

91-12-16

Municipality of Burleigh Anstruther
Apsley, Ontario
KOL 1A0

Att: Clerk

Re: **NOTICE OF APPEAL - Bylaw # 114-1991** - Stoney Lake
Developments Ltd. Conc 5 Lot 3 Plan 45R-8733 Pt. 2 - in the Township of
Burleigh (Southern Division) in the County of Peterborough

Further to Notice of Passing Zoning Bylaw dated 27th day of November
1991, please consider this letter as NOTICE OF APPEAL under section
34(18) of the Planning Act 1983.

The subject bylaw is intended to satisfy a condition established by the
Peterborough County Land Division Committee relative to Consent
Application File # B-136/91 which was approved with conditions based
on a 4/3 recorded vote on October 24, 1991. The portion of bylaw to which
I object would permit a minimum lot frontage of 115 feet.

It is with sincere regret that I find it necessary to take this course of
action. Sound environmental planning requires adherence to minimum in
effect development standards and I and many others feel strongly that
relaxing the frontage requirements for this particular application is not
acceptable development practice and therefore bylaw 114-1991 should be
overturned by the Ontario Municipal Board.

**The reasons for my objections to the subject bylaw are as
follows:**

A)---- Zoning

SECTION 3 ZONE PROVISIONS

Section 3.5 of the Township of Burleigh Anstruther Zoning Bylaw 2-1979
establishes a lot frontage for Recreation Residential lots as minimum
125 feet.

SECTION 5 DEFINITIONS

Section 5.26.3.2

Lot frontage means:

For a lot fronting on a body of water the horizontal distance between the 2
most widely separated points on any one shoreline of a lot.

The applicant has applied for relief from the in effect township zoning provision for minimum lot frontage of 125 feet to permit a lot creation of a undersized lot of 115 feet frontage through the consent process. The Municipal Council has in a 4/3 recorded vote passed the bylaw having been influence by a staff report prepared by the municipal building inspector claiming that the intent of the bylaw has been met. The municipality neither sought nor received any professional interpretation on the matter of whether the intent of the bylaw was satisfied. Reliance on the definition 5.26.3.5 should have provided adequate direction for the municipal council to establish the fact that the intent of the bylaw was not satisfied by the applicants proposal.

The developers proposal does not conform with the requirements or the intent of the bylaw 2-1979 (3.5) with respect to frontage as clearly defined in zoning bylaw section 5.26.3.2

I and others are very concerned that the interpretation taken by one member of the municipal staff and supported by Council will lead to and set a very serious and dangerous precedent for sub standard development of lakefront properties throughout the the Township of Burleigh Anstruther.

B--- MUNICIPAL ACT - SECTION 108

The subject bylaw was passed by a Council giving the bylaw second and third (final) readings at a council meeting held on the 18th day of November 1991. This meeting followed the polling date of Nov 12th. Section 108-(1) of the Municipal Act restricts the activities of Council after polling day and prohibits any corporate acts such as passing a bylaw except in case of extreme urgency.

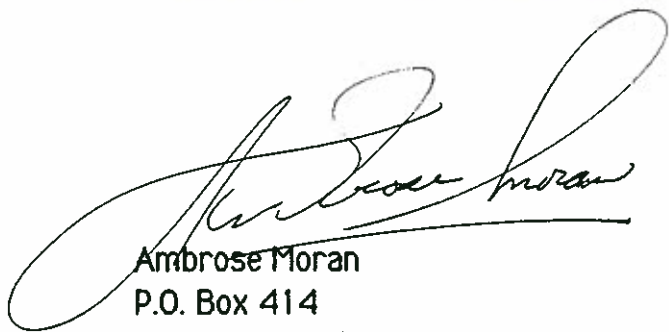
No urgency applies to this situation as the applicant has until November 2, 1992 to satisfactorily complete conditions established by the Peterborough County Land Division Committee.

As bylaw * 114-1991 clearly falls within the scope of "certain acts not to be done by councils after polling day" as defined in Municipal Act Section 108 (1), I request that the Ontario Municipal Board rule that this bylaw has not been legally passed and ensure that the bylaw does not go into effect without consideration by the new Council which was elected prior to the passing of the bylaw.

It is my understanding that the above concerns and objections do not limit my rights to introduce further objections and evidence during a hearing related to this matter before the Ontario Municipal Board.

Alternatively, I appeal to the newly elected Council to revoke bylaw #114-1991 and subsequently evaluate the developers proposal with due consideration to the numerous written submission made by concerned ratepayers. Many of the submission were sent to the Peterborough Land Division Committee but were neither considered by the committee nor brought to the attention of the Municipal Council for their consideration. I understand that revoking the bylaw would involve a new public hearing which would provide the new council with adequate opportunity to understand and evaluate the concerns of all affected parties. It is noteworthy that only one member of the existing newly elected Council voted in support of passing the subject bylaw .

In the event that Council revoke bylaw #114-1991 in order further evaluate the concerns and objections to this matter, I am prepared to unconditionally withdraw this appeal to the Ontario Municipal Board.



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