



Patrick J. Harrington  
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March 24, 2022

BY EMAIL & COURIER

Sara J. Almas  
Town Clerk  
Town of Collingwood  
97 Hurontario Street  
Collingwood, Ontario  
L9Y 3Z5

Our File No. 145281

Email: [salmas@collingwood.ca](mailto:salmas@collingwood.ca)

Dear Ms. Almas,

<b>Re:</b>	<b>Appeal:</b>	<b><i>Planning Act, Subsection 34(19)</i></b>
	<b>Municipality:</b>	<b>Town of Collingwood</b>
	<b>Appellant:</b>	<b>Crestpoint Real Estate (Blue Mountain) Inc.</b>
	<b>Subject:</b>	<b>Zoning By-Law No. 2022-007</b>

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As you are aware, Aird & Berlis LLP is counsel to Crestpoint Real Estate (Blue Mountain) Inc., the owner of the Blue Mountain Centre, which is located on lands municipally known as 2 and 6 Old Mountain Road and 5, 7 and 15 Balsam Street.

On behalf of our client, our firm made both oral and written submissions to Collingwood Town Council respecting proposed Zoning By-law Amendment No. 2022-007 (the “ZBA”). Our oral submissions were provided on January 24, 2022, and our written submission was filed with the Town on February 18, 2022.

As we have indicated on the record, our client submits that the ZBA does not accord with the *Planning Act*, the *Building Code Act, 1992* or the *Municipal Act, 2001*. The ZBA proposes to amend the Town’s Zoning By-law to require that “adequate municipal water and wastewater services are available to service” a proposed use, building or structure. What is “adequate” is proposed to be defined by a Servicing Capacity Allocation Framework, which at the time of the ZBA’s passage, was not final. The result is that the new zoning requirement imposed by the ZBA is vague and unworkable.

The ZBA is proposed in response to the Interim Control By-law (“ICBL”) that has been in effect throughout Collingwood for almost one year. The ICBL was not capable of being appealed within its first year. Regardless, our client had provided both written and oral submissions to Town Council against the passage of an ICBL related to “adequate” water. Our client’s submissions (in concert with many other owners and developers within the Town) were that the availability of water to service a particular proposal was a matter to be determined on a case-by-case basis, secured through the available *Planning Act* tools of “H” zoning, draft plan conditions and site plan approval. Our client maintains this position in response to the ZBA and submits that the use of these other statutory planning tools in response to the Town’s water supply issues is a better approach that is more in keeping with the above-noted statutes as well as the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe.

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More specific to the Blue Mountain Centre, the ZBA will require existing commercial, retail and employment landlords and landowners to satisfy an “adequacy” requirement for every new tenant and every zoning or site plan change made to facilitate new employment uses. While the proposed Servicing Capacity Allocation Framework may address the scenario of a change of use or tenancy within an existing development, the availability of water for these scenarios appears vague and discretionary under the Town’s current draft. This specifically disadvantages (both practically and financially) employment landowners like our client who need flexibility to respond quickly to market forces and who already have (a) water services that were designed, approved and constructed at the time their lands were developed and (b) ongoing water allocations that are paid for through municipal taxes. To require an existing employment use like the Blue Mountain Centre to become frozen in its current state absent proof of “adequate” water is inconsistent with the approval history of the Centre, with the site-specific exemption granted to the Centre under the ICBL and with good planning in general.

Finally, our client submits that the ZBA cannot achieve what the Town is seeking to achieve. The Town’s proposal is that its forthcoming Servicing Capacity Allocation Framework be used to determine whether a proposal has “adequate” water. This Framework proposes a “scoring system” that analyzes whether a proposal will supply the Town with community benefits sufficient to warrant the allocation of water. This effectively creates a shadow planning approval process, based on a non-statutory document, with no rights of challenge or appeal. Moreover, the Chief Building Official cannot be compelled to follow the Framework pursuant to the *Building Code Act, 1992* as the Framework falls outside the definition of “applicable law”. The Town simply cannot achieve its objectives in the manner it is currently proposing, and on this basis, the ZBA ought to be refused by the Ontario Land Tribunal.

Please accept this letter, our firm cheque in the amount of \$1,100 (payable to the Minister of Finance) and our client’s Appeal Form as an appeal of Zoning By-law Amendment No. 2022-007 by Crestpoint Real Estate (Blue Mountain) Inc. Please note that given the nature of the issues being raised in this appeal, this is not a site-specific appeal and is instead an appeal of the entire amendment proposed by the ZBA.

The undersigned is lead counsel to Crestpoint Real Estate (Blue Mountain) Inc. in respect of this appeal. Please let us know if you have any questions. We look forward to your confirmation.

