

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



**ISSUE DATE:** March 07, 2019

**CASE NO(S):** PL180178

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 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Referred by: Eileen Costello  
Subject: Site Plan  
Property Address/Description: 15-19 Centre Street  
Municipality: Town of Orangeville  
LPAT Case No.: PL180178  
LPAT File No.: PL180178  
LPAT Case Name: 2500149 Ontario Inc. v. Orangeville (Town)

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

Applicant and Appellant: 2500149 Ontario Inc.  
Subject: Application to amend Zoning By-law No. 22-90 -  
Refusal or neglect of the Township of Orangeville to  
make a decision  
Existing Zoning: Residential Third Density (R3) & Multiple Residential  
Medium Density (RM1)  
Proposed Zoning: Multiple Residential Medium Density (RM1) Special  
Provision (24.210) Holding (H) Zone  
Purpose: To permit stacked townhouse dwellings  
Property Address/Description: 15-19 Centre Street  
Municipality: Town of Orangeville  
Municipality File No.: Z1/17  
LPAT Case No.: PL180178  
LPAT File No.: PL180228

**Heard:** November 28, 2018 by telephone conference call

**APPEARANCES:****Parties****Counsel**

2500149 Ontario Inc.

E. Costello

Town of Orangeville

B. Ketcheson

**DECISION DELIVERED BY HUGH S. WILKINS AND ORDER OF THE TRIBUNAL**

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[1] This proceeding relates to appeals brought by 2500149 Ontario Inc. (“Appellant”) regarding a proposed development on lands located at 15-19 Centre Street (“subject lands”) in Orangeville. The Appellant proposes building a three-storey development containing 24 stacked townhouse dwellings with 36 parking spaces. Presently, there is a residential dwelling on each of the three existing lots on the subject lands, one of which is listed as a heritage building in the Town of Orangeville (“Town”) Heritage Register. The Appellant proposes that these buildings be demolished.

[2] To facilitate the proposed development, the Appellant filed applications to amend the Town’s Zoning By-law No. 22-90 (“Zoning By-law”) and for approval of a Site Plan. It subsequently appealed the Town’s failure or neglect to render decisions on these applications within the statutory timeframes.

[3] In August 2018, the Appellant informed the Tribunal that the Parties had reached a settlement of the appeals. On November 28, 2018, the Tribunal convened a settlement hearing by telephone conference call at which it heard opinion evidence on behalf of the Appellant in support of the proposed settlement. At the settlement conference, the Parties requested that the proposed amendment to the Zoning By-law (“Zoning By-law Amendment”) and Site Plan be approved subject to the finalization of a site plan agreement. On January 28, 2019, the Appellant informed the Tribunal that a site plan agreement had been finalized and executed.

## EVIDENCE

[4] Alan Young provided opinion evidence in the area of land use planning on behalf of the Appellant. He stated that the subject property is designated as “Residential” and “Open Space Conservation” in Schedule A (Land Use Plan) and as “Medium Density Residential” in Schedule C (Residential Density Plan) of the Town’s Official Plan. He said the subject lands are bounded to the north by the Orangeville Brampton Railway line, which travels along Mill Creek on the northern edge of the subject lands. He said other neighbouring uses include a commercial plaza to the west, commercial development to the north beyond the railway tracks, apartment buildings to the south and east, as well as single detached dwellings to the south.

[5] Mr. Young stated that the subject lands are currently zoned as “Residential Density (R3)” for the most part with “Multiple Residential Medium Density (RM1)” zoning on a strip along the southern edge of the subject lands. He said the Zoning By-law Amendment would rezone the subject lands from R3 and RM1 to “RM1(specific)” and “RM1(F)”. He said the site-specific RM1(specific) zoning would require:

- a. a reduced south side yard of 3.0 metres (“m”);
- b. an increased north side yard of 30 m from the railway corridor;
- c. 1.5 parking spaces per dwelling unit;
- d. an encroachment into the required front yard of up to 1.5 m by balconies and related structures; and
- e. a maximum of 24 units.

