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August 27, 2019

Tribunals Ontario – Environment and Land Division  
655 Bay Street, Suite 1500  
Toronto ON M5G 1E5

Dear Tribunal Member,

**Re: LPAT Case No.: PL190245 -  
Municipal File No. A-07/19  
Property Address/Description: 1646 Juddhaven Road - Township of Muskoka Lakes  
LPAT Case Name: Kofman vs Muskoka Lakes (Township)**

Thank you for providing the Muskoka Lakes Association (MLA) with an opportunity to comment on this appeal. The MLA represents more than 2500 families within Muskoka, extending from Seguin Township in the north to Gravenhurst in the south, as well as Bracebridge and the Township of Muskoka Lakes. Our association includes residents on the three big lakes and the numerous small lakes within Muskoka.

### **The Application**

It is our understanding that the Applicant's property at 1646 Juddhaven Road is located on a point of land extending into Lake Rosseau, a Category 1 Lake.

The Applicant seeks exemptions from TML's Comprehensive Zoning By-law to construct a second story onto the existing one-story boathouse therefore constructing a 2 story boathouse addition.

It is our understanding that this is the third application filed on this property for zoning bylaw relief. The first application for by law relief was filed by a prior property owner and was heard by a prior Council in 2014.

The agreement reached with Staff, neighbours and Council at that time, resulted in approvals for an increase in lot coverage over 10% to accommodate a new cottage dwelling, a one-story boathouse with docks and for the replacement of a legal non-conforming 2 story boathouse and docks of a size and location specified in the by-law. This notwithstanding, a second application was filed by the new property owner to repeal ZBA 2014-049 with its imposed location and size restrictions. The current Council refused the application.

The third application was filed by the same new property owner to the Committee of Adjustment. It contained the same or similar relief requests as the Application for Rezoning and had the same effect. A Notice of Refusal was issued stating the variances requested were deemed *not to be minor in nature*.

## MLA Concerns

The MLA objects to approval of this minor variance requests for the following reasons:

### **a) Seeks to Reverse 2014 Agreement with Staff and Neighbours**

Staff has noted in its report that the proposed development plan eliminates an approved two-story boathouse and dock with non-compliant side yard setbacks. These reduced side yard setbacks however, were not disagreeable to Staff, neighbours or Council in 2014 as this location had historically accommodated a 1 slip 2 story boathouse with reduced setbacks for many years. Staff, neighbours and Council did not agree to having a 2 slip 2 story boathouse, on the most prominent location of the property.

The Applicant agreed to abide by certain restrictions on the 2 boathouses (that the 1 story would never be expanded, and the historic 2 story would be rebuilt on its same/similar footprint). In exchange, a lot coverage increase over 10% was permitted and a two-story boathouse was permitted on a lot with frontage less than 300 ft. The importance of this restriction is evidenced by the requirement that a Site Plan Agreement be registered on title.

The increase in Lot Coverage to 11% with its explicitly stated location and size restrictions in the current By-law (2014-049) was intended to lessen the impact of development on the waterfront. The increase in Lot Coverage to 10.8% is not supportable together with a location change which will result in it being the most visually prominent structure in the area and inconsistent with the provisions listed in the Site Plan Agreement.

**The MLA is concerned that the Applicant now seeks to reverse the restrictions it agreed to in 2014 as part of discussions with staff, neighbours and Council, especially in the face of the 2 referenced decisions of refusal, and continued objections from neighbours who were involved in the 2014 discussions.**

### **b) Over-development of an Under-sized Lot**

It is our understanding that the subject property originally constituted an existing lot of record which did not meet the general lot area requirements (1 acre) for a lot in a WR1 zone. It did however meet the base tests for an existing lot of record to be developed..

-The subject lot is generally undersized from the normal requirement (1 acre) for a lot.

-TML's Comprehensive Zoning By-law 2014-14 (Section 4.1.7) require second story boathouse lengths to be a Maximum 10.7 m (35 ft.) from high water mark. The proposed boathouse addition will encroach be 50ft from the high-water mark. The 15ft variance request represents a **43%** increase over Zoning By-law requirements.

-The maximum cumulative dock width permitted under By-law 2014-14 (Section 4.1.7.12) is 75 feet. ZBA 2014-049 provisions allow a cumulative dock width of 85ft.

The staff report highlights that the Applicant's proposed development plan now proposes to reduce the cumulative dock width by 10 feet to become compliant with TMLs comprehensive Zoning By-Law so as

to eliminate the need for the site-specific by-law provision. The MLA appreciates the applicant's concession on this aspect of the proposal but a 43% increase in the 2<sup>nd</sup> story boathouse length cannot be considered minor and particularly in light of the boathouse being on the most prominent part of the property.

**In summary:**

The MLA supports both the Council and Committee of Adjustment for the enforcement of TML Zoning By laws via the 2 recent decisions refusing the applicants variance requests. The applicant has provisions that allow for a two-story boathouse with habitable living space albeit in a specific location and size. They purchased the property with those provisions in place.

The MLA is concerned that, if approved, the variances requested will represent inappropriate over-development on an undersized lot of record; a lot that is deficient by almost ½ of the minimum land area requirement. The variances requested are not minor in nature for the shoreline structure, the most visible intrusion into the lake and the most impactful to the enjoyment of neighbours.

The MLA is concerned that the Applicant now seeks to reverse the restriction it agreed to in 2014 as part of discussions with staff and neighbours, especially in the face of objections from neighbours who were involved in the 2014 discussions.

The MLA believes LPAT **should uphold by-law zoning amendment decisions of Council and Committee of Adjustment decisions**, especially in cases such as this, when Council, staff, and neighbours were actively involved in reaching the decision. Muskoka cannot be viewed as a place where the rules and prior decisions have no meaning.

Thank you for the opportunity to provide these comments. We wish to be notified of the decision of the Local Planning Appeals Tribunal in respect of this appeal. Please send notices to Deborah Martin-Downs ([martin\\_downs@sympatico.ca](mailto:martin_downs@sympatico.ca)).

Respectfully submitted,



Deborah Martin-Downs  
Chair, Government and Land Use Committee

c.c. Liana Tumino  
Katie Edwards, MLA

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The mission of the Muskoka Lakes Association is to promote the responsible use, enjoyment and conservation of the unique Muskoka environment.