



PLANNING & DEVELOPMENT REPORT

To: Council

Meeting Date: September 24, 2024

Prepared by: Tim Van Hinte
Director of Planning

Date Prepared: September 16, 2024

Subject: Ontario Land Tribunal Decision
Zoning By-law Amendment – 1060 Queen’s Bush Road

Recommendation:

That the Council of the Township of Wellesley receive this report for information.

Summary:

The Ontario Land Tribunal (OLT) issued a written decision on September 3, 2024 pursuant to the settlement agreement reached by the Township and the developer for the proposed development at 1060 Queen’s Bush Road.

Report:

On August 22, 2024, the Township and the developer of 1060 Queen’s Bush Road presented a settlement agreement to the OLT. The agreement, which was approved by the OLT, includes the following rules for the development:

- Zoning for the property will be changed from Urban Residential (UR) to Urban Residential Two (UR2);
- The developer will be permitted to build a maximum of 10 stacked townhouse units;
- While Provincial rules do not require developments of 10 units or less to receive site plan approval, the two parties have agreed to a site plan review and approval process. This process will ensure that important infrastructure is included in site development and meets Township standards. This includes, but is not limited to, stormwater management, a sidewalk along Queen’s Bush Road in front of the property, board-on-board fencing along neighbouring properties for privacy, and lighting.

The agreement came after considerable review by Council of the proposed development, public comments received, and deliberation with Township legal counsel and staff.

In summary, the agreement allows for some increased density on the property, which is encouraged by Provincial, Regional and Township planning policies, but not as much as originally envisioned by the developer. By reaching this settlement, staff believes the Township has been better served and received a more favourable outcome than if a full hearing had proceeded.

Township Strategic Plan:

This report aligns with the initiative of Intensification, Zoning, Development and Growth and Business support.

Financial Implications:

N/A

Other Department / Agency Comments:

N/A

Legal Considerations:

The settlement involved extensive deliberations with Township legal counsel.

Attachment(s):

Attachment 1 – OLT Approved Zoning By-law 37/2024

Attachment 2 – OLT Decision Case No. OLT 23-001205

Approved By:

Senior Management Team

THE CORPORATION OF THE TOWNSHIP OF WELLESLEY

BY-LAW NUMBER 37/2024

A BY-LAW TO AMEND BY-LAW NUMBER 28/2006
BEING A ZONING BY-LAW
FOR
THE TOWNSHIP OF WELLESLEY

PT LT 12 CON 1 E SEC WELLESLEY PT 4, 58R1024; WELLESLEY
1060 Queens Bush Road
TOWNSHIP OF WELLESLEY

WHEREAS the Ontario Land Tribunal pursuant to Case No: OLT-23-001205 in its Order issued September 3, 2024 allowed an Appeal in part and dismissed the remainder of the Appeal;

AND WHEREAS By-law 28/2006 as amended is the Comprehensive Zoning By-law for the Township of Wellesley;

NOW THEREFORE, By-law 28/2006 is amended, pursuant to section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, as follows:

1. **THAT** the lands shown in hatching on the attached Schedule "A" shall be removed from the Urban Residential (UR) Zone and placed in the Urban Residential Two (UR2-4) Zone. The Zoning of these lands shall be shown as "UR2-4" on Zoning Map Schedule "B-5".
2. **THAT** Section 11.11 of By-law No. 28/2006 is hereby amended by adding the following paragraph to Zone "UR2", Exception "UR2-4", Section 11.11.4 which shall state:

11.11.4

Defined Area

UR2-4 as shown on Schedule "B-5", to this By-law.

Additional Permitted Uses

Dwelling, Stacked Townhouse

Additional Regulations

Maximum of ten (10) Dwelling, Stacked Townhouse units

Minimum Front Yard Depth

4.5 m

Minimum Side Yard Width

Exterior side yard 4.5 m

3. **THAT** this By-law shall come into force and effect upon the final Order thereof by the Ontario Land Tribunal subject to compliance with the provisions of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

BY-LAW NUMBER 37/2024

ORDERED THIS 3rd DAY OF SEPTEMBER, 2024.