He said the RM1(F) zoning would apply to hazard lands associated with Mill Creek at the northern end of the subject lands, which are designated Open Space Conservation in the Town’s Official Plan.

[6] Mr. Young stated that since the filing of the appeal, the proposed Zoning By-law Amendment has been revised to better delineate the regulatory floodplain and meander belt/erosion hazard zone, introduce a truck turning bay next to a proposed waste storage enclosure, modify architectural elevations, and modify fencing and waste storage details. With these modifications, Mr. Young stated that the Town's Council approved the Zoning By-law Amendment in August 2018 (subsequent to the filing of the appeal).

[7] Mr. Young stated that parking would be located along the north side of the subject lands to ensure an appropriate distance between the railway tracks and creek and the proposed building. He stated that floodplain studies have been conducted and reviewed by Credit Valley Conservation, which has indicated that it is satisfied with the proposed setbacks. Mr. Young stated that the Appellant has had a transportation study conducted regarding the proposed development, which found that the proposed parking is sufficient.

[8] Mr. Young stated that the dwelling located at 17 Centre Street is on the Town's Heritage Register as a non-designated property. He said a demolition application was considered by Heritage Orangeville, which determined that the dwelling does not merit saving and that none of its features need to be preserved.

[9] Regarding the proposed Site Plan, Mr. Young described the proposed parking, tree planting, landscaping and waste storage facilities for the site and minor changes that have been proposed to address concerns raised by the Town addressing sidewalks, drainage, and signage.

[10] Mr. Young opined that the proposed Zoning By-law Amendment and Site Plan are consistent with the Provincial Policy Statement, 2014 ("PPS") and conform to the Growth Plan for the Greater Golden Horseshoe, 2017 ("Growth Plan"), the County of Dufferin Official Plan ("County's Official Plan") and the Town's Official Plan. With respect to consistency with the PPS, he stated that the subject lands are located within

a settlement area identified for growth and development. He said the proposed development will permit intensification in an efficient manner while preserving the low-rise built form of the area. He said existing infrastructure and services are available and the subject lands are close to public transit. He noted that although the dwelling at 17 Centre Street is on the Town's Heritage Register, it has been found not to be a significant resource within the meaning of that term in the PPS and is not subject to the conservation policies in either the PPS or the County's Official Plan.

[11] Mr. Young stated that the subject lands lie within delineated built-up area under the Growth Plan and are served by public transit, schools, recreational facilities and other public services.

[12] Mr. Young stated that the subject lands are designated as part of the Urban Settlement Area in the County's Official Plan, which functions as a center for growth and development. He opined that the subject lands are underutilized and that the proposed development meets the criteria for intensification and community design under the County's Official Plan. He opined that the proposed landscaping, built form, height and other attributes are in keeping with the character of the area. Referring to a noise and vibration study submitted by the Appellant, he further opined that no mitigation measures are required to address railway noise at the subject lands.

[13] Regarding conformity with the Town's Official Plan, Mr. Young stated that the subject lands are within an area of medium density residential development, are a short walk to amenities and schools, and are amenable to active transportation. He also stated that the proposed development is within the maximum density permitted under the Official Plan. He said it is compatible with the height of other buildings in the area, will assist the Town in achieving its intensification targets and satisfies the Official Plan's criteria for intensification. He opined that it also satisfies the heritage, floodplain and railway noise requirements in the Official Plan. He stated that the proposed stacked townhouses and parking are outside the regulatory floodplain and meander belt/erosion hazard zones of Mill Creek.

[14] Regarding the proposed Site Plan, Mr. Young opined that it is consistent with the PPS and conforms to the Growth Plan, County's Official Plan and the Town's Official Plan. He stated that a site plan agreement is being finalized by the Parties and they have agreed that final approval of the Site Plan should be contingent on the satisfaction of those conditions.

[15] The Parties requested that the Tribunal's Order and approval of both the proposed Zoning By-law Amendment and the Site Plan be withheld until a site plan agreement is finalized. Subsequent to the settlement hearing, the Tribunal received confirmation on January 28, 2019 that the site plan agreement had been finalized and executed.

