

THIRD READING

No. 21/89

COUNCIL OF Wollaston Township SESSION, June 2 1989

Moved by Norman Colby Seconded by Albert Usher

That a By-law to Rezone parts of Lots W1/2 of the E 1/2 Lot 13, Conc. 4, from RU to SR-1 (Special Seasonal Residential).

as reported by the Committee of the Whole be read a third time, passed and numbered and that the said by-law be signed by the and clerk, sealed with the seal of the Corporation, and be engrossed in the By-law Book.

Carried. Noris Danford

SECOND READING

No. 21/89

COUNCIL OF Wollaston Township SESSION, June 2 1989

Moved by Robert Seconded by Norman Colby

That a By-law to Rezone parts of Lot W1/2 of the E1/2 Lot 13, Concession 4, from RU to SR-1 (Special Seasonal Residential).

be read a second time and be referred to a committee of the whole council.

Carried. Noris Danford

FIRST READING

No. 21-89

COUNCIL OF Wollaston Township SESSION, June 2, 1989

Moved by Albert Usher Seconded by J. M. Bailey

That a By-law to Re-zone parts of Lot, W 1/2 of the E. 1/2 Con. 4, from RU to "SR-1 (Special Seasonal Residential) Lot 13

be received and read a first time.

Fisher

Carried. Noris Danford

URBACH
LAKE

15

LOT

14

LOT

13

15-116-00
98 AC±

15-112-00
20 AC±

15-113-00
20 AC±

15-114-00
20 AC±

15-115-00
20 AC±



DB 82

F 202

R 890403

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF Section 34 of the
Planning Act, 1983

AND IN THE MATTER OF an appeal by
B.S. Moravec and Georgina Moravec
against Zoning By-law 21-89 of the
Corporation of the Township of
Wollaston

DECISION OF THE BOARD delivered by D.S. COLBOURNE

The Board attended at the Council Chambers of the Township for purposes of responding to a request for a motion to dispense with a public hearing. The appellant was present, the owner of the property was present, as was the Clerk of the municipality. The proposal affects a landlocked parcel of land which as indicated on Exhibit 2, has frontage on Urbach Lake. The owner has been in possession of the lands for some 20+ years but has only attended the site on two occasions. On those two occasions he did not gain access to his property. The problem is that there is no road access to the property and there is no public access for vehicles to the lake which could provide access to all properties on the waterfront. The municipality owns lands to the west of the subject lands, not immediately adjoining, as there are some privately owned lands between the subject and the municipality's property. At present there is some vehicular access to a portion of the municipality's property but the further access to the lake frontage on municipal property is a footpath.

The submissions indicate that the owner applied to the municipality for permission to build a cottage fully intending to sell the property with that permission granted. He was advised that the present RU Rural zone would not permit a dwelling simply because of the provisions for frontage. Certain sections of the by-law prevent development in the RU zone unless fronting upon an improved

public street. The same zone permits a seasonal dwelling provided that the lot fronts upon an improved public street.

The intention of the by-law is to change from the RU zone to a SR Seasonal Residential zone. The Board was directed in the submission by the Chief Building Inspector to the effect that any zone requires frontage on a public street or a navigable waterway. The definition applicable to a navigable waterway indicates "for the purpose of this section, where a marine allowance is in existence or a user in common private open space fronts the waterway or the lot is served by a public or private marina, the lot shall be deemed to front on the navigable waterway." There is no public or private marina on the waterfront, nor indeed is there any public access to any part of the lake. The only access on this side of the lake is via the municipally owned lands, by footpath.

The sole appellant opposes on the grounds that there is no access. The property of the appellant is some distance south of the subject lands, and would not appear to be adversely affected by any development occurring on the subject lands. There is concern, however, that the current owner or future owner would force some rights-of-way or gain access over rights-of-way over lands lying to the north of the appellant's lands, perhaps even on concession road allowances. The concern is that the interior lands between the appellant's lands and the subject lands will be opened up and will be infiltrated by the public.

Notwithstanding all of the sections in the zoning by-law which require frontage on public streets or navigable waterways Subsection 3 of the proposed by-law indicates as follows:

"Notwithstanding the provisions of Section 9.7 of By-law 8-79 development in the SR 1 zone is permitted where permanent legal access is available from a registered right-of-way 60 m (20 feet) in width."

