

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: February 28, 2020

CASE NO(S): PL190446

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Clark Breuls
Appellant:	Charles Leo DeSorcy
Appellant:	Barry Glaspell
Appellant:	Ambrose Moran
Subject:	By-law No. BL 2019-078
Municipality:	Township of North Kawartha
LPAT Case No.:	PL190446
LPAT File No.:	PL190446
LPAT Case Name:	Breuls, Leo DeSorcy et. al. v. North Kawartha (Twp.)

Heard: February 19, 2020 in Apsley, Ontario

APPEARANCES:

Parties

Counsel*/Representative

Barry Glaspell	Self-represented
Charles Leo DeSorcy	Barry Glaspell
Clark Breuls	
Ambrose Moran	
Township of North Kawartha	John Ewart*

**MEMORANDUM OF ORAL DECISION DELIVERED BY MARGOT BALLAGH ON
FEBRUARY 19, 2020 AND ORDER OF THE TRIBUNAL**

[1] This Decision and Order results from the first Case Management Conference ("CMC") on the appeals pursuant to s. 35(19) of the *Planning Act* (the "Act") by Barry Glaspell ("Appellant 1"), Charles Leo DeSorcy ("Appellant 2"), Clark Breuls ("Appellant 3") and Ambrose Moran ("Appellant 4") of the decision of the Township of North Kawartha (the "Township") to pass Zoning By-law No. 2019-078.

[2] The purpose of By-law No. 2019-078 is to amend the Comprehensive Zoning By-law No. 26-2013 for the Township to incorporate provisions related to in-water structures. More specifically, By-law No. 2019-078 establishes zones of jurisdiction over waterbodies within the Township and regulates the size and location of docks, swim rafts and inflatable water toys, for those waterbodies under the jurisdiction of the Township. In effect, it would introduce three new zones for waterbodies under Federal, Provincial and Township jurisdiction, being the 'Federal Lake (FL)', 'Provincial Lake (PL)' and 'Lake (L)' zones respectively. The provisions of By-law No. 2019-078 would not apply to the 'Federal Lake (FL)' and 'Provincial Lake (PL)' zones, but they would apply to the 'Lake (L)' zone. They will permit docks and swim rafts in the 'Lake (L)' zone and on adjacent lands where docks are identified as a permitted use, subject to provisions. Provisions include a maximum size for docks (56 square metres) and swim rafts (9.3 square metres), as well as a minimum side lot line setback or setback from the straight-line projection of a side lot line, being 4.5 metres. By-law No. 2019-078 would also permit inflatable water toys to be anchored to the bed of a waterbody with a maximum projection of 20 metres from the high-water mark. Additional provisions introduced would permit the enlargement, reconstruction, renovation or repair of existing non-complying docks and swim rafts. It would introduce a new definition for docks as swim rafts, being those legally existing as of the date of the passing of the By-law. Also docking facilities associated with a marine would be recognized as a permitted use. By-law No. 2019-078 also repeals By-law No. 2016-061, which previously addressed boathouses.

[3] The Township and the four Appellants are parties. The Township was represented at the CMC by John Ewart as noted above. Barry Glaspell, who is Appellant 1 and is a lawyer, appeared and told the Tribunal that he represented all the Appellants for the purposes of the CMC only. He filed emails from Appellants 2, 3 and 4 authorizing him to represent their interests at the CMC, which emails were marked as Exhibit 1.

[4] On behalf of the Appellants, Mr. Glaspell requested an adjournment of the CMC to a date after the third week of April 2020. He noted that the other Appellants were out of the country until then and that the Parties were in the process of settlement negotiations. It was noted that a previous recent adjournment request had been denied by the Tribunal. The Tribunal referred the Parties to the criteria for adjournments provided in Rule 17 of the Local Planning Appeal Tribunal's *Rules of Practice and Procedure* (the "Tribunal Rules"). The fact the other Appellants were out of the country until the end of April and that there were ongoing settlement discussions were not proper grounds for an adjournment.

[5] At the CMC, there were no requests for party status or participant status. In fact, no members of the public attended the CMC. Mr. Ewart filed the requisite Affidavit of Service of the Notice of CMC, which was marked as Exhibit 2.

[6] The Parties advised the Tribunal that settlement negotiations were progressing and that they wished to request mediation services by the Tribunal. They were advised that such requests should be directed to the case co-ordinator.

[7] Mr. Ewart requested a hearing date and estimated that two hearing days would be required. Mr. Glaspell opposed setting a hearing date without knowing the availability of the other Appellants but agreed that two hearing days seemed sufficient.

[8] The Tribunal referred the Parties to Rule 19 of the Tribunal's Rules, where the expectations for a CMC are set out, including the setting of a hearing date. Mr. Ewart

told the Tribunal that he had anticipated an adjournment and had not obtained dates of availability from the Appellants for a hearing.

[9] The Tribunal asked if the Parties had prepared a Draft Procedural Order ("PO") and Mr. Ewart filed a draft PO, which was marked Exhibit 3. Mr. Glaspell did not receive a copy of the draft PO until the morning of the CMC. The Tribunal noted that there was no Issues List provided in the CMC and Mr. Ewart said that the Parties had not yet agreed upon the issues.

ORDER

[10] The Tribunal orders as follows:

The Parties are:

- Barry Glaspell
- Charles Leo DeSorcy
- Clark Breuls
- Ambrose Moran
- Township of North Kawartha

There are no Participants.

[11] A Second CMC is scheduled for: **Monday, April 27, 2020** at **10 a.m.** in:

**Municipal Building (North Kawartha)
280 Burleigh Street, Apsley,
North Kawartha, ON K0L 1A0**

[12] The Parties are directed to prepare an amended draft Procedural Order ("PO") with a consolidated Issues List to be filed with the Tribunal by Counsel for the Township no later than **Wednesday, April 15, 2020**.

[13] In the event the Parties reach Minutes of Settlement ("MOS") by **Wednesday, April 15, 2020**, Counsel for the Township may file the MOS in lieu of the PO along with an Affidavit of planning evidence to support the MOS and the Parties may request that the CMC be converted to a Settlement hearing by Telephone Conference Call ("TCC").

[14] The parties are to receive a copy of this Decision and Order and no further notice will be given by the Tribunal.

[15] This Member is not seized.

"Margot Ballagh"

MARGOT BALLAGH
MEMBER

If there is an attachment referred to in this document,
please visit www.elfto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Tribunals Ontario - Environment and Land Division
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