



**Township of Southgate
Committee of Adjustment Agenda**

October 23, 2019

9:00 AM

Council Chambers

	Pages
1. Call to Order	
2. Confirmation of Agenda	
Be it resolved that the Committee confirm the agenda as presented.	
3. Declaration of Pecuniary Interest	
4. Adoption of Minutes	
4.1 Minutes from the August 28, 2019 Committee of Adjustment Meeting	3 - 6
Be it resolved that the Committee approve the minutes from the August 28, 2019 Committee of Adjustment meeting as presented.	
5. Hearing	
5.1 A2-19 - Misty Meadows Market, Concession 4, Parts of Lot 29, Geographic Township of Egremont	
5.1.1 Application and Notice of Public Hearing	7 - 15
5.1.2 Comments Received from Agencies and the Public	16 - 28
5.1.3 Applicant or Agent	
5.1.4 Committee Member Questions	
5.1.5 Comments and Planning Report	29 - 33
Be it resolved that the Committee of Adjustment receive Staff Report PL2019-065 for information; and That the Minor Variance be approved.	

5.1.6 Members of the Public to Speak

5.1.7 Further Questions from the Committee

5.1.8 Approval or Refusal

6. Correspondence

6.1 Clinton Stredwick, Planner - OACA Workshop Report 34 - 151

6.2 Jamie Eckenswiler, Legislative & Communications Coordinator - 152
OACA Workshop Report

7. Adjournment

Be it resolved that the Committee adjourn the meeting at [TIME].



Township of Southgate
Minutes of Committee of Adjustment

August 28, 2019
9:00 AM
Council Chambers

Members Present: Member John Woodbury
Chair Barbara Dobreen
Member Brian Milne
Staff Present: Clinton Stredwick, Planner
Joanne Hyde, Clerk
Jamie Eckenswiler, Secretary-Treasurer
Bev Fisher, Chief Building Official

1. Call to Order

Chair Dobreen called the meeting to order at 9:00 AM.

2. Confirmation of Agenda

Moved By Member Woodbury

Seconded By Member Milne

Be it resolved that the Committee confirm the agenda as presented.

Carried

3. Declaration of Pecuniary Interest

No one declared a pecuniary interest related to any item on the agenda.

4. Adoption of Minutes

4.1 Minutes from the June 26, 2019 Committee of Adjustment Meeting

Moved By Member Milne

Seconded By Member Woodbury

Be it resolved that the Committee approve the minutes from the June 26, 2019 Committee of Adjustment meeting as presented.

Carried

5. OACA Workshop

Moved By Member Milne

Seconded By Member Woodbury

Be it resolved that the Committee of Adjustment support Planner Clinton Stredwick, Secretary-Treasurer Jamie Eckenswiller, and Chair Barbara Dobreen to attend the OACA Workshop in Cornwall on October 4, 2019; and

That all registrations be completed through the Clerks Office for hotel and workshop registration.

Carried

6. Hearing

6.1 A1-19 - Miroslav and Pavlina Markov, Concession 14 Part Lot 11 RP 17R184 Part 15, Geographic Township of Proton

6.1.1 Application and Notice of Public Hearing

6.1.2 Comments Received from Agencies and the Public

Planner Clinton Stredwick reviewed comments received from Historic Saugeen Metis, Saugeen Valley Conservation Authority, the County of Grey, Southgate Building Department, and Southgate Public Works. No comments were received from members of the public.

6.1.3 Applicant or Agent

The Applicant or Agent were not in attendance.

6.1.4 Committee Member Questions

Committee members asked questions and staff provided responses.

6.1.5 Comments and Planning Report

Planner Stredwick reviewed his planning report and explained the purpose of the Minor Variance application.

6.1.6 Members of the Public to Speak

No members of the public were present.

6.1.7 Further Questions from the Committee

There were no further questions from members of the Committee.

6.1.8 Approval or Refusal

Moved By Member Milne

Seconded By Member Woodbury

Be it resolved that the Committee of Adjustment receive Staff Report PL2019-052 for information; and

That the minor variance be granted with the following conditions:

1. **That** the Saugeen Valley Conservation Authority fee be paid; and
2. **That** the shipping container be removed from the property following construction of the shed or a building permit be approved for the shipping container; and
3. **That** the applicant resubmit plans to the building department for the new location of the shed and pay all fees/fines associated, if any; and
4. **That** all conditions be met August 28, 2020.

Carried

7. Adjournment

Moved By Member Milne

Be it resolved that the Committee adjourn the meeting at 9:40 AM.

Carried

Chair Barbara Dobreen

Secretary-Treasurer Jamie Eckenswiller



**Township of Southgate
Committee of Adjustment
Application for Minor Variance**

Instructions:

This is an application under Section 45 of the Planning Act, 1990, R.S.O. c.P. 13 as amended, for relief, as described in this application, from Zoning By-law 19-2002 (as amended).

- Please check all applicable boxes and answer all applicable questions
- Failure to provide adequate, correct information may result in your application being refused
- All measurements must be in metric units. (Imperial Units will not be accepted)
- Additional information may be attached if necessary
- Incomplete applications will be returned
- The Township reserves the right to ask for more information or clarification pertaining to this application at a later time
- Applications are not accepted without the required fees \$1000 (\$900 application plus \$100 sign deposit) in cash or by cheque made payable to the Corporation of the Township of Southgate.

For office use only:

File No. A- 2-19
Pre-Consult _____ Date: _____
Date received: Aug 29, 19
Accepted by: _____
Roll #42 07 _____
Conservation Authority Fee
Required: _____
Official Plan: _____
Property's Zone: _____
Other Information: _____

It is strongly advised that any potential applicant pre-consult with the Planning Department prior to submitting any planning application. This could save you money and avoid delays in processing. Staff are available to provide some assistance in completing this application and will help ensure the application is filled out completely.

The Approval Authority is the *Township of Southgate Committee of Adjustment*

Required Fees:

Application Fee	\$ 937.00 due with submitted application
Public Notice Sign Fee	\$ 105.00
Conservation Authority Fees	
Saugeen Valley CA	\$240.00
Grand River CA	Contact directly for details

Note on fees:

The application fees were adopted and approved under the Township of Southgate's fees and charges By-law.

All required application fees shall be paid in cash or by cheque made payable to the Township of Southgate at the time of submission of the application.

Please review the required Conservation Authority fees prior to submitting your application. Saugeen Valley Conservation Authority requires their fee to be submitted to the Township of Southgate along with this application. Make this payment out to the Saugeen Valley Conservation Authority.

In the event that all fees are not paid in full at the time of submission, the application shall be deemed incomplete.

2907.00

1. Name of Owner/Applicant (circle one) * LESTER B WINEMAN
Address RR#1 MT. FOREST. Ont. 044166.
Postal Code N0G 2L0 Telephone Number 519-323-3381

*See Note 1

2. Name of Agent* _____
Address _____
Postal Code _____ Telephone Number _____

** See Note 2

3. Nature and extent of relief applied for: Permit to close in
loading dock area.

4. Why is it not possible to comply with the provisions of the by-law? Exceeded
sq. footage

5. Legal description of subject land (registered plan number and lot number or other legal description, and, where applicable, street and street number):

Part Lot 29, Concession 4 Southgate
Gray Rd. 144

6. Dimensions of land affected in metric units: See maps.

Frontage: _____ Area: _____
Depth: _____ Width of Street: _____

7. Particulars of all buildings and structures on or proposed for the subject land (specify, in metric units) the ground floor area, gross floor area, number of storeys, width, length, height, etc.):

Existing: Ground floor area 905 sq m
2nd storey 339 sq m.
1244

Proposed: Close in over loading dock area
96 sq m

8. Location of all buildings and structures on or proposed for the subject land (specify distance from side, rear and front lot lines): See map

Existing: _____

Proposed: _____

9. Date of acquisition of subject land: June 2014.

10. Date of construction of all buildings and structures on subject land:
2018

11. Existing uses of the subject property:

Country Market.

12. Existing uses of the abutting properties:

North: Farm East: Hwy RD 14.

South: Hwy 89. West: Residence & Farm

13. Length of time the existing uses of the subject property have continued:

3 months

14. Water is provided to the subject land by a:

☐ publicly owned and operated piped water system

☒ privately owned and operated individual or communal well

☐ lake or other water body or other means (please explain)

15. Sewage disposal is provided to the subject land by a:

☐ publicly owned and operated sanitary sewage system

☒ privately owned and operated individual or communal well

☐ privy or other means (please explain)

16. Storm drainage is provided by (check applicable):

Sewers: _____ Ditches _____ Swales : _____

Other means (please explain) _____

17. Present Official Plan designation on the subject lands: _____

18. Present Zoning By-law provisions applying to the land: _____

19. Has the subject land ever been the subject of an application for minor variance (under Section 45 or its predecessor of the Planning Act)

Yes ☐ No ☒

If the answer is yes, describe briefly (i.e. date of application, file number, nature of relief, etc.)

20. Is the subject property the subject of a current application for a plan of subdivision or consent under Section 51 or 53 of the Planning Act?

Yes ☐ No ☒

Sketch Instructions:

Each copy of this application must be accompanied by a sketch or survey showing the following:

- (i) The boundaries and dimensions of the subject land.
- (ii) The location, size and type of all existing and proposed buildings and structures on the subject land, indication the distance of the buildings or structures from the front yard lot line, rear yard lot line and the side yard lot lines.
- (iii) The current uses and location of all existing buildings and/or structures on the adjacent lands. (indicate the distance of the buildings or structures from the front yard lot line, rear yard lot line and the side yard lot lines).
- (iv) The approximate location of all natural and artificial features on the subject land and on land that is adjacent to the subject land that, in the opinion of the applicant, may affect the application. Examples include buildings, railways, watercourses, drainage ditches, river or stream banks, wetlands, wooded areas, wells and septic tanks.
- (v) The location, width and name of any roads within or abutting the subject land, indicating whether it is an unopened road allowance, a public travelled road, a private road or a right of way.
- (vi) If access to the subject land is by water only, the location of the parking and docking facilities to be used.
- (vii) The location and nature of any easement affecting the subject land.

21. Owners authorization and declaration:

Authorization for agent

I/we _____
(print name or names)

authorize _____
(print name of agent)

to act as our agent(s) for the purpose of this application.

(Signature of Owner) (date)

(Signature of Owner) (date)

22. Owners authorization for access:

I/we LESTER WIDEMAN ERVIN BAUMAN ALVIN MARTIN
(print name or names)

hereby permit Township staff and its representatives to enter upon the premises during regular business hours for the purpose of performing inspections of the subject property.

Lester Wideman 08/29/19.
(Signature of Owner) (date)

(Signature of Owner) (date)

23. Affidavit or sworn declaration :

Note: This Affidavit must be signed in the presence of a Commissioner of Oaths.

I/ (We) LESTER WIDEMAN ERVIN BAUMAN ALVIN MARTIN
Name of Owner(s) or Authorized Agent or Applicant

of the Township of Southgate in the County of Grey
city/town/municipality county/region

Solemnly declare that all statements contained in this application and all the information provided is true, and I/we make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the CANADA EVIDENCE ACT.

Declared before me at the:

Township of Southgate in the County of Grey
city/town/municipality county/region

This 29 day of August, 2019

Lester B Wideman
Signatures of Owner
Ervin Bauman
Signatures of Owner
Alvin Martin
Signatures of Owner

Aug 29/19
Date
Aug 29 2019
Date
Aug 29 2019
Date

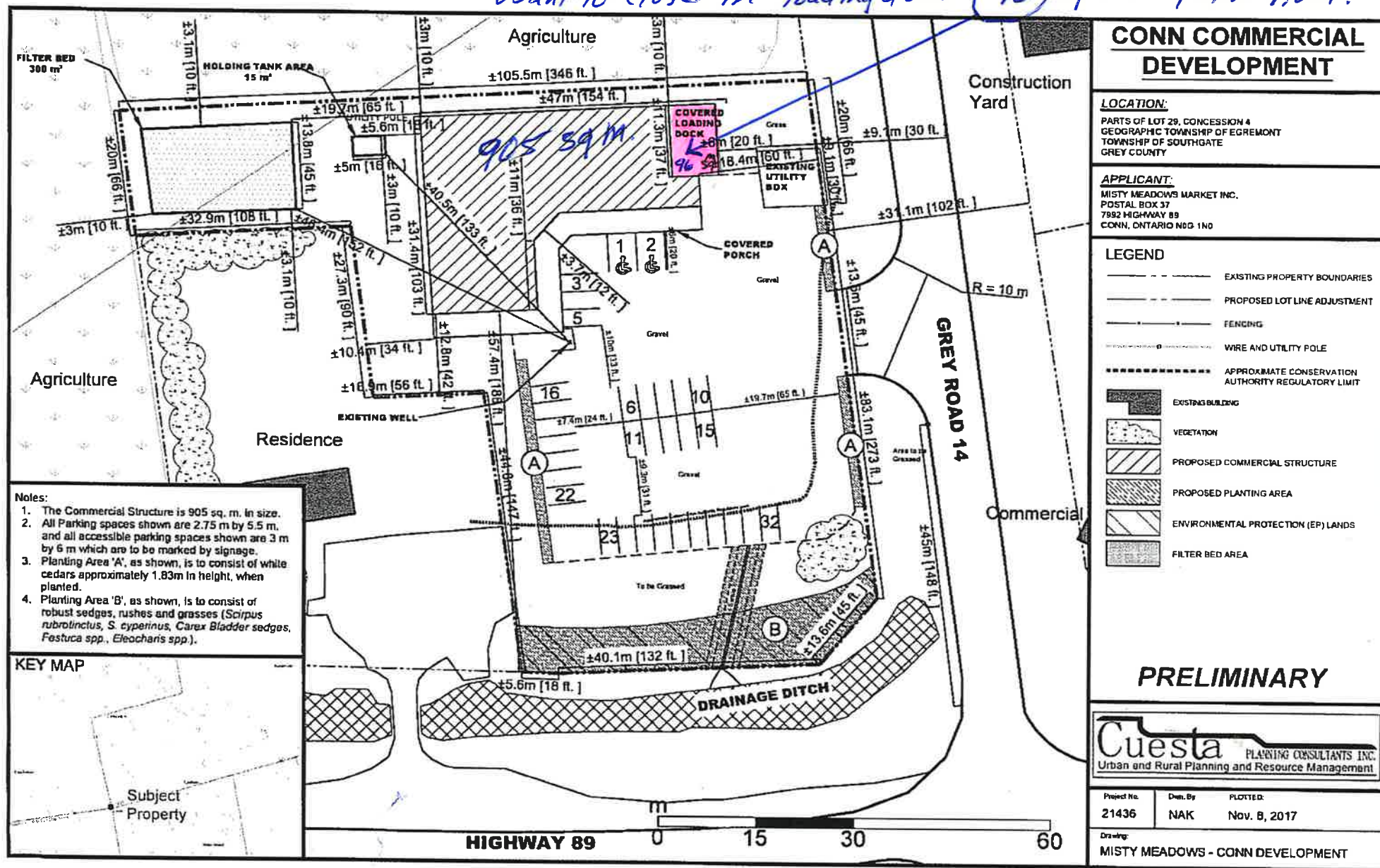
Jamie Eckenswiller
Signature of Commissioner

Aug 29/2019
Date

Jamie Eckenswiller, a Commissioner, etc.,
Province of Ontario, for The Corporation of
the Township of Southgate. Expires May 13,
2022.



