

“No Further Questions....” Friday, July 21, 2006

With words to that effect, yesterday afternoon both sides in the Quarry case before the Ontario Municipal Board left the matter in the hands of OMB Chair Karlene Hussey, who indicated “it will take some time to make a decision” following a review of all evidence presented. While these hearings concluded one day ahead of schedule, they have lasted two and a half weeks (in two sittings spanning nine months due to a previous adjournment for technical reasons).

In that time, the appellant (Kris House, aka #1497039 Ontario Ltd., o/a Huntsville Granite Supply, etc.) had his specialists from the aggregate industry vigorously make the case that provincial policy protects aggregate resource development above all other interests, and therefore he should be permitted rezoning of his property from rural to an industrial classification...so he can begin a new operation supplying ornamental stone to meet local demand.

Throughout these hearings various adjustments in the scope of proposed quarry operations were presented to the Board. These were presented as an attempt to reduce adverse impacts, overcome community concerns (including Pen Lake Association and Lake of Bays Association) and objections by the Township. Some instances amounted to a “nip” here and a “tuck” there, while others were potentially significant (eg. elimination of a rock “crusher” and a “guillotine” splitter on-site, abandonment of retail activities, etc.).

Certainly the proposal now before the OMB is somewhat better than the one Mr. House presented to the Township Council as a “model for the quarry industry”. As you’ll recall, it was the unanimous rejection of his original application by our elected officials as well as planning staff in 2003, which led to Mr. House’s OMB appeal. In the current proposal now being considered by the Board, for example, extraction areas have been radically altered---the hilltop knoll remains intact, tree buffer zones added, tonnage more than halved, retailing eliminated, etc. Additionally, at long last, in the course of this hearing, many “unanswered questions” first raised when this quarry operation began without authorization during the summer of 2002 (eg. noise effects on Pen Lake due to sound movement over water, etc.) have been considered. Our experts have confirmed the concerns of ordinary eyes and ears. So, after four years, many but far from all operational questions regarding this proposed quarry have been clarified if not precisely answered.

However, while many of the proposed adjustments can be construed as concessions favourable to our position, from our perspective they simply do not go to the heart of the matter. In simplest terms, as you know, our basic argument is that this is an inappropriate location for a rock quarry (and related activities) within sight and sound of a recreational lake due to fundamental and irreconcilable

incompatibility. It would be seen, and it would be heard in an unreasonably intrusive way. It would impair and diminish interests, which were here long before this quarry concept. So, it would be "bad planning".

This Township, this District, and our own Lake Plan, have all identified the pre-requisites of "good planning", among them the protection of the natural environment---in particular, the panorama of skylines and vistas near the water---as well tranquility, the peace and quiet we all value so highly. Those values, and their defense, were the very core of our case. In that sense, our own Lake Plan was before the OMB along with the Official Plans for the District of Muskoka and the Township of Lake of Bays.

We have no objection to responsible aggregate development or use, however the specific property for this proposed rezoning, given its elevated topography oriented towards Peninsula Lake as well as its proximity to Hillside's residents, should not be permitted to operate as a rock quarry.

In a much more detailed and sophisticated form, this position was articulated comprehensively and in a highly coordinated manner by the Township, the Pen Lake Association, the Lake of Bays Association, the Hillside Neighbours, the Walkers. We are very pleased and proud of the overall case that has been made on behalf of all of us. And so, for us, the only unanswered question that truly matters at the moment is the one now before the OMB: will a rezoning be allowed and a quarry operation permitted to begin?

Of course, in the context of an OMB hearing, it is the complex evidence of experts on a host of issues and concerns, focused on highly technical aspects that make up the bulk of any case such as this. It would be inappropriate and imprudent to attempt to summarize the evidence presented during these hearings, except to say there was a great deal of it---dozens of photos, maps, diagrams, drawings, letters and legislation, along with an array of policies and plans, rules and regulations. All set out in seventy-five exhibits and reams of testimony. But we do want to highlight the fact that our expert consultants and witnesses were, in a word, excellent in making our case. Those for the other side were, in our view, expert in the realm of aggregates. One telling indication of the relative merits of our case, we suggest, is the fact that the appellant felt compelled to recall a number of his witnesses in rebuttal to evidence from ours. That extended these hearings beyond our anticipation, but it also gave us a strong impression that our case had made a considerable immediate impact.

