

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: January 06, 2023

CASE NO(S): OLT-22-003761
OLT-22-002522
(Formerly PL190380)
OLT-22-002470
(Formerly PL200030)

PROCEEDING COMMENCED UNDER subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant: Cory Slykerman & Nicole Patterson
Subject: Proposed Official Plan Amendment
Reference Number: OPA 11
Property Address: (Grimsby Beach Secondary Plan Area)
Municipality/UT: Grimsby/Niagara
OLT Case No.: OLT-22-003761
OLT Lead Case No.: OLT-22-003761
OLT Case Name: Patterson v. Grimsby (Town)

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant: Cory Slykerman & Nicole Patterson
Subject: Zoning By-law
Reference Number: BL 22-24
Property Address: (Grimsby Beach Secondary Plan Area)
Municipality/UT: Grimsby/Niagara
OLT Case No.: OLT-22-003762
OLT Lead Case No.: OLT-22-003761
OLT Case Name: Patterson v. Grimsby (Town)

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

Applicant and Appellant:	Cornelius Slykerman
Subject:	Minor Variance
Variance from By-law No.:	14-45
Property Address/Description:	33 Victoria Terrace
Municipality/UT:	Grimsby/Niagara
Municipal File No.:	A-19/19
OLT Case No.:	OLT-22-002522
Legacy Case No.:	PL190380
OLT Lead Case No.:	OLT-22-002522
Legacy Lead Case No.:	PL190380
OLT Case Name:	Slykerman v. Grimsby (Town)

PROCEEDING COMMENCED UNDER subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Referred by:	Cornelius Slykerman
Subject:	Site Plan
Property Address/Description:	33 Victoria Terrace
Municipality/UT:	Grimsby/Niagara
OLT Case No.:	OLT-22-002470
Legacy Case No.:	PL200030
OLT Lead Case No.:	OLT-22-002470
Legacy Lead Case No.:	PL200030
OLT Case Name:	Slykerman v. Grimsby (Town)

PROCEEDING COMMENCED UNDER subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Referred by:	Cornelius Slykerman
Subject:	Site Plan
Property Address/Description:	33 Victoria Terrace
Municipality/UT:	Grimsby/Niagara
OLT Case No.:	OLT-22-002471
Legacy Case No.:	PL200031
OLT Lead Case No.:	OLT-22-002470
Lead Legacy Case No.:	PL200030
OLT Case Name:	Slykerman v. Grimsby (Town)

Heard: **October 4, 2022 via video hearing**

APPEARANCES:**Parties**

Town of Grimsby

Cornelius Slykerman & Nicole
Patterson**Counsel**

Jonathan Minnes & Tristan Neill

Raj Kehar

**MEMORANDUM OF ORAL DECISION BY STEVEN COOKE DELIVERED ON
OCTOBER 4, 2022, AND ORDER OF THE TRIBUNAL**

[1] This was the first Case Management Conference (“CMC”) for the appeals by Cory Slykerman and Nicole Patterson (the “Appellants”) under s. 17(24) and 34(19) of the *Planning Act*, for the Council approval of a By-law 22-23 Official Plan Amendment 11 (the “OPA”) and Zoning By-law 22-24 (the “ZBL”) for the Grimsby Beach Secondary Plan Area in the Town of Grimsby (the “Town”).

NOTICE

[2] The Affidavit of Service of notice of this CMC was received by the Tribunal and is marked Exhibit 1.

[3] No other individuals or entities came forward to seek Party or Participant Status to these proceedings.

CMC

[4] The Appellants own two adjacent properties municipally known as 33 Victoria Terrace Lot 22 and Lot 23 (the “Subject Site”) on which they intend to redevelop. The Subject Site was subject to an Interim Control By-law that has been replaced by the OPA and ZBL now under appeal.

[5] In addition to the above noted comprehensive Town wide OPA and ZBL appeals, the Tribunal was informed that the Appellants have also filed with the Tribunal OLT-22-002522 site-specific appeals under s. 45(12) and 41(12) of the *Planning Act*, for two site plan applications and minor variance for the property municipally known as 33 Victoria Terrace.

[6] Under Rule 16 of the Tribunal *Rules of Practice and Procedure*, the Parties requested that all matters before the Tribunal be consolidated and heard together. The Tribunal agrees that such consolidation is warranted under Rule 16 and in granting this request has set aside 5-days for the hearing of the merits to begin on **Monday, October 2, 2023**.