Yours truly,

AIRD & BERLIS LLP



Patrick J. Harrington

PJH/np

Encl.

cc. S. Bishop  
V. McCrum  
O. Kemal  
J. Orr





## Ontario Land Tribunal

655 Bay Street, Suite 1500, Toronto, ON M5G 1E5

Tel: 416-212-6349 | 1-866-448-2248

Web Site: olt.gov.on.ca

## Appeal Form (A1)

**Municipal/Approval Authority  
Date Stamp**

**Receipt Number  
(OLT Office Use Only)**

**Date Stamp – Appeal Received  
by OLT**

**OLT Case Number  
(OLT Office Use Only)**

Please complete this Appeal Form by following the instructions in the companion document titled “Appeal Form Instructions”. Please read **both** documents carefully to ensure you submit the correct information and complete this form correctly.

There are guides available for review on the Tribunal’s [website](#) for different appeal types to assist you in filing an appeal.

**Please review the notice of the decision you are appealing to determine the appeal deadline and the specific official with whom the appeal should be filed (e.g. Secretary-Treasurer, Clerk, Minister, Ontario Land Tribunal) prior to completing this Appeal Form. Relevant portions of the applicable legislation should also be reviewed before submitting this form. Your appeal must be filed with the appropriate authority within the appeal period as set out in the notice of the decision and applicable legislation.**

### Section 1 – Contact Information (Mandatory)

#### Applicant/Appellant/Objector/Claimant Information

Last Name:

First Name:

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

**Crestpoint Real Estate (Blue Mountain) Inc.**

Email Address:

Daytime Telephone Number:

Alternative Telephone Number:

ext.

Mailing Address

Unit Number:

Street Number:

Street Name:

P.O. Box:

City/Town:	Province:	Country:	Postal Code:

**Representative Information**

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

Last Name:	First Name:
<b>Harrington</b>	<b>Patrick</b>

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

**Aird & Berlis LLP**

Email Address:

**pharrington@airdberlis.com**

Daytime Telephone Number:	Alternative Telephone Number:
<b>416-865-3424</b> ext.	

Mailing Address

Unit Number:	Street Number:	Street Name:	P.O. Box:
<b>1800</b>	<b>181</b>	<b>Bay Street</b>	

City/Town:	Province:	Country:	Postal Code:
<b>Toronto</b>	<b>Ontario</b>	<b>Canada</b>	<b>M5J 2T9</b>

**Note:** If your representative is not licensed under the *Law Society Act*, please confirm that they have your written authorization, as required by the *OLT Rules of Practice and Procedure*, to act on your behalf and that they are also exempt under the Law Society's by-laws to provide legal services. Please confirm this by checking the box below.

I certify that I understand that my representative is not licensed under the *Law Society Act* and I have provided my written authorization to my representative to act on my behalf with respect to this matter. I understand that my representative may be asked to produce this authorization at any time along with confirmation of their exemption under the Law Society's by-laws to provide legal services.

**Location Information**

Are you the current owner of the subject property?     Yes     No

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

**The entirety of the geographic area of the Town of Collingwood**

Municipality:

**Town of Collingwood**

Upper Tier (Example: county, district, region):
<b>County of Simcoe</b>

Language Requirements	
Do you require services in French?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

To file an appeal, please complete the section below. Complete one line for each appeal type

Subject of Appeal		Type of Appeal (Act/Legislation Name)	Reference (Section Number)
Example	Minor Variance	<i>Planning Act</i>	45(12)
1	<b>Zoning-By-Law Amendment By-law No. 2022-007</b>	<b><i>Planning Act</i></b>	<b>34(19)</b>
2			
3			
4			
5			

**Section 2 – Appeal Type (Mandatory)**

Please select the applicable type of matter

Select	Legislation associated with your matter	Complete Only the Section(s) Below
<input checked="" type="checkbox"/>	Appeal of <i>Planning Act</i> 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	3A
<input type="checkbox"/>	Appeal of <i>Development Charges, Education Act, Aggregate Resources Act, Municipal Act</i> matters	3A
<input type="checkbox"/>	Appeal of or objection to <i>Ontario Heritage Act</i> matters under subsections 29, 30.1, 31, 32, 33, 40.1 and 41	3A
<input type="checkbox"/>	Appeal of <i>Planning Act</i> (subsections 33(4), 33(10), 33(15), 36(3)), <i>Municipal Act</i> (subsection 223(4)), <i>City of Toronto Act</i> (subsection 129(4)) and <i>Ontario Heritage Act</i> (subsections 34.1(1), 42(6)) matters	3A & 3B
<input type="checkbox"/>	Appeal of <i>Clean Water Act, Environmental Protection Act, Nutrient Management Act, Ontario Water Resources Act, Pesticides Act, Resource Recovery and Circular Economy Act, Safe Drinking Water Act, Toxics Reduction Act, and Waste Diversion Transition Act</i> matters	4A

