

**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.eltto.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

Site Web: www.eltto.gov.on.ca



Instructions for preparing and submitting the Appellant Form (A1)

NOTICE – APPEAL FEE CHANGE

Effective July 1, 2016, Ontario Municipal Board (OMB) appeal fees are changing from \$125 to \$300. Appeals received and date-stamped by the municipality/approval authority on or after July 1, 2016, are subject to the new appeal fee.

- The fee of \$25 for each additional consent appeal filed by the same appellant against connected consent applications does not change.
- The fee of \$25 for each additional variance appeal filed by the same appellant against connected variance applications does not change.

OMB appeal fees are still \$125 for appeals with date-stamps from before July 1, 2016.

- **Complete one form for each type of appeal you are filing.**
- **Please print clearly.**
- **A filing fee of \$300 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. Do NOT send directly to the Ontario Municipal Board.**
- **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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DEC 2 2016

APPELLANT FORM (A1)
PLANNING ACT

SUBMIT COMPLETED FORM

Service Guelph
City of Guelph

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 checked="" 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 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

75 DUBLIN STREET N.

Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier:

City of Guelph

Part 3: Appellant Information

First Name: _____ Last Name: _____
Guelph Old City Residents Association Inc. #1964198
 Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

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

Daytime Telephone #: **519-766-0139** Alternate Telephone #: _____

Fax #: _____

Mailing Address: **17 Kent Street** **Guelph**
 Street Address Apt/Suite/Unit# City/Town
Ontario **N1H 3B6**
 Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____
 (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: **Eric** Last Name: **Flett**
 Company Name: **Eric K. Gillespie Professional Corporation**
 Professional Title: **Associate lawyer**
 E-mail Address: **eflett@gillespielaw.ca**
 By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: **416-703-7034** Alternate Telephone #: **416 939-6356**

Fax #: **416-703-9111**

Mailing Address: **10 King St. EAST** **600** **Toronto**
 Street Address Apt/Suite/Unit# City/Town
Ontario **M5C 1C3**
 Province Country (if not Canada) Postal Code

Signature of Appellant: **[Signature]** Date: **Dec 29/16**

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)

City of Guelph Zoning By-law (2016)-20113;
Municipal File no. ZC1612A

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)

Please see attached correspondence

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.

Bill 73 - This question applies only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/were passed on or after July 1, 2016.

1. Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?
- No
 - Yes

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)

THE CITY OF GUELPH IS REVIEWING IT'S DOWNTOWN ZONING BY-LAWS TO BRING THEM INTO CONFORMITY WITH OPA 43, THE SUBJECT SITE IS PART OF THAT PROCESS. GUELPH ALSO INITIATED A SITE SPECIFIC OPA TO PERMIT MORE HEIGHT AT THE SITE, COUNCIL CONSIDERED THAT OPA AND CHOSE IN THE END TO REJECT IT.

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? ☐ half day ☐ 1 day ☐ 2 days ☐ 3 days
☐ 4 days ☐ 1 week ☒ More than 1 week – please specify number of days: 6-8 days.

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
2

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):

LAND USE PLANNER; HERITAGE PLANNER

Do you believe this matter would benefit from mediation?

YES



NO

(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference?

YES



NO

(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? _____

Part 9: Other Applicable Information **Attach a separate page if more space is required.

PLEASE SEE ATTACHED CORRESPONDENCE.

Part 10: Required Fee

Total Fee Submitted: \$ 300

Payment Method: ☒ Certified cheque ☐ Money Order ☐ Solicitor's general or trust account cheque

- The payment must be in Canadian funds, **payable to the Minister of Finance.**
- **Do not send cash.**
- **PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.**

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DEC 21 2016

IAN FLETT, J.D.
Telephone: +1 (416) 703-5400
Direct: +1 (416) 703-7034
Fax: +1 (416) 703-9111
Email: iflett@gillespielaw.ca

December 21, 2016



Delivered as attachment to Form A1

Mr. Stephen O'Brien
City Clerk
1 Carden Street
Guelph, ON N1H 3A1

Dear Mr. O'Brien:

Re: Notice of Appeal; 75 Dublin Street, City of Guelph

We are the lawyers for the Guelph Old City Residents' Association Inc. ("GOCRA"), an association incorporated pursuant to the laws of Ontario that is concerned generally with planning matters in the City of Guelph. The Directors of GOCRA ("Directors") provided comments to the Guelph City Council on the above referenced matter on their own and as represented by our office under the name Old City Residents' Committee. GOCRA was recently incorporated and will provide its articles of incorporation forthwith.

This is to advise you of the Directors'/GOCRA's appeal of the November 28th and 30th, 2016 decision of the Guelph City Council's ("Council") decision in respect of the site-specific Zoning By-law Amendment ZC1612.

ZC1612 changed the zoning category of the subject site from I.1 (Institutional) to a modified D.2-9 (Downtown) Zone, with conditions. ZC1612 would permit a four-storey apartment building, with certain setbacks and setbacks.

