

**Amendment No. 57**  
**to the**  
**Official Plan of the**  
**County of Peterborough**

DRAFT

Greg Taylor  
Part Lot 3, Concession 8  
Burleigh Ward

## **Official Plan Amendment No. 57**

**Part “A” - The Preamble** does not constitute part of this Amendment.

**Part “B” - The Amendment** consisting of the following text and schedules constitutes Amendment No. 57 to the Official Plan for the County of Peterborough.

Also attached is **Part “C” - The Appendices** which does not form part of this amendment. The appendices contain copies of correspondence that have been received relating to the amendment and also a copy of the Minutes of the public meeting associated with the amendment.

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## **Part A - The Preamble**

### **Purpose**

The purpose of the Official Plan Amendment is to permit a new accessory garage within the 30 metre water yard setback from Stony Lake. The amendment applies to certain lands within the "Seasonal Residential" designation, on lands located in Part Lot 3, Concession 8 of the Burleigh Ward in the Township of North Kawartha. More specifically, the subject property is described as #65 Fire Route 20.

### **Basis**

The County of Peterborough received an application from Katherine Howes of D.M. Wills Associates Ltd. on behalf of Greg Taylor to amend the Official Plan for the County of Peterborough. Mr. Taylor owns a 0.32 hectare (0.77 acre) parcel of land in Part Lot 3, Concession 8 in the Burleigh Ward.

The applicant is proposing to build a garage on his property to house two vehicles, recreational vehicles, additional storage for miscellaneous items and a workshop. The proposed development encroaches the 30 metre setback from the high water mark by 8.7 metres. Given the site constraints of the existing location of the septic and weeping bed, the steep grade of the property and the existing development onsite, the proposed location of the development is the only option and therefore encroachment into the water yard is proposed.

Section 6.2.5.3 (h) of the County of Peterborough Official Plan (Local Component - "Seasonal Residential" designation) notes that pump houses, boat houses, docks, open decks and stairs shall be a permitted use and may encroach into the 30 metre setback without a minor variance provided that the property owner can demonstrate to the Township's satisfaction and, if appropriate, the authority having jurisdiction over the waterway, that it does not negatively affect the waterfront environment. Additional development within the water yard is not permitted.

### **Existing and Surrounding Uses**

The subject property is used for seasonal residential purposes and currently contains one (1) storey seasonal dwelling with a stone patio, a boat house, a bunk house, wooden docks and decks, three (3) small storage sheds, a retaining wall and a gravel driveway. The subject property has direct frontage on Stony Lake and is primarily manicured with a small stand of trees adjacent to the west property line. It is bound to the west and east by privately owned residential properties, to the north by an unopened road allowance, and to the south by Stony Lake.

### **Provincial Policy Statement (PPS)**

The Provincial Policy Statement (PPS) as issued under the authority of Section 3 of The Planning Act came into effect on April 30, 2014. Further, Section 3 of The Planning Act requires that planning authorities “shall be consistent with” the PPS. The intent of the PPS is to provide direction on matters related to land use planning and development. Within the context of the proposal, certain provisions of the PPS are considered to have relevance.

According to the PPS, the subject property is located within a Rural Area and is therefore subject to Section 1.1.4 and .1.5 if the 2014 PPS.

Section 1.1.4.1 states that “healthy, integrated and viable rural areas should be supported by...building upon rural character and leveraging rural amenities and assets.”

Further, Section 1.1.5.2 of the 2014 PPS identifies a range of uses permitted in rural areas including resource-based recreational uses (including recreational dwellings; limited residential development;...and other rural land uses.

The Planning Justification Report submitted in support of the official plan amendment specifically quotes policy 1.1.5.4 of the PPS, which states, “Development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted.” The planning rationale provided in support of this policy directive describes, in part, that:

*The location for the proposed development has taken into consideration the view shed from Stony Lake and the view of the surrounding neighbours, ensuring that the proposed development will not impede their view of the lake. The proposed development has additionally been designed in a fashion that is compatible with the surrounding landscape and buildings. The proposed development is an example of land stewardship where our Client is essentially “tidying up” the Subject Property by developing a structure to contain the private vehicles and recreational vehicles on site; eliminate two (2) accessory storage sheds on the property that will be replaced with trees and landscaping; mitigating opportunities for wildlife habitation within existing built forms and the ensuing conflict that arises with pest management. The proposed development will not be serviced, therefore it will not require any rural services to be sustained. Additionally, the location of the proposed development is located farthest from the water as possible without interfering with site access and encroaching into the septic and tile bed. Upon completion of the new development, two (2) accessory storage sheds that are currently located within the water yard will be removed.*

Section 2.1 of the PPS states that natural features and areas shall be protected for the long term, and that development and site alteration shall not be permitted within significant natural areas, in fish habitat, and significant habitat of endangered and threatened species.

