

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: May 27, 2021

CASE NO(S): PL200300

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

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

Applicant and Appellant:	BH Properties Limited
Subject:	Application amend Zoning By-law No. 1275 - Refusal of Application by City of Richmond Hill Residential Urban (RU) Zone
Existing Zoning:	Residential Urban (RU) Zone
Proposed Zoning:	Residential Urban (RU) Zone – Site Specific
Purpose:	To permit the future creation of one additional building lot for a single detached residential building
Property Address/Description:	57 Beaufort Hills Road
Municipality:	City of Richmond Hill
Municipal File No.:	D02-20005
LPAT Case No.:	PL200300
LPAT File No.:	PL200300
LPAT Case Name:	BH Properties Limited v. Richmond Hill (City)

Heard: May 5 to 7, 2021 by video hearing

APPEARANCES:

Parties

City of Richmond Hill

BH Properties Limited

Counsel

Carlton Thorne

Isaac Tang
Julie Lesage

DECISION DELIVERED BY WILLIAM R. MIDDLETON AND ORDER OF THE TRIBUNAL

[1] This matter proceeded to a hearing on May 5, 6, and 7, 2021, inclusive. Following the conclusion of written and oral final argument on May 7th, the Local Planning Appeal Tribunal (“LPAT” or “Tribunal”) reserved its rulings. The Tribunal now provides its Decision in this case.

INTRODUCTION

[2] The Applicant/ Appellant BH Properties Limited (“BH” or “Appellant”) appeals from the refusal of the City of Richmond Hill (“City”) to permit an amendment of the City’s Zoning By-law No. 1275 (“ZBA”) to exempt BH from the provisions of the City’s By-law No. 146/76 (“ZB 146-76”) in relation to the property owned by BH located at 57 Beaufort Hills Road in the City, being Lot 208 on Registered Plan M37 (“Subject Property”). The ZBA sought by the Appellant is set out in Attachment 1 to this Decision.

[3] The Subject Property currently comprises a single lot with an area of 0.37 hectares with a frontage of 57.91 metres on Beaufort Hills Road on which a two-storey single family dwelling is located. The objective of the ZBA is to permit the future creation of an additional lot on the Subject Property. This would result in two lots (“Lot 1” and “Lot 2”) and it is proposed that a new single-family dwelling would be constructed upon each of those new lots (collectively, the “Development”). The revised conceptual site plan prepared for BH shows that Lot 1 will have a frontage of 24.96 metres and an area of 1,547 square metres and that Lot 2 will have a frontage of 32.95 metres and an area of 2,178 square metres. If the ZBA is granted, the site plan approval will be dealt with by the City during the further stages of the Development process.

[4] The Subject Property is located in a subdivision originally created in the late 1970's known as Beaufort Hills, which features a collection of generally large lots and homes – although there is substantial variance in the size of those lots and homes. There are 225 lots and homes in the entire subdivision (“Subdivision”). On the other hand, Beaufort Hills Road has approximately 10 homes and lots that tend to be generally larger than some of the others in the Subdivision. Historically, there have been very few applications to permit severances to allow ‘lot-splitting’ in the Subdivision and, hence, very few examples of infill development. It is safe to state that several residents of the Subdivision would like to keep things that way – 13 of those residents were earlier granted Participant status in this proceeding but none hold Party status.

[5] The Subject Property is current zoned as Residential Urban (“RU”) under the Zoning By-law, which permits single-family detached dwelling units on lots having a minimum frontage of 22.86 metres and a lot area of 929 square metres. However, the Subject Property is subject to the provisions of section 1 (c) of ZB 146-76, which establishes the minimum lot frontage and minimum lot area for properties within the Beaufort Hills’ Registered Plan of subdivision shall be the individual lot areas and lot frontages as they existed when the original Plan of subdivision was registered in 1976, over 45 years ago. ZB 146-76 also requires that the minimum ground floor area for single detached dwellings be no less than 116.13 square metres (1,250 square feet). Thus, the Appellant’s intention to create two lots as described in paragraph [3] above contravenes ZB 146-76, which is why the Appellant seeks the ZBA.

