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Re: Z/59/2008/HTE; V/58/59/2008/HTE
Pieper Application for Zoning By-law amendment and consent

Summary [Details are given in the body of the statement]

Lake Waseosa, among a number of other lakes, is zoned as SR5, which, like SR4, means that the minimum lot size is as it existed in June 2008. This zoning is used for a number of purposes, including, in our case, and in the case of some other lakes that have never been over threshold with respect to phosphorus, in order to ensure that the lakes do not become further over-developed.

There are at least three reasons to reject this application. The acceptance of any one (or more) of these reasons is sufficient to support a decision to reject the application.

(1) The town passed a comprehensive zoning bylaw of June 2008. Its goal was obviously to provide guidance and predictability to the development process. The lots in question – indeed most of Lake Waseosa – are zoned SR-5 which includes the provision that the minimum lot size is what it was in June 2008. The reason for this was clear: Lake Waseosa, according to a planner hired by the Town to examine the lake, is over-developed. For you to approve this application would be to give the signal that in Huntsville, zoning – planning of large areas of land, in this case, zoning of lake front property – has no meaning. If you rezone this piece of land to allow the proposed sub-division, the message to all of Huntsville is clear: anything can be rezoned; planning is out the window. This should not be seen as a minor variance to a piece of land. It is fundamental to the health and preservation of our lake and many others.

(2) This is a piece of land that is almost certainly the most difficult-to-develop on the lake. The application is simply inadequate in that it does not address the problems faced by any attempt to develop the land.

(3) The Town of Huntsville encouraged lake associations to develop lake plans so that the nature, character, and future of lakes was known and predictable. We did that and our lake plan has been available to all, and is publicly available on our website. Our lake plan is consistent with the Town of Huntsville's zoning by law. To approve this application is to undercut the citizen involvement in planning that you have encouraged – not only on this lake and the others that our association represents. You would be giving a message that the Town's plans (including its zoning by law), and lake association's plans are worth nothing if a landowner decides that she doesn't like a decision that was arrived at by a legitimate democratic process.

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Full Statement

I am Tony Doob, a neighbour immediately to the north of the proposed Pieper sub-division on Lake Waseosa. However, you should understand that I do not – and have not – opposed *other* increased development on this lake that would have a direct impact on me.

You may recall a few months ago that you had before you an application from Camp Huronda to increase the use of their camp property. Camp Huronda is immediately across the lake from me – and in fact its increased use is likely to have more direct impact on me than this property does. However, I wrote to you *supporting* the expansion of the Camp for two reasons: they had addressed the major concerns that anyone would have about increased development. But more importantly, although there is no doubt that increasing the size of the camp will put further stress on the lake, it was being proposed for an important social reason.

There are three reasons – each of them sufficient on its own – for you to turn down this application. In other words, if you accept any one of these reasons, then it would follow that the application should be refused.

1) The first is a simple issue. In June 2008 the Town approved a comprehensive zoning bylaw. An enormous amount of thought, time, and our money, was spent on this by-law. Zoning is important, because it provides a framework for development and is a source of expectations for the community on what might be expected for an area. The by-law was not successfully challenged at higher levels of government or at the OMB. Hence it is the current law. Obviously exceptions are made where it is in the public interest to make them, as was in the case of Camp Huronda.

Much of Waseosa was zoned SR5, a classification that is very similar to SR4 and differs from that only in terms of setbacks. My guess is that you zoned Waseosa SR5 because 30 metre setbacks had been required for some time, and SR4 would only have required 20 metre setbacks for new dwellings on empty lots. These two classifications have one characteristic in common: the minimum lot size is as existed in June 2008.

In our case, because we were at that time classified as over threshold for phosphorus, undeveloped lots were classified as SR5 H (for ‘holding’) - a special classification for over threshold lakes.

More to the point, these zoning categories (SR4 and SR5) appear to be used in highly developed lakes – like Waseosa. Harp Lake has similar zoning. Parts of other lakes have SR5 or SR4 zoning for similar reasons. They are designed to give a clear message: these areas of these lakes are over-developed. In the case of small lakes like Waseosa, Jessup, Ripple and Palette, among others, they are, in general, overdeveloped.

SR5 and SR4 are zoning designations that relate to land use. SR5 does not exist simply as a way of halting development on over-threshold lakes. Harp Lake is not and never was ‘over threshold’ with respect to Phosphorus, but is largely zoned SR4. Nor are the other three lakes that are part of our association, but all of these lakes are largely zoned SR5.

The question for you is a simple one. Do you want to undermine – in a very public way – the zoning by-law that you passed so recently? The zoning of large areas – in our case, most of the land on Lake Waseosa – is meant to give a signal about what kind of development can be expected in the area. The Town of Huntsville has made its decision about what is “compatible with the rural landscape” of this lake (mentioned at p. 6 of application) and has decided that the lake, like some others, is essentially over-developed.

The lake association has provided you with detailed figures on this. They are also detailed in the Lake Plan for this lake. I won’t repeat them. But the zoning of the lake is not simply a result of

phosphorus loading in the lake. The zoning reflects a decision on the part of the Town about what kind of development is appropriate for every part of Huntsville. Turning down this application is consistent with Huntsville's recent zoning law and with all existing policies. To do otherwise is to give the message that the time and expense spent on the June 2008 zoning by-law is a facade that was not meant to guide anything.