A Natural Heritage Mitigation Plan was completed for the subject property (Cambium – January 24, 2020) to address potential impacts to Stony Lake during construction of the proposed garage.

The Natural Heritage Mitigation Plan provides a number of recommendations that speak to mitigation measures and enhancement opportunities to minimize potential impact to the natural features of the site including tree replacement, installation of silt fencing, enhancement to the shoreline buffer, etc.

Policy 2.6.2 states, “development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.” A Stage 1 & 2 Archaeological Assessment in support of the proposal was undertaken. As described in the Stage 1 & 2 Archaeological Assessment, further assessment is not warranted or required due to the failure to identify archaeological resources with cultural heritage value or interest. The Ministry of Tourism, Culture and Sport (MTCS) provided a letter indicating the report has been entered into the provincial register of reports.

### **Growth Plan for the Greater Golden Horseshoe, 2019**

Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019 (Growth Plan) was released May 2, 2019; and took effect on May 16, 2019. The legislation is centred on the initiative to plan for growth and development in a way that supports economic prosperity, protects the environment, and helps communities achieve a high quality of life.

The Growth Plan directs development to recognized ‘settlement areas’. In instances where development or redevelopment occurs outside of settlement areas, policies applicable the Rural Areas, contained under Section 2.2.9, apply.

Section 2.2.9 of the Growth Plan supports resource-based recreational dwellings for seasonal accommodation on rural lands (being areas outside of settlement area and prime agricultural areas).

Sections 4.2.3.1, 4.2.4.1 & 4.2.4.3 of the Growth Plan state, in part, that proposals for development or site alteration within 120 metres of key hydrologic features such as inland lakes will require a natural heritage evaluation or hydrologic

evaluation that identifies a 30 metre vegetation protection zone. No development will be permitted in the vegetation protection zone with the exception of redevelopment in developed shoreline areas of inland lakes as addressed in Section 4.2.4.5 of the Growth Plan. Such redevelopment should restore, to the maximum extent possible, the ecological features and functions in developed shoreline areas, be planned, designed, and constructed to protect hydrologic functions, minimize erosion, and avoid or mitigate sedimentation and the introduction of nutrient or other pollutants into the lake; enhance the ability of native plants and animals to use the shoreline as both wildlife habitat and a movement corridor, use natural shoreline treatments, where practical, for shoreline stabilization, erosion control, or protection (S. 4.2.4.5).

A Natural Heritage Mitigation Plan dated January 24, 2020 was submitted in support of the application. A number of mitigation measures are proposed that align with the requirements of section 4.2.4.5 of the Growth Plan. The mitigation measures will be implemented by way of site plan control.

#### **County of Peterborough Official Plan**

The subject lands are identified within the Shoreland Area. Shoreland Areas generally include all lands extending inland 150 metres from the ordinary high water mark of any lake, river or waterway. Goals, objectives and policies pertaining to the shoreland area are contained under section 4.4 of the County Official Plan. Section 4.4.3 reads “the development of lots where possible shall be undertaken using a best management approach. Biophysical information for the siting of the building, septic system and any buffer area should take into account the soil type, depth and slope of the land when determining the best location for any such buildings.”

Section 4.4.3 also addresses setback distances from the waterfront. In particular, bullet point ten (10) states:

*Notwithstanding any other policy of Section 4.4.3, local plans and zoning by-laws will require that all new development and leaching beds be set back at least 30 metres from the ordinary high water marks of all waterbodies. Excepted from this requirement are marina facilities, docks and other water access facilities, pumphouses, and minor accessory buildings and structures as defined in zoning by-law.*

The Planning Justification Report suggests that by virtue of the definition of an accessory structure in the Township Zoning By-law, the garage is therefore exempted from the 30 metre setback requirements.

The County Official Plan is an upper tier document that is meant to set planning direction for County decisions and for establishing local planning policy. Further detail, in this case as it relates to permitted exceptions to setback distances, is to be included in the more specific local official plan together with added detail in local zoning by-laws. The local plan does not exempt minor accessory buildings from the minimum 30 metre setback.

Section 4.4.3 further states under bullet point twelve (12) the following:

*Local municipalities may authorize minor variances from the 30 metre setback requirements, without the variance being considered to be inconsistent with the general intent and purpose of the local plan, in the following situations:*

- *on a lot existing on the date this Official Plan Amendment No. 3 comes into effect;*
- *the addition to an existing building.*

The Planning Justification Report states that the “subject property was existing on the date that OPA No. 3 came into effect (October 2008).” Again, the local component of the Official Plan provides more specific exceptions and provisions to setback distances from the water. In this case, the local plan allows minor variances for circumstances on existing vacant lots.