[16] The Town stated that it supports the proposed settlement and requests the Tribunal's approval of the proposed Zoning By-law Amendment and Site Plan.

## **FINDINGS**

[17] Based on the uncontradicted opinion evidence of Mr. Young, the Tribunal finds that the proposed Zoning By-law Amendment and Site Plan are consistent with the PPS and conform with the Growth Plan, the County's Official Plan and the Town's Official Plan. The Tribunal finds that the proposed Zoning By-law Amendment and Site Plan will facilitate appropriate intensification that meets the requirements in the PPS, Growth Plan, County's Official Plan and the Town's Official Plan. The proposed Zoning By-law Amendment and Site Plan will facilitate efficient development that is compatible with the existing character of the area. The Tribunal notes that existing municipal services, public transportation and amenities are available and that the proposed development will be amenable to active transportation. Based on the evidence before it, the Tribunal finds that no significant heritage resources will be affected by the proposed Zoning By-law Amendment and Site Plan and that floodplain, parking, and noise concerns have been addressed. The Tribunal has had regard to the matters of provincial interest in s. 2 of the *Planning Act* and the Site Plan requirements in s. 41 of the *Planning Act*.

[18] As noted above, subsequent to the settlement hearing, the Tribunal received confirmation from the Parties that a site plan agreement had been finalized and executed by the Parties.

## **ORDER**

[19] The Tribunal allows the appeals in part and approves the Zoning By-law Amendment as attached as Appendix 1 to this Decision and the Site Plan, Landscape Plan and Site Servicing and Grading Plan as attached as Appendices 2, 3 and 4 to this Decision.

*“Hugh S. Wilkins”*

HUGH S. WILKINS  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://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](http://www.elto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

**ATTACHMENT 1****The Corporation of the Town of Orangeville****By-law Number****A By-law to amend By-law 22-90 as amended (2500149 Ontario Inc.)  
Part of Lot 5, Registered Plan 170 (RP7R-2429; Part 1)(Z1/17)**

Whereas on March 20, 2017, Council held a public meeting with respect to Zoning By-law Amendment Application Z 1/17 to rezone the subject property from Residential Third Density (R3) Zone and Multiple Residential Medium Density (RM1) Zone to Multiple Residential Medium Density (RM1) Zone with a Special Provision (24.210); Multiple Residential Medium Density — Regional Storm (RM1)(F) Zone to permit a 24 unit 'stacked townhouse dwelling' and site-specific amendments to regulations related to required setbacks and maximum permitted dwelling units on the property;

And whereas the Local Planning Appeal Tribunal, pursuant to an Order issued on \_\_\_\_\_ in connection with Case No. PL180178 amended By-law 22-90 with respect to lands described as Part 1 on Registered Plan 7R-2429, being part of Lot 5, Registered Plan 170, Town of Orangeville;

Therefore the Local Planning Appeal Tribunal orders as follows:

1. That Zoning Map C3 is hereby amended in accordance with Schedule "A" hereto.
2. That Section 24 of By-law 22-90, as amended, is hereby further amended by adding the following text thereto:

"24.210 Notwithstanding the provisions of Section 12.1 (Permitted Uses) to the contrary, a 'Stacked Townhouse Dwelling' shall be the sole permitted use on the lands zoned Multiple Residential Medium Density (RM1) Zone, SP 24.210. For the purpose of SP 24.210, a 'Stacked Townhouse Dwelling' means a building divided vertically and horizontally into four or more dwelling units, each of which has an independent entrance from the outside.

