

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: December 12, 2018

CASE NO(S): PL160112

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant:	1194233 Ontario Ltd.
Subject:	Application to amend Zoning By-law No. 5000 - Refusal of Application by Township of Springwater
Existing Zoning:	Agricultural (A) and Environmental Protection (EP)
Proposed Zoning:	Extractive Industrial Hold [ME-(H)]
Purpose:	To permit the expansion of the existing neighbouring aggregate operation
Property Address/Description:	3568 Barrie Hill Road
Municipality:	Township of Springwater
Municipality File No.:	ZB-2012-002
OMB Case No.:	PL160112
OMB File No.:	PL160112
OMB Case Name:	1194233 Ontario Ltd. v. Springwater (Township)

PROCEEDING COMMENCED UNDER subsection 11(5) of the *Aggregate Resources Act*, R.S.O. 1990, c. A.8, as amended

Referred by:	Sharon Rew
Objector:	Danella Agowissa
Objector:	Lori Allen
Objector:	Eric Atthill
Objector:	Stephanie Atthill; and others
Applicant:	1194233 Ontario Limited

Subject: Application for a Class A licence for the removal of aggregate
 Property Address/Description : Part Lot 21, Concession 9
 Municipality: Township of Springwater
 OMB Case No.: PL160112
 OMB File No.: MM180038

Heard: November 27, 2018 in Springwater, Ontario

APPEARANCES:

<u>Parties</u>	<u>Counsel*/Representative</u>
1194233 Ontario Ltd.	Lawrence Hansen*
Township of Springwater	Barnet Kussner*
County of Simcoe	Samantha Tarttola

MEMORANDUM OF ORAL DECISION DELIVERED BY HELEN JACKSON ON NOVEMBER 27, 2018 AND ORDER OF THE TRIBUNAL

[1] 1194233 Ontario Ltd. (the “Applicant”) operates an existing sand and gravel pit, called the Eek Pit, at 3568 Barrie Hill Road in the Township of Springwater (the “Township”). The Applicant proposes to expand immediately northward onto a Site that is currently designated for aggregates in the Township’s Official Plan but is not appropriately zoned.

[2] The Applicant applied to the Township for an amendment to Zoning By-law No. 5000 to rezone the Site to Extractive Industrial. Township Council refused the rezoning request. The Applicant appealed this decision to the Tribunal.

[3] The Applicant also applied to the Ministry of Natural Resources and Forestry (“MNR”) for a Licence to operate a pit on the Site pursuant to the *Aggregate Resources Act* (“ARA”).

[4] Three Pre-Hearing Conferences (“PHC”) were held by the Tribunal in respect to the zoning appeal, and a hearing had been scheduled to occur in March 2018. This

hearing was adjourned due to the fact that the Licence referral to the Tribunal had not been made by MNRF in sufficient time for appropriate Notice to be provided to the objectors and participants who are opposed to the application. This chronology was outlined in the Decision of the Tribunal dated April 9, 2018.

[5] Since that time, the referral to the Tribunal of the Licence application has been made by MNRF. This PHC was held for the purposes of preparing for the hearing in this matter that would include the zoning by-law appeal and the referral of the Licence by MNRF. The Tribunal directed that the zoning by-law appeal and the Licence referral are to be heard together.

[6] There were a number of local residents who attended the PHC to express their continued opposition to the application and to indicate that they wish to participate by providing evidence at the hearing. The list of those persons who attended at the PHC is appended to this Decision as Appendix 1. These residents are either objectors to the ARA licence or participants to the zoning by-law appeal.

[7] The County of Simcoe (the "County") indicated that its issues related to a road widening and intersection improvements have been completed to the County's satisfaction. On that basis, the County indicated that it wished to withdraw from the matter, and only requested that a copy of the final decision be provided to the County. The Tribunal agrees that it is appropriate for the County to withdraw from the appeal and grants the request.

[8] The Tribunal was advised that the Applicant has settled with the Township. Minutes of Settlement ("MOS") are being prepared and should be submitted to the Tribunal within one to two weeks. Mr. Kussner indicated that these MOS would be circulated to the objecting residents so that they would be aware of the details of the settlement for the aggregate licence.

[9] The Applicant and the Township indicated that they wished the Tribunal to set a hearing in this matter and that a three-day hearing would be sufficient to address the

issues, including the objectors' and participants' concerns. The Applicant indicated that they intended to bring evidence in regards to the requirements pursuant to the ARA licence, noise, traffic, environment and hydrogeology.

[10] The Tribunal directed the parties to finalize the Procedural Order and to forward it to the Case Coordinator by December 14, 2018. Mr. Hansen committed to working with David Aves, a representative of the residents, to ensure that the issues of the residents are reflected in the Procedural Order. Should it be required, the Tribunal may be spoken to should there be issues in finalizing the Procedural Order.

[11] The Tribunal has scheduled a three-day hearing for **Wednesday, July 3, 2019 to Friday, July 5, 2019 to commence at 10 a.m. The hearing is to be held at:**

**Council Chambers
Township Administration Centre (Springwater)
2231 Nursery Road
Springwater, Ontario**

[12] This Member is not seized.

"Helen Jackson"

HELEN JACKSON
MEMBER

If there is an attachment referred to in this document,
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Local Planning Appeal Tribunal

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

APPENDIX 1

1. David Aves
2. Stella Hutchinson
3. Roy Hunter
4. Krista Shaw
5. Joe Shocrylas
6. Eric (Stephanie) Atthill