

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario
15-114
Exhibit 2, Tab 5



ISSUE DATE: January 22, 2015

CASE NO(S): PL140602

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Joseph Staibano
Subject:	By-law No. ZAC-13-033
Municipality:	City of Hamilton
OMB Case No.:	PL140602
OMB File No.:	PL140602

Heard: January 8, 2015 in Hamilton, Ontario

APPEARANCES:

Parties

1892610 Ontario Inc.

City of Hamilton
Sonoma Homes Inc.
1804482 Ontario Limited

Counsel

R. Cheeseman

D. Baker

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. V. ZUIDEMA ON
JANUARY 8, 2015 AND ORDER OF THE BOARD**

[1] A hearing scheduled for two days was reduced as the parties had reached a settlement. The background is as follows:

[2] Sonoma Homes Inc. ("Applicant") filed a site-specific application to amend Zoning By-law No. 3581-86 for the City of Hamilton ("City") by changing the zoning from the Existing Residential "ER" Zone to the General Commercial "C3-655" Zone in order to accommodate a 500 square metre Business Office and Medical Clinic having four practitioners served by 18 parking spaces with two drive aisles providing ingress and

egress to 125 Wilson Street East ("subject property") in Ancaster.

[3] The application was circulated and went through all of the required processes under the *Planning Act*. The City passed Zoning By-Law No. 14-106.

[4] A neighbouring owner of lands, 1892610 Ontario Inc. ("Appellant"), at 144 Wilson Street East, located on the south side of Wilson Street East and directly south of the subject property, appealed the City's decision.

[5] The Appellant set out his reasons for appeal in the materials filed with the Board. They were as follows:

- a. The City's Corridor Management staff stated only one driveway access onto Wilson Street would be permitted and a second access would not be granted. The entire development proposal relied on two access points. Given the firm position of Corridor Management staff, it would be premature to consider the proposed zoning by-law as the appropriateness and functionality of the proposal would be compromised as a result of a reconfigured site plan having only one access.
- b. The configuration of the parking layout and the resulting 18 spaces were dependent on two drive aisles to Wilson Street. Reducing the number of drive aisles from two to one will require the concept site plan to be reconfigured in a manner that will require additional on-site turning movements and drive aisles that might result in the reduction in the number of available on-site parking spaces.
- c. The Zoning By-law modified the required parking ratio for the Business Office use to one space for each 25 square metres of floor area. As such, the required parking ratio for a Medical Clinic is one space for each doctor and as the by-law limited the use to having four practitioners, 16 parking spaces are required. In the event four practitioners operate within the

proposed 500 square metre building, the remaining two parking spaces provided on the conceptual site plan could serve 50 square metres of a Business Office. The proposed 18 parking spaces was not sufficient to support a 500 square metre Business Office Medical Clinic building; and further, the 18 parking spaces would not be available with a reconfigured site plan as noted in first concern raised above.

- d. Through the site plan approval process, a road widening would be required as shown on the conceptual site plan. The concept plan illustrated parking abutting the widened portion of Wilson Street right-of-way with no maneuvering space to the throat of the drive aisle to the street. As result, the parking concept needed to be revised to accommodate a setback from the ultimate road allowance for landscaping visibility triangle purposes.
- e. Finally, as considered in the 2011 Ancaster Transportation Master Plan, accesses to properties on Wilson Street required careful consideration. Access consolidation, turning movements, visibility triangles, site lines and queuing requirements on Wilson Street for each proposed Wilson Street driveway must be considered to ensure future access points were not prejudiced by the two proposed access points on the conceptual site.

[6] Through dialogue between the parties, the concept plan reduced the two access points to only one. Revised site plans were provided to me along with a proposed revised draft zoning by-law.

[7] I heard undisputed expert evidence from Glenn Wellings, who was qualified and accepted as an expert in land use planning. His evidence was provided on consent.

[8] He provided opinion evidence to support the revised draft zoning by-law indicating that the minor amendments to recognize that only one access point, not two, onto Wilson Street, represented good land use planning and was in the public interest.

[9] Mr. Wellings had prepared a planning justification report which supported the original zoning. His opinion did not materially change from that expressed in his earlier planning report.

[10] He further testified that he agreed with the City Planning Staff's earlier recommendation to support the rezoning. Currently the subject property is a vacant parcel of land; it will be redeveloped and this represented an efficient use of existing infrastructure. There were no provincial issues.

[11] The proposed rezoning conformed to the Urban Hamilton Official Plan along with the Secondary Plan for this area.

[12] Given this unchallenged evidence, I provided an oral decision allowing the appeal in part in order to give effect to the settlement achieved. Therefore the Board Orders that the City's Zoning By-Law is amended in accordance with the revised proposed zoning by-law amendment which was found at Tab 5 of Exhibit 2 to these proceedings. In all other respects, the appeal is dismissed.

"J. V. Zuidema"

J. V. ZUIDEMA
VICE CHAIR

Ontario Municipal Board

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Ex 2
Tab 5

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

To Amend Zoning By-law No. 87-57, Respecting Lands Located 125 Wilson Street East, in the former Town of Ancaster, now in the City of Hamilton

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 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 "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 the Council of the City of Hamilton, in adopting Item 6.4 of Report 14-079 of the Planning Committee, at its meeting held on the 14th day of May, 2014, recommended that Zoning By-law No. 87-57, be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan, approved by the Minister under the Planning Act on March 16, 2011;

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

1. That Map 1 of Schedule "B", appended to and forming part of By-law No. 87-57 (Ancaster), as amended, is hereby further amended by changing the zoning from the Existing Residential "ER" Zone, to the General Commercial "C3-655" Zone, Modified, on the subject lands, the extent and boundaries of which are more particularly shown on Schedule "A" annexed hereto and forming part of this By-law.
2. That Section 34: Exceptions of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by adding the following sub-section:

"C3-655" That notwithstanding the provisions of Section 22 General Commercial "C3" Zone and 7.14 of Section 7; General Provisions, the following special provisions shall apply to the lands zoned "C3-655", described as 125 Wilson Street East:

1.0 Permitted Uses:

Notwithstanding Section 22.1, the only permitted uses are a Business Office and Medical Clinic with a maximum of four practitioners and a maximum of one (1) vehicular access to Wilson Street East.

