

**Submission #2 dated Feb 9 2022 by Ambrose Moran re County of  
Peterborough Proposed Official Plan**

**SUBJECT: Proposed Prohibition of Private Roads**

**Background**

Havelock Belmont Methuen Twp adopted a new OP In Nov 2012 and that plan was approved by Peterborough County with modifications in 2014.

That HBM approved OP included a provision **to prohibit new private roads** which I appealed.

My views on Private Roads as that time are still valid and are provided per Attachment

#1 titled Havelock Belmont Methuen Submission #1 to Peterborough County Planning

Department Dated May 11 20-13 and Attachment #2 titled HBM OP appeal by Ambrose

Moran which was prepared as part of negotiations to settle the Private Road part of my appeal.

**The prohibition of private roads was removed from the HBM OP through negotiations with HBM Lawyer / Planner /Staff and a Staff Planner representing Peterborough County.**

Minutes of Settlement (MOS) were signed by HBM Mayor/County Warden /and my self

Applicable sections related to private roads in MOS per OMB CASE NUMBER PL140395

are as shown below

## ONTARIO MUNICIPAL BOARD

Case Number: PL140395  
File Number: PL140395  
Municipality: Township of Havelock-Belmont-Methuen  
Official Plan: 150P-12011  
By-Law No.: By-Law No. 2012-55  
Appellant: Ambrose Moran

## MINUTES OF SETTLEMENT

### (ii) *Item #2* – Private Roads

The Township proposes to:

- Delete the last sentence of the 2<sup>nd</sup> paragraph of Section 2.1.5.4 (page 10) of the Official Plan; which reads as follows:

*“The development of the new private roads will not be permitted.”*

- Delete the first sentence of the 4<sup>th</sup> paragraph (Page 10) of the Official Plan which reads as follows:

*“The creation of new private roads is not permitted.”*

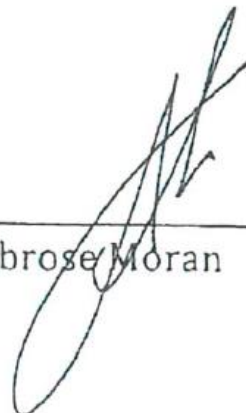
IN WITNESS WHEREOF the party herein has set his hand and seal.

Dated: October 30, 2014

SIGNED, SEALED AND DELIVERED  
in the presence of

  
\_\_\_\_\_

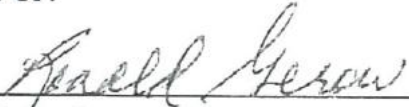
Witness as to the signature of  
Ambrose Moran


)  
)  
)  
)  
)  
\_\_\_\_\_ Ambrose Moran  


IN WITNESS WHEREOF the party herein has affixed its corporate seal attested by the hands of its officers duly authorized in that behalf.

*December 1, 2014*  
Dated: ~~October~~ 1, 2014

The Corporation of the Township of  
Havelock-Belmont-Methuen  
Per:

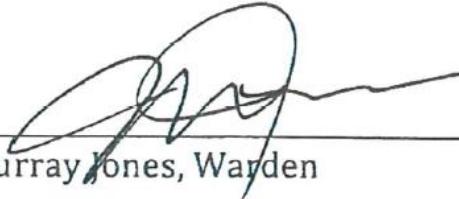
  
\_\_\_\_\_ Ron Gerow, Mayor

  
\_\_\_\_\_ Glenn Girven, Clerk

**IN WITNESS WHEREOF** the party herein has affixed its corporate seal attested by the hands of its officers duly authorized in that behalf.

January 7, 2015  
Dated: ~~October 2, 2014~~

The Corporation of the County of Peterborough  
Per:

  
\_\_\_\_\_  
J. Murray Jones, Warden

  
\_\_\_\_\_  
Sally Saunders, Clerk

## **COMMENT**

**After expending considerable effort getting the private road prohibition removed**

**from the HBM OP.. now the new proposed County OP has again introduced the SAME prohibition of private roads per 10.2.1!! see below**

## 10.2.1 Private Roads

This Plan recognizes private roads as travelled routes which are generally not maintained by a public authority. There is no commitment or requirement by any public authority to assume responsibility for ownership or maintenance of any private road.

