

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: September 22, 2017

CASE NO(S): PL161206

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: North Gwillimbury Forest Alliance
Appellant: The Governing Council of the Salvation Army of Canada
Subject: Proposed Official Plan Amendment No. OPA 129 (OPA 129)
Municipality: Town of Georgina
OMB Case No.: PL161206
OMB File No.: PL161206
OMB Case Name: North Gwillimbury Forest Alliance v. Georgina (Town)

Heard: September 15, 2017 in Georgina, Ontario

APPEARANCES:

Parties

Counsel/Representative*

Regional Municipality of York

Barbara Montgomery

Town of Georgina

Bruce Ketcheson

North Gwillimbury Forest Alliance

David Neligan

1965870 Ontario Inc.

Mark Flowers

Governing Council of the Salvation Army

Robert Blunt*

Maple Lake Estates Inc.

David Bronskill

Lake Simcoe Region Conservation Authority

Kenneth Hill

**MEMORANDUM OF ORAL DECISION DELIVERED BY GERALD S. SWINKIN ON
SEPTEMBER 15, 2017**

[1] This was the second Pre-hearing Conference (“PHC”) on this case, the first having taken place on May 10, 2017, the disposition of which having issued by way of Memorandum of Oral Decision on June 2, 2017. As was reflected in that disposition, there were a variety of matters which were expected to occur before this second session. Those matters will be detailed below.

The North Gwillimbury Forest Alliance appeal

[2] At the first PHC, it was resolved that this appeal would proceed by way of an independent phase of the hearing. In the disposition, it was noted that the parties interested in this appeal were the North Gwillimbury Forest Alliance (the Appellant), Maple Lake Estates Inc. (the landowner affected by the disposition being sought by the Appellant), the Town of Georgina (the “Town”) and the Regional Municipality of York (the “Region”). The Lake Simcoe Region Conservation Authority sought, and was granted, Participant status.

[3] The Ontario Municipal Board (the “Board”) was informed that the parties were working on developing a Procedural Order (“PO”) and intended to present a draft for endorsement by the Board at the second PHC. It was also the expectation of the parties that a date would be set at the second PHC for the hearing of the appeal.

[4] A consent draft PO was presented at this PHC. Upon review, the Board expressed concern with respect to the protocol for the calling of the evidence and asked the parties to reconsider a sequence which would ensure that the panel hearing the appeal would have a proper understanding of the Town’s initiative and relevant background to the prior policy regime and history related to the lands of Maple Lake Estates Inc. Mr. Ketcheson indicated that the Board’s observations would be attended to and a revised draft made available after consultation amongst counsel on the final form of it.

[5] Presuming that the concern of the Board has been adequately addressed, upon receipt of the revised PO with confirmation from Mr. Ketcheson that it comes with the consent of counsel for the parties to this appeal phase, the Board will formally issue the PO to govern this branch of the proceeding.

[6] The Board fixed the hearing date for this appeal phase. The hearing will commence on **Tuesday, May 22, 2018 at 10 a.m. at:**

**Town of Georgina Municipal Building
Council Chambers
26557 Civic Centre Rd.
RR 2
Georgina, ON L4P 3G1**

[7] The hearing has been booked for **nine days**, to conclude by **Friday, June 1, 2018**.

[8] There will be no further notice.

[9] This Member is not seized.

The Governing Council of the Salvation Army appeal

[10] At the first PHC, the expectation was that a complete settlement of this appeal would occur and that a motion for partial approval to implement the necessary modification to the Official Plan would likely be brought for disposition at this second PHC.

[11] It seems that the final details of the settlement were not all in place in time for this session but should be imminently. Consequently, Mr. Ketcheson requested that the Board fix a time for a teleconference hearing at which the Board would hear the necessary evidence to deal with the agreed upon modifications and then dispose of the appeal. It was undertaken by Mr. Ketcheson to pre-file the Minutes of Settlement between the parties and the affidavit evidence being relied upon to support the requested modifications in advance of the teleconference call ("TCC").

[12] A date and time was fixed by the Board for that TCC. The TCC will take place on **Wednesday, October 11, 2017 at 9 a.m.** The call-in particulars are set out below:

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 **4779874#** to be connected to the call. If assistance is required at any time, press '0' for the operator. 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 Tome Kondinski, the Board's Case Coordinator, at 416-326-6799.

The expected participants on that TCC are counsel for the Governing Council of the Salvation Army, the Town and the Region, and such other planners and persons associated with those parties who need to participate.

[13] There will be no further notice of this TCC.

[14] This Member is seized of this appeal for the purpose of the TCC.

1965870 Ontario Inc. ("196") appeal

[15] The circumstances of 196 were laid out in the June 2, 2017 Memorandum of Oral Decision. In short, there was defective notice of the Notice of Decision by the Region as approval authority, which deprived 196 of an in-time appeal.

[16] 196, with the acknowledgment by the municipal authorities that there had been a lapse in the normal procedure which left 196 without formal notice of the Notice of Decision, sought relief from the Superior Court of Ontario. Again, with the consent of the municipal authorities, the court rendered that relief in the form of directing that the Notice of Decision issue to 196 so that it could proceed with an in-time appeal. The Notice of Decision issued, 196 filed its appeal within the new time limit, and the record has been forwarded to the Board to join the record for this proceeding under Case No. PL161206.

[17] By way of this disposition, the Board confirms 196 as a party to the proceeding but now on the basis of its entitlement to that status as an in-time Appellant.

[18] There were other changes in status regarding this appeal, which relates to what is known as the Keswick Business Park Study Area (“Study Area”).

[19] Mr. Hill, on behalf of the Lake Simcoe Region Conservation Authority, sought party status for his client. That request was not contested by any other party and was granted.

[20] Two individuals were present who also sought party status. Joe Nanos was present on behalf of his father, Peter Nanos. Peter Nanos owns 39 acres of land on the east side of Woodbine Avenue, being part of Lot 1, Con. 4, municipally known as 22937 Woodbine Avenue. The parcel is partially in the formal Business Park and partially in the Study Area.

[21] Gary Foch is the principal of DKGK Holdings Inc. That entity owns an acre of land municipally known as 22869 Woodbine Avenue. That parcel is wholly in the Study Area only.

[22] Both Mr. Nanos and Mr. Foch have a similar interest to that of 196 in maintaining an ongoing recognition of the Study Area reference in the Official Plan. On questioning by the Board as to their hearing intentions, both suggested that they do not intend to retain counsel or call witnesses. That response is documented here but is not meant to preclude them from changing their posture as the matter goes forward.

[23] As with the Salvation Army appeal, the Board was requested to fix a TCC for this appeal as well, for the purpose of being provided with an update, fixing a hearing date and possibly entertaining the approval of a form of PO to govern this appeal. The TCC will essentially follow the prior call but will proceed as a distinct call.

[24] The TCC will take place on **Wednesday, October 11, 2017 at 10 a.m.** The call-in particulars are set out in paragraph [12] of this decision. The expected participants

on this TCC are counsel for 196, the Town, the Region and Lake Simcoe Region Conservation Authority, Joe Nanos, Gary Foch and such other planners and persons associated with those parties who need to participate.

[25] There will be no further notice of this TCC.

[26] This Member will remain seized of the case management of this appeal and therefore, the TCC.

[27] There being no other matters brought before the Board this day, the PHC concluded.

“Gerald S. Swinkin

GERALD S. SWINKIN
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.

Ontario Municipal Board

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