Existing building is 905 sq.m.
 Want to close in loading dock. 96 sq.m. Total 1,001.





**THE CORPORATION OF THE TOWNSHIP OF SOUTHGATE
COMMITTEE OF ADJUSTMENT**

**NOTICE OF APPLICATION AND PUBLIC HEARING
FOR MINOR VARIANCE FILE # A2/19**

PROPERTY LOCATION: legally known as Concession 4 Pt Lot 29, RP 16R10869 Parts 1,3 and 4 (Geographic Township of Egremont) in the Township of Southgate (see the key map below).

TAKE NOTICE that the Committee of Adjustment of the Township of Southgate will hold a Public Hearing on:

Wednesday, October 23, 2019 @ 9:00am
in the Council Chambers, 185667 Grey Rd. 9

to consider an application for minor variance to permit an increase in the building size as a result of closing in a covered loading dock. The proposal requires relief from Section 33-377 (c), of the by-law which provides for a maximum building size of 915m².

Approval of this application would provide relief from the by-law to permit the existing covered loading dock to be enclosed. The resulting increase in building size would be 96m².

A Site Plan Application has also been submitted to amend the agrement to reflect the change.

You are entited to attend the hearing in person or to be represented by an agent to express your views on the merits of this application. You may also forward a letter with your views to the Committee. If you do not attend the hearing or send correspondence regarding this file, the Committee will proceed in your absence and you are not entitled to any futher notice of the proceedings. **Please note that all submissions will become part of the public record in their entirety and may be posted to Southgate’s website.**

A copy of the Notice of Decision will be sent to the applicant and each person who appeared or was represented by an agent at the hearing **and** who has filed a written request for notice of the decision.

ADDITIONAL INFORMATION regarding this application is available for public viewing during office hours at the address below or on the Township Website at:
<https://www.southgate.ca/planning-notices/>

Township of Southgate
185667 Grey Rd. 9,
Dundalk, ON N0C 1B0
(519) 923-2110 ext. 232
Toll Free: 1-888-560-6607

DATED AT THE TOWNSHIP OF SOUTHGATE
THIS 2nd DAY OF October 2019
Jamie Eckenswiller,
Secretary-Treasurer
Committee of Adjustment



Jamie Eckenswiller

From: Joanne Hyde
Sent: October 2, 2019 10:41 AM
To: Chris Hachey
Cc: Jamie Eckenswiller; Clinton Stredwick
Subject: Re: Request for Comments - Southgate (Lester Wideman) - Proposed Minor Variance

Received, thank you.

Joanne Hyde, MPA, Dipl.M.A., CMMIII, AOMC
Municipal Clerk | Township of Southgate
Mobile: [\(519\) 379-3183](tel:5193793183)
jhyde@southgate.ca | www.southgate.ca



Sent from my iPhone

On Oct 2, 2019, at 9:57 AM, Chris Hachey <hsmasstlrcc@bmts.com> wrote:

Your File: A2-19
Our File: Southgate Municipality

Ms. Hyde,

The Historic Saugeen Metis (HSM) Lands, Resources and Consultation Department has reviewed the relevant documents and have no objection or opposition to the proposed development, land re-designation, zoning, land severance, Official plan and/or Zoning By-law Amendments.

Thank you for the opportunity to review this matter.

Regards,

Chris Hachey

Assistant Coordinator, Lands, Resources and Consultation

Historic Saugeen Métis
204 High Street
Southampton, Ontario, N0H 2L0
Telephone: (519) 483-4000
Fax: (519) 483-4002

Email: hsmasstlrcc@bmts.com

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Jamie Eckenswiller

From: LandUsePlanning@HydroOne.com
Sent: October 2, 2019 9:27 AM
To: Jamie Eckenswiller
Subject: Southgate - Lot 29 Con 4 - A2-19

Hello,

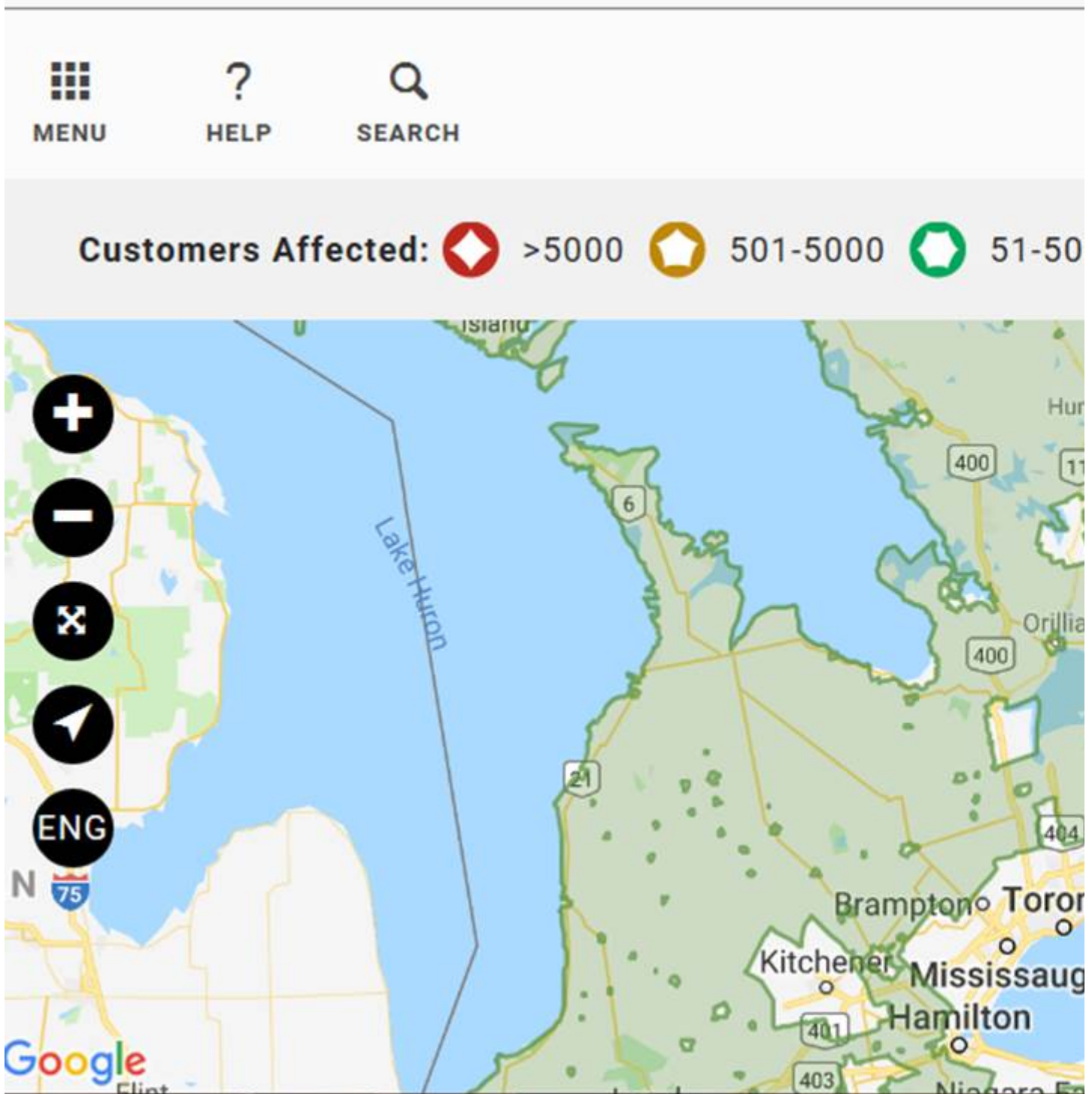
We are in receipt of your Application for Minor Variance, A2-19 dated October 2, 2019. We have reviewed the documents concerning the noted Application and have no comments or concerns at this time. **Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.**

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier.

To confirm if Hydro One is your local distributor please follow the following link:

<http://www.hydroone.com/StormCenter3/>

Please select " Search" and locate address in question by entering the address or by zooming in and out of the map



If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail CustomerCommunications@HydroOne.com to be connected to your Local Operations Centre

Please let me know if you have any questions or concerns.

Thank you,

Dennis De Rango

Specialized Services Team Lead, Real Estate Department
Hydro One Networks Inc.

Tel: (905)946-6237

Email: Dennis.DeRango@HydroOne.com

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Township of Southgate

185667 Grey County Road 9,
Dundalk, ON N0C 1B0

Jim Ellis,

Public Works Manager / Risk Management Official

jellis@southgate.ca



Phone: 519-923-2110 ext. 250

Toll Free: 1-888-560-6607

Fax: 519-923-9262

Cell: 519-378-3777

Public Works Department

Date: October 7, 2019

File No.: A2-19

Can a safe access be provided? Yes ☒ No ☐

Road Drainage Concern: N/A

Road Standard: MTO Jurisdiction – Highway 89, Grey County – County Road 14

Road Widening Necessary? Yes ☐ No ☒

Entrance Requirements: N/A

Load Restricted Road: Yes ☐ No ☒

Comments: _____

Risk Management Office

Property is located in a Well Head Protection Area:

- ☐ WHPA "A"
- ☐ WHPA "B"
- ☐ WHPA "C"
- ☐ WHPA "D"
- ☒ Not Applicable

Comments: _____

Signed: _____

Jim Ellis, Public Works Manager / Risk Management Official

Planning Application Comments

Building Department

Date: October 11, 2019

File No: A2/19

Property Owner: Mr. L Wideman

The Southgate Building Department is aware of the application noted above and at the present time have the following comments.

- ☒ No Concerns or objections with the application.
- ☐ Development will require applicable permits before construction.
- ☐ A Barrier free washroom will be required with Septic system.
- ☐ Recommend the septic design is considered before proceeding.
- ☐ A detailed septic design is required.
- ☐ Road access and Civic number will be required before development proceeds.
- ☒ Comments: This amendment to the building will not change the site footprint or the Ontario Building Code requirements which have been met by previous permit.

If I can be of any further assistance, please do not hesitate to contact me.

Bev Fisher

Chief Building Official | Township of Southgate

185667 Grey County Road 9, Dundalk, ON N0C 1B0

519-923-2110 ext. 240 | Mobile: | Fax 519-923-9262

bfisher@southgate.ca | www.southgate.ca



1078 Bruce Road 12, P.O. Box 150, Formosa ON Canada N0G 1W0
Tel 519-367-3040, Fax 519-367-3041, publicinfo@svca.on.ca, www.svca.on.ca

SENT ELECTRONICALLY ONLY (jeckenswiller@southgate.ca)

October 15, 2019

Township of Southgate
185667 Grey Road 9
RR 1
Dundalk, Ontario
N0C 1B0

ATTENTION: Jamie Eckenswiller, Legislative & Communications Coordinator

Dear Mr. Eckenswiller,

RE: Proposed Minor Variance A2-19
Grey Road 14
Part Lot 29, Concession 4; Parts 1, 3, and 4 Plan 16R10869
Geographic Township of Egremont
Township of Southgate (Misty Meadows Market)

Saugeen Valley Conservation Authority (SVCA) staff has reviewed the proposed minor variance in accordance with the SVCA's mandate, the Saugeen Valley Conservation Authority Environmental Planning and Regulations Policies Manual, amended October 16, 2018, and the Memorandum of Agreement between the SVCA and the Township of Southgate relating to plan review. The purpose of the application is to permit an increase in the building size as a result of closing in a covered loading dock. The proposed minor variance is acceptable to SVCA staff and the following comments are offered.

Natural Hazards

In the opinion of SVCA staff there are no natural hazard features located on the property.

