

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** July 15, 2022

**CASE NO(S):** OLT-21-001691  
(Formerly PL210146)

**PROCEEDING COMMENCED UNDER** subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Duncan Shaw
Subject:	Consent
Property Address/Description:	41 William Street
Municipality:	Town of Orangeville
Municipal File No.:	B-01/21
OLT Case No.:	OLT-21-001691
Legacy Case No.:	PL210146
OLT Lead Case No.:	OLT-21-001691
Lead Legacy Case No.:	PL210146
OLT Case Name:	Shaw v. Orangeville (Town)

**PROCEEDING COMMENCED UNDER** subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Duncan Shaw
Subject:	Minor Variance
Variance from By-law No.:	Zoning By-law No. 22-90
Property Address/Description:	41 William Street
Municipality:	Town of Orangeville
Municipal File No.:	A-02/021
OLT Case No.:	OLT-21-001692
Legacy Case No.:	PL210147
OLT Lead Case No.:	OLT-21-001691
Lead Legacy Case No.:	PL210146

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

Applicant and Appellant:	Duncan Shaw
Subject:	Application to amend Zoning By-law No. 22-90 – Refusal of application by Town of Orangeville
Existing Zoning:	Residential Second Density (R2) Zone
Proposed Zoning:	Residential Third Density (R3) Zone, with Special Provision 24.228 and subject to a Holding (H) Symbol
Purpose:	To permit an additional detached and semi- detached dwelling
Property Address/Description:	41 William Street
Municipality:	Town of Orangeville
Municipal File No.:	RZ-2021-01
OLT Case No.:	OLT-21-001591
OLT Lead Case No.:	OLT-21-001691
Lead Legacy Case No.:	PL210146

**Heard:** May 11, 2022 by Video Hearing

## **APPEARANCES:**

### **Parties**

### **Counsel**

Duncan Shaw (“Applicant” or “Appellant” or “Owner”)	Jennifer Meader
Town of Orangeville (“Town”)	John Hart

## **DECISION DELIVERED BY A. CORNACCHIA AND ORDER OF THE TRIBUNAL**

### **BACKGROUND**

[1] This is an appeal of the decisions of the Committee of Adjustment (“Committee”) of the Town denying a minor variance application and not authorizing a consent application, and a decision of Town Council denying a zoning by-law amendment for the property legally known as Lots 8 and 9, Block I on Registered Plan 216 and municipally known as 41 William Street (“Subject Property”).

[2] The Subject Property is a large corner lot located on the northwest corner of William Street and Hannah Street of the Town. A large, detached dwelling is located on the Subject Property. This dwelling is in the Town's heritage register of non-designated properties and may have cultural heritage value and interest ("Heritage Features"). The dwelling fronts onto William Street and a garage in the rear of the property, fronts onto Hannah Street. There is a large right-of-way along the lot line that fronts onto Hannah Street ("Right-of-Way Lands"). The Right-of-Way Lands are publicly owned but are maintained by the owner of the Subject Property and essentially currently functions as part of the Subject Property.

[3] In January 2021, the Applicant submitted consent and minor variance applications to the Committee. The purpose of the consent application is to create one new lot, by severing the Subject Property into two parts, to create a new single-detached residential lot on the severed parcel. A minor variance application was also submitted to allow for the construction of a new proposed single-family dwelling on the severed parcel, since there are various zoning standards that need to be adjusted to permit the construction of such a dwelling on the severed parcel. On February 5, 2021, the Committee refused both applications despite the Municipal Planning report which supported them. On February 22, 2021, the Owner appealed the refusal of the consent and minor variance applications, and the appeal was assigned as Lead Legacy Case No. PL210146, now Case No. OLT-21-001691 ("First Appeal").

[4] In March 2021, the Owner submitted a Zoning By-law Amendment Application ("ZBA") to the Town for the Subject Property. The ZBA proposes to rezone the Subject Property from Residential Second Density (R2) Zone to Residential Third Density (R3) Zone, with Special Provision 24.228 and subject to a Holding (H) symbol, to permit the additional detached dwelling and the two semi-detached units in the rear. In addition, there are certain site-specific standards in the ZBA, which cover all the requested variances from the Zoning By-law required for the single family dwelling and duplicated in the minor variance application. On September 27, 2021, the Town Council refused the ZBA. On October 25, 2021, the Owner appealed the refusal of the ZBA to the

Ontario Land Tribunal ("OLT" or "Tribunal"), and the appeal was assigned Case No. OLT-21-001591 (together with the First Appeal, the "Appeals").

