

ISSUE DATE:

**June 7, 2012**



PL111272

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

Helen Norman and Jack Norman have appealed to the Ontario Municipal Board under subsection 51(39) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the City of North Bay to refuse approval of a proposed plan of subdivision on lands respecting 1000 Four Mile Lake Road, in the City of North Bay

Approval Authority File No. 48T-10105

OMB Case No.: PL111272

OMB File No. PL111272

Helen Norman and Jack Norman have 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 to enact a proposed amendment to the Official Plan for the City of North Bay to redesignate lands respecting 1000 Four Mile Lake Road from Rural Area to Estate Development to permit the development of a twenty-two lot residential subdivision

Approval Authority File No.

OMB File No. PL111273

Helen Norman and Jack Norman have 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 28-80 of the City of North Bay to rezone lands respecting 1000 Four Mile Lake Road from Rural (A) Zone to a Rural Residential Estate (RRE) Zone to permit the development of a twenty-two lot residential subdivision

OMB File No. PL111274

**APPEARANCES:**

**Parties**

Jack and Helen Norman

City of North Bay and the  
Jack Garland Airport

**Counsel**

Ira Kagan

Michael Burke

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. E. SNIEZEK  
ON MAY 3, 2012 AND ORDER OF THE BOARD**

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Jack and Helen Norman applied for the approval of a plan of subdivision consisting of 22 lots. The proposed subdivision requires an amendment to the Official Plan that would

re-designate the lands from "Rural Area" to "Estate Residential". The proposed development would also necessitate a zoning amendment that would rezone the subject lands from Rural (A) to Rural Estate (RRE).

The applications to approve the subdivision and amend the Official Plan and Zoning By-law were denied by the approval authority and appealed to this Board.

The parties agreed to a 12 day hearing commencing January 7, 2013 at 10:00 a.m.

The parties agreed to a provisional motion date in either Toronto or North Bay on August 27, 2012. The Board will require a notice of 30 days confirming the motion date.

The parties will draft a Procedural Order at least three months prior to the hearing.

The following members of the public registered as participants:

Paula Scott

Daphne Andrews

Lisa Davison

Ted Josefowich

Max Shapiro

Brenda McLay

Al Sage

William Parfitt

Greg Walker

Grant and Heather Sutherland

Brenda Scott

Hywel White

Cathy Strawn

Cliff Pilon

There will be no further notice.

The attached Procedural Order sets out the timing and organization of the hearing event.

The Member is seized of the management of the file but not the hearing subject to the Board's normal calendar requirements.

"J. E. Sniezek"

J. E. SNIEZEK  
MEMBER

PL111272

## ONTARIO MUNICIPAL BOARD

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## PROCEDURAL ORDER

1. The Board may vary or add to these provisions (orally or in writing) at any time, either on request or as it sees fit.

### Organization of the Hearing

2. The hearing will begin on Monday, January 7, 2013 at 10:00 a.m. at the Council Chambers, , 200 McIntyre Street East, North Bay, Ontario, P1B 8H8.

3. The length of the hearing will be **Twelve (12) days ending Tuesday, January 22, 2013.**
4. The parties and participants (*see the Attachment 1 for the meaning of these terms*) are listed in Attachment 2 to this Order.
5. The Issues are set out on the Issues List attached as Attachment 3 to the Order. There will be no changes to this list unless the Board permits and a party who asks for changes may have costs awarded against it. The parties shall provide their Issues List **by no later than Friday, July 27, 2012.** In the case of any disagreement on the Issues List the matter will be dealt with by the Board at the **Monday, August 27, 2012** prehearing conference. Only parties can place issues on the Issues List.
6. The City shall provide its response to the "airport inquiries" (which was provided to the city by the Norman's on May 3, 2012) by no later than **Friday June 15, 2012.** Any unresolved matters with respect to these inquiries will be dealt with at the August 27, 2012 prehearing conference.
7. Only parties may call witnesses. Participants may testify in their own right but may not call professional witnesses, may not make opening statements or closing submissions and may not cross-examine other witnesses.

