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

O 930068
C 930155
C 940358
V 930198
V 930199

At the request of Waldemar J. Bryk, the Honourable Minister of Municipal Affairs has referred to the Ontario Municipal Board under subsection 22(1) of the Planning Act, R.S.O. 1990, c. P.13, Council's refusal or neglect to enact a proposed amendment to the Official Plan for the City of Mississauga to redesignate the lands located on Autumn Breeze Drive, south of Queensway West, east of Hurontario Street from "Residential Low Density 1, Special Site Area 1" to an appropriate designation that would permit two residential lots with smaller frontages and lot areas than permitted
Ministry File No. 21-OP-0030-A30
O.M.B. File No. O 930068

Waldemar J. Bryk has appealed to the Ontario Municipal Board under subsection 53(7) of the Planning Act, R.S.O. 1990, c. P.13, from two decisions of the Regional Municipality of Peel Land Division Committee which dismissed two applications numbered B23/93-M and B80/94-M, respecting part Lot 3, R.P. E-20
O.M.B. File No. C 930155 & C 940358

Waldemar J. Bryk has appealed to the Ontario Municipal Board under subsection 45(12) of the Planning Act, R.S.O. 1990, c. P.13, from two decisions of the Committee of Adjustment of the City of Mississauga which dismissed two applications numbered A119-93 and A120-93 for a variance from the provisions of By-law 5500, as amended, respecting part Lot 3, R.P. E-20, located on Autumn Breeze Drive
O.M.B. Files V 930198 & V 930199

COUNSEL:

Randolph Smith	for	City of Mississauga
Virginia MacLean, Q.C.	for	Waldemar J. Bryk

RESERVED INTERIM DECISION delivered orally by G.E. MORRIS on January 3, 1995

On June 13th, 1994, the Board heard a motion brought by Counsel for the City to dispense with a full hearing and to dismiss the above appeals and referral. The Board concluded in its decision dated September 15th, 1994 (reference DB #102 Folio 391 issued on September 15th, 1994, OB 1994-5 Folio 267) that a full hearing was necessary to determine the planning merits of the subject matters. The Board's decision on the motion sets out the background of this hearing and should be read in conjunction with this decision. This is attached as Appendix "A".

In 1972 Autumn Breeze South was developed by a registered plan of subdivision with lot frontages of about 100 feet and services by means of individual wells and sewage disposal systems. The Mary Fix Creek runs through the valley lands at the rear of the lots on the east side of the street. As part of the subdivision agreement, the City negotiated an easement within the valley lands. Some years later municipal services were introduced on the street resulting in fully serviced lots. Autumn Breeze South terminated in a one-foot reserve. This street was later extended via the consent process of the Land Division Committee (LDC) to allow two lots to be created on either side of the extended street. The one-foot reserve was moved northwards to terminate at the end of this extended street.

In 1977, Vidlow subdivision was developed by a registered plan of subdivision on lots having frontages of about 75 feet. As part of the subdivision agreement, the owner agreed to convey the valley lands to the City. These lands are located east of the boundary line adjoining the lots on the east side of Autumn Breeze North.

The Bryk lands lie between these two subdivisions and provide a physical barrier. This has prevented the streets of these two subdivisions from becoming a continuous street. This barrier has also prevented the connection of the City owned valley lands with the City easement over the valley lands on the subdivision to the south. Although Mr. Bryk did not want the street to be extended through his property at the time of the development of the subdivision to the north, he did however permit a service easement through his property for which he was compensated. During the course of the subdivision to the north it was clear that staff anticipated these two streets would someday become a through street and took what they believe to be adequate steps to provide for residential lots on either side of this extended street. Had the street been extended with the development of the northern plan of subdivision, the problem which currently exists today would be non-existent.

Sometime in 1980, the municipality, upon the insistence of the Gordon Woods Ratepayers Association, introduced planning controls to prevent a number of large lots in the neighbourhood from being developed into smaller lots. Although these planning controls required a minimum lot frontage of 98.43 feet and a minimum lot area of 12,486 square feet, the existing smaller lots in the area which did not meet these standards were exempt in keeping with their existing use and performance standards. Since the street was not extended through the Bryk property prior to these new planning controls, the property is now affected by these new controls.

