

ISSUE DATE:

**Sep. 28, 2004**

DECISION/ORDER NO:

**1558**



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL040429

The Lake Temagami Residents Group Inc. has appealed to the Ontario Municipal Board under subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the Ministry of Municipal Affairs to approve the Official Plan for the Municipality of Temagami  
Ministry File No. 48-OP-4801  
O.M.B. File No. O040081

## **APPEARANCES:**

### **Parties**

Municipality of Temagami

Ontario Ministry of Municipal Affairs  
And Housing

The Lake Temagami Residents Group Inc.

Temagami Lakes Association

### **Counsel**

H. G. Elston

I. M. Shachter

C. J. Tzekas

J. Thompson

## **MEMORANDUM OF ORAL DECISION FROM A PREHEARING CONFERENCE HELD AUGUST 17 AND 18, 2004 DELIVERED BY D. R. GRANGER AND J. P. ATCHESON AND ORDER OF THE BOARD**

This is a prehearing conference regarding an appeal by The Lake Temagami Resident's Group Inc. (appellants) from a decision of the Ministry of Municipal Affairs and Housing (MMAH) on April 8, 2004 to approve with modifications the new Official Plan (OP) for the Municipality of Temagami (Municipality) enacted on August 15, 2002.

On consent of the parties, the Board recognizes the above as the parties to the hearing. There are no other parties or participants.

The Board heard introductory submissions from each of the parties and was informed of the parties' ongoing efforts to further focus and/or settle matters in dispute.

Counsel for the appellant confirmed its not appealing the entire OP. Its appeal is specific to the North and Northwest Arms of Lake Temagami as affected by the policies specified in its letter of appeal dated May 11, 2004 and summarized to the satisfaction of the appellant in Exhibit No. 2. While content to have its appeal limited to the geographical areas defining the North and Northwest Arms of Lake Temagami, it is apparent that the Municipality and the Temagami Lakes Association (TLA) do not want portions of the Lake Temagami area to be separated out, preferring a whole lake planning approach.

On consent of the parties, the appellant confirms its appeal being limited to the geographical area of the Temagami Neighbourhood contained within the Skyline Reserve, being the limit of the height of land visible from any point on Lake Temagami as set out in Schedules A1 and A2 to the OP (subject area of appeal).

The parties then engaged in a process of further focusing an/or settling their issues.

After a day and a half and evening of intensive efforts between the parties, including regular reporting to this Board, the parties were successful in reaching a negotiated settlement of the issues in dispute in accordance with Exhibit No. 4.

Fundamental to the settlement is the commitment of the Municipality to now engage in a Lot Creation and Development Plan study that will not preclude the concept of sub neighbourhood areas being considered, in this case the consideration of sub neighbourhood(s) for the North and Northwest Arms of Lake Temagami as requested by the appellant. The final recommendations from this study will be implemented through an amendment to the OP. Interim policies are presently set out in OP policy 2.15 as further modified and noted below.

J. Kennedy, on behalf of the Municipality, presented uncontradicted expert land use planning evidence in support of the further modifications and one deferral to the OP resulting from the settlement. It was his opinion that the OP as adopted by the Municipality on August 15, 2002, further modified and approved by MMAH on April 8, 2004 and now further modified by this Board, with one deferral, represents good planning.

Having considered the uncontradicted land use planning evidence presented, the Board finds that the proposed modifications to the OP resulting from the settlement of the appeal as set out in Exhibit No. 4 are appropriate, represent good planning and are in the overall public interest of the community.

Having considered the uncontradicted land use planning evidence and all other submissions made and with full consent of all of the parties to this appeal, the Board allows the appeal, in part, and approves the Official Plan for the Municipality of Temagami subject to these further modifications:

1. Section 2.15, Page 2-35, Paragraph 1 - Delete the first two sentences and replace with the following: "A clear set of policies is required to establish: the principles of lot creation; lot intensity; and, lot density in Neighbourhoods. Policies for each Neighbourhood shall be developed through the Lot Creation and Development Plan study that will be incorporated into the Official Plan by amendment."
2. Section 5.1, Page 5-1, Paragraph 3, Lines 2 and 3 - The word "image" is deleted and replaced with the word "character."
3. Section 5.3.5, Page 5-12 - Delete Section 5.3.5, as modified by the Minister of MMAH, in its entirety and replace with the following: *"The maximum number of sleep cabins permitted on a residential lot in the Lake Temagami Neighbourhood is set out in the Zoning Bylaw. The total number of sleep cabins shall not detract from the main residential use of the property and shall not exceed two sleep cabins per lot as set out in Section 5.3.3. One sleep cabin may have a bathroom and kitchen facilities subject to an approved connection to an independent, on-site sewage disposal system. The fully serviced sleep cabin shall be located on the lot so that the sleep cabin and the associated sewage disposal system could be severed from the remainder of the lot. Further, the minimum lot size for a lot with a fully serviced sleep cabin is such that the severed and retained lots shall conform to the provisions and*

*standards of the Zoning By-law. For the purpose of this section, a boathouse with sleeping accommodations that lawfully existed as of the date this plan came into effect, is deemed to be a sleep cabin.”*

4. Section 5.3.9, Lines 1 and 2 - Delete the words “*a contactor’s yard*” and insert the word “*contactors except a contractor’s yard (Section 5.3.18) as set out in the Zoning By-law*”. Change the Minister’s Modification 7.5 to delete the words “*including a contractor’s yard*”.
5. Section 5.3.10, Page 5-15, Paragraph 1, Line 17 - Delete the wording beginning with “*and sleeping quarters*” and ending on Line 23 with “*self-contained dwelling unit.*”
6. Section 5.3.12 - Delete item c) and reletter item d) to item c).
7. Section 5.3.13 - Delete the words of this section and replace with the following words: “*The municipality will request that such infrastructure be as unobtrusive as possible in keeping with the semi-wilderness character of the area.*”
8. Section 5.3.18, Line 2 - Delete the words “*as a Home Industry*”. Delete the words in the last bullet and replace with “*In the case of a water access lot, buffering shall be provided in the form of a vegetative buffer of no less than 10 metres in width from the normal shoreline.*”
9. Section 9.18, Page 9-22, Paragraph 1, Line 3 - Change the word “*intensity*” to the word “*density*”. Paragraph 2, Line 1 - Add the words “*in the Urban Neighbourhood and*” following the words “*density transfer*”. Change the minister’s Modification 11.5 to replace the word “*intensity*” with the word “*density*”.

Further, the Board defers Section 5.4.6.4 for a reasonable period of time to allow the Municipality to engage the parties and existing youth camp operators in a public process to consider the appropriateness of policies regarding the possible conversion of youth camps to tourist commercial uses. The Municipality may consider the establishment of more than one tourist commercial designation related to the potential impact of development. The Board may be spoken to with respect to the final resolution of this matter.

Save for Section 5.4.6.4, deferred by the Board, the first Official Plan for the Municipality of Temagami is now fully approved as modified and is now in effect. The new Official Plan as adopted by the Municipality, modified by MMAH and further modified by this Board is Attachment "1" to this decision. Due to the volume, the Attachment will only be sent to the parties to the hearing. Others interested in obtaining a copy may contact the Municipality.

The Board congratulates the Municipality and the other parties to this hearing for the efforts in resolving the disputes and concluding the long-standing open public planning approval process resulting in this first Official Plan for the Municipality of Temagami.

The Board so Orders.

D. R. GRANGER  
MEMBER

"J.P. Atcheson"

J. P. ATCHESON  
MEMBER