

November 15, 2010

Ministry of Municipal Affairs and Housing
Municipal Services Office – Central Ontario
777 Bay Street, 2nd Floor
Toronto, Ontario M5G 2E5

Attention: **Ms. Sybelle von Kursell**
Team Lead

RECEIVED
MUNICIPAL SERVICES OFFICE
NOV 16 2010
CENTRAL REGION
MINISTRY OF MUNICIPAL AFFAIRS
AND HOUSING

Dear Ms. von Kursell:

Re: Notice of Decision dated October 27, 2010
Durham Regional Official Plan Amendment No. 128 ("ROPA 128")
360 Columbus Road West, Brooklin, Whitby
Notice of Appeal Pursuant to Subsection 17(40) of the Planning Act

We act for 1628755 Ontario Limited ("1628755 Ontario ") with regard to the lands comprising 38.7 hectares located at the northwest corner of Columbus Road West and Cedarbrook Trail having municipal address 360 Columbus Road West, in the Village of Brooklin in the Town of Whitby as shown on the attached plan ("Subject Lands").

The subject lands were designated Lands to be re-designated from "Prime Agricultural Areas" to Living Areas under ROPA No. 128. The Minister has elected to defer making a decision in respect of significant portions of ROPA 128 including the designation on the Subject Lands (Part D, Section 1).

Pursuant to Subsection 17(36) and 17(40) of the *Planning Act*, 1628755 Ontario hereby appeals to the Ontario Municipal Board the Minister's failure to give notice of a decision on ROPA 128.

The reasons for this appeal include:

1. ROPA 128 as it affects the Subject Lands as approved by the Region of Durham is in conformity with the Places to Grow Act, the Growth Plan for the Golden Horseshoe and the decision to defer a decision approving ROPA 128 is not in conformity with the Act.
2. There is no good planning reason to defer a decision in respect of ROPA 128.
3. The urban boundary should be expanded to include the Subject Lands.

Standard Life Centre, Suite 510, 121 King St. W., P.O. Box 105, Toronto, ON M5H 3T9

T: 416 601 1800
F: 416 601 1818

4. There are already existing residential uses located adjacent and to the south of the Subject Lands.
5. Such further and other reasons as will be raised before the Board.

Please find enclosed a complete Appellant Form A1 and our firm's cheque in the amount of **One Hundred Twenty-five Dollars (\$125.00)** to cover the applicable appeal fee.

Should you require any further information respecting this appeal, please contact the undersigned.

Kindly acknowledge receipt of this appeal in writing.

Yours truly,



A. Milliken Heisey
AMH:mm

Encls.

cc: Regional Municipality of Durham, Attn: Ms. P. Madill, Clerk
Town of Whitby
1628755 Ontario Limited
Mr. Robert Short, Director of Planning, Town of Whitby
Ms. Jacqueline Weber, Solicitor, Durham Region
Alex Georgieff, Commissioner of Planning, Durham Region
Mr. Anthony Biglieri, The Biglieri Group

**Environment and Land Tribunals
Ontario**

Ontario Municipal Board

655 Bay Street, Suite 1500
Toronto ON M5G 1E5
Telephone: (416) 212-6349
Toll Free: 1-866-448-2248
Fax: (416) 326-5370
Website: www.elto.gov.on.ca

**Tribunaux de l'environnement et de
l'aménagement du territoire Ontario**

Commission des affaires municipales
de l'Ontario

655 rue Bay, suite 1500
Toronto ON M5G 1E5
Téléphone: (416) 212-6349
Sans Frais: 1-866-448-2248
Télécopieur: (416) 326-5370
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Instructions for preparing and submitting the Appellant Form (A1)

- Complete one form for each type of appeal you are filing.
- Please print clearly.
- A filing fee of \$125 is required for each type of appeal you are filing. To view the Fee Schedule, visit the Board's website.
- The filing fee must be paid by certified cheque or money order, in Canadian funds, payable to the Minister of Finance.
- If you are represented by a solicitor the filing fee may be paid by a solicitor's general or trust account cheque.
- Do not send cash.
- Professional representation is not required but please advise the Board if you retain a representative after the submission of this form.
- Submit your completed appeal form(s) and filing fee(s) by the filing deadline to either the Municipality or the Approval Authority as applicable.
- The Municipality/Approval Authority will forward your appeal(s) and fee(s) to the Ontario Municipal Board.
- The *Planning Act* and the *Ontario Municipal Board Act* are available on the Board's website.