[5] The Appellant and the Town reached a settlement and jointly request that the Tribunal:

1. Approve the provisional consent application, as shown on the sketch in Appendix 'A', subject to the conditions set out in Appendix 'B';
2. Approve the ZBA application, as attached as Appendix 'C'; and,
3. Dismiss the minor variance application, having Municipal File No. A-02/21 and OLT File No. OLT-21-001692. The requests in the minor variance application have been subsumed in the site-specific standards incorporated in the ZBA.

[6] To summarize, this hearing is focused on whether the provisional consent should be authorized and the ZBA should be approved. The ZBA is focused on changing the zoning for the Subject Property to allow for semi-detached dwellings and to adjust the site-specific standards for the single-family dwelling lot. This hearing does not address the severance for the semi-detached parcels. The Parties will deal with the creation of the separate lots for the semi-detached dwellings by securing a consent through the part lot control procedure under the *Planning Act* ("Act").

## **HEARING AND APPEAL**

[7] The Parties confirmed that there were no issues related to notice of the hearing. The Parties did not object to the filing of the participant statement submitted by numerous local residents.

[8] Only one witness appeared before the Tribunal, Andrea Sinclair, who was properly qualified as an expert witness in the field of land use planning. The Tribunal found her evidence to be credible and uncontradicted.

## **THE APPLICATIONS**

[9] The provisional consent application seeks to sever a corner of the Subject Property that fronts onto William Street with a side yard on Hannah Street, to create a new lot for the construction of a single family dwelling as described in Appendix A ("Severed Parcel") ("Proposed Consent"). An L-shaped parcel will be retained, which contains the current detached dwelling fronting onto William Street and the garage fronting onto Hannah Street as described in Appendix A ("Retained Parcel"). The garage will eventually be replaced by two semi-detached units, which will front onto Hannah Street. The Applicant proposes to later deal with the severance of the lands for the two semi-detached units from the Retained Parcel through the part lot control procedure under the Act.

[10] The ZBA application is designed to change the zoning of the Subject Property from Residential Second Density (R1) Zone to Residential Third Density (R3) Zone and introduce site specific regulations that recognize the specifics of the proposed development. The proposed R3 zoning permits semi-detached dwellings, whereas the R2 zone only permits single-detached dwellings.

[11] Site-specific regulations are proposed in order to recognize the specifics of the Subject Property and the proposed development, as follows:

For Single Detached Dwellings:

- A minimum lot area of 250 square metres ("m<sup>2</sup>"), whereas 464 m<sup>2</sup> is required;
- A minimum lot frontage of 9.3 metres ("m") for a corner lot, whereas 17 m is required\*;

- A minimum interior side yard of 1.2 m, whereas 1.5 m is required;
- A minimum exterior side yard of 0.3 m, whereas 3.5 m is required;
- A minimum rear yard of 2.55 m, whereas 7.0 m is required;
- Maximum coverage of 39%, whereas a maximum coverage of 35% is permitted.

\*While reductions are requested to the frontage and exterior side yard, the Right-of-Way Lands will function as the side yard and additional frontage despite being in public ownership.

For Semi-Detached Dwellings:

- A minimum lot area of 225.5 m<sup>2</sup>, whereas 275 m<sup>2</sup> is required; and,
- A minimum frontage of 7.5 m (per dwelling unit) whereas 9.1 m is required;

[12] The details of the proposed ZBA are identified in Appendix “C” (“Proposed ZBA”).

[13] There are currently no municipal services on Hannah Street and the municipal water and sewage must be extended from William Street to Hannah Street to service the two semi-detached units proposed at the rear of the Subject Property.

## **DO THE CONSENT APPLICATION AND THE ZBA APPLICATION COMPLY WITH THE ACT**

[14] In reviewing both the Consent Application and the ZBA application, the Tribunal must be satisfied that they have appropriate regard for matters of provincial interest, are consistent with the Provincial Policy Statement (“PPS”), conform to the applicable provincial plan, which is the Growth Plan for the Greater Golden Horseshoe (“Growth

Plan”) and complies with the Official Plan. In addition, the Consent Application must comply with all other requirements of s. 51(24) of the Act.

