

ISSUE DATE:

**MAY 17, 2011**



PL101234

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: Daniel Anderson  
Subject: By-law No. 2010-41  
Municipality: Town of Northeastern Manitoulin and the Islands  
OMB Case No.: PL101234  
OMB File No.: PL101234

**APPEARANCES:**

**Parties**

**Agent**

Daniel Anderson

Town of Northeast Manitoulin

Dave Williamson

**DECISION DELIVERED BY J. E. SNIEZEK AND ORDER OF THE BOARD**

**Introduction**

Elizabeth Ferguson applied to amend Zoning By-law 2002-32 in order to permit two 8 ft. by 40 ft. sea containers. The Applicant was successful and By-law 2010-41 was approved by the Town of Northeastern Manitoulin and the Islands (the Town).

The subject lands are described as Part 1 Plan 31R-1016 and Part 3, Plan 31R-2637 Township of Howland, Town of Northeastern Manitoulin and the Islands, District of Manitoulin. The lands in question front on Highway 6 are zoned Rural and designated "Rural" in the Official Plan. The four metal storage buildings pre-exist the existing and predecessor zoning regulations and are legal non-conforming. The lands are fairly flat and open. The location of the sea containers would be shielded from view of the highway by the existing buildings.

Daniel Anderson (the Appellant) appealed By-law 2010-41 that authorized the zoning change.

The Board heard submissions from the Appellant and Dave Williamson, the Chief Administrative Officer for the Town.

### **Review of the Evidence**

Mr. Williamson indicated that sea containers are a prohibited use in the zoning by-law and require site specific approval in order to be used. He indicated that the use was a non-conforming use and the sea containers would be located behind the existing steel clad storage buildings that had been established before the passing of zoning regulations first approved in 1983.

Mr. Williamson testified that there were no industrial parks in the immediate vicinity and that the lands were serviced by a fire department. The use of the land was storage and it was not the intention of the owner or the municipality to have hazardous materials stored on the site.

Mr. Anderson owns Lot 13 Concession 12 which is nearby the subject property. His family has owned land in the area since 1873. The area has his farm which was originally 200 acres. The landfill site is located to the rear of the subject lands further to the west. There is a wind farm proposed further to the west. To the north there is a flea market and 12 unit mobile home park.

Mr. Anderson opined that the proposed industrial use should be located in an industrial park and that the spirit and intent of the Official Plan were not being followed. The Appellant questioned the adequacy of police and fire protection.

The pillars of the economy tourism and agriculture do not support the proposed use and from a visual impact point of view, it is detrimental to tourism according to the Appellant.

In response to a question by the Board, Mr. Williamson stated that there were no non-conforming policies contained in the Official Plan.

### **Findings of the Board**

Mr. Anderson indicated his concerns with respect to By-law 2010-41 relate to the existing non-conforming storage use that is not in conflict with the planning regime that is in existence in the Town.

The Town through its CAO indicated that the existing storage use and the placement of two sea containers represent acceptable planning and does not conflict with the policies in the Official Plan.

The Board must have regard to the decision of Council and consider the policy regime within which the proposal sits. The Board heard no substantive planning evidence in opposition to the position taken by council.

In addition, the Board heard no evidence in opposition to the addition of the two sea containers that will be screened from view from Highway #6.

Given the above, the Board finds that the proposed by-law represents good planning.

**THE BOARD ORDERS** that the appeal against By-law 2010-41 of the Town of Northeastern Manitoulin and the Islands is dismissed.

“J. E. Sniezek”

J. E. SNIEZEK  
MEMBER