Natural Heritage

SVCA staff are of the opinion that the natural heritage feature affecting the property is the adjacent lands to fish habitat. Proton Municipal Drain No. 56 (also known as Egremont Municipal Drain No. 3) flows along the north side of Highway 89, adjacent to the property. This watercourse is considered fish habitat by SVCA staff. Section 2.1.8 of the Provincial Policy Statement (PPS 2014) indicates that, among other things, development and site alteration shall not be permitted on the adjacent lands of fish habitat unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on fish habitat or on their ecological functions. SVCA staff's concerns regarding the adjacent lands to fish habitat associated with development on the property have been appropriately addressed as per the Scoped



Watershed Member Municipalities

Municipality of Arran-Elderslie, Municipality of Brockton, Township of Chatsworth, Municipality of Grey Highlands,
Town of Hanover, Township of Howick, Municipality of Morris-Turnberry, Municipality of South Bruce,
Township of Huron-Kinloss, Municipality of Kincardine, Town of Minto, Township of Wellington North,
Town of Saugeen Shores, Township of Southgate, Municipality of West Grey

Environmental Impact Study (EIS), dated January 14, 2016, prepared by WSP. Based on the sketch submitted as part of the application, further measures to address the adjacent lands to fish habitat are not recommended by SVCA staff.

SVCA Regulation

Please be advised that the southern portion of the property is subject to the SVCA's Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation (Ontario Regulation 169/06, as amended). This Regulation is in accordance with Section 28 of the *Conservation Authorities Act*, R.S.O, Chap. C. 27, and requires that a person obtain the written permission of the SVCA prior to any "development" in a Regulated Area or alteration to a wetland or watercourse.

"Development" and Alteration

Subsection 28(25) of the *Conservation Authorities Act* defines "development" as:

- a) *the construction, reconstruction, erection or placing of a building or structure of any kind,*
- b) *any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure increasing the number of dwelling units in the building or structure,*
- c) *site grading, or*
- d) *the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere*

According to Section 5 of Ontario Regulation 169/06, as amended, alteration generally includes the straightening, diverting or interfering in any way the existing channel of a river, creek, stream or watercourse, or the changing or interfering in any way with a wetland.

To determine where the SVCA's areas of interest are located associated with our Regulation on the properties, please refer to the SVCA's online mapping program, available via the SVCA's website at <http://eprweb.svca.on.ca>. Should you require assistance, please contact our office directly.

Permission for Development or Alteration

If development or alteration including construction, reconstruction, conversion, grading, filling or excavation is proposed within the Approximate Screening Area/Approximate Regulated Area associated with our Regulation on the property, the SVCA should be contacted, as permission may be required.

SVCA Permit 18-001 was issued January 4, 2018 for the installation of a stormwater management facility, installation of a culvert, and related excavation, filling and grading on the property. However, based on the plan, *Conn Commercial Development* plotted November 8, 2017, submitted with the application, the proposed covering of the loading dock is not within the SVCA Regulated Area and will not require a Permit from the SVCA.

Township of Southgate
A2-19 (Misty Meadows Market Inc.)
October 15, 2019
Page 3 of 3

Conclusion

All of the plan review functions listed in the Agreement have been assessed with respect to this development proposal. The proposed minor variance is acceptable to SVCA staff. We trust you find this information helpful. Should questions arise, please do not hesitate to contact this office.

Sincerely,



Michael Oberle
Environmental Planning Technician
Saugeen Conservation

MO/

cc: Lester B. Wideman (owner/applicant) via regular mail
Barbara Dobreen, Authority Member, SVCA (via email)

October 15th, 2019

Joanne Hyde, Clerk
Township of Southgate
185667 Grey County Road 9
Dundalk, Ontario
N0C 1B0

*Sent via E-mail

**RE: Minor Variance Application A2-19
Lot 29, Concession 4
Township of Southgate
Owner: Misty Meadows**

Dear Ms. Hyde,

This correspondence is in response to the above noted application. We have had an opportunity to review the application in relation to the Provincial Policy Statement (PPS) and the County of Grey Official Plan (OP), Recolour Grey. We offer the following comments.

The purpose of the subject application is to consider an application for minor variance to permit an increase in the building size as a result of closing in a covered loading dock. The proposal requires relief from Section 33-377 (c), of the by-law which provides for a maximum building size of 915 m². Approval of this application would provide relief from the by-law to permit the existing covered loading dock to be enclosed. The resulting increase in building size would be 96 m².

Schedule A of the OP designates the subject lands as 'Rural'. Section 5.4.1 of Recolour Grey states,

- 1) The Rural land use type on Schedule A shall permit all uses permitted in Section 5.2.1 of this Plan (the Agricultural land use type).

Further, Section 5.2.2 of Recolour Grey states the On-farm Diversified Use size criteria. The table states that in a property that is in the Rural designation and is less than 20 hectares, the On-Farm diversified use maximum size can be,

The lesser of;

- 2% of the total size of the property, or
- a maximum combined area of the use of 2,000 square metres

While the purposed development exceeds the allowed maximum size requirements for an On-Farm Diversified use on this size of a property, County planning staff recognize the applicant is only looking to add a covering over the pre-existing loading dock area. No new buildings are being constructed and no use changes will be occurring with the increase. There will be minimal to no impact to the surrounding area; therefore, County planning staff have no concerns.

Schedule A indicates that there are 'Hazard Lands' on the subject property. Section 7.2 states,

2) Permitted uses in the *Hazard Lands land use type* are forestry and uses connected with the conservation of water, soil, wildlife and other natural resources. Other uses also permitted are agriculture, passive public parks, public *utilities* and *resource based recreational uses*. The aforementioned uses will only be permitted where site conditions are suitable and where the relevant hazard impacts have been reviewed.

County planning staff have no concerns as the proposed development already exists and the dock cover will have minimal impact to the Hazard Lands.

Transportation Services has reviewed the above noted application and our setback policy is 75 feet from the center of the road. The County has no concerns if the proposed encloser does not encroach closer to the road then the existing structure. If it does, the proponent is required to request an exemption to the Setback Policy in writing from the Director of Transportation.

Provided that County Transportation Services requirements are addressed, County planning staff have no further concerns with the subject application.

The County requests notice of any decision rendered with respect to this application.

If you wish to discuss this matter further, please do not hesitate to contact me.

Yours truly,



Hiba Hussain
Planner
(519) 372-0219 ext. 1233

hiba.hussain@grey.ca
www.grey.ca

Township of Southgate
Administration Office
185667 Grey Road 9, RR 1
Dundalk, ON N0C 1B0



Phone: 519-923-2110
Toll Free: 1-888-560-6607
Fax: 519-923-9262
Web: www.southgate.ca

Staff Report PL2019-065

Title of Report: PL2019-065-A2-19- Misty Meadows Market
Department: Clerks
Branch: Planning Services
Council Date: October 23, 2019

Recommendation:

Be it resolved that the Committee of Adjustment receive Staff Report PL2019-065 for information; and

That the Minor Variance be approved.

Property Location: Concession 4 Pt lot 29 RP 16R10869 Parts 1,3 and 4 geographic Township of Egremont, Township of Southgate.



APPLICATION BRIEF

The purpose of the minor variance for the above noted lands is to provide relief from section 33.377(c) which provides for a maximum building size of 915m². The Approval of this application will permit the existing covered loading dock to be enclosed which would increase the building size by 96m².

Comments from Public and Agencies

The SVCA has reviewed the minor variance request and has no concerns with application and finds the proposal to be acceptable to the SVCA.

The County of Grey indicated that provided the County Transportation Services requirements are addressed, County planning staff have no further concerns with the subject application.

The Township Building Department indicates that they have no concerns. The amendment to the building will not change the site footprint or the Ontario Building Code requirements which have been met by previous permit.

The Historic Saugeen Metis have no objection to the proposed development. Township Public Works have no concerns. Highway 89 is MTO jurisdiction and Grey County Road 14 is Grey County jurisdiction.

Hydro One has no comments or concerns at this time.

Applications for a variance to the Zoning By-law must be consistent with the Provincial Policy Statement and satisfy Section 45 (1) of the Planning Act.

Provincial Policy Statement (PPS)

The PPS provides guidance for comprehensive planning decisions at the provincial, county and local levels but does not address specific development provisions at the local level. The intent of the PPS as it applies to the Township of Southgate is to encourage growth and development that is suitable to the area. The proposed enclosing of an existing loading is adjacent to a settlement area in a rural area. In the Rural it is not uncommon for structures to be enclosed to keep located in the front yard when they are related to agriculture. Unfortunately,

The PPS does not prohibit accessory structures in a rural area or residential uses. It can therefore be broadly interpreted that the proposed variance is consistent with the Provincial Policy Statement as it does not specifically deal with variances to the by-law.

Minor Variance Test

For a successful variance, the following tests of Section 45(1) of the Planning Act must all be satisfied:

1. The variance must be minor in nature
The Misty Meadows market building and covered dock are existing. The addition of permanent walls to the dock area will not increase the overall footprint of the use. It is common for loading docks to be enclosed for security and weather reasons. In staff's opinion the additional of walls to the already roofed dock is minor in nature.

2. It must be desirable for the appropriate development or use of the land, building or structure

The use of the subject lands is a market garden which includes the loading dock. The use of the land and structure will not change. It will simply be enclosed to protect deliveries from the elements better as well as for security reasons for storing the product unloaded off of trucks.

The application is considered appropriate development on the subject lands.

3. It must maintain the general intent and purpose of the Official Plan
As per the County of Grey Comments above, the New County Official Plan permits this type of development and the proposed minor variance conforms to the County Official Plan.

The Township official Plan was amended with amendment No 17 in 2017. The amendment indicates that the maximum building size shall not exceed 915m² and shall be considered a small scale commercial use. From a technical point of view, it is clear that the building can not be enlarged any further as it is already at its limit. However, the intent of this policy was to limit any expansion of the use on the subject property. From this perspective the Dock will still be used as a loading dock, it will simply be enclosed from the elements.

So while it may not technically meet the letter of the Official Plan amendment it meets the intent of the amendment by not enlarging the use and keeping the footprint of the use the same.

It is staff's opinion that the proposal meets the intent of the Township Official Plan Amendment.

4. It must maintain the general intent and purpose of the zoning by-law
The subject lands are zoned 'C2-377' in the Township of Southgate Zoning By-law. This amendment like the Official Plan indicates that the maximum building size is to be 915m². As with the Official Plan this was to limit the expansion of the use. To enclose an existing loading dock from the elements will not change the use but rather improve its function. It is therefore staff's opinion that the use is not expanding and therefore the proposed minor expansion to the building area meets the intent of the zoning by-law.

SUMMARY

This application to vary Section 33.377 (c) of the Comprehensive Zoning By-law to permit an existing loading dock to be enclosed and therefore be counted in the building size is minor in nature. The addition of 96m² does not change the intended use of the Dock and therefore in staff's opinion the proposed minor variance passes

the four tests of a minor variance as required by the *Planning Act*. It is therefore recommended that the minor variance be approved.

Respectfully Submitted,

Municipal Planner: Original Signed By
Clinton Stredwick, BES, MCIP, RPP



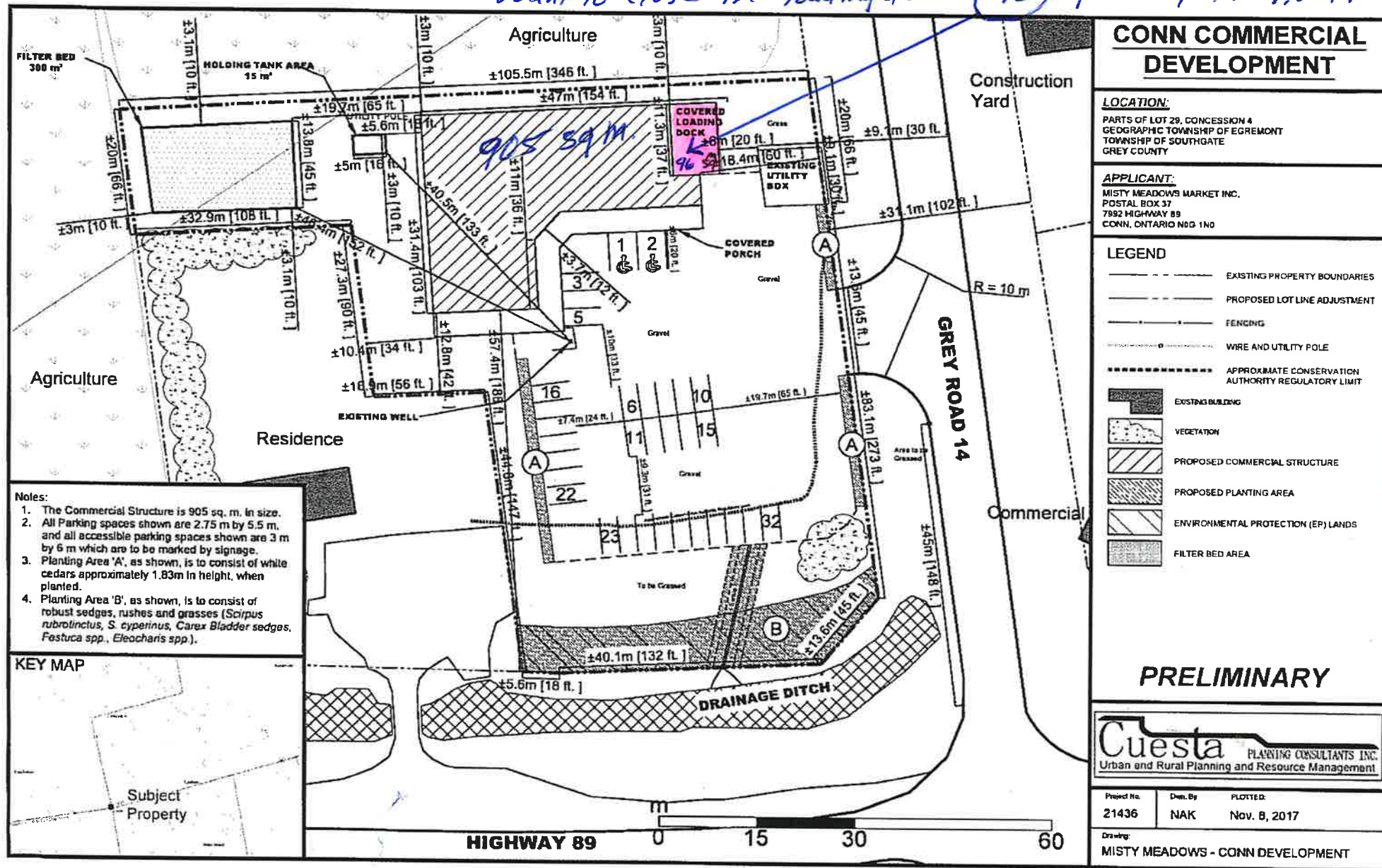
Dept. Head: Original Signed By
Joanne Hyde, Clerk

CAO Approval: Original Signed By
Dave Milliner, CAO

Attachments:

1. Sketch of requested variance

Existing building is 905 sq.m.
 Want to close in loading dock. 96 sq.m. Total 1,001.