THE CORPORATION OF THE TOWNSHIP OF WELLESLEY

SCHEDULE 'A'
to
BY-LAW NUMBER 37/2024

PT LT 12 CON 1 E SEC WELLESLEY PT 4, 58R1024; WELLESLEY
1060 Queens Bush Road
TOWNSHIP OF WELLESLEY



To be zoned Urban Residential Two (UR2) and be subject to the provisions of Section 11.11.4 of By-law 28/2006 of the Township of Wellesley



Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: September 3, 2024

CASE NO(S):

OLT-23-001205

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

Appellant:

Bradley & Company Inc.

Subject:

Application to amend the Zoning By-law –
Appeal of passing of Zoning By-law

Description:

To permit a new residential building comprised
of 12 stacked townhouse units.

Reference Number:

ZBA 02-23

Property Address:

1060 Queens Bush Road

Municipality/UT:

Wellesley

OLT Case No.:

OLT-23-001205

OLT Case Name:

Bradley & Company Inc. v. Wellesley (Twp.)

Heard:

August 22, 2024, by Video Hearing

APPEARANCES:

Parties

Counsel

Bradley & Company Inc.

Eric Davis
Chris Manning

Township of Wellesley

Steven O'Melia

MEMORANDUM OF ORAL DECISION DELIVERED BY C.I. MOLINARI AND ORDER OF THE TRIBUNAL

[Link to Order](#)

INTRODUCTION AND BACKGROUND

[1] This matter involves a settlement hearing related to appeals filed by Bradley & Company Inc. (“Applicant”/“Appellant”) pursuant to s. 34(19) of the *Planning Act* (“Act”) against the decision of the Township of Wellesley (“Township”) approving a Zoning By-law Amendment application (“Application”) to amend Zoning By-law No. 28/2006 (“ZBL 28/2006”) affecting the lands known municipally as 1060 Queens Bush Road (“Property”).

[2] The purpose of the Application, as filed, was to facilitate the development of the Property with twelve stacked townhouse units on the Property. The Township passed Zoning By-law No. 34/2023 (“ZBA 34/2023”) permitting a maximum unit count of eight townhouses on the Property. The Applicant appealed the decision on December 5, 2023, on the basis that the proposed stacked townhouses are not included as a permitted use in ZBA 34/2023, the Township “has limited opportunities for infill development within fully serviced areas and the zoning proposed in the application would contribute more to achieving the prescribed intensification rate”.

[3] The Property is located within the Wellesley Urban Area, at the southeast corner of Queens Bush Road and Village Road. It has an area of 1,848 square metres with a frontage of 38.44 metres and a depth of 45.37 metres. It is currently developed with a single-detached dwelling and a detached garage.

[4] Surrounding land uses include an undeveloped lot containing a Bell Utility Service structure to the east, Wellesley Public School to the north across Queens Bush Road, with the remaining surrounding area developed with low-rise residential dwellings on mainly single-detached lots.

[5] The Property is currently designated 'Urban Residential' in the Township Official Plan ("TOP"), which permits a range of uses including the proposed use. It is currently zoned 'Urban Residential (UR) Zone' under ZBL 28/2006, which permits a variety of residential building types, including townhouses, but not stacked townhouses. Full municipal services are available for the proposed development.

[6] A Case Management Conference was held on February 16, 2024, at which no additional Parties or Participants sought status. As such, only the Appellant and the City are Parties to the Appeal.

[7] Post-appeal, the Parties, aided by discussions between Tim Van Hinte (Township Director of Planning), Douglas Stewart (planning consultant for the Applicant), and Mark Dorfman (peer review planning consultant), were able to resolve the Appeal and agree on a modified amendment to ZBL 28/2006 ("Settlement ZBA"), as presented to the Tribunal as part of the settlement.

[8] The Settlement ZBA includes 'Stacked Townhouse Dwelling', as defined in ZBL 28/2006, as a permitted use and provides for a maximum of ten such units.

[9] As a result, the Parties requested that the Tribunal convert the hearing, scheduled to commence on October 2, 2024, to a settlement hearing to be rescheduled to an earlier date. The Tribunal therefore scheduled the present hearing date, and in accordance with Rule 12 of the Tribunal's *Rules of Practice and Procedure*, convened the proceedings as a hearing on the terms of the settlement.

