

ISSUE DATE:  
  
Dec 10, 2009



PL060290

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

09-267

Victor J Veri and Fred Spencer have appealed to the Ontario Municipal Board under subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, against Zoning By-law 06-038 of the City of Hamilton  
OMB File No. R060068

**BEFORE:**

J. McKenzie	)	Thursday, the 10 <sup>th</sup> day
	)	
Vice Chair	)	of December, 2009

**UPON APPEAL TO THIS BOARD**, and the Board having been advised by Senior Council to the City of Hamilton that sections were either omitted or misnumbered from By-law 06-038, which was included with Decision/Order 0634, dated March 13, 2007;

**THE BOARD ORDERS** that Decision/Order 0634 is hereby amended by replacing By-law 06-038 with the attached modified By-law;

In all other respects the Decision remains the same.

SECRETARY

Bill No. 267

**CITY OF HAMILTON**

**BY-LAW NO. 09-267**

**To Amend:**

**Zoning By-law No. 87-57 (Ancaster);  
Zoning By-law No. 3581-86 (Dundas);  
Zoning By-law No. 90-145-Z (Flamborough);  
Zoning By-law No. 464 (Glanbrook);  
Zoning By-law No. 6593 (Hamilton);  
Zoning By-law No. 3692-92 (Stoney Creek), and  
Zoning By-law No. 05-200 (Downtown Hamilton)**

**Respecting:**

**PROHIBITION OF USE OF LAND WITHOUT ADEQUATE SERVICES**

**WHEREAS** the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

**AND WHEREAS** the City of Hamilton is the successor to the former area municipalities known as the "The Corporation of the Town of Ancaster", "The Corporation of the Town of Dundas", "The Corporation of the Town of Flamborough", "The Corporation of the Township of Glanbrook", "The Corporation of the City of Hamilton", and "The Corporation of the City of Stoney Creek", and is the successor to the former Regional Municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

**AND WHEREAS** the City of Hamilton Act, 1999, provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former Regional Municipality of Hamilton-Wentworth continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

**AND WHEREAS** the Council of The Corporation of the Town of Ancaster passed Zoning By-law No. 87-57 (Ancaster) on the 22nd day of June 1987, which by-law was approved by the Ontario Municipal Board by Order on the 23<sup>rd</sup> day of January, 1989;

**AND WHEREAS** the Council of The Corporation of the Town of Dundas passed Zoning By-law No. 3581-86 (Dundas) on the 22nd day of May 1986, which by-law was approved by the Ontario Municipal Board by Order dated the 10th day of May 1988;

**AND WHEREAS** the Council of The Corporation of the Town of Flamborough passed Zoning By-law No. 90-145-Z (Flamborough) on the 5th day of November 1990, which by-law was approved by the Ontario Municipal Board by Order dated the 21st day of December 1992;

**AND WHEREAS** the Council of The Corporation of the Township of Glanbrook passed Zoning By-law No. 464 (Glanbrook) on the 16th day of March 1992, which by-law was approved by the Ontario Municipal Board by Order dated the 31st day of May 1993;

**AND WHEREAS** the Council of The Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which by-law was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951, (File No. P.F.C. 3821);

**AND WHEREAS** the Council of The Corporation of the City of Stoney Creek passed Zoning By-law No. 3692-92 (Stoney Creek) on the 8th day of December 1992, which by-law was approved by the Ontario Municipal Board by Order dated the 31st day of May, 1994;

**AND WHEREAS** the Council of the City of Hamilton passed Zoning By-law 05-200 (Downtown Hamilton) on the 25th day of May, 2005 which came into effect on the same date;

**AND WHEREAS** this By-law is in conformity with the Official Plan of the former City of Hamilton, the Official Plan of the former Town of Ancaster, the Official Plan of the former Town of Dundas, the Official Plan of the former Town of Flamborough, the Official Plan of the former Township of Glanbrook, the Official Plan of the City of Stoney Creek);

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item of Report of the Planning and Economic Development Committee at its meeting held on the day of recommended that Zoning By-law No. 87-57 (Ancaster), Zoning By-law No. 3581-86 (Dundas), Zoning By-law No. 90-145-Z (Flamborough), Zoning By-law No. 464 (Glanbrook), Zoning By-law No. 6593 (Hamilton), Zoning By-law 3692-92 (Stoney Creek), and Zoning By-law 05-200 (Downtown Hamilton) be amended as hereinafter provided.

**AND WHEREAS** the owner of any land, building or structure affected by this by-law may appear as a delegation before the appropriate Committee of Council in accordance with the City's Procedural By-law;

**AND WHEREAS** under Section 45(1) of the *Planning Act*, the Committee of Adjustment, upon the application of the owner of any land, building or structure affected by this by-law, may authorize such minor variance from the provisions of this by-law as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the Committee of Adjustment the general intent and purpose of this by-law and the official plan are maintained, herein referred to as a "minor variance application";

**AND WHEREAS** in applying the *Planning Act* test to decide a minor variance application, the Committee of Adjustment may consider such evidence as it deems relevant, including, but not limited to, the position of the General Manager of the Planning and Economic Development Department and/or his or her designate and any other engineering opinions/reports presented to it;

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

1. Town of Ancaster

- (a) Section 7 of Zoning By-law No. 87-57 (Ancaster) is hereby amended by adding the following new subsection:

**"7.29 ADEQUATE SERVICES**

Except for Section 7.27 - Model Homes in Draft Plans of Subdivision, no buildings or structures may be erected, used or occupied unless:

- i) adequate watermains, storm and sanitary sewer systems are existing or have been provided for in a binding and secured development agreement and all regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate; or
- ii) where such services are not required or contemplated, an approved waste disposal system and potable water supply to sustain the use of land for buildings or structures are existing or have been provided for to the satisfaction of the Chief Building Official and all regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate; and

- iii) the dedication of lands for parkland or payment of cash-in-lieu of parkland in accordance with the City of Hamilton Parkland Dedication and Cash-in-lieu of Parkland Policy has been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate.”