### **MATTERS OF PROVINCIAL INTEREST**

[15] The Planning Evidence supports that matters of provincial interest have been fully addressed by both the Proposed Consent and the Proposed ZBA (collectively, the “Planning Instruments”). The Proposed Development will result in efficient use of current infrastructure, increase the range of housing options, is sustainable and will conserve the dwelling with Heritage Features.

### **CONSISTENCY WITH THE PPS**

[16] The Planning Evidence supports that the Planning Instruments will result in a development that is consistent with the PPS by increasing density, resulting in the intensification of a built-up area, and the adding to the mix of residential uses. Initially it will add a single-family dwelling to the housing stock and if the severances of the lots for the semi-detached dwellings are later granted, it will add two semi-detached units. The area has municipal services that can accommodate this additional development.

### **CONFORMANCE WITH THE GROWTH PLAN**

[17] The Planning Evidence supports that Planning Instruments will result in a development that is in conformance with the Growth Plan since it optimizes infrastructure, transit and directs more intense growth to a currently built-up area of the Town.

### **CONFORMANCE WITH THE OFFICIAL PLANS**

[18] The County of Dufferin Official Plan (“County OP”) identifies that the Subject Property is located within a Primary Settlement Area and further identified as an Urban Settlement Area (Town). Urban Settlement Areas are intended to function as the

primary centres for growth and development and the County OP promotes intensification in areas that are already serviced. Accordingly, the evidence supports that the Planning Instruments conform with the County OP.

[19] The Town Official Plan (“Town OP”) designates the Subject Property as Residential and specifically, Low Density Residential, which permits both single-detached and semi-detached dwellings. The Town OP has a broad intensification objective and identifies a target of 50% of the intensification is to occur from areas that are already serviced. The Town OP also seeks to preserve and enhance heritage resources.

[20] The proposed ZBA, to rezone the property to Residential Third Density (R3), would permit semi-detached dwellings (in addition to single-detached dwellings). Other properties in the same block of William Street as the Subject Property are also zoned R3 and RM1. The proposed rezoning is consistent with the zoning for other properties in the immediate neighbourhood and the Residential designation in the OP.

[21] The site-specific regulations are supported by the existence of the Right-of-Way Lands on Hannah Street adjacent to the Subject Property. The Right-of-Way Lands will continue to be publicly owned and will provide for additional side yard and frontage for the single-detached lot proposed at the corner of Hannah Street and William Street.

[22] Similarly, the reduction in lot area for the semi-detached lots can be supported due to the Right-of-Way Lands, which will visually appear to be part of the lot. Despite the reduction in lot area for the lots to accommodate the semi-detached units, the proposal exceeds the minimum side yard and rear yard setbacks.

[23] The building elevations and floor plans provided as part of this application demonstrate that the lots to be created following the rezoning of this property are appropriately sized to accommodate single and semi-detached units.



[24] The Tribunal accepts the planning evidence that the proposed ZBA and the consent for the single-family dwelling conform to the intent of the OP direction to permit a mix of residential uses that are compatible with the surrounding area and will allow for development of the lots suitable to the area in conformance with the OP.

#### **OTHER CONSENT REQUIREMENTS UNDER S. 51(24) OF THE ACT**

[25] In addition to the evidence relating to the consent and the PPS, Growth Plan and OP, the Planning Evidence identified the following evidence regarding compliance with the other relevant requirements in s. 51(24) of the Act for the consent application:

1. The proposed consent is not premature since the lands are already zoned for residential use and the proposed lot maintains the predominant lotting characteristics of the Neighbourhood. The applications are in the public interest since they support the modest intensification in a built-up area supported by municipal services.
2. The proposed development will ultimately result in the creation of three new homes which will better utilize the existing lot, while retaining the existing home with Heritage Features.
3. The proposed lot has access to a public street and road network that is currently in place.
4. The conditions of approval sufficiently address servicing requirements and proposed restrictions.

[26] Ms. Sinclair also opined that the proposed conditions of the provisional consent are reasonable having regard to the nature of the proposed development and thus, comply with s. 51(25) of the Act.

[27] The Tribunal finds the planning evidence to be persuasive and that the appeals and the ZBA and consent applications should be allowed. The Minor Variance application should also be dismissed since it is redundant due to the revised zoning standards in the ZBA.