[6] Counsel for the Appellant maintain that the ZBA application “...was refused by City Council prematurely, without the benefit of a detailed planning recommendation report by City planning staff...” Counsel further noted that at the sole public meeting held on June 3, 2020, City staff prepared a report recommending that “the report be received for information purposes only and that all comments be referred back to staff”. However, Council instead decide to make an immediate ruling to refuse BH’s ZBA application.

[7] There have been previous proceedings before the LPAT and its predecessor, the Ontario Municipal Board (“OMB”), regarding the Subdivision and the application of ZB 146-76. One Decision was issued August 8, 2012 by now Vice-Chair Sills of the (then) OMB in *Durham v. Richmond Hill (Town)*, [2012] O.M.B.D. No. 450 (Case No. PL120116) regarding 125 Coon’s Road for an application of the same ZBA at issue in this proceeding – which allowed that ZBA (“Prior Decision 1”). Counsel for the Appellant and for the City both made reference to Prior Decision 1 in their written and oral final submissions as did both of the key planning witnesses for the Parties. Another decision was *Ajani v. Toronto (City)* [sic], [2015] O.M.B.D. No. 1015 (Case No. PL130232), by Members M.C. Denhez and R.C. Jones permitting the severance of a lot located at 18 Cynthia Crescent (“Prior Decision 2”). Of course, neither Prior Decision 1 nor Prior Decision 2 are binding upon this Tribunal.

Materials before the Tribunal

[8] The following materials were before the Tribunal during this proceeding:

- (a) Witness Statement (“WS”) and Reply Witness Statement (“Reply WS”) of Joanna Fast, a professional planner retained by BH who was qualified without objection to provide opinion evidence to the Tribunal on land use planning matters;
- (b) Revised WS of Michael Manett, a professional planner retained by the City who was qualified without objection to provide opinion evidence to the Tribunal on land use planning matters;
- (c) WS and Reply WS of Chesley Blahut, a professional engineer retained by BH who was qualified without objection to provide opinion evidence to the Tribunal on engineering and site servicing matters;

- (d) WS and Reply WS of Dean Ruffalo, an architectural technologist retained by BH who was qualified without objection to provide opinion evidence to the Tribunal on architectural design matters;
- (e) WS and Reply WS of Kayo Hayashi, an arborist retained by BH who was qualified without objection to provide opinion evidence to the Tribunal on arboricultural matters specifically relating to the trees located on the Subject Property;
- (f) WS and Reply WS of Kristi Quinn, a senior environmental planner retained by BH who was qualified without objection to provide opinion evidence to the Tribunal on environmental and natural heritage matters pertaining to the Subject property;
- (g) (Parties') Statement of Agreed Upon Facts and Issues;
- (h) Draft Zoning By-law, attached to this Decision as Attachment 1;
- (i) Joint Document Book of the Parties, comprising 51 tabs;
- (j) Visual Evidence of BH Properties (Appellant);
- (k) 57 Beaufort Hills Road Photographic Exhibit (prepared by Mr. Manett);
- (l) Brief of Participant Statements;
- (m) Eight different 'cross-examination documents' prepared by Appellant's counsel regarding the testimony of Mr. Manett; and
- (n) The Exhibits to the hearing of this case, the index to which is attached as Attachment 2 to this Decision.

ISSUES FOR DETERMINATION

[9] The Tribunal agrees with both the counsel for BH and the City that the issues in this hearing are quite narrow, even though the hearing of this case spanned three full days and included final oral and written submissions, as requested by the Tribunal. The Parties reached an Agreed Statement of Facts and Issues, and the evidence before the Tribunal as to the matters at issue in this hearing boil down to the following, with Point h. below being most significant:

- a. The Applicant's proposal represents infill development and is considered "local infill";
- b. The Subject Property is located within the settlement area of the City, where intensification and redevelopment is directed by the Provincial Policy Statement, 2020 ("PPS");
- c. The Subject Property is located in the built-up area of the City, where the Growth Plan for the Greater Golden Horseshoe, 2019 ("Growth Plan") encourages intensification and the efficient use of land and municipal services in order to meet the growth targets of the Growth Plan. The Subject Property is in an area that is serviced by full municipal services and is proximate to commerce, institutional uses, recreational services, and community facilities, although Mr. Manett in his evidence maintained that the Subdivision is an enclave somewhat removed from the commercial and recreational hub of the City;
- d. The Region of York although not a Party also did not identify to the City any issue of non-conformity with the York Region Official Plan ("YR-OP") arising out of the ZBA application;
- e. City staff (Parks, Development Engineering, Corporate and Financial Services, Urban Design, and Zoning Examiner) have not identified any issue with the technical or planning aspects of the ZBA;
- f. The trees located on and adjacent to the Subject Property are not a Significant Woodland or Key Natural Heritage Feature under the Oak Ridges Moraine Conservation Plan. Thus, there is no issue as to the non-conformance of the ZBA to that Plan;
- g. Counsel called several expert witnesses to address concerns raised by the Participants and members of the public relating to natural heritage (Ms. Quinn), tree preservation (Ms. Hayashi), architectural design (Mr. Ruffalo), and site servicing and storm water engineering (Mr. Blahut). However, no contrary evidence was called by counsel for the City on any