LEGISLATIVE FRAMEWORK

[10] When considering an Appeal filed pursuant to s. 34(19) of the Act, the Tribunal must have regard to the relevant matters of provincial interest as set out in s. 2 of the Act. Section 3(5) of the Act requires decisions of the Tribunal affecting planning matters to be consistent with the Provincial Policy Statement, 2020 ("PPS") and, in this case, conform to the Growth Plan for the Greater Golden Horseshoe ("Growth Plan"). The

Tribunal must also be satisfied that the Application conforms with the Region of Waterloo Official Plan (“ROP”) and the TOP.

[11] In consideration of the statutory requirements set out above, the Tribunal must also be satisfied that the Application represents good land use planning and is in the public interest.

WITNESSES

[12] Prior to the commencement of the Hearing, the Tribunal received the Affidavit of Mark Lyon Dorfman in support of the Settlement. The Tribunal qualified Mr. Dorfman, on consent, to provide expert opinion evidence in the area of land use planning.

LAND USE PLANNING EVIDENCE

[13] Mr. Dorfman provided background information on the Property, the surrounding area, the proposed use, and the history and processing of the Application.

[14] With respect to the regulatory and policy context, Mr. Dorfman opined that the Settlement ZBA has regard for the applicable matters of provincial interest pursuant to s. 2 of the Act as it provides for a full range of housing and the orderly development of safe and healthy communities. He found that the Settlement ZBA is consistent with the PPS as it accommodates “an appropriate affordable and market-based range and mix of residential types”. He further opined that the Settlement ZBA is in conformity with the Growth Plan, the ROP and the TOP, as it includes an appropriate type and scale of development, encourages intensification in a delineated built-up area, contributes to the creation of complete communities and adds to the mix of housing types and densities in the Wellesley Urban Area. With respect to the TOP, he added that it meets the density, scale and massing requirements and that there are no natural heritage matters to address.

[15] As submitted by Mr. Dorfman, the Settlement ZBA proposes to rezone the Property from 'C4' to a site-specific 'RA5-XX' (Residential Apartment Five – Exception XX) zone to permit a maximum of ten “Stacked Townhouse Dwelling” units as defined in ZBL 28/2006.

[16] It was Mr. Dorfman’s opinion that the Settlement ZBA will support the achievement of complete communities, prioritize intensification to make efficient use of the land and available infrastructure, as well as support a range and mix of housing options while providing for additional residential units.

[17] Based on the foregoing, it was Mr. Dorfman’s opinion that the Settlement ZBA will “fit nicely into the neighbourhood”, represents good land use planning, is in the public interest and should be approved.

ANALYSIS AND FINDINGS

[18] The Tribunal accepts the uncontroverted testimony and evidence of Mr. Dorfman. In consideration of his evidence and the resulting settlement of the Appeals, the Tribunal is satisfied that the Settlement ZBA has sufficient and proper regard for the applicable matters of provincial interest as set out in s. 2 of the Act. The Tribunal finds that the Settlement ZBA is consistent with the PPS and is in conformity with the Growth Plan, the ROP and the TOP, represents good land use planning and is in the public interest.

ORDER

[19] **THE TRIBUNAL ORDERS THAT** the Appeal against Zoning By-law No. 34/2023 of the Township of Wellesley is allowed in part and Zoning By-law No. 34/2023 is amended as set out in **Attachment 1** to this Order. The Tribunal authorizes the

municipal clerk of the Township of Wellesley to format the by-law as necessary for record keeping purposes. In all other respects, the Tribunal Orders that the Appeal is dismissed.

“C. I. Molinari”

C. I. MOLINARI
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.

ATTACHMENT 1

PROPOSED ZONING BY-LAW AMENDMENT

BY-LAW NUMBER _____

A BY-LAW TO AMEND BY-LAW NUMBER 28/2006

BEING A ZONING BY-LAW FOR THE TOWNSHIP OF WELLESLEY

PT LT 12 CON 1 E SEC WELLESLEY PT 4, 58R1024; WELLESLEY

1060 Queens Bush Road

TOWNSHIP OF
WELLESLEY

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BY-LAW NUMBER _____

ORDERED THIS _____ DAY OF _____, 2024.

SCHEDULE A

to
BY-LAW NUMBER _____

PT LT 12 CON 1 E SEC WELLESLEY PT 4, 58R1024; WELLESLEY
1060 Queens Bush
Road TOWNSHIP OF
WELLESLEY



To be zoned Urban Residential Two (UR2) and be subject to the provisions of Section 11.11.4 of By-law 28/2006 of the Township of Wellesley

