

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: December 07, 2015

CASE NO(S): PL141162

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

Applicant and Appellant:	Gail Young
Subject:	Application to amend Zoning By-law No. 2003-38 - Refusal of Application by Municipality of Powassan
Existing Zoning:	Rural (RU) Zone
Proposed Zoning:	Extractive Industrial (MX) Zone
Purpose:	To permit the establishment and operation of a quarry
Property Address/Description:	Part of Lot 12, Conc. 9 (South Himsworth)
Municipality:	Municipality of Powassan
Municipality File No.:	2014-03
OMB Case No.:	PL141162
OMB File No.:	PL141162
OMB Case name	Young v. Ontario (Natural Resources and Forestry)

PROCEEDING COMMENCED UNDER subsection 11(5) of the *Aggregate Resources Act*, R.S.O. 1990, c. A.8, as amended

Referred by:	Ministry of Natural Resources
Objector:	Genesee Keevil
Objector:	June Keevil
Objector:	Larry Lang
Objector:	Municipality of Powassan; and others
Applicant:	Rocky Ridge Aggregates Inc.
Subject:	Application for a Class A licence for the removal of aggregate
Property Address/Description:	Part of Lot 12, Conc. 9 (South Himsworth)
Municipality:	Municipality of Powassan
OMB Case No.:	PL141162
OMB File No.:	MM140086

Heard: November 30, 2015 in Powassan, Ontario

APPEARANCES:

Parties

Counsel

Gail Young ("Applicant")

P. Gross

Municipality of Powassan
("Powassan")

E. Veldbloom

**MEMORANDUM OF ORAL DECISION DELIVERED BY BLAIR S. TAYLOR ON
NOVEMBER 30, 2015 AND ORDER OF THE BOARD**

INTRODUCTION

[1] The Applicant is the owner of Rocky Ridge Aggregates Inc., which company had applied for a Class "A" Licence for the lands described as Part of Lot 12, Concession 9, South Himsworth (the "Subject Lands") in Powassan. As part of that application a rezoning for the Subject Lands was required, and a rezoning application duly filed with Powassan.

[2] The rezoning application was recommended to the Powassan Council, but denied by Council, and subsequently appealed by the Applicant to the Board.

[3] Additionally the Ministry of Natural Resources and Forestry ("MNRF") referred the licence application to the Board for a determination as to whether a licence should be issued for the Subject Lands.

[4] The Board set the matter down for a five day hearing in Powassan.

[5] In the lead up to the hearing, the Applicant and Powassan (the only parties to the hearing) were able to resolve matters, and entered into Minutes of Settlement, and a Quarry Haul Route Agreement.

[6] Thus the hearing became a settlement hearing, at which time the Board was provided with the executed Minutes of Settlement (including a proposed draft zoning by-law), and the executed Quarry Haul Route Agreement, and heard evidence from the Applicant's land use planner in support of the applications, and four participants in opposition to the proposed zoning by-law and the issuance of the licence.

[7] The Board having considered all the evidence, and the submissions of counsel, rendered an oral decision for the reasons set out below.

Decision

[8] In reaching its decision, the Board notes that all the commenting agencies have no objections to the applications before the Board.

[9] The Subject Lands are designated in the Official Plan as "Rural" on Schedule "A" to the Official Plan, and also as "Bedrock Resources" on Schedule "B". The Official Plan is dated as of 2003, and thus the land use designations have been in place for some time.

[10] The Board observes that the rezoning application was reviewed by the municipality's consultant and staff who recommended approval of the rezoning application.

[11] Powassan Council denied the rezoning application and the Applicant appealed.

[12] Only Powassan and the Applicant are parties to this hearing.

[13] In the lead up to the hearing, Powassan and the Applicant settled their outstanding issues, which settlement is documented in the Minutes of Settlement, found at Exhibit 1, and have also executed a Quarry Haul Route Agreement, found at Exhibit

2.

[14] The Board heard the expert land use planning evidence of the Applicant's planner, who referenced and relied on the various technical studies that the Applicant had commissioned including: Blast Impact Analysis, Noise Impact Analysis, Traffic Impact Study, and Natural Environment Reports. The Applicant's land use planner testified that there were no objections from any commenting agency, and that the applications were consistent with the Provincial Policy Statement, ("PPS"), conformed to the Official Plan ("OP"), and represented good planning and good resource management.

[15] No expert evidence in opposition was heard.

[16] Instead the Board heard lay interpretations as to a number of provisions of the PPS.

[17] The Board has considered all the evidence and the submissions of council.

[18] As required by the *Planning Act*, the Board has had regard to the matters of Provincial Interest, the decision of Powassan Council, and the information and materials that were before Council when it made its decision.

[19] The Board finds based on the uncontroverted expert evidence, that the development proposal is consistent with the PPS, conforms to the OP, and represents good planning.

[20] The Board approves the rezoning application and approves the draft zoning by-law amendment as found at Exhibit 8.

[21] With regard to the referral from MNRF, the Board will direct the Ministry to issue the licence, in accordance with paragraph 3 of the Minutes of Settlement:

The Parties agree to request the Board to direct the Ministry of Natural Resources and Forestry (MNRF) to include in the license a prohibition on the extraction, excavation, processing or removal of aggregate from the Owner's Lands until such time as the Haul Route is improved in accordance with the Haul Route Agreement, with the exception that such restriction would not apply to the Owner[s] production and use of aggregate from the Owner's Lands for the purpose of constructing and improving the Haul Route as required under the Haul Route Agreement and shall include blasting, drilling, extraction and processing of material necessary for this purpose.

[22] Additionally the Board will, in an abundance of caution, direct that two additional site plan notes be added: firstly that any portable asphalt plant be located more than 300 metres ("m") from the property line of Residence 1; and similarly that any portable crushing plant be located more than 300 m from the property line of Residence 1.

"Blair S. Taylor"

BLAIR S. TAYLOR
MEMBER

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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