2. Town of Dundas

- (a) Section 6 of Zoning By-law No. 3581-86 (Dundas) is hereby amended by adding the following new subsection:

**“6.25 ADEQUATE SERVICES**

Except for Section 6.19.3a – Model Homes in Draft Plans of Subdivision, no buildings or structures may be erected, used or occupied unless:

- i) adequate watermains, storm and sanitary sewer systems are existing or have been provided for in a binding and secured development agreement and all regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate; or
- ii) where such services are not required or contemplated, an approved waste disposal system and potable water supply to sustain the use of land for buildings or structures are existing or have been provided for to the satisfaction of the Chief Building Official and all regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate; and
- iii) the dedication of lands for parkland or payment of cash-in-lieu of parkland in accordance with the City of Hamilton Parkland Dedication and Cash-in-lieu of Parkland Policy has been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate.”

3. Town of Flamborough

- (a) Section 5 of Zoning By-law No. 90-145-Z (Flamborough) is hereby amended by adding the following new subsection:

### **"5.37 ADEQUATE SERVICES**

Except for Section 5.35 – Model Homes in Draft Plans of Subdivision, no buildings or structures may be erected, used or occupied unless:

- i) adequate watermains, storm and sanitary sewer systems are existing or have been provided for in a binding and secured development agreement and all regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate; or
- ii) where such services are not required or contemplated, an approved waste disposal system and potable water supply to sustain the use of land for buildings or structures are existing or have been provided for to the satisfaction of the Chief Building Official and all regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate; and
- iii) the dedication of lands for parkland or payment of cash-in-lieu of parkland in accordance with the City of Hamilton parkland Dedication and Cash-in-lieu of Parkland Policy has been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate."

#### **4. Township of Glanbrook**

- (a) Section 7 of Zoning By-law No. 464 (Glanbrook) is hereby amended by adding the following new subsection:

### **"7.42 ADEQUATE SERVICES**

Except for Section 7.40 – Model Homes in Draft Plans of Subdivision, no buildings or structures may be erected, used or occupied unless:

- i) adequate watermains, storm and sanitary sewer systems are existing or have been provided for in a binding and secured development agreement and all regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate; or

- ii) where such services are not required or contemplated, an approved waste disposal system and potable water supply to sustain the use of land for buildings or structures are existing or have been provided for to the satisfaction of the Chief Building Official and all regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate; and
- iii) the dedication of lands for parkland or payment of cash-in-lieu of parkland in accordance with the City of Hamilton Parkland Dedication and Cash-in-lieu of Parkland Policy has been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate.”

5. City of Hamilton

- (a) Section 6 of Zoning By-law No. 6593 (Hamilton) is hereby amended by adding the following new subsection:

**“(22) ADEQUATE SERVICES**

Except for Section 6.(20) – Model Homes in Draft Plans of Subdivision, no buildings or structures may be erected, used or occupied unless:

- i) adequate watermains, storm and sanitary sewer systems are existing or have been provided for in a binding and secured development agreement and all regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate; or
- ii) where such services are not required or contemplated, an approved waste disposal system and potable water supply to sustain the use of land for buildings or structures are existing or have been provided for to the satisfaction of the Chief Building Official and all regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate; and
- iii) the dedication of lands for parkland or payment of cash-in-lieu of parkland in accordance with the City of Hamilton Parkland Dedication and Cash-in-lieu of Parkland Policy has been

received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate.”

6. City of Stoney Creek

- (a) Section 4.4 of Zoning By-law 3692-92 (Stoney Creek) is hereby amended by adding the following new subsection:

**“4.4.11 ADEQUATE SERVICES**

Except for Section 4.20 – Model Homes in Draft Plans of Subdivision, no buildings or structures may be erected, used or occupied unless:

- i) adequate watermains, storm and sanitary sewer systems are existing or have been provided for in a binding and secured development agreement and all regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate; or
- ii) where such services are not required or contemplated, an approved waste disposal system and potable water supply to sustain the use of land for buildings or structures are existing or have been provided for to the satisfaction of the Chief Building Official and all regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate; and
- iii) the dedication of lands for parkland or payment of cash-in-lieu of parkland in accordance with the City of Hamilton Parkland Dedication and Cash-in-lieu of Parkland Policy has been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate.”

7. Zoning By-law 05-200 (Downtown Hamilton)

- (a) Section 4 of Zoning By-law 05-200 - General Provisions is hereby amended by adding the following new subsection:

**“4.22 ADEQUATE SERVICES**



Except for Section 4.15 of Zoning By-law No. 05-200 (Downtown Hamilton) – Model Homes in Draft Plans of Subdivision, no buildings or structures may be erected, used or occupied unless:

- i) adequate watermains, storm and sanitary sewer systems are existing or have been provided for in a binding and secured development agreement and all regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate; or
- ii) where such services are not required or contemplated, an approved waste disposal system and potable water supply to sustain the use of land for buildings or structures are existing or have been provided for to the satisfaction of the Chief Building Official and all regulatory approvals have been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate; and
- iii) the dedication of lands for parkland or payment of cash-in-lieu of parkland in accordance with the City of Hamilton Parkland Dedication and Cash-in-lieu of Parkland Policy has been received to the satisfaction of the General Manager of the Planning and Economic Development Department and/or his or her designate.”

8. The Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

**PASSED and ENACTED** this 10th day of December, 2009.