



PRINCE EDWARD ISLAND

Regulatory & Appeals Commission

Commission de réglementation et d'appels

ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: December 20, 2021
Docket: LA21013
Type: Planning Act Appeal

INDEXED AS: Andrea Battison v. City of Charlottetown

Order No: LA21-01

BETWEEN:

ANDREA BATTISON

Appellant

AND:

CITY OF CHARLOTTETOWN

Respondent

AND:

APM COMMERCIAL

Developer

DIRECTION REGARDING PROCEDURE

Panel Members:

J. Scott MacKenzie, Chair
M. Douglas Clow, Vice-Chair
Erin T. Mitchell, Commissioner

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Phil Rafuse,
Appeals Administrator
Island Regulatory & Appeals Commission

1. BACKGROUND

- 1) On July 2, 2021 the Commission received an appeal from Andrea Battison appealing a June 14, 2021 decision of the City of Charlottetown to adopt Bylaw PH-ZD.2-046, a Bylaw to amend the Zoning & Development Bylaw (the "Zoning Bylaw") Appendix C Approved Site Specific Exemptions, exempting 199 Grafton Street (PID 342790) from certain provisions of Section 30.2 and 30.3 of the Zoning Bylaw in order to allow a six(6) storey, 84-unit apartment building with parking located within and under the building.
- 2) The Appellant requested a reconsideration of the City's decision. The Appellant requested the Commission hold the appeal in abeyance pending a reconsideration by the City. The Commission agreed to hold the appeal in abeyance pursuant to section 3.15.7 of the Zoning Bylaw.
- 3) On September 15, 2021 the Commission was advised that the City had rejected the Appellant's reconsideration and accordingly the Commission lifted the abeyance and requested that the City file its Record. The City's record was filed on October 7, 2021.
- 4) A pre-hearing Conference was held on November 15, 2021. Following the pre-hearing conference, the City filed a Supplementary Record and the Appellant filed a November 26, 2021 letter from Harold Madi, BURPI MArch MRAIC MCIP RPP advising that he had been retained as an expert by the Appellant and would be filing a report on or before January 7, 2022.

2. PROCEDURAL DIRECTION

To ensure the hearing of this appeal proceeds in an orderly and timely manner that is fair, the Commission issues the following Procedural Direction:

- 5) The hearing of the appeal will commence on Thursday January 27, 2022 commencing at 9:30 a.m. Unless otherwise approved, the Commission requires all parties, their legal counsel, and any agents or support persons be physically present in the hearing room for the hearing. All parties must be prepared to address the merits of the appeal at this date and time.
- 6) The hearing may continue, if required, on Friday January 28, 2022 in order to complete the hearing.
- 7) Subject to these directions and deadlines, the Commission's Rules of Practice & Procedure shall apply to this appeal hearing.
- 8) The parties to the appeal consist of the Appellant Andrea Battison who is self-represented, the Respondent City as represented by legal counsel David W. Hooley, Q.C. and Melanie McKenna and the Developer APM Commercial who is represented by Tim Banks CEO.
- 9) In the event that either the Appellant or the Developer retain legal counsel for this appeal their counsel shall immediately advise the Commission and the other parties.

10) The following deadlines apply to this hearing:

- a) Any further supplementary documents or additions to the City's Record must be filed with the Commission and served on the other parties ("Filed and Served") by Thursday December 23, 2021 at 4:00 p.m.
- b) The report of the Appellant's expert, Harold Madi, together with all supporting documentation as set out in Rule 58.1 (a) through (f), must be Filed and Served on or before Friday January 7, 2022 at 4:00 p.m. Rule 59 applies to Mr. Madi's testimony before the Commission at the hearing. Mr. Madi is required to appear before the Commission at the hearing, either in person or, given that he resides outside of the Province of Prince Edward Island, via Zoom audio and video.
- c) Other expert reports, to be submitted by any of the parties, must also comply with Rule 58.1 (a) through (f), and must be Filed and Served on or before Friday, January 7, 2022 at 4:00 p.m. Rule 59 also applies to their expert's testimony before the Commission at the hearing. The expert is required to appear before the Commission at the hearing, either in person or, if they reside outside of the Province of Prince Edward Island, via Zoom audio and video.
- d) All witness lists and 'will-say' statements must be filed by all parties on or before Friday January 7, 2022 at 4:00 p.m. No additional witnesses will be permitted to be called at the hearing after this deadline.
- e) Any amendment to the Notice of Appeal must be filed not later than Thursday January 13, 2022 at 4:00 p.m. and shall fully comply with the requirements set out in Rule 27.
- f) Any miscellaneous documents or exhibits not previously referred to shall be Filed and Served not later than Thursday January 20, 2022 at 4:00 p.m.
- g) In the event that an expert witness elects to testify via Zoom audio and video, the Commission must be advised not later than Thursday, January 20, 2022 at 4:00 p.m.

11) This direction may be adjusted or supplemented by the Commission at any time.

DATED at Charlottetown, Prince Edward Island, Monday, December 20, 2021.

BY THE COMMISSION:

(sgd) J. Scott MacKenzie

J. Scott MacKenzie, Q.C., Chair

(sgd) M. Douglas Clow

M. Douglas Clow, Vice-Chair

(sgd) Erin T. Mitchell

Erin T. Mitchell, Commissioner