## **ORDER**

### **[28] THE TRIBUNAL ORDERS THAT:**

- (1) The appeal is allowed and the Consent as shown on the severance sketch in Appendix A is provisionally granted, subject to the conditions attached to this Order as Appendix B;
- (2) The appeal is allowed and Zoning By-law No. 22-90 is hereby amended as set out in Appendix C to this Order. The Tribunal authorizes the municipal clerk of the Town of Orangeville to assign a number to this by-law for record keeping purposes; and,
- (3) The Minor Variance Application is dismissed.

*“A. Cornacchia”*

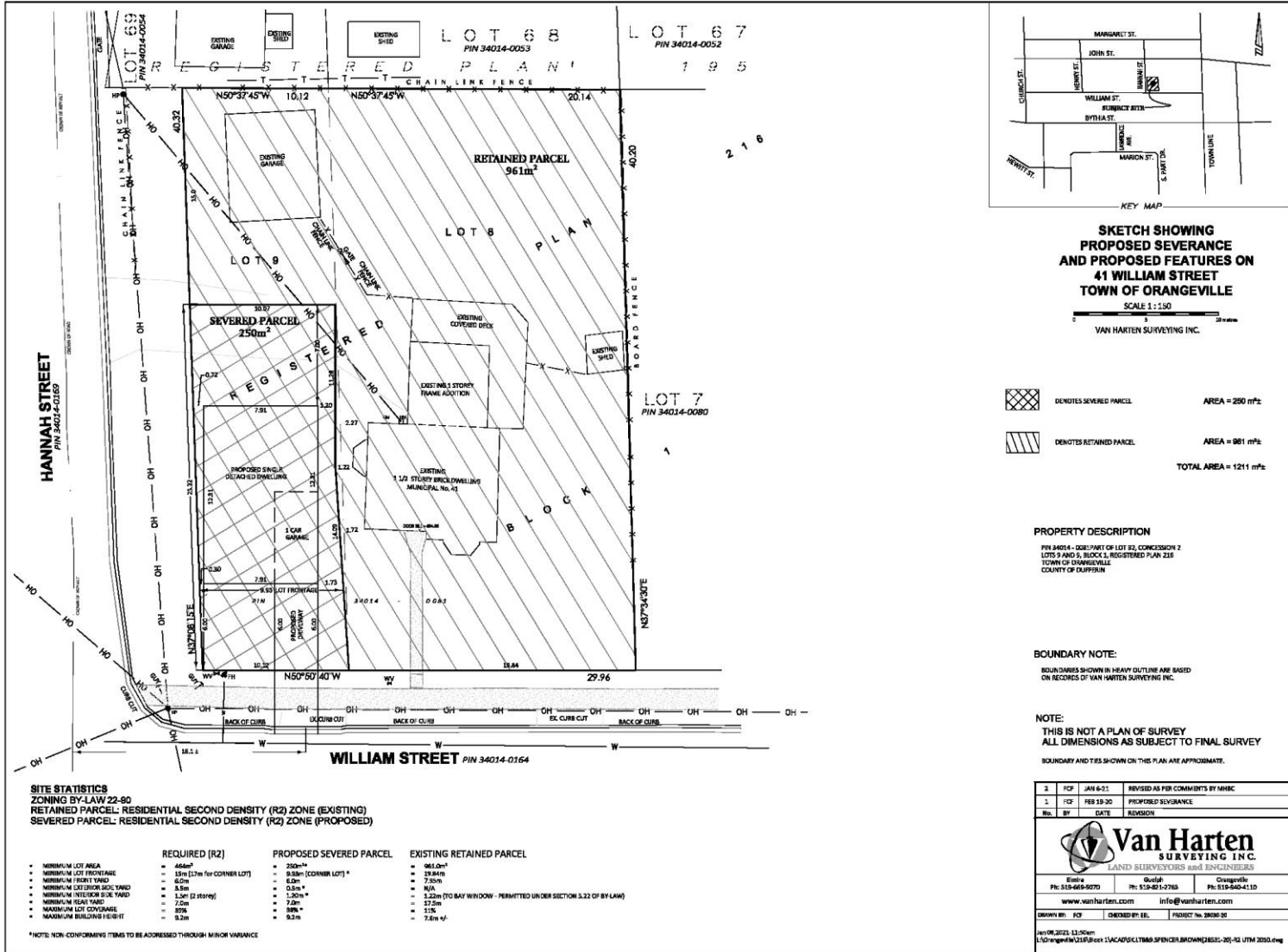
A. CORNACCHIA  
MEMBER

### **Ontario Land Tribunal**

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

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

APPENDIX A



**APPENDIX B****The Corporation of the Town of Orangeville****Decision of the Ontario Land Tribunal  
Re Application for Consent File No. B-01/21****Planning Act, R.S.O. 1990, c. P.13, ss. 53(17)**

