

ISSUE DATE:

April 5, 2012



PL100867

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Austin Boake
Appellant: Suzanne Steeves
Appellant: Paul Vorstermans
Subject: By-law No. 10-50
Municipality: Township of Clearview
OMB Case No.: PL100867
OMB File No.: PL100867

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Austin Boake
Appellant: Paul Vorstermans
Subject: Proposed Official Plan Amendment No. OPA #9
Municipality: Township of Clearview
OMB Case No.: PL100867
OMB File No.: PL101264

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Austin Boake
Appellant: Rosie & Roy Symes
Appellant: Paul Vorstermans
Subject: By-law No. 11-30
Municipality: Township of Clearview
Municipal File No.: ZB 2011-004
OMB Case No.: PL100867
OMB File No.: PL110462

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellants: Austin and Christine Boake
Appellant: Paul Vorstermans
Subject: Proposed Official Plan Amendment No. OPA #11
Municipality: Township of Clearview
OMB Case No.: PL100867
OMB File No.: PL110660

APPEARANCES:

<u>Parties</u>	<u>Counsel</u>
Creemore Spring Brewery Limited	M. Green and B. Ogunmefun
Township of Clearview	I. Rowe
County of Simcoe	M. Green and B. Ogunmefun
Austin and Christine Boake	V. Bacher
Paul Vorstermans	

**MEMORANDUM OF ORAL DECISION DELIVERED BY SYLVIA SUTHERLAND
ON MARCH 19, 2012 AND ORDER OF THE BOARD**

Creemore Spring Brewery Limited (the “Brewery”) proposes to expand its facility at 121 Mill Street (subject property) in the Village of Creemore (Creemore), in the Township of Clearview (Township) in the Country of Simcoe (County). For this purpose, the Township adopted four planning instruments: two amendments to its Official Plan (OP) and two to Zoning By-law No. 06-24 (ZBL)

Neighbours Austin Boake, Christine Boake and Paul Vorstermans (Appellants) appealed the OP and ZBL amendments to the Board. The Township and County defended the four planning instruments.

A pre-hearing conference was held on October 5, 2011 related to the appeals, and a hearing on the merits was scheduled for five weeks commencing on March 19, 2012. On January 10 and 11, 2012, the Board conducted a two day mediation session with the parties.

The Board was informed at the commencement of this hearing that Minutes of Settlement (MOS) (Exhibit 3) have since been signed by all the Parties. The Board then heard expert land use planning evidence and opinion from James Dymont in support of the MOS. Gordon Fuller, a biologist, and Vice President of Production at

the Brewery, addressed issues related to the proposal. Participants Michael Bennett and Dave Huskinson spoke in support of the Settlement.

Both participants spoke of the importance of the Brewery to the economic health of Creemore. Mr. Bennett, a local businessman and landowner, and past president of the Business Improvement Area, spoke of the Brewery as being “a huge asset to the village.” He pointed to the number of tourists who visit Creemore because of the Brewery. He said he was impressed with the MOS, with which he had been circulated, and thanked all the parties at having arrived at a settlement that will benefit everyone.

Mr. Huskinson said the Brewery was Creemore’s “anchor business”, and that it contributed greatly to the health of the village’s downtown. He spoke of the coast to coast promotion of Creemore by the Brewery, and of its support of many local events and charities, and its commitment to the citizens of Creemore. Mr. Huskinson recommended approval of the MOS.

Mr. Dymont outlined the process that had been gone through leading to the planned expansion of the Brewery, including the purchase of two abutting properties to facilitate loading operations and staff parking and the public consultations that had taken place. He stressed the effort on the part of the Brewery to work with the community to guarantee that the expanded facility will complement the historic nature of Creemore’s Mill Street streetscape.

Mill Street is Creemore’s downtown. It is historic and it is charming, with a largely Victorian streetscape comprised of several small locally owned shops, dining establishments and a fine book store. The Brewery, located at the south end of the business district, is a major employer in the community.

Mr. Dymont took the Board through the relevant planning instruments. He pointed out that the Provincial Policy Statement (PPS) stressed the need for the long term prosperity, health and safety, with a focus on existing settlement areas. Mr. Dymont told the Board that the Brewery expansion will mean upwards of an additional 80 jobs. He said the Growth Plan (GP) had a similar focus on the economic health of communities, and employment within communities. It was his opinion that the applications were consistent with the PPS and complied with the GP.

The County is the approval authority for the Township. Mr. Dymont said that the proposal meets the intent and purpose of the County's OP (COP). It enhances commercial activity in the core of Creemore, while maintaining the character of the community. The necessary studies related to traffic, noise and odour have been done. He said issues such as noise and traffic have been addressed, and that odour is in the process of being dealt with to the satisfaction of the Ministry of the Environment. It was Mr. Dymont's opinion that the applications meet the intent and purpose of the COP.