At the continuation of this hearing on November 22nd, 1994, the Board heard 4 days of testimony and 5½ hours of closing arguments. The following parties took part in the hearing:

(1) The Applicant. He was represented by Counsel who called under summons a City Planner and a City Engineer. He also called a Planning Consultant and a Geotechnical Engineer.

(2) The City. Since the City's Planning Department supported the application, the City engaged the services of outside Counsel who called a Planning Consultant and a Geotechnical/Hydrogeological Consultant, and

(3) The Gordon Woods Homeowners Association. The Association was ably represented by Pat Hertzberg. A number of local residents including the abutting neighbours to the north, south and east of the property also appeared.

Waldemar Bryk is the owner of 2116 Autumn Breeze Drive South, upon which his residence is located. He also owns the property immediately to the north which forms the physical barrier which currently separates Autumn Breeze North from Autumn Breeze South. Mr. Bryk wishes to sever his existing house and create two additional lots on his property. To achieve this, he wishes to extend Autumn Breeze South northwards to meet with Autumn Breeze North so that these two streets shall become a continuous street. The continuation of these two streets requires the City to lift the two one-foot reserves at both ends of these two streets. Mr. Bryk must also obtain an amendment to the Official Plan, the consent of the Land Division Committee and a variance to By-law 5500 as amended by By-law 818-80 to permit a minimum lot area of 10,500 square feet and a minimum lot frontage of 98.43 square feet. The by-law requires a minimum lot area of 14,486.5 square feet and a minimum lot frontage of 73 feet.

The Gordon Woods Homeowners Association is opposed to the development. They want the status quo to remain. They do not want the two existing cul-de-sacs to become a through street. They believe such action will increase traffic on these streets to the detriment of the area residents. They contend that for about 20 years the people living on these streets have enjoyed these cul-de-sacs. They have become used to their status and do not want this to change. They want the land left in its natural state and to be preserved as an open space window to the valley lands. The Ratepayers are prepared to concede to the consent to sever the existing house. They are also prepared to concede to the consent for the westerly lot as a compromise, provided the table land on the east side of the proposed street extension and the valley lands are conveyed to the City to be used as open space. They contend that the table land on the proposed easterly lot is not sufficient for a building lot. They are concerned that the development will result in a substantial loss of trees in the area. They believe this will have a negative impact upon the environment. They told the Board that the ratepayers have been

extremely active in protecting their neighbourhood and have been instrumental in persuading Council to pass planning amendments to prohibit the redevelopment of large lots in the neighbourhood. They have also been successful in persuading Council to close off a number of streets in the neighbourhood to prevent through traffic mainly from the Queensway.

Bonnie Misikowetz, Donald Stewart and John Sabiston are the current owners of the properties to the north, south and east of the proposed easterly lot. They strongly oppose any change in the area. They do not believe that there is sufficient table land upon which to erect a dwelling and further that such development would have a detrimental impact upon their respective properties. They are particularly concerned about the loss of trees which will occur as a result of this development.

City Council supports the position taken by the ratepayers, despite the recommendations of its Planning and Engineering Staffs. The City Council also wants the road, the table lands, as well as the valley lands, to be conveyed gratuitously to the City. Counsel for the City takes the position that the Board has the authority to compel the applicant to convey this portion of the property to the City gratuitously. Notwithstanding this, Counsel for the City advised the Board that the municipality is interested in entering into negotiations with Mr. Bryk to purchase the property.

During the course of the hearing the ratepayers and Counsel for the City repeatedly reminded the Board that the applicant in the past had obtained a consent to sever a lot fronting on Gordon Drive from his holdings. Further, the applicant refused the extension of the road through his property but was paid some $50,000.00 by the developer of the northern subdivision to provide an easement in favour of the Region for water and sanitary sewers. They take the position that Mr. Bryk has made enough money from the property and should not be allowed to extract additional profit at the expense of the environment. The Board will put this matter to rest once and for all by stating that it is of no concern to the Board whether the applicant makes money or loses money as a result of his investment. What is of concern to the Board is whether the proposed development is in keeping with the municipality's planning philosophy as

articulated through its Official Plan and can be considered as good land use planning. This must be the focus of the Board in reaching its decision.

