



Bill No. 031

BY-LAW NUMBER 2015-029

A By-law of The Corporation of the City of Barrie to amend By-law 2009-141, a land use control by-law to regulate the use of land, and the erection, use, bulk, height, location and spacing of buildings and structures in the City of Barrie.

WHEREAS the Ontario Municipal Board issued an Order on July 15, 2014 that By-law 2009-141 be amended to rezone Lots 80, 81, 82 & 83, Plan 51M-379, known municipally as 72 – 84 Rawson Avenue.

NOW THEREFORE the following is enacted:

1. **THAT** the City of Barrie Comprehensive Zoning By-law 2009-141 be amended as follows:

That property described as Lots 80, 81, 82 and 83 on Plan 51M-379 be rezoned by repealing the current site specific zoning (EM5) (SP413) (H-107) and implementing the following Special Provision:

EM5 (SP)

The permitted uses on the subject lands shall be limited to a Concrete Ready Mix Plant, Outdoor Storage and Outdoor Storage of sand and stone.

The subject property shall be subject to a holding zone (H).

Removal of the H shall be subject to the completion of the following:

1. Confirmation of Ministry of the Environment (MOE) Environmental Compliance approval;
2. A registered Site Plan Agreement with the City;
3. Evidence that Lots 80, 81, 82 and 83 of Plan 51M-379 have merged in title; and
4. If applicable, payment of any outstanding local improvement or City of Barrie Act charges.

2. **THAT** this By-law shall come into force and effect July 15, 2014 as per Ontario Municipal Board Order issued by R. Rossi, Member, on July 15, 2014.

THE CORPORATION OF THE CITY OF BARRIE

MAYOR – J. R. LEHMAN

CITY CLERK – DAWN A. MCALPINE

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: July 15, 2014

CASE NO(S): PL131397

Champlain Ready Mix Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the Planning Act, R.S.O. 1990, c. P.13, as amended, from Council's neglect to enact a proposed amendment to Zoning By-law 2009-141 of the City of Barrie to rezone lands respecting Lots 80, 81, 82, & 83, Plan 51M-379 zoned Restricted Industrial (EM5) (SP-413) (H-107) to develop a concrete ready mix plant
OMB File No. PL131397

Champlain Ready Mix Inc. has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's neglect to enact a proposed amendment to the Official Plan for the City of Barrie to redesignate land respecting Lots 80, 81, 82, & 83, Plan 51M-379 from Restricted Industrial to develop a concrete ready mix plant
(Approval Authority File No. D14-1548)
OMB File No. PL140397

Heard: July 2, 2014 in Barrie, Ontario

APPEARANCES:

Parties

Counsel

Champlain Ready Mix Inc.

D. White

City of Barrie

C. Packham

**MEMORANDUM OF ORAL DECISION DELIVERED BY R. ROSSI ON
JULY 2, 2014 AND ORDER OF THE BOARD**

INTRODUCTION

[1] On consent, this scheduled pre-hearing conference was converted to a hearing in the City of Barrie ("City") so that the Ontario Municipal Board ("Board") could adjudicate this matter and render its decision on the appeals of Champlain Ready Mix Inc. ("Applicant"). The Board heard details of the proposed site-specific Official Plan

Amendment ("OPA") to the City's Official Plan ("Official Plan") and Zoning By-law Amendment ("ZBA") to Zoning By-law No. 2009-141 ("Zoning By-law") to achieve redesignation and rezoning of the subject lands (Lots 80-83 on Plan 51M-379) in order to construct a ready mix concrete plant.¹

[2] The Official Plan designates the subject lands Restricted Industrial. The Zoning By-law zones the property Restricted Industrial (EM5) (SP-413) (H-107). This designation and zoning permit restricted industrial uses on a site-specific basis. The EM5 zoning permits a ready mix concrete mix plant and outdoor storage of sand and gravel; however, Special Provision SP-413 currently limits the use of the site to a Material Recovery Facility ("MFA") and related outdoor storage (as stated, the current zoning permits a metal recycling plant). The proposed ZBA would remove the MFA as a permitted use and instead permit the ready mix concrete plant with associated outdoor storage of sand and stone.

[3] The City did not take a position at this hearing. Brian Westgarth-Taylor, who was a participant to this hearing, spoke on behalf of his wife who owns 93 acres of land that are situated adjacent to the subject lands. Mr. Westgarth-Taylor expressed his and his wife's concern with the possible impact of the ready mix concrete plant operations on these lands and he was concerned with possible environmental impacts that might be created by this use. It is important to note that this is an area that anticipates heavy industrial uses and the participant's property is already near a Lafarge cement plant and an asphalt company. He acknowledged when questioned by the Applicant's counsel that the adjacent asphalt use is a far more impactful operation than a ready mix concrete plant use.