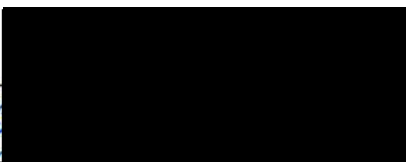


Township of Southgate

Conference, Workshop/Seminar & Training Policy #2

Council and Staff Education Evaluation Report Conference, Training, Seminars & Professional Development/Self-Study

Participant's Name: Clinton Stredwick

Course/Workshop/Conference: <u>OACA</u>	Overall Evaluation: Excellent Good <u>Average</u> Poor
Association /Institution Provider: <u>OACA</u>	Name of Instructor: <u>multiple</u>
Dates of Attended: (if online, indicate online) <u>Oct. 4, 2019</u>	
Purpose of Attending: <u>To learn and review process changes for COA as a result of new legislation.</u>	
Please summarize the contents and the main points of the course: (Attach additional pages if necessary) <u>There was a workshop on jurisdiction and procedural fairness which was good - see attached</u> <u>There was an excellent workshop on Accountability, codes of Conduct and pecuniary interests attached</u> <u>There was a good workshop which summarized the changes to the various Acts from Bill 108</u> <u>There was a good workshop on the C.A.'s role in Development. See Attached</u>	
Will you use this information in your role? If yes, explain how: <u>The information gained will assist me in providing sound planning advise to applicants and the Committee</u>	
Do you recommend that other Council Members/Staff attend this course? If so, who and why: <u>Other Committee members should attend this conference.</u>	
Should similar course material be presented in house? If yes, by whom? <u>no</u>	
Signature: 	Date: <u>Oct. 15, 2019</u>



Bill 108: *More Homes, More Choices Act, 2019*

AIRD BERLIS

This presentation may contain general comments on legal issues of concern to organizations and individuals. These comments are not intended to be, nor should they be construed as, legal advice. Please consult a legal professional on the particular issues that concern you.

Overview

- introduction
- key amendments to *Planning Act* and *LPAT Act, 2017*
- *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019*
- ongoing review of Provincial Policy Statement
- transition provisions
- conclusions

Bill 139: Big News in 2017/2018

- *Building Better Communities and Conserving Watersheds Act, 2017* received Royal Assent on December 12, 2017
- renamed and reconstituted the Ontario Municipal Board as the Local Planning Appeal Tribunal (“LPAT” or “Tribunal”)
- made a number of significant changes to the *Planning Act* and land use planning approval process, including:
 - establishing a new consistency/conformity test for OP, OPA, Zoning By-law, ZBA, Plan of Subdivision
 - creating a new two-step appeal process for OP, OPA, Zoning By-law, ZBA, Plan of Subdivision
 - lengthening the appeal period for private appeals based on an approval authority’s failure to make a decision
 - preventing appeals where the Minister of Municipal Affairs was the approval authority of an OP or OPA
- process largely unchanged for appeals of decisions on minor variance and consent

Change in Government – June 7, 2018



Bill 108: *More Homes, More Choices Act, 2019*

- *More Homes, More Choices Act, 2019* received Royal Assent on June 6, 2019
- amends key legislation in the land use planning regime in Ontario, including:
 - *Planning Act*
 - *Local Planning Appeal Tribunal Act, 2017*
 - *Development Charges Act, 1997*
 - *Ontario Heritage Act, 2006*
- repeals many (but not all) of the amendments introduced through Bill 139 (the *Building Better Communities and Conserving Watersheds Act, 2017*) in 2017
- majority of amendments came into effect on September 3, 2019, but a number of amendments will not come into effect until a later date
- stated objective to increase affordable housing in the province

Key Amendments: Returning to pre-Bill 139 Regime

- grounds for appeal
 - no more requirement that appeals be exclusively on the basis that approval of the instrument is inconsistent with the Provincial Policy Statement, fails to conform or conflicts with a provincial plan or fails to conform with an Official Plan
 - appellants can still raise these grounds of appeal (and provide supporting reasons), but are no longer limited to those grounds

Key Amendments: Returning to pre-Bill 139 Regime

- no two-step appeal process
 - return to single hearing where the LPAT would have the power to make a final determination approving, refusing to approve or modifying all or part of the instrument under appeal

Key Amendments: Returning to pre-Bill 139 Regime

- return of the former motion to dismiss “test” that:
 - the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the plan or part of the plan that is the subject of the appeal could be approved or refused by the Tribunal...

(Planning Act, ss. 17(45), 34(25), 51(17))

What's New: Community Benefits Charge

- the existing Section 37 density bonusing provisions will be replaced with a new "community benefits charge" that applies to an approval of:
 - zoning by-law or zoning by-law amendment,
 - plan of subdivision,
 - minor variance,
 - plan of condominium
 - building permit
- where a municipality has passed a community benefits charge by-law, the community benefits charge may replace the parkland dedication provisions in some cases
- requires municipalities to prepare a community benefits charge strategy, identifying the facilities, services and matters to be funded with community benefits charges
- details still the subject of ongoing consultation

(Planning Act, s. 37)

What's New: Shorter Timelines for Appeals of Non-Decision

- the time-frames for municipal processing of development applications (before a right to appeal arose), which had been extended in Bill 139, are now shorter than the pre-Bill 139 *Planning Act*:

Instrument	Pre-Bill 139	Bill 139	Bill 108
Official Plan/ Official Plan Amendment	180 days	210 days	120 days
Zoning By-law Amendment	120 days	150 days	90 days
Draft Plan of Subdivision	180 days	180 days	120 days

(*Planning Act*, ss. 17(40), 34(11), 50(34))

What's New: Power to Limit Examination or Cross-examination of Witnesses

- LPAT has the power to limit any examination or cross-examination of a witness if the Tribunal is satisfied that:
 - all matters relevant to the issues in the proceeding have been fully or fairly disclosed, or
 - in any other circumstances the Tribunal considers fair and appropriate

(LPAT Act, 2017, s. 33(2.1))

What's New: Restriction on third party appeals of plans of subdivision

- only the applicant, municipality, Minister, public body or prescribed list of persons have the right to appeal an approval authority's decision on a draft plan or subdivision, lapsing provision or any condition of draft plan approval
- third parties no longer have the right to appeal a draft plan approval, draft plan conditions or changed draft plan conditions to the LPAT
- affects property owners abutting or adjacent to draft plans of subdivision

(Planning Act, ss. 51(39), 51(43) and 51(48))

What's New: Role of Participants

- participants may only file written submissions and are no longer provided the opportunity to make oral submissions to the Tribunal

(LPAT Act, 2017, s. 33.2)

What's New: Additional Residential Unit Policies

- official plans are required to permit additional residential units by allowing two residential units in a house and a residential unit in a building or structure ancillary to a house

(Planning Act, s. 16(3))

What Remains the Same

- mandatory Case Management Conferences ("CMC")
- two-year freeze on secondary plan amendments, zoning by-law amendments and minor variances
- only the Minister can appeal an interim control by-law
- no appeals of Minister's decision if the Minister is the approval authority of an official plan or official plan amendment, including in the case of municipal comprehensive reviews and official plan review

What's New: No More Stated Cases

- LPAT no longer has the authority to pose a legal question in writing for the opinion of the Divisional Court

(see for example the Rail Deck Park case - *Canadian National Railway Company v Toronto (City)*)

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019

- introduced on May 2, 2019
- adjusts minimum density and intensification targets for a number of single- and upper-tier municipalities
- permits municipalities to adjust settlement area boundaries outside of a municipal comprehensive review as long as certain criteria are met
- directs municipalities to establish development criteria when employment lands proposed to be redeveloped are outside of a designated employment area
- definition of Major Transit Station Areas broadened to include areas within an approximately 500 to 800 metre radius of a transit station
- introduces *Provincially Significant Employment Zones*

Provincial Policy Statement

- anticipated revisions to the Provincial Policy Statement forthcoming
- draft revisions circulated in July 2019
- comment period closes October 21st

Transition Highlights – *Planning Act*

- general rule: everything is transitioned into the new Bill 108 regime unless there is a specific section in the Regulation that provides otherwise
- in the case of an existing appeal of an OP, OPA, ZB or ZBA:
 - where the appeal was already transitioned from the application of the Bill 139 regime (i.e. pre-Dec. 2017), the appeal will continue and be disposed of under the pre-Bill 139 regime
 - where the appeal is commenced after September 3, 2019, the appeal will be continued and disposed of in accordance with the Bill 108 regime
 - where the Bill 139 regime applied to an existing matter or proceeding, the question becomes whether the LPAT had yet scheduled a hearing on the merits of the appeal:
 - if a hearing of the merits has been scheduled, the matter will remain within and be disposed of in accordance with the Bill 139 regime
 - if a hearing of the merits has not been scheduled, the matter will be transitioned into the new Bill 108 regime.

Transition Highlights – *LPAT Act*

- O. Reg. 102/18 - revoked
 - previously prescribed timelines for the LPAT to render its decisions (6 months – 1 year)
 - previously prescribed time limit on oral submissions
 - previously prescribed restrictions on calling evidence and cross-examination
- LPAT Rules of Practice and Procedure
 - new as of September 3, 2019
 - Part II procedures (Enhanced Municipal Records, Appeal Records, Case Synopses) only apply to matters that remain within the Bill 139 regime
 - procedurally, Rules are largely back to pre-Bill 139 (i.e. OMB)

Bill 108 Revisions Not Yet Proclaimed in Force

- density bonus by-laws (s. 37) and parkland dedication (s. 42) still in force...for now
- the new Community Benefits Charges by-law regime and s. 37 transition rules not yet in force
- changes to the *Development Charges Act, 1997* and the *Ontario Heritage Act* are the subject of ongoing additional stakeholder consultation, with Proclamation expected early next year

Conclusions

- more flexibility for appellants
- repeal of the two-step appeal process
- return to a single hearing
- restrictions on third party appeals of plans of subdivision
- restrictions on participation of non parties in LPAT proceedings
- reduction in decision timelines for approval authorities, but no more time limit for LPAT decisions
- amendments to Growth Plan and anticipated amendments to PPS
- ongoing consultation regarding amendments to *Development Charges Act, 1997*, section 37 bonusing, parkland dedication and community benefits charge
- return (for the most part) to pre-Bill 139 procedures

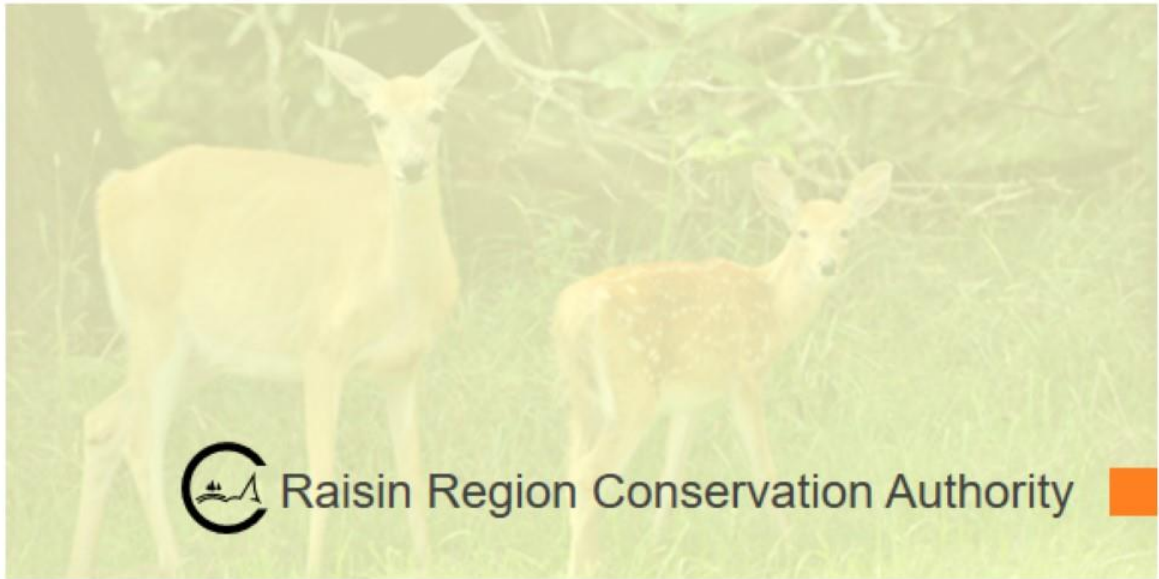


AIRD BERLIS

Meaghan Barrett

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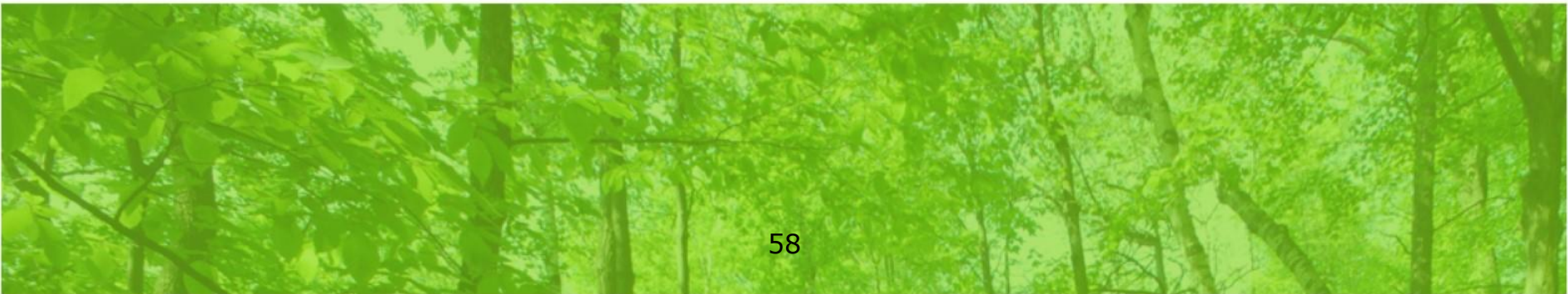


