

March 15, 2022

Township of Muskoka Lakes  
1 Bailey Street  
P.O. Box 129  
Port Carling, ON P0B 1J0

Dear Chair Bridgeman and Planning Committee Members,

**Re: Planning Committee Agenda Item 11a –  
Report from Chief By-law Enforcement Officer re: Site Alteration and Tree Preservation  
By-law**

The Muskoka Lakes Association (“MLA”) and Friends of Muskoka (“FOM”) have had the opportunity to review the report from Mr. Kennedy, Chief Municipal By-law Enforcement Officer, and the draft Site Alteration By-law and Tree Preservation By-law (the ‘By-laws’) attached to the report as Appendices III and IV, respectively.

This is an opportune time to update these two By-laws, given the public outcry over the past year about indiscriminate and excessive site alteration during the development process.

There is a third by-law that deals with site alteration – the Site Control By-law – which the MLA and FOM urge the Township to also update as soon as possible. As Mr. Kennedy stated at the December 15, 2021 Planning Committee meeting, the Site Control By-law applies to over 95% of the situations where site alteration occurs. By contrast, the Site Alteration By-law being updated now has involved fewer than ten development permits over the past 14 years.

The MLA and FOM appreciate the Township conducting a public survey on this By-law review, and Staff’s work to reflect the public’s feedback in the draft By-laws. We also appreciate that Staff took time to consider the comments we raised in our December 15, 2021 letter.

The MLA and FOM have some suggestions for the two draft By-laws which we have summarized below and also noted in the attached mark-ups of both By-laws.

### **Webinar**

We are confident that many builders, contractors and property owners comply with the Township’s development rules. Unfortunately, a tremendous amount of damage is being done by those who don’t comply.

There are two problem scenarios: (i) a contractor and property owner is not aware of the development rules; and (ii) a contractor (and perhaps the property owner) is aware of the development rules, but chooses to ignore them. This is a particular problem where contractors

'prepare' a site (including through tree cutting and blasting) before applying for a building permit or site plan agreement.

We believe that better communication and education before development work begins will help address the first scenario. We are very appreciative that Director Pink and Mr. Kennedy have agreed to speak at an MLA hosted webinar on Tuesday, April 19<sup>th</sup> to explain the by-law requirements for development.

We believe that the second scenario can only be addressed by having rules and enforcement tools that motivate contractors and property owners not to blast, cut or otherwise alter the landscape contrary to the Township's by-laws.

### **Comments on Revised Draft Site Alteration By-law**

We have marked up the revised draft Site Alteration By-law with our suggested changes (see attached). These include the following:

1. Important Details in an Application for a Permit (Schedule "A"): We have included this comment first, since it is so important. Additional information should be included in an application, beyond the owner's name and address, in order for Staff to be able to decide whether to issue a Permit. For example: the location and dimensions of the proposed site alteration work and blasting. The current Site Alteration By-law requires this information to be included, but this has not been carried forward into the draft By-law. Please see our proposed Section 7 of Schedule "A", which provides that the information in Section 6.2 will also be included in an application for a Permit.

We believe this additional information represents an appropriate level of information and would not be onerous to provide. We are also suggesting minor changes to Section 5.1(a) in order to make it clear that this information is to be included with an application.

2. Important Details in a Permit (s. 6.2): We recommend that the By-law set out the information that will be included in the Site Alteration Permit. For example, the location and dimensions of permitted site alteration and blasting, the location of sediment fences and tree preservation barriers, the location where blasted rock and other Fill will be deposited, and such other information as the Director determines. These details are important to include in a Permit in order for the contractor and property owner to know what work is permitted, and for the Township to be able to take enforcement action if unauthorized work is done or if conditions aren't complied with. It is also important to include the location of where Fill will be deposited, so it does not end up in the lake or in an environmentally sensitive area.

