

DOUG ARMSTRONG
ADMINISTRATOR, CLERK-TRESURER
COUNTY OF PETERBOROUGH

DEAR DOUG

LAST OCTOBER I RECEIVED A FAVORABLE DECISION FROM THE OMB REGARDING ON AN APPEAL I HAD BEEN WORKING ON ALL SUMMER WHICH AFFECTED A WETLAND. I AM VERY PLEASE TO PROVE YOU WITH A COPY FOR YOUR INFORMATION AND WOULD LIKE TO SHARE WITH YOU SOME THOUGHTS ON THE CASE AND PARTICULARLY WHERE IN MY OPINION THE THE PLANNING PROCESS **ALMOST** FAILED TO PROTECT ONE OF THE FEW REMAINING WETLANDS ON STONEY LAKE IN PETERBOROUGH COUNTY.

BACKGROUND

THE DEVELOPER (STONEY LAKE DEVELOPMENTS) APPLIED TO PETERBOROUGH COUNTY LAND DIVISION COMMITTEE FOR A SEVERANCE OF A PARCEL OF LAND FRONTING ON A NARROW, SHALLOW WEEDY BAY ON STONEY LAKE. THE PROPOSED PARCEL WAS DEFICIENT IN FRONTAGE. DEVELOPER EMPLOYED A PROFESSIONAL PLANNER TO HANDLE THE SEVERANCE

PETERBOROUGH COUNTY LAND DIVISION COMMITTEE CIRCULATED THE SEVERANCE APPLICATION TO SEVERAL AFFECTED AGENCIES SUCH AS MNR, MOE, TRENT SEVERN WATERWAY AND THE TOWNSHIP. NO AGENCIES REGISTERED ANY OBJECTIONS EVEN THOUGH IN 1990 THE FEDERAL GOVERNMENT HAD ISSUED A STUDY OF WETLANDS FOR STONEY LAKE WHICH IDENTIFIED THIS PARTICULAR SITE AS A SENSITIVE WETLAND AND FISH SPAWNING AREA. FROM WHAT I HAVE LEARNED, NO AGENCIES VISITED THE SITE.

ONE OF SEVEN MEMBERS OF LAND DIVISION COMMITTEE WAS DESIGNATED TO INSPECTS THE PROPERTY AND DID SO

THE PLANNING ADVISORY COMMITTEE OF TOWNSHIP REVIEWED THE SEVERANCE APPLICATION AND WERE INFLUENCED BY A STAFF REPORT BY THE BUILDING INSPECTOR WHICH SUPPORTED THE APPLICATION. THE PLANNING ADVISORY COMMITTEE OF WHICH I AM A MEMBER SUPPORTED THE APPLICATION BY A CLOSE RECORDED VOTE. I WAS NOT ABLE TO PERSUADE THE COMMITTEE OF THE WRONGS IN CREATING AN UNDERSIZED LOT IN SUCH AN ENVIRONMENTALLY SENSITIVE AREA.

TOWNSHIP COUNCIL SUPPORTED THE APPLICATION BY A 3/2 VOTE

SEVERAL LETTERS OF OBJECTION WERE SENT BY AREA COTTAGER ASSOCIATIONS TO THE PETERBOROUGH COUNTY LAND DIVISION COMMITTEE. **THESE LETTERS WERE CIRCULATED TO THE COMMITTEE MEMBERS AT THE HEARING BUT NOT READ.** THE CHAIRMAN SAID THEY WERE RUNNING BEHIND SCHEDULE! I AND OTHERS MADE PRESENTATION TO THE COMMITTEE IN OPPOSITION TO THE APPLICATION.

PETERBOROUGH COUNTY LAND DIVISION COMMITTEE DID NOT SUPPORT A MOTION BY THE ONLY MEMBER WHO INSPECTED PROPERTY TO DENY THE APPLICATION

PETERBOROUGH COUNTY LAND DIVISION COMMITTEE BEING INFLUENCE BY SUPPORT FROM THE MUNICIPAL COUNCIL , NO AGENCY OBJECTIONS AND COUNTY PLANNING STAFF REPORT STATING THE SEVERANCE COMPLIED WITH THE TOWNSHIP O.P. , **APPROVED THE APPLICATION** SUBJECT TO CONDITIONS.

