

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: December 18, 2015

CASE NO(S): PL150845

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Amexon Development Corporation
Subject:	Application to amend Zoning By-law No. 438-86 - Refusal or neglect of City of Toronto to make a decision
Existing Zoning:	CR T3.5 C2.0 R2.0
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit the construction of a 45-storey residential tower building addition and podium
Property Address/Description:	225 Jarvis Street
Municipality:	City of Toronto
Municipality File No.:	15 134245 STE 27 OZ
OMB Case No.:	PL150845
OMB File No.:	PL150845
OMB Case Name:	Amexon Development Corporation v. Toronto (City)

Heard: December 11, 2015 in Toronto, Ontario

APPEARANCES:

Parties

Amexon Development Corporation
City of Toronto
Dundas Residences Inc.
St. Michael's Hospital

Counsel

M. Flynn-Guglietti, A. Forristal
R. Kallio
A. Brown, J. Smuskowitz
P. Sanford

Ministry of Municipal Affairs and
Housing

I. Shachter; U. Popadic, R. Schleihauf (student-
at-law)

**MEMORANDUM OF ORAL DECISION DELIVERED BY SYLVIA SUTHERLAND ON
DECEMBER 11, 2015 AND ORDER OF THE BOARD**

[1] This was a prehearing conference (“PHC”) related to an application by Amexon Development Corporation (“Amexon”) for a Zoning By-law Amendment for the purpose of the development of a 45-storey residential tower building addition and podium on a property at 225 Jarvis Street (“subject site”) in the City of Toronto (“City”).

[2] Amexon is appealing to the Board, pursuant to s. 34(11) of the *Planning Act*, the City’s failure to make a decision on its application.

[3] The following were admitted as Parties at the PHC: Dundas Residences Inc. (“DRI”), St. Michael’s Hospital (“St. Michael’s”) and the Ministry of Municipal Affairs and Housing (“Ministry”). Admitted as Participants were the Hospital for Sick Children (“Sick Children’s”) and Glen Simourd.

[4] At the commencement of the hearing, Adam Brown, counsel for DRI, informed the Board that DRI, which owns the abutting property to the subject site, Amexon and the City having been through an extensive Board-led mediation process, and having since worked closely together and with St. Michael’s, are confident that a resolution can be arrived at, the major outstanding issue being the helicopter flight path for St. Michael’s over the proposed development. He urged that the dates for a five day hearing on the matter and an appeal by DRI, commencing on January 11, 2016, be retained. Mary Flynn-Guglietti, Counsel for Amexon, concurred with Mr. Brown’s statement.

[5] Irvin Shachter, counsel for the Ministry, requested that the scheduled hearing be adjourned, arguing that it is not clear that adequate time has been set aside for the hearing, or how the scheduled date would allow for an exchange of evidence. He

maintained that an adjournment of the scheduled hearing to a later date would assist in “a fair, cost-effective and expeditious resolution” of any issues.

[6] The Ministry’s primary concern is the impact of the height of the proposed building “on the protection of public health and safety.” In other words, the flight path, which is the concern of both hospitals.

[7] Philip Sanford, counsel for St. Michael’s, while stating that “the developer has worked very positively with the hospital”, and that he feels there is framework for an agreement, supported the Ministry’s request for an adjournment, feeling “a little bit of slowing down” might be advantageous.

[8] Catherine Lyons, counsel for Sick Children’s, said Sick Children’s was made aware of the application only recently, and shared St. Michael’s concerns regarding the flight path since the helipad at St. Michael’s is the backup for the one at Sick Children’s, which serves all of the rest of the hospitals in downtown Toronto. She said Sick Children’s might possibly ask for Party status depending on the outcome of a consultant’s report on the flight path issue. She verified that both hospitals are sharing the same aeronautical expert.

[9] Ray Kallio, counsel for the City, said the City is working to resolve the flight path issue and that he thinks there will be a settlement to bring to the Board in January. He said that, as a courtesy, he supported the Ministry’s request for an adjournment.

[10] In considering Mr. Shachter’s request, the Board cannot agree that adjournment of the scheduled hearing would, in fact, lead to a fairer, more cost effective or expeditious resolution. Because of the Board’s schedule and resources, multi-day hearing dates are hard to come by. In this instance, there was general concurrence among the Parties, with the possible exception of the Ministry, that a settlement can be arrived at by the time of the hearing. If this does not happen, and more time is required for the hearing, then a continuation can be scheduled, with five days of the hearing

having been accomplished.

[11] Given the above, the Board orders that the five day hearing shall go ahead on the dates already scheduled, and will commence at **10 a.m. on Monday, January 11, 2016 at:**

**Ontario Municipal Board
655 Bay Street,
16th Floor
Toronto, ON M5G 1E5**

No further notice will be given.

“Sylvia Sutherland”

SYLVIA SUTHERLAND
MEMBER

If there is an attachment referred to in this document,
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Ontario Municipal Board
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