[4] In this regard, the Board called on Planner Margaret Walton, who appeared on behalf of the Applicant, to respond to this participant's concerns as well as to provide

¹The Applicant's documents, which include its technical reports and a City staff report, reference two slightly varied terms to describe the proposed use: "*concrete ready mix*" and "*ready mix concrete*". Both are acceptable to the Board and there is no difference in meaning; however, the Board uses the latter term in this decision as per the January 24, 2013 Champlain Ready Mix Planning Justification Report (Planscape) and the June 2013 Church & Trought Inc. environmental reporting as found in Exhibit 1.

her professional land use planning evidence and expert opinion. Ms. Walton was qualified to provide this evidence in support of the proposed planning instruments.

[5] While currently sitting vacant and with zoning in place for the metal recycling plant, this 4.6-acre property was purchased by the Applicant with the intention of developing the site with a ready mix concrete plant. A division in the vote of City Council members meant that the proposed development could not proceed notwithstanding City planning staff's support for the proposed use. It is evident to the Board from the documentary evidence and from Ms. Walton's statements that the Applicant had put environmental concerns at the top of its plans in seeking to develop the lands in an appropriate manner and in a way that responded to the concerns of objectors at the public meeting.

[6] Specifically, Ms. Walton shared with the Board the copies of the environmental work that was carried out (customarily done at a later stage, she noted) in order to allay the participant's concerns. The Board noted the various work undertaken by the Applicant in 2013: a Functional Servicing Report; an Acoustic Assessment Report and Noise Abatement Action Plan; a report on Hydrogeological Review and Proposed Groundwater Protection Measures, Existing and Proposed Barrie Metals Facilities; an Emission Summary; and a Dispersion Modelling Report that was completed to support the Applicant's application for Environmental Compliance Approval. By September of the same year, City planning staff had endorsed the development and the supporting amendments to the Official Plan and Zoning By-law through the staff report (Exhibit 1, Tab 12).

[7] These facts merit the following favourable comments from the Board. First, the Board commends the Applicant for the thoroughness of its work in response to specific concerns and in advance of its application to the City. Much was done beforehand to allay concerns such as those posited by the participant. Second, the Board wishes to commend the City Director of Planning Services and his professional staff for an exceptionally well-written staff report. The comprehensiveness and clarity of treatment of all aspects of the development and the environmental considerations cannot be overstated and this Member was impressed with the degree of analysis and review carried out by municipal staff.

[8] In reviewing the details of this well-written document, and juxtaposed against the professional evidence of Ms. Walton and the Applicant's advance environmental work,

the Board was highly persuaded by the planning evidence that the participant's limited environmental concerns have been addressed – and will be addressed by subsequent Ministry of the Environment ("MOE") review and inspection. As for any emissions (and Exhibit 1, Tab 12 is helpful on this point), the proposed ready mix concrete plant will still be subject to a holding designation for MOE's Environmental Compliance Approval. And, it is important to note that the proposed use will function as a fully enclosed operation.

[9] The Board read the various references to the upper-tier provincial planning instruments as presented in the Applicant's materials and in the staff report and it considered the proposed use in the context of the City's Official Plan policies and zoning standards. In all respects, the Board was persuaded by Ms. Walton's professional evidence and opinion that the proposed amendments represent good planning and should be approved. The Board also finds merit in the provision for a Holding Symbol on these lands in the manner proposed.

ORDER

[10] The Board allows the appeals. The Board amends the Official Plan with the OPA contained in Attachment 1 to this Order. The Board amends the Zoning By-law with the ZBA contained in Attachment 2 to this Order.

"R. Rossi"

*R. ROSSI
MEMBER*

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario

Website: www.eto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1



FIGURE 4:
OFFICIAL PLAN OVERLAY
LOTS 80-83 PLAN 51M-379
TOWNSHIP OF INNISFIL
CITY OF BARRIE
COUNTY OF SIMCOE
Champlain Ready Mix

- Suburban
- City Centre
- General Commercial
- Community Centre (Neighbourhood)
- Neighbourhood Commercial
- Business Park
- General Industrial
- Highway 401 Industrial
- Restricted Industrial
- Professional
- Institutional (Neighbourhood)
- Single Detached Residential
- Open Space
- Environmental Protection Area
- Water Treatment Cover
- Waste Management Facility
- Power Station
- Water (Special Assessment Area and Other) L.L.D. Non-Residential
- City Boundary
- Application Boundary (within the District Municipal Boundaries)

PLANSCAPE

SCALE	PROJECT NO.	DATE INITIATED	BY
NTS	064400	November 6, 2012	JT
NO.	DATE	REVISIONS	BY
1.			

BASE MAP SOURCE

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FIGURE 5:
ZONING BY-LAW 2009-141

LOTS 80-83 PLAN 51M-379
TOWNSHIP OF INNISFIL
CITY OF BARRIE
COUNTY OF SIMCOE

Champlain Ready Mix



LEGEND

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Scale: NTS



PLANSCAPE

Project No	Date Initialed	By
024400	Jan 10, 2013	BN