<input type="checkbox"/>	Application for Leave to Appeal under the <i>Environmental Bill of Rights, 1993</i>	4B
<input type="checkbox"/>	Appeal under the <i>Niagara Escarpment Planning and Development Act (NEPDA)</i>	5
<input type="checkbox"/>	Appeal of <i>Conservation Authorities Act, Mining Act, Lakes and Rivers Improvement Act, Assessment Act, and Oil, Gas and Salt Resources Act</i> matters	6
<input type="checkbox"/>	Legislation not listed above	Contact OLT before filing your appeal

**Section 3A – Planning Matters**

Appeal Reasons and Specific Information

Number of new residential units proposed:

**0**

Municipal Reference Number(s):

List the reasons for your appeal:

**Please refer to the attached covering letter.**

Has a public meeting been held by the municipality?       Yes     No

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

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 it is your intention to argue one or more of the above grounds, please explain your reasons:

**Please refer to the attached covering letter.**

#### Oral/Written submissions to council

Did you make your opinions regarding this matter known to council?

Oral submissions at a public meeting of council

Written submissions to council

Not applicable

#### 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 the Ontario Land Tribunal Case Number(s) and/or Municipal File Number(s) for the related matters:

#### Section 3B – Other Planning Matters

#### Appeal Specific Information (Continued)

Date application submitted to municipality if known (yyyy/mm/dd):

Date municipality deemed the application complete if known (yyyy/mm/dd):

Please briefly explain the proposal and describe the lands under appeal:

There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the [Section 3B Checklist\(s\)](#) located [here](#) and submit all documents listed.

## Section 4A – Appeals under Environmental Legislation

### Appeal Specific Information

Outline the grounds for the appeal and the relief requested:

Reference Number of the decision under appeal:

Portions of the decision in dispute:

Date of receipt of Decision or Director's Order (yyyy/mm/dd):

Applying for Stay?  Yes  No

If Yes, outline the reasons for requesting a stay: (Tribunal's Guide to Stays can be viewed [here](#))



There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the [Section 4A Checklist\(s\)](#) located [here](#) and submit all documents listed on the checklist.

### Section 4B – Environmental Application for Leave to Appeal

Are you filing an Application for Leave to Appeal under the *Environmental Bill of Rights, 1993*?  Yes  No

Identify the portions of the instrument you are seeking to appeal:

Identify the grounds you are relying on for leave to appeal. Your grounds should include reasons why there is good reason to believe that no reasonable person, having regard to the relevant law and to any government policies developed to guide decisions of that kind could have made the decision; and why the decision could result in significant harm to the environment:

Outline the relief requested:

There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the [Section 4B Checklist\(s\)](#) located [here](#) and submit all documents listed on the checklist.

### Section 5 – Appeal regarding Development Permit Application under the *Niagara Escarpment Planning and Development Act*

#### Appeal Specific Information

Development Permit Application File No:

Address or legal description of the subject property:

Reasons for Appeal: Outline the nature and reasons for your appeal. Specific planning, environmental and/or other reasons are required. (The Niagara Escarpment Plan is available on the Niagara Escarpment Commission's website ([www.escarpment.org](http://www.escarpment.org)))

## Section 6 – Mining Claim and Conservation Matters

### Appeal Specific Information

List the subject Mining Claim Number(s) (for unpatented mining claims) and accompanying Townships, Areas and Mining Division(s) where mining claims are situated. List all "Filed Only" Mining Claims, if appropriate: (This is to be completed for *Mining Act* appeals only.)

List the Parcel and the Property Identifier Numbers (PIN), if rents or taxes apply to mining lands, if appropriate (mining claims only):

Provide the date of the Decision of the Conservation Authority or the Provincial Mining Recorder, as appropriate:

Provide a brief outline of the reasons for your application/appeal/review. If other lands/owners are affected, please include that information in the outline being provided below:

### Respondent Information

Conservation Authority:

Contact Person:			
Email Address:			
Daytime Telephone Number:		Alternative Telephone Number:	
	ext.		
Mailing Address or statement of last known address/general area they were living and name of local newspaper if address is not available			
Unit Number:	Street Number:	Street Name:	P.O. Box:
City/Town:	Province:	Country:	Postal Code:
There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the <a href="#">Section 6 Checklist(s)</a> located <a href="#">here</a> and submit all documents listed on the checklist.			

