

January 16, 2024

Planning Committee  
Township of Muskoka Lakes  
1 Bailey Street  
Port Carling, ON  
POB 1J0

Dear Chair Bosomworth and Members of Planning Committee:

**Re: Item 7.d.3. re: ZBA-39/23, By-law 2023-134 (Saunders),  
Planning Committee Agenda January 19, 2024**

The Muskoka Lakes Association (“MLA”) has concerns regarding the above-noted application. By way of background, we understand the applicant obtained a building permit for a storage building in or around 2019 that was to include no habitable rooms. Notwithstanding this and the floor plans submitted at that time and with this application, the photographs provided by our member, one of our members, with his submissions certainly appear to indicate that there are two bedrooms, a bathroom and a combined kitchen/kitchenette (with dining room furniture) and living room (with a couple of exercise bikes at the far end).

As the staff report notes, the subject property/building was the subject of a number of complaints surrounding its use and “By-law staff proceeded to investigate the matter and pursue enforcement action. After repeated by-law contraventions surrounding the use of the subject building, charges under the Provincial Offences Act were laid and ultimately the Township was successful in gaining a conviction and penalty.”

As the applicant’s planning report notes, Section 11.69 defines “Habitable Room” to mean a room in a dwelling or accessory structure, used or intended to be used primarily for human occupancy, but does not include a bathroom, toilet room, serving or storage pantry, laundry and corridor....”

The key phrase is “**used or intended to be used**”. We suggest that, based on the staff report and photos, this building is being used for habitable purposes.

At one end of the spectrum there was approval for a storage building with no habitable rooms and at the other end, there is what is ostensibly an existing dwelling with apparently two bedrooms and a kitchen. Somewhere in the middle is what is currently being applied for: a new category permitting habitable space by way of an accessory recreational and leisure building (used for recreation, fitness, exercise, relaxation, games, and includes a bar, washroom and

mechanical and storage areas), not to include bedrooms, overnight accommodations or a kitchen.

The proposed language would appear to address the exercise bikes and the living room area and the inclusion of a bar may be of some assistance. However, we believe that approving certain types of habitable space will make enforcement more difficult.

As the staff report points out, Policy N3 a) of the Official Plan sets out factors to be considered by Council when making a decision regarding a zoning by-law amendment, including the impact of the decision on future development in the Township, in terms of setting a negative precedent. We are very concerned that this would be the case.

The Official Plan Waterfront Policy E4.1 j) states “Many factors affect character in the Waterfront Area, such as **number of structures**, setbacks, shoreline vegetative buffers, height, built size, built form, shoreline structures and the historical lake development. Strict adherence to policies **limiting density** related to these factors is paramount.” In addition, the Official Plan identifies in Policy E3 the permitted uses for waterfront residential properties as either “low density single unit recreational dwellings” or “low density, single unit residential dwellings.” For that reason, the Comprehensive Zoning By-law has been clear that only a dwelling and a sleeping cabin are permissible as habitable buildings on a waterfront property. Permitting an additional habitable building should require an Official Plan Amendment, in our opinion, as approval may lead to more than one residential unit.

It has been a long-standing principle of the Township that there is to be a maximum of one dwelling (cottage) per property and a maximum of two buildings with habitable space, being a dwelling and a sleeping cabin. A dwelling and sleeping cabin on the second storey of a boathouse currently exist on the property. We further understand, based on the submissions by our member, one of our members, that a portion of the main floor of the boathouse may also be being used for habitable space, over and above the storage of boats, etc. Intensity of use on the waterfront is a concern.

We note previous Council spent a significant amount of time and received a great deal of public input regarding amendments to the Comprehensive Zoning By-law with respect to accessory building uses (and use of the lower floor of two-storey boathouses). Staff recommended implementing bright line tests with respect to the permissible number of accessory buildings, overall maximum square footage and possibly restricting plumbing. Unfortunately, that Council ran out of time, having been focused on more important matters, such as updating the Official Plan.

We note the applicant’s planning report raises this as an issue, making it a significant concern, when describing “Accessory Uses” in Section 4.1.2, where it states that “The range and type of Accessory Uses is not specified for Waterfront Residential zones, except for sleeping cabin, bed

and breakfast, and home based business. Therefore, any use or building that is accessory to a residential use is permitted, including the proposed recreational and leisure building.”

We suggest this matter be deferred until such time as Council updates the by-law on accessory buildings generally.

Yours very truly,

A handwritten signature in black ink that reads "Ken Pearce". The signature is written in a cursive, flowing style.

Ken Pearce  
Vice-President, Secretary and Director  
Muskoka Lakes Association

cc. David Pink, Director of Development Services & Environmental Sustainability, Township of Muskoka Lakes

Kaitlyn Walker, Planner, Township of Muskoka Lakes