

## Turkstra Mazza

Hamilton London Toronto

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September 26, 2019

### HAND DELIVERED & VIA EMAIL

City of Hamilton  
Office of the City Clerk  
**Attn: Ms. Rose Caterini, City Clerk**  
Hamilton City Hall  
71 Main Street West, 1st Floor  
Hamilton, ON L8P 4Y5

Dear Ms. Caterini:

**Re: Appeal of failure of Council to make a decision pursuant to s. 34(11)  
of the *Planning Act*, 2282 Westbrook Rd., (Glanbrook), City of Hamilton  
Municipal File No.: ZAA-18-053  
Applicant: John and Eva Vuckovic, Our File No. 13651**

We are counsel to John and Eva Vuckovic (the "Vuckovics") with respect to the above noted matter. Our client filed an application for a zoning by-law amendment ("Application") with respect to the lands located at 2282 Westbrook Rd. in the City of Hamilton ("Subject Lands"). The Subject Lands are approximately 59.1 hectares in size and are legally described as Part of Lots 1 and 2, Block 1, Concession 3, Geographic Township of Binbrook.

On November 14, 2018, the City of Hamilton (the "City") provided a Notice of Complete Application in respect of the Application. No decision has been made by Council in respect of the Application as of September 25, 2019. Pursuant to Section 34(11) of the *Planning Act*, we hereby appeal Council's failure to make a decision with respect to the

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TURKSTRA MAZZA ASSOCIATES, LAWYERS

Attn: Ms. R. Caterini, City Clerk  
September 26, 2019

zoning by-law amendment to the Local Planning Appeal Tribunal ("LPAT"). In accordance with s. 32(3) of the *Planning Act* Transitional Matters – General Regulation (O.Reg. 174/16), the applicable 150 day timeline under s. 34(11) of the *Planning Act* as it read on September 2, 2019 has been met.

An application for consent was made to sever a surplus dwelling for residential purposes (1.82 ha+/-) and to retain vacant farmland (57 ha+/-) as part of a non-abutting farm consolidation. The zoning by-law amendment application was made to ensure the applicable policy restrictions on erecting a single-family dwelling on the retained lot in a surplus farm severance would be met. The Application also proposed modifications to the regulations relating to accessory buildings and/or structures in the Agricultural A1 Zone. The proposed zoning by-law amendment is consistent with the Provincial Policy Statement, 2014 Rural Lands in Municipalities and Agriculture Policies. The proposed zoning by-law amendment conforms to the applicable Growth Plan for the Greater Golden Horseshoe Natural Heritage and Agricultural System Policies and Greenbelt Plan policies regarding "Protected Countryside" designations as well as the Severance Policies of the Rural Hamilton Official Plan. Obtaining the amendment would be an appropriate condition of severance and the intent of the Zoning By-law is preserved.

An associated appeal pursuant to s. 53(19) with respect to the refusal of the Committee of Adjustment to permit a severance was previously filed on September 10, 2019. We respectfully request that these appeals be consolidated.

We enclose a cheque made payable to the Minister of Finance in the order of \$300.00 as the appropriate filing fee along with a completed Form A1.

Please let us know if you require anything further.

Yours truly,



Scott Snider

13651/3  
skss  
Encls.

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TURKSTRA MAZZA ASSOCIATES, LAWYERS



Environment and Land Tribunals Ontario  
**Local Planning Appeal Tribunal**  
655 Bay Street, Suite 1500  
Toronto ON M5G 1E5  
Telephone: 416-212-6349  
Toll Free: 1-866-448-2248  
Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)

## Appellant Form (A1)

### Instructions for preparing and submitting the Appellant Form (A1)

For help navigating the LPAT appeals process, practices and procedures, please see information on the LPAT website <http://elto.gov.on.ca/tribunals/lpat/lpat-process/>

- **Important: Do not send your appeal directly to the Local Planning Appeal Tribunal (LPAT).** Submit your completed appeal form(s) and filing fee(s) by the filing deadline to either the Municipality or the Approval Authority/School Board, as applicable. The notice of decision provided by the Municipality/Approval Authority/School Board will tell you where to send the form and appeal fee.
- The Municipality/Approval Authority/School Board will forward your appeal(s) and fee(s) to the LPAT.
- We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible at:  
Toll free: 1-866-448-2248; or  
TTY: 1-800-855-1155 via Bell relay
- E-mail is the primary form of communication used by the LPAT. Providing an e-mail address ensures prompt delivery/receipt of documents and information. Please ensure to include your e-mail address in the space provided on the appeal form.
- A filing fee is required for each type of appeal you are filing. Please see the Tribunal's Fee Schedule to calculate the correct amount due.
- To view the Fee Schedule, visit the LPAT's website [<http://elto.gov.on.ca/lpat/fee-chart/>].
- The filing fee **must** be paid by certified cheque or money order, in Canadian funds, payable to the **Minister of Finance**. Do not send cash.
- If you are represented by a lawyer the filing fee may be paid by a solicitor's general or trust account cheque.
- Professional representation is not required but please advise the LPAT if you retain a representative after the submission of this form.
- Should you need more room to provide a further explanation to any sections throughout this form, please attach a separate letter to the back of the form.
- Provide both an electronic copy (.pdf) and paper copy of all document submissions. The electronic submissions are to be provided by USB key.
- The *Planning Act*, *Development Charges Act*, *Education Act*, *Local Planning Appeal Tribunal Act*, and others, are available on the LPAT website [<http://elto.gov.on.ca/lpat/legislation-and-rules/>].



