

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: October 21, 2014

CASE NO(S): PL121030

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant:	Don Lindsay
Subject:	Request to amend the Official Plan – Refusal of request by Township of Archipelago
Existing Designation:	Natural State (NS)
Proposed Designation:	Coastal/Island Residential (CR##)
Property Address/Description:	Island B218 (Florence)
Municipality:	Township of Archipelago
OMB Case No.:	PL121030
OMB File No.:	PL121030

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant:	Don Lindsay
Subject:	Application to amend Zoning By-law No. A- 1000-95 – Refusal of application by Township of Archipelago
Existing Zoning:	Natural States (NS) Zone
Proposed Zoning:	Coastal/Island Residential (CR) Exception ____ (CR____) zone
Property Address/Description:	Island B218 (Florence)
Municipality:	Township of Archipelago
OMB Case No.:	PL121030
OMB File No.:	PL121031

Heard: October 7, 2014 in Parry Sound, Ontario

APPEARANCES:

Parties

Counsel

Estate of Don Lindsay

M. Green

Township of the Archipelago

C. J. Tzekas

Participants

Bert Liverance (Sans Souci &
Copperhead Association)

William John McNeill

Randy Wayne Marshall

**MEMORANDUM OF ORAL DECISION DELIVERED BY KAREN KRAFT SLOAN
AND M. A. SILLS ON OCTOBER 7, 2014 AND ORDER OF THE BOARD**

[1] This was a prehearing conference (“PHC”) regarding appeals filed by Don Lindsay (now assumed by the Estate of Don Lindsay) (“Appellant”), resulting from Council’s refusal to enact a proposed amendment to the Official Plan of the Township of Archipelago (“OP”), and to amend Zoning By-law A-1000-95 (“ZBL”) with respect the lands described as Island B-218 (Florence), Parcel 10509 PSSS (“subject property”).

[2] The purpose and effect of the proposed amendments is to permit the development of a summer residence on this subject island property.

[3] Christopher Tzekas advised the Board that Bert Liverance (President, Sans Souci & Copperhead Association), William John Neill, and Randy Wayne Marshall are seeking participant status in this matter. These individuals were not in attendance at this PHC; however, Mr. Tzekas has undertaken to apprise them of the role of a participant and the conduct of Board proceedings. In particular, the Board will expect the participants to adopt a co-ordinated approach with respect to their submissions on the issues in dispute. On consent of the parties, the Board will grant participant status to these individuals.

[4] Marshall Green provided background information with respect to the acquisition

of the island, the development history and proposal, and the nature of the issues in dispute. He told the Board that he proposes to call four expert witnesses. Mr. Tzekas indicated that it is his intention to call six expert witnesses.

[5] Given the number of expert witnesses proposed to be called and the scope of the evidence to be proffered, the parties agree that ten days would be required for a hearing on the merits.

[6] In this respect, the Board is mindful of the time commitment and substantial costs expected to be incurred by both parties in the course of a ten day hearing. In this case, the parties involved include an individual land-owner seeking to develop the subject property with a private seasonal residence, and a small municipality with a limited tax base and/or financial resources.

[7] In this regard, the parties take the position, and this panel concurs, that this matter is a worthy candidate for Board-assisted mediation. Accordingly, Mr. Marshall will submit an application for Board-assisted mediation to the attention of Associate Vice-Chair, Mr. Wilson Lee. It is to be noted that participants are not typically included in mediation exercises.

[8] In the event that any pending mediation does not succeed in resolving all or part of the issues in dispute, and a full hearing on the merits is necessary, a Procedural Order will be required.

[9] In an effort to expedite to the hearing process and reduce costs to the greatest degree possible, the Board expects the parties to convene a meeting(s) of expert witnesses in an effort to narrow the issues in dispute. Mr. Green has agreed to coordinate such a meeting(s).

[10] Moreover, given the complexity and/or technical nature of the evidence proposed to be proffered, the parties and participants will be expected to prepare and exchange witness statements, and to provide same to the Board in advance of the hearing.

[11] The parties are seeking a second PHC (possibly to be held via telephone

conference call) in early January 2015. Mr. Green will contact the Board Case Coordinator having carriage of this file for the scheduling of a one day PHC early in 2015, and a ten day hearing in the spring of 2015.

[12] Subject to the availability of the Board's calendar, this panel is seized of the case management of this file, only.

[13] No further notice will be provided.

"Karen Kraft Sloan"

KAREN KRAFT SLOAN
MEMBER

"M. A. Sills"

M. A. SILLS
MEMBER

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248