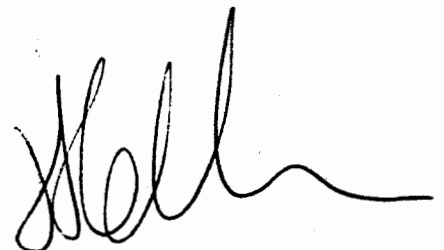
Subsection 4 reads as follows:

"AND WHEREAS an agreement has been entered into between the owners of the lands and the Municipality relating to the maintenance of a private right-of-way, and such agreement is to be registered on the title to the subject lands."

In view of that and considering the concerns of the appellant the provisions of the comprehensive by-law applicable to frontage have been set aside. There is still requirement for permanent legal access via a registered right-of-way before development takes place.

On the submissions the Board notes the closest potential for access is via the municipally owned lands to the west. The Board was not afforded any evidence with respect to the lands to the south as to the real potential for access through those lands. Given that the appellant's concerns relate to access and access must be provided by the owner of the subject lands before development occurs, in that respect the appeal is not supportable. On the second ground mentioned by the appellant to the effect that he opposes any development affecting the intervening lands which might introduce the public into the area, the rights of ownership go to one's own lands and cannot go to prevent access by legal means nor development of other properties. The restrictions affecting development of the subject lands have been reduced but are still in the Board's view reasonable requirements. The Board sees no impediment preventing development of the subject lands with one seasonal residential structure with the access required. The Board therefore dismisses the appeal.

DATED at TORONTO this 5th day of March, 1990.



D.S. COLBOURNE
VICE-CHAIRMAN

THE CORPORATION OF THE TOWNSHIP OF WOLLASTON

BY -LAW NO: 21-89

A By-Law to amend By-Law 8-79 being a By-Law to Regulate the Use of Land Height, Bulk, Location, Spacing, Character and Use of Buildings.

WHEREAS BY-LAW 8-79, being the Comprehensive Zoning By-Law of the Township of Wollaston, zones part of Lot w1/2, Concession 4, as "RU" (Rural);
of
E.1/2 lot 13

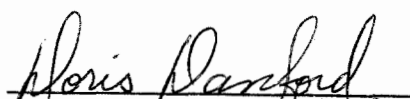
AND WHEREAS an application for the rezoning of parts of Lot w1/2 of the E.1/2 Concession 4, to "SR-1 (Special Seasonal Residential)" has been 13 ^{1/2} made to permit the development of cottages accessible by means of a private right-of-way, pursuant to a condition of consent of the Hastings County Land Division Committee;

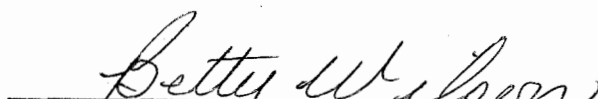
AND WHEREAS, the Council of the Corporation of the Township of Wollaston deems it advisable to amend the Township,s Comprehensive Zoning By-Law NO: 8-79;

NOW, THEREFORE the Council of the Corporation of the Township of Wollaston enacts as follows:

1. That part of Lot ^{w1/2 of} E1/2, Concession 4, in the Township of Wollaston as shown on the attached Schedule 1 be and the same are hereby rezoned from "RU (Rural)" to "SR-1 (Special Seasonal Residential)".
Lot 13
2. The use of the subject lands shall be in conformity with the standards of the "SR (Seasonal Residential)" zone and applicable General Provisions of By-Law 8-79 as amended except with respect to access,
3. Notwithstanding the provisions of Section 9.7 of By-Law 8-79 development in the SR-1 zone is permitted where permanent legal access is available from a registered right-of-way ^{60 m (20 Ft.)} in width,
4. AND WHEREAS an agreement has been entered into between the owners of the lands and the Municipality relating to the maintenance of a private right-of-way, and such agreement is to be registered on the title to the subject lands,
5. This By-Law shall come into force and take effect on the date of passing providing no notice of appeal is filed within thirty five days of the date of passing of this By-Law. In the event that an appeal is filed, this By-Law shall not come into effect until finally disposed of by the Ontario Municipal Board.

Read a First, Second and Third time and finally passed this 2nd. day of June, 1989 .


Doris Danford, Reeve


Betty Wilson, Clerk-Treas.