

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** January 27, 2022

**CASE NO(S):** OLT-21-001605

**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: CRH Canada Group Inc.  
Subject: Request to amend the Official Plan - Failure of Township of Tiny to adopt the requested amendment

Existing Designation: 'Rural', 'Environmental Protection II' and 'Mineral Aggregate Resource II'

Proposed Designated: 'Mineral Aggregate Resources I'

Purpose: To permit the expansion of the existing gravel pit

Property Address/Description: 2 Darby Road

Municipality: Township of Tiny

Approval Authority File No.: '12/D09' (DS #36243)

OLT Case No.: OLT-21-001605

Legacy Case No.: PL180416

OLT File No.: OLT-21-001605

Legacy Lead Case No.: PL180416

OLT Case Name: CRH Canada Group Inc. v. Tiny (Township)

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

Applicant and Appellant: CRH Canada Group Inc.  
Subject: Application to amend Zoning By-law No. 06-001 and 30-77 - Refusal or neglect of Township of Tiny to make a decision

Existing Zoning: Rural (RU) Zone, Rural (A) Zone and Holding Low Hazard (OS4) Zone

Proposed Zoning: Mineral Aggregate (MAR) Zone and Extractive Industrial (M5) Zone

Purpose: To permit the expansion of the existing gravel pit

Property Address/Description: 2 Darby Road

Municipality: Township of Tiny

Municipality File No.: '12/D14' (DS#36242)

OLT Case No.: OLT-21-001605

Legacy Case No.: PL180417

OLT File No.: OLT-21-001607

Legacy Lead Case No.: PL180416

**PROCEEDING COMMENCED UNDER** subsection 11(5) of the *Aggregate Resources Act*, R.S.O. 1990, c. A.8, as amended

Referred by: CRH Canada Group Inc.  
 Objector: Blake & Brenda Anderson  
 Objector: Peter & Jeanette Anderson  
 Objector: Erin Archer  
 Objector: Murray Archer; and others  
 Applicant: Jessica Ferri  
 Subject: Application for a Class A licence for the removal of aggregate  
 Property Address/Description : 2 Darby Road  
 Municipality: Township of Tiny  
 OLT Case No.: OLT-21-001605  
 Legacy Case No.: MM210011  
 OLT File No.: OLT-21-001616  
 Legacy Lead Case No.: PL180416

**Heard:** January 19, 2022 by telephone conference

## **APPEARANCES:**

### **Parties**

CRH Canada Group Inc.

Township of Tiny

Federation of Tiny Township  
 Shoreline Associations ("FoTTSA")

### **Counsel**

Jonathan W. Kahn and Brittiny Rabinovitch

Sarah Hanh

Joseph Castrilli

## **DECISION DELIVERED BY S. BRAUN AND ORDER OF THE TRIBUNAL**

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### **PROCEDURAL HISTORY AND BACKGROUND**

[1] This was a telephone case conference ("TCC") scheduled by the Tribunal in order to receive a status update from the parties in relation to:

- a) appeals by CRH Canada Group Inc. under s. 22(7) and s. 34(11) of the *Planning Act* ("Act") regarding the failure of the Township of Tiny

(“Township”) to make a decision on applications for amendments to the Township’s Official Plan (“OP”) and Zoning By-law (“ZBL”); and

- b) the referral of an application for a License pursuant to s. 11(5) of the *Aggregate Resources Act* (“ARA”) to permit the expansion of an existing gravel pit for the subject property located at 2 Darby Road, known as the Teedon Pit.

[2] At a previous Case Management Conference (“CMC”) held on July 23, 2021, the parties advised that their ability to agree on and discuss details in relation to setting these matters down for a hearing hinged, in part, upon a related matter before a different panel of the OLT (“the PTTW matter”), which was awaiting the scheduling of a hearing date. The parties and the Tribunal agreed that the PTTW matter should be heard and disposed of in advance of a hearing in the present appeals.

## **PARTIES/PARTICIPANTS**

[3] The Tribunal notes that no further party or participant requests have been received. By way of update, the Tribunal was advised that the Township’s concerns with the appealed applications had been resolved and, as such, it wished to withdraw as a party to the appeals under subsections 22(7) and 34(11) of the *Planning Act* and 11(5) of the *Aggregate Resources Act*.

[4] Accordingly, a hearing on the merits of these matters shall proceed with the involvement of only the remaining parties, CRH Canada Group Inc. and FoTTSA and those Participants/Objectors identified at past hearing events, a list of which is appended hereto as Attachment 1.

## **STATUS UPDATE**

[5] The remaining parties advised that the related PTTW matter will proceed to a CMC on February 8, 2022 before a panel differently constituted. The purpose of which

is to address prehearing disputes in relation to the issues list and set dates for a hearing on the merits in that matter.

[6] With respect to the matters presently before this member, the parties requested a further CMC be conducted by way of video hearing for the purpose of providing the Tribunal with an update in regard to the decision flowing out of the February 8, 2022 CMC and, if necessary, to provide the Tribunal with oral argument in relation to disputed items on the issues list for the present appeals, specifically in relation to the washing of aggregate and the applicability of Places to Grow: 2019 Growth Plan for the Greater Golden Horseshoe.

### **NEXT HEARING EVENT**

[7] The Tribunal agreed that a further CMC would be appropriate and scheduled same to be held by video hearing on **Thursday, June 9, 2022 at 10 a.m.** The primary purpose of the CMC is to finalize the issues list and, if necessary, for the parties to provide the Tribunal with oral argument in relation to the two matters on the proposed issues list upon which the parties have been unable to reach agreement.