2.0 Regulations:

Notwithstanding Sections 22.2, the following provisions apply:

- (a) Maximum Floor Area: 500 square metres
- (b) Minimum Front Yard: 4.8 metres
- (c) Minimum Setback from Centreline of Wilson Street East to Front Wall of Principal Building: 14.0 metres
- (c) Minimum Side Yard Abutting Residential Zone: 1.7 metres
- (d) Minimum Side Yard Abutting a Non-Residential Zone: 3.8 metres

3.0 Parking:

Notwithstanding Section 7.14, the following provisions apply:

- (a) Business Office: 1 parking space for every 25 square metres of floor area

(b) Planting Strip abutting
Wilson Street East:

Where a parking area which is required to provide for more than four parking spaces abuts a street, a permanently maintained planting strip of a minimum width of 1.5 metres shall be provided along the street line, and it shall be continuous except for aisles or driveways required for access to such parking area. For the purposes of this section, walkways; light standards, masonry piers; and signage are permitted within the planting strip.

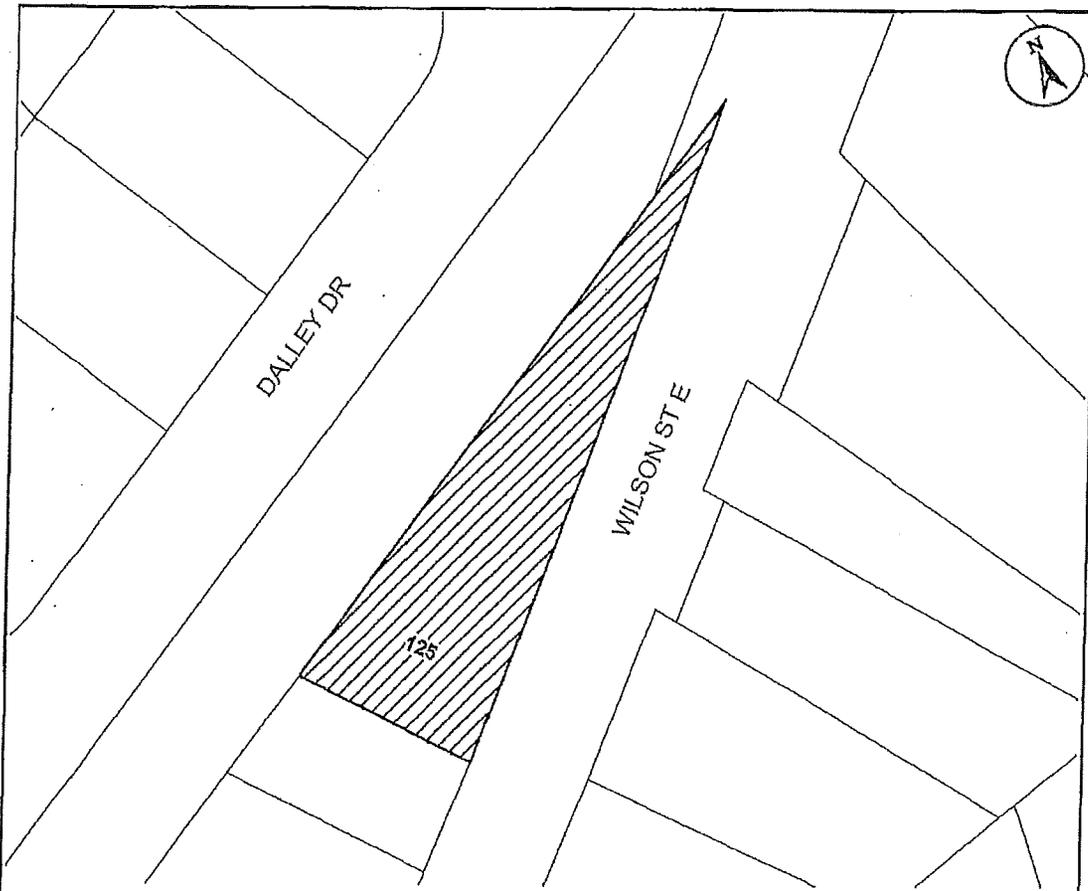
(c) Planting Strip abutting
Non-Residential Zone:

For the purposes of this section, walkways; outdoor patio area; retaining walls; light standards; and a portion of a maximum of four parking spaces and a portion of the access driveway are permitted within the planting strip.

3. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

Approved by Order of the Ontario Municipal Board

ZAR-13-033



<p>This is Schedule "A" to By-law No. 14- Passed the day of, 2014</p>	<p>----- Mayor ----- Clerk</p>
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<p>Schedule "A"</p> <p>Map Forming Part of By-law No. 14- _____</p> <p>to Amend By-law No. 87-57</p>	<p>Subject Property 125 Wilson Street East</p> <p> Change in Zoning from the Existing Residential "ER" Zone to the General Commercial "C3-655" Zone, Modified, with a Special Exception</p>
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Scale: N.T.S.	File Name/Number: ZAC-13-033
Date: February 24, 2014	Planner/Technician: TL/NB
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	

