

Presentation to North Kawartha PAC by Ambrose Moran Nov 21 2008

- as the twp gets into the updating of the zoning bylaw to implement the policies of the their new OP, I would like to find some time to contribute and possibly influence the zoning provisions. I am not representing any group nor at this time is any group representing me
- I was simple not able due to work load to get into detail involvement with the OP A # 3 document but did make a submission and a presentation at their public meeting and was pleased that the County did in fact take my concerns into account in the version which was submitted to the MMA for approval.
- Now that I am more familiar with the OPA#3 I regret I did not find time to participate more actively in that process.

STATUS OF PLANNING DOCUMENTS AFFECTING NORTH KAWARTHA

From what I have been able to establish

- the County OPA #3 Related to North kawartha is in effect as of Oct 22 which includes the DECISION document signed Oct 18 which Brian Weir review with your committee last week
- The Burleigh Anstruther OP and the Chandos OP may still have some status.? Brian Weir indicated last week that they would eventually disappear- Not sure what the status is and have not seen any indication that these two official plans were repealed
- The Burleigh Anstruther and Chandos Comprehensive zoning bylaws are **in effect and are considered to be applicable law** despite conflict do exist between these zoning bylaws and the County OP and OPA#3. Although I have not been able to get a copy of the Planning Act, I suspect their is a provision in the Act outlining a timetable requiring when a new zoning bylaw is to be adopted by council to implement the OPA #3. We have heard about a date of Mar 2009 which is not far away. The last Burleigh Anstruther comprehensive zoning bylaw update took from early 1990 till adoption by Council in Sept 1996 and appeals allowed or withdrawn by July 1997. To a great extent that zoning bylaw update was slowed down and frustrated by the involvement of MNR who "at that time" were active in planning and exasperated the process by refusing to allow shore road allowance purchases to proceed until their Ministry was satisfied that appropriate controls were in place to protect the buffer zone around lake.

What is the basis of the 30 meter setback?

Considerable confusion exist within our community as to where this new standard is coming from. For some time I was told that it was based on the Provincial Policy Statement and subsequently received communications from the twp and noticed in cottage association publications that "*new regulations under the Provincila Policy Statement Go into effectthe new standard will be 30 meters (100ft) setabck effective the end of March 2009*"

When questioned it was subsequently indicated that the 30 meter set back was not in the Provincial Policy Statement but rather in the County OP and that this would soon be the standard in all of Ontario including Haliburton and Muskoka. From what I have been able to determine this is not so for structures.

Brian Weir has stated to your committee last week and in previous communications that the 30 meter set back from waterbodies was imposed by MOE. I am intending to get clarification of the MOE position to better understand the basis for the 30 meter set back. Based on my experience with MOE, I would expect they would favor enhanced set back for septic systems to protect water quality but would be surprised if they would establish standards for set backs of structures.

It may be helpful to update the Twp web site to clarify that the 30 meter set back is based on the County OP and recently approved Twp OP as currently the impression in the community is that the 30 meter is based on a provincial policy statement.

The OP goal of setting back development to minimize visual impact does not require a 30 meter setback! In fact without tree removal regulation this enhances setback will likely lead to clear cutting of the buffer zone to get a look at the lake!

APPLICATIONS TODAY

- for a building permit within Burleigh Anstruther of Chandos geographic townships would be processed based on the respective in effect zoning bylaws
- for zone amendments and variances would be evaluated based on OPA #3 INCLUDING MODIFICATIONS and Provincial Policies statements

Provincial Policy Statements

- provide a vehicle for the province to protect provincial interest in planning matters and such policies would apply to the province generally. As an example if the province made some determination that development around lakes should be set back 30 meters or that septic systems should be set back 30 meters the province could use a Provincial Policy to set such a standard. The province has not to my knowledge ever established a development setbacks for cottages on Ontario lakes

OFFICIAL PLANS

- Op's are intended to set out the Municipalities GENERAL policies for future land use

