

August 26, 1986

Mr. Donald F. May
May, Pirie and Associates
Limited
524 Locust Street
Burlington, Ontario
L7S 1V2

NOTICE OF DECISION

made under the provision of the
Niagara Escarpment Planning and
Development Act, R.S.O. 1980

N.E.C. File Nos. W/R/85-86/360 - 363

H.O. File No. H.86-47

Dear Mr. May:

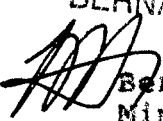
Re: Mr. Trevor Meldrum et al, appellants against
Niagara Escarpment Commission approval of an
application for a development permit made by
349799 Ontario Limited to construct four (4)
two-storey single family detached dwellings,
each with septic system and accessway, and
each to be between 186 and 372 sq. m. (2000-
4000 sq. ft.) in size, on four separate lots
on land identified as Lot 10, Concession 2,
Town of Flamborough, Regional Municipality
of Hamilton-Wentworth

Pursuant to section 25 of the Niagara Escarpment Planning
and Development Act, R.S.O. 1980, a hearing officer has
inquired into the merits of the proposals and advised me
of his opinion of the decisions.

After reviewing the hearing officer's report, a copy of
which is attached, I concur with his opinion and direct
the Niagara Escarpment Commission to issue development
permits subject to the attached conditions.

Yours sincerely,

ORIGINAL SIGNED BY
BERNARD C. GRANDMAITRE

 Bernard Grandmaitre
Minister

Attachment

Z. Weing/nm(PAB-C & SW)

MINISTRY OF MUNICIPAL
AFFAIRS

AUG 26 1986

ASSISTANT DEPUTY MINISTER
COMMUNITY PLANNING

Mr. Donald F. May

c.c. Mr. J. Curtin, Chief Hearing Officer
Mr. I. McMullin, Chairman, N.E.C.
Mr. C. Louis, Manager, N.E.C. - Georgetown
Niagara Escarpment Commission, Grimsby
Mr. G. Stewart, Clerk, Town of Flamborough
Mrs. B. Tinsley, Regional Clerk,
Regional Municipality of Hamilton-Wentworth
Mr. M. Heitshu, Manager - C.P.A.B.

Mr. Trevor Meldrum
11 Meldrum Avenue
Dundas, Ontario
L9H 5L3

Mr. W. Glassford
9 Meldrum Avenue
Dundas, Ontario
L9H 5L3

Mr. J. Page
Vice-President
Canada Crushed Stone Division
Steetley Ind. Limited
Box 2029, Station A
Hamilton, Ontario
L8N 3S9

CONDITIONS

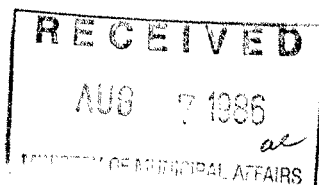
349799 Ontario Limited
File Nos: W/R/85-86/360-363

1. Non-fulfillment or breach of any one of the conditions shall render the development permit null and void.
2. No building permit or other permit relating to development shall be issued or be considered to be in force unless a valid development permit is in effect.
3. The development permit shall expire two (2) years from its date of issuance unless the development has commenced.
4. Development shall take place only in accordance with the site plan and development permit application submitted (except where special conditions are to apply as noted below).
5. Except where noted on the application and approved by the Commission, no other grading of the existing contours of the lot is permitted, with the exception of that which is required for the construction of house foundations, the waste disposal system and driveway access.
6. Screening, landscaping and rehabilitation should be begun by the end of the growing season after the housing unit is completed. Such landscaping allows for the individual taste of the owner. The Commission recommends that for major trees, species native to the area - e.g. cedar, maple, beech, ash, birch and pine - should be used rather than exotic species.
7. That prior to the issuance of a development permit by the Niagara Escarpment Commission, the creation of the subject lot be finalized and the deed registered.
8. That prior to the issuance of a development permit by the Niagara Escarpment Commission, the applicant submit, to staff satisfaction, final building and siting plans to conform to the specifications applied for and to the regulations of the Residential "R1" zone of Zoning By-law No. 2287-WF-2, as amended, save and except the lot area requirements and the lot frontage of Lot 1. The Commission's staff has to be satisfied that these plans are to be approved by the Town of Flamborough.

