

2011-06-29

Reeve and Members of Council

Township of Havelock Belmont Methuen

PO Box 10 Havelock Ontario K0L1Z0

**Re: Zoning & Building Permits- In water Boathouses in Havelock Belmont Methuen Township**

Municipal council presented a scoped zoning bylaw amendment dealing with recognized deficiencies in the in effect comprehensive zoning bylaw at the April 14 2009 statutory public meeting. Certain changes were proposed at that time to the regulations governing boathouses.

Shockingly the following was included /proposed:

(g) boathouses or boat ports or any portion thereof, which are located over reclaimed land or known lake/river beds, are considered to be beyond the jurisdiction of the Township and therefore are not the subject of

- municipal regulations nor
- the issuance of a building permit.

At that public meeting I challenged in my written and verbal submission the position that your municipality did have authority to regulate through zoning in water development and further that building permits under the Ontario Building Code (OBC) were required for construction of structures on lake beds. Those on council at that time may recall the debate I had with Council and your planner on this issue. Most significant was the example of Muskoka Lakes having in place since about 1987 a bylaw know as #87-87 which zoned the lake beds and regulated in water development and requiring building permits under the OBC clearly establishing that in fact municipalities have jurisdiction for in water development on waterbeds owned by the Province of Ontario.

At that meeting, I was advised by Reeve Gerow that that their municipality had received a legal opinion that the township did not have jurisdiction to regulate construction activity on lake beds. At that time, I suggested you obtain another legal opinion. The day following the meeting I requested a copy of the legal opinion from Clerk Girven and was told is was just a verbal legal opinion.

The Township in fact did pass a bylaw amendment # 2009-97 on December 1 2009 dealing with boathouses and I appealed that bylaw to the Ontario Municipal Board (OMB) . The Municipality of HBM was not prepared to defend their own bylaw and subsequently repealed the bylaw denying me the opportunity to have the

OBM clarify to the Municipality that the Municipality of HBM if fact do, despite their planners advise and alleged legal advise have jurisdiction to regulate in water development on the lakes within their municipality.

Since that time, I have been able to determine through simple internet research that several municipalities have proceeded with zoning of lake beds within the bounds of their municipalities and challenges to this authority have been upheld by court rulings. There is no doubt that the Council of Havelock Belmont Methuen has the vested authority to zone the beds on lakes and to regulate in water development.

And yes, building permits under the OBC are required for in water structures to be built supported on the bottom of lakes within HBM.

I have noticed on MMAH web site the follow wording:

- *Ontario Building Code helps builders and developers do their jobs and helps keep Ontarians safe...*
- *Ministry of Municipal Affairs and Housing is responsible for administering the Building Code*
- *Municipalities, conservation authorities are obligated to enforce the provisions of the Code in their communities*
- *Builders have a role in ensuring that all buildings are constructed in compliance with the Code's requirements*

According to information I have obtained and legal advise I have become are of, "construction of any new building over ten square meters in area "requires a building permit under the OBC and further an individual who is charged and found guilty of an offence under the Building Code Act, such as building without a permit, can be fined up to \$50,000 for a first offence and up to \$100,000 for subsequent offences.

Despite the fact that you have failed to acknowledge your authority to zone and regulate in water development on lakes, are you also prepared to recklessly permit the construction of any large boathouses on lakes within HBM without a permit as required under the Building Code Act?

**Ambrose Moran**

**PO Box 414**

**Apsley**

**K0L1A0**

As an individual and not representing any group or organization

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