

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: September 17, 2021

CASE NO(S):

PL210198

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

Applicant and Appellant: Richard Gates
Subject: Request to amend the Official Plan - Failure of Township of The Archipelago to adopt the requested amendment
Purpose: To create 4 new, non-waterfront affordable housing lots fronting a privately maintained road within the Woods Bay Neighbourhood
Property Address/Description: 11 Woods Bay Lane
Municipality: Township of The Archipelago
Approval Authority File No.: OP01-02
OLT Case No.: PL210198
OLT File No.: PL210198
OLT Case Name: Gates v. The Archipelago (Township)

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

Applicant and Appellant: Richard Gates
Subject: Application to amend Zoning By-law No. A2000-07 - Refusal or neglect of Township of The Archipelago to make a decision
Existing Zoning: General Residential (GR) and Environmentally Sensitive (ES)
Proposed Zoning: Site Specific (To be determined)
Purpose: To permit to create 4 new, non-waterfront affordable housing lots fronting a privately maintained road within the Woods Bay Neighbourhood
Property Address/Description: 11 Woods Bay Lane
Municipality: Township of The Archipelago
Municipality File No.: Z02-20

OLT Case No.: PL210198
 OLT File No.: PL210199

PROCEEDING COMMENCED UNDER subsection 53(14) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Richard Gates
 Subject: Application for Consent - Failure of Township of The Archipelago to make a decision
 Property Address/Description: 11 Woods Bay Lane
 Municipality: Township of The Archipelago
 Municipality File No.: B16-20
 OLT Case No.: PL210198
 OLT File No.: PL210200

PROCEEDING COMMENCED UNDER subsection 53(14) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Richard Gates
 Subject: Application for Consent - Failure of Township of The Archipelago to make a decision
 Property Address/Description: 11 Woods Bay Lane
 Municipality: Township of The Archipelago
 Municipality File No.: B17-20
 OLT Case No.: PL210198
 OLT File No.: PL210209

PROCEEDING COMMENCED UNDER subsection 53(14) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Richard Gates
 Subject: Application for Consent - Failure of Township of The Archipelago to make a decision
 Property Address/Description: 11 Woods Bay Lane
 Municipality: Township of The Archipelago
 Municipality File No.: B18-20
 OLT Case No.: PL210198
 OLT File No.: PL210210

PROCEEDING COMMENCED UNDER subsection 53(14) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Richard Gates

Subject: Application for Consent - Failure of Township of The Archipelago to make a decision
 Property Address/Description: 11 Woods Bay Lane
 Municipality: Township of The Archipelago
 Municipality File No.: B19-20
 OLT Case No.: PL210198
 OLT File No.: PL210211

Heard: September 14, 2021 by video hearing

APPEARANCES:

Parties

Counsel

Richard Gates

Marc Kemerer

Township of The Archipelago

Christopher J. Tzekas

DECISION DELIVERED BY S. BRAUN AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] Richard Gates (“Applicant/Appellant”) owns the property located at 11 Woods Bay Lane (“subject property”). He applied to the Township of The Archipelago (“Township”) for an Official Plan Amendment (“OPA”), Zoning By-law Amendment (“ZBLA”) and consents to sever four new residential lots (collectively, the “Applications”). The Township failed to make a decision on the Applications and pursuant to s. 22(7), s. 34(11) and s. 53(14) of the *Planning Act* (“Act”), Mr. Gates appealed to this Tribunal.

[2] The purpose of the proposed OPA is to add a new paragraph to Section 16 – Special Provisions of the Official Plan for the Township in order to allow for the creation of four new, non-waterfront lots on Woods Bay Lane, fronting on a privately maintained road. The purpose of the proposed ZBLA is to rezone Lot 40, Concession 3 in the geographic Township of Conger, now in the Township of The Archipelago from the

General Residential (GR) zone to a site specific General Residential (GR) zone so as to allow for the creation of four new non-waterfront lots that will be eligible for building permits.

[3] The Tribunal received the Affidavit of Service dated August 12, 2021, confirming that Notice of this Case Management Conference (“CMC”) was properly given, which has been marked as Exhibit 1.

PARTY/PARTICIPANT REQUESTS

[4] Chris and Louise Goulding requested party status, noting they act as agents for Mr. Gates and have an interest in the Applications. Counsel for Mr. Gates indicated that the interests of Mr. and Mrs. Goulding are largely aligned with those of his client and as such, the Tribunal denied the request for party status. Mr. and Mrs. Goulding then requested participant status, which the Tribunal granted.

[5] Without objection, participant status was granted to Paul Robinson, who lives on Woods Bay Lane and to Reg McGuire in his individual capacity after having filed a participant request on behalf of an unincorporated group of water access cottagers in the area entity known as the Woods Bay Community Association (“WBCA”).

