

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



ISSUE DATE: October 01, 2019

CASE NO(S): PL190050

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:	Tom Wood
Subject:	By-law No. 2019-20360
Municipality:	City of Guelph
LPAT Case No.:	PL190050
LPAT File No.:	PL190050
LPAT Case Name:	Wood v. Guelph (City)

Heard: August 8, 2019 in Guelph, Ontario

APPEARANCES:

Parties

Counsel*/Representative

89 Beechwood Inc. (“Applicant”)

K. Thompson*

City of Guelph (“City”)

D. Mast*

Tom Wood (“Appellant”)

M.J. Harris

**MEMORANDUM OF ORAL DECISION DELIVERED BY BLAIR S. TAYLOR AND
DAVID BROWN ON AUGUST 8, 2019 AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] The Applicant owns the lands known municipally as 89 Beechwood Avenue (“Subject Lands”) and had made a Zoning By-law Amendment application (“ZBA”) to the

City proposing to change the zoning from Commercial Recreation Park Zone 5 to Residential Townhouse Zone and thereby facilitate the development of the Subject Lands for 34 townhouse units on the 0.4 hectare parcel of land.

[2] Ultimately City Council approved a ZBA for the Subject Lands permitting the development of a maximum of 22 residential townhouse units.

[3] The Appellant appealed to the Tribunal.

[4] The Tribunal held a Case Management Conference (“CMC”) at which time all the statutory matters required to be considered at a CMC were dealt with including: a request for party status from the Applicant, a discussion with regard to A Place to Grow: the Growth Plan for the Greater Golden Horseshoe 2019 (“Growth Plan 2019”), a draft Issues List, a discussion with regard to opportunities for settlement, direction with regard to the provision of the Enhanced Municipal Record to the Appellant in hard copy, and the format of the hearing.

[5] The Tribunal directed that the hearing shall be conducted in writing and gave directions with regard to the timing and length of submissions, all for the reasons set out below.

DECISION

[6] Counsel for the Applicant had filed a written request for party status on a timely basis and with no objections from the parties, the Tribunal granted party status to the Applicant.

[7] The Tribunal had requested a hard copy of the Enhanced Municipal Record (Exhibit 2A and 2B), and the representative of the Appellant also requested one, and the Tribunal directed the City to provide that to the Appellant’s representative.

[8] The Tribunal inquired about the Growth Plan 2019 and was advised by the parties that there was no requirement for any further materials as the refinements to the

Growth Plan 2019 were such so as to not effect the land use planning opinions.

[9] Counsel for the City and the Applicant had reviewed the Appellant's appeal and had drafted and circulated an Issues List to the Appellant's representatives. As there was no agreement on the draft, the Tribunal worked with the parties and arrived at an Issues List that was acceptable to all the parties. The Tribunal directed counsel for the City to forthwith revise the draft Issues List and provide it to all the parties and to forward it to the Case Coordinator for attachment to the Tribunal's decision.

[10] The Tribunal inquired of the parties whether any settlement discussions or mediation had been considered and was advised by the Appellant's representative that there had been no invitation from the City to such discussions. The Tribunal advised that settlement discussions did not require an invitation from the City and that they could be commenced informally among the parties, or alternatively if all the parties consented, a request for Tribunal-led mediation might be made. The Tribunal was advised by counsel for the Applicant that in light of the significant alteration of his client's plans, that he did not anticipate any basis for discussions.

[11] Addressing the Tribunal's question as to the format of the hearing and whether the parties would recommend any witnesses be examined by the Tribunal, all the parties submitted to the Tribunal that a written hearing was preferred.

[12] Counsel for the Applicant pointed out that the Appellant's materials did not contain an affidavit in breach of the Tribunal's *Rules of Practice and Procedure* ("Rules"), and that therefore there was no need to examine any witnesses. The representative for the Appellant stated that they had been in contact with the Local Planning Appeal Support Centre, and they had been advised that no affidavit was required and hence one had not been provided.

[13] The Tribunal directed that the hearing would be conducted in writing, based on the existing record of exhibits filed with the Tribunal.

[14] The Tribunal directed that the Appellant shall serve and file its Written

Submissions on or before **Monday, October 21, 2019**, with a hard copy to the Tribunal.

[15] The Tribunal directed that the City and the Applicant shall serve and file their respective Responses on or before **Friday, November 1, 2019**, with a hard copy to the Tribunal.

[16] Finally, the Appellant may serve and file a Reply on or before **Friday, November 8, 2019**, with a hard copy to the Tribunal.

[17] Each of the written submissions shall not exceed 25 pages in length, be double spaced and printed in 12-point Arial font. The parties may also provide such copies of authorities as required with hard copies to the Tribunal.

[18] Appended hereto as Attachment 1 and forming part of this decision, is the Issues List for the hearing to be conducted in writing.

[19] There will be no further notice.

[20] The Tribunal is seized of this matter.

[21] This is the Order of the Tribunal.

“Blair S. Taylor”

BLAIR S. TAYLOR
MEMBER

“David Brown”

DAVID BROWN
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
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

LPAT Case Number: PL190050

List of Issues

1. Does the principle in *Clergy Properties v. Mississauga (City)* apply to the application?
 - a. If *Clergy* applies, did Council's decision on the application have sufficient regard for the policies of the City's current Official Plan (*i.e.* as amended by OPA 48)?
 - b. Or, in the alternative, based on the reasons in *James Dick Construction* by member Krushelnicki, should the Tribunal not apply the principle in *Clergy*?
2. Does the application conform to the policies of the applicable Official Plan, specifically:
 - a. With regard to parkland?
 - b. With regard to density?
 - c. With regard to safety?
3. Are matters related to the Council process/procedure properly the subject of an appeal to the LPAT, and within its jurisdiction?
 - a. If yes, should the LPAT exercise its jurisdiction in this matter?
 - b. If yes, did the City/Council process fail to meet any procedural requirements under the *Planning Act* or *Municipal Act, 2001*?