Having heard the evidence and the arguments of Counsel, the Board has determined that there are essentially three main concerns which must be addressed. These affect fundamental planning principles.

The first relates to the traffic circulation pattern of the streets in the neighbourhood and the planning philosophy of the one-foot reserve. The principle of the one-foot reserve is to ensure that its ownership is vested in the municipality. In this case, it provides public control over the extension of the street at the appropriate time in the future. It also prevents land owners from erecting structures at the end of such streets, thereby preventing their future extension. Such control, if left in the hands of developers, could affect the future extension of planned streets and would allow such developers to dictate the terms under which streets could be extended.

The City Planner and City Engineer told the Board that when the two subdivisions were developed, it was clear that the long term intent was for these two streets to be connected up in the future as a continuous street. Since the intervening lands were in private hands (the Bryks), other than expropriating the street allowance, the City had no choice but to await the development of these intervening lands in order to gain control over the street allowance portion. The City Engineer noted that the streets are under-utilized and not in keeping with its intended function as a through street. He cited problems with snow ploughs, garbage trucks, delivery vehicles and ambulances, etc., accessing the area and manoeuvring the street.

The City's Planning Consultant supports the position taken by the ratepayers. It is his opinion that it would not be good land use planning to extend the street to become a through street. He takes comfort in the fact that these two streets existed as back to back cul-de-sacs for over 20 years with little or no problems. Further, the people in the neighbourhood have become used to these two streets as cul-de-sacs. The Board has difficulty with this testimony. The Board is satisfied that when the two plans of

subdivision were approved the intent was for the two streets to be connected up in the future as a through street. If Council of that day intended otherwise, then proper turning circles to accommodate the turning movements of service vehicles would have been incorporated into the design of these plans of subdivision. The Board therefore agrees with the evidence of the City Planner and City Engineer that the continuation of the road is in keeping with the planned function of the road and constitutes good land use planning. The Board is also cognizant of the position taken by Council for not lifting the one-foot reserve to allow these two streets to function as a through street.

As far as this panel of the Board is concerned, both the planning evidence and planning philosophy support the continuation of these streets as good land use planning. Whether Council does or does not lift these reserves will not change this fact. It is therefore the finding of the Board that the streets should be connected up and the ownership of the road deeded to the municipality. If Council and the ratepayers are adamant about these two streets remaining cul-de-sacs at this time, the Board sees no reason why a suitable compromise could not be reached for the future development of one or both lots if it can be adequately demonstrated that the site can sustain the proposed development.

The second concern affects the conveyance of the table land and the valley lands gratuitously to the municipality. This panel of the Board will state as it did at the hearing that it is up to the landowner to decide whether he wishes to give his land or any part thereof to the municipality gratuitously. The Board recognizes that landowners in seeking development rights often negotiate with the municipality concerning the conveyance of valley lands. In the absence of any such negotiations the Board must be careful not to enter into the debate or to be seen as making any decision which would have the effect of forcing a landowner to give up his property gratuitously. Such action, in the Board's view, would be considered as expropriation without compensation. This would be contrary to the belief of this panel of the Board. This problem is exacerbated by the evidence of the Planning Consultant for the City. He takes the position that since the valley lands are of no use for development they should be conveyed to the City

gratuitously. Having taken this position, he believes that the rear yard setback should be measured from the top of the bank and not from the rear boundary line of the property. Such an approach would prohibit any development on the table land.

This position of the Planner makes it impossible for the applicant to convey the valley lands to the City, unless he is assured that he will not be penalized for so doing. Again, the Board has difficulty with the position of this Planner. The by-law provides that the rear yard setback be measured from the rear lot line. There is nothing in the by-law which requires the building setback to be measured from the top of the bank. Because of the location of the top of the bank on the property, however, the Board will seek the advise of the Conservation Authority. The evidence is that this body is prepared to accept a 9.84-foot setback from the top of the bank once certain remedial works are undertaken to shore up the toe of the slope and provided certain engineering techniques satisfactory to the Conservation Authority are carried out.