A CONDITION OF LAND DIVISION COMMITTEE WAS REZONING BY TOWNSHIP COUNCIL FROM RURAL TO RECREATIONAL RESIDENTIAL AND TO PERMIT A DEFICIENT LOT FRONTAGE.

TOWNSHIP COUNCIL GAVE FIRST READING ON OCT 24/91 TO A BYLAW TO REZONE THE PROPERTY AND PERMIT THE UNDERSIZED LOT. THIS WAS PRIOR TO MUNICIPAL ELECTION . DURING THE 1991 MUNICIPAL ELECTION, CONSIDERABLE ATTENTION WAS GIVEN TO CANDIDATES COMMITMENT TO GOOD PLANNING AND THE COTTAGER ASSOCIATIONS COLLECTIVELY SUPPORTED 3 CANDIDATES WHO WERE ELECTED / ACCLAIMED.

SIX DAYS AFTER THE MUNICIPAL ELECTION, NOV 18TH, THE PREVIOUS COUNCIL MET AND PASSED THE CONTROVERSIAL REZONING BYLAW IN MY OPINION CONTRARY TO SECTION 108 OF THE MUNICIPAL ACT.

APPEAL

I APPEALED THE BYLAW DEC 16TH. THE APPEAL BEING AGAINST THE MUNICIPALITY WAS SOMEWHAT SENSITIVE AND ALMOST RESULTED IN ME NOT BEING REAPPOINTED TO THE TOWNSHIP'S PLANNING ADVISORY COMMITTEE AND COMMITTEE OF ADJUSTMENT. IN FACT I DID NOT MAKE THE FIRST DRAFT!

THE NEW COUNCIL DID NOT COMPLY WITH MY REQUEST TO REVOKE THE BYLAW. THEY WERE INFLUENCED BY THEIR CONSULTANTS REPORT WHICH STATED THAT THE MUNICIPALITY HAD ENTERED INTO AN AGREEMENT REGISTERED ON TITLE TO GRANT 2 SEVERANCES ON THE PROPERTY. OF COURSE NO SUCH AGREEMENT IS ON TITLE AS THE TOWNSHIP IS NOT A CONSENT GRANTING AUTHORITY. THE TOWNSHIP DID ADVISE THE OMB THAT THEY DO NOT SUPPORT THE BYLAW AND WOULD NOT ATTEND THE HEARING TO DEFEND THE BYLAW

TRENT SEVERN WERE PERSUADED THROUGH HELP I SOUGHT AND RECEIVED FROM THE FEDERAL MINISTERS OFFICE TO WITHDRAW THEIR SUPPORT FOR THE SEVERANCE AND REZONING IN LIGHT OF THE NEW FEDERAL WETLAND CONSERVATION POLICY (ISSUED MAR 92) WHICH HAD APPLICATION AS THE BED OF STONEY LAKE IS UNDER FEDERAL JURISDICTION

MNR WERE NOT HELPFUL AT ALL EVEN THOUGH THE PROVINCIAL WETLAND POLICY WAS IN EFFECT JUNE 27TH. THE SHORE OF THIS PARTICULAR PROPERTY WAS ALSO THE BOUNDARY BETWEEN 2 DISTRICT MNR OFFICES AND NEITHER OFFICE UNDERSTOOD WHO WAS RESPONSIBLE FOR WETLAND ISSUES.

THE LINDSAY MNR OFFICE CLAIMED THE WETLANDS POLICY HAD NO APPLICATION TO THE CASE AND IF ASKED TO ATTEND THE HEARING WOULD SUPPORT THE SEVERANCE. THE DAY BEFORE THE HEARING I WAS ADVISED THAT 2 SENIOR STAFF FROM MNR (TORONTO & HUNTSVILLE) WOULD ATTEND THE HEARING TO TESTIFY AGAINST MY POSITION REGARDING THE PROPOSED DEVELOPMENT AND MY INTERPRETATION OF THE NEW WETLANDS POLICY . THEY EVENTUALLY DID NOT ATTEND.

