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DEC 14 2011

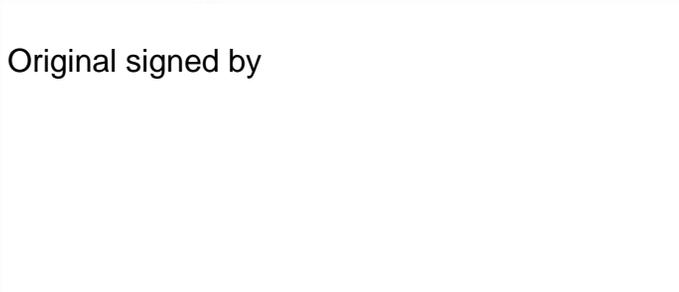
CENTRAL REGION
MINISTRY OF MUNICIPAL AFFAIRS
AND HOUSING

December 12, 2011

To Ministry of Municipal Affairs and Housing
Municipal Services Office Central Ontario
777 Bay St 2nd Floor
Toronto Ont M5G 2E5
Attention Andrew Doersam Senior Planner

Please find enclosed the appeal re ROPA 38, re Halton file 24-OP-0027-038, and money order for \$125.00 payable to Minister of Finance. Also note that this was sent to OMB who are returning that package to us.

Original signed by





Environment and Land Tribunals Ontario
Ontario Municipal Board
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
 FAX: (416) 326-5370
 www.elto.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

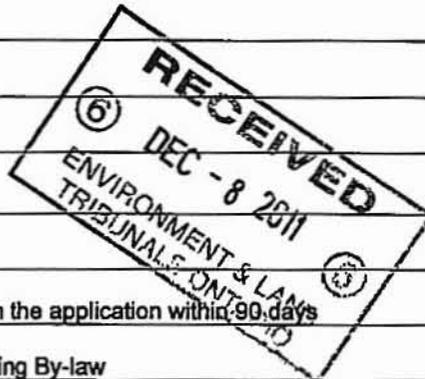
Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

7957 JB

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 | 53(27) |
| | <input type="checkbox"/> Appeal changed conditions | 53(14) |
| | <input type="checkbox"/> Failed to make a decision on the application within 90 days | 34(19) |
| Zoning By-law or Zoning By-law Amendment | <input type="checkbox"/> Appeal the passing of a Zoning By-law | 34(11) |
| | <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 checked="" 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

1761 Old Waterdown Rd, Burlington; 398 Mountain Brow, Burlington; Rennick Rd, Burlington

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

Municipality/Upper tier: Halton

Part 3: Appellant Information

First Name: Donald Last Name: Johnson

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable):

E-mail Address: teamjohn@idirect.com

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

daytime Telephone #: 905 577-7859

Alternate Telephone #: 905 333-3500

Fax #: 905 333-3616 attn Don Johnson

Mailing Address: 1419 Headon Rd Burlington
Street Address Apt/Suite/Unit# City/Town

Ontario Province L7M 3N8 Postal Code

Signature of Appellant: Original signed by Date: 12/5/11
(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: Last Name:

Company Name:

Professional Title:

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

Daytime Telephone #: Alternate Telephone #:

Fax #:

Mailing Address: Street Address Apt/Suite/Unit# City/Town

Province Country (if not Canada) Postal Code

Signature of Appellant: Date:

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)

With reference to Halton Regional Plan (2009) DATED Dec 2nd, 2009 adopted Dec 16th, 2009 and/or to the amendments as worded in the NOTICE OF DECISION dated Nov 24th, 2011 by Lynn Buckham Assistant Deputy Minister (Acting) file No: 24-OP-0027-038:

This is to appeal the following sections as identified below:

Part III: 63 ; 63.1 ; 70.1 ; 89(1) ; 89(18) ; 89(21)e ; 100(9) ; 100(10) ; 100(16) ; 100(21)e(ii) ; 101(4)j(i) ; 110(7.1)f ; 116.1 ; 117.1(10) ; 117.1(16)e(ii) ; 117.1(16)e(iii) ; 118(20) ;

Part III: North Aldershot Policy Area 138.1 ; 139(2) ; 139(3) ;

Part IV: 145(6)b ; 147(5)a

MAPPING: Map 1

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)

Footnote: Don Johnson is an Heir and an executor for the estate of Walter Johnson at 1761 Old Waterdown Rd. (Con 2 E Flam Pt lots 5&6) The appeals unless otherwise stated refer specifically to all lands contained in Burlington's North Aldershot area and specifically to the central and Eastern sectors. These comments are also reflected to apply to the Lands owned by Michael Shih at 398 Mountain Brow Rd and the lands of Sylvia Walker on Rennick Rd.