On this account, the Board therefore finds that the landowner should be left to negotiate the conveyance of the valley lands in good faith with the municipality. It may well be that an easement, in keeping with what has occurred on the south plan, is all that is required. In such a case, the Board would have no problem issuing a suitable condition if it is satisfied that the table land is large enough to sustain the development and any environmental and impact concerns can be adequately dealt with.

The third concern is whether the table lands can sustain the proposed development without the degradation of the environment and without negatively impacting on the surrounding properties. There has been a great deal of debate on this issue with the parties in support of the development and the parties against the development on opposite ends of the spectrum. In the absence of a clear resolution between the parties, the Board will look to the Conservation Authority for assistance. The Board recognizes the Authority as the agency having direct jurisdiction over the conservation of lands, slope stability and remedial works, etc. From the evidence it is clear that the Authority is satisfied from its analysis of the geotechnical report that development can take place on the table lands in keeping with the recommendations of

the geotechnical study. While the Board acknowledges a number of trees will be destroyed as a result of the development, the Board is not satisfied from the evidence, particularly from the building envelope diagrams presented at the hearing, that every effort has been made to save as many trees as possible. Neither is the Board satisfied from the evidence that the table land is large enough to be used as a building site. There was simply not enough evidence to allow the Board to make a positive finding on this issue. The Board will therefore require the applicant to prepare a suitable site plan for the easterly lot to the satisfaction of the City Planning Department in conjunction with the Conservation Authority to address the Board's concerns. If necessary, the Board will continue its hearing at the appropriate time to receive submissions only as they relate to this issue.

The Board will state for the record its concern about both the length of time it has taken and the associated cost in bringing this matter to a successful conclusion. The Board is of the opinion that the parties' efforts and financial resources would have been better spent in negotiating a settlement. The Board hopes that the parties will reflect upon their respective positions within the next five months in light of this interim decision and reach a compromise. If this does not occur, the Board will take the appropriate action to resolve the outstanding item.

The Board has considered the application for consent for the west lot in light of the tests set out in sections 53(1) and 51(4) of the Planning Act. The Board is satisfied that a plan of subdivision is not necessary for the orderly development of the municipality and further that the requirements of section 51(4) have been met.

The Board has also considered the four tests as set out in section 45(1) of the Planning Act with respect to the variance application for the west lot. The Board is satisfied that the variance sought is appropriate development for the use of the land, that it is minor, that it conforms with the intent of the Official Plan and the intent of the private amendment being sought by the applicant and further, that the intent of the by-law is maintained.

As a result of the above findings, the Board will require the street allowance portion of the property to be deeded to the City to provide for the extension of the road and will:

(1) Modify the private amendment which was referred pursuant to section 22(1) of the Planning Act by including a new Details of the Amendment as set out in Schedule "A" attached.

As thus modified, this private amendment is hereby approved.

(2) Allow the consent which was appealed pursuant to section 53(7) of the Planning Act only as it relates to the westerly lot subject to:

(i) the applicant making the necessary arrangements, financial and otherwise, to construct the street extension to City standards.

(3) Grant the variance application which was appealed pursuant to section 45(12) of the Planning Act and vary the by-law to provide for a minimum lot frontage of 73.0 feet and a minimum lot area of 10,500 square feet only as they affect the westerly lot.

(4) The Board will adjourn its hearing on the easterly lot including both the table lands and the valley lands until May 31st, 1995, to allow the municipality sufficient time to enter into negotiations to purchase the said easterly lands. If this is not carried out within the time specified above, the Board will make its decision on the easterly lot upon receipt of the site plan or if necessary, continue the hearing only as it relates to this issue.

If the easterly lands referred to in (4) above are not acquired by the municipality by May 31st, 1995, the Board will tentatively set Monday, June 12th, 1995, at 10:00 a.m. at the Municipal Hearing Room, 2nd Floor, City Hall, Mississauga, for any necessary continuation of this hearing. No further notice shall be given or is required. This panel of the Board remains seized of the matter.

