

**Ontario Municipal Board**  
Commission des affaires municipales  
de l'Ontario



**ISSUE DATE:** November 30, 2017

**CASE NO(S):**

PL170782

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

Applicant and Appellant: 2147925 Ontario Inc.  
Subject: Application to amend Zoning By-law No. (74 - 51) - Refusal or neglect of Town of Halton Hills to make a decision  
Existing Zoning: Rural (RU) Zone  
Proposed Zoning: Site Specific - General Residential RG Special (RG-1) Zone and Recreation (OS1) Zone.  
Purpose: To permit the development of a 32 lot single detached residential subdivision  
Property Address/Description: W 1/2 Lot 21, Concession 9, Esq.  
Municipality: Town of Halton Hills  
Municipality File No.: D14ZBA09.006  
OMB Case No.: PL170782  
OMB File No.: PL170782  
OMB Case Name: 2147925 Ontario Inc. v. Halton Hills (Town)

**PROCEEDING COMMENCED UNDER** subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: 2147925 Ontario Inc.  
Subject: Proposed Plan of Subdivision - Failure of Town of Halton Hills to make a decision  
Purpose: To permit the development of a 32 lot single detached residential subdivision  
Property Address/Description: W 1/2 Lot 21, Concession 9, Esq.  
Municipality: Town of Halton Hills  
Municipality File No.: D12SUB09.001  
OMB Case No.: PL170782  
OMB File No.: PL170783

**Heard:** November 17, 2017 in Georgetown, Ontario

**APPEARANCES:**

<u>Parties</u>	<u>Counsel/Representative*</u>
2147925 Ontario Inc.	Matthew Di Vona
Town of Halton Hills	Jeffrey Wilker
Regional Municipality of Halton	Jeffrey Wilker
Hamlet of Glen Williams Residents Association Inc.	Donald J. Robinson*

**MEMORANDUM OF ORAL DECISION DELIVERED BY GERALD S. SWINKIN ON NOVEMBER 17, 2017**

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[1] This hearing event was the first Pre-hearing Conference (“PHC”) concerning the appeals by 2147925 Ontario Inc. (“the Appellant”) regarding its lands in the west half of Lot 21, Concession 9, Esquesing, Town of Halton Hills (“the Property”).

[2] The Property is in the settlement area known as the Hamlet of Glen Williams. The Property lies east of Eighth Line but does not extend over to Eighth Line. The Property does apparently have access to two Town public highways, known as Meagan Drive (the southern access point) and McMaster Street (the northern access point).

**Property Address/Description**

[3] The very first order of business after identifying counsel and interested persons was the receipt of advice by the Ontario Municipal Board (“the Board”) from counsel that there was an error in the title of proceedings in connection with the purported municipal address of the Property. The Notice of Appointment for Hearing made reference to 12171 Eighth Line as the Property address. It turns out that this municipal address is assigned to the lands of a third party upon which lands stands a single family dwelling

and that this parcel of land is not under the ownership of the Appellant and was never part of the applications for zoning amendment and draft plan approval which are under appeal.

[4] A supplementary notice was delivered by mail on October 26, 2017 by counsel for the Appellant to those persons with addresses on Eighth Line with this matter corrected and a revised key map enclosed which no longer showed any land on Eighth Line as being part of the appeals now before the Board.

[5] The Board was advised by counsel for the Town that as the Property is vacant land without any improvements, no municipal address has been assigned to it.

[6] In the interests of clarity, from this point forward, the title of proceedings will reflect the Property Address/Description as W ½ Lot 21, Concession 9, Esq. to reflect that the lands are part of Lot 21, Concession 9, Esquesing, in the Town of Halton Hills.

### **Party and Participant Status**

[7] The Board, in keeping with entitlement, accorded party status to the Appellant and to the Town of Halton Hills and the Regional Municipality of Halton.

[8] As there were numerous members of the public in attendance, the Board canvassed the room to ascertain whether any person was present seeking party or participant status.

[9] Donald J. Robinson rose to indicate that he was appearing in his personal capacity and also, as he is a board member, as a representative of Hamlet of Glen Williams Residents Association Inc., which is an incorporated non-profit residents association for the area of the Hamlet of Glen Williams. The association is known informally as the Glen Williams Community Association (“GWCA”) and as this appears to be the customarily used name of the association, the Board will refer to it hereafter as

such.