**Requirements Before the Hearing**

8. A party who intends to call witnesses, whether by summons or not, shall provide to the Board, the other parties and to the Clerk a list of the witnesses and the approximate order in which they will be called. This list must be delivered to all of the parties on or before **Friday, September 28, 2012.**
9. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, and any other written evidence to be relied on at the hearing. Copies of this must be provided as in section 11. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Board may refuse to hear the expert's testimony. For the greater certainty, each expert witness statement must comply with the minimum content requirements specific in Rule 21 of the Board's *Rules of Practices and Procedures*. Regardless of whether the expert prepares a report or a witness statement, the expert shall include a signed Acknowledgement of Expert Duty.
10. A non-expert witness or participant must provide to the Board and the parties a witness or participant statement on or before **Friday, November 2, 2012,** or the witness or participant may not give oral evidence at the hearing.
11. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement but the party calling them must file a brief outline of the expert's evidence on or before **Friday, November 2, 2012.**
12. On or before **Friday, November 2, 2012,** the parties shall provide copies of their witness and expert witness statements to the other parties and to the Board.
13. Parties may provide to all other parties (and file with the Board) a written response to any written evidence on or before **Friday, December 14, 2012.**
14. The parties shall exchange their visual evidence by no later than **Friday, December 21, 2012.**

15. A party or participant wishing to change written evidence, including witness statements, must make a written motion to the Board. (*See: Rules 34 and 35 requiring at least ten (10) days service before a motion is heard.*)

16. A party who provides a witness' written evidence to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Board at least seven (7) days before the hearing that the written evidence is not part of their record.

17. Documents may be delivered by personal delivery, e-mail, facsimile, courier or registered or certified mail, or otherwise as the Board may direct. The delivery of documents by fax shall be governed by the Board's Rules [26 – 31] on this subject. For documents delivered by e-mail, a hard copy shall also be delivered on request. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.

18. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Board's Rules 61 to 65 apply to such requests.

**This member is/ is not seized.**

**So orders the Board.**

## **Attachment 1**

### **Purpose of the Procedural Order and Meaning of Terms**

*The Board recommends that the parties meet to discuss this sample Order before the prehearing conference to try to identify the issues and the process that they want the Board to order following the conference. The Board will hear the parties' comments about the contents of the Order at the conference.*

*Prehearing conferences usually take place only where the hearing is expected to be long and complicated. If you are not represented by a lawyer, you should prepare by obtaining the Guide to the Ontario Municipal Board, and the Board's Rules, from the Board Information Office, 15<sup>th</sup> Floor, 655 Bay Street, Toronto, M5G 1E5, 416-326-6800, or from the Board website at [www.omb.gov.on.ca](http://www.omb.gov.on.ca).*

### **Meaning of terms used in the Procedural Order:**

***Party** is an individual or corporation permitted by the Board to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorisation from the party.*

***NOTE** that a person who wishes to become a party before or at the hearing, and who did not request this at the prehearing conference, must ask the Board to permit this.*

***Participant** is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Board on all or some of the issues in the hearing. Such persons may also be identified at the start of the hearing. The Board will set the time for hearing these statements. **NOTE** that such persons will likely not receive notice of a mediation or conference calls on procedural issues. They also cannot ask for costs, or review of a decision as parties can. If a participant does not attend the hearing and only files a written statement, the Board will not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file material and do not attend.*

***Written and Visual Evidence:** **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.*

***Witness Statements:** A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' opinions on those issues; and a list of reports that the witness will rely on at the hearing. An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing. A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which the participant will address and a short outline of the evidence on those issues; and a list of reports, if any, which the participant will refer to at the hearing.*

**Additional Information**

***Summons:*** A party must ask a Board Member or the senior staff of the Board to issue a summons. This request must be made before the time that the list of witnesses is provided to the Board and the parties. (See Rules 45 and 46 on the summons procedure.) If the Board requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing. If the Board is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.

***The order of examination of witnesses:*** is usually direct examination, cross-examination and re-examination in the following way:

- direct examination by the party presenting the witness;
- 
- direct examination by any party of similar interest, in the manner determined by the Board;
- cross-examination by parties of opposite interest;
- re-examination by the party presenting the witness; or
- another order of examination mutually agreed among the parties or directed by the Board.