2) Second, the application ignores certain facts about the land. As you know, very similar applications were turned down by the Town and by the OMB in 1978. This same applicant made an application in 2002 that was almost identical to the 1978 application. The Town turned that down in 2005 and the OMB turned it down in 2007. The applicant made an attempt to over-turn the OMB decision, but abandoned that attempt in November 2008. That OMB decision still stands, therefore. Furthermore, the land has not changed even though the applicant has made it even more difficult to develop houses on these sites, since the proposed lot sizes are considerably smaller. This is probably the most difficult-to-develop piece of land on Lake Waseosa.

In 1978 the OMB heard from the District planner that there were 30 degree slopes from the lake on this property and that one had to dig in one's heels to move from the probable location of the homes to get to the waterfront. This fact is contained in the 1978 OMB decision. These are steep lots with bedrock jutting out above the soil line and thin soil depths. As part of the 2006 OMB hearing (the decision was released in 2007) the applicant's own agent made 61 measurements of the depths of the soil above bedrock in the relatively flat area in which the septic beds are apparently proposed to go. He reported that in 40 of these 61 locations, there is less than two thirds of a metre of soil above bedrock, when it was recommended that, at a minimum, there be at least a metre of natural soil. There also are bedrock outcroppings on the site. In some locations, there is less than a foot of soil above bedrock. And in some areas, there is obviously no soil at all. We now know from our own sources - not the applicant's - that below this thin layer of soil lies fractured bedrock which will allow drainage to the lake. This is not the kind of base one wants for a septic system. It is well established - in part by an expert who appeared before the OMB in the previous attempt to sever this land - that this would mean that the septic effluent could, in effect, run directly into the lake. These facts are completely ignored by the applicant.

Furthermore, uncontradicted evidence was brought before the OMB in 2006 that within a few metres of the proposed septic system, there is a ditch (with culverts) that, at certain times of the year, runs into a swampy area and then directly into the lake.

These inconvenient facts are conveniently ignored completely by the applicant. The OMB heard and accepted evidence from a hydrogeologist retained by the Lake Association that land of this kind was inappropriate for septic systems and that it is septic systems on this kind of terrain that has contributed to algae blooms in bodies of water elsewhere in Ontario.

The applicant does not even mention these features of the land in the application, and does not make it clear how the septic system will be developed without extensive blasting.

The only serious reference that would appear to acknowledge the problems of developing these lots is the statement that there will be a 'tertiary' septic system installed.

In the context of the previous application that you, the Town of Huntsville, and the OMB turned down, we did extensive investigation of these tertiary systems. First of all, they vary enormously. There is no single accepted 'tertiary' septic system. Second, our research would conclude that they need to be maintained, serviced, and most importantly independently tested on a regular basis in perpetuity and that this testing must be supervised by the Town. Third, they are susceptible to unpredictable failure. No detail of any of this is provided to you. In contrast, when one looks at Camp Huronda, not only is another level of government involved to monitor the septic system, but

the Lake Association was provided with details of their proposals. Even then, the Lake Association had some concerns which were voiced to you and to the camp.

The Town is now being asked to 'trust' un-named and unknown purchasers and developers of these lots to abide by the conditions, many of which are not yet specified. With all due respect, the Town simply does not have the resources to enforce adequately the conditions that might make development possible, even if these lots could be developed safely and even if the lake were not already over-developed. You know as well as we all do that once unsafe or inappropriate development is in place, it is very difficult for you, the Town, to un-do it.

3) Finally, there is a simple issue for you to consider. At the Town's suggestion, our Lake Association developed, and have continued to work on, a lake plan. The Lake Plan that you have from the Lake Association does not challenge the Town's official plan or the zoning by-law. Hence there is no need for it to be a lake specific exception to your official plan because your plan and the zoning by-law cover the Lake residents' concerns on the straight forward zoning issues. Our Lake plan does not include further dividing of existing lots, just as your zoning by-law forbids this by classifying most of Lake Waseosa as SR5.

The lake plan and your zoning by law obviously accepts the fact that existing empty lots will be developed and existing homes will be expanded and will receive expanded use. Our lake was one of the earlier lakes in this area to be heavily developed perhaps because almost its entire perimeter is accessible by road. As a result, quite independent of the size of any individual lot, there are already more lots on the lake than a recreational lake of our size should support. And we know that we have a fair number of undeveloped lots which, almost certainly, will eventually be developed. We understand all of this, and there is nothing we can or would want to do about it.

You have before you a thoroughly unsupportable proposal for a sub-division. The owner purchased this land *after* the first of the OMB hearings and when it was well known that there were prohibitions against the sub-dividing of lots. This is not, therefore, an owner who got 'caught' by changing rules. Furthermore, as compared to the 2002-2008 application from this same applicant in which the proposed new lots were larger and the lot on which the current house sits was smaller, this application proposes considerably smaller lots than in the past. One might suspect that applicant's plan would be that by opening up the lake to further development, you will next be faced with an application for the subdivision of what on page 3 of the application is called 'Retained lot 2' into two lots - creating 5 lots where there is now only one.

But more obvious is that by allowing this application, you are, in effect, saying that not only does current SR5 zoning on Lake Waseosa and on all other lakes mean nothing, you would also be giving the message that SR4 and SR5 zoning anywhere in Huntsville has no meaning.

The issues before you are much larger than just a proposal to create three new lots. You are being asked whether you put any value whatsoever on your decision last June to pass a comprehensive zoning by-law.

I support the good work that you did in developing a modern comprehensive zoning by-law for Huntsville. Therefore, I would urge you to turn down this application and give the message that your work last year has real meaning.

- Tony Doob