

**CORPORATION  
OF THE  
TOWN OF NIAGARA-ON-THE-LAKE  
BY-LAW NO. 4316B-09**

A BY-LAW TO AMEND BY-LAW 4316-09, AS AMENDED, ENTITLED A  
BY-LAW TO REGULATE THE USE OF LAND AND THE CHARACTER,  
LOCATION AND USE OF THE BUILDINGS AND STRUCTURES  
THEREON IN THE TOWN OF NIAGARA-ON-THE-LAKE.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN  
OF NIAGARA-ON-THE-LAKE ENACTS AS FOLLOWS:**

1. Section 12.3 Airport (AR) Zone of By-law 4316A-09 is deleted in its entirety and replaced with the following:

**"12.3 AIRPORT (AR) ZONE**

In the Agricultural Community Zoning District – Airport (AR) Zone no land shall be used and no building or structures be used, altered or erected except in accordance with the following uses and provisions.

**12.3.1 Permitted Uses**

- a) Airport uses, including runways and taxiways, air traffic control towers, aircraft hangars and aircraft parking ramps.
- b) Air passenger services and facilities, including airport terminal buildings, car rentals and ground transportation facilities, restaurants less than 700 sq.ft. in area, souvenir and bookstores.
- c) Air freight services and facilities including cargo and wholesales storage, processing and distribution.
- d) Air ambulance, search & rescue, customs, law enforcement and fire fighting uses, including aircraft and ground based facilities and accessory structures.
- e) Flight training, including facilities and accessory structures that provide aviation related education.
- f) Aircraft service, maintenance, repair and overhaul, including facilities and accessory structures.
- g) Aircraft sales and the sale of aeronautical equipment and supplies, including facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautical equipment and supplies.
- h) Aeronautic recreational uses, including facilities and accessory structures that support the maintenance and operation of recreational aircraft.
- i) Manufacturing, processing and assembly of aeronautic equipment and parts and accessory warehousing.
- j) Special events in accordance with Town Council's approved Official Plan policy.
- k) Office uses accessory to a permitted use
- l) Existing agricultural uses, including accessory buildings and structures.

**12.3.2 Zone Requirements**

- a) Minimum lot frontage .....45.0 m (147.63 ft)
- b) Minimum lot area .....0.4 ha (1 ac)
- c) Maximum lot coverage .....50 %

- d) Minimum setback from lot lines .....15.0 m (49.2 ft)
- e) Minimum separation distance between buildings .....7.5 m (24.6 ft)
- f) Maximum building height:.....Compliance with the *Federal Aeronautics Act* is required

#### 12.3.3 Prohibited Uses

- a) Hotels
- b) Motels

#### 12.3.4 Buffer Strip

- a) Where the interior side yard or rear lot line of a lot zoned Airport (AR) Zone abuts a residential use, a strip of land adjacent to the adjoining lot line being a minimum of 15.0 m (49.2 ft) in width shall be used as a buffer strip in accordance with Section 6.6.

#### 12.3.5 AIRPORT HOLDING AR (H-2) ZONE

In the Agricultural Community Zoning District – Airport Holding AR(H-2) Zone, no land shall be used and no building or structure shall be used, altered or erected except in accordance with the following uses and provisions:

##### 12.3.5.1 Permitted Uses

- a) Existing uses
- 12.3.5.2 Any removal of the Holding (H-2) symbol shall be subject to, and preceded by, the following:
- a) within the Airport Holding AR(H-2) Zone, no land shall be used and no building or structure shall be used, altered or erected except in accordance with the Airport Master Plan for the Niagara District Airport that complies with the Town Official Plan and has been approved by the Council of the Town of Niagara-on-the-Lake and approved by Council of the Regional Municipality of Niagara. The 'Airport Master Plan' is understood to mean a detailed and comprehensive development plan which addresses the land base for the Niagara District Airport as designated in the Official Plan for the Town of Niagara-on-the-Lake, the uses of land within the Airport Zone, the facilities, buildings and structures to be constructed within the Airport Zone, the required public infrastructure including public roadway access, and any phasing of development and infrastructure installation;
  - b) it is understood that the Niagara Region Policy Plan does not presently permit the extension of water and wastewater services to lands within the Airport Holding AR(H-2) Zone. Therefore, any additional water and/or wastewater servicing requirements will require an enabling amendment to the Regional Policy Plan in conjunction with approval of the Airport Master Plan referred to in subparagraph a) above; and
  - c) when the Holding (H-2) Zone symbol is removed from those lands zoned Airport Holding AR (H-2) Zone, the permitted uses on, and provisions applicable to, those lands shall be those listed in Section 12.3."

This By-law shall become effective on the date of approval of the Ontario Municipal Board.

Approved by the Ontario Municipal Board on April 8 . 2010.