Raisin Region Conservation Authority



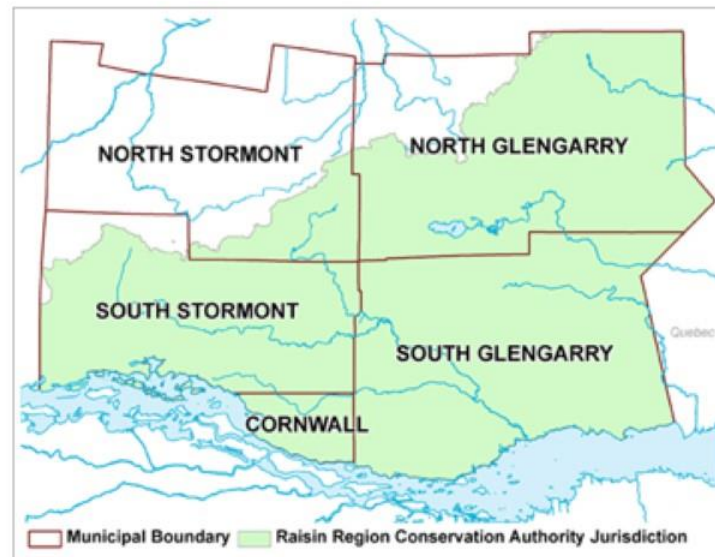
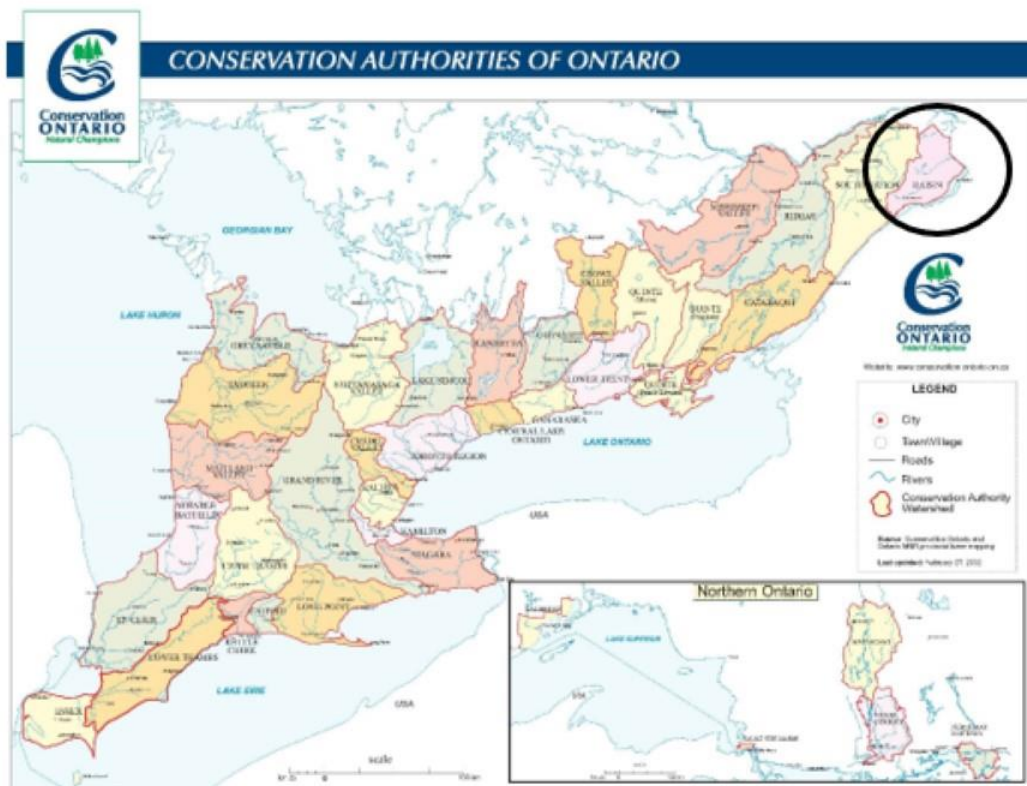
CA's Role in Development Review, Natural Hazards

OACA Workshop





RRCA Jurisdiction



Jurisdiction:
1,680 km²



Protecting People and Property – Marine Structure Conversions



- Minor Variances for boathouses
- Size and/or height increases



Protecting People and Property – St. Lawrence River System 2017



- The 1:100-year flood line, plus an allowance for wave uprush and other water related hazards

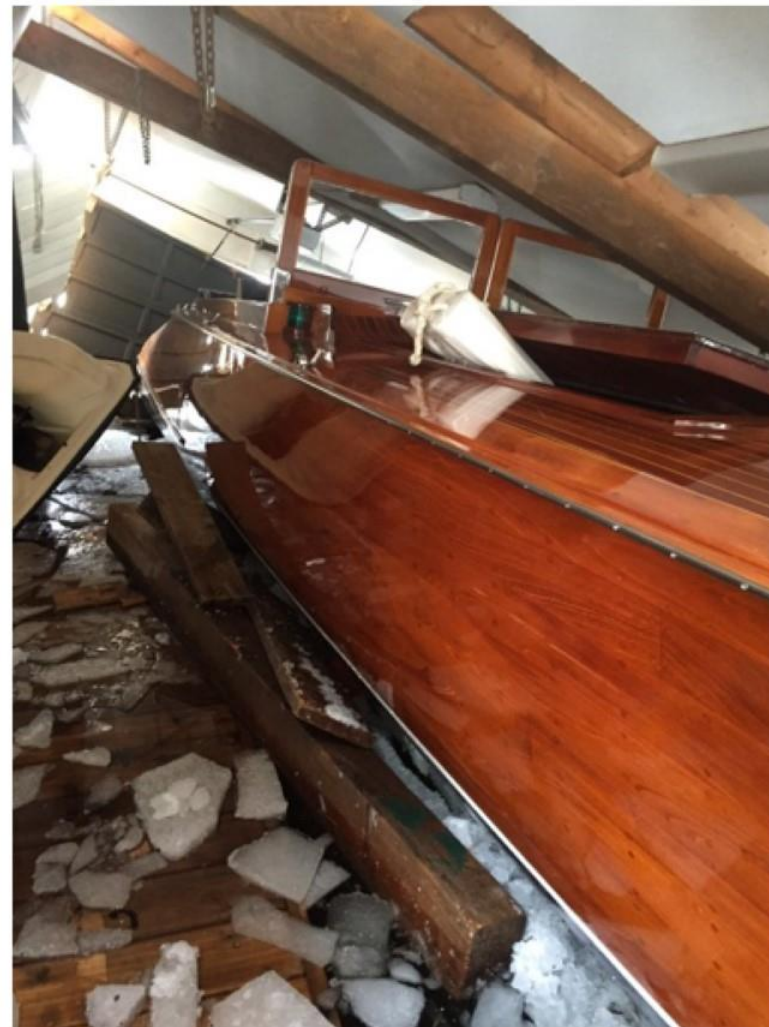


Protecting People and Property



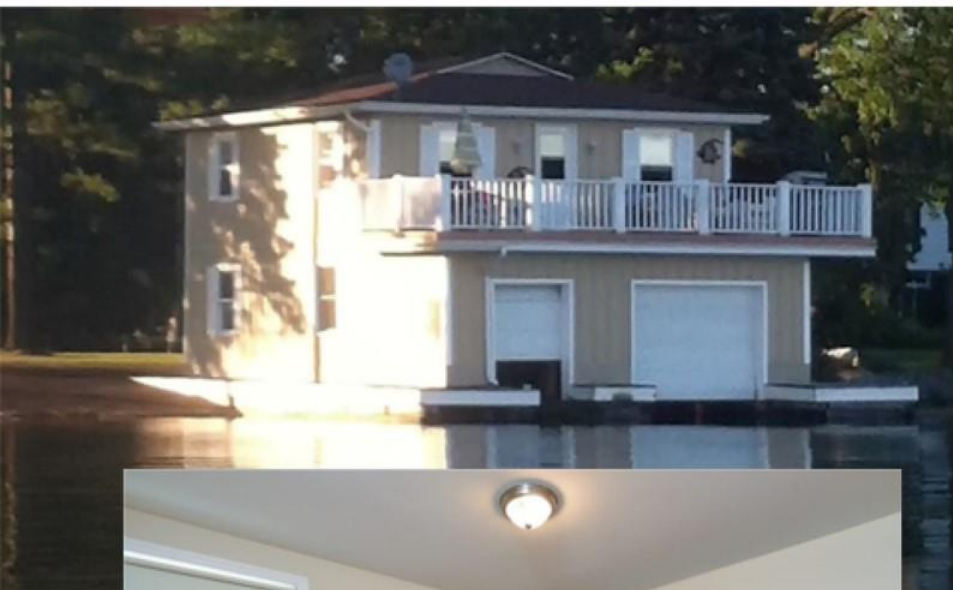


Protecting People and Property - Dangers Within Natural Hazard Areas





Protecting People and Property – Historical Structures & Conversions



For Sale/Rent Description

Stunning Waterfront Lot by the St-Laurence River in sought after Municipality with the luxury of owning your very own double door Boat House. The boat house also consists of an upper level 2-bedroom guest house. Do not miss out on this incredible opportunity.



Protecting People and Property – Historical Seasonal Dwelling



- CAs are working with local municipalities to improve or eliminate existing hazard situations when approached with a planning application such as a minor variance or a consent application.



CO Comments on Bill 108 (Schedule 12)

“Support a Range & Mix of Housing Options & Boost Housing Supply



*2 (1) Subsection 16 (3) of the Act is repealed and the following substituted:
Additional residential unit policies (3) An official plan shall contain policies that authorize the use of additional residential units by authorizing, (a) the use of two residential units in a detached house, semi-detached house or rowhouse; and (b) the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse.*



Protecting People and Property – Flooding Hazards, Severances, & MVs





Protecting People and Property – Flooding Hazards, Severances, & MV's



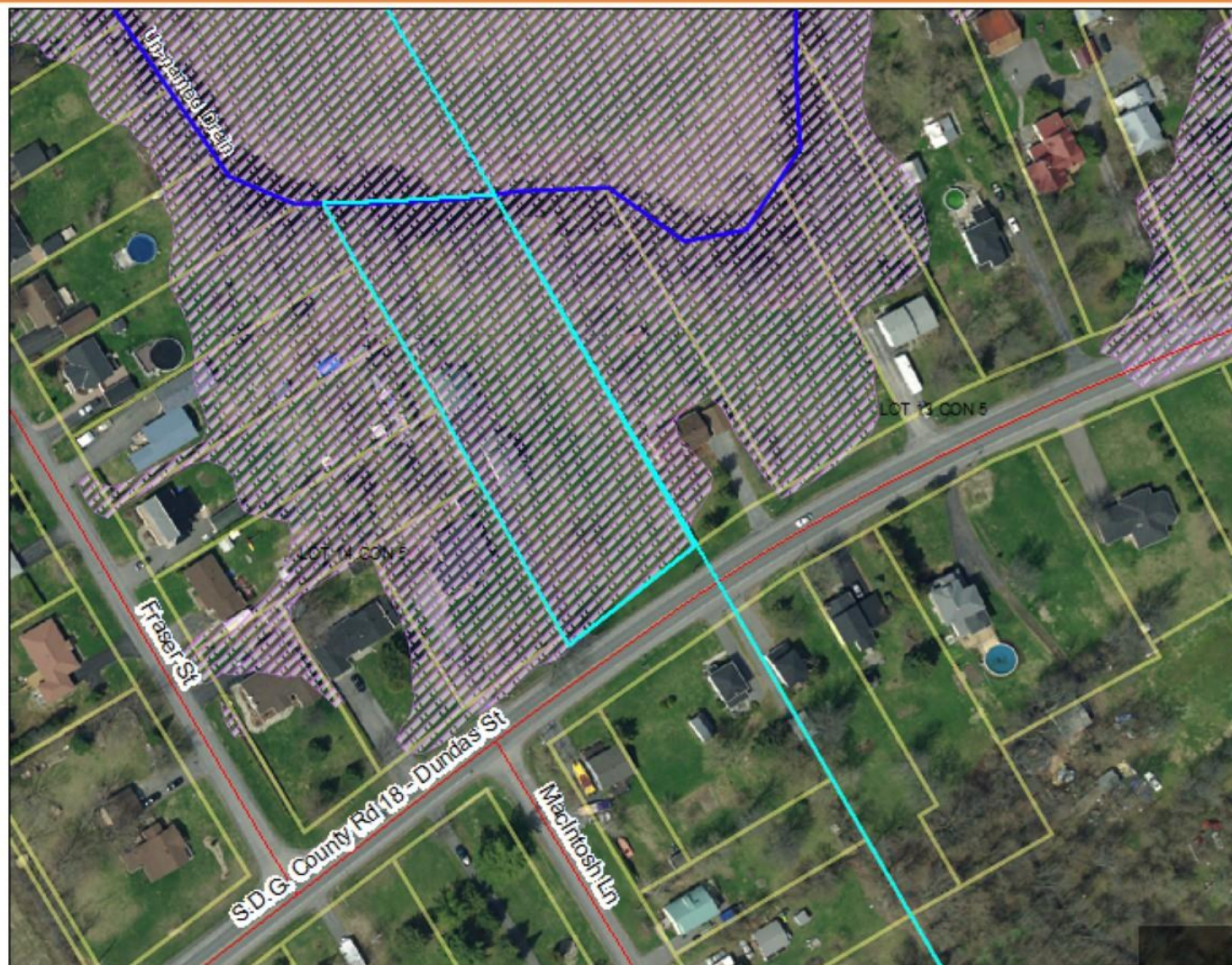


Protecting People and Property – Flooding Hazards, Severances, & MV's





Protecting People and Property – Flooding Hazards, Severances, & MV's





Protecting People and Property – Access/Egress Considerations





Protecting People and Property – Access/Egress Considerations





Protecting People and Property – Organic Soils & Consent Applications

Legend

- SDG_ORN_033115
- Railway Segment
- all_streams2015
- DFO_CLASS**
 - B
 - C
 - D
 - E
 - F
 - NR
 - T
- Organics
- floodplains
- Ansi
- Woodlands
- SIGNIF**
 - Evaluated-Other
 - Evaluated-Provincial
 - Not evaluated per OWES
 - SDG_Parcel_sel_withMPACData_1018





