

Northern Vision Planning

November 20, 2012

Township of North Kawartha
280 Burleigh Street
P.O. Box 550
Apsley, ON
K0L 1A0

Attention: Ms. Connie Parent
Clerk

RE: Comments on the Proposed Comprehensive Zoning Bylaw

Please be advised that I represent Mr. Ambrose Moran and submit the attached list of comments related to the above noted bylaw.

It is respectfully requested that the bylaw be deferred until the appropriate revisions are made to the bylaw. We would appreciate seeing the final draft of the bylaw prior to its passage.

Please also accept this letter as a request from myself and Mr. Moran to receive Notice of any further meetings related to this matter or Notice of Passing of the bylaw if such is to occur.

If you have any questions regarding the above, please do not hesitate to contact me.

Sincerely,

Original Signed by S. Fahner

Stephen Fahner B.A.(Hon.), A.M.C.T., C.M.M.III, M.C.I.P., R.P.P.
Northern Vision Planning

NORTHERN VISION PLANNING

TOWNSHIP OF NORTH KAWARTHA

COMPREHENSIVE ZONING BYLAW

REVIEW

Oct.2012

1. Introduction

- Should be additional wording relating to bold (or not bolded) words in amending bylaws have the same meaning as the bolded words in the parent bylaw.
- Need to add section on boundary interpretation of zones on zone schedules.

2. Definitions

- Boatport: What if it is attached to a boathouse? The definition would only permit a standalone boatport.
- Building Area: Does this include boathouses and boatports?
- Building Height: For marine structures, should do it from top of dock, heights will be more consistent; how is height of deck measured?
- Bunkhouse: The provisions should not appear in the Definitions.
- Camping Ground: In addition it should mention for temporary accommodation and overnight use.
- Church: Do not include accessory uses in definition otherwise you would have to do that in other definitions.
- Club: Do not say definition “may include”, this is discretionary, zoning bylaws are not.
- Dock: Does a Dock have a floor area? I would not agree as the definition of floor area includes space between walls.
- Group Home: “Family” is in bold but is not defined. Family can no longer be defined family anyways.
- There are two definitions for Dwelling House.

- Dwelling Unit: I am not sure there is much difference between Dwelling House and Dwelling Unit. Family cannot be defined except to state it is one or more persons living together in a dwelling unit.
- Floor Area: Is a basement or attached garage included? Has the Township ever considered a maximum size of dwelling?
- Garage: There should be a definition for attached garage.
- Golf Course: This should include a clubhouse which may include a restaurant.
- Grade: The average grade can be significant on a steep lot, and the original grade may be difficult to determine if the property has been altered
- Gravel Pit: Should consider including processing of excavated material (eg. Screening).
- Habitable Room: needs to be clearer. Should include more examples of habitable room eg. office, hobby room, sewing room.
- High Water Mark: what is normal high water mark? I assume this is the usual summer water level.
- Home Industry: Should consider limiting the uses to those listed. May not want wood refinishing, for example.
- Lot: This definition should include a parcel of land described as a whole registered description by the Condominium Act.
- Lot: Corner lot is confusing. Should there be a date tied to existing lots (to conform to OP)?
- Lot Area: Should refer to land above the high water mark.
- Lot Coverage: This is defined but is not used in the bylaw at least in the Shoreline Residential zones). Does lot coverage include overhangs?
- Lot Frontage: For corner lots or lots with two frontages on a street, should consider the longer of the frontages. Where there is OSRA, consider frontage to be at shoreline. Where pie shaped lot at the end of bay, frontage is longer than it really is if measured at inner limit of OSRA.
- Lot Line Front: There should be some relationship with how frontage is measured. Front lot line is not a portion of a property. Front lot line is not defined for shoreline lots.
- Lot Line Rear: Should refer to longest lot line opposite the front lot line.
- Non-Conforming: Needs to only refer to use.
- Porch Non-Permanent: There should not be any reference to yard requirements in a definition. The statement related to relief from requirements could be written in any definition.
- Renovate: Does this include reconstruction?
- Repair: Does this include reconstruction?
- Resort Condominium: This would permit residential use as it is currently drafted. This needs to refer to being available to the travelling and vacationing public.

- Restaurant Drive-In: Should this definition also include “take out”? This only permits the use if it is consumed in an automobile.
- Screened Porch: This is not a Gazebo so it should not refer you to the definition of Gazebo. This definition should refer you back to the definition of a Porch.
- Stone Quarry: Pits and Quarry Act is now the Aggregate Resources Act.
- Structure: Definition of Building and Structure need to be consistent. Definition of Building refers to septic systems but definition of Structure does not. Septic system is more akin to a structure not a building.
- Tourist Establishment: The definition needs to include reference to a commercial establishment, and can also accommodate seasonal staff (otherwise they are not permitted to stay on site).
- Yard Front: This does not work with current definition of Front Lot Line.
- Yard Water: Is this used in the bylaw?