#### **County of Peterborough Official Plan – Local Component**

The property is designated Seasonal Residential in the Township of North Kawartha Local Plan. Permitted uses within this designation include seasonal cottages.

It is a general policy of the seasonal residential designation that the preservation of naturally vegetated shoreline is encouraged in order to minimize destruction to the shoreline and wetbeach habitat, minimize visual impact on the waterbody, maintain wildlife habitats and corridors and improve water quality. This general policy applies to any new lot created as well as to any necessary encroachment into the 30 metre setback to ensure development does not negatively affect the waterfront environment.

A Natural Heritage Mitigation Plan dated January 24, 2020 was submitted in support of the application. A number of mitigation measures are proposed to minimize impacts to the lake. The mitigation measures will be implemented by way of site plan control.

*The County Official Plan allows Local municipalities may authorize minor variances from the 30 metre setback requirements, without the variance being considered to be inconsistent with the general intent and purpose of the local plan, in the following situations:*

- *on a lot existing on the date this Official Plan Amendment No. 3 comes into effect;*
- *the addition to an existing building.*

The local component provides greater detail regarding the first bullet point in that it only speaks to vacant lots of record that existed prior October 22, 2008. Since the local component only speaks to vacant lots of record and remains silent on new structures on existing lots within the 30 metre water yard it is presumed to be prohibited. Therefore, an Official Plan Amendment is required in order to introduce a special policy or policy exemption.

Section 6.2.5.3(h) Vacant Lots of Record states:

*Vacant lots of record shall attempt to have structures and septic systems set back a minimum of 30 metres from the high water mark. Where it is not possible to achieve the 30 metre setback, then new buildings and structures shall be set back as far as possible from the high water mark.*

As suggested in the Planning Justification Report, “the subject property is an existing undersized lot (0.77 acres) with steep topography. The existence of the septic system and weeping tile bed and the existing entrance to the subject property prohibit the proposed development from being located any farther back from the water yard.” The report also rationalizes that their client is being proactive by proposing the development as far from the water yard as physically possible on the subject property.

Township staff have indicated that they do not have any objections to the proposal given that the proposed garage is placed as far from the water as can be reasonably expected given the topography and layout of the lot.

Section 7.9 outlines a list of criteria that should be considered when considering an amendment to the local component of the County Official Plan. These are as follows:

- (1) *The need for the proposed use.*

As stated in the Planning Justification Report the property owner would like to construct a garage to store private vehicles and recreational vehicles into one space. Two existing storage sheds on the property will be removed. The location of the proposed development is located as far from the water as possible without interfering with site access and encroaching in the septic and tile bed.

- (2) *The extent to which the existing designated areas in the proposed categories are developed, and the nature and adequacy of such existing development.*

The surrounding properties include waterfront seasonal residential uses designated "Seasonal Residential." The Planning Justification Report indicates the view shed from Stony Lake and the view of the surrounding neighbours was taken into consideration when siting the location for the proposed garage and has been designed in a fashion that is compatible with the surrounding landscape and buildings.

- (3) *The physical suitability of the land for such proposed use, taking into consideration potential for hazard, environmental areas etc.*

As explained in the Planning Justification Report, the amendment is proposing to improve the existing development on the property including the natural vista from the lake and therefore, it would be appropriate to consider this amendment based on the site-specific constraints located on the subject property. The subject property is an existing undersize lot (0.77 acres) of record with steep topography. The existence of the septic system and weeping tile bed and the existing entrance to the subject property prohibit the proposed development from being located any farther back from the water yard. The development is being proposed as far from the water yard as physically possible.

- (4) *The location of the area under consideration with respect to the existing roads system, vehicular and pedestrian traffic, water supply and sewage disposal, and the protection of the natural environment.*

The amendment represents no changes to the existing road system, pedestrian access, water supply or sewage disposal system. The proposed garage has been located to avoid the existing entrance/driveway and the existing septic and weeping bed.

- (5) *The compatibility of the proposed use with the uses in adjoining areas.*

The Planning Justification Report indicates the proposed development has carefully considered the surrounding landscape and built forms. The proposed garage will be setback from the view shed of the lake and will replace two (2) older accessory buildings existing in the water yard setback. The property owner has informed adjacent neighbours and has received full support.

- (6) *The effect of the proposed use on the surrounding area regarding possible depreciation of adjacent properties.*

Same as above.

- (7) *The potential effect of the proposed use on the financial position of the Township.*

This was not addressed in the Planning Justification Report submitted in support of the amendment.