Protecting People and Property – Organic Soils & Consent Applications





Minor Variance Proposals with Reduced Setbacks





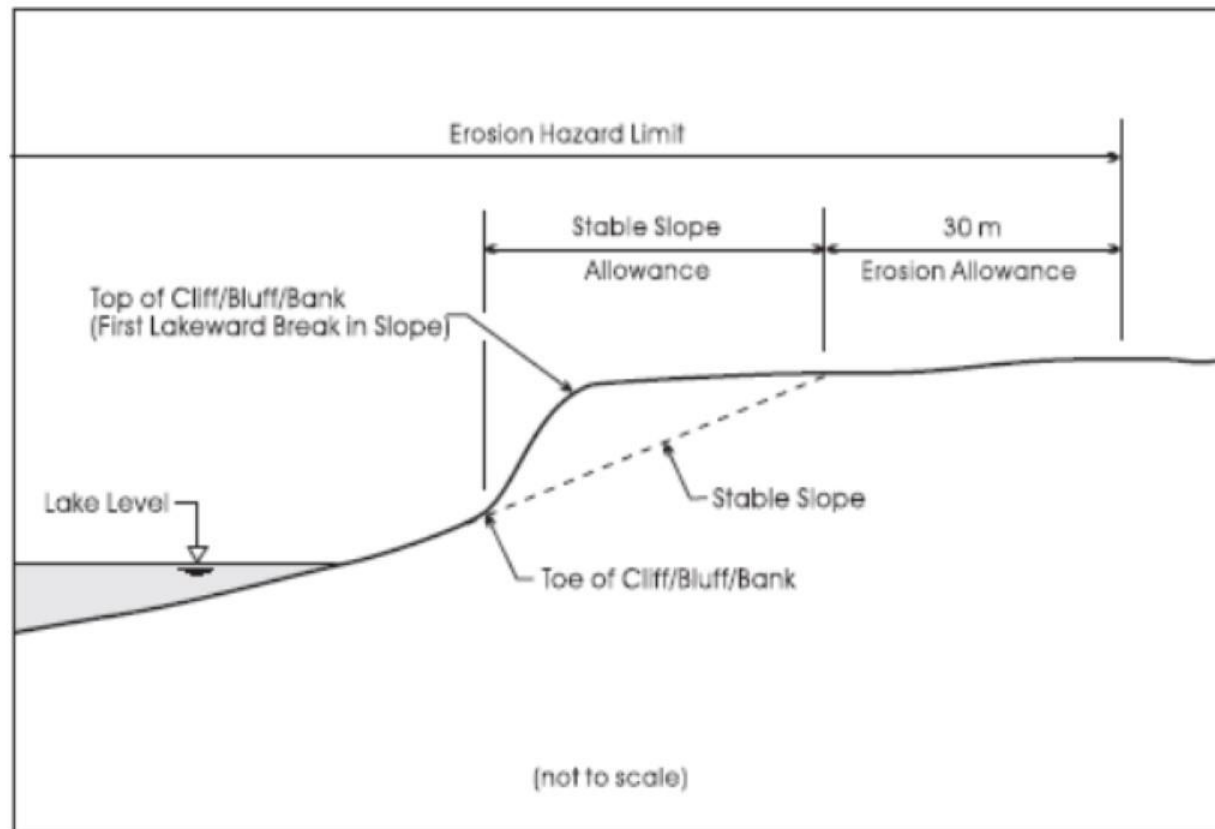
What does a Watershed Planner see?





Protecting People and Property – Erosion Hazards

Figure 4.16: Erosion Hazard Limit: Stable Slope Allowance plus 30 metre Erosion Allowance



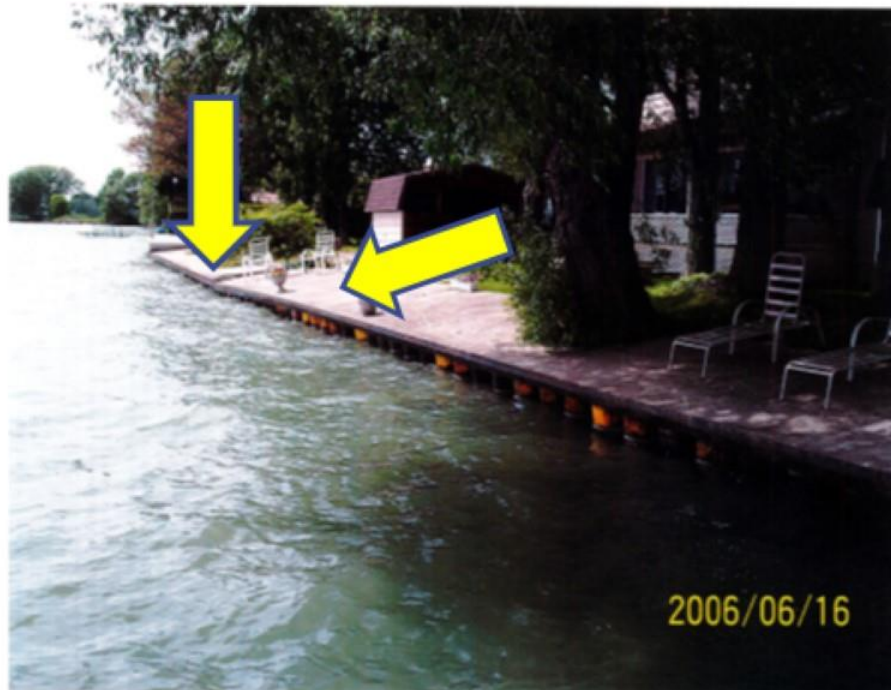


Protecting People and Property – Man-Made Structures vs. Mother Nature



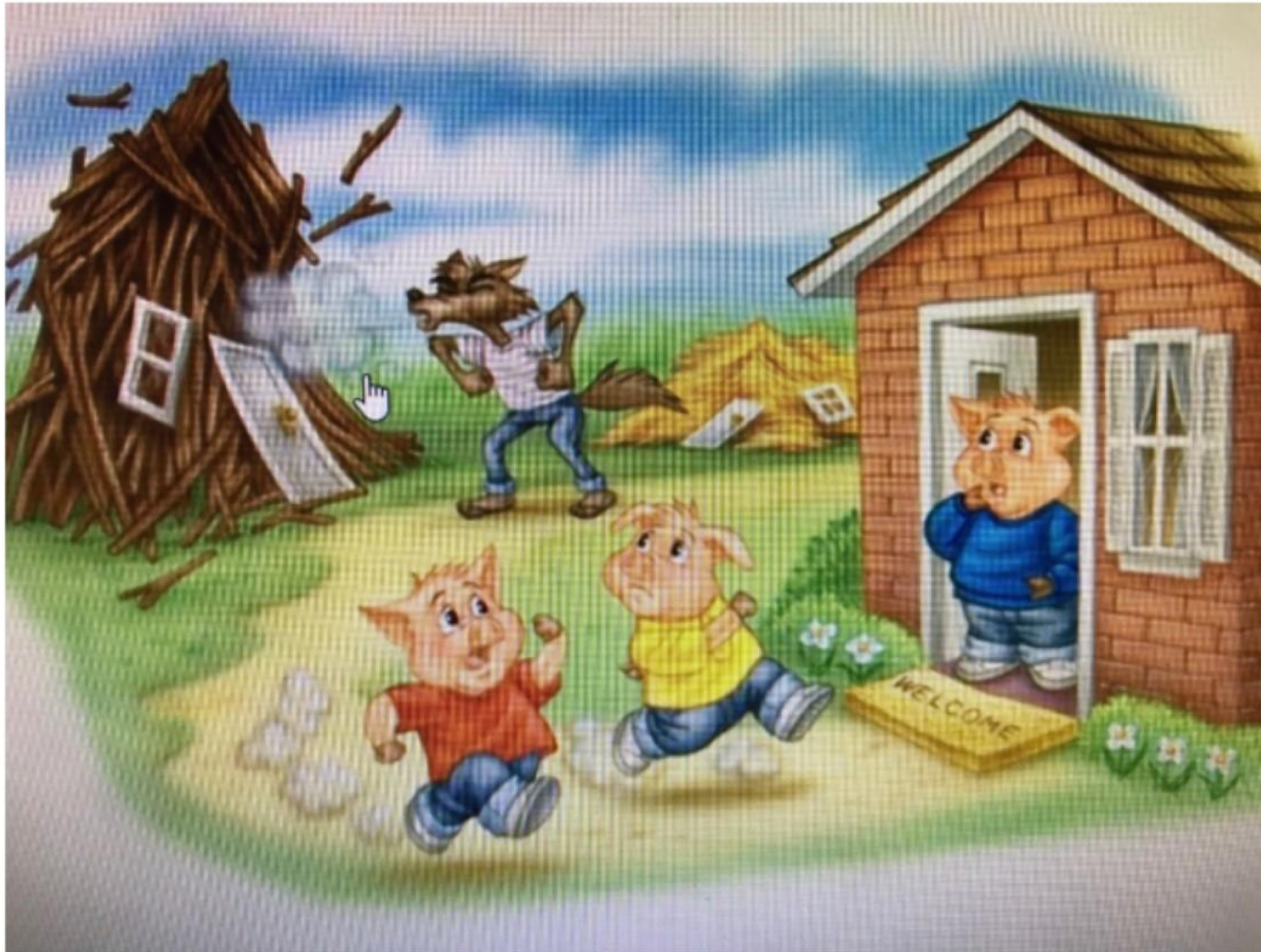


Reduced Setback, Minor Addition, Access/Egress?





Protecting People and Property – Preparing for the Future





Working with our Municipal Partners to Ensure Sound Development





■ It's a Collaborative Effort





Thank you



Raisin Region

Conservation Authority

Kimberley MacDonald

Watershed Planner

kim.macdonald@rrca.on.ca

(613) 938-3611 ext. 242



PRINCIPLES OF JURISDICTION, RULE OF LAW AND PROCEDURAL FAIRNESS

Athan Hadjis

Senior Counsel, Federal Public Sector Labour Relations
and Employment Board Secretariat

Director, *Council of Canadian Administrative Tribunals*
(CCAT)– *Interactive Course on Adjudication*



Council of Canadian Administrative Tribunals
Conseil des tribunaux administratifs canadiens

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Fall 2019 Session - Interactive Course on Adjudication

Agency, Board and Tribunal chairs and members, take note!

CCAT offers a practical five-day course in adjudication **for members of agencies, boards and tribunals, as well as the senior staff and counsel from these bodies**. This course provides essential tools for any new member and serves as an excellent refresher for more experienced members. Under the expert guidance of serving members and counsel, participants discuss - and put into action - current best practices in critical areas: basic principles of administrative justice, how to run a fair hearing, how to deal with preliminary matters, rules of evidence for administrative tribunals, managing hearing time, resolving ethical conundrums, dealing with difficult witnesses, providing an appropriate environment for unrepresented parties, making decisions and numerous other matters. This highly participatory course includes a simulated live hearing and provides an excellent background for dealing with "paper hearings" as well.

Participants will benefit from:

- a week-long immersion
- small class size
- training by current tribunal members and counsel
- conducting a simulated hearing
- networking opportunities with colleagues
- an exceptional professional experience all for an extremely reasonable fee!

This comprehensive course, rich in content, offers a judicious balance of theory and practice. It had its beginnings in 1992, when the first version was developed and offered by CCAT's National Institute for Administrative Tribunals. In 1995, HFATF decided to deliver this course through interactive, hands-on training by staff and members. During the intervening years, the training was broadened, refined and polished, and it has been serving the needs of federal agencies, boards and tribunals for two decades.

Overview

- The role of tribunals in government.
- The meaning of “jurisdiction” – Rule of Law
- The use of statutory interpretation in determining jurisdiction.
- What is the duty of fairness?
- When is the duty of fairness owed?
- Principles.
- Application.

