

Submission #9 to North Kawartha PAC

by Ambrose Moran Dated Feb 19 2009

Subject **30 Meter Setback Update – Effective Date**

BACKGROUND

There also has been a misunderstanding that the basis of the 30 meter setback is the Provincial Policy Statement.

At the Planning advisory committee meeting Feb 5 2008, the PAC heard the following comments from provincial representatives dealing to the 30 meter setback -no legal status—in lot of literature-no MOE legislation for 30 meter—not legislated but in OP-zoning has to conform-not just recommendation-zoning must conform-

-that it is not in the provincial policy statement-that it is in the County of Peterborough Official Plan which was approved by the province.

There has been lot of discussion in the committee and in the community regarding the date the 30 meter setback from water bodies goes into effect. There also has been information distributed to ratepayers through newsletters¹ indicating that the 30 meter setback goes into effect March 2009. It is established practice in planning in Ontario that Official Plans outline policy issues and the implementation of those policies is through the enactment of municipal bylaws. Zoning bylaws “state exactly where buildings and other structures can be located²”

COMMENT

What did not get clarified was the effective date of the 30 meter setback for North Kawartha. Brian Weir indicated he needed to get a legal opinion on the wording in the County OP as it was apparent he was not comfortable to interpret section 4.4.3 related “where require amendment to bring each local plan and zoning bylaw into conformity with the 30 meter setback requirements will be adopted within three years of the date this Official Plan is approved.”³

County OP states

Conformity with the Official Plan “The Township shall amend their Zoning Bylaws to establish development standards **Until such time that the Zoning By-laws can be amended to bring them into conformity with**

¹ Township of North Kawartha Newsletter February 2008

² Citizens’ guide Zoning Bylaws 3 in series Updated 2008

³ County of Peterborough Official Plan section 4.4.3 Consolidated March 2006 page 4-23

the Plan or repeal to allow a new By-law to be enacted, the existing Zoning Bylaw shall remain in effect.

Robert Pakenham stated ⁴ “assuming that no federal or provincial regulations involved, one then looks to the zoning by-law in effect in the municipality to determine whether a building permit is available for the proposed building site

I have not received any notice of a public hearing as required by the Planning Act to advise me that the zoning provision applicable to my property in North Kawartha are proposed to be change to restrict certain types of structures and septic system to be set back 30 meters from water bodies.

RECOMMENDATION

whereas setbacks for structure from lakes are traditionally established through zoning bylaws in accordance with provision of the planning act including notice and appeal provisions---
and

whereas the County OP policy states that the existing zoning bylaws will remain in effect until such time as the Zoning Bylaws can be amended to bring them into conformity with the Plan (County OP)

I RECOMMEND:

THAT THE PAC RECOMMENDS TO COUNCIL THAT STEPS BE TAKEN TO CLARIFY TO RATEPATYERS AND THE LOCAL CONTRACTORS THAT THE 30 METER SETBACK FOR THE PURPOSE OF BUILDING PERMITS WILL GO INTO EFFECT ONLY WHEN THE NEW ZONING BYLAW IS APPROVED AND ANY APPEALS IF ANY ARE RESOLVED AND

THAT APPLICATION AFTER Oct 28 2008 FOR ZONE AMENDMENTS MINOR VARIANCES OR CONSENT WILL BE GOVERNED BY COUNTY OP POLICIES INCLUDING THE 30 METER SET BACK PROVISIONS.

Ambrose Moran

⁴ Letter dated Sept 20 2008 from Robert Pakenham to Bryan Weir