Part III:

63 With respect to the Green Belt plan mapping, and ROPA 38 mapping: the area of the eastern sector of Burlington's North Aldershot planning area is extremely bad. Indeed it failed to reflect the ESA boundaries based on "on ground" studies by the region and further the Development (D) lands that were in the City of Burlington Official Plan.

The MMAH issued a letter to the Johnson family (dated July 4th, 2005) affirming : "As such, the lands at 1761 Old Waterdown Rd will continue to be governed by the Region of Halton and the City of Burlington Official Plans.

The Region stated to us in 2009 when we complained about its poor mapping in ROPA 38 that they were using the 1994 North Aldershot Inter agency review maps and that this was their instructions. We identified to them that the

report stated that the mapping was not correct and that it was subject to change. Indeed we also pointed out to them that their own people from the Region had done on ground studies and that the development lands had been sizably increased from the Hemson NAIR report and that the ESA 4 boundaries were agreed on between the Region and the land owners. Staff then advised us they had no intention to use the updated information nor would they recognize any work that altered the Hemson NAIR boundaries. They have kept their word and the Mapping in ROPA 38 is obsolete.

This 1994 NAIR Report was subsequently subject to the OMB and board rulings re the eastern sector mapping and designation uses

The area of Burlington North Aldershot central and eastern sectors are designated as a special area. The OMB hearings and rulings reflected this by its ruling to the region to properly complete ESA 4 mapping and defining development areas (which was completed post NAIR) In addition the OMB confirmed one development option was cluster home development based on an average of 3 per overall acre and it further identified potential for 298 units in the Eastern sector "D" lands. Other uses including estate development, institutional and recreational uses were also envisioned

In addition in response to our dropping an appeal of ROPA 37 with regard to demanding servicing rights for the Eastern Sector; the region agreed that our and the "D" zoned lands in the eastern sector would not be restricted from servicing by regional policies denying our right to make an application – I quote from the letter issued by Mr R Mohamed Director of Planning and Development Services (file RQ04 A) :

"Please be advised that the Region of Halton will entertain an application to amend to Regional Official Plan to designate the lands as Eligible for Urban Servicing at such time as your family wishes to pursue the development potential of the subject property as set out in the North Aldershot Inter Agency Review Final Report 1994 and ROPA No 2. We recognize it is premature for your family to undertake the studies necessary to prove the prudence and feasibility of servicing these lands at this time but that you are assured of the opportunity to investigate this in future through the appropriate planning applications. Your application would have to meet the requirements of Part III Section E3c of ROPA No. 2"

We found it inconceivable that regional staff have stated that this letter of agreement and commitment has no bearing on the Regions ability to now deny us the right to make an application for water or services. Indeed in a meeting we had with them concerning ROPA 38s banning of servicing for the Eastern sector they stated that the policy is no services and as such we can't even apply.

In as much as the policies of the greenbelt are to forbid use of urban services therein and stops new lot creation the wording of 63 effectively quashes the OMB ruling identified OP development plans. It further usurps agreements in place with the region and City as to development boundaries and in addition overrides completed on ground environmental studies conducted by the Region.

We also identify that the North Aldershot area is a unique area but that it is much more an urban then a rural area and as such policies for it must reflect its unique features as well as its issues. The area is class 4 soils and subject to severe erosion. Wells in the area in most cases are unable to yield water in any quantity. Water services were provided to a percentage of the homes in the area without sewer services.

The area is surrounded by City of Burlington Urban development and City of Hamilton Waterdown developments. The site is a mile from the 403/Waterdown Rd exchange and Provincial Go Station.

