

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



ISSUE DATE: October 24, 2019

CASE NO(S): PL190102

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:	Vera & Rosario Larizza
Subject:	Proposed Official Plan Amendment No. OPA 69
Municipality:	City of Thunder Bay
LPAT Case No.:	PL190102
LPAT File No.:	PL190102
LPAT Case Name:	Larizza v. Thunder Bay (City)

Heard: October 16, 2019 in Thunder Bay, Ontario

APPEARANCES:

Parties

Counsel*/Representative

Vera and Rosario Larizza

Self-represented

Vince and Cathy Desando

Self-represented

City of Thunder Bay

M. Grimaldi*

**MEMORANDUM OF ORAL DECISION DELIVERED BY C.J. BRYSON ON
OCTOBER 16, 2019 AND ORDER OF THE TRIBUNAL**

BACKGROUND

[1] Vince and Cathy Desando (“Applicants”) applied to the City of Thunder Bay (“City”) for a site-specific amendment to the Official Plan (“OPA”) regarding minimum lot frontage policies. They are in the process of purchasing the unopened Brighton Avenue road allowance abutting their property at 464 Belton Street (“Subject Lands”). With the addition of the road allowance lands to the Subject Lands, it is their intent to apply for a consent to sever the new lot to permit construction of a second dwelling for retirement purposes. The OP requires a minimum of 60 metres (“m”) frontage for a buildable lot in the Rural Residential designation. The combined road allowance and Subject Lands lot will provide 114 m of frontage on Belton Street, which will be proposed to be severed and then developed subject to any required variances.

[2] The City approved OPA 69 on February 11, 2019 to authorize a site-specific reduced frontage requirement for the combined lot should a consent be authorized. Vera and Rosario Larizza (“Appellants”) appealed the approval pursuant to s. 17(24) of the *Planning Act*, R.S.O., c. P.13, as amended, on the basis that it is inconsistent with the Provincial Policy Statement, 2014 (“PPS”) and does not otherwise conform to the general intent of the OP.

[3] This hearing event was the mandatory case management conference for the proceeding, to be held pursuant to s. 33.1 of the *Local Planning Appeal Tribunal Act, 2017*, S.O. 2017, c.23, Schedule 1, as amended (“LPATA”). This matter commenced under the previous version of LPATA but given a hearing of the appeal was not scheduled prior to September 3, 2019, it will proceed pursuant to the current version of LPATA which came into force on September 3, 2019, by virtue of O. Reg. 303/19 – Transition for *Planning Act* Appeals. In essence, the current version of LPATA provides that the appeal will proceed to a traditional hearing in which parties may fully participate by the calling and cross-examination of witnesses.

[4] The Applicants filed a request for party status at least 30 days in advance of the CMC pursuant to the previous LPATA requirements and again made the request at the

CMC under the current LPATA, which was granted without objection.

[5] Al and Marlene Bosma requested participant status in the proceedings at the CMC, which was granted without objection. Given the proceeding is now under the new LPATA, they were not required to file their request at least 30 days prior to the CMC. The Bosmas were informed that pursuant to s. 33.2 of the new LPATA however that they were still limited to participation in writing only. It was agreed they would serve and file their written participant statement within 30 days of this CMC, which period ends on Friday, November 15, 2019.

[6] The City appeared at the CMC but per its earlier correspondence to the Tribunal, it affirmed that it does not intend to take a position on the appeal but only to observe the proceedings and to address the Tribunal regarding any costs request of the Appellants against the City as indicated in their filed case synopsis.

[7] The Tribunal accepted the prior filings of the parties into the record: Enhanced Municipal Record as Exhibit 1; Case Synopsis of the Appellants as Exhibit 2; Responding Case Synopsis of the City as Exhibit 3, and; the CMC Affidavit of Service as Exhibit 4.

[8] The City confirmed that the Lakehead Region Conservation Authority ("LRCA") has completed its study of McVicar Creek near the Subject Lands and in particular of the need for a larger culvert on the Subject Lands to support the proposed development in view of potential flooding and the need for safe access to and from the Subject Lands. The City undertook to provide that study as well as its Enhanced Municipal Record and Responding Case Synopsis to the Applicants within 30 days of this CMC, which ends on Friday, November 15, 2019.

[9] The Appellants provided the Applicants with copies of their Case Synopsis at the CMC and the City undertook to provide them with an electronic copy on behalf of the Appellants within 30 days of this CMC.

[10] The parties confirmed they do not intend to call any expert witnesses in the proceedings beyond Stefan Huzan as a planning witness for the Appellants. On this basis and upon the City's intent to only monitor the proceedings, the Tribunal set one day down for hearing of the appeal.

[11] Finally, the issue of Mr. Huzan acting as a representative for the Appellants was discussed. Pursuant to the Tribunal *Rules of Practice and Procedure* ("Tribunal Rules"), a representative before the Local Planning Appeal Tribunal may only act as such if authorized to do so by the *Law Society Act*, R.S.O. 1990, c. L.8, as amended, and By-laws thereunder. Mr. Huzan is a professional planner who has been qualified by the Tribunal on prior occasions to provide expert land use planning evidence in support of parties to proceedings. Mr. Huzan however does not qualify as a representative pursuant the *Law Society Act* and its By-laws. While he may appear at a Committee of Adjustment for clients in this capacity pursuant to the *Law Society Act*, he is not permitted to undertake the business of representing clients before an adjudicative Tribunal.

ORDER

[12] Vince and Cathy Desando are granted party status in the proceedings.

[13] Al and Marlene Bosma are granted participant status in the proceedings and are to serve their participant statement on the parties and to file it with the Tribunal within 30 days of this Decision and Order, in electronic and hard copy. The statement is not to exceed 20 pages in length, excluding attachments.

[14] The City is to provide the Desandos with its Enhanced Municipal Record by **Friday November 15, 2019** and to serve the parties and file with the Tribunal the LRCA study by that same date.

[15] Mr. Huzan is prohibited from appearing as a representative of parties or participants before the Tribunal for failure to qualify to do so under the Tribunal Rules

and the *Law Society Act* and By-laws thereunder.

[16] The appeal hearing is scheduled to commence at **10 a.m. on Thursday, March 5, 2020** at:

**City Hall
Council Chambers
500 Donald Street East
Thunder Bay, ON**

“C. J. Bryson”

**C. J. BRYSON
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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