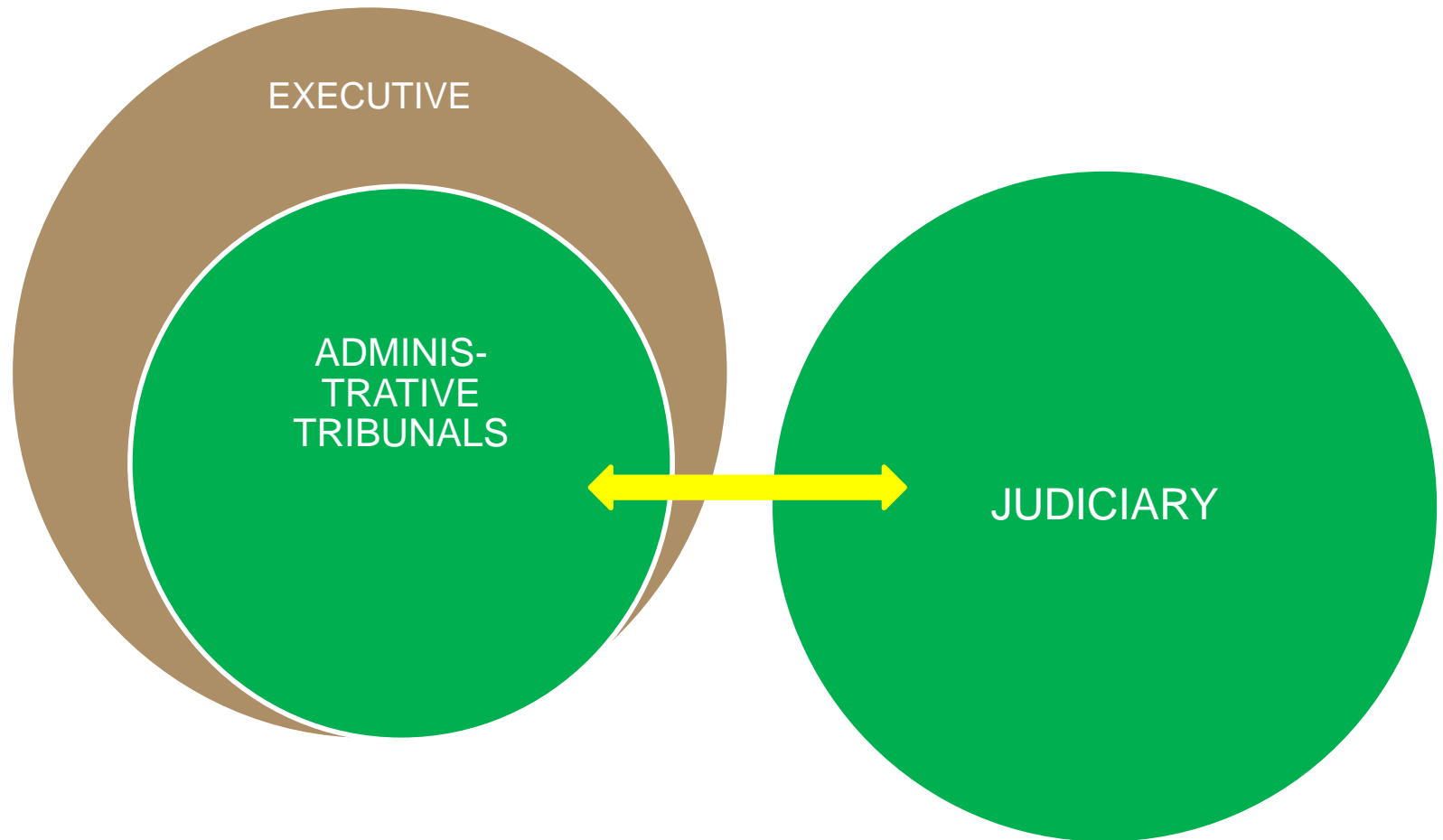
Branches of Government

LEGISLATIVE
Enacts statutes

EXECUTIVE
Applies the statutes passed by
legislative branch.
Carries out programs mandated
by government of the day

JUDICIAL (COURTS)
Federal, provincial, and superior
courts
Resolve public and private
disputes by interpreting
statutory and common laws

Distinct yet still similar



Courts



Admin tribunals



Reasons for having administrative tribunals

- **Specialized forums for decision-making and dispute resolution of complex or technical matters, considered on a case by case basis, separate from the day-to-day operations of government ministries.**
- **To avoid adding routine administrative matters to the already heavy caseload of the courts**
- **To create less formal, more expeditious and less costly ways of dealing with matters that require a formal decision**

Courts and Administrative Tribunals

Courts	Administrative Tribunals
<ul style="list-style-type: none">• Judicial branch.• Authority to govern their operations by virtue of their status as courts.• Use formal rules of evidence in their hearing processes.• Formality in their processes with complex rules.• Apply procedures that must be followed, making the court system difficult for the average person to use without the assistance of a lawyer.• <i>Stare decisis</i>• Judicial comity	<ul style="list-style-type: none">• Executive branch.• Must find the authority to govern their operations within their governing statute. Tribunals have only those powers that are set out in their statute or that are reasonably necessary to carry out those powers.• Not bound by the formal rules of evidence used in the court system. Evidence must be relevant and reliable, in keeping with procedural fairness principles.• Coherence

- Administrative tribunals, boards and agencies:
 - must maintain complete neutrality;
 - operate independently (“firewalls”) from government departments and from the day-to-day operations of line ministries;
 - are distinct from government departments;
 - are also distinct from other arm’s length public bodies such as Crown corporations, policy advisory bodies, community boards and grant funding agencies.
 - have some of the attributes of courts, particularly if they are quasi-judicial in scope.
 - are creatures of statute and often considered to have expertise in the interpretation of their statutes. This means that a tribunal is only permitted to do that which its statute asks and allows it to do.

A myriad of statutory schemes: Various Types of Tribunals



Single-member panel (e.g., landlord-tenant board, human rights tribunal, ...)

Various Types of Tribunals



Two-member panel (e.g. Veterans Review Appeal Board)

Various Types of Tribunals



Two-member panel (video hearing)
(e.g. Veterans Review Appeal Board)

Various Types of Tribunals



Three-member panel (e.g., Canadian Transportation Agency)

Various types of tribunals in action



Three-member panel
(e.g., Canadian Human Rights Tribunal Pay Equity hearings)

Various Types of Tribunals



Canadian Radio-
television and
Telecommunications
Commission

Multi-member panels

Canadian
Nuclear Safety
Commission



Various Types of Tribunals



Tribunals that do not hold oral hearings (i.e., which conduct paper hearings)

Various Types of Tribunals



In fact, any decision-making process that may affect a person's rights could be subject to the principles that apply to all administrative decision-makers

Jurisdiction

- The essence of a question of jurisdiction relates to whether or not a tribunal is permitted to do what it is being asked to do.
- RULE OF LAW
- Statutory interpretation is required.
- Principles of statutory interpretation.

Jurisdiction: Statutory interpretation

- The most commonly applied principle of legislative interpretation is that today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.

Determining a Tribunal's Jurisdiction

- Empowering statute
- Interpretation Act
- The Constitution Act
- Legislative History
- Text of Statute in the other official language
- Headings within statute
- Presumptions in criminal or regulatory statutes
- Presumption against retroactivity
- Presumption against redundancy
- Presumption against triviality

Example:

Federal *Public Service Staffing Tribunal*

The Tribunal's jurisdiction (*PSEA*):

88. (2) The mandate of the Tribunal is to consider and dispose of complaints made under subsection 65(1) and sections 74, 77 and 83.

77. (1) When the Commission has **made** or **proposed** an appointment in an internal appointment process, a person in the area of recourse referred to in subsection (2) may — in the manner and within the period provided by the Tribunal's regulations — make a complaint to the Tribunal that he or she was not appointed or proposed for appointment by reason of

(a) an abuse of authority by the Commission or the deputy head in the exercise of its or his or her authority under subsection 30(2);

(b) an abuse of authority by the Commission in choosing between an advertised and a non-advertised internal appointment process; or

(c) the failure of the Commission to assess the complainant in the official language of his or her choice as required by subsection 37(1).

Czarnecki v. Deputy Head of Service Canada, 2007 PSST 1

Complainant applied on two internal appointment processes but was eliminated from both at an early stage (failing to pass a written exam)

She filed two complaints alleging that the respondent had abused its authority in eliminating her from the processes

The complaints were filed before the processes were completed – no one had been appointed yet.

The respondent filed a motion to dismiss the complaints because the Tribunal lacked jurisdiction – the complaints were filed too early (prematurely)

The Tribunal stated at para. 18:

*As can be seen from a reading of each of the four sections referenced above, namely, subsection 65(1), and sections 74, 77 and 83, the **past tense is used to demonstrate that the action giving rise to the complaint**, the appointment or proposed appointment, has taken place. **By using the past tense, Parliament clearly indicated its intention that an appointment must have been made or proposed prior to the filing of a complaint to the Tribunal...**[G]rammatically, it only makes sense that the appointment or proposed appointment must precede the filing of a complaint.*

[19] If an employee's complaint is conditional upon an appointment or proposed appointment being made, consequently, the Tribunal does not have jurisdiction to deal with a complaint filed when there has been no appointment or proposed appointment. The Tribunal's jurisdiction requires that the complaint meets the conditions of section 77 of the PSEA.

[21] Since both complaints were filed prior to the selection process being completed and there has been no appointment or proposed appointment in either process, the Tribunal has no jurisdiction to deal with them.

[22] Both complaints are therefore dismissed.

- As Chief Justice McLaughlin stated:

The rule of law requires that all official power be exercised within the framework of the law – fairly, reasonably and in accordance with the powers duly conferred on the body exercising them. The challenge is ensuring this in the modern regulatory state.

PROCEDURAL FAIRNESS

- Natural justice and fairness must be observed at all times in the exercise by administrative tribunals of their delegated powers
- Subject to the supervision of the courts

Natural Justice/Procedural Fairness

- Aspects of fairness
 - A fluid, contextual concept.
 - Right to notice.
 - Right to know the case to be met.
 - Right to be heard.
 - Right to a fair hearing.
 - Assistance from counsel or an agent.
 - Assistance of an interpreter.
 - Reasons.

Right to reasonable notice

- Follow requirements of statute: FORM, CONTENT, DATE, etc.
- Where no requirements laid out in the statute, ensure “adequate notice”:

Should be provided to all persons with a direct interest in the decision that is being made.

Should lay out the basis of decision, time of hearing, date of hearing, location of hearing process for oral or written submissions, contact names, time within which response necessary etc.

Right to reasonable notice

Section 45, *Planning Act*, R.S.O. 1990, c. P-13

Time for hearing

- (4) The hearing on any application shall be held within thirty days after the application is received by the secretary-treasurer. R.S.O. 1990, c. P.13, s. 45 (4).

Notice of hearing

- (5) The committee, before hearing an application, shall in the manner and to the persons and public bodies and containing the information prescribed, give notice of the application. R.S.O. 1990, c. P.13, s. 45 (5); 1994, c. 23, s. 26 (1).

Hearing

- (6) The hearing of every application shall be held in public, and the committee shall hear the applicant and every other person who desires to be heard in favour of or against the application, and the committee may adjourn the hearing or reserve its decision. R.S.O. 1990, c. P.13, s. 45 (6).

***Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22**

Notice of hearing

- **6. (1)** The parties to a proceeding shall be given reasonable notice of the hearing by the tribunal. R.S.O. 1990, c. S.22, s. 6 (1).
- **Statutory authority**
- **(2)** A notice of a hearing shall include a reference to the statutory authority under which the hearing will be held.
- **Oral hearing**
- **(3)** A notice of an oral hearing shall include,
 - (a) a statement of the time, place and purpose of the hearing; and
 - (b) a statement that if the party notified does not attend at the hearing, the tribunal may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13). (...)

Effect of non-attendance at hearing after due notice

- **7. (1)** Where notice of an oral hearing has been given to a party to a proceeding in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding. R.S.O. 1990, c. S.22, s. 7; 1994, c. 27, s. 56 (14). (...)

Right to Know the Case to Meet

- What will the tribunal be considering? This will allow the parties to determine what the arguments or evidence they want to put forward.
- Allow parties to know with « sufficient precision » the issues that will be considered by the decision maker.

Right to be heard

- Right to present arguments, evidence supporting their own case.
- Right to comment on, dispute, correct or contradict anything prejudicial to their position.
- Right to have assistance in presenting case.
- Assistance in interpretation

Right to reasonable notice

- Energy regulator grants licence to natural gas processor (F Co)
- C. lived 1.5 km from F Co's facility and has concerns, which she had previously expressed at public meetings for earlier approvals from other authorities.
- When F. Co applied to regulator it mentioned C's concerns but did not provide her with notice of its application and the regulator only published a public notice. She only found out after the hearing. The regulator refused her appeal to revisit the grant of licence.
- Appeal Court: significant natural justice flaw in procedure granting licence and denying appeal without notice or affording a full hearing on either issue, particularly given the proximity of her home.

Right to Know the Case to Meet & Right to Be Heard

- MD suspended from medical staff – suspension period served – reapplied to health authority - denied
- MD was required to give names of several references and last employer, and consent to disclosure of private info
- Authority based decision on highly prejudicial info obtained from these persons. The info was not disclosed to MD. He had no opportunity to respond.
- Reviewing court said the authority should have shared this info with MD and afford him opportunity to respond before making a final decision.