[7] The Tribunal was informed that ongoing settlement conversations have been occurring, and that the Parties believed that they had been close to an agreement that would treat these appeals as a site-specific matter. The purpose of this would be to have the Applicant make a partial withdrawal of their OPA and ZBA appeals to allow the implementation of those planning instruments for the balance of the Town. The Parties had indicated that should such an agreement be approved, the Parties would submit a draft consent order for the Tribunal's consideration. Since the date of this CMC, the Tribunal has received such notification that the Parties have come to an agreement, and on consent of the Parties, approves the partial withdrawal to the OPA and ZBA appeals.

HEARING

[8] Upon request of the parties, the Tribunal set a **five (5) day** hearing commencing on **Monday, October 2, 2023 at 10:00 a.m.** by VH. No further Notice is required for the hearing.

[9] The hearing is scheduled to proceed by video as follows:

<https://global.gotomeeting.com/join/442599157>

Access Code: 442 599 157

[10] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line: **Toll-Free 1-888-455-1389** or +1 **(647) 497-9391**. **The Access Code is as indicated above.**

[11] Parties and participants are asked to log into the video hearing at least **15 minutes** before the start of the event to test their video and audio connections.

[12] Parties and participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at [GoToMeeting](https://app.gotomeeting.com/home.html) or a web application is available:

<https://app.gotomeeting.com/home.html>

[13] Individuals are directed to connect to the event on the assigned date at the correct time. It is the responsibility of the persons participating in the hearing by video to ensure that they are properly connected to the event at the correct time. Questions prior to the hearing event may be directed to the Tribunal's Case Coordinator having carriage of this case.

ORDER

[14] **THE TRIBUNAL ORDERS** that the Partial Withdrawal is without prejudice to Nicole Patterson and Cornelius Slykerman's right to continue their appeal of the Instruments on a site-specific basis as it pertains solely to the property municipally known as 33 Victoria Terrace in the Town of Grimsby.

[15] **THE TRIBUNAL ORDERS** that:

- (i) the Town of Grimsby may not take the position that because these Instruments are approved, either by the Tribunal or by operation of law, on all other lands in the Grimsby Beach Area (other than 33 Victoria Terrace) that a different set of policies, provisions or schedules to these Instruments cannot

be approved on a site-specific basis, with respect to 33 Victoria Terrace in the Town of Grimsby;

- (ii) For the purposes of the adjudication of Nicole Patterson and Cornelius Slykerman's site-specific appeal of these Instruments, and that the Instruments will be treated as if they are not in effect for all other lands in the Town of Grimsby, Grimsby Beach area; and
- (iii) The Town may present planning evidence that the Secondary Plan and implementing Zoning By-Law No. 22-24 are the result of a comprehensive planning exercise and public consultation for all of Grimsby Beach, and for reasons of good planning, ought to be applied to all of Grimsby Beach, including 33 Victoria Terrace, Grimsby. Legal counsel for the Town may present a case that the Secondary Plan and implementing Zoning By-Law No. 22-24 should be applied to all of Grimsby Beach, including 33 Victoria Terrace, Grimsby (for reasons other than by operation of law these Instruments are, in fact, in force for the balance of Grimsby Beach), even though the Tribunal has jurisdiction by way of these appeals to amend these Instruments on a site-specific basis for 33 Victoria Terrace, Grimsby.

[16] **AND** in accordance with subsection 17(30) of the Act, the Tribunal shall notify the Clerk of the Town of Grimsby of the Partial Withdrawal of the appeal of Official Plan Amendment No. 11 (By-law No. 22-23).

[17] **AND THE TRIBUNAL FURTHER ORDERS** that, in accordance with subsection 34(31) of the Act, those portions of the Zoning By-law Amendment (By-law No. 22-24) not in issue in the appeal as a result of the Partial Withdrawal shall be deemed to have come into force on the day the by-law was passed.

[18] **AND THE TRIBUNAL FURTHER ORDERS** that the Interim Control By-law, which continued in effect, as if it had not expired as a result of the Appeals, is no longer in effect (with the exception of 33 Victoria Terrace where it remains in full force and effect), as a result of the Partial Withdrawals.

[19] **AND THE TRIBUNAL ORDERS** that, under Rule 16 of the Tribunal Rules of Practice and Procedures, the site-specific appeals for Minor Variance, and Site Plans that are the subject matter of OLT File No. 22-002522, shall be consolidated and heard together with the Continued Appeal in this proceeding.

[20] No further notice will be given.

[21] The Member is not seized.

“Steven Cooke”

STEVEN COOKE
VICE CHAIR

Ontario Land Tribunal

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The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.