3. General Provisions

- Section 3.1 Accessory Structures: Permitted uses (prohibited in this case) is not required, defining what a utility shed is should be in definitions not here.
- Section 3.1 (k) provisions for fences for swimming pools cannot be done in a zoning bylaw. It would be better in a separate bylaw (under the Municipal Act?).
- In my opinion, the provisions related to docks and boathouses should be in the Shoreline Residential zone provisions and not the General Provisions. The provisions of the General Provisions should apply to all zones.
- If there is a desire not to allow boathouses and boatports, then Marine Facilities would not have to be included in the bylaw. The only shoreline structures, therefore, to be mentioned as permitted would be Docks. If you want to keep the pristine appearance of the shoreline, I would recommend that only docks be permitted.
- Section 3.1 (l) Marine Facilities (boathouses and boatports): The proposed sideyard setback is good. Two different height criteria should be avoided (the original grade could be much higher than the lake level).
- Section 3.1 (l) (iv) allows marine facilities to be over the water except on Jack Lake they must be dry boathouses set back 30 feet from the high water mark. I am not familiar with the background of this but I cannot understand why Jack Lake is singled out.
- In Section 3.1 (l) (vi) are marine facilities really prohibited on those lakes? If other agencies approve of them than this is not a prohibition. If marine facilities are to be prohibited on coldwater/lake trout lakes due to water quality, why are they not prohibited on other lakes? Bylaws cannot be conditional on other approvals.

- Section 3.1 (l) (vi) (b) is confusing since the definition of marine facility includes a boatport. In addition, the definition of Boatport needs to be in definitions, not in the General Provisions.
- Section 3.1 (l) (vii) Boatports on Coldwater Lakes: As noted above bylaws cannot be conditional. This, however, can be noted in a preamble to the bylaw.
- Section 3.1 (m) Docks: A 15 foot sideyard setback is not enough, 30 feet is more appropriate (although the minimum lot frontage is only 150 feet). Dock width is only measured at the shore. A finger dock 8 feet wide at the shore could lead to a full three slip dock 75 feet in width out from shore. The maximum width of docks should be defined as an envelope. In addition, the exemption to the front yard setback enjoyed by Marine Facilities also needs to be applied to docks.
- Section 3.4 Delivery Space requirements should be in Parking Requirements.
- Section 3.7 Gravel Pit and Stone Quarries should not be permitted in the Shoreline area of any lake or river. Should this section be in the Industrial zone provisions?
- Section 3.9 Height exemptions should include a cupola up to 100 sq. ft. Consideration should be given to remove windmill from list or if it is limited to one on a property for residential use.
- Section 3.10 Home Industry and Home Occupation are old terms. Home Based Business is now the term used. Can combine provisions. Is there problem of small garage being used in a residential area? Can limit the types of uses (eg. Professional/personal services, day care, small engine repair, artisans, and bed and breakfast).
- Section 3.13 Kennels: why not permit them in the zone they are permitted and impose the setback as a special provision in the zone. Zoning Bylaws should be written in the positive.
- Section 3.14 Loading Space Requirements: how does this differ from a delivery space?
- Section 3.15 Lots with more than one zone needs further thought.
- Section 3.18 Non-Complying Buildings and Structures should not apply to situations where the maximum number of habitable buildings is exceeded. These should only be allowed to be rebuilt after a minor variance, otherwise the extra buildings should cease to exist.
- Section 3.18 (b) Existing Undersized lots should have a minimum size attached to it. Otherwise a lot with 50 feet of frontage could be built on with a dwelling and bunkhouse in a Shoreline Residential zone. Do not know if it can be serviced by a septic system. Should be conveyed to the neighbouring property owners. Have these small lots been included in any water quality modelling or Lake System Health Program?
- Section 3.18 (c) Existing Buildings on Shore Road Allowance; do not define “repair” or “renovated” in this provision. Define the terms in the Definition section of the bylaw.
- Section 3.19 Non-Conforming Buildings and Structures needs to be retitled to Non-Conforming Uses. Township needs to be congratulated on putting time frame on. In an area with seasonal uses and properties which may take some time to sell, continuance of

use is always difficult to determine. Prior approval subsection seems to defeat the purpose of this section. In fact it allows additional buildings to be erected for a legal non-conforming use (contrary to Planning Act?).

- Parking area size: agree with minimum size due to larger vehicles in places like N. Kawartha.
- Section 3.24 Reduced Standards: should these be mapped?
- Section 3.26 Truck, Bus and Shipping Containers: how long is temporary for a truck trailer to be used for storage for retail.
- Section 3.29 Street Setbacks: there should be a specific setback.
- Section 3.31 Water Setbacks: should not be applicable to septic systems, as the OBC governs this. There will, however, be an issue of OP conformity. As a compromise, maybe this should apply to new lots. In permitted exemptions should not use “such as”. Would a gazebo or small deck be permitted? Permitted exceptions may be best in an Implementation section of the bylaw.
- Non-Permanent Structures: this is a little confusing and scary.