The Board shall withhold its Order pending resolution of the easterly lot.

G.E. MORRIS
MEMBER

APPENDIX "A"

Ontario

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O 930068
C 930155
V 930198
V 930199

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O.M.B. Files V 930198 & V 930199

COUNSEL:

Randolph Smith	for	City of Mississauga
Virginia MacLean, Q.C.	for	Waldemar J. Bryk

DECISION delivered by G.E. MORRIS AND ORDER OF THE BOARD

The City of Mississauga brought a motion before the Board for:

1) an order dismissing the appeals of the decision of the Land Division Committee and the Committee of Adjustment and dismissing the application for approval of an Official Plan Amendment which was referred, or in the alternative;

2) an order dismissing the appeals and adjourning the referral sine die, or in the alternative;

3) an order adjourning the appeals and referral sine die pending the resolution of the status of two one-foot reserves abutting the subject property which are owned by the City ("the one-foot reserves") and pending the bringing of an additional required consent application before the Board.

Because of the complicated history surrounding this application, the Board will first set out the background in order to put its decision in proper perspective.

Waldemar Bryk is the owner of 2116 Autumn Breeze Drive South, upon which his residence is located. This property has a frontage of 91.61 feet on the west side of Autumn Breeze Drive South, a dead end street which terminates in a one-foot reserve at the extension of the northern boundary of the lot. This one-foot reserve is controlled by the City. Adjoining this property to the north was a lot owned by Peter Clark. It had a frontage of 75 feet and a depth of about 717 feet with access off Gordon Drive. In September 1973, Mr. Clark obtained consent to convey the rear 432 feet of his property

to Waldemar Bryk. This conveyed parcel forms a physical separation which divides Autumn Breeze Drive North from Autumn Breeze Drive South, thereby prohibiting their continuation as a single street.

Autumn Breeze North also terminates in a one-foot reserve which is controlled by the City. These one-foot reserves are shown on Exhibit 2, Tab C and attached as Schedule "A" to this decision. The Board notes that with the exception of the subject parcel, both sides of these two streets are fully developed with single detached dwellings.

The Board understands that the Land Division Committee (LDC) granted the consent for Peter Clarke on the basis of a land extension and not the creation of a new lot. This would suggest that the LDC intended these two parcels to merge. Counsel for the City argues that the doctrine of "once a consent, always a consent" does not apply in this case. The Board understands that the deeds do not contain any information which would indicate the merging of these two properties. Counsel for the applicant, on the other hand, believes that the doctrine of "once a consent, always a consent" must apply. She bases her argument on the fact that no restrictions have been registered on the parcel register in the Registry Office. She contends that one should not have to research the decision of the LDC to determine the status of the consent. In view of the arguments advanced, the Board is satisfied that the status of this lot at best remains questionable and may be a matter for the courts to decide. Notwithstanding this, the Board is satisfied that it has the jurisdiction to hear the subject matter and to make its decision on the planning merits of the applications.

Mr. Bryk wishes to create three separate residential lots from his property. He believes that this can be achieved by extending Autumn Breeze Drive South to connect up with Autumn Breeze North so that these two streets become a single through street.

In 1991, Mr. Bryk obtained consents from the LDC and minor variances from the Committee of Adjustment (C of A) to create two lots in addition to the retained parcel (his residence). These decisions were appealed by the Gordon Woods Homeowners

Association, two adjoining property owners and the City. Council, by Resolution 137-92, resolved that:

> "...regardless of the outcome of the future Ontario Municipal Board hearing, that the Council will not lift the existing 0.3 metre reserves at the respective ends of Autumn Breeze Drive South; and furthermore, that the Council will not open or assume any road constructed to connect Autumn Breeze Drive North to Autumn Breeze Drive South.
>
> And that the City of Mississauga reaffirm its commitment to maintain Autumn Breeze Drive North and Autumn Breeze Drive South as two separate roadways never to be connected."

It appears that there was some question of Official Plan conformity concerning the consents and minor variances granted by the LDC and C of A respectively for the Bryk applications. Upon the recommendations of Counsel, Mr. Bryk applied to the City for an amendment to the Official Plan and abandoned his applications which were earlier granted by the LDC and C of A.