of these issues nor was any of their expert evidence successfully challenged on cross-examination, in the Tribunal's view; and

- h. Is the proposed Development involving a splitting of the Subject Property into 2 new, smaller lots with 2 new homes compatible with the character of the Beaufort Hill Road neighbourhood, and how should that neighbourhood be defined for the purpose of evaluating the ZBA application?

DISCUSSION / ANALYSIS OF THE EVIDENCE AND ISSUES

[10] Counsel for the City relied solely on the planning evidence of Mr. Manett, a very experienced professional planner who has a long history with the Subdivision as he testified in 2012 on behalf of the City in the proceeding that led to Prior Decision 1 as referred to in paragraph [7] above. Mr. Manett went to some lengths to emphasize the large estate lot character of the Subdivision and how any 'lot-splitting' represents a threat to this and perhaps other increasingly rare, similar large lot 'enclaves' in the City. He also conceded that this characterization 'may sound a little elitist' as part of a passage in his testimony during which he compared them to "new, cookie-cutter" housing developments.

[11] It was clear to the Tribunal that Mr. Manett decries the potential for future severances in this neighbourhood and that he is passionate about his concerns regarding the potential for the eventual "loss" of what he sees as the fundamental defining nature of the Subdivision. Two particular passages from his WS succinctly capture his views:

...These heavily treed areas have always been part of the character of the neighbourhood and should be conserved in accordance with the original intent of the subdivision plan...The maintenance of the heavily wooded areas is pivotal to the character of this neighbourhood and should be preserved from a land use planning perspective...

...Growth and development is intended to occur in designated intensification areas and in locations that are near rapid transit stations.

The proposed development is not in an intensification area nor is it located near a rapid transit station...Based on the character of this neighbourhood and its history, it is not an appropriate area for consideration of "lot splitting"." (emphasis added)

[12] Indeed, in the final argument, the City's counsel also emphasized this theme as follows:

The neighbourhood around the Subject Property is characterized by large lots and setbacks with a specific pattern of lots, blocks and streets based upon the original subdivision that was created in 1975. Specific pockets of densely treed areas and lots have been maintained since the original subdivision was established, which has created a neighbourhood character including the existing landscape along the streets. This character is particularly predominant along Beaufort Hills Road ...

It is the City's submission that the applicant's experts have not demonstrated that it is appropriate to grant this rezoning. In fact, the proposed rezoning and future severance represents a serious threat to the stability of this small community's forested character (emphasis added)

[13] Clearly, this same view is also poignantly expressed in the 13 Participants' written submissions that were forwarded to the LPAT concerning this ZBA application.

[14] Notwithstanding the passionate statements made by Mr. Manett in his WS and in his oral testimony, and the arguments put forward by the City's counsel, the Tribunal finds that there is little, if any, direct policy underpinning for those positions contained in the hierarchy of policies that must be carefully considered by the LPAT in this case. Moreover, the few strands of policy justification pointed to by Mr. Manett in his evidence were later effectively dealt with and largely eliminated during his cross-examination by BH's counsel. Finally, some of the factual allegations by both Mr. Manett and the City's counsel are simply not borne out by the evidence tendered in this case, in the Tribunal's view. One example relates to the suggestion that a large number of trees will be destroyed by the proposed Development – there is simply no evidence to support that claim, as is made clear in paragraph [18] below, and Mr. Manett admitted that his revised WS was incorrect in this regard.