ISSUE DATE:

**Apr. 08, 2010**



Ontario

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

PL090912

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant: Minister of Municipal Affairs and Housing  
Appellant: Regional Municipality of Niagara  
Subject: By-law No. 4316A-09  
Municipality: Town of Niagara-on-the-Lake  
OMB Case No.: PL090912  
OMB File No.: PL090912

**APPEARANCES:**

**Parties**

Town of Niagara-on-the-Lake  
1372649 Ontario Limited  
Regional Municipality of Niagara  
Niagara District Airport Commission

**Counsel**

C. Shedden  
T.A. Richardson  
M. Kyne  
R.W.P. Welch

**MEMORANDUM OF AN ORAL DECISION DELIVERED ON MARCH 23, 2010  
BY J.P. ATCHESON AND INTERIM ORDER OF THE BOARD**

This was a hearing in the matter of certain appeals against the Zoning By-law No. 4316-09 and Zoning By-law No. 4316A-09 of the Town of Niagara-on-the-Lake (The Town). By-law No. 4316-09 applies to lands within the urban boundary of the Town, while By-law No. 4316A-09 applies to lands outside the urban boundary of the Municipality. Both are companion By-laws that together form a new Comprehensive Zoning By-law for the Municipality. The purpose of this hearing was to deal with two of the appeals to these By-laws as set out in the Board's decision dated January 26, 2010 and accompanying Procedural Order. In particular, these appeals deal with matters related to the Airport District lands which are within the Rural Agricultural area known as the Agricultural Community Zoning District and governed by By-law No. 4316A-09. The second part of these appeals deals with lands under the jurisdiction of the Niagara

Parks Commission, which is a Provincial body governed by the *Niagara Parks Act*. These lands are found in both the Urban and Agricultural Community Zoning Districts of the two Zoning By-laws.

Counsel for Niagara District Airport Commission sought, on consent, party status to the proceeding related to the Airport zoning appeal which the Board granted.

The Board was also advised that the Ministry of Municipal Affairs and Housing had withdrawn from the two appeals that are the subject of this proceeding as set out in an e-mail found at Exhibit 1.

Counsel for the Municipality then advised the Board that settlements had been reached with respect to both appeals, and that the settlements reached were reflected in Minutes of Settlement found out at Exhibits 2 and 4 and that the implementation of these settlements had taken the form of the Zoning By-law Amendments found at Exhibits 3 and 5.

The Board then heard from Ms Barbara Wiens, a qualified land use planner, who is employed by the Town of Niagara-on-the-Lake as a Principal Planner. She provided uncontradicted planning evidence with respect to the two appeals, the Minutes of Settlement and the implementing Zoning By-law Amendments.

#### THE AIRPORT LANDS APPEAL

Ms Wiens advised the Board that the appeal by the Region of Niagara with respect to the airport lands dealt with section 12.3 of the By-law and was with respect to the lack of a clear definition associated with the list of permitted uses found in the original By-law, and further that the Region had some concerns with the holding provisions of the By-law as they applied to privately held lands within the Airport (AR) Zone.

Ms Wiens confirmed that the airport lands were owned by the Town, were operated by Niagara District Airport Commission, and were designated in the Town's Official Plan as "Niagara District Airport" and that this designation included some abutting private lands such as the lands owned by 1372649 Ontario Limited, all of which were shown on Schedule "A" to the Official Plan of the Town of Niagara-on-the-Lake

(Exhibit 7). She confirmed as well that the airport lands were recognized in the Region of Niagara Official Plan.

She then reviewed the proposed Zoning By-law Amendment found at Exhibit 3. She noted that the Airport (AR) Zone now contained a specific list of permitted uses found at section 12.3.1 and that the proposed By-law Amendment would prohibit the establishment of hotels and motels on the "Niagara Airport District" designated lands. She further advised the Board that the "H" holding provisions of the proposed By-law Amendment as they related to the Airport (AR) zoning of privately owned lands would require conformity with the airport master plan and the approval of the master plan by both the Council of the Town of Niagara-on-the-Lake and the Council of the Regional Municipality of Niagara. She further noted that any new development on private lands would require the approval of the Region for any additional water and or waste water servicing requirements and that, in this case, an enabling Amendment to the Regional Official Plan would be required in order to remove the "H" holding provision. This is a condition that is clearly set out in the proposed Zoning By-law Amendment.

She confirmed that, on this basis, all of the parties were in agreement with the Zoning By-law Amendment as set out at Exhibit 3 and that, in her opinion, the amending By-law represented good planning that was consistent with applicable Provincial Policies covering the area as set out in the 2005 Provincial Policy Statement and the Provincial Greenbelt Plan 2005 which designates the subject lands "Protected Countryside". She confirmed that an airport was a recognized use in the "Protected Countryside" designation of the Greenbelt Plan. Her uncontradicted evidence was that there were no consistency or conformity issues with either Provincial Policy or with the Official Plans governing the area.