[6] The Tribunal received a somewhat unconventional participant request from Walter and Karen Brinston. The request form listed the names, addresses and email addresses of a number of other individuals, all of whom live or own property on or near Woods Bay Lane and have a direct interest in the matters under appeal. Mr. Brinston explained that all individuals named on the form wished to be granted participant status and, for the convenience of the Tribunal, only one request form had been submitted on behalf of everyone.

[7] It was explained that, although there were some common concerns amongst this group, there were also unique and nuanced concerns held by those named on the form, which is why each person was seeking to submit their own participant statement.

[8] On the consent of the parties, the Tribunal granted participant status to the following individuals named in the Brinston's participant request, directing that following the CMC, those individuals file with the Tribunal separate participant requests:

- a) Nancy Beatty
- b) Walter and Karen Brinston
- c) Larry Cronkwright
- d) Peter and Bev Dean
- e) Robin Flumerfelt
- f) Louis Giavedoni and Monica Balla
- g) Gord and Wendy Goldenson
- h) Pam Graham and Derek Johnson
- i) Franz Hessing
- j) Martin and Magda Majesky
- k) Susan and Peter McPhedran
- l) Sam and Mary-Ann O'Meir
- m) Gary and Christine Parsons
- n) Bryan and Susan Peters
- o) Gord Ruhloff
- p) Dean Smith
- q) Paul and Heather Sulkers
- r) Gary Taylor and Isabelle Wagner
- s) Kelly Walsh and Brian Dyck
- t) Tom Winterbottom and Debbie Glabais
- u) Cliff and Linda Zaluski

[9] The Tribunal will accept participants from this list that file a participant request by no later than **Wednesday, October 8, 2021** and failing to do so, those names will be removed from the list of Participants.

[10] The Tribunal explained that written participant statements would be required to be submitted in accordance with a deadline set out in a future Procedural Order (“PO”) governing the hearing and, for the sake of efficiency, statements should aim to avoid repetition of concerns, where possible.

[11] A written request for participant status was received on the morning of the CMC from Senator Victor Brunelle of the Metis Nation of Ontario Moon River Metis Council, who was unable to be in attendance. Although the request was not made within the timelines set out in the Tribunal’s *Rules of Practice and Procedure*, the parties had received Senator Brunelle’s request and consented, at this time, to the Tribunal granting him participant status as an individual.

[12] The parties agreed that, should the Metis Nation of Ontario Moon River Metis Council be an incorporated entity seeking to be represented as a participant by Senator Brunelle, the Tribunal could, upon receipt of written authorization, make the change at a later date. Should this be the case, the Tribunal directs that authorization for Senator Brunelle to participate in the matter on behalf of the Metis Nation of Ontario Moon River Metis Council be filed in advance of the next hearing event. Otherwise, Senator Brunelle will retain status as an individual participant.

[13] Finally, Jeff Hendrycks, an area resident, appeared seeking status as a participant, but had not filed a written request in advance of the CMC. Counsel for the Applicant submitted that, in the absence of a written request detailing the nature of his concerns, the matter of participant status for Mr. Hendrycks was best left to a later date.

[14] The Tribunal directed Mr. Hendrycks to file a written request for status outlining his specific concerns following the CMC. As the Tribunal ultimately denied the parties’

request to set a hearing date and instead ordered a telephone conference call (“TCC”), the Tribunal will consider any written request filed by Mr. Hendrycks at that TCC.

NEXT HEARING EVENT

[15] Although the parties requested a hearing be scheduled for 2 to 3 days on the first available date, the Township had not yet taken a position on the Applications and as such, a list of issues for the hearing had yet to be determined. The Tribunal was advised that the Township’s position on the Applications would not be known until mid to late October.

[16] In light of the foregoing, the Tribunal considered it premature to set hearing dates at this time and scheduled a TCC on **Monday, October 25, 2021 at 9 a.m.** The purpose of the TCC is to: provide a status update on the Township’s position on the Applications; set hearing dates; finalize a PO and Issues List; consider the issue of participant status for Mr. Hendrycks; and, if necessary, revisit the participant status of Senator Brunelle.

[17] Individual(s) are directed to **call 416-212-8012 or Toll Free 1-866-633-0848** on the assigned date at the correct time. When prompted, **enter the code 1006967#** to be connected to the call.

[18] It is the responsibility of the person(s) participating in the call to ensure that they are properly connected to the call and at the correct time. Questions prior to the call may be directed to the Tribunal’s Case Coordinator having carriage of this case.

MEDIATION AND SETTLEMENT

[19] The parties indicated their awareness of the availability of Tribunal-assisted mediation and advised they would make a formal request for same at a later date, if necessary.

OTHER MATTERS

[20] The Tribunal inquired as to whether there were any other matters to be addressed which might assist in the fair, just and expeditious resolution of this matter. The parties indicated there were none.

[21] This Member is not seized but will remain available for case management and will preside over the TCC on October 25, 2021.

[22] The Tribunal so orders.

“S. Braun”

S. BRAUN
MEMBER

Ontario Land Tribunal

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

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