THE HEARING TOOK PLACE OVER 3 DAYS JULY 29, AUG 7 AND AUG 26 AND THE BOARD RULED THAT FOR VARIOUS REASONS THE APPEAL WAS ALLOWED. THE APPLICATION WAS IN SERIOUS CONTRAVENTION OF THE APPLICABLE OFFICIAL PLAN EVEN THOUGH THE TOWNSHIP PLANNING ADVISORY COMMITTEE, TOWNSHIP COUNCIL, COUNTY PLANNING STAFF, COUNTY LAND DIVISION COMMITTEE AND OWNER PROFESSIONAL PLANNER CLAIMED THAT THE APPLICATION WAS IN COMPLIANCE.

I TAKE PARTICULAR SATISFACTION IN THE BOARD'S SUPPORT TO MY ARGUMENTS THAT THE NEW PROVINCIAL WETLAND POLICY HAS APPLICATION TO MORE THAN JUST PROVINCIAL SIGNIFICANT WETLAND. MNR MAY NOT HAVE INTENDED TO REQUIRE ENVIRONMENTAL IMPACT STUDIES (POLICY 2.2) FOR ALL WETLANDS BUT REGARDLESS OF WHAT STAFF SAY WAS INTENDED, THE BOARD ACCEPTED ARGUMENTS THAT THE POLICY AS WRITTEN OFFERS PROTECTION TO MORE THAN JUST PROVINCIAL SIGNIFICANT WETLANDS.

IT WILL BE INTERESTING TO SEE IF THE MNR STAFF HAVE THE COURAGE TO GO BACK TO TWO MINISTERS AND ASK THAT THE WETLAND POLICY BE REISSUED BECAUSE IT DOES NOT SAY WHAT THEY (STAFF) INTENDED FOR IT TO SAY. AFTER SUCH A LONG TIME GETTING IT OUT IT SHOULD HAVE SAID WHAT IT WAS INTENDED TO SAY.

WHAT I HAVE LEARNED FROM THIS EXPERIENCE IS AS FOLLOWS:

- WE MUST ELECT POLITICIANS COMMITTED TO GOOD PLANNING
- WE MUST MONITOR POLITICIANS PERFORMANCE ON PLANNING MATTERS
- POLITICIANS MUST BE ACCOUNTABLE AND THEREFORE ALL PLANNING MATTERS SHOULD HAVE RECORDED VOTES - CURRENTLY LAND DIVISION AND COMMITTEE OF ADJUSTMENT DO
- OMB PROCESS IS VERY STRESSFUL, INTIMIDATING AND VERY EXPENSIVE
- I NOW SUPPORT INTERVENER FUNDING FOR OMB APPEALS
- COMMENTING AGENCIES DO NOT PAY ADEQUATE ATTENTION TO SINGLE SEVERANCES WHICH RESULT IN DESTROYING WETLANDS A LITTLE BIT AT A TIME

- JURISDICTIONAL PROBLEMS EXIST BETWEEN MNR OFFICES AND TRENT SEVERN
- THE MINISTRY OF MUNICIPAL AFFAIRS OFFERS NO HELP WHEN IT IS BROUGHT TO THEIR ATTENTION THAT SEVERANCES ARE BEING APPROVED CONTRARY TO THEIR OFFICIAL PLAN FOR THE MUNICIPALITY. YES IT IS THE PROVINCES OFFICIAL PLAN AS THEY APPROVE IT AND ANY CHANGES
- THE MINISTRY OF MUNICIPAL AFFAIRS OFFERS NO HELP WHEN LANDS ARE BEING REZONED CONTRARY TO THE IN EFFECT OP
- UPPER TIER COUNTY LAND DIVISION COMMITTEES ARE IMMUNE TO POLITICAL ACCOUNTABILITY FOR THEIR DECISIONS

I TRUST THIS DECISION AND MY EXPERIENCE IS OF SOME INTEREST TO YOU.

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