<b>Approval Authority:</b>	<b>The Ontario Land Tribunal</b>
<b>Re an Application By:</b>	Duncan Shaw
<b>Location of Property:</b>	Lots 8 & 9, Block 1 on Registered Plan 216 41 William Street, Orangeville
<b>Purpose of Application:</b>	<p>The applicant is applying for consent to sever a parcel of land to create two separate lots.</p> <p>The severed parcel of land will have a frontage on William Street of 9.93 metres, a depth of approximately 25.32 metres and an area of approximately 250 sq. metres.</p> <p>The retained parcel of land will have a frontage on William Street of 19.84 metres, a depth of approximately 40.20 metres and an area of approximately 961 sq. metres.</p>

In making the decision upon this application for consent, the Ontario Land Tribunal is satisfied that this application:

- i) has regard to the matters of Provincial Interest outlined by Section 2 of the Planning Act, R.S.O. 1990, c. P. 13, as amended;
- ii) is consistent with the Provincial Policy Statement (PPS, 2020) as required by Section 3(1) of the Planning Act, R.S.O. 1990, c. P. 13, as amended;
- iii) conforms to the provincial growth plan entitled "A Place To Grow, Growth Plan for the Greater Golden Horseshoe, (2019), and the Official Plans for the County of Dufferin and the Town of Orangeville; and concurs in the following decision and reasons for decision made by an Order of the Ontario Land Tribunal.

**Decision:**               **Granted provisional consent**

**Date of Decision:** **By an Order of the Ontario Land Tribunal issued on \_\_\_\_\_**

**Lapsing of Consent:** It is the applicant's responsibility to ensure that all stated conditions must be satisfied pursuant to Section 53(41) of the Planning Act, R.S.O., 1990, as amended, **within two (2) years of this Decision**. If the conditions of approval are not satisfied within the prescribed time period (as provided in Section 53(41) of the Planning Act), the consent is deemed refused for failure to fulfil the conditions and has lapsed.

**Final Approval:** Final approval of the application will be issued in the form of a Certificate pursuant to Section 53(42) of the Planning Act, R.S.O., 1990, as amended, once all conditions of this provisional consent have been satisfied.

**Conditions:**

1. The Applicant shall be responsible for preparing all reference plans and associated documents, necessary for registration on title, and at the Applicant's expense.
2. The following documentation must be submitted prior to receiving a Consent Certificate:
  - a) A draft reference plan must be submitted for review and approval from the office of the Committee of Adjustment prior to submission to the Land Registry Office.
  - b) Two hard copies and one electronic copy on CD of the resultant deposited reference plan in an AutoCad drawing format (version R2011 or earlier) in UTM-17 (NAD83-CSRS) coordinates, which is accurate to the Urban Standard as specified in s.14(2) of O.Reg. 216/10 of the *Surveyor's Act*, must be submitted
3. That the applicant/owner enters into a Consent Agreement with the Town pursuant to Subsections 53(12) and 51(26) of the Planning Act, to be registered on title, which will require:
  - a) The applicant/owner to submit a servicing plan and grading plan prepared by a Professional Engineer, to the satisfaction of the Transportation and Development Division.
  - b) The applicant/owner to submit all required building calculations to the satisfaction of the Chief Building Official, verifying that the spatial

separation requirements of the Ontario Building Code are met relative to the severance line.