We contend that the North Aldershot area is not rural and should for planning purposes be treated as an urban area waiting development planning. Indeed the City of Burlington's own OP in 1969 stated that these lands were to be developed in a manner akin to its' Tyandaga Development of the 1960's. Indeed the Eagle Heights development along the Waterdown road in the central sector have densities already much higher then we have identified for these lands and the Eagle Heights densities are being increased to meet the Ministries "Places to Grow" legislation.

63.1 We reference the comments we made for 63 above

70.1 We reference the comments we made for 63 above

89(1) We appeal this on the grounds this does not allow urban services to be provided in the Eastern Sector of North Aldershot in clear violation of agreements between the Johnson Family and the Region. Reference R Mohamed letter identified in comments for 63.

89(18) We appeal this on the grounds that the Region and the City have already allowed these connections in the North Aldershot area and indeed that by so denying non serviced residents the same option of hook ups that it has already allowed in the past the region is creating and perpetuating two classes of residents in one community – those who got and those who maybe couldn't afford hooking up at the time and are now denied the opportunity to be equal with their neighbours.

Denial of residence rights to hook up at their own expense to regional servicing in an area where wells are dry affects property enjoyment and values. We contend this is bad planning.

We also again refer to the agreements with the Region and Johnson family (R Mohamed letter) which state we will not be prohibited. As such we want the Eastern Sector of North Aldershot to be identified as eligible to hook up to services.

89(21)e We appeal this on the grounds expressed for 89(18)

100(9) With respect to the central and eastern sectors of North Aldershot: We appeal deleting the wording "and site modifications required to accommodate them"

The nature of the property terrain is such that we have severe erosion issues in the valleys and indeed even the fields due to slope and we also need to use water retention systems including dams built in the valleys dating back to the 1940s in order to build localized ground water tables.

We also have drive way paths through the valleys that must accommodate farm machinery and field access.

Repair, maintenance and restoration of these facilities does require site modifications from time to time.

Ability to carry out site modifications are an important part of our ability to maintain and preserve the property.

100(10) We appeal this especially with respect to ponds on the grounds as per 100(9) above

100(16) I appeal the restriction of veterinary clinics being restricted to "only if located on a commercial farm and secondary to the farming operation"

Specifically by definition if a vet has more income from being a veterinary then from farming the farming becomes secondary making his clinic illegal.

Agriculture in Halton is already facing severe support infrastructure and services depletion. If a veterinary wants to

Set up a practice on an acre or two in a rural area this should be allowed as it may reduce the infrastructure cost to set up the practice and allow for lower fees for services to the agricultural community.

The restriction is bad for animal and poultry producers in Halton and should not be included.

100(21)e(ii) Horticultural is a crop intensive form of agriculture. The size of operation has no correlation to revenues or labour needs identified to larger cash or livestock operations. Value of an acre of specific herbs and spices can generate revenues equal to large acreage multiples for other agricultural operations.

The restriction of horticultural trade uses to properties at least 4 hectares in size is damaging to the new cottage horticultural enterprises that are producing and compounding their own products for high end market consumption.

Such restriction fly's in the face of the Regions commitment to improve agricultural productivity and incomes.

The size is too large at 4 hectares and should reflect a minimum property size of 1 Hectare and not 4.

I appeal using 4 Hectares as the basis of this policy for the entire region.

101(4)j(i)

This policy wording is poor and confusing – does it only apply to the NEP areas or does it mean only in the NEP areas that the buildings need to be temporary. It needs better defining.

I also appeal the removal of the words "or retiring farmer" in this policy for the region as a whole.

Agriculture is a tough business and retiring farmers may well need to stay on the farm when the next generation takes over. Indeed the retired farmer often continues to work part time in providing advice and back up top the next generation.

Also farmers are sometimes required to take back mortgages in order to facilitate a sale. Unfortunately this means they are faced with cash restrictions that affect their ability to move on in the near term. By remaining on the property they can monitor the properties continuing use and ensure it doesn't fall into disrepair and become a site for mid night dumping.

110(7.1)f I appeal the inclusion of The North Aldershot Policy area as being prohibited from new or expanded Mineral Aggregate resource extraction areas

The north Aldershot area is already home to significant clay extraction sites for use in clay brick production. The city of Burlington used part of the Eastern sector for a land fill site. The clay is a natural resource

Prohibiting new or expanded extraction is not good policy especially when it produces jobs and revenues.