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Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)

## Appellant Form (A1)

Receipt Number (LPAT Office Use Only)

Date Stamp Appeal Received by Municipality/Approval Authority

### To file an appeal, select one or more below

- ☒ Appeal of *Planning Act* matters for Official Plans and amendments, Zoning By-Laws and amendments and Plans of Subdivision, Interim Control By-laws, Site Plans, Minor Variances, Consents and Severances, proceed to Section 1A
- ☐ Second appeal of a *Planning Act* matter for Official Plans and amendments, Zoning By-Laws and amendments, proceed to Section 1B. NOTE: Bill 139, *Building Better Communities and Conserving Watersheds Act, 2017*, allows appeals to the Tribunal of some *Planning Act* matters previously determined by LPAT.
- ☐ Appeals of other matters, including Development Charges, *Education Act*, *Aggregate Resources Act*, *Municipal Act* and Ontario Heritage, proceed to Section 1C

### 1 A. Appeal Type (Please check all applicable boxes)

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Planning Act Matters</b>		
<b>Official Plan or Official Plan Amendment</b>	<input type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority)	17(24)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment	17(36)
	<input type="checkbox"/> Approval Authority failed to make a decision on the plan within 120 days	17(40)
	<input type="checkbox"/> Council failed to adopt the requested amendment within 120 days	22(7)
	<input type="checkbox"/> Council refuses to adopt the requested amendment	
<b>Zoning By-law or Zoning By-law Amendment</b>	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input checked="" type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 90 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision within 120 days where the application is associated with an Official Plan Amendment	
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
<b>Interim Control Zoning By-law</b>	<input type="checkbox"/> Appeal the passing of an Interim Control By-law within 60 days (Minister only)	38(4)
	<input type="checkbox"/> Appeal the passing of an extension of an Interim Control By-law within 60 days	38(4.1)
<b>Site Plan</b>	<input type="checkbox"/> Application for a site plan – council failed to make a decision within 30 days	41(12)

Subject of Appeal	Type of Appeal	Reference (Section)
	<input type="checkbox"/> Appeal requirements imposed by the municipality or upper tier municipality	41(12.01)
Minor Variance	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision that approved or refused the application	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Application for consent – Approval Authority failed to make a decision on the application within 90 days	53(14)
Plan of Subdivision	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 120 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved a plan of subdivision	51(39)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did not approve a plan of subdivision	
	<input type="checkbox"/> Appeal a lapsing provision imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal)	51(43)
	<input type="checkbox"/> Appeal changed conditions	51(48)

**1 B. Appeal Type (Please check all applicable boxes) Only for appeal(s) of a new decision or non-decision by municipality or Approval Authority following a previous LPAT Decision (i.e., second appeal).**

**For matters subject to Bill 139 and the associated transition regulation (the second appeal).**

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Planning Act Matters</b>		
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal of a <b>decision</b> by Approval Authority on an OP or OPA (exempt from approval by Minister or Approval Authority) following a LPAT decision	17(24) and 17(49.6)
	<input type="checkbox"/> Appeal of a <b>decision</b> by Council or Approval Authority on an OP or OPA following a LPAT decision	17(36) and 17(49.6)
	<input type="checkbox"/> Appeal of a <b>refusal</b> within 90 days by Council following a LPAT decision	22(7) and 22(11.0.12)
	<input type="checkbox"/> Appeal of a <b>non-decision</b> within 90 days by Council following a LPAT decision	
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal of a <b>refusal</b> within 90 days by Council following a LPAT decision	34(11) and 34(26.5)
	<input type="checkbox"/> Appeal of a <b>non-decision</b> within 90 days by Council following a LPAT decision	
	<input type="checkbox"/> Appeal of a <b>decision</b> by Council following a LPAT decision	34(19) and 34(26.5)

**1 C. Other Appeal Types (Please check all applicable boxes)**

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Development Charges Act Matters</b>		
<b>Development Charge By-law</b>	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
<b>Development Charge Complaint</b>	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
<b>Front-ending Agreement</b>	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
<b>Education Act Matters</b>		
<b>Education Development Charge By-law</b>	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.65
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
<b>Education Development Charge Complaint</b>	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
<b>Aggregate Resources Act Matters</b>		
<b>Aggregate Removal Licence</b>	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(6)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	18(5)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
	<input type="checkbox"/> Revocation of licence	20(4)
<b>Municipal Act Matters</b>		
<b>Ward Boundary By-law</b>	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	

Subject of Appeal	Type of Appeal	Reference (Section)
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	