ZONING BYLAWS

- implement the objectives and policies of the official plan development standards
- I AM CONCERNED THAT THE COUNTY OP & OPA#3 has in fact included standards such as 30 meter setback from waterbodies for cottages and septic systems -these standard in my opinion should be regulated through the zoning bylaw and not in an official plan.
- having said that - what is even more disturbing is that the standards set will impose and much high standard for setback than what was anticipated when the these lots around our lakes were created in the 50's 60's and 70's.
- our lake shores with very few exceptions are fully developed and we need to be planning for redevelopment taking into account the any new development standards need to take into account that a large part of our community is composed of developed lots of record and a few vacant lots of record

- I have looked at the implications of imposing a 30 meter setback on certain existing developed lots on Jack and Chandos Lakes --colour plans available for review
- The proposed waterbody set backs would result in many lots being unbuildable and when applying other yard setbacks and setbacks for utility lines and creeks or drainage ditches and travelled roads -it would present challenges to develop these properties with new buildings
- construction on waterfront properties represents a major industry in our area and the economic viability of our area in the future will likely be very dependent on redevelopment of existing waterfront properties
- market forces indicate that basic summer cottages will be replaced with 4 season modern structures likely about twice the size of the previous structure.-based on my real estate experience, the current demand is for a nice lot with a tear down cottage for redevelopment ...
- the most important task facing this planning committee is dealing with the 30 meter set back and it is very important that the implications be clearly understood and serious hardships mitigated and consideration may be needed to initial amendments to the recently approved OPA # 3 to resolve issue to find the appropriate balance between achieving environmental protection and respecting property rights.

Zoning Setback in Burleigh Anstruther Zoning Bylaws

The first zoning bylaw for Burleigh Anstruther was in 1979 and had a water yard setback of 20 ft except where a 66 ft road allowance existed.so basically it was 70 ft except for Stoney lake in South Burleigh Township..susequently if I recall about late 80's the 70 ft was applies to South Burleigh through a zoning amendment

The OMB decision No 0602 has a provison to allow decks to be constructed in the water set back 12' in depth provided 29 ft from high water mark. My clear recollection was that this was to accomodate **EXISTING non complying cottages** within the water setback to reduce the number of variance applications. Clearly it was never intended to reduced the 70 ft setback to 58 ft which recently I was disturbed to learn was the practice. In fact , currently we appear to have a 58 ft water set back in out municipality which was never intended when that zoning bylaw was developed.

First North Kawartha Zoning Bylaw

- amendment ? or Consolidation of 2 existing? or new bylaw

I sense that options MAY exist as to whether the proposed new comprehensive bylaw would be an **amendment or consolidation or new bylaw** and understand implication may involve the rights of property owners to appeal any provision of the bylaw if considered a new bylaw..we should not intentionally select a process that would eliminate the rights of affected persons to appeal--and

It would appear to me that the very important consideration is whether the adoption of the new comprehensive bylaw alters the status of any **unlawful non-conforming use making it lawful non-conforming use** upon the date of adoption of the new comprehensive by-law-

Current Shoreline Building Enlargements:

Provisions exist in the Burleigh Anstruther and Chandos Zoning bylaws dealing with enlargements of buildings situated within the water setbacks. I often hear that this formula for

permitted expansion was developed between the township (Burleigh Anstruther and MNR) This is not so. The expansion formula along with provision for decks into the water setback and exemptions for stair and landing of certain sizes was based on an OMB decision No 0602 - copies are available of both the appeal and decision.

Septic Setbacks (attached)

Other issues

- Shoreline residential zoning -suggest Waterfront Residential and permit residential use
- Tree cutting Bylaws
- Classification of Lakes (TSW/other) (Cold water War water) (Large Medium small)
- Quality of Zoning Schedules
- Why stricter controls on cold water lakes ?
- portable buildings
- definition of reconstruction
- provision for established building line
- method of calculation per cent lot coverage
- maximum allowable dwelling size
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