[15] It is well-recognized that in considering the ZBA application, this Tribunal must have regard for matters of provincial interest as described in s. 2 of the *Planning Act*, R.S.O. 1990, c. P.13 (“PA”). In addition, the two primary Provincial policy documents that govern this ZBA are the PPS and the Growth Plan. Moreover, the PPS and the Growth Plan are of course incorporated by reference in s. 3 (1) and also in s. 3 (5) of the PA which requires that:

A decision of the council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board, commission or agency of the government, including the Tribunal, in respect of the exercise of any authority that affects a planning matter,

- (a) shall be consistent with the policy statements issued under subsection (1) that are in effect on the date of the decision; and
- (b) shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be... (emphasis added)

[16] Ms. Fast, the expert planning witness for BH, in her witness statement and her testimony before the Tribunal stated that the ZBA has due regard for two relevant matters of provincial interest set out in s. 2 of the PA, being 2 (c) the conservation and management of natural resources; and 2 (p) the appropriate location of growth and development.

[17] In support of her opinion set out in paragraph [16], Ms. Fast cited and relied upon the Natural Heritage Evaluation that was prepared by Ms. Quinn, which determined that the wooded portions on the Subject Property do not meet the criteria to qualify as a Significant Woodland under the Oak Ridges Moraine Conservation Plan. Ms. Quinn further identified that the wooded portion of the Subject Property does not meet the Region of York criteria to qualify as Significant Woodland, and is not considered part of the larger woodland to the south (the Parties agree on this point). Ms. Fast also adopted the conclusions of Ms. Hayashi in her testimony and WS that identified 202 living trees on the Subject Property and another 23 living trees within 6 metres of the subject property.

[18] Mr. Ruffalo prepared a revised site plan which adjusted the proposed severance line between the two proposed new lots in order to maintain as many mature trees as possible with the result that a future severance to accommodate the Development will require the removal of only 34 living trees. Of those 34, 9 trees are in poor health, according to the uncontradicted expert evidence of Ms. Hayashi, adopted by Ms. Fast and accepted by the Tribunal. This means just 25 of 202 trees will be removed in future to facilitate the Development. In addition, future tree replanting is proposed in an effort to replace those. Ms. Hayashi also pointed out that only 2 of the many trees on the front area of the Subject Property would need to be removed, thus leaving the treed area there virtually untouched and the streetscape largely unscathed in terms of viewable tree cover. In the Tribunal's view, there is no credible evidence called by the City that demonstrates that the proposed Development will in any way threaten the well-treed nature and character of the Subject Property, of Beaufort Hills Road or of the Subdivision.

[19] Ms. Fast also opined that, from a planning perspective, the Subject Property is an appropriate location for modest infill development, being located within the urban area where the province, York Region and the City direct the majority of growth and development to occur. The ZBA application supports appropriate, modest growth in an area that is currently enjoys full municipal services and is proximal to commerce, institutional uses, transit, recreational opportunities and community facilities.

[20] The Tribunal accepts the evidence of Ms. Fast, Ms. Quinn, Ms. Hayashi and Mr. Ruffalo described in paragraphs [16] to [19], inclusive, and preferred it to the extent that it contradicted the evidence and testimony of Mr. Manett. The Tribunal therefore finds that the matters of provincial interest under s. 2 of the PA referred to in paragraph [16] have been appropriately considered in this ZBA application and with respect to the Development.

[21] In terms of the PPS and the Growth Plan, Ms. Fast stated in her WS and oral testimony that:

- (a) The ZBA is consistent with section 1.1 of the PPS and will aid in managing and directing land use to achieve efficient and resilient development and land use patterns. The proposal promotes the efficient use of land through modest and appropriate intensification of a large property within the City's settlement area. Intensification within the City's urban area will help to meet the long-term housing needs of the City;
- (b) Preliminary grading, servicing and drainage plans identify that the development can be appropriately serviced and graded to ensure that there are no impacts to the drainage patterns for the area. From a technical perspective, she relied on the expertise of Mr. Blahut;
- (c) The proposed Development under the ZBA will make efficient use of existing municipal sewage and water services. The addition of one single family home will minimize land consumption and servicing costs. It will also allow for the increased utilization of local community facilities, parks and public transit. Therefore, the proposed ZBA and associated development is consistent with the policies of the PPS;
- (d) The proposed Development contemplated by the ZBA will allow for the creation of two single detached dwellings where only one now exists. Although modest, this is consistent with the Growth Plan's objective to encourage intensification within existing settlement areas, while also more effectively utilizing existing municipal services and resources;
- (e) The BH proposal will accommodate growth within the settlement area of the City and will connect to the existing municipal water and wastewater systems. Residents of the future houses on the lots will have access to public transit, local parks, trails and community centres. The proposed development will contribute to the achievement of a complete community; and