9. That staff of the Commission is satisfied that prior to the issuance of a building permit by the Town of Flamborough, the applicant obtain a Certificate of Approval from the Hamilton-Wentworth Department of Health Services, for the installation of the septic system.
10. This decision shall become null and void if a development permit is not issued within one (1) year from the date of confirmation of the Commission's decision by the Minister of Municipal Affairs.



Niagara
Escarpment
Development
Control



File H. 86-47

(W/R/85-86/360-363)

IN THE MATTER OF SECTION 25 of the Niagara
Escarpment Planning and Development Act,
Revised Statutes of Ontario 1980

- and -

IN THE MATTER OF an appeal by Mr. Trevor Meldrum et al against a decision of the Niagara Escarpment Commission dated the 13th day of June, 1986, whereby the Commission approved an application for a development permit made by 349799 Ontario Ltd to construct four (4) two-storey single family detached dwellings, each with septic system and accessway, and each to be between 186 and 372 sq. m. (2000-4000 sq. ft.) in size, on four separate lots on land identified as Lot 10, Concession 2, Town of Flamborough, Regional Municipality of Hamilton-Wentworth

A P P E A R A N C E S

Trevor Meldrum	- appellant
Bill Glassford	- appellant
James Page	- Vice-President Steetley Industries Limited neighbour
Donald May	- Planner, representing 349799 Ltd. applicant
Martin Kilian	- Planner, Niagara Escarpment Commission, Grimsby Office

W I T N E S S

E. Masotti	- Principal of 349799 Limited
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REPORT TO THE MINISTER OF MUNICIPAL AFFAIRS BY ALLAN M. MASSON

This appeal by Trevor Meldrum et al is in response to the approval given by the Niagara Escarpment Commission to an application for a Development Permit requested by 349799 Limited. The application comprises four requests - W/R/85-86/360, W/R/85-86/361, W/R/85-86-362 and W/R/85-86/363, to build four two-storey single family detached dwellings as described above on Lot 10, Concession 2, Town of Flamborough in the Regional Municipality of Hamilton-Wentworth.

The Staff considered Consent File Nos. F-77-85 to F-79-85 which were approved by the Hamilton-Wentworth Regional Land Division Committee, given that they conformed to the 2 acre (0.8 ha) lot size recommended by the Greensville Servicing Study. The registration of deeds is expected shortly.

The Staff also considered the Niagara Escarpment Plan, the Regional Official Plan and the Local Official Plan. They also consulted the Town, the Hamilton-Wentworth Regional Planning and Development Department and the Engineering Department, the Regional Conservation Authority and the Regional

Health Department. A site visit was also made.

From this information, the Staff recommended that the Commission approve the development permit applications subject to conditions.

The Commission, after careful consideration approved the applications subject to ten conditions:

1. Non-fulfillment or breach of any one of the conditions shall render the Development Permit null and void.
2. No building permit or other permit relating to development shall be issued or be considered to be in force unless a valid Development Permit is in effect.
3. The Development Permit shall expire two (2) years from its date of issuance unless the development has commenced.
4. Development shall take place only in accordance with the site plan and development permit application submitted (except where special conditions to apply as noted below).
5. Except where noted on the application and approved by the Commission, no other grading of the existing contours of the lot is permitted, with the exception of that which is required for the construction of house foundations, the waste disposal system and driveway access.
6. Screening, landscaping and rehabilitation should be begun by the end of the growing season after the housing unit is completed. Such landscaping allows for the individual taste of the owner. The Commission recommends that for major trees, species native to the area - e.g. cedar, maple, beech, ash, birch and pine - should be used rather than exotic species.
7. That prior to the issuance of a Development Permit by the Niagara Escarpment Commission, the creation of the subject lot be finalized and the deed registered.
8. That prior to the issuance of a Development Permit by the Niagara Escarpment Commission, the applicant submit final building and siting plans to conform to the specifications applied for and to the regulations of the Residential "R1" zone of Zoning By-law No. 2287-WF-Z, as amended, save and except the lot area requirements and the lot frontage of Lot 1. These plans are to be approved by the Town of Flamborough and Niagara Escarpment Commission staff.
9. That prior to the issuance of a Building Permit by the Town of Flamborough, the applicant obtain a Certificate of Approval from the Hamilton-Wentworth Department of Health Services, for the installation of the septic system.
10. This decision shall become null and void if a Development Permit is not issued within one (1) year from the date of confirmation of the Commission's Decision by the Minister of Municipal Affairs.

