

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** January 14, 2025

**CASE NO(S):** OLT-24-000068

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant/Appellant:	Tyler Becker
Subject:	Application to amend the Zoning By-law – Refusal of application
Description:	To permit the development of a 5-unit cluster townhouse
Reference Number:	Z-2023-059
Property Address:	88 5th Avenue SW
Municipality/UT:	Arran-Elderslie/Bruce
OLT Case No:	OLT-24-000068
OLT Lead Case No:	OLT-24-000068
OLT Case Name:	Becker vs Arran-Elderslie (Municipality)

**Heard:** Written Hearing

**APPEARANCES:**

**Parties**

**Counsel/Representative\***

Tyler Becker

Colin Léger

Municipality of Arran-Elderslie

Kevin Thompson

**DECISION DELIVERED BY STEVEN COOKE AND ORDER OF THE TRIBUNAL**

[1] The matter before the Tribunal was a written hearing pertaining to the settlement between the Municipality of Arran-Elderslie (“Municipality”) and Tyler Becker (“Applicant”). The appeals before the Tribunal to consider are an application to amend a

Zoning By-law (“ZBA”) pursuant to s. 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended.

[2] The Tribunal received an affidavit from Genevieve Scott, who is an expert in land-use planning. No other expert evidence was submitted by the parties involved. In her affidavit, Ms. Scott explains how the proposed settlement modifies setbacks and establishes conditions that would permit the development of 11 dwellings at the property municipally described as 88 5th Avenue SW in the Municipality (“the subject site”).

[3] The Tribunal has considered and accepted the expert opinion evidence in the Applicant’s witness affidavit, which has also been endorsed by the Municipality in support of this settlement.

[4] The Tribunal is persuaded by the written evidence that the proposal encourages efficient land development, increases activity within the settlement area, and enhances the range of housing options available. This is especially important as it provides more housing options for seniors, which is a priority for the Municipality.

[5] The Tribunal finds that the proposed settlement aligns with the policy direction set by the Provincial Policy Statement and conforms to the relevant directives established by the Official Plan. Furthermore, the Tribunal is satisfied that the proposed settlement adequately considers matters of provincial interest, adheres to the principles of effective land-use planning, and serves the greater public interest. More importantly, this proposal supports the goals and objectives of the provincial planning framework aimed at increasing housing opportunities.

## **ORDER**

[6] **THE TRIBUNAL ORDERS THAT** the appeal is allowed and By-law No. 36-09 is hereby amended as set out in Attachment 1 to this Order. The Tribunal authorizes the municipal clerk of the Municipality of Arran-Elderslie to assign a number to this By-law for record-keeping purposes.

[7] The Tribunal may be spoken to should any issues arise from this order.

*“Steven Cooke”*

STEVEN COOKE  
VICE-CHAIR

### **Ontario Land Tribunal**

Website: [olt.gov.on.ca](http://olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

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.

**Attachment 1**

**SCHEDULE 1**

**BY-LAW No. \_\_\_\_\_ - 2024**

**THE CORPORATION OF THE  
MUNICIPALITY OF ARRAN-ELDERSLIE**

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**BY-LAW NO. \_\_\_\_ - 2024**

BEING A BY-LAW TO AMEND BY-LAW NO. 36-09, AS AMENDED,  
BEING THE COMPREHENSIVE ZONING BY-LAW OF THE  
MUNICIPALITY OF ARRAN-ELDERSLIE  
RE: LOT 79 & PT. LOT 80, REGISTERED PLAN 132,  
88 5<sup>th</sup> AVENUE SOUTHWEST, CHESLEY,  
MUNICIPALITY OF ARRAN-ELDERSLIE.

Whereas Section 34(1) of the Planning Act, R.S.O. 1990, Chapter P. 13, as amended, provides that zoning by-laws may be passed by the councils of local municipalities:

1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway.
2. For prohibiting the erecting, locating or using of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway."

NOW THEREFORE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF ARRAN-ELDERSLIE HEREBY ENACTS AS FOLLOWS:

1. THAT Schedule "A" of By-law No. 36-09, as amended, is hereby further amended by changing thereon from R3-3 ZONE to R3-\_\_\_\_-2024 ZONE on the subject lands, as outlined in Schedule 'A', attached hereto and forming a part of this by-law.
2. THAT By-law No. 36-09, as amended, is hereby further amended by adding the follow subsection to Section 10.7 thereof:

'R3-\_\_\_\_-2024'

Notwithstanding the Residential - Medium Density (R3) Zone, those lands delineated as R3-\_\_\_\_-2024 on Schedule 'A' to this by-law shall be used in compliance with the 'R3' zone provisions, excepting however:

- i. The Northerly and Westerly lot line setbacks shall be 0.3 metres (m) for any retaining wall over 1m in height.
  - ii. The Southerly and Westerly lot line setbacks shall be 3.0m for any townhouse structure.
  - iii. The Minimum Gross Floor Area per townhouse unit shall be 75m<sup>2</sup>.
  - iv. The maximum number of main buildings on the lot shall be two.
3. THAT for the purposes of this by-law, a townhouse dwelling shall be defined as a residential dwelling divided vertically into three or more residential dwelling units, each dwelling unit having an independent front entrance for each dwelling unit.
  4. THAT uses existing at the time of passage of this by-law shall be deemed to comply with the provisions of this by-law.

5. THAT all other provisions, unless specifically modified/amended by this Section, continue to apply to the subject lands.
6. THAT this By-law comes into force and takes effect with the issuance of the Decision of the Ontario Land Tribunal dated \_\_\_\_\_ in OLT Case No. OLT-24-000068.