**Ontario Heritage Act Matters**

<b>Designation of Property</b>	<input type="checkbox"/> Appeal a Notice of intention to designate property	29(11)
	<input type="checkbox"/> Appeal of an amendment to a by-law designating property	30.1(10)
	<input type="checkbox"/> Appeal a Notice of Intention to repeal a designating by-law or part of a designating by-law	31(9)
	<input type="checkbox"/> Appeal a council's decision to approve or refuse the repealing of a designating by-law or part of a designating by-law	32(7)/32(8)
	<input type="checkbox"/> Appeal council's decision to alter a heritage designated property	33(9)
<b>Heritage Conservation District</b>	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)

**Other Act Matters**

Subject of Appeal	Act/Legislation Name	Section Number

**2. Location Information**

Address and/or Legal Description of property subject to the appeal

2282 Westbrook Rd. (Glanbrook)

Municipality  
City of Hamilton

Upper Tier (Example: county, district, region)

**3. Appellant/Objector Information**

**Note:** You must notify the LPAT of any change of address or telephone number in writing. Please quote your LPAT Case/File Number(s) after they have been assigned.

Last Name  
Vuckovic

First Name  
John and Eva

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Email Address

Daytime Telephone Number

ext.

Alternate Telephone Number

**Mailing Address**

Unit Number

Street Number

Street Name

PO Box

City/Town

Province

Country

Postal Code

#### 4. Representative Information

☒ I hereby authorize the named company and/or individual(s) to represent me

Last Name  
Snider

First Name  
Scott

Company Name  
Turkstra Mazza Associates

Professional Title  
Lawyer

Email Address  
ssnider@tmalaw.ca

Daytime Telephone Number  
905-529-3476

ext.

Alternate Telephone Number

#### Mailing Address

Unit Number

Street Number  
15

Street Name  
Bold Street

PO Box

City/Town  
Hamilton

Province  
ON

Country  
Canada

Postal Code  
L8P1T3

**Note:** If you are representing the appellant and are not licensed under the *Law Society Act*, please confirm that you have written authorization, as required by the LPAT's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

☐ I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

#### 5. Appeal Reasons

Municipal Reference Number(s)  
File ZAA-18-053

For all appeal types, please outline the nature of the appeal and the reasons for your appeal.

Please see attached letter.

For appeals of Official Plans, Official Plan Amendments, Zoning By-laws and Zoning By-law Amendments, please indicate if you intend on arguing one or more of the following:

A: A decision of a Council or Approval Authority is:

- ☐ Inconsistent with the Provincial Policy Statement, issued under subsection 3(1) of the *Planning Act*
- ☐ Fails to conform with or conflicts with a provincial plan
- ☐ Fails to conform with an applicable Official Plan

And

B: For a non-decision or decision to refuse by council:

- ☒ Consistency with the provincial policy statement, issued under subsection 3(1) of the *Planning Act*
- ☒ Conformity with a provincial plan
- ☐ Conformity with the upper-tier municipality's Official Plan or an applicable Official Plan

If you intend on arguing on one or more of the above throughout a proceeding, please explain:



Please see attached letter.

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### Oral/written submissions to council

If applicable, did you make your opinions regarding this matter known to council?

- ☐ Oral submissions at a public meeting of council  
☐ Written submissions to council

### 6. Related Matters

Are there other appeals not yet filed with the Municipality?

- ☐ Yes ☒ No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application)

- ☒ Yes ☐ No ▼

If yes, please provide LPAT Case Number(s) and/or Municipal File Number(s)  
GL/B-18:58 Application for a Consent refused (Appeal filed September 10, 2019)

### 7. Mediation

Mediation is a confidential process in which the parties to an appeal talk about their differences and, with the facilitative assistance of an impartial individual, a mediator, negotiate a consensual resolution of the appeal. Unless the Tribunal determines that there is a good reason for not addressing the appeal with mediation, all parties shall presume that their differences will first be addressed through a mediation directed by the Tribunal. As such, parties shall act and prepare accordingly, meaning good faith negotiation and collaboration are a priority and are expected by the Tribunal.

- ☒ I have read and understand the above statement.

### 8. Witness Information

Detail the nature and/or expertise of witnesses you will have available.

Land use planner

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### For all other appeal types :

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.).

Land use planner

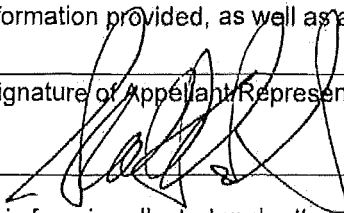
### 9. Required Fee

Total Fee Submitted \$ 300

Payment Method ► ☐ Certified cheque ☐ Money Order ☒ Lawyer's general or trust account cheque

### 10. Declaration

I solemnly declare that all of the statements and the information provided, as well as any supporting documents are true, correct and complete.

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Scott Snider		2019/09/26.

Personal information or documentation requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990 c. P. 13 and the *Local Planning Appeal Tribunal Act*. After an appeal is filed, all information relating to this appeal may become available to the public.