#### THE NIAGARA PARKS APPEAL

The substance of this appeal deals with the jurisdiction of the Niagara Parks Commission as set out in the *Niagara Parks Act*. The appeal in this case deals with section 12.6 Environmental Conservation (EC) Zone of the new Comprehensive Zoning By-law. This zone covers lands that are both within and outside of the jurisdiction of the Niagara Parks Commission. However, the proposed Zoning By-law Amendments found at Exhibit 5 deal specifically with the lands under the Niagara Parks Commission's

ownership. Ms Wien's evidence was that the amendments as set out in Exhibit 5 were technical in nature and provided clarity that the lands owned by the Niagara Parks Commission would be used in a manner consistent with the Provincial Policy Statements and the requirements of the *Planning Act* under subsections 3(5) and 6(2). The Board is satisfied after reviewing the proposed By-law Amendment, the Minutes of Settlement, and the evidence of Ms Wiens that the proposed amendment to the Zoning By-law represents good planning for this part of the Municipality and appropriately reflects the jurisdiction of the Niagara Parks Commission with respect to lands under its control. The By-law Amendment provides greater clarity and recognizes the unique role and jurisdiction granted to the Niagara Parks Commission by the *Niagara Parks Act*.

#### FINDINGS AND CONCLUSIONS

The Board, after carefully reviewing the evidence, the exhibits filed and the submissions made by the parties made the following findings.

The Board would note that both Zoning By-law No. 4316-09 and Zoning By-law No. 4316A-09 have been appealed in their entirety and that as of this date neither By-law has been finally approved in whole or in part. The Board also recognizes that other dates have been set in the near future to consider the other appeals to these By-laws. It is clear to the Board from the evidence of Ms Wiens that the appeals considered by the Board in this hearing while site specific are not free standing and rely in part on other sections of the Comprehensive Zoning By-laws still under appeal.

However, that being said the Board accepts the uncontradicted evidence of the Planner that the Amendments presented to the Board and which form the basis of the settlements reached by the parties represents good planning and should be approved if and when the Comprehensive Zoning By-laws currently under appeal are approved in whole or in part. The Board is satisfied that the By-law Amendments presented in this hearing should be approved in the form found in Attachments "1" and "2" to this decision and, on this basis, the Board will issue an Interim Order. The final Order will issue when the Board is advised by the Municipality that Zoning By-laws No. 4316-09 and Zoning By-law No. 4316A-09 are further approved in whole or in part.

Accordingly it is the decision of the Board that:

1. The appeal against By-law No. 4316A-09 (The Airport lands) of Town of Niagara-on-the-Lake is allowed in part and By-law No. 4316A-09 is amended as set out in Attachment "1" to this decision.
2. The appeal against By-law No. 4316-09 and Zoning By-law No. 4316A-09 (The Niagara Parks Appeal) of Town of Niagara-on-the-Lake is allowed in part and By-law No. 4316-09 and Zoning By-law No. 4316A-09 are amended as set out in Attachment "2" to this decision.

The Board may be spoken to if any problems should arise.

This is the Interim Order of the Board.

"J.P. Atcheson"

J.P. ATCHESON  
MEMBER



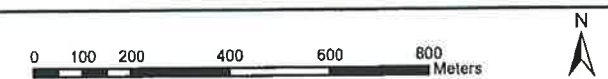
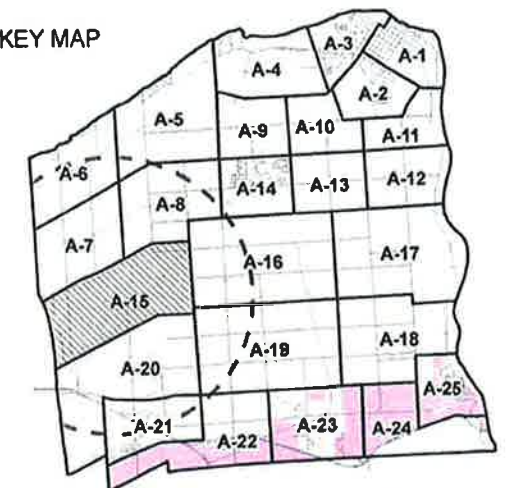
# **SCHEDULE A-15** **ZONING BYLAW** **AGRICULTURAL COMMUNITY** **ZONING DISTRICT**

ZONES	ENVIRONMENTAL CONSERVATION ZONE FEATURES
A Agricultural	Natural heritage system
APO Agricultural Purposes Only	Woodlands
AR Airport Runway	Wetland
EI Extractive Industrial	Area of natural & scientific interest
OS Open Space	Agricultural infrastructure 1
H Holding Zone	Agricultural infrastructure 2
	Agricultural infrastructure 3
	NPCA regulation area
	Water body
	Regional conservation area

Zone boundary	Urban area zone district
Property boundary	Airport height restriction

KEY MAP



TOWN OF NIAGARA-ON-THE-LAKE

PASSED ON 31<sup>st</sup> DAY OF AUGUST, 2009.

LORD MAYOR

TOWN CLERK

436A-09  
*[Signature]*  
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