3. Mechanism for dealing with Financial Assurance (s. 5.2): Since the draft By-law permits the Director to require an applicant to provide Financial Assurance as a condition of issuing a Permit, a mechanism is needed as to how the funds will be dealt with, including how they will be drawn down and returned. We have suggested language in our attached markup, based upon Schedule A of Newmarket's Site Alteration By-law [here](#).
4. Council's Direction is needed on the meaning of 'Detrimental Effect on the Natural Environment' (s. 6.1(c)(viii)): The draft Bylaw continues to give the Director the authority to deny a permit where he/she believes there will be 'a detrimental effect on the natural environment of the area'. Arguably, any amount of blasting or tree cutting damages the natural environment, and we urge Council to provide direction to the Director on the meaning of 'detrimental effect on the natural environment of the area' and what amount of site alteration should be permitted. For example, blasting that changes the landscape visible from the lake, or that changes the character of the natural environment (by removing a rock cliff, for example), should not be permitted.
5. Defined Terms: Our mark-up of the By-law notes a number of words that have been defined but the first letter is not capitalized. Using capitalized first letters for all defined words will avoid any uncertainty about the interpretation of the By-law by the Township and the public.

### **Comments on Draft Tree Preservation By-law**

We have marked up the draft Tree Preservation By-law with our suggested changes (see attached). These include the following:

1. Important Information in an Application for a Tree Removal Permit (Schedule "A"): We have again included this comment first, since it is so important. Additional information should be included in an application, beyond the owner's name and address, in order for Staff to be able to decide whether to issue a Tree Removal Permit. For example: the number and species of trees that will be removed, and a map of where the trees are located on the property. We believe this represents an appropriate level of information and will not be onerous to provide, including where only a small number of trees are to be removed.
2. Pre-clearing in advance of a Building or Septic Permit (s. 3.1 (m)): We recommend language be included in the By-law to specifically prohibit removing trees in anticipation of receiving a building or septic permit. We believe this will help address the problem of pre-clearing sites before the Township approves which trees may be removed.
3. Muskoka Palms (s. 4.15): Staff's analysis of the public survey notes that "it was clear that respondents felt that there is too much over-limbing." We agree with Staff's

comment that “many owners limb or prune trees in an excessive manner in order to get a better view of the lake.” To help prevent over-limbing and the creation of ‘Muskoka Palms’, we recommend a new section 4.15 in our attached mark-up of the By-law.

4. Mechanism for dealing with Financial Assurance (s. 6.2): Since the draft By-law refers to Financial Assurance provided by a Permit holder (see s. 7.4), a mechanism is needed as to how the funds will be dealt with, including how they will be drawn down and returned. We have suggested language in the attached markup, based upon Schedule A of Newmarket’s Site Alteration By-law [here](#).

5. Why is ‘Major Damage’ permitted? (s. 8.1(b)): The draft By-law continues a provision in the current by-law allowing for Major Damage to be done to other trees on a property when a tree is being removed pursuant to a Permit. This would seem to permit damage to a large portion of the trees on a property, which we do not believe is intended or supported by the public. In the alternative, we recommend that a statement be added that residual damage to other trees will be minimized.

6. Islands (s. 4.4): The draft Tree Preservation By-law is missing the provision included in the Site Alteration By-law that extends protection to entire islands (other than five named large islands). We expect this was an oversight, and have included the language in our attached mark-up of the By-law.

7. Defined Terms: Our mark-up of the By-law notes a number of the words that have been defined but the first letter is not capitalized. Using capitalized first letters for all defined words will avoid any uncertainty about the interpretation of the By-law by the Township and the public.

Thank you for considering our comments, which we hope are helpful. Thank you also for your continued efforts to protect Muskoka’s natural environment and shorelines on behalf of our community and future generations.

Sincerely,



Susan Eplett  
Vice-President and  
Chair, Government & Land Use Committee  
Muskoka Lakes Association



Ken Pearce  
Director and Secretary,  
Friends of Muskoka

cc. David Pink, Director of Development Services and Environmental Sustainability  
Rob Kennedy, Chief Municipal By-law Enforcement Officer