**Attachment 2**

***LIST OF PARTIES/PARTICIPANTS***

**PARTIES**

1. **Jack and Helen Norman**  
Mr. Ira T. Kagan  
Kagan Shastri LLP  
188 Avenue Road  
Toronto, Ontario, M5R 2J1  
E-mail: [ikagan@ksllp.ca](mailto:ikagan@ksllp.ca)  
Tel: 416-368-2100 ext. 226  
Fax: 416-324-4224
  
2. **The City of North Bay and the North Bay Jack Garland Airport Corporation**  
Mr. Mike Burke  
200 McIntyre St. E., PO Box 360  
North Bay, Ontario, P1B 8H8  
E-mail: [mike.burke@cityofnorthbay.ca](mailto:mike.burke@cityofnorthbay.ca)  
Tel: *[Mike, please complete]*  
Fax: *[Mike, please complete]*

**PARTICIPANTS**

3. North Bay – Mattawa Conservation Authority  
Ms. Paulà Scott  
15 Janey Avenue  
North Bay, Ontario, P1C 1N1  
E-mail: [paulas@nbmca.on.ca](mailto:paulas@nbmca.on.ca)  
Tel: 705-474-5420  
Fax: 705-474-9793
  
4. Daphne Andrews  
28 Springdale Drive  
North Bay, Ontario, P1B 8G2  
[daffes99@hotmail.com](mailto:daffes99@hotmail.com)
  
5. Nancy M. Davis  
24 Springdale Drive  
North Bay, Ontario, P1B 8G2
  
6. Lisa Davison  
1330 Four Mile Lake Road  
North Bay, Ontario, P1B 8G2

[davisonx@yahoo.com](mailto:davisonx@yahoo.com)

7. Ted Josefowich  
54 Chadbourn Drive  
North Bay, Ontario, P1B 8G2  
[tjose@hotmail.com](mailto:tjose@hotmail.com)
8. Max Shapiro (on behalf of Voyageur Airways)  
1500 Airport Road  
North Bay, Ontario, P1B 8G2  
[maxs@voyageurairways.com](mailto:maxs@voyageurairways.com)
9. Brenda McLay  
1300F Four Mile Lake Road  
North Bay, Ontario, P1B 8G2  
[bmnnlabs@vionet.ca](mailto:bmnnlabs@vionet.ca)
10. Al Sage  
1143 Gorman Street  
North Bay, Ontario P1B 2X8 (has a cottage at 1300H Four Mile Lake Road)
11. William Parfitt  
1800 4 Mile Lake Road  
North Bay, Ontario, P1B 8G2
12. Greg Walker  
351-E Evergreen Road  
North Bay, Ontario, P1B 8G2  
[gregwalker21@sympatico.ca](mailto:gregwalker21@sympatico.ca)
13. Gran and Heather Sutherland  
1300Q Four Mile Lake Road  
North Bay, Ontario, P1B 8G2  
[h.sutherland@rogers.com](mailto:h.sutherland@rogers.com)
14. Brenda Scott (cottage owner)  
31 Ryan Avenue  
North Bay, Ontario, P1A 3W6  
[bscott3@cogeco.ca](mailto:bscott3@cogeco.ca)
15. Hywel White  
351-R Evergreen Road  
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705-472-9209
16. Cathy Strawn  
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[cathystrawn@sympatico.ca](mailto:cathystrawn@sympatico.ca)

17. Cliff Pilon  
351-L Evergreen Road  
North Bay, Ontario, P1B 8G2  
705-472-2222
18. Laurie McLaren  
790 Four Mile Lake Road  
North Bay, Ontario, P1B 8G2
19. Robert Morton  
319 West Peninsula Road  
North Bay, Ontario, P1B 8G4  
705-474-4688

## DRAFT ISSUES LIST

### Norman Issues

1. Is the proposed development consistent with the Provincial Policy Statement (2005)?
2. Does the proposed development comply with the general policies of the in-force Official Plan?
3. Does the proposed development represent good planning?
4. What are the appropriate conditions of draft plan of subdivision approval?
5. *[More to follow]*

### City's and Airport Authority Issues

6. *[To be completed by July 16, 2012]*

**Filing Dates**

<b>EVENT</b>	<b>DATE</b>
1 <sup>st</sup> Prehearing Conference	May 3, 2012
City/Airport to provide response to written inquiries	June 15, 2012
Parties to exchange their Issues List	July 27, 2012
Parties to exchange their Witness Lists	September 28, 2012
2 <sup>nd</sup> Prehearing Conference (if required)	August 27, 2012
Parties to exchange their Witness Statements	November 2, 2012
Parties to exchange their Reply Witness Statements	December 14, 2012
Parties to exchange their visual evidence	December 21, 2012
OMB hearing commences	January 7, 2013