As the OMB Chair has indicated, there is a lot of evidence to review. We leave that to her now. Frankly we would be surprised if any decision will be rendered before the end of summer. That's merely a guess on our part, and an uneducated one. A decision could well come much sooner or much later. We really don't know, except to say there have been many points of law raised and other aspects which we believe will require time and study we believe, prior a decision. In the interim we remain cautiously

optimistic, and extremely grateful that our case has now been made as thoroughly as we believe it has, and as effectively as we hope and trust the result will ultimately prove.

To conclude this Update marking the end of the formal OMB public process, we want to briefly mention two highlights from these hearings, which stand out in our minds amidst the vast crop of technical evidence and often testy debate over the past few weeks.

First, we had a good turnout of at least one hundred folks for the "Special Public Forum" on the evening of July 13th where twenty individuals spoke passionately about this quarry and its impact. Two of these were local landscapers wanting easier access to stone for step-making, not wanting to keep customers waiting, and suggesting it was "us" creating a need for this quarry. Every other speaker opposed this quarry development. Their views ranged widely, from those who had felt a very direct impact from the previous illegal quarry operations during summer of 2002 (when windows were shut, bedrooms relocated, patios vacated and trips taken to escape "at home" noise effects) to eloquent reflections on Muskoka's natural beauty and the particular character of Pen Lake's special qualities. Throughout a powerful theme was evident: a need to preserve and enhance these features because of historic and well established importance in the fabric of family, community and social life as well as attractions for tourists.

At that evening session the OMB also heard from planner Randy French on the background for development of our Lake Plan which has since become replicated in many waterfront communities throughout Ontario. As well, representatives of the Huntsville Lakes Council and the Muskoka Watershed Council addressed the OMB, each of whom managed to raise these issues and concerns beyond "the NIMBY" syndrome to a broader context of lake living in Muskoka, as did the presentation by Lake of Bays Association to the OMB yesterday, during closing arguments for the final minutes of these hearings. Cumulatively these remarks underlined the significance of this case, not just for Peninsula Lake but for all of Muskoka's future and indeed lake living throughout the province.

We feel very gratified by this broad public expression of support and want to sincerely thank everyone who made the effort to attend that night as well as any of the daytime hearings. But particular "thanks" must go to each of those making presentations on our behalf, including all witnesses and other participants at these hearings. It was most encouraging to have friends with us. We should point out that a number of our Councillors and our Mayor and planning staff have been with us as well, especially Ben Boivin. In advance of any decision, we are extremely grateful to anyone and everyone who assisted our cause, but in particular Barney Kussner and Janet Amos who have been there for us and with us throughout, in thick and thin, providing strong leadership always.

The second highlight came last Monday (July 17th.) when the OMB Chair accompanied by representatives from both sides of this dispute toured the proposed quarry site (where, among other things, a year-round cold water creek flowing into Pen Lake---not properly identified on the original proposal--- could be seen, along with predominately deciduous tree cover which will leave the property exposed for much of the year). A lengthy boat ride on the lake followed that, where various "homes" and "cottages" (identified in technical reports as mere "receptors") were pointed out in relation to the proposed rock quarry site. We hope the OMB Chair was able to get a reasonable sense of our lake, however, those of you who were on the water that afternoon will recall no doubt the windy turbulence and unusual choppy waves that preceded a very stormy night which knocked out trees and power for miles around. Not the storm of the century, but less than a perfect day for a lake tour for sure. Everyone aboard, including the OMB Chair, made it to shore a little damper than when we took off. We trust that those weather effects won't be held against us.

That's where we will leave this matter until the decision. Our case has been made now, and it wouldn't have been without your backing. We continue to believe that our objections to this quarry development were necessary, and are correct. And we strongly feel that the outcome will be important, not only to Pen Lake but well beyond.

With your help and support our team has done its best. Each of us involved in the effort to stop this quarry---and there are too many helpers to name---are most grateful to each of you. Feel free to contact any of us or your board for further information if you have any further questions.

And now, while our case rests with the OMB, let's all enjoy summer.