We understand the desire of the city and the region to turn this into parkland but these uses should be permitted under the same rules as in the rural areas.

116.1 The wording "Refinements to the Greenbelt Natural Heritage System are not permitted" is a problem.

I refer to the comments for # 63 above

Greenbelt mapping is extremely bad for north Aldershot and mapping is subject to interpretation.

The area of north Aldershot in the central and eastern sectors need to be better mapped and need to clearly reflect City of Burlington "D" zoned lands as being development recognized.

These greenbelt natural Heritage system maps are not accurate and as such the boundaries need to be definable by studies and better detailed identifiable mapping.

117.1(10) I appeal this removal of the words and site modifications required them to accommodate them

I refer you to comments made for 100(9) and 100(10)

117.1(16)e(ii) I appeal this policy for across the region using 4 hectares as the criteria

I reference my remarks for 100(21)e(ii) above

117.1(16)e(iii) I appeal the use of 80 % per the MMAH details of amendment item 244

This does not conform to use of 70 % allowed elsewhere in the plan. And on larger farms that have a portion of the property in Horticulture the need to have even 70 % in Horticultural plants may be excessive and restricting of other agricultural practices eg field crops, livestock pasturing, personal use etc.

Instead of using a minimum % of acreage it should identify to an area as a minimum production. For example if the minimum is 4 hectares (which is too large) then the actual size need only reflect a minimum production area of say 3 hectares

I appeal this regional classification %. And the use of 80 %

118(20) I appeal this in respect to the limiting impact it has in the North Aldershot area

The wording is a broad based policy statement without context reference. This directly stops severance in the North Aldershot policy area.

If this is specific to Greenbelt or Regional Heritage System areas it needs to be clearly identified as such.

Part III: North Aldershot Policy Area

138.1 We appeal the wording "subject to a revision to the boundary of the Regional and policies of the Greenbelt Plan"

We refer to the inability to properly identify greenbelt boundaries for north Aldershot and the regions utilizing of obsolete and inaccurate mapping for ROPA 38.

We also refer to our comments per Part III # 63

139(2) We appeal this requirement that any development in the North Aldershot Policy area be based on individual wells and septic systems except... Section 139.3

We refer to our comments for Part III 63, 89(1) and 89(18)

We specifically request the Region honour its commitments to the Johnson Family with respect to apply for servicing the "D" [now DNA] and RNA1 lands in the central and eastern sector and that furthermore this be reflected in the policies of ROPA 38 as a specific right.

139(3) We appeal this restriction of urban services in the North Aldershot Policy area.

We specifically refer to our comments re 139(2) above

Part IV:

145(6)b We draw your attention to the comments we made respective to part III North Aldershot Policy Area 138(1) and the problems caused by crude parkway belt mapping and obsolete regional mapping.

Specific to the lands in the east central sector and eastern sector of North Aldershot this should direct use of the identified ESA 4 boundaries and DNA lands per City of Burlington planning as being the correct mapping to be utilized.

147(5)a We draw to your attention that the forest lands owned by the Johnson and Shih families as well as by CUMIS to the south have been forested woodlots well before the implementation of SASSAFRAS WOODS, ESA 4, the provincial parkway Belt west plan, the Greenbelt Plan, The NEP and Regional Natural Heritage areas.

This activity has been ongoing in these forest lands well back to the 1800's and commercial forestry continues on these forested lands on an ongoing basis.

We specifically appeal any restrictions to this continuing activity that is in excess to those conditions dictated by MNR which issues the cutting permits.

Mapping

With respect to the mapping and we request that all maps for the area of North Aldershot respective to the Johnson/Shih/Walker and CUMIS lands be updated to reflect the appropriate defined DNA and ESA 4 designations (per the region and City plans in effect prior to ROPA 38). That the Region not be allowed to utilize outdated and incorrect mapping as a way to remove zonings and plans that existed prior to the ROPA 38.

We specifically itemize Maps showing Greenbelt and the Regional Heritage System.as among those with bad boundary definitions.

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.

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)

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day x 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
unknown at this time _____

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

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? ___We believe many of the issues can be resolved but we are prepared to go to go before the OMB as we are really only asking for its rulings to re support its prior rulings _____

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

