

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: December 18, 2023

CASE NO.: OLT-23-000659

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

| | |
|--------------------|---|
| Appellant: | Margaret Beaudoin |
| Subject: | By-law No. 2023-051 |
| Description: | Reduction in rear yard setback |
| Reference Number: | ZBA-09-23 |
| Property Address: | 256 Dalhousie Street |
| Municipality/UT: | Amherstburg/Essex |
| OLT Case No.: | OLT-23-000659 |
| OLT Lead Case No.: | OLT-23-000659 |
| OLT Case Name: | Margaret Beaudoin v. Amherstburg (Town) |

BEFORE:

| | | |
|------------|---|------------------------------|
| D. CHIPMAN |) | Monday, the 18 th |
| MEMBER |) | |
| |) | day of December, 2023 |

THE TRIBUNAL ORDERS that further to the Decision issued on October 23, 2023, the Procedural Order and Issues List, as agreed to between the Parties and attached hereto as Schedule "A", shall be in force and effect for the purpose of governing the required procedures leading up to and including the hearing, which is scheduled to commence on June 3, 2024.

"Euken Lui"

EUKEN LUI
ACTING REGISTRAR

Ontario Land Tribunal

Website: 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.

SCHEDULE “A”



Ontario Land Tribunal

655 Bay Street, Suite 1500, Toronto, ON M5G 1E5

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CASE NO(S): OLT-23-000659

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

Applicant(s)/Appellant(s) : Margaret Beaudoin
Subject : By-law No. 2023-051
Property Address: 256 Dalhousie Street
Municipality : Amherstburg/Essex
OLT Case No. : OLT-23-000659
OLT File No. : OLT-23-000659
OLT Case Name : Margaret Beaudoin v. Amherstburg (Town)

1. The Tribunal may vary or add to the directions in this procedural order at any time by an oral ruling or by another written order, either on the parties' request or its own motion.

Organization of the Hearing

2. The video hearing will begin on June 3, 2024 at 10:00am.

GoToMeeting: <https://meet.goto.com/638422541>

Access Code: 638-422-541

3. The parties' initial estimation for the length of the hearing is 5 days. The parties are expected to cooperate to reduce the length of the hearing by eliminating redundant evidence and attempting to reach settlements on issues where possible.
4. The parties and participants identified at the case management conference are set out in Attachment 1 (see the sample procedural order for the meaning of these terms).
5. The issues are set out in the Issues List attached as Attachment 2. There will be no changes to this list unless the Tribunal permits, and a party who asks for changes

may have costs awarded against it.

6. The order of evidence shall be as set out in Attachment 3 to this Order. The Tribunal may limit the amount of time allocated for opening statements, evidence in chief (including the qualification of witnesses), cross-examination, evidence in reply and final argument. The length of written argument, if any, may be limited either on the parties' consent, subject to the Tribunal's approval, or by Order of the Tribunal.
7. Any person intending to participate in the hearing should provide a mailing address, email address and a telephone number to the Tribunal as soon as possible – ideally before the case management conference. Any person who will be retaining a representative should advise the other parties and the Tribunal of the representative's name, address, email address and the phone number as soon as possible.
8. Any person who intends to participate in the hearing, including parties, counsel and witnesses, is expected to review the Tribunal's [Video Hearing Guide](#), available on the Tribunal's website.

Requirements Before the Hearing

9. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal and the other parties a list of the witnesses and the order in which they will be called. This list must be delivered on or before Friday March 1, 2024 and in accordance with paragraph 22 below. A party who intends to call an expert witness must include a copy of the witness' Curriculum Vitae and the area of expertise in which the witness is prepared to be qualified.
10. Expert witnesses in the same field shall have a meeting on or before Friday April 5, 2024 and use best efforts to try to resolve or reduce the issues for the hearing. Following the experts' meeting the parties must prepare and file a Statement of Agreed Facts and Issues with the OLT case co-ordinator on or before April 12, 2024.
11. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in paragraph 13 below. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Tribunal may refuse to hear the expert's testimony.
12. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence as in paragraph 13 below. A party who intends to

call a witness who is not an expert must file a brief outline of the witness' evidence, as in paragraph 13 below.