The subject site is located at the northeast corner of Dublin Street and Cork Street West at the western edge of the City of Guelph's Downtown Secondary Plan area. It is designated as Mixed Use 2 and across Cork Street West from lands forming part of a group of buildings associated with the Church of Our Lady Basilica ("Basilica"), Guelph's most prominent heritage building. The lands surrounding the Basilica make up a cultural heritage landscape referred to as "Catholic Hill" and the Basilica itself enjoys protection under the Venice Charter. Respect for the heritage importance of the Basilica and Catholic Hill informs many of Guelph's built form policies.

The site-specific zoning by-law amendment was not the result of a property owner's private application under the *Planning Act*, but rather Council's acquiescence to the property owner's request for the pre-determination of performance standards on its site in the context of a broader downtown Guelph zoning by-law update. The broader zoning by-law update is ongoing and intended to bring the downtown zoning by-law standards into conformity with OPA 43, the Downtown Guelph Secondary Plan. The early consideration of the subject site was intended to facilitate the achievement of certain benchmarks for the property owner to qualify for an affordable housing funding scheme. The status of that funding is unclear given certain statements made by the property owner.

GOCRA members are concerned with the broader downtown Guelph zoning by-law update and are concerned with, *inter alia*, the impact of the subject site's pre-determination in that process.

Our client's appeal concerns the following:

Council failed to respect the requirements of section 34(12)(a)(i) of the *Planning Act* by its failure to make sufficient information available to understand generally the re-zoning proposal that was being considered by the Council. Heritage reports, shadow studies, applicable elevation diagrams, *inter alia*, were unavailable to the public when they were most pertinent.

Council failed to respect subsection 34(12)(b), 34(13) - 34(14.1) of the *Planning Act* by failing to hold an open house, or failing to make pertinent information available at any purported open house in respect of a ZC1612 that was intended to conform to the new Downtown Guelph Secondary Plan pursuant to section 26(9) of the *Planning Act*.

ZC1612 is inconsistent with the Provincial Policy Statement, 2014:

Policy	Reason
1.7.1 (d)	Council failed to encourage a sense of place by ignoring the impact of massing on the subject site in relation to the built heritage resource thereby undermining long-term economic prosperity.
2.6.3	Council failed to conduct its own evaluation of the impacts of the proposed development on nearby heritage resources; it ignored the conclusions of its own heritage advisory committee; the proponent's heritage impact assessment was released to the public after the first statutory public meeting, thereby undermining effective public consultation in respect of heritage.

ZC1612 fails to conform/conflicts with Guelph's official plan, the Downtown Secondary Plan ("OPA 43"):

Policy	Reason
Official Plan Policy 3.5.2 OPA 48, 4.8.4.1 (under appeal)	Council decided the matter in advance of receiving the recommendations of Heritage Guelph, its own heritage advisory body intended for the evaluation of heritage impacts from development applications; council did not consider the relationship of the proposed massing to the Basilica; the massing proposed next to the Basilica fails to either preserve or enhance the area context surrounding the Basilica; Alternative development concepts at different heights were not considered in order to determine how best to achieve Official Plan objectives.
Official Plan Policy 7.2.7	Council failed to consider the compatibility of the scale and articulation of building to its immediate vicinity; further, council did not fully consider the shadow and other impacts of the performance standards on institutional uses in the immediate vicinity; ZC1612 proposes a building that is too large for the site, in part due to elevation changes; further, the placement of the driveway for the development creates conflicts, the reduced setbacks interfere with safe sight lines for motorists, other road users and pedestrians navigating the intersection of Cork and Dublin.
OPA 43 Objectives (c), (d), (e), (g)	Council ignored the impact of different scales of development at the subject site in maintaining the distinct heritage character of Catholic hill; it further failed to consider the cultural heritage of Downtown in the design of buildings by, <i>inter alia</i> , ignoring the advice of its own heritage advisory committee, failing to consider the heritage impacts of 2 and 3 storey development concepts on Catholic Hill, the Basilica and the open space surrounding it.
11.1.5.4.2	Council failed to consider the subject site's relationship to a Heritage Conservation Analysis for the historic Downtown Core generally west of the Speed River when it permitted the expediting of the subject application;
11.1.7 – Objective (g)	Council failed to consider the character of downtown's historic fabric in surrounding neighbourhoods.
11.1.7.2.3 – "The Zoning By-law shall more precisely define the protected views identified in Schedule D".	ZC1612 was decided prematurely because City Council failed to more precisely define the protected views to the Basilica, using only those views "generally identified" in OPA 43.
11.1.7.4.1 – Mixed Use 2 Areas	Council failed to consider the predominant low-rise character of the area surrounding the subject site and therefore; the contribution of

	the Basilica to the Cultural Heritage Value of Guelph's Downtown; and further by failing to consider the predominant low-rise character, it failed to maintain that very character as expressed in applicable policy; Council further failed to consider the impact of residential development at the proposed scale on nearby institutional uses.
11.1.7.4.4 (a), (b)	Council failed to consider the compatibility of the scale and articulation of buildings within Mixed Use area 2, and particularly near the subject site; further, council did not fully consider the shadow impacts of the proposed development on nearby institutional uses, thereby failing to establish that a change of use on the site was consistent with the Official Plan; ZC1612 proposes a building that is too large for the site, in part due to elevation changes.

Please find enclosed a cheque in the amount of \$300 made to the Minister of Finance.

Yours very truly,

ERIC K. GILLESPIE
PROFESSIONAL CORPORATION

Per:



Ian Flett