» *Young v Central Health*, 2016 NLTD(G) 145

Right to Be Heard & to Know the Case

- PSLRB – grievance adjudication regarding a collective agreement clause – a prior Board decision had dealt with a similar, though not identical, clause from an earlier collective agreement. During a pre-hearing conference call, the adjudicator said that she thought the decision had some bearing on the case. She later wrote to parties asking for submissions on the decision’s applicability, suggesting that an oral hearing may be called to deal with this issue.
- After receiving the submissions, she issued a final decision saying facts not materially different and applying the “precedent” to allow the grievances.
- Court: Employer was denied procedural fairness – reasonable for employer to assume that requested submissions were to assess differences in collective agreement language. No way for employer to have anticipated that adjudicator would rule on the merits without seeking further submissions. Accordingly, the employer did not file evidence or make submissions on the merits.

» *Canada (Attorney General) v. Timson*, 2012 FC 719

Right to Know the Case to Meet & Right to Be Heard

- Professor – improper use of university equipment
- University board holds hearing – professor and university president attend
- Afterwards, during deliberations over dinner, the board called in the president to discuss the case, in the absence of professor or his counsel.
- Board decides to suspend professor
- SCC: Board made fundamental error in deliberating as they may have heard further information which affected its disposition of the issues.
- *Audi alteram partem* –hear the other side too. Professor was suspended without having an opportunity to be heard.

- *Kane v Governors of UBC*, [1980] 1 SCR 1105.

Right to a Fair Hearing – (duty to consider all relevant evidence)

- MD was alleged to have significantly overbilled Ministry of Health – panel rules that he must repay and revokes his enrolment as practitioner
- MD was overseas at time of hearing – tried to file detailed affidavit, which had not been properly sworn – panel refused to consider it, even though a proper affidavit was later filed
- Superior Ct: his professional reputation and ability to earn a living were at stake, which militated in favour of procedural patience rather than asperity in the circumstances - panel's refusal to receive his evidence was an inexcusable breach of its common law duty of procedural fairness.

- *Hefnawi v. Health Care Practitioners Special Committee for Audit Hearings*, 2016 BCSC 226

Right to a Fair Hearing – (duty to disclose all relevant information)

- A supermarket location was sold - employees were represented by union A – new owner, multi-stores all with union B – labour board ruled that union A would continue to represent employees in the supermarket
- Major issue about allowing union A to continue was whether it got along with union B – there had been antagonism in the past due to raiding – Union B led evidence and argued that there was still “bad blood”
- Board, without knowledge of parties, went to union A’s website, which said that all conflicts had been resolved – Board used this as a factor in its decision in favour of union A.
- Court of Appeal: Board’s resort to website info was breach of procedural fairness - parties had no notice it would do so and could not have anticipated it – legitimate expectations of parties was that it would confine itself to assessing evidence before it

- Saskatoon Co-operative Association Limited v SJBRWDSU, 2016 SKCA 94

Right to a Fair Hearing – (duty to hear before deciding an issue)

- M. applied for personalized licence plates (“Dr. DUI”)
- Someone complained to govt. agency about them – agency decided to revoke them the next day
- Three days later, letter to M to return them – issued in error - no further explanation – agency later spoke by phone to M who explained the plates’ meaning
- Court of Appeal: This phone conversation was not meaningful participation – there was no intent on agency’s part to consider M’s arguments – copy of complaint was not given to him – he did not know case against him – conversation was just a post-decision investigation – agency failed to respect most minimal procedural fairness requirement

- *O’Connell, as the registrar of Motor vehicles for the province of New Brunswick v. Maxwell*, 2016 NBCA 37

Reasonable Apprehension of Bias

- Parties appearing before tribunal have right to a fair and impartial hearing by an impartial decision-maker
- This right will be threatened where a member of the panel is, or appears to be, seriously predisposed on the issues or has a pecuniary or financial interest in the outcome.
- **Test: whether a reasonably informed bystander could reasonably perceive bias on the part of an adjudicator**
 - *Newfoundland Telephone Co. v. Newfoundland (Board of Commissioners of Public Utilities)*, [1992] 1 SCR 623
- **What would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude? Would they think that it is more likely than not that the decision maker, whether consciously or unconsciously, would not decide fairly?**
 - *Committee for Justice and Liberty v Canada (National Energy Board)*, [1978] 1 SCR 369

Reasonable Apprehension of Bias

- After a labour dispute at Canada Post, bill passed in Parliament to order resumption of service – provides that arbitrator will choose between parties' final offers
- Arbitrator who is appointed used to represent CP in pay equity matter for over 15 years – final judgment issued only one year before but arbitrator had left law firm 2 years earlier – arbitrator was active member and executive of governing political party until about 2 years earlier – former candidate in three elections – Facebook friend with ministers including those responsible for his appointment and for CP
- Fed Ct: *a reasonable sensible person who had thought matter through can reasonably be concerned that arbitrator who was CP's counsel for many years in a similar case, which cost large losses for CP and who also until recently engaged in party activities and maintained ties with ministers, may serve the interests of a party or government, even unknowingly.*

• *Canadian Union of Postal Workers v. Canada Post Corporation*, 2012 FC 975

Person who hears must decide

- Areas where this issue may arise:
 - Plenary meetings of a tribunal's members
 - Use of policy guidelines or policy manuals
 - Inappropriate pressure by others (members, chairperson, senior staff, ministerial staff,...)
 - Not being “there” (a member “stepping out”, becoming sick, falling asleep,...)

Person who hears must decide

- Guidelines for plenary meetings:
 - Meetings should be voluntary
 - No new evidence is introduced or considered
 - Cannot discuss the facts or merits of an individual case
 - Limited to discussions of legal and policy issues and the implications of a decision
 - A decision is not based on new grounds raised at meetings unless parties are informed and can make representation on the new grounds
-
- See *Iwa v. Consolidated-Bathurst Packaging Ltd.*, [1990] 1 SCR 282, 1990 CanLII 132
 - See also *Shuttleworth v. Ontario (Safety, Licensing Appeals and Standards Tribunals)*, 2019 ONCA 518

Duty to Give Reasons

- Reasons: No traditional common law rule requiring the giving of reasons for administrative decisions.
- However, giving reasons reduces, the chances of arbitrary or capricious decisions, reinforces public confidence in the judgment and fairness of administrative tribunals, and affords parties to administrative proceedings an opportunity to assess the question of appeal.
- Reasons should be considered to be a requirement of procedural fairness where, “the decision has important significance for the individual, [or] when there is a statutory right of appeal...”.

- *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817.

Summary

- Administrative tribunals form part of the executive branch of government but are usually distinct from government departments
- Often have many attributes of courts
- Can only do that which their statutes ask and allow them to do
- Owe duty of fairness
 - Parties must know the case against them and have opportunity to reply
 - Unbiased decision-maker
 - Person who hears must decide
 - Decision-maker must give reasons for decision

Ontario Association of Committees of Adjustment Cornwall, Ontario

M. Rick O'Connor, CMO, LLB
City Clerk, Ottawa
October 4, 2019

New Accountability Framework



As of March 1, 2019, Committee of Adjustment members are subject to a code of conduct and a new municipal conflict of interest scheme.

Code of Conduct

Code of conduct

223.2 (1) A municipality shall establish codes of conduct for members of the council of the municipality and of its local boards.

Code of Conduct

Four mandatory subject matters:

- Gifts, benefits and hospitality
- Respectful conduct towards staff
- Confidential information
- Use of board resources



Oversight of the Code

The municipality's Integrity Commissioner is responsible for:

- Application of the code of conduct, including receiving complaints respecting alleged non-compliance;
- Requests for advice from members regarding their obligations under the code of conduct; and
- Providing education and training to members, staff and the public.

Compliance with the Code

Penalties

(5) The municipality may impose either of the following penalties on a member of council or of a local board if the Commissioner reports to the municipality that, in his or her opinion, the member has contravened the code of conduct:

1. A reprimand.
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days.

Municipal Conflict of Interest Act (MCIA)

What has changed? As of March 1, 2019, a new municipal conflict of interest framework now:

- Authorizes an Integrity Commissioner to provide pecuniary (financial) conflict of interest advice;
- Establishes a new complaint process through the Integrity Commissioner (as opposed to directly through court); and
- Enhances the disclosure and reporting requirements for conflict of interest declarations.

Types of Pecuniary Interests

MCIA applies to three types of pecuniary (financial) interests:

- **Direct:** a member would sustain a positive or negative financial impact as a result of a decision on the matter
- **Indirect:** a Member is a shareholder in a private company, is a director or senior officer of a public or private company, has a controlling interest in a public company, is a member of a “body”, or is a partner or employee of a person or body that has a pecuniary interest in the matter

Types of Pecuniary Interests (cont'd)

- **Deemed** – the pecuniary interest, direct or indirect, of a parent or the spouse or any child of the member shall, if known to the member, be deemed to be also the pecuniary interest of the member.

Deemed Interests

“**spouse**” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage.

“**parent**” means a person who has demonstrated a settled intention to treat a child as a member of his or her family.

“**child**” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family.

Exceptions

There are eleven exceptions (nine specific and two general) to a Member's duty with respect to a conflict of interest.

Specific exceptions include matters where the Member:

- Is a user of any public utility service;
- Is entitled to receive on terms common to other persons any service or commodity or any subsidy, loan or other such benefit offered by the municipality or local board;

Specific Exceptions (cont'd)

- Purchased or owns a debenture of the municipality or local board;
- Made a deposit with the municipality or local board;
- Has an interest in any property affected by a work under the *Drainage Act* or local improvements;
- Has an interest in farm lands that are exempted from taxation for certain expenditures under the *Assessment Act*;

Specific Exceptions (cont'd)

- Is eligible for election or appointment to fill a vacancy, office or position in the council or local board;
- Is appointed by Council to another body (e.g. municipal corporation) carrying on business for or on behalf of the municipality; and
- Is entitled to an allowance, honorarium, remuneration or benefit for being a member.

General Exceptions

The two general exceptions apply to those matters where the Member has:

- An interest in common with electors generally; and
- An interest is remote or insignificant in nature.

Responsibilities cont'd

If a member has a pecuniary conflict of interest:

- Do disclose the interest;
- Don't participate in the discussion of the matter nor vote on any question;
- Don't attempt to influence the decisions or recommendations of staff;
- Don't attempt to influence the voting on any such question before, during or after the meeting.
- Do immediately leave the meeting if it is not open to the public; and
- Do file a written statement with the Secretary-treasurer asap.

How is the MCIA enforced?

Any eligible elector (or a person demonstrably acting in the public interest) who believes a member has contravened the conflict of interest rules, may apply to the Integrity Commissioner to request an investigation within six weeks of becoming aware of a conflict of interest.

How is the MCIA enforced?

- Where the Integrity Commissioner investigates and determines a contravention may have occurred, s/he may apply to a judge for a determination.
- Only a judge has the authority to determine if a contravention has occurred and apply penalties.
- Local board is required (by law) to pay for the costs of an application to court.

New Wider Range of Penalties

Power of judge

9 (1) If the judge determines that the member or former member contravened section 5, 5.1 or 5.2, the judge may do any or all of the following:

1. Reprimand the member or former member.
2. Suspend the remuneration paid to the member for a period of up to 90 days.

Penalties cont'd

3. Declare the member's seat vacant.
4. Disqualify the member or former member from being a member during a period of not more than seven years after the date of the order.
5. If the contravention has resulted in personal financial gain, require the member or former member to make restitution to the party suffering the loss, or, if the party's identity is not readily ascertainable, to the municipality or local board, as the case may be.

Saving Provisions

When exercising their discretion with respect to penalties, a judge may consider, among other matters, whether the member or former member:

- a) took reasonable measures to prevent the contravention;
- b) sought and followed advice from the Integrity Commissioner;
or
- c) committed the contravention through inadvertence or by reason of an error in judgment made in good faith.

Declarations of Interest Registry

The MCIA now requires municipalities and local boards to establish and maintain a public registry of declarations of interest which shall include:

- (a) a copy of the declaration of interest filed; and
- (b) a copy of the minutes where the declaration is recorded.

The registry must be available to the public.

Seek Advice

- When in doubt, reach out to your Integrity Commissioner for confidential advice respecting obligations under the Code of Conduct or a potential conflict of interest.
- **Remember:** If the matter makes it to court, a judge may consider if a member sought, received, and followed advice from the Integrity Commissioner.

Questions?



M. Rick O'Connor

City Clerk

613-580-2424 Ext. 21215

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Township of Southgate

Conference, Workshop/Seminar & Training Policy #2

Council and Staff Education Evaluation Report Conference, Training, Seminars & Professional Development/Self-Study

Participant's Name: Jamie Eckenswiller

Course/Workshop/Conference: Ontario Association of Committees of Adjustment and Consent Authorities	Overall Evaluation: Excellent Good Average Poor
Association /Institution Provider: Ontario Association of Committees of Adjustment and Consent Authorities	Name of Instructor: N/A
Dates of Attended: (if online, indicate online) October 3-4, 2019	
Purpose of Attending: Attending this seminar gave me a better understanding of the Committee of Adjustment and Minor Variance processes.	
Please summarize the contents and the main points of the course: (Attach additional pages if necessary) As secretary-treasurer for the Committee of Adjustment, the information learned at this seminar gave me a better understanding of the processes involved with consent and minor variance applications.	
Will you use this information in your role? If yes, explain how: I will use the information learned at the seminar as it relates directly to certain aspects of my position with the Township. I learned valuable information that will allow the Township to streamline the application process and provide better customer service to the residents of the Township	
Do you recommend that other Council Members/Staff attend this course? If so, who and why: I would recommend this seminar to any new members of the Committee of Adjustment as a way to provide them with a better understanding of the process and the role of the Committee. The information learned about pecuniary interests would be especially valuable to new members.	
Should similar course material be presented in house? If yes, by whom? I do not think similar offerings should be presented in house because the association does a fantastic job at providing municipalities with adequate information for a relatively low cost. It is unlikely that the degree of information provided at the seminar could be provided in house.	
Signature: 	Date: October 7, 2019