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July 7, 2017

Mr. B.E. Bridgeman, MCIP, RPP
Commissioner of Planning and Economic Development
Regional Municipality of Durham
Planning and Economic Development Department
Planning Division
605 Rossland Road East
P.O. Box 623
Whitby, ON L1N 6A3

Dear Mr. Bridgeman:

**RE: Notice of Appeal: Municipality of Clarington OPA 107
CRH Canada: 44 Port Darlington Road & Part Lots 25, 26, 27, 28, 29, 30, 31 and 32,
Concession 10, Former Township of Clarke
OUR FILES: 9061CY**

CRH Canada submitted letters to the Municipality of Clarington on June 15, 2015 and on August 26, 2016 with regards to their property holdings in the Municipality of Clarington.

Since there has been numerous versions of the OPA, and in order to avoid confusion, the amendment number will be referenced from OPA 107 and the Regional Modifications where applicable.

Aggregate Resource Extraction: Within and Adjacent to Natural Heritage and Hydrologic Features

The Municipality of Clarington Official Plan is required to be consistent with the Provincial Policy Statement and conform to the Greenbelt Plan and Oak Ridges Moraine Conservation Plan. These Provincial Plans include specific policies for development within natural heritage features as it relates to mineral aggregate extraction. In relation to mineral aggregate extraction these Provincial Plans also restrict the Municipality of Clarington from incorporating policies within its Official Plan that are more restrictive than the policies of these Provincial Plans. The following sections of the Official Plan are being appealed since the Municipality of Clarington Official Plan includes policies that are more restrictive than the Provincial Plan policies.

1. Policies 3.4.8 (OPA 107 Amendment #30) and 3.4.16 (OPA 107 Amendment #40) are appealed since these general policies could be interpreted to prohibit aggregate extraction within all natural heritage features (as outlined in Policy 3.4.2) and their vegetation protection zones (Table 3-

- 1). Subject to additional modifications to the natural heritage policies included in Section 15 "Aggregate Extraction Areas" of the Official Plan changes may not be required to this section.
2. The following natural heritage features listed in Policy 15.3.19 (Region Modification #105 and Policy 15.3.5 in OPA 107 Amendment #430) are appealed. The policy is more restrictive than the ORMCP. These changes are required to conform to Section 22 of the ORMCP.
 - a. "Area of Natural and Scientific Interest" should be revised to "Life Science Area of Natural and Scientific Interest";
 - b. "Valleylands" should be revised to "Significant Valleylands";
 - c. "Wildlife habitat" should be revised to "Significant Wildlife Habitat";
 - d. "Fish habitat and riparian corridors" should be limited to only "Fish Habitat";
 - e. "Rare vegetation communities" should be removed;
 - f. "The Ganaraska Forest and the Long Sault Forest" should be removed; and
 - g. "Watercourses and seepage areas and springs" should be removed.
3. Policy 15.3.21 and Policy 15.3.21 subsection i) (Region Modification #106) is appealed. Policy 15.3.21 should be limited to the natural heritage features and not include the "minimum vegetation protection zones". Policy 15.3.2.1 subsection i) should add "significant" in front of "wetland". These changes are required to conform to Section 4.3.2 of the Greenbelt Plan.
4. Policy 15.3.13 subsection c) (OPA 107 Amendment #436) is appealed since the applicable natural heritage policies for mineral aggregate resources are found in Chapter 15. Policy 15.3.13 c) should be revised to remove the reference to Chapter 3. This change is required to conform to Section 22 of the ORMCP.
5. Policy 15.3.15 subsection a) (OPA 107 Amendment #438) is appealed. 15.3.15 a) should add the following to the end "such distance measured either entirely within the Natural Linkage Area or including areas within the Natural Core Area that is adjacent to the excluded area". This change is required to conform to Section 35 (3) of the ORMCP.
6. Policy 15.3.16 subsection b) (OPA 107 Amendment #437) is appealed since the applicable natural heritage policies for mineral aggregate resources are found in Chapter 15. Policy 15.3.16 b) should be revised to remove "in accordance with Section 3.4.19 of this Plan". This change is required to conform to Sections 22 and 35(6) of the ORMCP.
7. New Policy 15.3.14 subsections b), d) and f) (Region Modification #114) is appealed. 15.3.14 b), d) and f) should add "significant" in front of the noted natural heritage features. This change is required to be consistent with Section 2.1.5 of the Provincial Policy Statement.

