provide a turning template to indicate a collection vehicle is able to maneuver internal to the site, while entering and exiting in a forward motion. The owner/applicant is to show that the proposed waste collection location does not pose operational and safety concerns as the collection vehicle may have difficulty manoeuvring to access the bins or if the bins are obstructed by parking stalls and a drive through

Alectra Utilities Corporation

- M. That the owner complies with all requirements of Alectra Utilities Corporation as related to electrical servicing for the development, as stated in their "Conditions of Service" document.

Bell Canada

- N. The owner shall agree to grant Bell Canada, any easements that may be required, which may include a blanket easement, for communication/telecommunication infrastructure. In the event of any conflict with existing Bell Canada facilities or easements, the owner shall be responsible for the relocation of such facilities or easements.

Parks

- O. The owner will be required to retain a qualified Landscape Architect and Arborist to provide the design, inspection and certification of all landscape works, all to the satisfaction of the Parks Planning Section.
- P. That the owner submit an Inventory/Assessment by a qualified consultant or Arborist, of all existing vegetation and natural features on and adjacent to the site, with preservation recommendations and

details to be approved and coordinated with the application for a Site Alteration Permit, and/or Grading Plan submissions, all to the satisfaction of the Parks Planning Section.

- Q. That the landscape plans be amended, as required, to reflect recommended revisions concerning landscape areas, treatments, planting densities, screening/fencing, outdoor amenity spaces, site furnishings and pedestrian linkages, in accordance with the City of Barrie Urban Design Manual, all to the satisfaction of the Parks Planning Section.

Financial

- R. That the owner pay the required cash deposits, securities and administration fees associated with site plan development for the following:
- i) Letters of credit in the approved format and in accordance with Council Policy 07-G-016 for appropriate works (such as drainage, servicing, grading and landscaping) within the boundaries of the site plan, equal to 50% of the value of those works (to a maximum of \$500,000 and a minimum of \$10,000) to the satisfaction of the Engineering Department;
 - ii) Letters of credit in the approved format and in accordance with Council Policy 07-G-016 for municipal works (such as roads and servicing) outside of the site plan boundary, equal to 100% of the value of works to the satisfaction of the Engineering Department;
 - iii) Proof of the owner's general comprehensive liability insurance policy in the amount of \$5,000,000 naming the City of Barrie as an additional insured;
 - iv) Administration fees for the review and inspection of site servicing and landscaping works equal to 5% of the estimated cost of site servicing (minimum \$1,000) and 5% for landscaping (minimum \$500) plus applicable taxes;
 - v) Any water service charges arising out of, or attributable to the development of the site plan including tapping fee and water meter payment;
 - vi) Cash deposit for road cleanup associated with the site construction (\$2,000 refundable deposit made payable to the City of Barrie);
 - vii) A retainer in the amount of \$4,000 payable to Legal Services Department, City of Barrie, for legal and administration fees associated with the preparation and registration of the site plan agreement (additional fees may be required);
 - viii) Administration fees of \$1,875 associated with the City of Barrie Planning and Building Services Department.

Planning and Building

- S. That the private streets/driveways be named and units be numbered to the satisfaction of the City if and as required.
- T. That the owner be responsible for the preparation and posting of any and all private street/driveway signs in accordance with current City standards.
- U. That the owner agree that the construction of the building(s) shall be in conformance with the approved, registered site plans as it relates to the building design, construction materials and quality.

- V. That all sign locations be identified on the plans and details be provided and be in compliance with the City of Barrie Sign By-law 2005-093.
- W. That the owner/agent ensures that all plans are consistent throughout.
- X. That the plans conform to all provisions of the City's Comprehensive Zoning By-law or approval by the Committee of Adjustment for any variances be granted.
- Y. That the owner agrees to the dedication of, or cash-in-lieu payment of parkland in accordance with the Planning Act, if applicable, in a manner satisfactory to the Parks Planning, Development Section and the Finance Department.
- Z. That the owner/applicant be responsible for obtaining the necessary approvals from any other applicable agency, if and as may be required.
- AA. That the fire access route conforms to the Ontario Building Code and that the owner enters into a fire route agreement, if required.
- BB. That the owner agree and understand that all garbage and recycling containers are to be kept inside the building(s) in an appropriate garbage room or externally within an enclosure (fully enclosed with roof and roll up door) constructed of materials similar to that of the main building and screened from public view. otherwise the City shall enforce the applicable by-law at it's discretion.
- CC. That all roof top mechanical devices be identified on the plans and shall be screened from public view by way of roof top location or by way of a parapet building extension to the satisfaction of the Planning and Building Services Department.
- DD. That prior to the registration of the Site Plan Agreement, the applicant shall provide written confirmation that all conditions of Alectra Utilities Corporation, the Parks Planning & Development Section, Engineering, Fire Services, and the Planning and Building Services Department have been completed to their satisfaction.
- EE. That the final plans (4 complete plan sets and 3 engineering plan sets) be approved by the appointed officer and attached as schedules to the Site Plan Agreement. All final plans are to be stamped and signed by the associated professional consultant and a digital copy (high quality PDF without security settings) is to be provided prior to registration of the Site Plan Agreement.
- FF. The Site Plan Control Requirements shall remain in effect for a period of two (2) years from the date referenced below following which a subsequent application may be required.
- GG. That if a building permit is not applied for within three (3) years of this approval, this Certificate of Preliminary Approval shall become null and void.
- HH. That the owner provide a letter or provide signature below, agreeing to the above Site Plan Control Requirements prior to any building permits, conditional or otherwise, being considered.

Andrea Bourrie, MCIP, RPP
Director of Planning & Building Services

Date

Owner acceptance and agreement with the SITE PLAN CONTROL REQUIREMENTS FOR PROCESSING

Please sign, date and return to the City of Barrie Planning and Building Services Department.

Owner's Signature

Date