- (f) The small BH development represents modest, compatible intensification and a net gain of one dwelling unit within the built-up area of the City. The proposed intensification, although minor in scale, will assist in meeting the Provincial intensification targets and the Growth Plan population forecast for the Region of York.

The Tribunal accepts the above opinions and conclusions of Ms. Fast in this paragraph [21], which were not shaken in cross-examination.

[22] The Tribunal noted that in his WS and testimony, Mr. Manett seemed to initially take issue with the applicability of the PPS and the Growth Plan to the very modest infill scenario envisioned under the ZBA and to suggest that somehow that urban intensification as described in the PPS must be focussed on areas near transit stations, not large lot neighbourhoods. However, under cross-examination he agreed that intensification could occur elsewhere and he did not directly or effectively contradict the opinions of Ms. Fast as described in paragraph [21]. The Tribunal was also not directed to any provision of the PPS or the Growth Plan that clearly creates a policy exemption for large estate lot neighbourhoods such as the Subdivision.

[23] The Tribunal prefers the evidence of Ms. Fast concerning conformance to the PPS and the Growth Plan to the extent of any conflicts with the evidence of Mr. Manett. There is nothing in the PPS or the Growth Plan suggests that the creation of one additional family dwelling in a two-lot development proposal does not constitute permissible intensification. Indeed, Mr. Manett testified that even the construction of a larger house on a single existing lot constitutes intensification as described in the PPS and Growth Plan.

[24] Most of Mr. Manett's contentions, and those of counsel for the City in his final submissions, seemed rooted in the notion that the BH proposal under the ZBA was either expressly or implicitly contrary to the policy directions set out in either or both of

the YR-OP or the City OP. Mr. Manett testified that City council expressed their intention through their June 2020 decision that ZB 146-76 requires that the lot sizes and frontages in the Subdivision to remain “frozen” at the time of the 1976 registration of the Plan of subdivision in order to protect the ‘Scots Pine plantation’ in the area and the heavily-wooded nature of the Subdivision community.

[25] On the other hand, it was uncontested by Mr. Manett during cross-examination that significant numbers of trees have been removed in many parts of the Subdivision over the decades that have since passed the original plan of subdivision was registered. In addition, as already noted in paragraph [18] above, it is evident that no cataclysmic tree removal is required for this modest Development. Therefore, the Tribunal found there to be simply no evidence that any material change in the heavily treed nature/ character of either Beaufort Hills Road or the Subdivision will result from approval of the ZBA or the proposed Development.

[26] Even if the Council’s decision could be properly characterized from a policy perspective as described by Mr. Manett in paragraph [24], this does not change the Tribunal’s obligations in respect of that decision. Under well-established jurisprudence, the LPAT must carefully consider Council’s decision but, as pointed out by Aston, J. for the Divisional Court in *Ottawa (City) v. Minto Communities Inc.*, 2009 CanLII 65802 (ON SCDC):

The legislature used language that suggests minimal deference when choosing the words "have regard to", considering the many other expressions it could have used to signal the level of deference suggested by the City in this appeal. In my view the traditional role of the Board, and the broad powers it exercises, should not be altered radically without a [clearer]... and specific expression of legislative intent... In my view...the words "have regard to" do not... suggest more than minimal deference to the decision of Municipal Council. However, in the context of the Planning Act, and balancing the public interest mandates of both the Board and the municipality, I would agree... that the Board has an obligation to at least scrutinize and carefully consider the Council decision, as well as the information and material that was before Council (emphasis added)

[27] In any event, the Tribunal was not pointed to any specific provision of either the YR-OP or the City OP that squarely and unequivocally supports the opinion of Mr. Manett described in paragraph [24] above or the position of counsel for the City in closing argument. Nowhere is there any express mention of the Subdivision as a specific neighbourhood or enclave whose large estate lots must be preserved and protected from 'lot-splitting' / severances or other forms of intensification permitted and encouraged by provincial policy. Nor has Beaufort Hills Road been identified as a subset of the Subdivision precluded from such development. Moreover, large estate lot enclaves in the City *per se* are not specifically described as 'non-development' or 'non-intensification' areas. If there were specific development restrictions in the City OP or YR-OP that attempted to carve out estate lot areas, this would then lead to an interesting issue for determination in relation to the policies set out in the PPS and the Growth Plan and, by extension, the PA. However, this is not the case and it is therefore unnecessary for this Tribunal to consider this question further or to make any ruling in that respect.

