

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: September 22, 2021

CASE NO(S): PL210241

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Michael Hart
Subject: Proposed Official Plan Amendment No. 8
Municipality: Town of Bracebridge
OLT Case No.: PL210241
OLT File No.: PL210241
OLT Case Name: Hart v. District Municipality of Muskoka

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

Appellant: South Bracebridge Environmental Protection Group
Subject: By-law No. BL 2021-005
Municipality: Town of Bracebridge
OLT Case No.: PL210241
OLT File No.: PL210142

Heard: September 20, 2021 by video hearing

APPEARANCES:

Parties

South Bracebridge Environmental Protection Group

Town of Bracebridge

Counsel

David Donnelly
Justine Reyes (student-at-law)

Harold Elston
Carly Emmett (student-at-law)

District Municipality of Muskoka

Jamie Clow

Muskoka Royale Development Inc.

Quinto Annibale
Brendan Ruddick
Alexandra Whyte

DECISION DELIVERED BY S. BRAUN AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] Muskoka Royale Development Inc. (“Applicant”) owns Lots 6 ,9, 10, Concession 12 (“subject site”) located within the urban centre boundary of the Town of Bracebridge (“Town”) within the District of Muskoka (“District”). The Applicant wishes to develop a private educational institution including an elementary and secondary school, a multi-use recreational facility and lodging facilities for staff and students on the subject site.

[2] The Applicant applied for an Official Plan Amendment (“OPA”) and Zoning By-law Amendment (“ZBA”) to facilitate the proposed development and these instruments were approved by the Town on March 8, 2021. The District subsequently approved the OPA without modification.

[3] The South Bracebridge Environmental Protection Group (“Appellant”) appealed the approval of those instruments under s. 17(36) and s. 34(19) of the *Planning Act* (“Act”) and this was the first Case Management Conference (“CMC”) concerning those appeals.

[4] The Tribunal received an Affidavit of Service from Kelli Peters dated August 25, 2021, confirming that Notice of this CMC was properly given.

PARTY/PARTICIPANT REQUESTS

[5] Party status was given to the Applicant on the consent of the parties.

[6] The Tribunal received written requests for participant status in advance of the CMC from: Katherine Ristic; Laura Morton; Michael Appleby; Martyn Burke; and Michael Hart. There were no objections to these requests and the Tribunal accordingly granted participant status to the aforementioned individuals. The Tribunal did, however, direct that any statement from participants who are also members of the Appellant, limit their statements to issues/concerns that are not duplicative of the arguments and evidence to be led by the Appellant at the hearing. Counsel for the Appellant agreed to work with the participants to ensure adherence to this direction.

[7] Counsel for the Applicant and for the Town indicated they had received written participant requests from Janet Griffin and Chantal Haigh, but these requests were not before the Tribunal. Counsel for the Appellant indicated he was aware that some individuals had experienced difficulties in submitting status requests online.

[8] As such, on the consent of the parties, the Tribunal granted participant status to Ms. Griffin and Ms. Haigh and directed that they re-file their written requests with the Tribunal following the CMC. Further, in light of the difficulties noted by counsel for the Appellant and on the consent of all parties, the Tribunal will consider any further participant requests filed in advance of November 1, 2021 at the next hearing event.

MEDIATION AND SETTLEMENT

[9] The Tribunal raised the issue of opportunities for settlement, including the use of Tribunal-assisted mediation and was advised by the parties that mediation was indeed a possibility. While there is hope for a full resolution of the issues the parties indicated, at the very least, they see mediation as an opportunity to narrow the issues which could lead to a reduction in the number of days required for a hearing.

TELEPHONE CONFERENCE CALL (“TCC”)

[10] In advance of the CMC, the parties provided a draft Procedural Order (“PO”) and Issues List (“IL”). However, counsel for the District advised that he is currently awaiting instructions with respect to the role, if any, the District will take in the hearing of this matter. He indicated he would be in a position to advise the parties of any additions or alterations to the IL on behalf of the District after October 18, 2021. Counsel for the Applicant agreed to circulate and file an updated PO and IL with the Tribunal by November 1, 2021.

[11] Given foregoing and the parties’ intentions to pursue mediation, the Tribunal scheduled a TCC on **Friday, January 21, 2022** commencing at **9 a.m.** The purpose of the TCC is for the District to provide an update on the role, if any, it intends to take at the hearing, for the parties to provide an update on their efforts at mediation and for the Tribunal to consider any participant requests received in advance of November 1, 2021.

[12] Individual(s) are directed to **call 416-212-8012 or Toll Free 1-866-633-0848** on the assigned date at the correct time. When prompted, **enter the code 4779874#** to be connected to the call.

[13] It is the responsibility of the person(s) participating in the TCC to ensure that they are properly connected to the call and at the correct time. Questions prior to the call may be directed to the Tribunal’s Case Coordinator having carriage of this case.

HEARING

[14] Based on the number of anticipated witnesses and the complexity of the issues, the parties requested a 23-day hearing to be scheduled in the fall of 2022. Further, in anticipation of restrictions on public gatherings being lifted in the future, the parties requested the hearing be scheduled by video hearing, with an option to convert to an in-person hearing without the need for the parties to file a written motion. The parties agreed that the draft PO would specify a date by which the parties must make such a request to the Case Co-ordinator, so as to ensure the Tribunal is given ample notice in order to accommodate the change.

[15] The Tribunal scheduled a 23-day video hearing, which will commence on **Monday, September 19, 2022 at 10 a.m.** Parties are asked to log into the video hearing at least 15 minutes before the start of the event to test their video and audio connections:

<https://global.gotomeeting.com/join/709173309>

Access Code: 709-173-309

[16] Parties and participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at [GoToMeeting](#) or a web application is available:

<https://app.gotomeeting.com/home.html>.

[17] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line: **Toll-Free 1-888-299-1889 or +1 (647) 497-9373**. The **Access Code** is as indicated above.

[18] Individuals are directed to connect to the event on the assigned date at the correct time. It is the responsibility of the persons participating in the video hearing to

ensure that they are properly connected to the event at the correct time. Questions prior to the hearing event may be directed to the Tribunal's Case Coordinator having carriage of this case.

OTHER MATTERS

[19] The Tribunal inquired as to whether there were any other matters to be addressed which might assist in the fair, just and expeditious resolution of this matter. The parties indicated there were none.

ORDER

[20] The Tribunal orders:

- a. Muskoka Royale Developments Inc. is a party to this proceeding;
- b. the following individuals are granted participant status: Katherine Ristic; Laura Morton; Michael Appleby; Martyn Burke; and Michael Hart;
- c. Chantal Haigh and Janet Griffin are also granted participant status and are directed to re-file their written requests with the Tribunal's Case Coordinator;
- d. a TCC will be held on January 21, 2022 commencing at 9 a.m. for the parties to provide a status update and for the Tribunal to consider any further participant requests received in advance of November 1, 2021;
- e. a 23-day hearing is scheduled to commence at 10 a.m. on September 19, 2022; and

- f. there will be no further notice and the Member is not seized, but may be available for case management should scheduling permit.

“S. Braun”

S. BRAUN
MEMBER

Ontario Land Tribunal

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.