

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: October 13, 2016

CASE NO(S): PL160112

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
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OMB Case Name:	1194233 Ontario Ltd. v. Springwater (Township)

Board Rule 107 states:

107. Effective Date of Board Decision A Board decision is effective on the date that the decision or order is issued in hard copy, unless it states otherwise.

Pursuant to Board Rule 107, this decision takes effect on the date that it is e-mailed by Board administrative staff to the clerk of the municipality where the property is located.

Heard: September 13, 2016 in Springwater, Ontario

APPEARANCES:

<u>Parties</u>	<u>Counsel</u>
1194233 Ontario Ltd.	D.S. White
Township of Springwater	B. Kussner

**MEMORANDUM OF ORAL DECISION DELIVERED BY M. C. DENHEZ ON
SEPTEMBER 13, 2016 AND ORDER OF THE BOARD**

[1] This was the first Prehearing Conference (“PHC”) concerning the proposed expansion of the Eek Pit in the Township of Springwater (the “Township”).

[2] 1194233 Ontario Ltd. (the “Applicant”) operates an existing sand and gravel pit, called the Eek Pit, at 3568 Barrie Hill Road, not far from the designated settlement area of Centre Vespra. The Applicant proposed to expand immediately northward. However, because of depletion of the existing pit, there was no expected change to the maximum tonnage which it would be allowed to haul on area roads.

[3] The land where the expansion is anticipated (the “subject property”), is currently designated for aggregates under the Township's Official Plan. It is currently zoned

- Agricultural (“A”) and
- Environmental Protection (“EP”).

[4] The Applicant applied under s. 34(10.1) of the *Planning Act* for an amendment to the Township's Zoning By-law No. 5000, to rezone this subject property to Extractive Industrial (“ME”).

[5] The report of Township planning staff recommended approval of the rezoning, subject to an “H” (“Holding”) provision to “ensure that all municipal considerations had addressed”. The draft rezoning by-law outlined seven conditions to this Holding

provision. However, on a close vote, Council turned down the application, on the ground that it "facilitates the encroachment of the pit operation on existing or future residential uses resulting in the continuation of aggregate extractive impacts on residents located within the settlement area of Centre Vespra." The Applicant appealed to the Ontario Municipal Board (the "Board").

[6] Meanwhile, counsel for the Applicant advised that its parallel application for a Licence under the *Aggregate Resources Act* was still before the Ministry of Natural Resources and Forestry. A decision on that account was not expected much before the end of 2016, but in any event, there were likely to be controversies and a referral to this Board. It was expected, in turn, that the resulting controversies would be proposed for consolidation with the current zoning appeal. The Township replied that it was unlikely to object to such consolidation.

[7] There was consensus on the advisability of a further PHC early in 2017.

[8] The Board disposes of the above matters as follows:

1. The Board fixes **Tuesday, February 14, 2017 at 10:30 a.m.**, for the next PHC in this matter.
2. That PHC will take place at:

**Council Chambers
Township Hall
2231 Nursery Road
Springwater, ON L0L1Y2**

3. At that next PHC, the Board will consider the list of parties and participants, a prospective Procedural Order, possible improvements to scheduling (notably whether a full five weeks will still be necessary for the hearing on the merits), and such other matters as the Board considers appropriate.

4. The hearing on the merits is scheduled for a period of **five weeks**, starting on **Monday, June 12, 2017, at 10:30 a.m.**
5. The hearing on the merits will take place at the same location as the PHC, described at paragraph 2 above.
6. There will be no further notice issued under the *Planning Act*. The Board makes no comment at this time on whether any other notice might eventually be required under the *Aggregate Resources Act*.
7. This Member is not seized.

"M. C. Denhez"

M. C. DENHEZ
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

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