

ISSUE DATE:

March 27, 2008



PL070728

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Geoffrey Carter 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 66-1996 of the Township of North Kawartha to rezone lands respecting Plan 8, Part Lot 81, Township of Anstruther from Shoreline Residential to Shoreline Residential-117 to permit the location of a Sleeping Cabin / Bunkie
OMB File No. PL070728

APPEARANCES:

Parties

Counsel*/Agent

Township of North Kawartha

J. Ewart, K.P. Dwyer

Geoffrey Carter

P. Millard

**MEMORANDUM OF ORAL DECISION DELIVERED BY J.R. AKER ON
MARCH 13, 2008 AND ORDER OF THE BOARD**

Mr John Ewart, counsel for the Township of North Kawartha, advised the Board that the two parties have reached a settlement.

Mr. Robert Clark, a qualified planner, provided *viva voce* evidence and a witness statement (Exhibit 3) in support of the proposed amendment to Zoning By-law 66-1996.

The property is located in Part of Lot 81, Registered Plan No. 8 and Part of the Shore Road Allowance in front of Part of Lot 81, Registered Plan No. 8, Township of North Kawartha. The purpose of the rezoning application is to seek a reduction in the water yard setback requirement from 70 feet to 53.86 feet and a reduction in the side yard setback from 14.8 feet to 6.29 feet to recognize the existence of a bunkie.

Mr. Clarke reviewed the Provincial Policy Statement 2005 and in particular section 1.1.4, which contains policies for development in Rural Areas. In his opinion, the proposed Bunkie is permitted by the policies contained in PPS 2005.

Mr. Clark reviewed the Official Plan of the County of Peterborough and the Official Plan of the Township of North Kawartha. In his opinion, the bunkie complies with the policies contained in these two Official Plans.

Mr. Clarke reviewed the location of the Bunkie in relation to the topography of the subject property and the prevention of hazards due to flooding. In his opinion, the reduced setback from the highwater mark and the reduced western interior sideyard are appropriate and represent good planning.

No one spoke in opposition.

Based on the uncontested evidence of Mr. Clark, the Board finds that the proposed amendment to Zoning By-law 66-1996, is consistent with the Provincial Policy Statement 2005, conforms to the Official Plans of the County of Peterborough and the Township of North Kawartha and represents good planning.

The Board Orders that the appeal is allowed, and By-law 66-1996 is hereby amended in the manner set out in Attachment 1 to this Order. The Board authorizes the municipal clerk to assign a number to this by-law for record keeping purposes.

J. R. AKER
MEMBER

Attachment 1

THE CORPORATION OF THE TOWNSHIP OF

NORTH KAWARTHA

BY-LAW # 107

BEING A BY-LAW UNDER THE PROVISIONS OF SECTION 34 OF THE PLANNING ACT R.S.O. 1990, CHAP. P.13, AS AMENDED, TO AMEND ZONING BY-LAW # 66-1996, AS OTHERWISE AMENDED, OF THE CORPORATION OF THE TOWNSHIP OF NORTH KAWARTHA, WITH RESPECT TO CERTAIN LANDS DESCRIBED AS CONCESSION 1, PT. LOT 9, PART LOT 81, RP NO 8 IN THE GEOGRAPHIC AREA OF BURLEIGH, TOWNSHIP OF NORTH KAWARTHA, IN THE COUNTY OF PETERBOROUGH ROLL # 020-202-11000 (CARTER)

WHEREAS Zoning By-Law # 66-1996 as otherwise amended, was passed under the authority of a predecessor of Section 34 of the Planning Act, R.S.O. 1990, Chap. P. 13, as amended.

AND WHEREAS the Council of the Corporation of the Township of North Kawartha conducted a public hearing in regard to this application, as required by Section 34(12) of the Planning Act, R.S.O. 1990, Chap. P. 13, as amended.

AND WHEREAS the Council of the Corporation of the Township of North Kawartha deems it advisable to amend Zoning By-law 66-1996 as otherwise amended, with respect to the above described lands, and under the provisions of the Planning Act has the authority to do so.

NOW THEREFORE the Council of the Corporation of the Township of North Kawartha hereby enacts as follows:

That the proposed amendment will upon coming into force and effect, serve to amend By-Law # 66-1996 as amended in a Shoreline Residential - # 117 (S.R.-117) Zone

- i) To Recognize and Permit a Water Yard Set-Back of 16.41 metres (53.86 ft.) for the location of a 22.304 sq. metre (240 sq. ft.) 1 Storey Sleeping Cabin/Bunkey, this is an amendment to Section 7, Sub-Section 7.2, Paragraph (j) of Zone Provisions in a Shoreline Residential Zone and Section 3, Sub-Section 3.27 of General Provisions of By-Law 66-1996 as amended which requires a minimum Water Yard Setback of 21.33 metres (70 feet)
- ii) To Recognize and Permit an Interior Side Yard Setback of 1.91 metres (6.29 feet) for the above mentioned Sleeping Cabin/Bunkey, this is an amendment to Section 7, Sub-Section 7.2, Paragraph (g) of Zone Provisions in a Shoreline Residential Zone of By-Law 66-1996 as amended which requires a minimum Interior Side Yard Setback of 4.5 metres (14.7 feet).
- iii) It is acknowledged that in the event that the existing Sleeping Cabin/Bunkey is completely destroyed by natural causes or completely removed by the owner or his agents, servants or workmen or anyone acting under his direction, the same shall not be reconstructed in its current position but must comply with the setback provisions of the zoning by-law then in effect.

All other provisions in all other respects, as set out in the general provisions and the provisions of the Shoreline Residential Zone shall apply and be complied with as identified in By-Law No. 66-1996 as amended.

THAT this by-law shall come into force and effect on the day it is passed by the Council of the Corporation of the Township of North Kawartha, subject to the applicable provisions of the Planning Act, Statutes of Ontario, 1990 Chap. P. 13, as amended.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED IN OPEN COUNCIL
THIS 17TH DAY OF JULY, 2007.**

Jim Whelan, Reeve

Connie Parent, Clerk
