

ISSUE DATE:

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PL111173

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

A-Line Developments Inc. has appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from the failure of the Minister of Municipal Affairs and Housing to make a decision respecting a proposed plan of subdivision on lands composed of Northwest Half of Lot 1, Concession A, in the Township of East Garafraxa

Approval Authority File No.: 22-T-07001

OMB File No. PL120836

OMB Case No: PL111173

2227763 Ontario Inc. has appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from the failure of the Minister of Municipal Affairs and Housing to make a decision respecting a proposed plan of subdivision on lands composed of Northeast Half of Lot 1, Concession A, in the Township of East Garafraxa

Approval Authority File No.: 22-T-07001

OMB File No. PL111173

OMB Case No: PL111173

2227763 Ontario Inc. 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 neglect to enact a proposed amendment to Zoning By-law 60-2004 of the Township of East Garafraxa to rezone lands located at Northeast Half of Lot 1, Concession A from "Rural (RU) Zone and Environmental Protection (EP) Zone" to "Estate Residential (RU) and Environmental Protection (EP) Zone" to permit the development of twenty-five residential lots and a valleyland block

OMB File No. PL111174

OMB Case No: PL111173

APPEARANCES:

Parties

2227763 Ontario Inc.

A-Line Developments Inc.

Township of East Garafraxa

Counsel

M. Melling
M. Maslow

J. Patterson

J. Wilker

**MEMORANDUM OF ORAL DECISION DELIVERED BY JASON CHEE-HING
ON SEPTEMBER 12, 2012 AND ORDER OF THE BOARD**

Following a successful Board assisted mediation, the parties have now settled these matters. By way of background, 2227763 Ontario Inc. (“222”) and A-Line Developments Inc. (the “Appellants” and “proponents”) are the land owners for the subject property (Northeast half of lot 1, Concession A, Township of East Garafraxa). They had proposed to subdivide the subject lands into 25 estate residential lots and a valleyland block. The proponents filed the draft plan of subdivision application with the Ministry of Municipal Affairs and Housing (MMAH) and the re-zoning application with the Township of East Garafraxa (Township). In this instance, MMAH is the approval authority for plans of subdivision within Dufferin County. Dufferin County has no approved Official Plan (OP).

Both the MMAH and the Township failed to consider the respective applications within the statutory time periods and the matters were appealed to the Board by 222 in October of 2011. A-Line Developments Inc. subsequently filed its appeal of the draft plan of subdivision in July of 2012, after the proceedings at the Board had already commenced for the appeals of 222. As both sets of appeals relate to the same proposed draft plan of subdivision, the Board at today’s proceedings consolidated the appeal of A-Line Developments Inc. with the 222 appeals. At the May 12, 2012, pre-hearing held on these matters, the parties agreed to Board assisted mediation discussions.

Board assisted mediation proved very fruitful and a settlement was reached among the parties. The proponents’ planner, Mr. Glen Broll, provided planning evidence on the draft plan of subdivision and rezoning applications and the conditions of draft plan approval.

Mr. Broll described the subject lands as being approximately 20.54 hectares (50.75 acres) in area located in the Township. The subject lands are currently designated Estate Residential and Environmental Protection in the Township OP and zoned RU and EP in the Township Zoning By-law (ZBLA) No. 60-2004. The proposed zoning for this development is Estate Residential-Special to facilitate a minimum lot size of 1.0 acre. The valleyland block would remain as Environmental Protection (EP). Two park lots are proposed in the interior of the subdivision which would be zoned Estate Residential. As part of the settlement conditions, these two lots will be gratuitously

deeded to the Township. The residential zoning classification would give the Township the flexibility of selling these lots should it deem that it does not require the lots as parkland. The rural residential lots will be serviced by individual wells and septic systems.

The proposed planning documents being the proposed amendment to the ZBL, the conditions of draft plan approval, and the proposed plan of subdivision are found respectively, in Tabs 17, 18, and 19 of Exhibit 5. The conditions of draft plan approval include the following:

1. Block 33 and 34 to be dedicated gratuitously to the Township and payment of \$20,000.00 to the Township's parkland reserve fund (Condition 11).
2. Block 35, consisting of valley lands and wetlands, to be dedicated gratuitously to the Credit Valley Conservation Authority.
3. Block 36 to be dedicated to the Township for potential future road improvements.
4. A well monitoring program will be put in place to resolve any claims of well interruption by neighbouring landowners due to the development of this subdivision (Condition 46)
5. Preparation of an environmental site assessment and remediation report, and other engineering and technical reports to the satisfaction of the Township and other public authorities (Condition 36).

It is Mr. Broll's planning opinion that the proposed ZBLA conforms to the Township's OP, it is not premature and represents good planning. It is his planning opinion that the draft plan of subdivision and the conditions of draft plan approval, have appropriate regard for the criteria found in subsection 51(24) of the *Planning Act* (Act). Additionally, Mr. Broll testified that these proposed planning documents conforms to the Growth Plan and is consistent with the policies of the 2005 Provincial Policy Statement.

Mr. Wilker, counsel for the Township, confirmed that the MMAH is in agreement with the proposed ZBLA, the draft plan of subdivision and the accompanying conditions of draft

plan approval. As Dufferin County does not have the authority to grant final plan approval, the parties requested that the Board delegate this authority to the MMAH pursuant to subsection 51(56.1) of the Act.

Based on the planning evidence given by Mr. Broll on the proposed planning documents and the parties' confirmation of the settlement, the Board is satisfied that: the ZBLA conforms to the Township's OP; it is not premature; and represents good planning. The Board is satisfied that the draft plan of subdivision has appropriate regard for the criteria found in subsection 51(24) of the Act. The Board is satisfied with the conditions of draft plan approval.

Therefore, the **BOARD ORDERS** that the appeals are allowed in part and that:

1. Zoning By-law No. 60-2004 is hereby amended in the manner as set out in Tab 17 of Exhibit 5. The Board authorizes the municipal clerk to assign a number to this by-law for record keeping purposes;
2. The draft plan shown on the plan prepared by R. Mak dated August 30, 2010, comprising the Northeast half of Lot 1, Concession A, in the Township of East Garafraxa found on Tab 19, Exhibit 5, is approved subject to the conditions found in Tab 18, Exhibit 5; and
3. Pursuant to subsection 51(56.1) of the Act, the Ministry of Municipal Affairs and Housing shall have the authority to clear the conditions of draft plan approval and to administer the final approval of the plan of subdivision for the purposes of subsection 51(58) of the Act. The Board may be spoken to in the event that there are difficulties in the implementation of the conditions of draft plan approval.

So Orders the Board.

"Jason Chee-Hing"

JASON CHEE-HING
MEMBER