- (8) *Consideration of the soil capability for agriculture and the potential impacts on surrounding agricultural uses and operations.*

The subject property is not located near or within an agricultural area.

- (9) *Where the proposal involves taking prime agricultural land out of production, the planning justification requirements of the Provincial Policy Statement shall be addressed.*

Not applicable.

- (10) *The Minimum Distance Separation requirements of the Provincial Policy Statement shall be met for new uses being proposed in proximity to existing livestock facilities.*

Not applicable.

- (11) *Demonstration of how the proposal conforms to the Provincial Growth Plan.*

Refer to Growth Plan discussion above.

- (12) *In the case of lands within identified vulnerable areas, demonstration of how the proposal conforms to the policies of Section 5.7 where applicable.*

Not applicable to the subject property.

### **Zoning By-Law of Township of North Kawartha**

The lands which are subject to this amendment are currently zoned Shoreline Residential (SR) in the Township's Zoning By-Law. A recreation dwelling house and an accessory garage are permitted in the (SR) Zone. Section 3 of the Township's Zoning By-law provides general provisions applicable to all development.

In particular, Section 3.31 requires all new development to be setback at least 30 metres from the ordinary highwater marks of all waterbodies. A Zoning By-law Amendment is required to allow the new garage within the 30 metre setback from the water.

## **Part B - The Amendment**

All of this Part of the document entitled Part B - The Amendment consisting of the following text and schedule constitutes Amendment No. "57" to the Official Plan of the County of Peterborough.

## **Details of the Amendment**

The Official Plan of the County of Peterborough is hereby amended as follows:

1. Section 6.2.5.4 – "Site Specific Policy Areas", is hereby amended by the introduction of a new subsection 6.2.5.4(c)(ix):

**(ix) Part Lot 3, Concession 8, Burleigh Ward (South)**

**Notwithstanding the provisions of Section 6.2.5.3, specifically the Permitted Exceptions, on lands located in Part of Lot 3, Concession 8, Burleigh Ward and having property roll number 1536-020-001-82300, an accessory garage shall be permitted to encroach into the 30 metre setback by 8.7 metres.**

2. Schedule "A3" - Land Use Plan for the Township of North Kawartha is hereby amended by adding a border symbol and text box that refers to certain lands located in Part Lot 3, Concession 8, Burleigh Ward, which reads as follows: **"See Section 6.2.5.4(c)(ix)"** as shown on Schedule "1", attached hereto and forming part of this amendment.

**Schedule '1'**  
**To**  
**Official Plan Amendment No. 57**  
**County of Peterborough Official Plan**



Lands to be redesignated 'Seasonal Residential – Site Specific Special Policy Areas Section 6.2.5.4(c)(ix)'

## **Part C - The Appendices**

The following appendices do not constitute part of Official Plan Amendment No. 57, but are included as information supporting the Amendment.

- **Appendix No. 1    Correspondence**
- **Appendix No. 2    Public Meeting Notices and Minutes**
- **Appendix No. 3    Public Comments**
- **Appendix No. 4    Agency Comments**

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**Appendix No. 1 – Correspondence**

Ministry of Heritage, Sport, Tourism, Culture Industries dated November 26, 2019  
(letter via email) – re: review and entry into the Ontario Public Register of  
Archaeological Reports

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## **Appendix No. 2 – Public Meeting Notices and Minutes**

### Notice of Complete Application:

Emailed to public agencies November 6, 2019

Mailed to neighbouring landowners within 120 metres

Posted on County Website

Published in Peterborough This Week November 7, 2019

### Notice of Public Meeting:

Emailed to public agencies February 25, 2020

Mailed to neighbouring landowners within 120 metres

Posted on County Website

Sign posted on the property advertising public meeting

Published in the Peterborough This Week February 26, 2020

### **Appendix No. 3 – Public Comments**

The following pieces of correspondence have been received by the County and the Township from members of the public. They now form part of the public record and are available at any time upon request.

Roslyn Moore, dated November 8 (via email) – indicated comments will be provided by December 6

Richard Taylor, dated November 11 (letter) – request to be notified of the public meetings and decision.

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#### **Appendix No. 4 – Agency Comments**

Agency / Peer Review	Date	Summary of Comment(s)
Curve Lake First Nation Lands and Resources Consultation	December 3, 2019	Request to see archaeological report and supplemental documentation.
Township of North Kawartha	December 6, 2019	A Zone Amendment will be necessary to address non-compliance with Sections 3.31 and 3.1(h)(vi) of the Township Zoning By-law.
Peterborough County Planning Department	December 10, 2019	Requested revisions to amendment, the completion of an environmental analysis, and consideration of Section 7.9 of the Official Plan.