



Memo

To: Mayor & Council

From: Pam Duesling, Director of Planning
Fritz Enzlin, Chief Building Official

Date: April 19, 2018

Re: Hastings Drive OMB Decision Follow-up

Dear Norfolk County Council,

As you are aware, on April 16, 2018 the Tribunal allowed the appeal of the Hastings Drive OMB case Boyce v. Norfolk (County) PL141006 as follows:

Section 14.0 Special Provisions is modified by adding the following:

14.911¹ In lieu of the uses *permitted* in the HL zone, only the following uses shall be permitted:

- a) public park as defined for the purpose of this special provision as lands owned and/or operated by the County of Norfolk, Long Point Region Conservation Authority or other government agency provided there are no *buildings or structures* located thereon;
- b) day use, which is defined as being personal use and enjoyment of a vacant lot for a day which may include launching boats.

The following uses shall be prohibited and are listed for the purposes of clarity and to avoid any confusion, and such prohibited uses are in addition to all other uses that are not *permitted* uses listed above:

- a) *tent and trailer park*;
- b) *recreational vehicles*;
- c) overnight storage or overnight parking of trailers, tents and *vehicles*;
- d) *buildings or structures* of any type including *decks*, change houses and sanitary facilities; and
- e) *dock, pier or wharf*².

Site alteration and new development shall not be *permitted*.

¹NTD: Administrative – Confirm this special Provision number is available to be used.

² Subject to approval of definition in subsequent County by-law

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As a follow up to this decision the following is anticipated:

1. The zoning change is in full force and effect as of April 16, 2018.
2. The zoning change will be enforced by Municipal By-Law Enforcement Officers commencing May 1, 2018.
3. As a pro-active measure, a letter will be provided from the Development and Cultural Services Division to all Hastings Drive property owners to let them know of the zone change, updated permitted and prohibited uses and future enforcement opportunities.
4. Zoning By-law enforcement complaints on Hastings Drive should be provided to Fritz Enzlin – Chief Building Official at 519-426-5870 Ext 2218 or fritz.enzlin@norfolkcounty.ca
5. The existing Norfolk County Zoning By-law 1-Z-2014 will be updated to include the new zoning in May 2018. The update to the 1-Z-2014 By-Law does not impact upon the effective date of the decision, which remains April 16, 2018. Please note this update will occur in hard copy and electronically/ on-line. Appropriate mapping will also be replaced. This will ensure clarity of interpretation in the spring/ summer months ahead.
6. This OMB decision is posted on the Norfolk County Planning Department website.
7. A change house is currently not a defined term within the current Norfolk County Zoning Bylaw and will be proposed to Council in a future zoning by-law update report later in 2018 by Planning staff as previously deferred from 1-Z-2014 in early 2018.
8. Day use is currently not a defined term within the current Norfolk County Zoning By-law and is interpreted by Norfolk County By-law Enforcement as being dawn to dusk.
9. For clarity, *recreational vehicles* are prohibited at all times during the day and night and are defined in the Norfolk County Zoning By-law 1-Z-2014 as follows:

2.132 **“RECREATIONAL VEHICLE”** shall mean a *vehicle* designed to provide temporary living, sleeping or eating accommodation for travel, vacation, seasonal camping or recreational use and designed to be driven, towed, transported or relocated from time to time whether or not the *vehicle* is jacked up or its running gear is removed. A *recreational vehicle* shall not be used as the principal place of residence of the occupant. A *recreational vehicle* shall include a motor home, camper trailer, motorized home, motorized camper, truck camper, pick-up coach, chassis-mounted camper, slide-in camper, tent trailer, fifth-wheel trailer, *park model trailer* and similar mobile *vehicles*, watercraft, boats and marine craft, but excludes a *mobile home*.

10. All existing structures on Hastings Drive that are subject to this appeal (example cottages and change houses) may be considered legal-non conforming uses so long as they were constructed or erected lawfully in compliance with the existing zoning at the time of erection and with all the required permits and approvals prior to April 16, 2018. Where a structure is demolished by an Act of God and the owner is able to demonstrate that the demolished structure was a legal non-conforming use it *may* be possible for the structure to be rebuilt upon the same footprint subject to all applicable regulations, permits and legislation.
11. There are no further appeals to this decision through operation of the *Planning Act* appeals process. The decision may only be appealed through judicial review. County staff have no reason to believe that such an appeal is likely and typically judicial review of OMB decisions is rare absent an error of law.

If any member of Norfolk County Council or the public has any general questions about the enforcement of this OMB Decision please contact Fritz Enzlin – Chief Building Official. Questions regarding enforcement actions related to specific property matters may not be answered due to potential protection of privacy and confidentiality laws.