On February 10, 1993, Mr. Bryk reapplied to the LDC and C of A. These applications were refused and are the subject of this hearing before the Board.

Counsel for the City takes the position that if Mr. Bryk wishes to create two lots while retaining the existing residence, he must apply for two consents, given the manner in which the consent application was made. He believes that all matters should be placed before the Board at the same sitting. Counsel for the City also believes that it would be futile to proceed with this hearing since Council by resolution has taken the position that it will not lift the one-foot reserves to permit the proposed development. He contends that no useful purpose will be served by proceeding with a full hearing. This in his view would be a waste of the Board's time and would be costly to the Homeowners, the City and Mr. Bryk. He wants the Board to spare the parties this unnecessary expense by dismissing the appeals of the decisions of the LDC and C of

A and by dismissing the application for approval of the Official Plan amendment which was referred.

Counsel for Mr. Bryk does not believe that a second consent application is needed to create the two new lots her client is seeking. She contends that Council's position in this matter is not based upon sound land use planning but is ratepayer driven. She argues that to dismiss the applications would violate her client's rights to a fair and impartial hearing.

The Board has considered the submissions of the Gordon Woods Association and both Counsel. The Board finds that to accede to the City's request to dismiss the applications without a full hearing on the merits would violate the rights of Mr. Bryk. This, in the Board's view, would constitute a denial of natural justice. In saying this, the Board takes the position that the burden rests with the City, as the moving party, to demonstrate to the satisfaction of the Board that there are no sufficient grounds to merit a full hearing. The Board is not so satisfied. The Board, on the other hand, is satisfied that the arguments advanced by Counsel for the applicant support the position that there are good planning reasons to merit a full hearing.

The Board is aware that Council by resolution has indicated regardless of any decision this Board may make, it will not lift the one-foot reserve at the respective ends of Autumn Breeze Drive (North & South) nor will it allow these two roads to become a through street. In response to this, the Board will state for the record that it must not and cannot allow itself to be influenced by what Council might or might not do as a result of any decision this Board might make.

The following are the Board's findings on the motion brought by the City:

1) For "an order dismissing the appeals of the decision of the Land Division Committee and the Committee of Adjustment and dismissing the application for approval of an Official Plan Amendment which was referred"

The Board finds that there are sufficient grounds to merit a full hearing of these matters. To do otherwise would, in the Board's view, violate the rights of the applicant and constitute a denial of natural justice.

2) For "an order dismissing the appeals and adjourning the referral sine die"

The Board finds that in addition to the reasons stated in (1) above, no useful purpose would be served by adjourning the referral sine die.

3) For "an order adjourning the appeals and referrals sine die pending the resolution of the status of two one-foot reserves abutting the subject property which are owned by the City (the one-foot reserves) and pending the bringing of an additional required consent application before the Board"

