

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



ISSUE DATE: August 15, 2018

CASE NO(S): PL171243

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 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Harmony on Twenty Properties Inc.
Subject:	Failure of the City of Hamilton to announce a decision respecting the Proposed Official Plan Amendment
Municipality:	City of Hamilton
OMB Case No.:	PL171243
OMB File No.:	PL171243
OMB Case Name:	Harmony on Twenty Properties Inc. v. Hamilton (City)

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

Applicant and Appellant:	Harmony on Twenty Properties Inc.
Subject:	Application to amend Zoning By-law Nos. 08-253 & 05-200 - Neglect of the City of Hamilton to make a decision
Existing Zoning:	(ZBL 08-253): Holding-Residential "H-R4-206" Zone, Modified, (Block 1); Existing Residential "ER" Zone, (Blocks 2 & 7); Holding-Residential "H-R4-206" Zone, Modified (Block 3); Existing Residential "ER" Zone (Block 4); Existing Residential "ER" Zone (Blocks 5 & 6); (ZBL 05-200): Holding-Residential "H-R4-2016" Zone, Modified (Block 8);
Proposed Zoning:	ZBL 08-253: Residential "R4-246" Zone, Modified (Blocks 1, 2, 7; Residential Multiple "RM3: zone with site specific modifications (Blocks 3 & 4); Residential "R4-244" Zone, Modified (Blocks 5 & 6);

Purpose: ZBL 05-200: Conservation/Hazard Land (P5)
 Zone (Block 8);
 To permit the proposal for 28 single detached
 dwelling lots
 Property Address/Description: 9684, 9694 & 9714 Twenty Road West
 Municipality: City of Hamilton
 Municipality File No.: ZAC-15-023
 OMB Case No.: PL171243
 OMB File No.: PL171244

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

Applicant and Appellant: Harmony on Twenty Properties Inc.
 Subject: Proposed Plan of Subdivision - Failure of the
 City of Hamilton to make a decision
 Purpose: To permit the proposed Draft Plan of
 Subdivision which consists of 27 lots for single
 detached dwellings, 1 Block for 53 multiple
 dwelling units, 1 Block for the extension of
 Kellogg Avenue and 1 Block for a Stormwater
 Management Facility.
 Property Address/Description: 9684, 9694 & 9714 Twenty Road West
 Municipality: City of Hamilton
 Municipality File No.: 25T-201505
 OMB Case No.: PL171243
 OMB File No.: PL171245

Heard: July 16, 2018 in Hamilton, Ontario

APPEARANCES:

Parties

Harmony on Twenty Properties Inc.
 City of Hamilton

Counsel

Denise Baker
 Michael Kovacevic

**MEMORANDUM OF ORAL DECISION DELIVERED BY MARCIA VALIANTE
AND JOHN DOUGLAS AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] Harmony on Twenty Properties Inc. applied to the City of Hamilton (“City”) for approval of an official plan amendment, zoning by-law amendment and plan of subdivision to permit a residential development, comprised of 32 single detached homes and 53 townhouse units, on 1.29 hectares (3.19 acres) of land located at 9684, 9694 and 9714 Twenty Road West, with frontage on Twenty Road West and Silverbirch Boulevard (“subject property”). An original application for the development was deemed complete by the City in April 2015; new applications were submitted on February 6, 2017 and deemed complete on February 16, 2017.

[2] In November 2017, the Applicant appealed from the City’s failure to make decisions on the applications within the requisite statutory periods to the Ontario Municipal Board (“Board”), pursuant to s. 22(7), s. 34(11) and s. 51(34) of the *Planning Act*. On April 3, 2018, the *Local Planning Appeal Tribunal Act, 2017* was proclaimed in force and the Board was continued as the Local Planning Appeal Tribunal (“Tribunal”).

[3] The Tribunal held a Pre-hearing Conference (“PHC”) on July 16, 2018 in the City. At that time, counsel for the Parties informed the Tribunal that they were not in a position to finalize a procedural order or set dates for the hearing. They advised that they were engaged in discussions in an attempt to resolve the issues in the appeals and were optimistic that this could be achieved. They jointly asked that a second PHC be scheduled. The Tribunal agreed to schedule a second PHC on February 6, 2019. At that time, the Parties are expected either to present a settlement for the Tribunal’s consideration or to be prepared to finalize a procedural order and issues list, and the Parties undertook to inform the Case Coordinator in advance of that date as to how the second PHC will proceed.

[4] At the PHC, the Tribunal also addressed requests for status in the proceeding. The Villages of Glanaster (“Villages”) requested Party status. The Villages is an unincorporated association of 17 condominium corporations that together form a residential community on lands adjacent to the subject property. The 17 corporations

are represented by one counsel, Simon Fung. Mr. Fung stated that representatives of the Villages have been actively involved in presenting their views to the City on several concerns they have with the applications and that they intend to call witnesses, including expert witnesses, at the hearing. The Parties did not object to the Villages being granted Party status, so long as status was granted to the incorporated bodies. The Tribunal granted Party status to the 17 corporations that comprise the Villages, listed in Appendix 1 to this Order, on the understanding that they would be treated as a common interest class, with Mr. Fung as their counsel.

[5] The Tribunal also granted Participant status to Mark Cole, Ignacio Vargas and Brian and Sue Durst. Mr. Cole, Mr. Vargas and the Dursts all live near the subject property and have a genuine interest in the proposed development and its impacts on their community. None of the Parties objected to these persons being granted Participant status.

ORDER

[6] The Tribunal orders:

- a. That a second PHC will be held on **Wednesday, February 6, 2019 at 10 a.m.** at:

**Dundas Town Hall
LPAT Hearing Room (2nd floor Auditorium)
60 Main Street, Dundas
Hamilton, ON L9H 1C6**

- b. That the 17 corporations listed in Appendix 1, collectively known as the Villages of Glancaster, be granted Party status in the hearing; and
- c. That Mark Cole, Ignacio Vargas, and Brian and Sue Durst be granted Participant status in the hearing.

[7] These Members are not seized.

"Marcia Valiante"

MARCIA VALIANTE
MEMBER

"John Douglas"

JOHN DOUGLAS
MEMBER

If there is an attachment referred to in this document,
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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

APPENDIX 1

Clients Represented by O'Connor MacLeod Hanna LLP for PL171243

Collectively known as the "The Villages of Glancaster"

Wentworth Condominium Corporation No. 173

Wentworth Condominium Corporation No. 189

Wentworth Condominium Corporation No. 194

Wentworth Condominium Corporation No. 195

Wentworth Condominium Corporation No. 205

Wentworth Condominium Corporation No. 217

Wentworth Condominium Corporation No. 233

Wentworth Condominium Corporation No. 244

Wentworth Condominium Corporation No. 252

Wentworth Condominium Corporation No. 265

Wentworth Condominium Corporation No. 282

Wentworth Condominium Corporation No. 285

Wentworth Condominium Corporation No. 290

Wentworth Condominium Corporation No. 303

Wentworth Condominium Corporation No. 318

Wentworth Standard Condominium Corporation No. 342

Wentworth Standard Condominium Corporation No. 347