

ISSUE DATE:
February 5, 2008



Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

PL031143

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05-385
05-384

Kathy Laforme and Debbie Shelton have appealed to the Ontario Municipal Board under subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, against Zoning By-law 03-264 of the City of Hamilton
O.M.B. File No. R030243

B E F O R E:

J. ZUIDEMA
VICE-CHAIR

) Tuesday, the 5th
)
) day of February, 2008

UPON APPEAL TO THIS BOARD, and the Board having been advised by correspondence received from the City of Hamilton that Attachment "1", which was attached to Decision/Order No. 0015 was incorrect.

THE BOARD ORDERS that Decision/Order 0015, issued on January 7, 2005, is hereby amended by replacing Attachment "1" with the attached Attachment "1"

In all other respects the Decision/Order remains the same.

SECRETARY

OFFICE OF THE CITY CLERK	
FEB 07 2008	
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ACTION: <i>A Zuidema</i>	
<i>T McLake</i>	
<i>P Mallard</i>	
<i>L Ramoso</i>	

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approved in accordance with the provisions of the Planning Act;

AND WHEREAS the Ontario Municipal Board ordered that By-law 90-145-Z (Flamborough) as amended by 03-264 be amended further;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Section 2 of By-law 03-264 be amended by deleting Subsection (4) – Removal of Holding (H) Provision in the Zone Provisions of Exception Number 33.3.77 in its entirety and substituting the following therefore:

(4) Removal of
Holding (H)
Provision

The Holding (H) provision will prohibit the use of the subject lands for a Topsoil Preparation and Supply Business, until such time that a site plan and site plan agreement have been submitted and approved, to the satisfaction of the Director of Development, Planning and Development Department which site plan and site plan agreement shall include the completion of the following matters:

(i) A stormwater management report that addresses the potential for mitigating potential nutrient enrichment of the valued features of the site and includes a monitoring program of the groundwater on the property (such as monitoring wells);

(ii) An Erosion and Sediment Control Plan to address short-term and long-term impacts;

(iii) A Landscaping Plan that addresses the naturalization of the buffer between the berm and the boundary of the existing natural vegetation of the Hayesland Swamp Environmentally Significant Area in accordance with the regeneration objectives of the Grindstone

Creek Watershed Study and which identifies landscaping along the berm with native shrub and tree species, particularly cedar;

(iv) A Certificate of Approval from the Ministry of Environment, if required by the Ministry, to address wastewater runoff from the stockpiling of compost and manure.

ISSUE DATE:
January 7, 2005
DECISION/ORDER NO:
0015



Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

RECEIVED

JAN 10 2005

LAW DEPARTMENT 031143

05-385

Kathy Laforme and Debbie Shelton have appealed to the Ontario Municipal Board under subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, against Zoning By-law 03-264 of the City of Hamilton
O.M.B. File No. R030243

OMB TRACKING # 05-384-10: OPA #94
OMB TRACKING # 05-385-10: ZONING AMEND.

BEFORE:

J. A. Smout
MEMBER

) Tuesday, the 4th
)
) day of January, 2005

THIS MATTER having come on for public hearing and Decision No. 1729, issued November 2nd, 2004, the Board withheld its order amending By-law 03-264, pending receipt of a revised By-law;

THE BOARD having received a revised By-law in accordance with the Decision;

THE BOARD ORDERS that the appeal is allowed in part, and By-law 03-264 of the City of Hamilton is hereby amended in the manner as set out in Attachment "1". In all other respects, the Board Orders the appeal is dismissed.

SECRETARY

ATTACHMENT '1'

Authority: Item, Hearings Sub-Committee
Report PD03189
CM: September 10, 2003

Bill No.

CITY OF HAMILTON

BY-LAW NO. _____

To Amend:

Zoning By-law No. 90-145-Z (Flamborough),

Respecting:

LANDS LOCATED AT 682 5th CONCESSION ROAD WEST
Owned by Ed Dokter (Millgrove Garden Supplies)
(former Town of Flamborough)

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1st, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the Town of Flamborough" and is the successor to the former regional municipality, namely, The Regional Municipality of Hamilton-Wentworth;

AND WHEREAS the City of Hamilton Act, 1999 provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Zoning By-law No. 90-145-Z (Flamborough) was enacted on the 5th day of November 1990, and approved by the Ontario Municipal Board on the 21st day of December, 1992;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Town of Flamborough), approved by the Minister under the Planning Act on September 27th, 1988, as amended by Official Plan

Incorrect

Amendment No. 94 proposed by the Corporation of the City of Hamilton, but not yet approved in accordance with the provisions of the Planning Act.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Schedule "A-10" of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by changing the zoning of the lands shown as Block "1" on Schedule "A" from the Agricultural "A" Zone to the Conservation Management "CM" Zone;
2. Schedule "A-10" of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby amended by changing the zoning of the lands that are located at 682 5th Concession Road West from Agricultural "A" Zone to the Site-Specific Agricultural "A-77(H)" Zone for lands comprising approximately 14 hectares (34.5 acres) located on Part of Lots 10 and 11, Concession 4 (Former Town of Flamborough) more particularly shown as Block 2 on Schedule "A" which forms part of this By-law.

Section 33.3 - Agricultural "A" Zone is hereby amended by adding the following subsection:

33.3 EXCEPTION NUMBERS

33.3.77 'A-77(H)' (see Schedule A-10)

Permitted Uses

(a) Any use permitted in the Agricultural "A" Zone

(b) That notwithstanding Section 33.1, a topsoil preparation and supply business and accessory uses, including a maintenance building not to exceed 700 square metres, shall be permitted only in conjunction with the existing stone structure (former dwelling) and silo.

For the purpose of this by-law, a topsoil preparation and supply business shall mean a business in which soil, manure and mulches are screened, mixed and/or stored on site for distribution off premises.

Zone Provisions

That the following special zoning provisions shall apply to the

development of the topsoil preparation and supply business:

(1) Setbacks

(i) A minimum 30 metre wide setback shall be provided and maintained along the entire westerly lot line, the Conservation Management "CM" Zone and the northerly side lot line.

(ii) All building and structures, excluding a single detached dwelling, shall be setback a minimum of 145 metres from the front lot line.

(2) Berm

A landscaped berm having a minimum height of 1 metre shall be provided and maintained along the entire 30 metre setback from the Conservation Management "CM" Zone.

(3) Parking

A minimum of 10 parking spaces shall be required.

(4) Removal of Holding (H) Provision

The Holding (H) provision will prohibit the use of the subject lands for a Topsoil Preparation and Supply Business, until such time that a site plan and site plan agreement have been submitted and approved, to the satisfaction of the Director of Development, Planning and Development Department which site plan and site plan agreement shall include the completion of the following matters:

(i) A stormwater management report that addresses the potential for mitigating potential nutrient enrichment of the valued features of the site and includes a monitoring program of the groundwater on the property (such as monitoring wells);

(ii) An Erosion and Sediment Control

Plan to address short-term and long-term impacts;

(iii) A Landscaping Plan that addresses the naturalization of the buffer between the berm and the boundary of the existing natural vegetation of the Hayesland Swamp Environmentally Significant Area in accordance with the regeneration objectives of the Grindstone Creek Watershed Study and which identifies landscaping along the berm with native shrub and tree species, particularly cedar;

(iv) A Certificate of Approval from the Ministry of Environment, if required by the Ministry, to address wastewater runoff from the stockpiling of compost and manure.

All other regulations of Section 33 Agricultural "A" Zone and Section 5, General Provisions of Zoning By-law 90-145-Z (Flamborough) applicable to Block 2 shall continue to apply.