[28] The LPAT finds it unnecessary in this case to further explore the reasons underlying how the Subdivision was created and why there were restrictions on lot area and frontages or how that may have led to ZB 146-76. Member Sills in Prior Decision 1 elaborated on those matters in her reasons for Decision but this Tribunal sees no reason to revisit that, even though it occupied a great deal of Mr. Manett's evidence and testimony. In the Tribunal's view, these historical matters are not determinative of the issues in this proceeding.

[29] Similarly, the Tribunal finds it unnecessary to rule upon the question of whether the original subdivision agreements registered on title, which require an owner to obtain permission from the Commissioner prior to removing trees or vegetation, are still relevant or even applicable after 45 years. However, it is uncontested that the City now has a Tree By-law which requires a permit for tree removal, and the evidence before the Tribunal is that the Applicant or its representatives will make the requisite permit

application at the relevant time (and will need to do so). Thus, the City will deal with tree removal as part of its usual permit approval process.

[30] The Tribunal found the exercise comparing lot size and frontages conducted by counsel for the City during cross-examination, and in final argument, to be of only modest utility in assessing whether the Development and resultant future creation of two lots is compatible with the character of with the rest of Beaufort Hills Road and the Subdivision. The Tribunal instead accepts the evidence of Ms. Fast in chief, as paraphrased by BH's counsel in final submissions as follows:

The proposed lots on the Subject Property have frontages of 24.96 metres (Lot 1) and 32.95 metres (Lot 2). Ms. Fast gave evidence that in the Beaufort Hills neighbourhood, there are 22 lots with frontages lesser than or equal to Lot 1, and 164 lots with frontages lesser than or equal to Lot 2. On re-examination, Ms. Fast also confirmed that there are 41 lots total in the Beaufort Hills subdivision with frontages of 25.91 metres, which is less than a metre larger than the proposed frontage of Lot 1. Lot 1's frontage will be only 3.7% less than these 41 existing lots. Ms. Fast's opinion was that this meets the test for neighbourhood compatibility...

The Tribunal further notes that the evidence of Ms. Fast supports the view that the reduced frontages of almost 25 metres and 33 metres are still rather large and would still give the appearance of estate lots.

[31] Finally, in considering this application, the LPAT is not empowered to in effect create a new general policy that is to govern all the future development in any given neighbourhood in the City. Thus, the Tribunal is unable to reflect in its ruling the generalized notion that the City's counsel has described in his final submissions under the heading "Precedential Outcome in a Decision to Grant this Subdivision" as "...a concern in granting this rezoning for the precedent it will set in the community..." Council for every municipality must consider each particular development application on its merits in light of the available evidence and the policies and provisions as duly enacted in all provincial, regional and municipal planning schemes. The Tribunal must do exactly the same, as it did in Prior Decision 1 and Prior Decision 2.

CONCLUSIONS AND ORDER

[32] The Tribunal is satisfied, based on the evidence, discussions, findings and reasons described above in paragraphs [9] to [31] of this Decision, as follows:

1. Based on the Tribunal's express acceptance of the evidence provided by the Appellant's expert witnesses Ms. Fast, Ms. Quinn, Ms. Hayashi, Mr. Blahut and Mr. Ruffalo, the proposed ZBA properly and appropriately addresses all relevant matters of provincial interest as set out in s. 2 of the PA, and conforms with all relevant matters of policy as required under s. 3 of that Act;
2. The proposed ZBA conforms with all applicable matters of policy contained in the provisions of the PPS, based on the Tribunal's express acceptance of the evidence provided by the expert witnesses of the Appellant, as described in [32] 1. above;
3. The proposed ZBA conforms with all applicable provisions of the Growth Plan, based on the Tribunal's express acceptance of the evidence provided by the expert witnesses of the Appellant, as described in [32] 1. above;
4. Based on the Tribunal's express acceptance of the evidence provided by the expert witnesses of the Appellant, as described in [32] 1. above, the proposed ZBA conforms with all applicable provisions of the YR-OP and the City OP;
5. The proposed ZBA represents and respects good planning principles and will result in a development that is compatible with the character of the community surrounding the Subject Property, based upon the Tribunal's express acceptance of the evidence provided by the expert witnesses of the Appellant, as described in [32] 1. above; and