**Section 7 – Filing Fee**


Required Fee			
Please see the attached link to view the <a href="#">OLT Fee Chart</a> .			
Total Fee Submitted: \$1,100.00			
Payment Method	<input type="checkbox"/>	Certified Cheque	<input type="checkbox"/>
		Money Order	<input checked="" type="checkbox"/>
		Lawyer's general or trust account cheque	
	<input type="checkbox"/>	Credit Card	
If you wish to pay the appeal fee(s) by credit card, please check the box above and OLT staff will contact you by telephone to complete the payment process upon receipt of the appeal form. <b>DO NOT INCLUDE YOUR CREDIT CARD INFORMATION ON THIS FORM. YOU WILL BE CONTACTED TO COMPLETE YOUR PAYMENT OVER THE PHONE.</b>			
If a request for a fee reduction is being requested, please pay the minimum filing fee for each appeal and complete/submit the <a href="#">Fee Reduction request form</a> .			
<input type="checkbox"/> Request for Fee Reduction form is attached (if applicable – see Appeal Form Guide for more information)			

**Section 8 – Declaration (Mandatory)**

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

By signing this appeal form below, I consent to the collection of my personal information.

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Patrick Harrington		2022/03/24

Personal information or documentation requested on this form is collected under the authority of the *Ontario Land Tribunal Act* and the legislation under which the proceeding is commenced. All information collected is included in the Ontario Land Tribunal (OLT) case file and the public record in this proceeding. In accordance with the *Freedom of Information and Protection of Privacy Act* and section 9 of the *Statutory Powers Procedure Act*, all information collected is available to the public subject to limited exceptions.

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 at [OLT.Coordinator@ontario.ca](mailto:OLT.Coordinator@ontario.ca) or toll free at 1-866-448-2248 as soon as possible.

### Section 9 – Filing Checklists (Mandatory)

#### Filing/Submitting your form and documentation

You must file your Appeal Form with the appropriate authority(s) by the filing deadline.

If the completed Section is:	Refer to the relevant checklist and submit all documents listed on the checklist when filing your Appeal Form.
Section 3B	Review the Section 3B Checklist(s) and attach all listed documents.
Section 4A	Review the Section 4A Checklist(s) and attach all listed documents.
Section 4B	Review the Section 4B Checklist(s) and attach all listed documents.

If the completed Section is:	You must file with the following:
Section 3A	<p>Municipality or the Approval Authority/School Board</p> <p>*If you are filing under the <i>Ontario Heritage Act</i>, including under <b>s. 34.1(1)</b>, please carefully review the specific section of that legislation to determine if your appeal needs to be filed with the Tribunal <b>in addition</b> to the Municipality or Approval Authority.</p>
Section 3A & 3B or Section 4A or	<p>Ontario Land Tribunal</p> <p>655 Bay Street, Suite 1500                      Phone: 416-212-6349   1-866-448-2248</p>

Section 4B or Section 6	Toronto, ON M5G 1E5 Website: <a href="http://www.olt.gov.on.ca">www.olt.gov.on.ca</a>	
Section 5	<p><b>For the Areas of:</b></p> <p>Dufferin County (Mono) Region of Halton Region of Peel Region of Niagara City of Hamilton</p> <p><b>File with:</b></p> <p>NIAGARA ESCARPMENT COMMISSION 232 Guelph Street, 3<sup>rd</sup> Floor Georgetown, ON L7G 4B1</p> <p>Phone: 905-877-5191 Fax: 905-873-7452 Website: <a href="http://www.escarpment.org">www.escarpment.org</a> Email: <a href="mailto:necgeorgetown@ontario.ca">necgeorgetown@ontario.ca</a></p>	<p><b>For the Areas of:</b></p> <p>Bruce County Grey County Simcoe County Dufferin County (Mulmur, Melancthon)</p> <p><b>File with:</b></p> <p>NIAGARA ESCARPMENT COMMISSION 1450 7<sup>th</sup> Avenue Owen Sound, ON N4K 2Z1</p> <p>Phone: 519-371-1001 Fax: 519-371-1009 Website: <a href="http://www.escarpment.org">www.escarpment.org</a> Email: <a href="mailto:necowensound@ontario.ca">necowensound@ontario.ca</a></p>

**NOTE:** Please review the notice of the decision you are appealing to determine the appeal deadline and the specific official with whom the appeal should be filed (e.g. Secretary-Treasurer, Clerk, Minister, Ontario Land Tribunal).

**NOTE:** Relevant portions of the applicable legislation should be reviewed before submitting this form. Please ensure that a copy of this Appeal Form is served in accordance with the requirements of the applicable legislation.