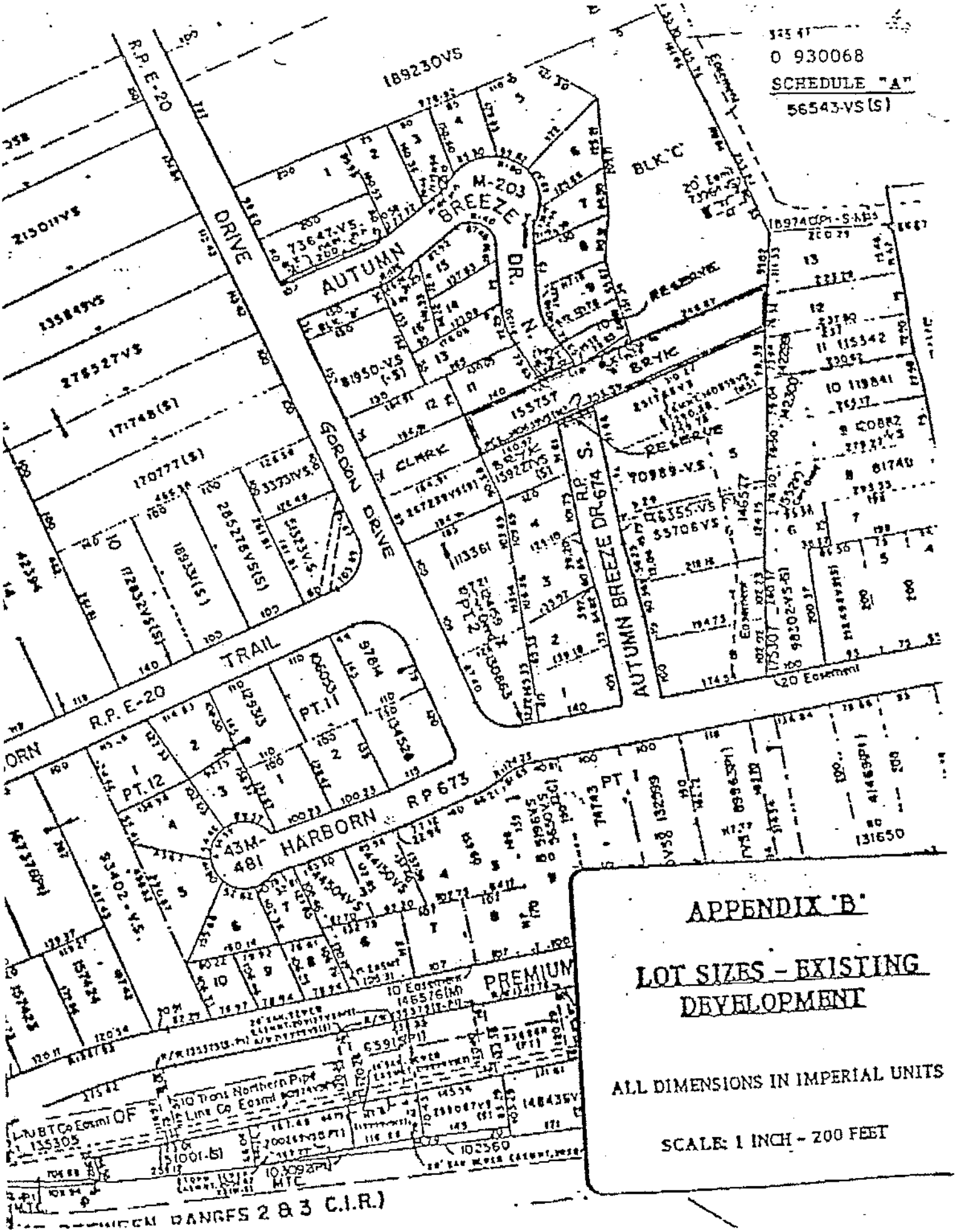
The Board finds that Council by resolution has already made it clear that it does not intend to lift the one-foot reserves. Hence, any adjournment for this reason would continue to frustrate the process thereby denying the applicant an opportunity to be heard.

On the question of an additional consent, the Board agrees that should Counsel for the applicant find a second consent is necessary, then she should pursue this immediately. This will ensure that all related matters are dealt with at the continuation of the hearing. Details of which are set out in the Board's decision on the prehearing conference, which is attached as Schedule "B".

In view of the above findings, the motion is denied and the Board so orders.

DATED at TORONTO this 15th of September 1994.

G.E. MORRIS
MEMBER


0 930068
SCHEDULE "A"
56543-VS (S)
R.P. E-20
GORDON DRIVE
AUTUMN BREEZE DR.
M-203
BLK 'C'
R.P. S-674
TRAIL
HARBORN
R.P. 673
43M-481
PREMIUM
APPENDIX 'B'
LOT SIZES - EXISTING DEVELOPMENT
ALL DIMENSIONS IN IMPERIAL UNITS
SCALE: 1 INCH = 200 FEET

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SCHEDULE "B"

