



# Niagara Escarpment Hearing Office

Case No.: 06-117  
(NEC File No.: H/R/06-07/144)

## **Bosnjak v. Niagara Escarpment Commission**

In the matter of an appeal by Ivan Bosnjak filed October 10, 2006 for a Hearing before a Hearing Officer pursuant to section 25(8) of the *Niagara Escarpment Planning and Development Act*, R.S.O. 1990, c. N.2, as amended, with respect to a decision of the Niagara Escarpment Commission dated September 27, 2006, whereby the Commission conditionally approved Development Permit application H/R/06-07/144 made by 371865 Ontario Ltd. to construct a 167.22 sq m (1,800 sq ft) storage coverall, on a 1.0 ha (2.48 ac) lot, located on Part Lot 23, in the Town of Halton Hills, Region of Halton, Ontario; and

In the matter of a Hearing held on December 19, 2006 in the Council Chambers, Town of Halton Hills, 1 Halton Hills Drive, Halton Hills, Ontario.

**Before:** Heather I. Gibbs, Hearing Officer

### **Appearances:**

Bernie Bergsma - Agent for the Applicant, 371865 Ontario Ltd.  
David Johnston - Planner, Niagara Escarpment Commission

**Dated this 21<sup>st</sup> day of December, 2006**

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## **Report to The Minister of Natural Resources Confirming The Decision of the Niagara Escarpment Commission**

### **Background:**

The Applicant, 371865 Ontario Ltd., applied to the Niagara Escarpment Commission (“NEC”) for a Development Permit to construct a 167.22 square metre ( $\pm$  1,800 square foot) storage coverall on an existing 1.0 ha (2.48 ac) lot at Part Lot 23, Concession 8, Municipality of Halton Hills, Region of Halton (“the Bergsma property”). The subject lands are located in a Minor Urban Centre (Henderson’s Corners Rural Cluster), in the Escarpment Rural Area designation of the Niagara Escarpment Plan (“NEP”).

The storage coverall is to be constructed on a portion of a pre-existing concrete pad, which is a remnant of an earlier chicken barn. The chicken barn was previously demolished pursuant to Development Permit 8680/H/D/06-07/73.

On September 27, 2006, the NEC granted the Application for a Development Permit subject to 13 conditions. On October 10, 2006, Ivan Bosnjak, who owns lands directly adjacent to the Bergsma property, filed an Appeal of the NEC’s decision.

On November 30, 2006, a Pre-Hearing Conference was held and the Parties identified the following issues in dispute: the intended use of the storage coverall, the distance of the storage coverall from a water easement, and the effect of the storage coverall on the property value and development potential of the neighbouring property.

The Hearing was scheduled to take place at 10:00 a.m. on December 18, 2006, in the Council Chambers, Town of Halton Hills, 1 Halton Hills Drive, Halton Hills, Ontario.

### **Relevant Legislation:**

*Niagara Escarpment Planning and Development Act* R.S.O. 1990, Chapter N.2

- 25(10.2) If the persons who appealed the decision withdraw their appeals or fail to appear at the hearing, the decision of the delegate shall be deemed to be confirmed.

**Discussion:**

The Appellant, Ivan Bosnjak, failed to appear at the time and place indicated for the Hearing. The Hearing Officer, the Niagara Escarpment Commission Planner, and the Agent for the Applicant waited at the Council Chambers until 10:35 a.m.

A review of the file confirms that the Appellant was notified of the time and place of the Hearing by mail, on November 6, 2006 (Affidavit of Service by Tracee Wessam, NEHO Case Manager). Ms. Wessam further telephoned the Appellant and left a message at both his cellular telephone and home telephone numbers, when requested to do so at approximately 10:10 a.m. on the Hearing day.

**Findings:**

The Hearing Officer finds that the Appellant failed to appear at the Hearing into his Appeal.

**Decision**

The NEC's Decision to conditionally approve Development Permit Application H/R/2006-2007/144 is confirmed pursuant to section 25(10.2) of the *NEPDA*.

*NEC Decision Confirmed*

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Heather I. Gibbs, Hearing Officer

Appendix A – List of Parties

**Appendix A**

**List of Parties**

Appellant:	Ivan Bosnjak #13423 R.R.1 Georgetown, ON L7G 4S4
Applicant:	371865 Ontario Limited
Agent for Applicant:	Bernie Bergsma Bergsma Trucking 13409 Hwy. 7, R.R.1 Georgetown, ON L7G 4S4
Planner, Niagara Escarpment Commission:	David Johnston Niagara Escarpment Commission 232 Guelph Street Georgetown, ON L7G 4B1