6. In reaching this Decision, the Tribunal has given careful and due regard for the decision of the City of Richmond Hill Council on or about June 3, 2020 to deny the proposed ZBA.

[33] The Tribunal therefore allows the Applicant's appeal and Orders that the Zoning By-law amendment contained in Attachment 1 be granted by the City.

[34] It is the Tribunal's understanding that the form and content of the Zoning By-law amendment set out in Attachment 1 is acceptable to the City. However, if the Parties require further assistance in implementing this Decision, the Tribunal may be spoken to.

"William R. Middleton"

WILLIAM R. MIDDLETON
MEMBER

Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

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

PL200300 – Attachment 1**The Corporation of the City of Richmond Hill****By-law **-****

A By-law to Amend By-law 1275, as amended, of the former Township of King and
By-law 146-76, as amended, of The Corporation of the City of Richmond Hill

Whereas a Local Planning Appeal Tribunal Hearing was held on _____ to consider the proposed Zoning By-law Amendment described herein;

The Local Planning Appeal Tribunal hereby approves as follows:

1. That By-law 146-76, as amended, of The Corporation of the City of Richmond Hill be and hereby is further amended as follows:
 - a) That Paragraph 1(c) of By-law 146-76, as amended, of the Corporation of the City of Richmond Hill, shall not apply to the lands shown on Schedule "A" to By-law **-**.
2. All other provisions of By-law 1275, as amended, of the former Township of King, not inconsistent with the foregoing, shall continue to apply to the lands shown on Schedule "A" attached hereto.
3. The imperial measurements found in this by-law in brackets are provided for information purposes only and are intended to be an approximate conversion of the metric measurements. The metric or SI measurements shall be deemed to be the standards established by this by-law and, wherever there is a variance between the metric or SI measurements and the imperial measurements, the metric or SI measurement shall apply.
4. Schedule "A" attached to By-law **-** is declared to form a part of this by-law.

Passed this _____ day of _____, 2021.

