

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



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ISSUE DATE: December 03, 2014

CASE NO(S): PL130372

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

Appellant: Barry Glaspell
Appellant: Ambrose Moran
Subject: By-law No. 26-2013
Municipality: Township of North Kawartha
OMB Case No.: PL130372
OMB File No.: PL130372

Heard: September 23, 2014 in Apsley, Ontario

APPEARANCES:

Parties

Counsel*/Representative

Township of North Kawartha

John Ewart*

Evan Rodgers

Self-represented

Ambrose Moran

Self-represented

**MEMORANDUM OF ORAL DECISION DELIVERED BY SYLVIA SUTHERLAND
ON SEPTEMBER 23, 2014 AND ORDER OF THE BOARD**

[1] This was a settlement hearing in relation to the provisions of s. 6.2(q) and 7.2(o) of Zoning By-law No. 26-2013 ("ZBL") of the Township of North Kawartha ("Township"). It is specific to a request by Evan Rodgers that he should have been included in a settlement hearing regarding the ZBL between the Township and Appellants Barry Glaspell and Ambrose Moran held on January 21, 2014 from which he was excluded.

[2] The Board found that Mr. Rodgers had, in that instance, been denied procedural fairness and ordered a rehearing of the provisions in the ZBL that relate to front decks within the water setback area, the specific provisions being set out in s. 2 (xiii) of the Minutes of Settlement dated October 16, 2013. These provisions deal with front decks within the water setback. The Decision dated January 24, 2014 remains in force in respect of all other provisions.

[3] The Township and Mr. Rodgers arrived at a settlement of his appeal in which a s. (2) and a s. (3) were added to the provisions set out in s. 2 (xiii) of the Minutes of Settlement dated October 16, 2013 (Exhibit 2).

[4] At the hearing, Chris D. Jones gave expert land use planning evidence and opinion on behalf for the Township and in support of the settlement. It was his opinion that the revised s. 2 (xiii) complies with the relevant planning instruments and represents good planning.

ORDER

[5] Given the evidence before it, the Board orders that the appeal against By-law No. 2013-26 of the Township of North Kawartha is allowed in part and the By-law is amended as set out in Attachment 1 to this order.

"Sylvia Sutherland"

SYLVIA SUTHERLAND
MEMBER

Ontario Municipal Board

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ATTACHMENT 1

"Notwithstanding Sections 3.18(a)(ii) and 3.31, new, open, attached decks and enlargements to existing decks will be permitted in the water setback up to a total finished maximum of 3.7 metres (12 feet) in depth from (1) the main building existing as of the date of OMB approval of this by-law, (2) a main building located outside of the water setback that replaces a main building that was previously located within the water setback and was demolished pursuant to a demolition permit issued by the Township of North Kawartha, and (3) a main building located outside of the water setback that was re-located from within the water setback."