

ISSUE DATE:

Jan. 9, 2008



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

1547155 Ontario Ltd. has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the Town of Markham, for the purpose of adding a site-specific policy to both the 'Commercial and Heritage Main Street' designation of the Markham Official Plan and the 'Heritage Main Street Area' designation of the Thornhill Secondary Plan, to permit the development of a seven-storey residential building containing 92 units, with street-oriented retail on the ground floor, on property located on 7751 Yonge Street
Approval Authority File No. OP 05 005462
O.M.B. File No. O050137

1547155 Ontario Ltd. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 2237, as amended, of the Town of Markham, by adding a special provision to the Community Commercial (CC) designation, to permit the development of a 7-storey residential building containing 92 units, with street-oriented retail on the ground floor, on property located on 7751 Yonge Street
O.M.B. File No. Z050114

1547155 Ontario Ltd. has referred to the Ontario Municipal Board under subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, determination and settlement of details of a site plan for lands composed of Part of Lots 1 and 2, Registered Plan 71, municipally known as 7751 Yonge Street, in the Town of Markham
O.M.B. File No. M070010

APPEARANCES:

Parties

Town of Markham

Joseph and Diane Ricciotti

1547155 Ontario Limited

Counsel

Q. Annibale, B. Duguid

A. Heisey

G. Swinkin

DECISION DELIVERED BY J. V. ZUIDEMA AND ORDER OF THE BOARD

The hearing of the appeal of the site-specific matters was to commence on November 20, 2007 and continue until November 30th. On consent of the parties, the Board was asked to adjourn the hearing and utilize the first day for another pre-hearing.

The reason for the adjournment revolves around a dispute between the Town and the applicant concerning the validity of an easement, which may be relevant to this

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TOWN OF MARKHAM
CLERKS DEPT

Copy: Regan H.
Ron Blake
Catherine Conn

PL050818

matter. The Town has brought a Rule 14 (Rules of Civil Procedure) application and a request for an injunction before the Court. The return date to hear that matter was scheduled for December 6, 2007 but has been put over to January 31, 2008. As such, the parties, on consent request that this hearing be held following that court date and receipt of the Court's decision.

As such, the Board adjourns this hearing (PL050818) to be heard April 29th and 30th and May 1st, 2nd, 5th, 6th, 8th, 9th, 12th and 13th 2008 at the Town of Markham's municipal building. Mr. Annibale is to confirm room locations to this Board two weeks prior.

Visual evidence for this hearing is to be exchanged two weeks prior to the commencement of the hearing and that exchange can be done electronically. In this regard, paragraph 12 of the existing procedural order is amended to reflect this exchange timeline and method. All other requirements of the procedural order remain in effect. No further notice for this matter is required.

The Board was advised that two (2) other matters are relevant and require scheduling:

1. an appeal by Mr. Swinkin's client of the Town's Heritage District By-Law 2007-151 (Board File PL 070714); and
2. an appeal by Mr. Swinkin's client of OPA 167 which is a secondary plan for Thornhill/Markham (Board File PL 070888).

Neither of these matters are consolidated with the site specific matters currently before the Board. Mr. Annibale for the Town has filed motion materials to dismiss without a hearing, the appeal of the heritage district by-law and asks that that motion date be set. Mr. Swinkin also requests a date to bring a motion to consolidate his client's appeal of OPA 167.

The Board sets March 6th and 7th, 2008 for the hearing of these motions. Mr. Annibale will make arrangements for the location of those motions and communicate to this Board two weeks prior. Notice is required for the motion to consolidate (PL 070888) and Mr. Swinkin is required to file proof of proper notice. The parties ask that should

time permit, the parties be permitted to address other procedural matters, which might arise out of the court proceedings during these two days. This is acceptable.

Although Mr. Annibale has already served his motion to dismiss materials, he has agreed to provide a copy to Mrs. Mathias as a courtesy to her. Mrs. Mathias has agreed to share those materials with other participants so that they may be informed of the Town's motion. This does not suggest that those appearing as participants have a right to participate in the arguing of that motion. That decision will be within the purview of the Member adjudicating the motions.

This Member is not seized of either the motions or the hearing of this matter.

This is the Board's Order.

"J.V. Zuidema"

J.V. ZUIDEMA
VICE CHAIR

