

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



ISSUE DATE: March 13, 2020

CASE NO(S): PL180816

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

Appellant: 1583618 Ontario Ltd. and Wilstar Management Ltd.
Subject: Proposed Official Plan Amendment No. OPA 113
Municipality: City of Hamilton
OMB Case No.: PL180816
OMB File No.: PL180816
OMB Case Name: 1583618 Ontario Ltd. v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 1583618 Ontario Ltd. and Wilstar Management Ltd.
Subject: By-law No. BL 18-0257
Municipality: City of Hamilton
OMB Case No.: PL180816
OMB File No.: PL180817

Heard: February 19, 2020 by telephone conference call

APPEARANCES:

Parties

1583618 Ontario Ltd.
Wilstar Management Ltd.

Counsel

Katie Butler

City of Hamilton

Anders Knudsen

Plaza Imports Ltd.

Meaghan Barrett
Patrick Harrington

MEMORANDUM OF ORAL DECISION DELIVERED BY T.F. NG ON FEBRUARY 19, 2020 AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] This is a telephone conference call (“TCC”) initiated by the Tribunal with respect to the transition of these appeals back to the Bill 139 regime. On November 15, 2019, amendments to Ontario Regulation 303/19 of the *Local Planning Appeal Tribunal Act, 2017* (“LPATA”) came into effect with the passing of Ontario Regulation 382/19. This Regulation sets out general rules relating to the transition of certain Zoning By-law and Official Plan appeals filed between April 3, 2018 and September 3, 2019 if a hearing of the merits of the appeal was not scheduled by the Tribunal before November 15, 2019. As such, these appeals will now be processed following Part II of the *Local Planning Appeal Tribunal Rules of Practice and Procedure* (“LPAT Rules”) and decided under the practices and procedures in the LPATA, as it read before September 3, 2019.

[2] The Appeals were filed by 1583618 Ontario Ltd. and Wilstar Management Ltd. (“Appellants”) against Urban Hamilton Official Plan Amendment 113 (“OPA 113”) adopted by the Council of the City of Hamilton (“City”) and its implementing By-law No. 18-0257 (“Zoning Amendment”).

[3] OPA 113 and the Zoning Amendment emanate from applications for official plan amendment and zoning amendment filed by Plaza Imports Ltd. (“Applicant”) with respect to the lands at 925 Main Street West and 150 Longwood Road South (“Development site”).

[4] The Applicant is the owner and operator of Columbia International College located at 1008 Main Street West (“College Lands”).

[5] The Appellants are owners and property managers of lands at 981 and 1001 Main

Street West (“Appellants’ lands”) which lands lie between the College lands and the Development site.

[6] At the first Case Management Conference (“CMC”) on May 1, 2019, the Tribunal granted the Applicant party status; was apprised of a settlement discussion between the Applicant and the Appellant which seemed promising and had the parties concurrence that in view of the then pending Rail Deck case [*Canadian National Railway Company v Toronto (City)*, 2018 CanLII 102206 (ON LPAT)] on questions referred to the divisional court for a determination, the hearing of these appeals should not be scheduled until the decision of the Divisional Court is given in that case.

Parties’, Counsels’ Status Update

[7] At the TCC, Ms. Barrett and Mr. Harrington, on behalf of the Applicant summarised what transpired at the last CMC and Mr. Harrington informed the Tribunal that since the decision of the Divisional Court concluded that only the Tribunal may examine a witness and no party may examine, cross-examine or otherwise put questions to a witness in an oral hearing, the parties would request for a hearing of one day to be fixed for the appeals.

[8] Ms. Butler for the Appellants concurred as did Mr. Knudsen for the City that in the circumstances the parties would request that a date be fixed several months from the present which at the same time could allow parties to continue their discussions of a settlement (if any) between the parties. Ms. Butler confirmed that although draft minutes of settlement have been prepared there was no settlement.

[9] Ms. Butler proposed and undertook to prepare an Issues List for the hearing which she would circulate to parties for revision and agreement. The Tribunal notes that the issues are to be scoped from those of the notice of appeal dated October 11, 2018 and to be forwarded to the case coordinator within 30 days of this TCC.

[10] The Tribunal views the parties’ request as reasonable and will fix a one-day hearing for the matter. The Tribunal further notes that the City in the last CMC had indicated that the Applicant is to take the lead in dealing with the appeal and defending the enactments of City

Council.

DECISION

[11] The Tribunal hereby directs that:

- The hearing is fixed for **one day on Thursday, July 2, 2020 at 10 a.m.** at:

**City of Hamilton
50 Main Street East
Hamilton, Ontario**

- The Appellants shall prepare and circulate the Issues List within the scope of reference of the appeal process hereunder for the parties' revision and agreement and the settled Issues List shall be forwarded to the case coordinator on or before **Friday, March 20, 2020.**
- At the hearing, the Appellants are permitted to make submissions for a total of 75 minutes of which 60 minutes would be the Appellants' submissions on the issues and 15 minutes reserved in reply to the Applicant's submissions.
- The City is to make submissions of about 5 minutes as indicated to the Tribunal.
- The Applicant is permitted to make submissions for a total of 75 minutes on the issues-in reply to the Appellants' submissions. The member is not seized.

[12] There will be no further notice.

“T.F. Ng”

T.F. NG
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 Tribunals Ontario – Environment and Land Division
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