

ISSUE DATE:

Nov. 26, 2012



PL090074

By-law No. 12-294

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

Kuldip Swan 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 refusal by Council of the City of Hamilton to enact a proposed amendment to former Town of Ancaster Zoning By-law 87-57 to rezone lands composed of 1194 Scenic Drive from Agricultural "A" zone to Residential R1-582" zone to permit a proposed conversion of part of the residential dwelling to a day nursery for a maximum of 68 children

OMB Case No. PL090074

OMB File No. PL090074

BEFORE:

J. CHEE-HING
MEMBER

) Monday, the 26th day of
)
) November 2012

THIS MATTER having come on for public hearing, and the Board having issued its decision on July 28, 2009 and withheld its Order pending receipt of confirmation from the parties that the Board's Order may issue:

THE BOARD having been advised by the parties that condition found in Section 4 of the minutes of settlement has been satisfied;

THE BOARD ORDERS that the appeal is allowed and amends By-law 87-57 in the manner set out in Attachment 1 of the Decision issued on July 28, 2009.

A handwritten signature in cursive script, appearing to read "Jeanne Hing".

SECRETARY

ATTACHMENT 1

CITY OF HAMILTON
BY-LAW NO. XXXX

To amend Zoning By-law No. 87-57 (Ancaster), as amended,
respecting lands located at 1194 Scenic Drive, (Ancaster)

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 Ancaster" 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 and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;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. 87-57 (Ancaster) was enacted on the 22nd day of June 1987, and approved by the Ontario Municipal Board on the 23rd day of January, 1989;

AND WHEREAS this By-Law is in conformity with the Official Plan of the City of Hamilton (former Town of Ancaster) in accordance with the provisions of the Planning Act;

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

1. That Schedule "B" of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by changing from the Agricultural "A" Zone to the Residential "R1-582" Zone, the extent and boundaries of which lands are shown on a plan hereto annexed as Schedule "A".
2. That Section 34 - Exceptions of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by adding the following subsection:

"R1-582" That notwithstanding the provisions of Paragraphs 11.1.1 and 11.1.2, of Subsection 11.1 "Residential R1 Zone" of Section 11: Residential "R1", "R2" and "R3" Zones, and the provisions of Paragraph 7.12 b) of Subsection 7.12 Yard Encroachments and 7.14 a), iv), vi) and xvi) of Subsection 7.14 Parking and Loading of Section 7: General Provisions, are hereby modified to include the following special provisions for the property at 1194 Scenic Drive:

- a) A Day Nursery for 35 children or less and three (3) classrooms within the detached dwelling legally existing on the date of the passing of this By-law.
- b) Front Yard Setback (minimum): 5.5 metres.
- c) Southerly Side Yard Setback (minimum) 1.5 metres.
- d) Rear Yard Setback (minimum): 7.5 metres, except for 0.06 metres for the detached dwelling existing on the date of the passing of the By-law.
- e) Height: - 10.7 metres.

- f) Eaves projection into minimum rear yard (maximum): 1.5 metres, except for the detached dwelling existing on the date of the passing of the By-law, the eaves may project into the minimum rear yard a distance of not more than 0.06 metres.
- g) Tandem Parking Spaces (maximum): 5 spaces, 1 of which shall be for the residential use.
- h) Parking spaces in the Front Yard (maximum): 6 spaces.
- i) All other uses in Section 11.1.1 shall be permitted.
- j) All other provisions of Section 11.1.1 Permitted Uses, 11.1.2 Regulations, Section 7.12 Yard Encroachments, and Section 7.14 Parking and Loading, shall continue to apply.

PURSUANT TO THE ORDER OF THE ONTARIO MUNICIPAL BOARD ISSUED ON _____, IN BOARD FILE NO. PL090074.