4. Zone Provisions

Shoreline Residential (SR)

- Preamble (in Section 6.1) should have the word “locate”.
- Permitted Uses must relate to use not structures. Important to recognize use. Accessory uses (Section 6.1(b)) should not be structures.
- Lot frontage of 200 ft. has become the standard, not 150 feet (Section 6.2 (b)).
- Due to Section 1.3 where words in singular can be considered in the plural, must state maximum number of dwellings on a lot is one (Section 6.2 (c)). It is not consistent with how limitation on number of bunkhouses is stated.
- In Section 6.2 (e), perimeter wall needs to be defined.
- Setback from high water mark for decks and screened porch should be more than 30 feet, this could result in huge decks (Section 6.2 (e) (iv)). In addition, there should be at least a 50 foot shoreline vegetative buffer.
- Section 6.2 (f) Building Area: does this mean 10% plus 5%? Should consider 10% overall based on area of lot within 200 feet of the high water mark.
- Section 6.2 (f) (iii) Building Area is confusing.
- Section 6.2 (o) on Shoreline Building Enlargements is confusing.

- There are issues with the 100 foot water setback (Section 6.2 (j)). There will be removal of trees within this setback to have a view of the water. This distance can be a challenge for water access properties. OBC only requires 50 foot setback for septic system. If this is amended there will, however, be difficulty with conformity to the OP. As a compromise, the 100 foot setback could apply only to newly created lots, as you have suggested.
- Building Height maximum of 25 feet is good, depending on how it is measured.
- What are the various SR zones for? Are they site specific or for certain areas/ there appears to be a mix? Site specific matters should be done as exemptions to the bylaw and not rezonings as the rezonings create new zones which must be referenced in the parent bylaw.
- In the SR10 zone, vegetative buffer is not defined. In SR10 zone cannot apply Site Plan Control (limited by what you can do in Section 34 of Planning Act).

Shoreline Residential – Islands (SRI)

- Section 7.1 Permitted Uses not listed the same as SR zones (ie. Bunkhouse should be an accessory structure). This would also mean a bunkhouse could be erected as a main permitted use. This could have an impact on property values.
- Section 7.2 maximum number of dwellings not written same as SR zones (this is the correct way).
- Section 7.2 (f) minimum front yard setback of 30 feet conflicts with the 100 foot water setback.
- In Section 7.2 (n) what is “adequate mainland parking”?
- As above, Shoreline Building Enlargements is confusing (Section 7.2 (o)).

Shoreline Commercial (CS)

- In Section 11.1 why is “hotel” not a permitted use?
- Height restriction (Section 11.2 (1)) related to original ground elevation and the highest point of the building. This is not consistent with how height is measured in other zones.
- Most of the permitted uses are defined terms but are not bolded in the list (this problem exists elsewhere).
- Why is the minimum lot frontage for a Tourist Establishment less than that for a residential (dwelling) use?
- There is a conflict between the minimum front yard of 50 feet and the minimum water setback of 100 feet.

Environmental Constraint (EC)

Section 16.1 do not need to list uses prohibited. You could list hundreds of uses that are not permitted in a zone. If it is not listed as permitted than the use is prohibited.

- Section 16.2 only refers to provisions of Section 3. What about prohibiting shoreline structures in front of an EC zone? With that said it would appear that Residential use is not permitted. This would include accessory uses.
- This should really be called Environmental Protection. There is nothing in the zone provisions related to constraints.
- In reviewing the schedules for Chandos Lake, there are a number of EC zones that go right to the lake.

5. General Comments on Bylaw

- There are a number of inconsistencies in the bylaw.
- It would appear that an extensive list of definitions were put together but do not necessarily appear in the bylaw.
- Many defined terms in the bylaw have not been bolded.
- There is no differentiation between permanent and seasonal residential use. Although the Official Plan states a difference, this is almost impossible to enforce. The Township should be congratulated. It will be interesting to know the County's comment.
- There are numerous examples of conditions based on other agency approvals. Zoning bylaws are not conditional by nature. Mention of this can be made in the preamble to the bylaw.
- Water access is mentioned but there is no recognition of mainland parking and docking facilities in a zone (possibly could be called a Waterfront Landing or Shoreline Landing).
- There needs to be a General Provision that states if you have a building lot today and you add land to it, it is a building lot tomorrow. Otherwise you add to a lot and do not meet the minimum requirements of the SR zone (150 ft. frontage, 1.2 ac. In area), it not a building lot. There should also consider a Reduction in Lot Area provision where a lot is reduced in size by way of a severance and still meets a certain size, it should still be considered a Building Lot.
- There is no zoning of the bed of lakes and rivers. This would be helpful in governing shoreline structures.

- Should consider a Shoreline Vegetative Buffer even though this is questionable under Section 34 of the Planning Act.
- The zoning of shoreline areas does not take into account development constraints of steep slopes and narrow waterbodies.
- Where there are multiple zones with similar provisions (ie. The differences are few), tables should be used to show the provisions.
- May wish to consider Interior Building Design section so people do not attach a bunkhouse by a hallway or breezeway only to get a permit for another bunkhouse.
- New zones should not be created for site specific zone provisions. These should be exemptions to the zone. A new zone does not need to be created. This prevents the parent bylaw from becoming a series of site specific rezonings.
- Need to include a clause that any exemptions or rezonings prevail over provisions of parent bylaw.