

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: January 17, 2018

CASE NO(S): PL100865

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

Appellant: Douglas MacIntosh
Subject: By-law No. 10-47
Municipality: Township of Clearview
OMB Case No.: PL100865
OMB File No.: PL100865
OMB Case Name: MacIntosh v. Clearview (Township)

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

Appellant: Douglas MacIntosh
Subject: By-law No. 10-52
Municipality: Township of Clearview
OMB Case No.: PL100865
OMB File No.: PL100866

Heard: January 10, 2018 by telephone conference call

APPEARANCES:

Parties

Counsel

Douglas MacIntosh

Aaron English

Township of Clearview

Harold Elston

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. de P. SEABORN ON
JANUARY 10, 2018 AND ORDER OF THE BOARD**

[1] The matter before the Board was scheduled for the purpose of confirming a settlement reached between Douglas MacIntosh (“Applicant”) and the Township of Clearview (“Township”). The Applicant and the Township have agreed on the form of a By-law necessary to implement a residential development proposal in the Village of Creemore (“Creemore”).

[2] In support of the By-law for which approval is sought, Shelley Wells, qualified to provide opinion evidence in the discipline of land use planning, filed a comprehensive affidavit (Exhibit 1) setting out the background to the appeal, the relevant policy regime and her opinion with respect to the proposed By-law.

[3] The parties filed Minutes of Settlement (Exhibit 1, Tab D) which sets out the basis for the agreement reached between the Applicant and the Township. Mr. Elston also confirmed his instructions from Council are that the matter be resolved in accordance with the Minutes of Settlement.

[4] Briefly, the Applicant proposes to develop a 72-unit residential community in Creemore. The lands consist of 1.92 hectares with frontage on both Edward Street and on Mary Street, and also partial frontage on the unopened right of way for Elizabeth Street. Known as the Meadows, the development will consist of a subdivision containing five Blocks. The common elements condominium will consist of an internal private road, services and parking. The By-law for which approval is sought (Exhibit 1, Tab C) sets out the standards for the development, all of which have been agreed upon between the Applicant and the Township.

[5] The lands are designated Residential within the Township’s Official Plan and are located within the built up area of Creemore. The project was described by Ms. Wells as a residential infilling of an underdeveloped site. It will be a compact infill project representing an efficient use of land and infrastructure and will offer a mixture of residential unit size and configuration. Moreover, the project is situated in close proximity to the commercial, social, employment, recreational and cultural core of

Creemore.

[6] It is the opinion of Ms. Wells that the By-law is consistent with the Provincial Policy Statement and conforms to all applicable provincial plans. It also conforms to the County of Simcoe Official Plan and the Township's Official Plan. The By-law reflects the detailed engineering, architectural and landscape plans submitted by the Applicant's consulting team and considered by Township planning staff. Ms. Wells has reviewed the matter carefully and recommends that the Board approve the By-law. The Board adopts and relies upon her opinion in this regard, as augmented by the detail set out in her affidavit.

[7] The decision and order of the Board is to allow the appeal, in part. By-law No. 17-70, which is set out as Attachment 1, is approved consistent with the request of the parties and in accordance with the Minutes of Settlement.

"J. de P. Seaborn"

J. de P. SEABORN
VICE-CHAIR

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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ATTACHMENT 1

BY-LAW NUMBER 17-70

OF

THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

A By-law to regulate the use of land and the character, location and use of buildings and structures on lands municipally known as 80 Edward Street East, and legally described as PT LOT 8, CON 4, PT LOT 33 RP315, formerly Creemore, now in the Township of Clearview.

WHEREAS pursuant to Section 34 of the Planning Act R.S.O., 1990, c.P.13, as amended, the Council of the Township of Clearview has passed By-law 06-54 being the comprehensive Zoning By-law for the Township of Clearview;

AND WHEREAS pursuant to Section 34(17) of the Planning Act, R.S.O., 1990, c. P.13, as amended, Council determines that no further notice is required in respect of the proposed By-law;

AND WHEREAS the amendment is in conformity with the Township of Clearview Official Plan;

AND WHEREAS the Council of the Corporation of the Township of Clearview, wishes to amend By-law 06-54;

NOW THEREFORE the Council of the Corporation of the Township of Clearview HEREBY ENACTS as follows:

1. That Schedule 'B16' of Zoning By-law 06-54 is hereby amended by changing the zoning on the lands located at (80 Edward Street East, Pt Lot 8, Concession 4, Part of Lot 33 RP315), formerly Creemore, now in the Township of Clearview, from Residential High Density RS6-1(H5) Zone and replacing the provisions of this zone and adding the Residential High Density RS6-7(H5) Zone as shown on Schedule '1' attached hereto, and forming part of this By-law.
2. That Section 3.14.3 "Residential High Density Zone Exception" be amended by deleting Zone RS6-1 in it's entirely and replacing it as follows:

"RS6-1

Notwithstanding the uses and provisions of the Residential High Density Zone (RS6), and the general provisions of Section 2 to the contrary, where lands are zoned RS6-1 the following apply:

Permitted Primary Uses restricted to:

- apartment building(s) having a combined maximum of 54 dwellings units

Accessory Uses restricted to:

- accessory buildings
- home occupations

Zone Provisions or Additional or Altered Provisions

- all lots/blocks within the RS6-1 zone shall be considered one lot for the purposes of the zoning;
- parking spaces and loading spaces do not require setbacks to residential zones or to the lots/blocks within the draft plan of subdivision and can be placed in any yard pursuant to approved site plan;
- an apartment building may include an underground parking structure;
- outdoor amenity spaces, landscape buffers and screens, parking areas, loading spaces and garbage storage shall be implemented pursuant to the approved site plan;
- a landscape buffer having a minimum width of 16m shall be provided along the exterior side yard (Edward Street)
- no buildings or structures are permitted within the landscape buffer except the stormwater management pond, emergency road, and utility infrastructure;
- masonry or stone fences will be minimum height of 1m along the southerly perimeter of all parking areas;
- a principal use or main building shall not be required for the construction and use of accessory building/structures; and
- section 2.38 Outdoor Living Area for Lots in a Residential Zone to the By-law 006-54 shall not apply to those lands zoned RS6-1.

Minimum Lot Area	16,000 m ²
Minimum Lot Frontage	25 m
Minimum Front Yard (West)	57 m
Minimum Rear Yard (East)	19 m
Minimum Exterior Side Yard (North)	10 m

Minimum Exterior Side Yard (South)	68 m
Maximum Lot Coverage	20%
Minimum Landscape Open Space	60%
Maximum Number of Stories	3
Maximum Height of Buildings to Peak	16 m
Maximum Number of Accessory Buildings	7 (this will include utility buildings)
Maximum Gross Floor Area of Accessory Buildings	400 m ²
Minimum Size of Loading Spaces	3m x 9m"

3. That Section 3.14.3 "Residential High Density Zone Exception" be further amended by the addition of a new exception RS6-7:

"RS6-7

Notwithstanding the provisions of the Residential High Density Zone (RS6), and the general provisions of Section 2 to the contrary, where lands are zoned RS6-7 the following apply:

Permitted Primary Uses restricted to:

- apartment building having a maximum of 18 dwellings units

Accessory Uses restricted to:

- accessory buildings
- home occupations

Zone Provisions or Additional or Altered Provisions

- parking spaces and loading spaces do not require setbacks to residential zones or to the lots/blocks within the draft plan of subdivision and can be placed in any yard pursuant to approved site plan;
- parking spaces required in the Residential High Density (RS6-7) Zone can be provided in the Residential High Density Zone (RS6-1);

- an apartment building may include an underground parking structure;
- outdoor amenity spaces, landscape buffers and screens, parking areas, loading spaces and garbage storage shall be implemented pursuant to the approved site plan;
- outdoor amenity spaces, landscape buffers and screens required in the Residential High Density (RS6-7) Zone can be provided in the Residential High Density Zone (RS6-1);
- a principal use or main building shall not be required for the construction and use of accessory building/structures; and
- section 2.38 Outdoor Living Area for Lots in a Residential Zone to the By-law 006-54 shall not apply to those lands zoned RS6-1.

Minimum Lot Area	1900 m ²
Minimum Lot Frontage	38m
Minimum Front Yard (West)	6m plus 0.1m for every additional 0.3m above a height of 9m
Minimum Rear Yard (East)	6m plus 0.1m for every additional 0.3m above a height of 9m
Minimum Interior Side Yard (North)	4m
Minimum Interior Side Yard (South)	0m
Maximum Lot Coverage	60%
Minimum Landscaped Open Space	10%
Maximum Height of Buildings to Peak	16m
Maximum Number of Stories	3
Maximum Number of Accessory Buildings	2 (this will include the utility building if required)
Maximum Gross Floor Area of Accessory Buildings	64 m ²
Total Loading Spaces	None"

4. That the Removal of Hold (H5) Symbol shall not be removed until the following requirements have been met:
 - registration of the plan of subdivision/common element condominium;

- adequate sanitary, water and stormwater services and facilities, and roads are available to service the development; and
 - site plan approval has been obtained and any agreements have been entered with the Municipality.
5. That all other provisions of By-law 06-54, as amended, which are not inconsistent with the provisions of this By-law, shall continue to apply when the By-law comes into effect.
 6. This By-law shall come into force and take effect in accordance with the provisions of the Planning Act R.S.O, 1990 c.P.13, as amended.

