

**Ontario Municipal Board**  
Commission des affaires municipales  
de l'Ontario



EAST GARAFRAXA  
JUN 27 2016  
RECEIVED

**ISSUE DATE:** June 24, 2016

**CASE NO(S):** PL150285

**PROCEEDING COMMENCED UNDER** subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Township of East Garafraxa
Subject:	Proposed Official Plan Amendment No. OPA 4
Municipality:	Township of East Garafraxa
OMB Case No.:	PL150285
OMB File No.:	PL150285
OMB Case Name:	East Garafraxa (Township) v. Ontario (Municipal Affairs and Housing)

**Heard:** May 25, 2016 in Amaranth, Ontario

**APPEARANCES:**

**Parties**

Township of East Garafraxa

Ministry of Municipal Affairs and Housing

**Counsel**

J. Wilker and  
G. Sills (Student-at-law)

U. Popadic

**DECISION DELIVERED BY H. GIBBS AND H. JACKSON AND ORDER OF THE BOARD**

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**INTRODUCTION**

[1] In March 2010, the Township of East Garafraxa (the "Township") conducted an official plan conformity exercise, to bring the Official Plan of the Township (the "Township OP"), first adopted in 2004, into conformity with the Growth Plan for the

Greater Golden Horseshoe (the "Growth Plan") and the Greenbelt Plan as required by the *Planning Act* (the "Act"). The resulting OPA 4 was adopted by the Township Council on October 13, 2010 and sent to the Ministry of Municipal Affairs and Housing (the "MMAH") for approval. Pursuant to s. 17(34) of the Act, the MMAH approved OPA 4 on March 9, 2015, with modifications to the version adopted by the Township.

[2] As a result of the modifications and approval made by MMAH, the Township appealed OPA 4 to the Ontario Municipal Board (the "Board") on March 30, 2015 in its entirety, although its concerns relate to only certain of the provisions.

[3] A prehearing was scheduled for May 25, 2016. Prior to the event, the Township advised the Board's case coordinator by letter dated May 20, 2016, that the Township and the MMAH have worked diligently and have come to a negotiated settlement where both parties agree to amended wording respecting four modifications to OPA 4. The four proposed modifications were laid out in a Draft Order prepared by MMAH and attached to the letter of May 20, 2016. The letter and proposed modifications were entered into evidence through the planner as Exhibits 2 and 3 respectively.

[4] The Township and MMAH jointly requested that the prehearing be converted to a settlement hearing to hear evidence respecting the resolution of the Township's appeal. The Township further advised that the Township was withdrawing its appeal against the remainder of the Minister's Decision, and so by operation of the law pursuant to s. 17(39) of the Act, the remainder of the Minister's Decision is final.

[5] At the prehearing of May 25, 2016, no other parties or participants were identified who wished to address the Board. Glenn Wellings was qualified by the Board to give expert planning opinion in support of the settlement upon consent of the parties. Mr. Wellings is a consulting land use planner who has provided services to the Township for approximately 10 years. He has been involved throughout this appeal.

## ANALYSIS AND FINDINGS

[6] Mr. Wellings testified that the matters in which the negotiated settlement was reached relate to the following three topics:

1. Township Public Uses
2. Severance Policies
3. Caledon Lake Wetland

[7] Under s. 7.21 - Township Public Uses, MMAH wished to exclude lands within the Agricultural and Environmental Protection designations from municipal purposes. The Township was concerned that the MMAH's modifications may impact the Township's ability to carry out its responsibilities for the provision of infrastructure in environmental and agricultural areas. The addition of the bold underlined text to s. 7.21 as provided in Exhibit 3 resolves this concern.

[8] With respect to the Severance Policies, the Township was concerned there were inconsistencies between the official plan policies in the agricultural designation and the policies in the Greenbelt Plan. Mr. Wellings testified that the modified wording provided under s. 5.9.4(d)(i) and s. 5.9.4(d)(ii) of the official plan as provided in Exhibit 3 seeks to remedy those inconsistencies and better tie the implementing policies together.