Notwithstanding the provisions of Sections 5.17(1)(a), 12.3(5), 5.22 and 12.3(8) to the contrary, the following regulations shall apply to the lands zoned Multiple Residential Medium Density (RM1) Zone, SP 24.210:



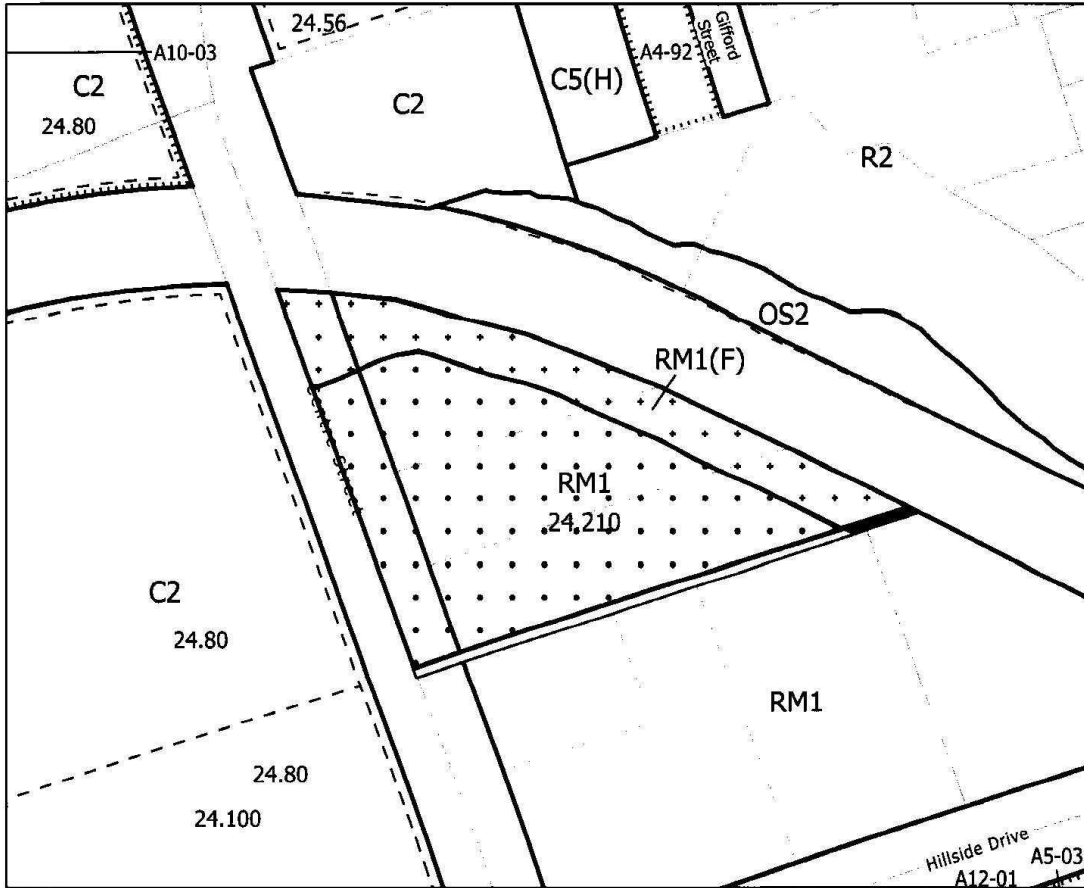
**Interior Side Yard (minimum)**

South 3.0 metres

North (measured from the boundary of the  
Orangeville-Brampton Railway line) 30.0 metres**Parking (minimum)** 1.5 parking spaces per dwelling unit**Encroachments**

Balconies, related trellis roofing and sunken patios may encroach up to 1.5 metres into the required front yard.

**Number of Dwelling Units (maximum)** 24 dwelling units



The Corporation of The Town of Orangeville  
 Schedule 'A' Town of Orangeville Zoning By-law 22-90







Schedule "A" to by-law

Passed the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
 Mayor

\_\_\_\_\_  
 Clerk

Zoning Map No. C3  
 This is a reference map only

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 Lands to be rezoned from Residential Third Density (R3) Zone to Multiple Residential Medium Density (RM1) Zone, S.P. 24.210
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 Lands to be rezoned from Residential Third Density (R3) Zone to Multiple Residential Medium Density (RM1)(F) Zone
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 Lands to be rezoned from Multiple Residential Medium Density (RM1) Zone to Multiple Residential Medium Density (RM1) Zone, S.P. 24.210
- 
 Lands to be rezoned from Residential Medium Density (RM1) Zone to Multiple Residential Medium Density (RM1)(F) Zone