The Corporation of the City of Richmond Hill

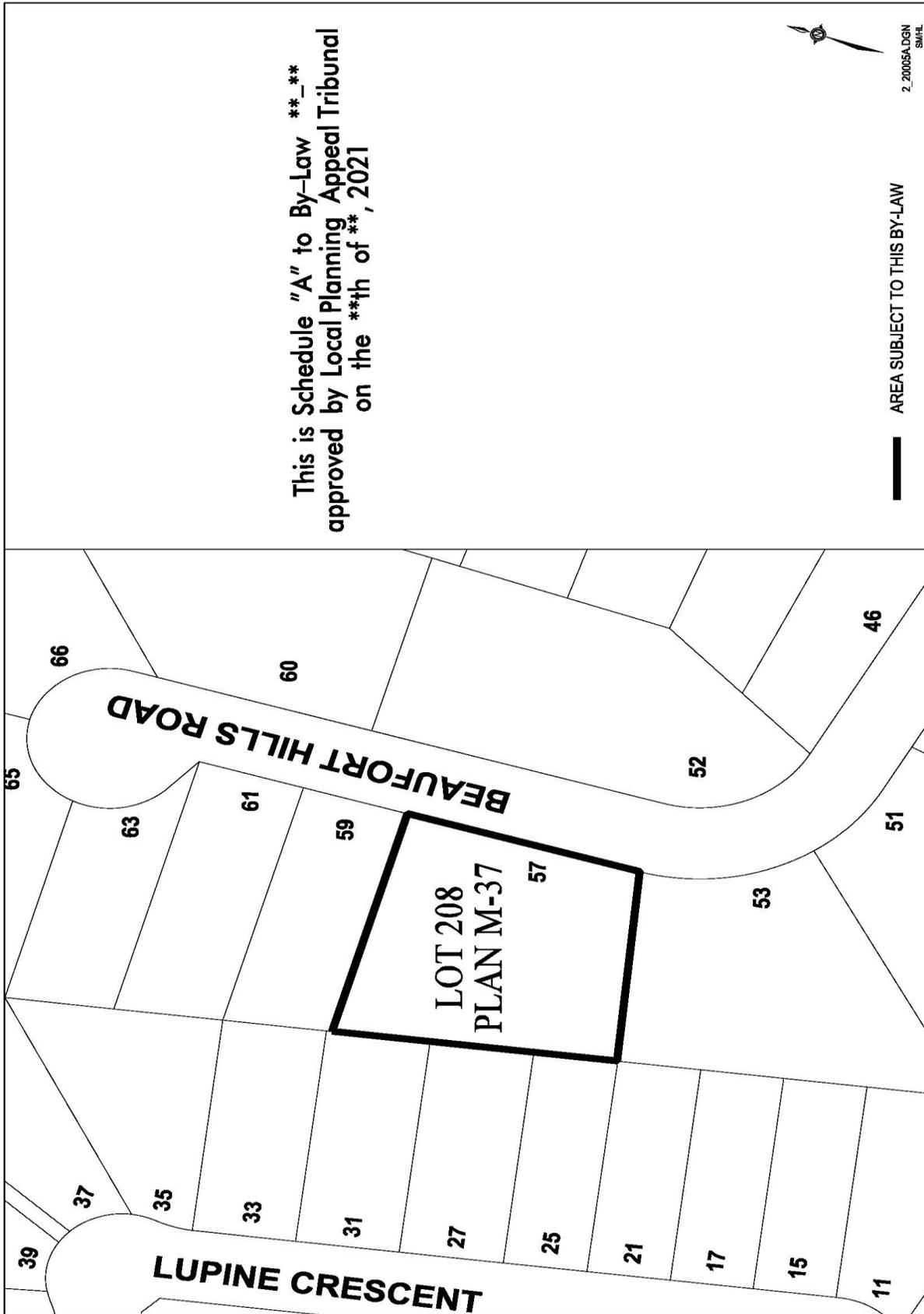
Explanatory Note to By-law **_**

By-law **_** affects the lands described as Lot 208, Plan M-37, municipally known as 57 Beaufort Hills Road.

By-law 1275, as amended, presently zones the subject lands "Residential Urban (RU) Zone". By-law 146-76 amended By-law 1275 by adding a paragraph to Section 9 of By-law 1275, as amended, which states "notwithstanding the provisions of Section 3 respecting minimum lot frontage and size of building lot and ground floor area, the minimum lot frontage and lot area required for each lot shown on Schedules 'B' and 'B.1' to By-law 146-76 of The Corporation of the City of Richmond Hill shall be that shown for the lot on the said Schedule and no dwelling shall be erected on any such lot with a ground floor area of less than 1,250 square feet."

By-law **_** further amends the By-laws and exempts the subject lands shown on Schedule "A" to this By-law from the above-mentioned paragraph to permit a future severance on the lands to create one new residential building lot.

DRAFT



PL200300 – Attachment 2

Exhibit List

BH Properties Limited v Richmond Hill (City)

57 Beaufort Hills Road Development

PL200300

May 5 – 7, 2021

#	Document	Party
1.	Joint Document Book	Joint
2.	Agreed Statement of Facts	Joint
3.	BH Properties Limited Visual Evidence	BH Properties Limited (on Consent)
4.	City of Richmond Hill Visual Evidence	City (on Consent)
5.	Joanna Fast Witness Statement	BH Properties Limited (on Consent)
6.	Joanna Fast Reply Witness Statement	BH Properties Limited (on Consent)
7.	Kristi Quinn Witness Statement	BH Properties Limited (on Consent)
8.	Kristi Quinn Reply Witness Statement	BH Properties Limited (on Consent)
9.	Kayo Hayashi Witness Statement	BH Properties Limited (on Consent)
10.	Dean Ruffolo Witness Statement	BH Properties Limited (on Consent)
11.	Chesley Blahut Witness Statement	BH Properties Limited (on Consent)
12.	Michael Manett Revised Witness Statement	City (on Consent)
13.	Draft Zoning By-law	BH Properties Limited (on Consent)