Among the objectives of the Township's OP is the development and expansion of existing industrial entities. The OP also stresses compatibility with the historic features and cultural attractiveness of Creemore's downtown. It was Mr. Dymont's opinion that the applications meet the intent and purpose of the OP.

Mr. Dymont explained that proposed OPA 9 (Exhibit 1, Tab 6) re-designates lands previously designated Residential to Commercial, while proposed OPA 11 (Exhibit 1, Tab 7) extends a Commercial designation to the southern portion of a block of land that had been designated Residential.

The ZBL changes necessary to implement OPA 9 and OPA 11 are outlined on a diagram in Tab 12 of Exhibit 1.

Mr. Dymont explained that the Township is in the process of finalizing its review of the proposed Site Plan, which adds an additional 20,000 square feet to existing operation. He also explained that there may be further "tweaks" made to the ZBLs, including the possibility of a single ZBL crafted to the satisfaction of all.

Mr. Dymont stressed the positive impact the expansion of the Brewery will have on Creemore, including the provision of a meeting room to be made available to the public.

Mr. Dymont recommended approval of the planning instruments, stating that they represented planning that was both appropriate and desirable.

Counsel for the Township and the Boakes took no issue with Mr. Dymont's opinion or recommendation, nor did Mr. Vorstermans. Ms. Bacher told the Board that her

clients operate a business across from the Brewery and that their main concern was the maintenance of the character of the street, noise and odour. She said they were content that satisfactory solutions had been found to these issues, including an increased buffer for landscaping.

Mr. Fuller said approval of the planning instruments will secure the Brewery's future in the village. He stressed that negotiations with the other parties "were never acrimonious."

The Order

Having heard the unchallenged expert opinion of Mr. Dymont, and the support of the neighbours and the community, as spoken by the two Participants, as well as Mr. Fuller's explanation of the way the Brewery is addressing local issues, the Board Orders that the appeals are allowed in part and Amendment No 9 and Amendment No. 11 to the Official Plan for the Township of Clearview is approved.

The Board further Orders that Zoning By-law 06-54 is amended as set out in Attachments "1" and "2" to this Decision and Order.

At the request of the parties, the Board withholds its Order until being advised by the Township that the Final Site Plan is in a form acceptable to the Township, and is in substantial conformity with the Draft Site Plan attached as Schedule C. to the Minutes of Settlement (Exhibit 3), or is in a form acceptable to the Township, even though it may not be considered in substantial conformity with the Draft Site Plan attached as Schedule E, but which the parties agree is otherwise acceptable.

The process for determining the above shall be as follows:

1. The solicitor of the Township shall advise the Appellants when it is prepared to approve the Final Site Plan, and will provide copies of that Site Plan to the Appellants.
2. Each of the Appellants and the Brewery will advise the Township and each other in writing whether they consider the Final Site Plan to be substantially in conformity with Schedule E, or whether it is otherwise

acceptable to them, within 21 days of receiving a copy of the Final Site Plan.

3. If all parties agree that the Final Site Plan is substantially in conformity with Schedule E, then the Township Solicitor shall advise the Board accordingly and request a hearing via teleconference to obtain issuance of the Board's Order.
4. If either of the Appellants concludes that the Final Site Plan is not in substantial conformity with Schedule E, and is not otherwise acceptable, either of the Appellants may request that the Board be spoken to regarding the issuance of its Order.
5. Further, if the Site Plan to be approved requires modification to the Planning Instruments, the Board may be requested to reconvene.

So Orders the Board.

"Sylvia Sutherland"

SYLVIA SUTHERLAND
MEMBER

ATTACHMENT #1

**THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW
ZONING BY-LAW NO. 10-50**

Being a By-law to amend zoning By-law 06-54 which is cited as the "Township of Clearview Comprehensive Zoning By-law".

WHEREAS the Council of the Corporation of the Township of Clearview deems it necessary, in the public interest to pass a by-law to amend By-law No. 06-54;

AND WHEREAS authority is granted under Section 34 of the Planning Act to enact this By-law;

NOW THEREFORE the Council of the Corporation of the Township of Clearview enacts as follows:

1. That Schedule B15 to By-law 06-54 is hereby amended by changing the zoning on land located on Lots 13,14,15 and 16, Plan 315, Lot 13 and 14, Plan 88 formerly in the Village of Creemore, now in the Township of Clearview from Prestige Industrial (MP) Zone, Residential Medium Density (RS4) Zone, and Residential Low Density (RS2) Zone to Downtown/Commercial/Industrial CM-1 Zone and as shown on Schedule "1" which is attached hereto and forms part of the By-Law.
2. That a new section to By-law 06-54 be created within Section 3 and entitled Downtown/Commercial Industrial (CM) Zone with the following provisions:

Permitted Uses:

- All permitted uses of Section 3.23.1 General Commercial (C1) and,
- Brewery

Accessory Uses:

- Accessory outdoor display and sales

Zone Provisions

- Minimum Lot Area 450m²
- Minimum Lot Frontage 10 m
- Minimum Front Yard 0 m
- Maximum Front Yard 2 m (applies to buildings not structures)
- Minimum Rear Yard 0 m unless adjoining a Residential Zone where the minimum setback shall be 5 m
- Minimum Interior Side Yard 0 m unless adjoining a Residential Zone Where the minimum setback shall be 5 m
- Minimum Number of Stories 2, of which the second storey gross floor area shall be no less than 20% of the gross floor area of the first storey .

- Minimum Exterior Side Yard 0 m
- Maximum Lot Coverage 65%
- Maximum Height of Principal Buildings 14 m
- Maximum Height of Exhaust Stacks 15 m

Notwithstanding the any other provisions of this by-law the following special provisions shall apply:

1. Total number of parking spaces 60
2. Parking stall minimum widths 2.7m
3. Minimum landscape screen between parking spaces on a commercial or institutional zone and residential property 4.0 m
4. Minimum landscape screen between parking area and Edward Street 4.0 m
5. No Snow Storage will be provided on site
6. Total number of disabled parking spaces 2
7. Minimum Loading Space separation from a lot line of a residential use 24 m
8. Landscaping for parking and loading may be provided outside of the interior parking area.

All other provisions not contrary to the above special provisions shall apply.

3. A new definition is added to Section 4 as follow:

Brewery

Means buildings and structures devoted to the manufacture, bottling, storage and sales of beer.

4. That all other provisions of By-law 06-54, as amended, which are not inconsistent with the provisions of this By-law, shall continue to apply.
 5. This By-law shall come into force on the day of passage by Council subject to the provisions of the Planning Act.
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**BY-LAW NUMBER 10 -50 READ A FIRST, SECOND, AND THIRD TIME AND FINALLY
PASSED THIS 12th DAY OF JULY, 2010.**_____

Ken Ferguson, Mayor

Robert Campbell, Clerk



ATTACHMENT #2

**THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW
ZONING BY-LAW NO. 11-30**

Being a By-law to amend zoning By-law 06-54 which is cited as the "Township of Clearview Comprehensive Zoning By-law".

WHEREAS the Council of the Corporation of the Township of Clearview deems it necessary, in the public interest to pass a by-law to amend By-law No. 06-54;

AND WHEREAS authority is granted under Section 34 of the Planning Act to enact this By-law;

NOW THEREFORE the Council of the Corporation of the Township of Clearview enacts as follows:

1. That Schedule B15 to By-law 06-54 is hereby amended by changing the zoning on land located on Lot 17 N/S of Edward Street and Lot 16 Plan 315, formerly in the Village of Creemore now in the Township of Clearview, now in the Township of Clearview (8 Edward Street East and 5 Elizabeth Street East, Creemore) from Residential Low Density (RS2) Zone to General Commercial C1-5 and Downtown/Commercial/Industrial CM-1 Zone and as shown on Schedule "A" which is attached hereto and forms part of the By-Law.

2. That a Section 3.23.3 General Commercial Zone Exceptions to By-law 06-54 be amended by adding a new exception (C1-5):
"C1-5"

Additional or Altered Provisions include:

- Side Yard setback for parking along the east property line will be 4.0m
- Notwithstanding any other requirements a 1.8 metre solid wood fence shall be provided along eastern property line
- No Snow Storage will be provided on site

All other provisions not contrary to the above special provisions shall apply.

3. That a Section Downtown/Commercial Industrial Zone Exceptions to By-law 06-54 be amended by adding a new exception CM-1:
"CM-1"

Permitted Uses Restricted to:

- Staff Amenity Area for adjacent brewery
 - Staff or public parking area or
 - Public amenity area
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Altered or Additional Zone Provisions

- Minimum Front Yard 4.0 m
- Notwithstanding any other requirements a 1.8 metre solid wood fence shall be provided along the eastern property line.
- No Snow Storage will be provided on site.

All other provisions not contrary to the above special provisions shall apply.

4. That all other provisions of By-law 06-54, as amended, which are not inconsistent with the provisions of this By-law, shall continue to apply.
5. This By-law shall come into force on the day of passage by Council and coming into force of By-law 10-50 subject to the provisions of the Planning Act.

BY-LAW NUMBER 11- 30 READ A FIRST, SECOND, AND THIRD TIME AND FINALLY PASSED THIS 18th DAY OF APRIL, 2011.

Ken Ferguson, Mayor

Robert Campbell, Clerk