Other Aggregate Policies

8. Policy 3.6.25 subsection b) (OPA 107 Amendment #93 and Regional Modification #20) is appealed. This policy does not address existing operations. 3.6.25 b) should be changed to "Mineral aggregate operations shall be protected from development and activities that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety or environmental impact." This change is required to be consistent with 2.5.2.4 of the Provincial Policy Statement.

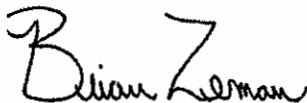
9. Regional Modification #103 (OPA 107 Amendment #427) provides modifications to the cross references in 15.3.2. Clarification is required since the study requirements subsections referenced 15.3.2 a) do not appear to align with the sections of the adopted version of OPA 107. Upon clarification, we hereby reserve the right to add further policies referenced in Regional Modification #103 to the appeal.
10. Policy 15.3.9 (Regional Modification #110) is appealed. The policy states that "terms of reference for the study shall address the matters set out in Appendix A." However, Appendix A does not form part of the official Plan and can modified without public notice and there are no appeal rights if a modification is made.

Mapping

11. Map A1 is appealed. The "Environmental Protection Area" designation on ARA Licence 3195 (Part Lot 26, 27 and 28, Concession 10, Clarke), ARA Licence 3450 (Part Lot 32, Concession 10, Clarke), and ARA Licence 15592 (Part Lot 29, 30 and 31, Concession 10, Clarke) should be removed as these properties are licenced aggregate operations.
12. Map A3 is appealed. The "General Industrial Designation" should encompass a larger portion of the property. This is consistent with the zoning that is on the property. The "Environmental Protection Area" designation is not consistent with the "Environmental Protection" zoning on the property.
13. Map D4 is appealed. The "Natural Heritage System" designation on ARA Licence 3195 (Part Lot 26, 27 and 28, Concession 10, Clarke), ARA Licence 3195 (Part Lot 26, 27 and 28, Concession 10, Clarke), ARA Licence 3450 (Part Lot 32, Concession 10, Clarke), and ARA Licence 15592 (Part Lot 29, 30 and 31, Concession 10, Clarke) should be removed as these properties are licenced aggregate operations.

Yours truly,

MHBC



Brian Zeman, BES, MCIP, RPP
President

*cc. Kevin Mitchell, CRH Canada
Jessie Spasov, CRH Canada*



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Toronto ON M5G 1E5

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Instructions for preparing and submitting the Appellant Form (A1)

- **Important: Do not send your appeal directly to the Ontario Municipal Board (OMB).** 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 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 OMB.
- 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 OMB. 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 of \$300 is required for each type of appeal you are filing.
Example: An appeal of an official plan and a zoning by-law would be \$300 + \$300 for a total fee of \$600.
- To view the Fee Schedule, visit the OMB's website [<http://elto.gov.on.ca/omb/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 solicitor the filing fee may be paid by a solicitor's general or trust account cheque.
- Professional representation is not required but please advise the OMB if you retain a representative after the submission of this form.
- The *Planning Act*, *Development Charges Act*, *Education Act* and *Ontario Municipal Board Act* are available on the OMB's website [<http://elto.gov.on.ca/omb/legislation-and-regulations/>].
- Fields marked with an asterisk (*) are mandatory.



