

To the Clerk of the Township – Debbie Leroux, cc Jennifer Beer.

2022-09-22

I am the sole owner of [REDACTED] Zephyr Ont. LOE 1T0

I would like to add to my previous submissions concerning a proposed township zoning by-law amendment from China Canada Jing Bei Xin Min International Co. LTD.

File. NO.: ZBA 2012-18, SUB 2012-1 & S-U-2012-01.

I want to add to my previous submissions with some case law history in regards for the direction of outlet #2 towards my property and changing of proposed Lot 3&4 from undeveloped natural land to manicured lawn sloped toward some property owners on the Zephyr Road.

Natural Drainage versus Artificial Direction of Water

The natural drainage principle only shields upstream riparian owners from liability for the natural flow of surface water. The principle does not protect owners who actively direct water onto adjoining properties.

The Ontario High Court in *Berry v. Trinidad Leaseholds (Canada) Ltd.* 1953 CarswellOnt 282, [1953] O.J. No. 191 stated that while upgradient riparian owners may dispose of surface water on their property as they see fit, such owners cannot by artificial drains or ditches collect water on their land and cast it on the downgradient property to the downgradient property owner's injury.

In *Smith v. Autoport Ltd.*, 1973 CanLII 1242 (NS SC), the Nova Scotia Supreme Court stated that an upper riparian owner cannot, by artificial means gather water on his or her property and "throw it upon his neighbour's land".

The British Columbia Supreme Court in *Allison v Radtke*, 2014 CarswellBC 2884, 2014 BCSC 1832 expanded on this principle, stating that not only can an upper riparian owner not direct water by artificial means onto adjoining properties, they are also not permitted to alter their lands so that it increases the amount of surface water running onto a neighbour's property.

I hope you take account of all my submissions when you vote on this proposal. This current Development plan which has the potential to negatively impact my property and health and safety needs extra scrutiny due to the sensitivity of the Wetlands.

I am fully aware we are in critical need of more housing at this time but I never in my 40 years on this property did I ever consider a flawed Develop plan like this would ever get consideration to start off this development. Rushing and rubber stamping this decision through without due process to the detriment of some of the long-standing property owners of the hamlet of Zephyr at this time would be wrong.

David Andryechev