[10] Initially, Mr. Robinson indicated that he was simply seeking participant status for GWCA. However, when the discussion turned to the matter of the establishment of an Issues List and how this list would govern the matters that would be addressed and determined by the Board in the ultimate proceeding, Mr. Robinson rose again to indicate that although there may be commonality of view between the GWCA and the Town on many of the issues, there may very well be significant differences of opinion between those parties as to what does or does not constitute an issue.

[11] In order to fully preserve the opportunity to carve their own path on what they treat as issues, Mr. Robinson altered his initial request and asked that the GWCA be accorded party status. Prior to the altered request, the Board did advise Mr. Robinson that a party has greater privileges in the proceedings to fully participate but that along with those privileges comes responsibility. Specifically, if the GWCA takes the position that there are issues which are not advanced by the municipalities and the Appellant, the GWCA will assume the burden of calling credible evidence on those issues. The Board also noted that by putting matters in issue, the other parties will find themselves needing to prepare a response to those issues and calling evidence of their own. This may involve additional expense to those parties.

[12] The Board was clear that although a party is liable to a costs award if sought by another party or parties, such awards are, by the Board's *Rules of Practice and Procedure*, only entertained in connection with unreasonable conduct as detailed in the Board's *Rules of Practice and Procedure*. Accordingly, a good faith advancement of issues and the presentation of tenable and probative evidence on them will not, under most circumstances, attract an award of costs.

[13] The Board canvassed counsel for the municipalities and the Appellant as to whether they had an objection to the grant of party status to GWCA and they had none. Accordingly, the Board has granted party status to GWCA.

[14] The Board did advise Mr. Robinson that if after the discussions amongst the parties progresses, and perhaps based on the position of Town Council after the public meeting that Mr. Wilker indicated is likely, the GWCA is content to rely upon the municipalities to advance the case against the appeals, it is open to GWCA to request a reversion to participant status. The Board would simply note, as expressed above, that any such step should be taken at the earliest reasonable opportunity in order to avoid prejudice to any other party in the preparation of their case.

[15] One other individual rose to seek participant status, Dave Woodward. Mr. Woodward resides at 16 Oak Ridge Drive, which is proximate to the Property. Mr. Woodward is granted Participant status.

### **Second Pre-hearing Conference**

[16] The Board was advised that the Appellant has been informed that various aspects of its submission for development approvals are deficient and require re-submission or further submissions. Mr. Di Vona confirmed that further submissions are being prepared or have already been filed.

[17] This state of affairs was important to the question of whether the appeals were properly ready to be scheduled for hearing. As the Parties did not come to the PHC with a settled Issues List or draft Procedural Order and as there is the prospect that some issues may be resolved through the re-submission process, the Board was of the view that it would be premature to schedule the hearing of these appeals.

[18] On the suggestion of counsel for the Appellant and the municipalities, a second PHC will be scheduled, at which time the Board will be apprised of the status of the matter and will deal with it based upon the then prevailing circumstances.

[19] A further factor in this regard is the advice which was conveyed by Mr. Wilker that the municipalities are interested in pursuing Board-led mediation regarding these

appeals and that he anticipates that steps will be taken to pursue that avenue in the near future. When canvassed by the Board, Mr. Di Vona indicated that the Appellant was not opposed to such an initiative.

[20] Consequently, a second PHC is scheduled for **Thursday, March 1, 2018** commencing at **10 a.m.** to be heard at:

**Town of Halton Hills Town Hall  
Council Chambers  
1 Halton Hills Drive (Georgetown)  
Halton Hills, ON L7G 5G2**

[21] No further notice will be given and this Member is not seized. However, in the event that any issues arise out of this disposition or with respect to procedural matters relating to the appeals, the Parties may contact the case co-ordinator at the Board to allow any such matters to be spoken to before this Member and to arrange a teleconference call or such other attendance as may be necessary or appropriate.

*“Gerald S. Swinkin”*

GERALD S. SWINKIN  
MEMBER

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please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

**Ontario Municipal Board**  
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