[9] With respect to the Caledon Lake Wetland, it is a Provincially Significant Wetland ("PSW") that was recently identified during the OPA 4 approval process, on lands that are part of an existing Plan of Subdivision known as "Garafraxa Woods". Garafraxa Woods is approximately 20-25 years old, and is fully built out. Mr. Wellings testified that ample protection for the PSW exists currently in the policy framework, as follows: the area is zoned Environmental Protection; and the lands are regulated by the Credit Valley Conservation Authority. In addition, he noted there was no public process with respect to the PSW involving the affected landowners. Mr. Wellings testified that a site-specific policy in OPA 4 that confirms the zoning is a solution that represents good

planning, as it provides certainty for Garafraxa Woods homeowners that the same by-laws under which they purchased their properties will remain. Further, he testified that it provides interpretation clarity by inserting into the text as proposed.

[10] Mr. Wellings testified that OPA 4 as approved by the MMAH, and as modified through this Board Order, represent good planning. He testified that the additional modifications agreed to by the parties as part of this proceeding provide further clarity into the future. In his opinion, OPA 4, together with the modifications, is consistent with the Provincial Policy Statement, 2014 ("PPS"), conforms to the Greenbelt and Growth Plans, and has appropriate regard for matters of provincial interest pursuant to s. 2 of the Act.

[11] In addition, Mr. Wellings testified that OPA 4 as approved by the province on March 9, 2015 also conforms to the new County of Dufferin Official Plan ("County OP"), dated March 27, 2015. This is the first OP for the County of Dufferin.

[12] The Board, after hearing the parties' submissions and the expert planning opinion adduced, accepts the uncontroverted opinion of Mr. Wellings, and finds that OPA 4 as approved and subject to the modifications below, is consistent with the Provincial Policy Statement, 2014, and conforms to the Growth Plan for the Greater Golden Horseshoe and the Greenbelt Plan.

## **ORDER**

[13] The Board Orders that the appeal is allowed in part and Amendment No. 4 to the Official Plan for the Township of East Garafraxa is approved subject to the modifications as follows:

1. OPA 4 approved by MMAH in its decision dated March 9, 2015 is hereby approved subject to the following modifications:

- a) Section 5.9.4(d)(i) Official Plan shall include the bold underlined text:

Agricultural uses in accordance with section 5.1.4(d) and in compliance with Sections 5.1.4a) and 8.4 of this Plan;

- b) Section 5.9.4(d)(ii) Official Plan shall include the bold underlined text:

Severances of any dwellings surplus to a farming operation resulting from a *farm consolidation* provided that the residence was an existing use as of December 16, 2004 shall be permitted in accordance with Sections 5.1.4a) and b) and in compliance with Section 8.4 of this Plan.

- c) Section 7.21 of the Official Plan shall include the bold underlined text:

#### **7.21 Township Uses**

With the exception of the Agricultural and Environmental Protection designations, the Township of East Garafraxa may use lands for municipal purposes within any of the designations in this Plan. When considering municipal land uses the Township shall ensure that the development of lands is done in accordance with the Development Criteria outlined in this Plan. **The foregoing exception does not include transportation and utility facilities which are subject to section 6.6 of this Plan nor does the exception apply to municipal drains subject to the Drainage Act, R.S.O. 1990, c. D.17.**

- d) The following new Section 9.1.1 (a)(v) is added to the Official Plan:

**The zoning of the Garafraxa Woods subdivision lands, as set out in Zoning By-Law 60-2004, as of the date of approval of this Plan is deemed to remain in conformity with this Plan, including OPA 4, as modified and approved.**

[14] The Township has withdrawn its appeal against the remainder of the Minister's Decision, therefore all other provisions of OPA 4 are in full force and effect.

*"H. Gibbs"*

H.GIBBS  
MEMBER

*"H. Jackson"*

H. JACKSON  
MEMBER

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

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