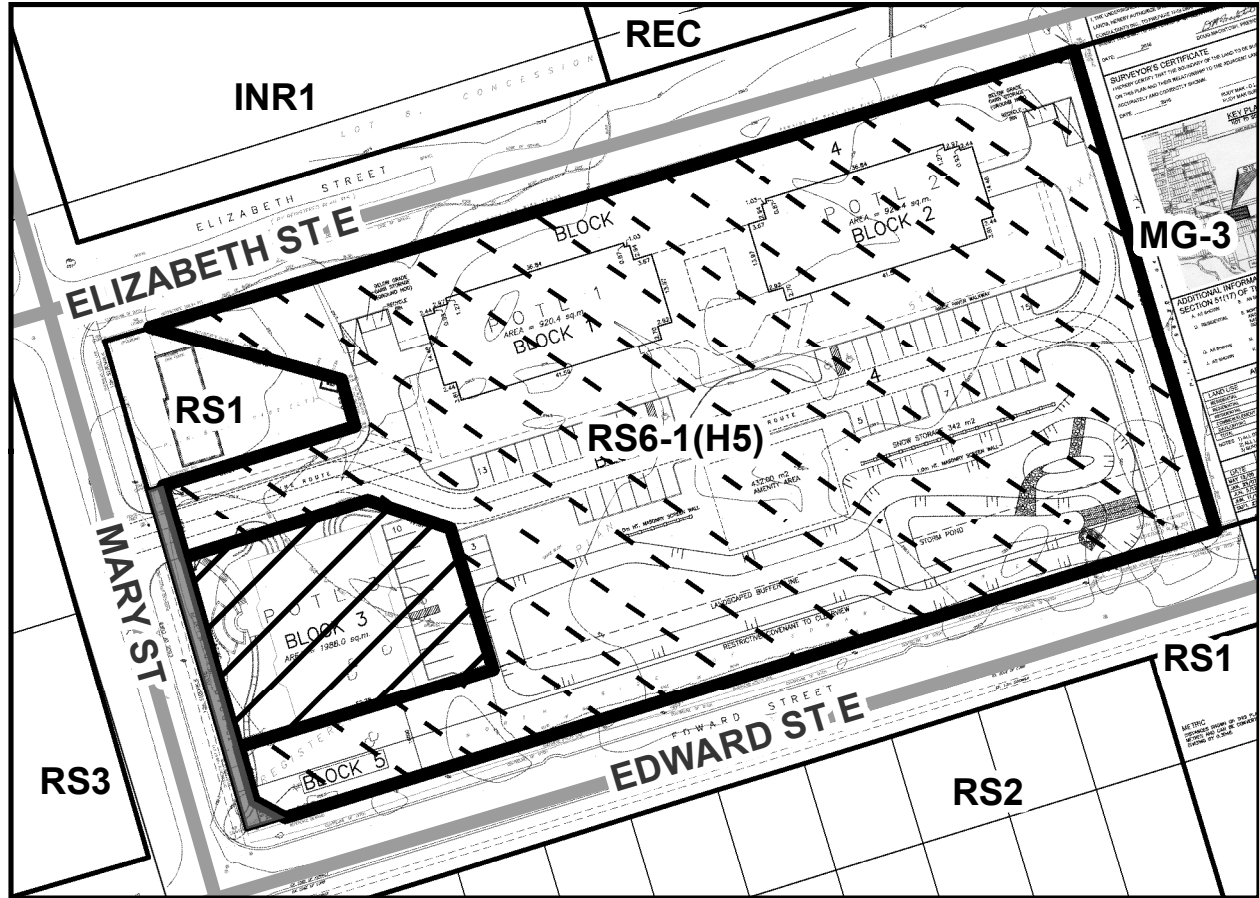
By-law Number 17-70 read a first, second and third time and finally passed this _ day of __, 2017.

Township of Clearview Schedule '1'

This is Schedule '1' to Zoning By-law No. 17-70,
passed this _____ day of _____, 2017.

Christopher Vanderkruys,
Mayor

Pamela Fettes,
Director of Legislative Services/Clerk



Area to be rezoned from Residential High Density Exception 1 Hold 5 (RS6-1(H5)) Zone to Residential High Density Exception 7 Hold 5 (RS6-7(H5)) Zone.



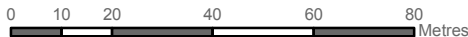
Remains Residential High Density Exception 1 Hold 5 (RS6-1(H5)) Zone.



Road Widening



1:1,500



— Road Centerline

□ Assessment Parcels

□ Zone Boundary

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