

ISSUE DATE:

June 22, 2012



PL110763

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Douglas Davis has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the Township of Muskoka Lakes to redesignate land at the Part 8, Plan BR-92 to permit the construction of a 2-storey boathouse

Approval Authority File No. OPA-45
OMB File No. PL110763

Douglas Davis has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 87-87 of the Township of Muskoka Lakes to rezone lands respecting 15-1184 Mortimers Point Road to permit the construction of a 2-storey boathouse
OMB File No. PL110764

APPEARANCES:

Parties

Counsel

Douglas and Joy Davis

M. Green

Township of Muskoka Lakes

H. Elston

MEMORANDUM OF ORAL DECISION DELIVERED BY J. G. WONG ON APRIL 24, 2012 AND ORDER OF THE BOARD

Douglas and Joy Davis (Applicants) are appealing refusals by the Council of the Township of Muskoka Lakes (Township) to approve of an Official Plan Amendment (OPA) and a related Zoning By-law Amendment (ZBLA) to construct a two-storey boathouse at 15 - 1184 Mortimers Point Road (Subject Property). The purpose of the OPA is to amend the Township's Official Plan (OP) to permit a two-storey boathouse that would have resulted in lot coverage of 11.9% whereas the maximum permitted lot coverage is 10%. The purpose of the ZBLA is to amend Comprehensive Zoning By-law 87-87 to permit a two-storey boathouse and a reduced side yard setback of 42 feet

instead of the required 45 feet from the side lot line. Both of these appeals have been consolidated for the purposes of this hearing.

Part way through the hearing, counsel for the Applicants advised the Board that a settlement has been reached. As part of the settlement, the Applicants are withdrawing their appeal of the OPA. The OPA is no longer required because the lot coverage is being reduced from 11.9% to 11.0% which is permitted.

Greg Corbett, a qualified land-use planner, provided planning evidence in support of the settlement. Mr. Corbett provided the only planning evidence and his evidence was not challenged. Mr. Corbett testified that the proposed ZBLA (Exhibit 4) is consistent with the Provincial Policy Statement (PPS) and it conforms to the upper tier District of Muskoka Lakes Official Plan.

In Mr. Corbett's opinion, the proposed ZBLA conforms to the OP and represents good planning. That the proposed ZBLA will have no adverse environmental impacts, and that the built-form of the boathouse will not dominate the natural environment and it will maintain the existing character of the shoreline. The proposed development will cover 16.3% of the actual shoreline, as compared to the 25.0% limit contained in the OP. The proposed ZBLA will utilize the existing dock and transfers lot coverage by removing a portion of the existing shed and adding this coverage to the proposed boathouse for a total lot coverage of 11.0% which is permitted (1.0% over the 10.0% limit). The Applicants have also agreed that that no additional buildings will be erected on the Subject Property.

On the basis of the settlement between the parties, the uncontradicted land-use planning evidence and opinions of Mr. Corbett and the submissions of counsels, the Board is satisfied that the proposed ZBLA (Exhibit 4) conforms to the PPS and is consistent with the District and Township Official Plans.

THE BOARD accepts the request of the Applicants to withdraw their Official Plan Amendment appeal;

AND THE BOARD ORDERS the appeal against Comprehensive Zoning By-law 87-87 is allowed and the Township of Muskoka Lakes is directed to amend Comprehensive

Zoning By-law 87-87 in accordance with the form of Attachment "1" (Exhibit 4) to this Order. The municipality is authorized to assign its own numbering system to the Zoning By-law Amendment.

This is the Order of the Board.

"J. G. Wong"

J. G. WONG
MEMBER

Attachment "1"

BY-LAW 2012-53

Being a By-law to amend Comprehensive Zoning By-law 87-87, as amended, in the Township of Muskoka Lakes

WHEREAS the authority to pass this by-law is provided by Section 34 of the Planning Act, R.S.O. 1990, Chapter P.13 and amendments thereto;

AND WHEREAS By-law 87-87 was enacted by the Corporation of the Township of Muskoka Lakes to regulate land use within the Municipality;

AND WHEREAS the Council of the Corporation of the Township of Muskoka Lakes receive an application for an exemption to By-law 87-87 respecting land described as Part of 21, Concession G (Medora) in the Township of Muskoka Lakes;

AND WHEREAS a building permit application for a two storey boathouse was received in December 2004;

AND WHEREAS the Township of Muskoka Lakes passed By-law 2005-05 (Waterfront Density) on January 3, 2005 requiring 300 feet of frontage for a two storey boathouse;

AND WHEREAS the Official Plan recognizes lot coverage for existing buildings;

AND WHEREAS the shed is to be reduced in size to permit the lot coverage for the proposed boathouse;

AND WHEREAS the Council of the Corporation of the Township of Muskoka Lakes deems it advisable to further amend By-law 87-87;

NOW THEREFORE the Council of the Corporation of the Township of Muskoka Lakes enacts as follows:

1. Section 9 of By-law 87-87 is hereby further amended by adding the following exemptions:
 - 87-1251 i) The lands affected are described as Part of Lot 21, Concession G (in the former Township of Medora) now in the Township of Muskoka Lakes, more particularly described as Lot 8, Plan BR-92, as shown on Schedule I to by-law 2012-53.
 - ii) Despite the provisions of Section 3.1.2.a of By-law 87-87, as amended, for those lands described above, the maximum permitted lot coverage for the purpose of a boathouse is shown in the location and extent on Schedule II to By-law 2012-53.
 - iii) Despite the provisions of Section 3.1.2.e of By-law 87-87, as amended, for those lands described above, a two storey boathouse shall be permitted on a lot with 212 feet of frontage, a first storey width of 34.1 feet and a second storey width of 30.5 feet as shown in the location and extent in Schedule II to By-law 2012-53. All other applicable provisions for a boathouse are based on 300 feet of lot frontage.

- iv) Despite the provisions of Section 3.1.2a of By-law 87-87, as amended, for those lands described above, there shall be no additional buildings erected over and above those structures shown on Schedule II to By-law 2012-53.

READ A FIRST AND SECOND TIME this ____ day of ____, 2012.

READ A THIRD TIME AND FINALLY PASSED this ____ day of ____, 2012.

Mayor, Alice Murphy

Cheryl Mortimer, Clerk

This By-law shall come into force and effect upon approval of the Ontario Municipal Board in the Township of Muskoka Lakes in the District Municipality of Muskoka this ____ day of ____ 2012.

