

ISSUE DATE:

**Nov. 4, 2008**



PL080723

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

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellant: Millford Development Limited  
Subject: 2006 Official Plan for the Town of Newmarket  
Municipality: Town of Newmarket  
OMB Case No. PL080723  
OMB File No. PL080723

**APPEARANCES:**

**Parties**

**Counsel**

Millford Development Limited

Ronald Webb

The Town of Newmarket

E. Armchuk-Ball

Region of York

R. Miller

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. P. ATCHESON  
ON OCTOBER 14, 2008 AND PROCEDURAL ORDER OF THE BOARD**

This was a prehearing conference in the matter of the appeal of Millford Development Limited (The Appellants) to the Official Plan of the Town of Newmarket that designated an approximate 1.7 acre parcel of land owned by the Appellants as "Natural Heritage System" on Schedule "A" Landuse and "Woodlot" on Schedule "B" (Natural Heritage System) in the new Official Plan of the Town of Newmarket. The lands in question are described as Part of Lots 2 and 3 on Registered Plan 49 and are located on the north side of Eagle Street, a few properties east of Yonge Street in the Town of Newmarket. The Official Plan for the Town of Newmarket was adopted by the Municipal Council on October 10, 2006. The approval authority for the Town of Newmarket's Official Plan is the Region of York which gave notice of its intention to approve the Town of Newmarket Official Plan on May, 08 2008.

The Board was advised at the commencement of this hearing that the Town of Newmarket supported by the Region of York intends to bring a Motion to Dismiss the appeal without a hearing. The parties were seeking, on consent, a hearing date for the Motion to Dismiss. The parties also were requesting, on consent, that the Board reserve 3 days at this time for a hearing of the appeal in the event that the Motion to Dismiss was not successful. They have agreed, as well, to have a draft Procedural Order available at that time in the event that the Board's decision was that the hearing should go forward. Depending on the outcome of the Motion to Dismiss hearing, this Procedural Order as well as the future hearing date may become moot. The parties also advised the Board that in their opinion, mediation was not an option for them at this time.

The Board is satisfied, after considering the submission made by the Counsel for the parties, that the process proposed in this circumstance is reasonable.

The Board Orders that:

1. A one-day hearing to consider a Motion to Dismiss brought by the Town of Newmarket is set for Tuesday January 13, 2009 at 10:00 A.M. in the Town of Newmarket Municipal Office, 395 Mulock Drive, Newmarket, Ontario. The exchange of motion material between the parties shall be in accordance with the Board's Rules of Practice and Procedure.
2. In the event that the Motion to Dismiss is not successful, the Board reserves 3 days commencing on Tuesday March 3, 2009 at 10:00 A.M. in the Town of Newmarket Municipal Office, 395 Mulock Drive, Newmarket, Ontario to hear the appeal and directs that the parties have prepared a draft Procedural Order by January 13, 2009 in the event that this matter proceeds to a full hearing.

3. Counsel for the Town of Newmarket is directed to arrange and confirm the venue for these two hearing dates with the Board's Office.

No further notice is required.

The member is not seized.

This is the Order of the Board.

"J. P. Atcheson"

J. P. ATCHESON  
MEMBER