Municipal services such as emergency response, waste collection, maintenance and school bussing may be limited or non-existent on private roads. There is no commitment or requirement by any public authority to increase the levels of service on any private road.

Lots with access from a private road may be zoned in a separate zoning category to recognize the limited service.

The creation of new private roads and the extension of existing private roads is prohibited, unless the private road to be created forms part of an application for a plan of condominium and the roadway will be assumed and maintained by the condominium corporation.

### Recommendation

**Draft County OP section 10.2.1 be deleted and the following simple policy be included:**

**Private Roads** on both crown and private properties exist and are generally open to the public, but whose maintenance and responsibility has not been assumed by the municipalities. These roads may therefore be maintained privately, usually by those individuals who obtain access to their properties over the subject roadways. These roadways are generally capable of carrying limited volumes of traffic.



**Ambrose Moran**

239 FR 52 North Kawartha K0L1A0

Acting Independently

# ATTACHMENT #1

Havelock Belmont Methuen (HBM) Official Plan

## Submission #1 to Peterborough County Planning Department by Ambrose Moran Dated May 11 2013

### **Subject-Private Roads 2.1.5.4**

#### **BACKGROUND**

A very large percentage of waterfront properties in HBM Township are access by private roads constructed on both crown lands and private lands without any financial contribution to capital cost or maintenance cost by HBM. As an example on Jack lake within HBM, I would estimate 100% of the waterfront residences are accessed by private roads.

#### **COMMENTS**

##### **RESTRICTING DEVELOPMENT ON PRIVATE ROADS**

The proposed OP policies restrict development on private roads and encourage development on lots fronting on municipally maintained roads. Economic development in the HBM area is greatly dependent on construction activity (development) around lakes on properties access by private roads. The construction activity fall within the definition of development (page #22) being "...construction of buildings and structures or significant addition thereto..."

##### **Section 2.1.5.4 Private Roads In Waterfront and Rural Areas**

Included the following:

*New development in the shoreline area should generally occur on lots containing frontage on a municipally maintained road*

This policy is inappropriate since most of the lots within the shoreline area are on private roads and in the case of Jack Lake ALL the lots are on private roads –so this would mean development should generally NOT occur on Jack Lake and the many other lakes which have lots predominantly access by private roads.

##### **PROHIBITING NEW PRIVATE ROADS**

Section 2.1.5.4 States:

The development of new private roads will not be permitted

The creation of new private roads in not permitted Page #10

Comment

Does the Planning Act regulate construction of private roads?—the Planning Act through subdivision and condo approval process can regulate roads as part of the development approval process but in my opinion the Planning Act does not regulate construction of private roads on either public or private properties. Most private roads in HBM and typically in cottage country are built on provincial crown lands with permits issue issued through the Public Lands Act (PLA) and for the purpose of accessing privately owned waterfront lots. This is historically how many lakes have developed in Northern Peterborough County. The townships have benefited from the economic benefit of the lakes being available for year round use and also have benefited from additional property taxation revenue as MPAC generally increase the property value assessment by 30% once road is available to the property.

**Why would a municipality adopt a policy to prohibit new private road when this would negatively affect the economic development of the township and hinder increased municipal assessment?**

Section 2.1.5.4 states *Minor extensions to private roads not exceeding 591 feet may be permitted to existing private roads..any extension to a private road shall be designed by a professional engineer or person competent in road construction—*

Comment

-so either a professional engineer or bulldozer operator!

How could twp regulate or require competence for constructors of private roads on Crown lands permitted under the Public Lands Act?

Section 2.1.4.5 States:

*A new private condominium road may not be created by way of extension or addition to an existing private road. A new private condominium road may only be permitted if the new road directly connects to a public road and where the subject land has legal frontage on the same public road*

Comment

It would make no good business sense to have a condominium development rather than a subdivision if the condominium road and development had direct access to and frontage on a public road.

The above policy would not have allowed the Jack Lake Estates development to be approved which would negatively affect the economic development of HBM township and deny the current and continuing windfall assessment increase.

