

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



ISSUE DATE: December 18, 2018

CASE NO(S): PL180522

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

Appellant:	Michael Robitaille
Subject:	By-law No. 18-105
Municipality:	City of Hamilton
OMB Case No.:	PL180522
OMB File No.:	PL180522
OMB Case Name:	Robitaille v. Hamilton (City)

Heard: November 7, 2018, in Hamilton, Ontario

APPEARANCES:

Parties

Counsel*/Representative

Mike Robitaille

Self-represented

City of Hamilton

J. Wice

MEMORANDUM OF ORAL DECISION BY HUGH S. WILKINS AND BLAIR S. TAYLOR AND ORDER OF THE TRIBUNAL

[1] On May 4, 2018, the City of Hamilton (“City”) Council passed Zoning By-law No. 18-105 (“Zoning By-law Amendment”) changing setback and other aspects of the residential zoning in Town of Ancaster Zoning By-law No. 87-57. On May 23, 2018, Mike Robitaille (“Appellant”) appealed the passing of the Zoning By-law Amendment.

The basis of his appeal is that the Zoning By-law Amendment fails to conform with the City's Official Plan front yard setback and side/flankage yard allowances and will result in development that is incongruent with the established built form of existing neighbourhoods.

[2] This was the first Case Management Conference ("CMC") in this proceeding. At the commencement of the CMC, the Tribunal asked the Parties whether a Notice of Case Management Conference had been served and filed in accordance with Rule 26.18 of the Tribunal's *Rules of Practice and Procedure*. The Appellant informed the Tribunal that it had not. Of particular note, the Tribunal was informed that members of the public who had requested to be served with written notice were not served. These persons were not in attendance at the CMC.

[3] The provision of proper written notice is a fundamental underpinning to ensuring a fair and open proceeding. Given that Notice had not been properly given, the Tribunal determined that the CMC could not proceed as scheduled and ordered that it be adjourned. The Tribunal directed that the time for service of the Notice of CMC would be abridged to 30 days and it scheduled a new CMC to be held in December. The City agreed to undertake service of the Notice of CMC on all the required persons by November 16, 2018 and to file the associated Affidavit of Service with the Tribunal.

[4] The CMC will now be held on **Wednesday, December 19, 2018 at 10 a.m.** at:

**Dundas Town Hall
2nd Floor Auditorium
60 Main Street, East Dundas
Hamilton, Ontario**

[5] Given the delay occasioned by the adjournment, a Notice of Postponement will be issued to secure a fair and just determination of the appeal.

[6] This panel of the Tribunal is not seized.

“Hugh S. Wilkins”

HUGH S. WILKINS
MEMBER

“Blair S. Taylor”

BLAIR S. TAYLOR
MEMBER

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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