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APPELLANT FORM (A1)
PLANNING ACT

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input checked="" type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

360 Columbus Road West, Brooklin Lot 25, Concession 7
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: Town of Whitby, Region of Durham

Part 3: Appellant Information

First Name: _____ Last Name: _____

1628755 Ontario Limited
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: tlysyk@sympatico.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: (905)259-8259 Alternate Telephone #: _____

Fax #: _____

Mailing Address: 71 Southwood Street Oshawa
Street Address Apt/Suite/Unit# City/Town
Ontario L1G 6L6
Province Country (if not Canada) Postal Code

Signature of Appellant: [Signature] Date: Nov 12/10
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the Planning Act, R.S.O. 1990, c. P. 13, as amended, and the Ontario Municipal Board Act, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: A. Milliken Last Name: Heisey

Company Name: Papazian Heisey Myers

Professional Title: Partner

E-mail Address: heisey@phmlaw.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: (416)601-2702 Alternate Telephone #: _____

Fax #: (416)601-1818

Mailing Address: 121 King Street West, Standard Life Centre, Suite 510 Toronto
Street Address Apt/Suite/Unit# City/Town
Ontario L1G 6L6
Province Country (if not Canada) Postal Code

Signature of Appellant: [Signature] Date: Nov 12/10

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)

MMAH File No. 18-OP-0012-128, Region of Durham Official Plan Amendment, Decision of Minister, October 27, 2010.

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)

SEE ATTACHED LETTER

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE *PLANNING ACT*.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

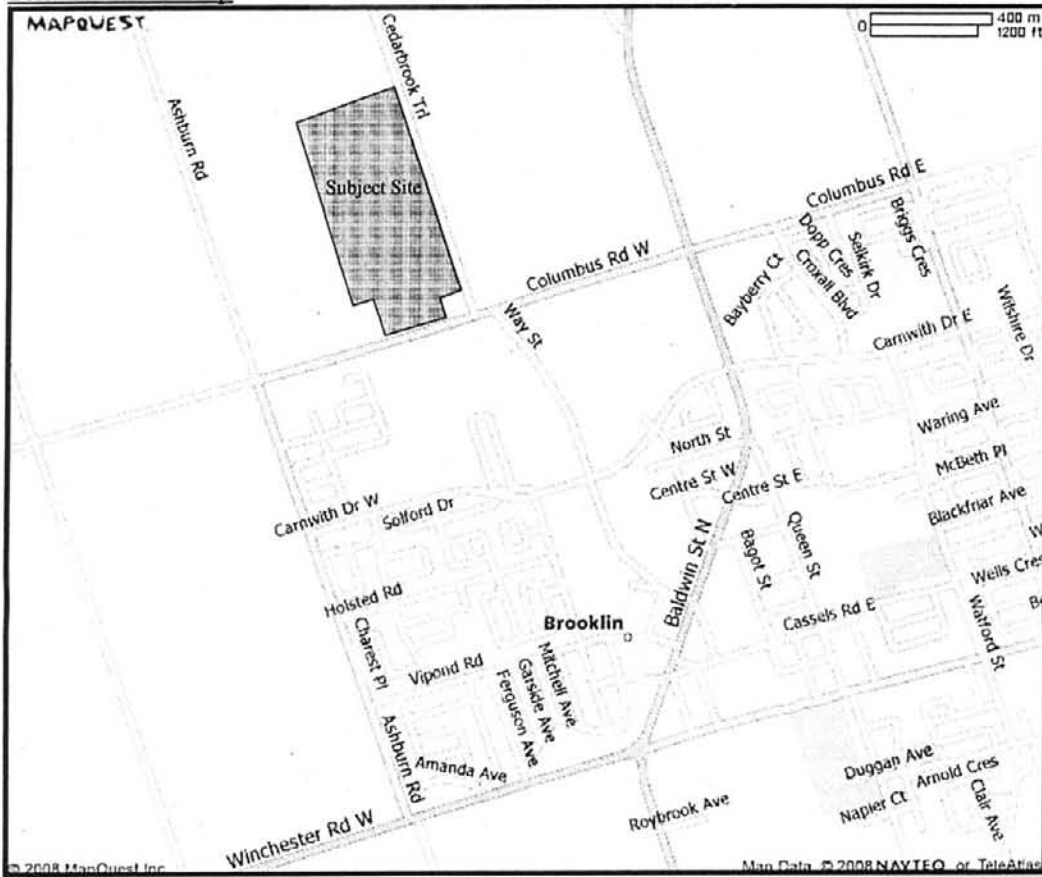
Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)

SCHEDULE "A"

Site Location Map



zian Heisey Myers - General
dard Life Centre, Suite 510
King St. W., P.O. Box 105
nto Ontario M5H 3T9

No. 16948


The Bank of Nova Scotia
145 King Street West
Toronto, ON M5H 1J8


Nov 12/2010

\$125.00

Amount

ne Hundred Twenty Five ***** 00/100
Minister of Finance General Account

Per: 

Per: 

Paid for Ontario Municipal Board appeal/application *