**RECOMMENDATIONS**

#1

Section 2.1.5.4

- be revised significantly prior to approval by Peterborough County Planning Department
- development not be restricted generally to lots frontage on municipal roads
- township not prohibit new private roads
- township not dictate competence of private road builders
- condominiums not be require to front on or be directly connected to township roads

Ambrose Moran

Jack lake

## ATTACHMENT #2

# HBM OP Appeal by Ambrose Moran

settlement negotiation  
document

## Item # 3 Private Roads --Comments & Questions & Proposal Oct 8 2014

### Background

My submission #1 to Peterborough County Planning Department dated May 11 2013 provided background info and should be read in conjunction with this submission.

My OP appeal item #3 related to private roads was discussed at our Aug 12<sup>th</sup> meeting and since that time have further looked into the issue.

### My research

Nothing in the PPS 2012 prohibits new private roads

Nothing in the current in effect HBM Official Plan prohibits new private roads

Nothing in the County of Peterborough OP prohibits new private roads

No other OP in Peterborough County that I have reviewed prohibits new private roads

–OP in Haliburton States County will assess the suitability of development on the County transportation and other road network (local roads and existing private roads).

Muskoka District OP states Private roads are travelled roads which are not generally maintained by a public authority

County of Frontenac Draft OP 2 Nov 2013 – word private roads not found in OP

County of Hastings OP =word private road not found

### **Trent Lakes OP July 2014**

#### 7.14 Private Roads

Private Roads are right-of-ways which may be open to the public, but whose maintenance and responsibility has not been assumed by the Township of Galway-Cavendish and Harvey. These roads are therefore maintained privately, usually by those individuals which obtain access to their properties over the subject roadways. These roadways have originated historically and are generally capable of carrying limited volumes of traffic



75%



### Highlands East OP

Private roads and privately maintained right-of-ways are roads which are generally open to the public but whose maintenance and responsibility has not been assumed by the Municipality of Highlands East. These roads are, therefore, maintained privately usually by those individuals who obtain access to their properties over the subject roadways. These roadways are generally capable of carrying limited volumes of traffic.

### Selwyn Zoning Bylaw consolidated Nov 2012

#### 3.36 Private Roads and Rights-of-Way

Nothing in this By-law shall apply to prevent the use of land for the purposes of a private road or private right-of-way

**Contacted Ministry of Municipal Affairs and Housing- Kingston** → Spoke to Planners **John MacDonald and Andrea Gummo** asked about details on province's new policy regarding constructing new private roads--- province of Ontario does not have a current written policy and last policy was written in 1980's --→ which does not prohibit new private roads

## Discussion/Comments/Questions

The **issues paper** provided to me with **red notations** resulting from the Aug 12 meeting states as underlined"

- **Conforms with County of Peterborough OP**

County OP does not prohibit new private road

Question –*how did Jack lake Estates vacant land condominium get approved if County of Peterborough OP does not permit new private road and require condo road to directly connect to municipal toad?*

Question –*how did Scott Bagby construct new private road through his potential developm*  
*policy?*

this OP



Question: Can new roads be constructed in advance of a development application?

Question Has any private road policy in Peterborough County OP changed since approval of Vacant land Condominium known as Jack Lake Estates in HBM?

- **Maintains intent of 2004 HBM OP which is silent on private road policies**

*How can an OP policy maintain intent of a policy which does not exist?*

- **Maintains intent of PPS**

PPS does not include any reference to private road-encourages safe transportation route-→obviously a private road would be safer transportation route than water access which could be approved=Private road offer more efficient and effective method of providing services such as ambulance fire and police and have contributed to a functioning waterfront community without any burden on municipal tax structure- in fact has new private roads have increase affected municipal assessment by 30% compensating municipalities without any public capital expenditure.

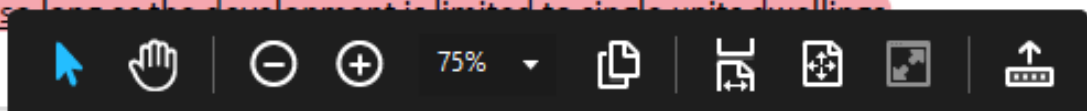
- **These policies developed with staff and lakeside communities**

I followed development of the new HBM OP and attended most meetings and open houses and serious doubt any cottage association representative or cottager acting independently ever suggested or supported any policy prohibiting new private roads.