Environment and Land Tribunals Ontario
Ontario Municipal Board

655 Bay Street, Suite 1500
 Toronto ON M5G 1E5

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 Toll Free: 1-866-448-2248
 Fax: 416-326-5370
 Website: www.elto.gov.on.ca

Appellant Form (A1)

Receipt Number (OMB Office Use Only)

Date Stamp - Appeal Received by Municipality

1. Appeal Type (Please check all applicable boxes) *

Subject of Appeal	Type of Appeal	Act Reference (Section)
Planning Act Matters		
Official Plan or Official Plan Amendment	<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 checked="" 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 180 days	17(40)
	<input type="checkbox"/> Council failed to adopt the requested amendment within 180 days	22(7)
	<input type="checkbox"/> Council refused the requested amendment	
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control Zoning By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
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	
	<input type="checkbox"/> Appeal conditions imposed	53(19)
	<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 180 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved a plan of subdivision	
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did not approve a plan of subdivision	51(39)
	<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)	

Subject of Appeal	Type of Appeal	Act Reference (Section)
Development Charges Act Matters		
Development Charge By-law	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
Development Charge Complaint	<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)
Front-ending Agreement	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
Education Act Matters		
Education Development Charge By-law	<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)
Education Development Charge Complaint	<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)
Aggregate Resources Act Matters		
Aggregate Removal Licence	<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)	
Municipal Act Matters		
Ward Boundary By-law	<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	
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	
Ontario Heritage Act Matters		
Heritage Conservation District	<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 Matters

Subject of Appeal	Act/Legislation Name	Section Number
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2. Location Information

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

1. Appeal to all of Clarington- general policies that apply to any new or expanded mineral aggregate operations
2. Appeal to the mapping related to 44 Port Darlington Road & Part Lots 25, 26, 27, 28, 29, 30, 31 and 32, Concession 10, Former Township of Clarke

Municipality *
ClaringtonUpper Tier (Example: county, district, region)
Region of Durham**3. Appellant/Objector Information****Note:** You must notify the OMB of any change of address or telephone number in writing. Please quote your OMB Case/File Number(s) after they have been assigned.Last Name
MitchellFirst Name
KevinCompany Name or Association Name (Association must be incorporated – include copy of letter of incorporation)
CRH Canada Group Inc.Professional Title
Director Property, Planning & ApprovalsEmail Address
kevin.mitchell@ca.crh.comDaytime Telephone Number *
416-788-0015 ext.

Alternate Telephone Number

Fax Number

Mailing AddressUnit Number
Street Number *
2300Street Name *
Steeles Avenue West, 4th Floor

PO Box

City/Town *
ConcordProvince *
OntarioCountry *
CanadaPostal Code *
L4K 5X6**4. Representative Information** I hereby authorize the named company and/or individual(s) to represent meLast Name
ZemanFirst Name
BrianCompany Name
MHBC PlanningProfessional Title
Land Use PlannerEmail Address
bzeman@mhbcpplan.comDaytime Telephone Number
705-728-0045 ext. 226Alternate Telephone Number
705-627-9004Fax Number
705-728-2010**Mailing Address**Unit Number
Street Number
113Street Name
Collier Street

PO Box

City/Town
BarrieProvince
OntarioCountry
CanadaPostal Code
L4M 1H2

Note: If you are representing the appellant and are **not** a solicitor, please confirm that you have written authorization, as required by the OMB'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 Specific Information

Municipal Reference Number(s)
Municipality of Clarington OPA 107

Outline the nature of your appeal and the reasons for your appeal *
Please see attached letter.

Oral/written submissions to council

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

Oral submissions at a public meeting Written submissions to council

Planning Act matters only

Applicable only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/were passed on or after July 1, 2016 (Bill 73)

Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?

Yes No

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

7. Scheduling Information

How many days do you estimate are needed for hearing this appeal?

1 day 2 days 3 days 4 days 1 week

More than 1 week

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?

Two

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

Land Use Planner and Ecologist

Do you believe this matter would benefit from mediation?

(Prior to scheduling a matter for mediation, the OMB will conduct an assessment to determine its suitability for mediation)

Yes No

8. Required Fee

Total Fee Submitted * \$ 300

Payment Method * Certified cheque Money Order Solicitor's general or trust account cheque

9. 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)
Brian Zeman		2017/ July/ 07

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.