It will be noted that Lot 1 (Exhibit 3) or in the filed site plan is different because of its frontage and shape.

The hearing took place in the Council Chambers of the Town of Flamborough, 163 Dundas Street East, Waterdown, on Tuesday, July 22nd, 1986 at 10:30 a.m. All who wished to be heard were heard, all evidence being given under oath and permission was given the undersigned to view the subject property.

Mr. Trevor Meldrum, a resident of 11 Meldrum Avenue, Dundas, and the writer of the letter of appeal, went into the history of the development in which he and his neighbours live. In 1950 he and some of these people bought their lots and built their homes under the Veteran's Land Act. This Act required a minimum of two acres and this was the size of their lots. They were purchased as an

investment, he said. These lots were on Meldrum Avenue, having a hundred and twenty foot frontage and extending northward for 726 feet.

In 1973 Village Green entered into a subdivision agreement with the Township of Flamborough West and proposed to develop the land east of Mr. Meldrum and his neighbours, as well as other lands in the vicinity. The Village Green group were aware of the home owners already in the area, especially Mr. Glassford and Mr. Meldrum. The developers met with these people in order to consider any problems the neighbours might have. At that time, Mr. Glassford and the neighbours were concerned that this future development might landlock their long narrow lots, preventing them in selling off any lands to the north of their houses.

Village Green, being cognizant of these problems, gave them a letter dated September 24, 1973 (Exhibit 1) stating that they were prepared to support any application the neighbours might make to develop the rear portion of their lots. If the Township approved such an agreement they (Village Green) would be prepared to provide the necessary access and to construct a road over their lands to the boundary of the lands owned by Mr. Meldrum at their expense. They also agreed to discuss the cost of constructing the road west over the neighbours lands and the cost and possibility of supplying piped water to these lots from sources at Village Green's disposal.

In Exhibit 2, Mr. Meldrum showed what the area was like at the time of this proposal. He has roughly drawn the lands now under discussion at this hearing.

Mr. Meldrum further stated that he and his fellow appellants are not against the proposed development but they do not want their lands landlocked and want a road constructed as promised by Village Green.

Mr. May questioned Mr. Meldrum if he was aware of the discussions during the Regional Official Plan hearings?

Answer: Yes

Q. Was he aware that the Region had no intention of installing sanitary sewers?

Answer: Yes

Q. Was he aware of the Conditions of the Flamborough Official Plan?

Answer: No

Q. Was he aware of the Hydro Study?

Answer: Yes, but not the results

Q. Was he aware that Village Green surrendered their charter in 1979?

Answer: No

Q. Was he aware that a Mr. Yamamoto purchased the subject property from Village Green?

Answer: No

Q. Was he then aware that Mr. Yamamoto sold to the present owners, 349799 Ontario Limited, who are requesting this development Permit?

Answer: No.

Mr. Glassford had little to add to what Mr. Meldrum had said but reiterated the request for the road to their lands as promised by Village Green Developments Limited.

Mr. May questioned Mr. Glassford if he or the neighbours had made any application for the development of their lands in light of the offer by Village Green.

Answer: No

Q. Was he aware that in the Plan of Subdivision sanctioned by the Ministry of Municipal Affairs, only the lands south of Cedar Avenue could be developed, not north?

Answer: No.

Mr. Page, Vice-President of Steetley Industries, a large quarry to the north of these lands and occupying Lots 10, 11 and 12, had requested a covenant to be signed on all these lands because of the type of operation. They have also requested a road 13 ft. in width from Cedar Street north to their property and to be located between Lots 1 and 2 of the proposed development. This road is for maintenance only to their land and will not be used for commercial purposes.

Mr. May questioned Mr. Page on the use of the road and Mr. Page stated it was for maintenance only.

A further question to Mr. Page was to the effect would he support development of the appellants' lands which would be closer to the Steetley property.

Mr. Page said that would have to be a management decision, not his alone.

Mr. May stated he had been retained by 349799 Ontario Limited in 1982 as a professional planner. His advice to them was to develop only on the north side of Cedar Avenue and applications were made to develop four lots containing 1 acre each - this was later amended to 2 acre lots to conform to the Flamborough Official Plan. No sanitary sewers were deemed necessary and the Region has assured them these four houses can be accommodated on the present water service.

