

Submission #8 updated to Feb 23 2009 to North Kawartha PAC by Ambrose Moran

Subject **Existing Undersized Lots**

BACKGROUND

This submission is further to submission and presentation to the PAC Feb 19 2009 and should be read in conjunction with my submission dated Feb 19 2009.

Following the preparation of submission # 8 dated Feb 19, additional information was discovered in my personal files related to this issue.

On March 21 1997, I attended a meeting at the Burleigh Anstruther Township office for the purpose of clarifying issues identified in my notice of appeal to bylaw 66-1996 passed by Burleigh Anstruther Township on Sept 1997. In attendance were myself, Lorne Mitchell- Clerk of Township, Brian Weir- County of Peterborough Director of Planning and Robert Pakenham -solicitor for the township of Burleigh Anstruther Townships. Robert Pakenham prepared the record of the discussions the following are taken from those notes dealing with "existing undersized lots"

SUMMARY OF DISCUSSION OF A MEETING HELD AT THE BURLEIGH-ANSTRUTHER MUNICIPAL OFFICES ON FRIDAY, MARCH 21, 1997 WITH AMBROSE MORAN, LORNE MITCHELL, BRYAN WEIR AND ROBERT PAKENHAM

Item #6

Mr. Moran noted that Section 3.16 dealing with non-complying buildings, structures and lots did not contain any wording addressing "existing undersized lots". He noted that hardships could result if consideration was not given to dealing with the existing lots of record. The writer advised Mr. Moran that we were aware of this deficiency in the by-law. A second paragraph 3.16(b) dealing with existing undersized lots had been in earlier drafts but somehow was lost in the final draft. We informed Mr. Moran that existing undersized lots would be addressed in the final draft so as to avoid undue hardship.

Letter date April 1, 1997 to Ambrose Moran from Robert Pakenham states

"As we indicated at the conclusion of the meeting, the instructions which the writer has to date are to proceed to the Ontario Municipal Board to have the By-Law approved in the format in which it was passed, subject to requesting the Board to approve a provision to acknowledge existing lots of record"

Ontario Municipal Board Order # 0343 issued June 10 1997 amended by-law 66-1996 to add a new section¹

3.16(b) Existing Undersized Lots

Notwithstanding anything to the contrary in the By-law, an existing lot held in separate ownership from adjoining parcels, or a lot on a registered plan of subdivision, or a lot to which a consent to sever was given by a consent granting authority prior to passing this by-law, which existing lot has less than the minimum lot frontage and/or lot area required by the Bylaw, may be used for a purpose permitted in the zone in which the said lot is located, provided that all other applicable provisions in this By-law are complied with.

COMMENT

Based on above, it appear to me that I had raised this mater before and it was recognized by the township solicitor as being a deficiency² in the 66-1996 bylaw and Brian Weir who had only was retained about half way through the preparation of zoning bylaw 66-1996 indicated that a number of errors had occurred which could be rectified by a by-law amendment which he recommended as outlined in Exhibit 3 attached as Schedule "A" to OMB decision /order 0304 and the OMB being satisfied that the amendments should be made accordingly amended by 66-1996 to include 3.16(b) Existing Undersized Lots

Despite having brought this mater to the attention of the township and the OMB about 11 years ago and subsequently having the benefit of an OMB order to have by-law 66 1996 amended to include a very important provision dealing with "existing undersized lots", it is apparent to me now that this zoning provision was never incorporated in the working copies of the bylaw both distributed to the public and utilized by municipal staff since 1997. The current draft zoning bylaw does not include a provision to recognized Existing Undersized Lots.

My time and money spent to contribute to an improved planning process are wasted unless the administration of the planning process respects and implements orders & decisions of the OMB

RECOMMENDATION

In addition to recommendation included in my Submission #8 dated Feb 19 2008, I also recommend that OMB Decision / Order #0304 be review to ensure that all the decisions and orders are incorporated in the Township Zoning Bylaw.

Ambrose Moran

¹ Ontario Municipal Board Decision/Order No 0343 Exhibit 3 Schedule A

² Summary of Discussions of Meeting held Mar 21 1997 prepared by Robert Pakenham