

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



**ISSUE DATE:** November 12, 2020

**CASE NO(S):** PL200302

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

Applicant and Appellant:	T. Valeri Construction Ltd.
Subject:	Request to amend the Official Plan - Failure of the City of Hamilton to adopt the requested amendment
Existing Designation:	"Neighbourhoods" (UHOP)
Proposed Designated:	Site-Specific-to be determined
Purpose:	To permit the demolition of the current existing single detached dwelling and construct a 10 storey multiple dwelling, consisting of approximately 244 dwelling units and 250 vehicular parking spaces
Property Address/Description:	73-89 Stone Church Rd. West & 1029 West 5th St.
Municipality:	City of Hamilton
Approval Authority File No.:	UHOPA-019-08
LPAT Case No.:	PL200302
LPAT File No.:	PL200302
LPAT Case Name:	T. Valeri Construction Ltd. v. Hamilton (City)

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

Applicant and Appellant:	T. Valeri Construction Ltd.
Subject:	Application to amend Zoning By-law No. 6593 - Neglect of the City of Hamilton to make a decision
Existing Zoning:	"DE- S-ITOO and "AA
Proposed Zoning:	Site-Specific-to be determined
Purpose:	To permit the demolition of the current existing single detached dwelling and construct a 10

Property Address/Description:	storey multiple dwelling, consisting of approximately 244 dwelling units and 250 vehicular parking spaces 73-89 Stone Church Rd. West & 1029 West 5th St.
Municipality:	City of Hamilton
Municipality File No.:	ZAC-19-029
LPAT Case No.:	PL200302
LPAT File No.:	PL200303

**Heard:** November 4, 2020 by video hearing

**APPEARANCES:**

**Parties**

**Counsel**

T. Valeri Construction Ltd

Russell Cheeseman

City of Hamilton

Patrick MacDonald

**MEMORANDUM OF ORAL DECISION DELIVERED BY MARGOT BALLAGH  
ON NOVEMBER 4, 2020 AND ORDER OF THE TRIBUNAL**

[1] This Decision and Order results from the first Case Management Conference (“CMC”) by video hearing (“VH”) on the appeals by T. Valeri Construction Ltd. (the “Applicant/Appellant”), pursuant to s. 22(7) of the *Planning Act* (the “Act”), from the City of Hamilton’s (the “City”) failure to adopt the requested site-specific Official Plan amendment (“OPA”) within the legislated time limit, and pursuant to s. 34(11) of the Act, from the City’s failure to make a decision on the requested site-specific Zoning By-law amendment (“ZBA”) within the legislated time.

[2] The purpose of the requested OPA and ZBA is to permit the Applicant/Appellant to proceed with its proposed development at the lands known municipally as 73-89 Stone Church Road West and 1029 West 5<sup>th</sup> Street (the “subject lands”).

[3] The development proposal originally envisioned the demolition of the current existing single detached dwelling and construction of a ten-storey multiple dwelling, consisting of approximately 244 dwelling units and 250 vehicular parking spaces. However, the Affidavit of Service sworn October 9, 2020 by Darlene Hornsby (marked as Exhibit 1) confirms proper Notice of the Case Management Conference and gives the purpose and effect of the proposed ZBA and OPA in Exhibit "B" of the Affidavit as follows: "to permit a nine-storey multiple dwelling containing 216 units which includes 221 parking spaces and 92 bicycle parking spaces on the subject lands."

[4] Counsel for the Applicant/Appellant and for the City participated in the VH as noted. Several other interested persons attended the CMC. The Tribunal briefly explained the difference between party status and participant status and then reviewed each person's interest in the proceeding and whether the person wished to request party or participant status or wished to remain an observer.

[5] There were no requests for party status.

[6] Conrad Walczak, a nearby resident at 72 Stone Church Road West, attended the CMC and requested participant status. He had previously filed a Participant Status Request Form and a Letter of Objection with the Tribunal. Hearing no objections from either Counsel for the Parties, the Tribunal granted participant status to Mr. Walczak and again explained that Participants may participate by filing a written statement only.

[7] Another request for participant status was made by Agnes Slawek on behalf of herself and her husband, Jason Harrison who reside at the nearby residence also at the 72 Stone Church Road West building. Hearing no objections, the Tribunal also granted participant status to Agnes Slawek and Jason Harrison who intend to file a joint written participant statement.

[8] The other interested persons, being Lloyd Payne, Rob Lalli, Sonia Rogers and Antonella D'alberto, were all neighbours of the subject lands and preferred to observe

only. They were directed to provide their contact information to the Case Coordinator in order to receive a copy of this Memorandum of Decision and Order.

[9] Counsel for the Applicant/Appellant, Russell Cheeseman, told the Tribunal that a draft Procedural Order (“PO”) had been recently circulated between the parties but the issues remained outstanding as Counsel for the City, Patrick MacDonald, did not yet have instructions from the City.

[10] Mr. MacDonald said that, due to the slowdown in the spring and summer and a resulting backlog, presumably in the context of the pandemic, he did not expect instructions from the City Council on these appeals before January 20, 2021. He noted that until he has instructions, a final issues list and informed estimate of the number of days for hearing based on what types of witnesses are required, is not feasible. He requested that the Tribunal schedule a second CMC for late January or early February 2021 to consider a draft PO. Mr. Cheeseman concurred.

[11] The Tribunal discussed with Counsel the possibility of mediation, recognizing that mediation is currently premature until the issues are determined. The Tribunal advised them that once they were in a position to determine whether mediation could be productive, they may contact the Tribunal’s Mediation Coordinator Sandra.Chan@Ontario.ca to request an assessment for Tribunal-assisted mediation.

[12] The Tribunal directs Counsel to work together to complete the draft PO to file on consent, if possible, with the Tribunal’s Case Coordinator, one week prior to the second CMC as scheduled below, for consideration of approval and issuance by the Tribunal.

## **ORDER**

[13] There are no new parties.

[14] The Tribunal grants participant status to Conrad Walczak, as well as to Agnes Slawek and her husband, Jason Harrison.

[15] The Tribunal orders that a second CMC is scheduled for **Tuesday March 2, 2021 at 10 a.m.** via Video Hearing to:

- address any issue that may arise in completing the draft PO;
- consider issuance of a final PO; and
- schedule a date for the hearing.

[16] Parties and Participants are to participate with video and audio enabled. Join the event from a computer, tablet or smartphone **by using this link:**

<https://global.gotomeeting.com/join/830689589>. When prompted, **enter the code 830-689-589** to be connected to the hearing by video.

[17] Observers are to participate with audio only enabled. Join the event via telephone conference **by calling: +1 (647) 497-9391 or Toll Free 1-888-455-1389.**

When prompted, **enter the code 830-689-589** to be connected to the call.

[18] 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.

[19] Counsel are to provide a draft Procedural Order and Issues List in advance of the CMC and if possible, not later than **Tuesday February 23, 2021**, for review by the Tribunal and, either confirm that the parties have agreed to the Draft Procedural Order

and Issues List which may be approved by the Tribunal, or alternatively, provide a list of those matters/issues that are in dispute.

[20] This Memorandum of Decision and Order shall be sent to the parties and the participants and to the observers who provide their contact information to the Tribunal, as directed.

[21] No further notice will be provided.

[22] The Member is not seized.

*"Margot Ballagh"*

MARGOT BALLAGH  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.olt.gov.on.ca](http://www.olt.gov.on.ca) to view the attachment in PDF format.

**Local Planning Appeal Tribunal**

A constituent tribunal of Ontario Land Tribunals

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