- c) Any building permit application submission to include elevation drawings with enhanced architectural design elements for the exterior side facing Hannah Street, for any future dwelling to be constructed on the severed parcel.
  - d) carry-out tree protection measures and any compensation planting as recommended in an Arborist report, all to the satisfaction of the Town; and
4. That the applicant/owner has paid cash-in-lieu of parkland in accordance with Section 53(13) of the *Planning Act* and the Town's Parkland Dedication By-law No. 47-2012

**APPENDIX C****The Corporation of the Town of Orangeville****By-law Number 2022-XXX**

**A By-law to amend Zoning By-law No. 22-90 as amended,  
with respect to Lots 8 and 9, Block 1, Plan No. 216, Town of Orangeville, County  
of Dufferin, municipally known as**

**41 William Street**

**(Applicant: Duncan Shaw, File No. RZ-2021-01)**

Whereas the authority is given to the Ontario Land Tribunal by Sections 34 and 36 of the Planning Act, R.S.O. 1990, c. P. 13, as amended, to pass by-laws to permit the use of land and to impose a holding symbol (H).

And whereas authority is given to Council to remove a holding symbol (H) when Council is satisfied that conditions relating to the holding symbol (H) have been satisfied.;

And whereas the Ontario Land Tribunal, pursuant to its Order in respect of Case No. OLT-21-001691 issued on \_\_\_\_\_, upon hearing an appeal under subsection 34(11) of the Planning Act, R.S.O. 1990, c. P. 13, as amended, deems it advisable to pass a By-law to amend Zoning By-law No. 22-90, as amended, to permit single detached and semi-detached dwellings on Lots 8 and 9, Block 1, Plan No. 216, Town of Orangeville, County of Dufferin, municipally known as 41 William Street.

The Ontario Land Tribunal orders as follows:

1. That the land subject to this By-law consists of Lots 8 and 9, Block 1, Plan No. 216, Town of Orangeville, County of Dufferin, municipally known as 41 William Street, as more particularly shown on Schedule "A" attached to this By-law.
2. That Schedule "A", Map D5 to Zoning By-law No. 22-90, as amended, is hereby further amended by rezoning the lands as depicted on Schedule "A" attached to this By-law.

3. That Section 24 of Zoning By-law No. 22-90, as amended, is hereby further amended by adding a new Section 24.228 as follows:

“24.228 Notwithstanding Section 9.2 (*Regulations for Single-Detached Dwellings and Group Homes*), the following regulations shall apply to the lands zoned Residential Third Density (R3) Zone, SP 24.228:

Lot area (minimum)

- Corner lot 250 square metres

Lot frontage (minimum)

- Corner Lot 9.3 metres

Exterior side yard (minimum) 0.3 metres

Interior side yard (minimum) 1.2 metres

Rear yard (minimum)

- Interior lot 2.5 metres
- Corner lot 6.5 metres

Coverage (maximum)

- Two or more storeys 40%

Building height (maximum) 8.0 metres

Notwithstanding Section 9.3 (*Regulations for Semi-Detached Dwellings*), the following regulations shall apply to the lands zoned Residential Third Density (R3) Zone, SP 24.228:

Lot area (minimum) 224 square metres per dwelling unit

Lot frontage (minimum)

- Interior lot 7.5 metres per dwelling unit

Coverage (maximum)

- Two or more storeys 41%

Building height (maximum) 8.5 metres



Notwithstanding Section 5.29 (Second Dwelling Units), a second dwelling unit shall not be permitted in any half of a semi-detached dwelling.

### **Holding Symbol**

The Holding Symbol (H) shall only be removed from all or a portion of the lands when the Town is satisfied that:

- 1) there is sufficient water supply and sewage treatment capacity to service the development or portion thereof as the case may be;
- 2) a satisfactory servicing plan has been approved by the Town and that all required water and wastewater services have been installed to the satisfaction of the Town; and
- 3) the Owner has entered into a Development Agreement with the Town, to be registered on title, which includes the following obligations for the owner to:
  - a) implement low impact development (LID) measures recommended in a Functional Servicing Report and Preliminary Water Balance, to the satisfaction of the Town;
  - b) include warning clauses in any purchase and sale agreements for the new dwelling lots, advising future owners of the presence and function of the LID features, along with recommended maintenance practices;
  - c) carry-out tree protection measures and any compensation planting as recommended in an Arborist report, all to the satisfaction of the Town; and
  - d) accept all future maintenance obligations for water and sanitary service extensions from the municipal service mains on William Street, and to advise any future home buyers of these obligations.

Passed by an Order of the Ontario Land Tribunal Order issued on \_\_\_\_\_.