

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



ISSUE DATE: July 27, 2020

CASE NO(S): PL171215

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 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Losani Homes (1998) Ltd.
Subject:	Application to amend Zoning By-law No. 61-16 - Neglect of the County of Brant to make a decision
Existing Zoning:	(A) Zone, Agricultural Zone with one Special Provision (A-13), Agricultural Holding Zone and Residential Singles and Semis (HA-R2) Zone, Natural Heritage (NH) Zone and Employment Zone with a Special Provision (Mi-i)
Proposed Zoning:	Residential Singles Zone (Ri), with special exception (RI-_) to accommodate the single detached dwellings and larger street fronting rowhouses; Residential Multiple Medium Density Zone (RM2), with special exception (RM2-_) to Residential Multiple High Density (RM3), with special exception (RM3-_) to accommodate mixed use developments; Recreational Facilities (OS2) Zone to accommodate the parks and the stormwater management facilities; Natural Heritage Zone (NH) to accommodate the natural heritage features.
Purpose:	To permit the proposed draft plan of subdivision
Property Address/Description:	Part of Lot 7 and 8, Concession 2
Municipality:	County of Brant
Municipality File No.:	ZBA20-17-RA
OMB Case No.:	PL171215
OMB File No.:	PL171215
OMB Case Name:	Losani Homes (1998) Ltd. v. Brant (County)

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Losani Homes (1998) Ltd.
Subject:	Proposed Plan of Subdivision - Failure of the County of Brant to make a decision
Purpose:	To permit 1292-1700 residential units consisting of single detached, townhouses, medium density residential, mixed use along with parks and SWM ponds
Property Address/Description:	Part of Lot 7 and 8, Concession 2
Municipality:	County of Brant
Municipality File No.:	PS2-17-RA
OMB Case No.:	PL171215
OMB File No.:	PL180025

Heard: July 24, 2020 by telephone conference call

APPEARANCES:

Parties

Counsel

Losani Homes (1998) Ltd.	Denise Baker
County of Brant	Peter Tice
Riverview Highlands (St. George) Holdings Ltd.	Jay Hitchon
Empire Communities (St. George) Ltd.	Paul DeMelo
Parkland Fuel Corporation	Marc Kemerer (in absentia)
John Newton	Alex Ciccone

**MEMORANDUM OF ORAL DECISION DELIVERED BY MARGOT BALLAGH
ON JULY 24, 2020 AND ORDER OF THE TRIBUNAL**

BACKGROUND

[1] This Decision and Order results from this fourth hearing event, a status hearing by telephone conference call (“TCC”), on the appeals by Losani Homes (1998) Ltd. (the

“Appellant”) of the failure of the County of Brant (the “County”) to make decisions within the prescribed timelines required by the *Planning Act* (the “Act”) on their applications to amend Zoning By-law No. 61-16 (“ZBA”) and for approval of a draft Plan of Subdivision (“POS”) in relation to the proposed development of the Appellant’s lands in the community of St. George, described as Part of Lot 7 and 8, Concession 2, in the Township of South Dumfries (the “subject lands”).

[2] The Memorandum of Oral Decision and Order from the first Prehearing Conference (“PHC”) was issued by the Tribunal on July 18, 2018 and served to: identify the Parties as noted above; grant Participant status to 15 individuals; and schedule a second PHC to get an update on the Parties’ efforts to resolve, define and scope the issues.

[3] The Decision and Order from the second PHC was issued by the Tribunal on November 29, 2019 and served to: schedule a hearing for 15 days beginning at 10 a.m., on Monday, August 17, 2020 in Paris, Ontario; finalize a Procedural Order (“PO”), which was attached as Attachment 1; and schedule this TCC, originally set for March 13, 2020 but adjourned to June 2, 2020, to receive an update on matters associated with the appeals and preparations for the hearing including any efforts to resolve or scope issues.

[4] In the meantime, on March 17, 2020, in response to the COVID-19 Pandemic, an emergency was declared pursuant to the *Emergency Management and Civil Protection Act Ontario* resulting in Regulation 73/20 which provides in part that “any provision of...any order of the Government of Ontario establishing any period of time within which any step must be taken in any proceeding in Ontario...shall, subject to the discretion of the...tribunal...be suspended for the duration of the emergency, and the suspension shall be retroactive to Monday, March 16, 2020” (“State of Emergency Order”).

[5] The Memorandum of Oral Decision and Order from the third hearing event, a status update by TCC, was issued by the Tribunal on June 8, 2020 and, among other things, served to: revise and finalize the PO, which was attached as Attachment 1; and to schedule this TCC, to receive an update from the Parties following the same field

experts' meeting on matters associated with the appeals and preparations for the hearing including scoping of the issues and to discuss the logistics of the August hearing depending on updated implications of the COVID-19 pandemic.

[6] Subsequent to the last hearing event, Agreed Statements of Fact were received by the Tribunal from the Parties in accordance with the PO.

[7] Following that, Ms. Baker advised the Tribunal by email dated July 16, 2020 that a settlement in principle had been reached between the Parties in this matter, subject to the final review and approval of the specific planning instruments. As such, they did not intend to file witness statements on July 17, 2020. The final planning instruments will be brought back to County Council on August 4, 2020. As such, they are optimistic that they will not need the whole three weeks set aside for the hearing scheduled to commence on August 17, 2020.

THE STATUS HEARING

[8] Counsel for the Parties participated in the TCC as noted. No Participants called in.

[9] The Parties confirmed for the Tribunal that a settlement had been reached in principle. The County and the Appellant were working on one remaining issue and the final planning instruments will be brought back to County Council on August 4, 2020 for review and approval.

[10] At the request and on consent of the Parties, the Tribunal converted the 15-day hearing on the merits originally scheduled to commence on August 17, 2020 to a settlement hearing via TCC for one day on Monday, August 24, 2020 as set out in the order below.

[11] Counsel for both the County and the Appellant agreed to ensure that the other Parties would receive copies of the draft planning instruments that would be presented to County Council on August 4, 2020.

[12] The Tribunal recognized the hard work of the Parties to achieve a settlement in principle on this matter.

ORDER

[13] The Tribunal orders that the hearing on the merits is hereby converted to a settlement hearing scheduled for one day on **Monday, August 24, 2020 beginning at 10 a.m. by TCC.**

[14] Individual(s) are directed to call **(Toll Free): 1 888 299 1889 or 1 (647) 497-9373 and at the prompt enter Access Code: 543-670-581** on the assigned date at the correct time. If assistance is required at any time, press '0' for the operator. It is the responsibility of the person(s) participating in the call to ensure that they are properly connected to the call and at the correct time. Questions prior to the call may be directed to the Tribunal's Case Coordinator having carriage of this case.

[15] The Parties and the Participants are to receive a copy of this Decision and Order.

[16] No further notice will be provided.

[17] This Member is not seized.

"Margot Ballagh"

MARGOT BALLAGH
MEMBER

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

Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

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