Mr. May introduced Exhibit 3, a plan of his development, showing the four lots on the north side of Cedar Avenue and also the 13 foot road between Lot 1 and Lot 2 from Cedar Avenue to the Steetley land. Existing residential is on the south side of Cedar and north side of Meldrum Avenue. Exhibit 4, introduced by Mr. May, is a plan of the whole area, showing the existing residences on Cedar Avenue, Forest Avenue and Meldrum Avenue. It will be noted that the Meldrum and Glassford lands extend much further to the north than the first two holdings on Meldrum Avenue. They are 691 to 726 feet in length and the rear lot line will be about 15 feet from the rear lot line on the Cedar Avenue lots.

Mr. May introduced Exhibit 5, a copy of the site plan accompanying the applications. It can be seen here that the building envelope, the dark hatched area, is placed well to the front of the lot, as requested by Steetley Industries. The enclosed area behind the building envelope is the area to be taken up by the tile bed for the septic system.

Exhibit 6, introduced by Mr. May, is a copy of the Notice of Decision by the Land Division Committee, the Regional Municipality of Hamilton-Wentworth. This Notice of Decision pertains to each lot separately. The Conditions of Approval beyond the usual conditions are that Steetley Industries enter into a Site Plan Agreement with the Town assuring landscaping and buffering will be the only use of the subject lands (to the north of the subject property).

Mr. Meldrum questioned Mr. May about the development north of Cedar Avenue which was "Red circled" by the Minister at the time of the Village Green application.

Answer: applied to Ministry to have 1 ft. reserve removed to allow them to build on north side of Cedar Avenue
also he asked why 2 acre lots?

Answer: because it is specified in the Official Plan.

Mr. Kilian referred to the Staff Report. In the Niagara Escarpment Plan the land is within the Greensville "Minor Urban Centre". That is about two-thirds of the lots are under the Plan, the remainder to the north is outside the Plan. The Regional Plan has these lands in the Rural Policy Area - Rural Settlement.

The Local Official Plan of the former Township of West Flamborough designates the subject lands as "Village".

The Town of Flamborough offers no objections but requests the Land Division applications be completed and the subject lots be registered before any development permit is issued. Also, that the development take place in accordance with the regulations of the Residential "R1" Zone of the amended Zoning by-law, save and except Lot 1 frontage.

The Regional Planning & Development Department have no objections.

The Regional Engineering Department advised watermains are available but sanitary sewers are not.

No objection came from the Conservation Authority.

The Health Services of the Region requires a Certificate of Approval of any septic system.

He stated further, that the lots have been created by the Land Division Committee and the Commission did not appeal this.

- 6 -

Mr. Meldrum questioned the need of a 2 acre lot to accommodate 500 feet of tile.

In seeing the subject lands, a vacant lot at the head of Forest Avenue, and corner of Cedar Avenue, all that is seen is a mass of weeds growing about ten feet in from Cedar Avenue. A large "For Sale" sign advertising 4 building lots - 2 acres. The remainder of the field is growing grain. The approximate measurement of the frontage will accommodate the four lots. Residences are on the south side of Cedar Avenue. Meldrum Avenue has two houses on small lots, then the residences of Mr. Meldrum and others on the larger narrow lots.

In carefully considering the facts as presented, it is obvious the appellants are desirous of developing their long lots. A possibility of doing this was presented by Village Green Developments Limited in September of 1973. Evidently, nothing was done by the appellants to consummate this proposal and in 1979 Village Green surrendered their charter and nothing in the sale of the land to the next owner carried an obligation to complete the offer made by Village Green.


Mr. Meldrum stated that he and others purchased their lots for an investment through the Veterans' Land Act. The Veterans' Land Act was not for investment purposes but to allow veterans of the last war to obtain sufficient land on which to build a home and have ground to cultivate in order to make them more self sufficient.

The various agencies concerned with this land are all in favour of the development, with some conditions which have been included in the approval conditions passed by the Commission.

In the writer's opinion, the Commission was correct in approving this (these) application(s) and I would respectfully suggest the Minister concur by instructing the Commission to issue the necessary permits, subject to all conditions.

All of which is respectfully submitted.

Dated this 6th day of August, 1986


Allan M. Masson