[8] Parties and participants are asked to log into the video hearing at least **15 minutes** before the start of the event to test their video and audio connections:

<https://global.gotomeeting.com/join/519389173>

**Access code:** 519-389-173

[9] Parties and participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at [GoToMeeting](https://app.gotomeeting.com/home.html) or a web application is available:

<https://app.gotomeeting.com/home.html>

[10] Persons who experience technical difficulties accessing the GoToMeeting

application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line: [+1 \(647\) 497-9373](tel:+1(647)497-9373). The access code is **519-389-173**.

[11] Individuals are directed to connect to the event on the assigned date at the correct time. It is the responsibility of the persons participating in the hearing by video to ensure that they are properly connected to the event at the correct time. Questions prior to the hearing event may be directed to the Tribunal's Case Coordinator having carriage of this case.

### **HEARING ON THE MERITS**

[12] The Tribunal expressed the view that the matters presently before it should proceed to be scheduled for a hearing, notwithstanding the fact that the parties had previously agreed upon, and the Tribunal endorsed, an approach which would see a hearing in these matters following the issuance of a decision on the merits in the PTTW matter. The Tribunal suggested a hearing sometime in late summer or early fall of 2022 could work with the foregoing approach.

[13] Counsel expressed some concerns with respect to suggested timing, pointing out that time would need to be built in not only for the panel in the PTTW matter to issue a decision but also to allow the parties, with the benefit of that decision, to adequately prepare for this hearing, including the exchange of witness statements 45-days in advance. In light of the foregoing, counsel requested a hearing in January of 2023 which, in their view, will allow sufficient time for adequate preparation.

[14] The parties requested the Tribunal set aside 13 days in the calendar for a hearing, noting that the number of required days may decrease as a result of decisions flowing out of the PTTW matter. Counsel agreed to provide an update in this regard at the June 9, 2022 CMC, if possible and, in any event, agreed to notify the Tribunal as soon as possible should the full 13 days not be required, so as to allow a redistribution of those dates for other hearing events.

[15] The Tribunal scheduled a **13-day** hearing on the merits commencing on **January 31, 2023** by way of video hearing.

[16] Parties and participants are asked to log into the video hearing at least 15 minutes before the start of the event to test their video and audio connections:

<https://global.gotomeeting.com/join/519389173>

Access code: **519-389-173**

[17] Parties and participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at GoToMeeting or a web application is available:

<https://app.gotomeeting.com/home.html>

[18] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line: [+1 \(647\) 497-9373](tel:+16474979373). The access code is **519-389-173**.

[19] The parties provided a draft Procedural Order ("PO") in advance of this TCC. As the Tribunal is still currently scheduling all hearing events as video hearings, the parties are directed to revise the PO to follow the Tribunal's sample PO for video hearings and to insert agreed upon dates, including the date for submission of a hearing plan. The parties are directed to submit the revised PO in advance of the June 9, 2022 CMC for the Tribunal's approval.

## **OTHER MATTERS**

[20] The Tribunal inquired as to whether there were any other matters to be addressed which might assist in the fair, just and expeditious resolution of this matter. The parties indicated there were none.

**ORDER**

[21] The Tribunal orders:

- a) A Case Management Conference will commence on **Thursday, June 9, 2022 at 10:00 a.m.** by video hearing;
- b) The parties shall submit a revised draft of the Procedural Order **in advance of the June 9, 2022 CMC;**
- c) A 13-day hearing on the merits will commence on **January 31, 2023 at 10:00 a.m.** by video hearing; and
- d) There will be no further notice and this Member is not seized, but may be available for case management should scheduling permit.

*"S. Braun"*

S. BRAUN  
MEMBER

**Ontario Land Tribunal**

Website: [olt.gov.on.ca](http://olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

# ATTACHMENT 1

## APPLICANT/APELLANT

CRH Canada Group Inc.

Jonathan Kahn

## MUNICIPALITY

Township of Tiny

~~Sarah Hahn~~

~~Charles Lund~~

## PARTY

Federation of Tiny Township Shoreline Associations

Joseph Castrilli

Ramani Nadarajah

## PARTICIPANT

Peter Anderson

Erin Archer

Rene Ariens

Balm Beach Community Association

David Barkey

Lynne Gibson

Mathew Lund

Nancy McBride

Josh D. Morgan

Bonnie Pauze

Jessica Staples-Campitelli

Christopher Williams

Anne Ritchie Nahuis

Yanina Zainkovskaya

William Shotyk

## OBJECTORS

Blake & Brenda Anderson

Peter & Jeanette Anderson

Murray Archer

Teresa Archer

Todd Archer

Erin Archer

Jane Brasher

Bonnie Cawker

Sharon Collingwood

David Cornish

Andrew Deneault

Donna Deneault

Verne Deneault

Lynne Gibson

Judith Grant

Aimee Grenier-Buchwal

Bonita Haggart

Richard Haggart

Larry Herr

Ken Imrie

Benjamin Lee

Melissa Leroux

Robert MacDonald

Pauline Maheu

Darlene & William Malcolm

Gerald Moreau

Don Morgan

Ray Nason

Bonnie Pauze

Jacqueline Penfold

Shawn Persaud

Forrest Pigeon

Jake Pigeon

Karljin Reijm

Melanie Robitaille

Gillian Shaw

Graham Shaw

Jessica Staples-Campitelli



Yanina Zainkovskaya