At the request of Waldemar J. Bryk, the Honourable Minister of Municipal Affairs has referred to the Ontario Municipal Board under subsection 22(1) of the Planning Act, R.S.O. 1990, c. P.13, Council's refusal or neglect to enact a proposed amendment to the Official Plan for the City of Mississauga to redesignate the lands located on Autumn Breeze Drive, south of Queensway West, east of Hurontario Street from "Residential Low Density 1, Special Site Area 1" to an appropriate designation that would permit two residential lots with smaller frontages and lot areas than permitted
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COUNSEL:

Randolph Smith	for	City of Mississauga
Virginia MacLean, Q.C.	for	Waldemar J. Bryk

ORAL DECISION ON PREHEARING CONFERENCE delivered by G.E. MORRIS on June 13, 1994

On June 13, 1994, the Board reserved its decision on a motion to dispense with a full hearing on the above matters. In the interest of saving time, the Board also held a prehearing conference immediately after hearing the motion.

The Board having reached its decision to deny the motion will issue its procedural order for the hearing on the merits. The intent of this is to set out the rules of procedure for the conduct of the hearing and to establish the issues and the rules for serving written evidence in advance of the hearing.

1) HEARING DATE:

The Board has set four days for the hearing of this matter commencing on November 22, 1994, at 10:00 a.m. at the Municipal Hearing Room, 2nd Floor, City Hall, Mississauga.

2) PARTIES AND PARTICIPANTS:

Parties:

1) Waldemar Bryk, the Applicant - Virginia Maclean, Counsel
2) The City of Mississauga - Randolph Smith, Counsel
3) Gordon Woods Homeowners Association - Pat Hertzberg and Tim Peterson, Representatives.

Participants:

1) Credit Valley Conservation Authority - Susan Jorgenson
2) Abutting land owner - Donald Stewart
3) Abutting land owner - Peter Misikowetz
4) Abutting land owner - John Sabiston

3) ORDER OF APPEARANCE:

The Parties and the Participants shall appear in the following order:

1) The Applicant
2) The Participants in favour of the application
3) The City
4) The Gordon Woods Homeowners Association
5) The Parties and Participants against the proposal
6) Reply

4) ISSUES:

The parties agree that there are some 6 issues which will be canvassed at the hearing. These are:

1) The one-foot reserves and Council's intent
2) Legal issues concerning the consent
3) Conservation Authority issues regarding top of bank, setback from top of bank, and dedication of ravine lands

4) Traffic-extension of road and traffic safety problems

5) Substandard lot sizes and possible precedent

6) The enjoyment and expectation of the neighbourhood

5) EXCHANGE OF DOCUMENTS:

The Board will set October 22, 1994 as the last day for the exchange of all documents between the parties. This shall include any witness statements upon which expert witnesses will rely at the hearing. The Board requires that the following documents shall be filed with the Board by October 30, 1994.

1) a copy of any witness statements

2) an outline of the concerns of the local ratepayers

6) ORAL EVIDENCE OF EXPERT:

Unless the Board orders otherwise, no expert or professional person shall give oral evidence at the hearing without first having:

a) served written notice "of the evidence" upon which the witness proposes to rely; and

b) filed and served a witness statement

7) EVIDENCE AND PROFESSIONAL WITNESSES:

The parties anticipate that there will be two to three land use planners, including a City Planner, a City Engineer, about five witnesses from the Gordon Woods

Homeowners Association and one representative from the Credit Valley Conservation Association.

A party who intends to call witnesses by way of a summons or not, shall provide to the Board and other parties by October 30, 1994, a list of the witnesses and the order in which they will be called.

In view of the interest generated locally, the Board directs the City to send notice to the parties and the participants as listed above.

This panel of the Board is seized.

"G.E. Morris"

G.E. MORRIS
MEMBER

Ontario

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

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C 940358
V 930198
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SCHEDULE "A"

Details of the Amendment and Policies Relative Thereto:

Section 4.2, SPECIAL SITE POLICIES - SITE 1, is hereby amended by adding thereto Section 4.2A, as follows:

4.2A SITE 1 EXEMPTION

The lots on either side of the extension of Autumn Breeze Drive, between Autumn Breeze Drive South and Autumn Breeze Drive North (abutting to the north of 2116 and 2115 Autumn Breeze Drive South respectively), are hereby exempted from the frontage and lot area provisions of Section 4.2