

## DECISION AND ORDER

**Decision Issue Date: September 7, 2021**

PROCEEDING COMMENCED UNDER Section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): OWENS CORNING INSULATING SYSTEMS CANADA GP INC

Applicant(s): BOUSFIELDS INC

Property Address/Description: 905 MIDDLEFIELD RD

Committee of Adjustment File

Number(s): 20 142103 ESC 23 MV (A0098/20SC)

**TLAB Case File Number(s): 21 143261 S45 23 TLAB**

**Hearing date: August 30, 2021**

**Deadline Date for Closing Submissions/Undertakings:**

**DECISION DELIVERED BY S. MAKUCH**

## **REGISTERED PARTIES AND PARTICIPANTS**

Applicant	BOUSFIELDS INC
Appellant	OWENS CORNING INSULATING SYSTEMS CANADA
Appellant's Legal Rep.	TARA PIURKO
Owner/Party (TLAB)	GURSIKH SABHA CANADA
Party's Legal Rep.	DAVID BRONSKILL and JOSEPH HOFFMAN
Expert Witness	CHRISTIAN CHAN
Expert Witness	ALEX SAVANYU

## **INTRODUCTION**

This is an appeal by an industrial company, Owens Corning Insulating Systems Canada, of variances granted respecting the size of an addition and the parking required for the addition to a place of worship owned by Gursikh Sabha Canada. The parties settled the appeal. The variances are set out in Appendix 1 and the conditions agreed to are set out in Appendix 2.

## **BACKGROUND**

The Temple is a permitted use. The variances permit the enlargement of the Temple by approximately 806 square metres and provide for the removal of seven parking spaces.

## **MATTERS IN ISSUE**

The matter in issue between the parties was the enlargement of the Temple in close proximity to the Owner's industrial use.

## **JURISDICTION**

### **Provincial Policy – S. 3**

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2020 Provincial Policy Statement ('PPS') and conform to the Growth Plan for the Greater Golden Horseshoe for the subject area ('Growth Plan').

### **Variance - The Planning Act s. 45(1)**

In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the Planning Act. The tests are whether the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

### **EVIDENCE**

The evidence of the land use planner for the owner, Alex Savanyu, was that the variance provided for only an increase of 0.49%, was minor in size, and had no adverse impact. Moreover, the use was a permitted use. In his opinion, therefore the variance respecting the increase in area met the four tests of the *Planning Act* and thus conformed with all relevant provincial policies which the Plan implemented. He gave further evidence that both the City and, the transportation consultant, BA Consulting, found the variance respecting parking was acceptable as there was sufficient parking for the larger Temple with a seven space reduction. This variance he stated also met the four tests and conformed with provincial requirements.


In addition, he gave evidence in support of a condition requested by Urban Forestry and a condition requested by Owen Corning. As stated, both those conditions are found in Appendix 2. The former respecting the replacement of a tree to be injured or destroyed, the latter providing for an agreement to be registered on title, warning any future purchaser of the Temple lands of the industrial use in close proximity.

### **ANALYSIS, FINDINGS, REASONS**

On the basis of the evidence provided I find the variances meet the four tests and provincial requirements and should be approved and that the conditions are appropriate to impose.

### **DECISION AND ORDER**

The appeal is denied, the decision of the Committee of Adjustment is upheld, and the variances set out in Appendix 1 are approved subject to the conditions set out in Appendix 2.

X 

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S. Makuch  
Panel Chair, Toronto Local Appeal

## APPENDIX 1

1. Performance Standard 3, Scarborough Employment District Zoning Bylaw No. 24982 (Tapscott Employment District)

The permitted maximum gross floor area is 25% of lot area in Part 1 (north portion of the lot) or 2,022 square metres in Part 1 (north portion of the lot). The proposed permitted maximum gross floor area is 48% of lot area in Part 1 (north portion of the lot) or 3,849 square metres in Part 1 (north portion of the lot).

2. Performance Standard 1292, Scarborough Employment District Zoning Bylaw No. 24982 (Tapscott Employment District)

The minimum required parking is 7.7 parking spaces per 100 square metres of gross floor area or 297 spaces in Part 1 (north portion of the lot). The minimum required parking is 7.7 parking spaces per 100 square metres of gross floor area or 168 spaces in Part 1 (north portion of the lot).

## APPENDIX 2

1. Prior to the issuance of a building permit for 905 Middlefield Road (the “**Subject Lands**”), the Owner shall enter into either a site plan agreement or an agreement with the City under Section 45(9) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, which agreement shall be registered on title to the satisfaction of the City Solicitor, securing the following condition:

The Owner shall include the following warning clause in any future purchase and sale or lease agreement(s) in connection with the Subject Lands, which purchase and sale and lease agreement(s) shall require that any subsequent purchase and sale or lease agreement(s) include the following warning clause:

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The Subject Lands are located within the potential influence area of a Class III Industrial Facility located at 3450 McNicoll Avenue in the City of Toronto (the “Subject Class III Industrial Facility”) determined in accordance with the Ontario Ministry of Environment, Conservation and Parks D-6-3 Separation Distances guideline, updated to March 22, 2019, or any amended, successor or similar guideline, regulation or legislation. The Class III Industrial Facility generates noise and odour. There may be alterations or expansions of the Subject Class III Industrial Facility in the future.

**2.** The Owner shall submit a complete application for a permit to injure or remove a privately owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees Article III Private Tree Protection, to the satisfaction of the Supervisor, Tree Protection and Plan Review, Scarborough District