13. On or before Friday May 3, 2024, the parties shall provide copies of their [witness and] expert witness statements to the other parties and to the OLT case co-ordinator and in accordance with paragraph 22 below.
14. On or before Friday May 3, 2024, a participant shall provide copies of their written participant statement to the other parties in accordance with paragraph 22 below. A participant cannot present oral submissions at the hearing on the content of their written statement, unless ordered by the Tribunal.
15. On or before Friday May 17, the parties shall confirm with the Tribunal if all the reserved hearing dates are still required.
16. On or before Friday May 17, 2024, the parties shall provide copies of their visual evidence to all of the other parties in accordance with paragraph 22 below. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
17. Parties may provide to all other parties and the OLT case co-ordinator a written response to any written evidence on or before May 17, 2024 and in accordance with paragraph 22 below.
18. The parties shall cooperate to prepare a joint document book which shall be shared with the OLT case co-ordinator on or before Friday May 24, 2024.
19. A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal. *See Rule 10 of the Tribunal's Rules with respect to Motions, which requires that the moving party provide copies of the motion to all other parties 15 days before the Tribunal hears the motion.*
20. A party who provides written evidence of a witness to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Tribunal at least 7 days before the hearing that the written evidence is not part of their record.
21. The parties shall prepare and file a preliminary [hearing plan](#) with the Tribunal on or before Friday May 24, 2024 with a proposed schedule for the hearing that identifies, as a minimum, the parties participating in the hearing, the preliminary matters (if any to be addressed), the anticipated order of evidence, the date each witness is expected to attend, the anticipated length of time for evidence to be presented by

each witness in chief, cross-examination and re-examination (if any) and the expected length of time for final submissions. The parties are expected to ensure that the hearing proceeds in an efficient manner and in accordance with the hearing plan. The Tribunal may, at its discretion, change or alter the hearing plan at any time in the course of the hearing.

22. All filings shall be submitted electronically and in hard copy. Electronic copies may be filed by email, an electronic file sharing service for documents that exceed 10MB in size, or as otherwise directed by the Tribunal. The delivery of documents by email shall be governed by the *Rule 7*.

23. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Tribunal's Rule 17 applies to such requests.

ATTACHMENT 1

Parties and Participants

Parties:

1. Margaret Beaudoin (Appellant)
2. Colleen Fox
3. The Town of Amherstburg
4. Richard Peddie (Applicant)

Participants:

1. Donald Parks
2. John Oltrop

ATTACHMENT 2

Issues List

“The following are the Appellant’s Issues. Inclusion of any issue below does not imply that any other party to the proceeding shares the concerns identified by the Appellant”

1. Does the application and what it would permit in totality have regard for the matter of provincial interest set out in section 2(n) and (r) of the *Planning Act*, R.S.O. 1990, c. P.13?
2. Does the application and what it would permit in totality have regard for the matter of provincial interest set out in section 2(h) and (o) of the *Planning Act*, R.S.O. 1990, c. P.13 as it relates to the Appellant’s concerns respecting traffic, garbage, air flow and fire safety?
3. Would approval of the application and what it would permit in totality be consistent with the following sections of the Provincial Policy Statement, 2020: 1.1.1 c), 1.4.3 f) and 3.0 as it relates to the Appellant’s concerns respecting traffic, air flow garbage and fire safety (the latter being exclusive of Fire Code requirements such as fire prevention systems)?
4. Does the application and what it would permit in totality conform to the following policies of the County of Essex Official Plan: 2.13 Energy, Air Quality & Green Infrastructure, 3.2.2 Goals items d), 3.2.4.1 items f. and i., 3.2.7 Intensification and Redevelopment, and 4.15 Supporting Studies
5. Does the application and what it would permit in totality conform to the following policies in the Town of Amherstburg’s Official Plan: Section 4.4.2 General Commercial Areas, Section 5.4 Off-Street Parking, section 6.2.5 items 1, 2, 6, and 9 Downtown Improvement and Revitalization?
6. Does the application and what it would permit in totality meet the following provisions of the Town of Amherstburg Zoning By-law: Section 3(22) Outdoor Patio?
7. Does the existence of other buildings in the downtown core with zero set-backs provide justification for permitting development with zero setbacks for this site?
8. Given the Appellant’s concerns respecting traffic (including impaired site lines), absence of on-site loading and delivery areas, fire safety, availability of parking, garbage management/ waste disposal, and light and air flows, privacy:
 - a) does the application and what it would permit adhere to proper planning principles?
 - b) are further studies to consider one or more of these concerns warranted and is the application premature?
 - c) has the application and what it would permit in totality appropriately addressed potential unacceptable adverse impacts and is it compatible with surrounding uses including the Salmoni building?

ATTACHMENT 3

Order of Evidence

1. Town of Amherstburg Planner under summons – Non-opinion Background Evidence
2. Appellant evidence
3. Applicant evidence
4. Appellant Reply evidence