

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: February 10, 2017

CASE NO(S): PL160711

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

Appellant:	Kerri & Rolf Schuettel
Subject:	By-law No. 2016-48
Municipality:	Town of Minto
OMB Case No.:	PL160711
OMB File No.:	PL160711
OMB Case Name:	Schuettel v. Minto (Town)

Heard: Friday, February 3, 2017 by telephone
conference call

APPEARANCES:

Parties

Counsel

Kerri and Rolf Schuettel

Steven O'Melia

Town of Minto

Patrick Kraemer

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. V. ZUIDEMA ON
FEBRUARY 3, 2017 AND ORDER OF THE BOARD**

[1] The Town of Minto ("Town") passed By-law 2016-48 ("ZBA") to amend Zoning By-law 01-86. The purpose of the ZBA was to rezone the lands located at 24 George Street North and 100 William Street East ("subject property") in the Town from Open Space (OS) to Residential Exception Zone (R2-46) in order to allow the development of townhouses.

[2] Further, the ZBA would allow relief from the required rear yard setback, interior side yard setback and distance between buildings.

[3] Kerri and Rolf Schuettel ("Appellants") appealed to this Board for the following reasons:

- a. Common amenity area is not provided/indicated;
- b. No visitor parking;
- c. Frontage less than 20.1metres that was not addressed;
- d. Public notice issues;
- e. Side yard reductions are not appropriate;
- f. Too few parking spaces provided;
- g. Development is proposed on lands that are not owned by the applicant/developer and there is no agreement to acquire the land; and
- h. Storm water management and Open Space impacts on existing homes.

[4] By the time the matter was ready for a hearing, the parties had come to a settlement and this was addressed via telephone conference call ("TCC").

[5] I provided an oral decision allowing the appeal in part in order to bring into effect the settlement achieved. Specifically, I had before me the Affidavit filed by Mr. Scott Patterson. Mr. Patterson was on the TCC and provided testimony to support the settlement. He was qualified and accepted as an expert in land use planning.

[6] Mr. Patterson's evidence was not challenged and he was quite methodical and thorough in reviewing all of the operative policies to support the revised draft Zoning By-law which was presented to me for approval.

[7] Mr. Patterson explained the history leading up to the settlement. The Minutes of Settlement executed by the parties was included in Mr. Patterson's materials along with the draft revised By-law.

[8] He opined that the revised ZBA was in the public interest and represented good and proper planning.

[9] Therefore, the Board orders that the appeal is allowed in part and the Zoning By-Law Amendment, which was attached to the Minutes of Settlement found in Exhibit 2, Tab C as Schedule A, is amended and as amended, is approved. For ease of reference, a copy of that document is appended to this Decision as Attachment 1.

"J. V. Zuidema"

J. V. ZUIDEMA
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

SCHEDULE "A"

THE CORPORATION OF THE TOWN OF MINTO
By-law No. 2016-48

To Rezone 0.29 acres of Parkland from Open Space (OS) to Residential Exception (R2-46) and Provide Zoning Relief for Deficiencies in Side Yard and Rear Yard Setbacks and Distance between Side Townhouse Blocks and, for Part of Park Lots 4 and 5, George Street, Harriston

WHEREAS Section 34 of the *Planning Act*, R.S.O. 1990, as amended, authorizes the council of a municipality to pass a zoning by-law for the use of land; and

WHEREAS, the Council of the Corporation of the Town of Minto deems it necessary to amend By-law Number 01-86;

NOW THEREFORE the Council of the Corporation of the Town of Minto enacts as follows:

1. THAT Schedule "A" - Map No. 3 (Harriston) of the Town of Minto Zoning By-law 01-86 is amended for Part of Park Lot 6, George Street, Harriston, Town of Minto, by rezoning an area from Open Space (OS) to Residential Exception (R2-46), as shown on Schedule "A" (the "Lands") attached to and forming part of this By-law.
2. THAT Section 35 – Exception Zone 2 – Harriston, Town of Minto is amended by the deleting the last sentence of the regulations for the lands zoned Residential R2-46 and replacing it with the following text:

The cluster townhouse use shall meet all of the regulations of Section 13.2.2 of the Residential R3 Zone, save and except the following provisions:

- | | | |
|--|---|-------|
| (a) Minimum Interior Side Yard Setback | - | 3.0m |
| (b) Minimum Rear Yard Setback | - | 5.64m |
| (c) Distance Between Side Townhouse Blocks | - | 3.0m |

3. THAT the following additional provisions shall apply to the Lands:

- (a) There shall be a one-storey height limitation for all development on the Lands.
- (b) There shall be a maximum unit limit of twenty-three (23) units on the Lands.
- (c) All development on the Lands must be constructed in accordance with all of the applicable provisions of the Town of Minto Zoning By-law to ensure appropriate parking, amenity space, garbage facilities and other matters are provided in a suitable manner.
- (d) Minimum Lot Frontage: the frontage of the existing lot on George Street zoned R2-46 shall be the required frontage for development of a cluster townhouse development

4. THAT except as amended by this By-law, the land as shown on the attached Schedule 'A' shall be subject to all applicable regulations of Zoning By-law 01- 86, as amended.
5. THAT this By-law shall come into effect upon the final passing thereof pursuant to Section 34(21) and Section 34(22) of the *Planning Act*, R.S.O., 1990, as amended, or where applicable, pursuant to Sections 34(30) and (31) of the *Planning Act*, R.S.O., 1990, as amended.

Approved by the Ontario Municipal Board this 3rd day of February, 2017.

Board Member:

THE CORPORATION OF THE TOWN OF MINTO
By-law No. 2016-48

Schedule "A"



Rezone from Open Space (OS) to Residential Exception (R2-46)
Revise Regulations for Residential Exception (R2-46)

This is Schedule "A" to By-law 2016-48

Passed this 21st day of June 2016

Mayor George A. Bridge

C.A.O. Clerk Bill White

EXPLANATORY NOTE

BY-LAW NUMBER 2016-49

SUBJECT LAND

The properties subject to the proposed amendment are located on Part Park Lots 4, 5 and 6 George Street, with municipal addresses of 24 George Street N, Harriston.

PURPOSE

The purpose of the amendment is to rezone approximately 0.29 acres of parkland owned by the Town of Minto from Open Space (OS) to Residential Exception (R2-46).

In addition the text of the R2-46 zone is being revised to provide zoning relief for the following deficiencies:

- Interior side yard setback – 3.0m proposed, 6.0m required (section 13.2.2.5)
- Rear Yard Setback – 5.64m proposed, 7.6m required (section 13.2.2.4)
- Distance between sides of townhouse blocks – 3.0m proposed, 9.1m required. (section 12.2.2.9c))

In addition the text of the R2-46 zone as it applies to the subject property is being revised to provide for the following limitations:

- All development shall be a maximum of one-storey in height.
- There shall be a maximum of twenty-three (23) units constructed on the subject property.