- **Simply deleting the policy prohibiting new private roads is not possible**

Why not ?? as other County and Twp OP's do not have such a policy.

- **New private development is permitted on existing private roads in waterfront and rural areas so long as the development is limited to single units dwellings**



So does this allow a private road to be built in advance of a development application in order to be establish a new private road as on an EXISTING private road?

- **Private roads must have direct access to a public road and must be constructed and maintained in accordance with Township standards**

So where in any Act does a township have authority to require a private road built on private land or on crown land to be constructed and maintained in accordance with Township standards ?—and how could this policy for construction and maintenance be enforced through any implementing bylaw and under what Act.?

- **Section 1.6.7 of the PPS states that transportation systems should be provided which are safe, energy efficient, facilitate the movement of people and goods, and are appropriate to address projected needs.**

Yes the PPS in fact supports private roads which traditionally are safe –more energy efficient than using water access- facilitate movement of people and goods and are appropriate to address the projected needs

Introduction of private roads around Jack Lake has offered safe more reliable access to properties in a more energy efficient and safer way than using water access- and movement of goods such as construction materials required for economic development has only been practical based on introduction of private roads rather than barging material across lakes. The needs of all cottagers on Jack Lake are satisfied by private roads providing for more intensity of use and contributing to the local economy. What could be more efficient than cottagers at their own capital expense constructing roads without any infrastructure grants and maintaining the road to a standard determined by users at their expense while at same time contributing more tax dollars to municipalities based on approximately 30% increased assessment due to being road accessible as compared to water access.

- **Where access to properties is provided by private roads, municipal services such as snow plowing or road maintenance and improvement are neither available nor the responsibility of the Township. In addition, in some cases other public services including police, fire and ambulance may be unavailable or limited. These factors pose a risk to those utilizing properties that are accessed via private roads**



Of course road maintenance of private road is not the responsibility of townships –it is more efficient for road associations using volunteers to maintain a private road than any public body maintenance cost for public roads.

Provisions of police fire and ambulance services is definitely more efficient and cost effective utilizing private road access rather than water access which is the alternative and appears to be a permitted option available if such a prohibition of private roads is accepted by the elected officials.

It is noteworthy that on Jack Lake all cottages are located on private roads and most significant new lot creations are likely only possible or practical on new private roads. There is limited market demand for water access properties.

Most private roads are built on Crown Lands around Jack Lake and other lakes in this area and such roads are allowed to be constructed through permits under the Public Lands Act.

Question Would this OP policy stop or intend to stop construction of roads on Crown Lands?

Question If the policy of no new roads is to apply only to private land does the Planning Act regulate construction of roads?

Question What section of the Planning Act give authority to Municipalities to prohibit new private road son either private or Crown lands

### The Jack Lake Estates

The proposed prohibition policy would not permit the approval of the Jack Lake Estates Vacant Land Condo development which is the most significant and only major waterfront development in HBM in my memory. This



project when complete will contribute approx. 1.3 million in property taxes per 10 year period and approx. \$11 million dollars in economic development during construction stage-economic development is supported by the PPS.

Providing private road to waterfront cottages as opposed to depending on water access supports the goal of the PPS by enhancing the life of Ontarians.

I doubt the current elected official in HBM would be prepared to support the private road prohibition policy if they understood the implications of prohibiting future waterfront development on area lakes within HBM.

## Proposal

Current lengthy impractical and unacceptable policies in HBM OP sections 2.1.5.4 be deleted and replaced with the following simple policy

**Private Roads** on both crown and private properties exist and are generally open to the public, but whose maintenance and responsibility has not been assumed by the Township of Havelock Belmont Methuen. These roads are therefore maintained privately, usually by those individuals who obtain access to their properties over the subject roadways. These roadways are generally capable of carrying limited volumes of traffic.



Ambrose Moran



