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April 11, 2019

Mayor Harding and Members of Council  
Township of Muskoka Lakes  
1 Bailey Street,  
Port Carling, ON , POB 1P0

Sent VIA EMAIL

Dear Mayor Harding and Members of Council,

**Re: Application for Zoning By-law Amendment  
By-law# 2-19-13, ZBA-05/19, Roll # 4-1-005-01  
McCormick 34-4182 Muskoka Road 169 (34 Wright's Road)**

Thank you for providing the Muskoka Lakes Association (MLA) with an opportunity to comment on this application. The MLA represents more than 2500 families within Muskoka, extending from Seguin Township in the north to Gravenhurst in the south, as well as Bracebridge and the Township of Muskoka Lakes. Our association includes residents on the three big lakes and the numerous small lakes within Muskoka.

The Application

It is our understanding that the Applicant's property is at the end of Proctor's Point on Lake Joseph, and that the eastern portion of the property is a restricted waterbody zone (WR4-R) (see attached zoning map from the District's website). The northern tip of the property fronts on a narrow channel between the point and Crane Island, and its easterly side fronts on a narrow, shallow bay. The Applicant seeks exemptions from TML's Comprehensive Zoning By-law to (a) allow a two-story boathouse with a second story sleeping cabin, and (b) allow a cumulative dock width of 128.2', which is 70.6% greater than the 75' permitted, or 25% of the lot frontage.

2010 Minor Variance Approvals

It also is our understanding that the Applicant received minor variances from the Committee of Adjustment in December 2010 (Resolution Number CA-15-13/12/2010), after being asked by CofA in October 2010 to work with neighbours and staff to develop a proposal that addressed their concerns. The agreement reached with neighbours and Staff resulted in the Applicant receiving minor variances to build a new boathouse with docks and extend one of its docks, and to have a total lot coverage of 10.5% and dock width of 123', subject to four conditions:

- i) That the existing dock on the north-easterly end of the property is reduced from 79 feet to 45 feet and the pump house is removed;
- ii) That the dock built parallel to the shore at the westerly side of the point is removed;
- iii) That the existing boathouse is removed; and
- iv) **An agreement be registered on title to prohibit the second storey of the proposed boathouse from being closed in and used as habitable space.** (emphasis added)

#### Concerns with Second Story Sleeping Cabin in Applicant's Two Story Boathouse

The MLA objects to approval of this zoning by-law amendment for the following reasons:

##### **a) Dangerous Precedent**

Two story boathouses are prohibited on WR4-R restricted waterfront properties under TML's Comprehensive Zoning By-law 2014-14 (Section 4.1.7.19). In addition, TML's Official Plan recognizes the importance of maintaining privacy and noise attenuation/reduction, and protecting fish habitat, on properties such as the Applicant's that front on narrow waterbodies.

The MLA is concerned that, **if approved, this application will set a dangerous precedent for second story boathouse development, and second story boathouse habitable spaces, at other WR4-R restricted waterfront properties across the lakes**, including two of the Applicant's neighbours whose properties front onto the same narrow and shallow bay.

##### **b) Noise and Light in Narrow Waterbody**

The Official Plan recognizes the special concerns with noise, light and boat traffic emanating from properties fronting on narrow waterbodies, not only for neighbours who are particularly close by, but also for fish and wildlife in the narrow waterbody. One way that By-law 2014-14 addresses these concerns is by prohibiting second story boathouses on properties fronting on narrow waterbodies.

Although Staff has noted in its Report that the Applicant's boathouse is at the end of the point and not facing the narrow area of the bay, the MLA understands that neighbours objected in 2010 to an enclosed second story boathouse space partially out of concern for the increased noise and light that would result from having habitable space at this location. Neighbours were comfortable that an open second story space would create less use, with a corresponding reduction in noise and light.

The MLA agrees that the portion of land situated at each side of the opening into narrow bays should be Restricted, as is the case for the Applicant's property, since second story boathouses and docks in this location will increase the noise and light emanating into the narrow waterbody.

**The MLA believes that Council should deny the Applicant's request to close in its second story boathouse space to create a sleeping cabin, in order to reduce the noise and light emanating from the boathouse into a narrow waterbody, consistent with the Official Plan's goals.**

**a) Seeks to Reverse 2010 Agreement with Staff and Neighbours**

The Applicant agreed with staff and neighbours in 2010 to abide by certain restrictions on its boathouse (i.e. not to close it in or use it as habitable space), in exchange for being able to build a new boathouse and 64% more dockage than permitted. The importance of this boathouse restriction to CofA and neighbours is evidenced by the requirement that an agreement be registered on title.

Staff has noted in its Report that there was an existing sleeping cabin on the property when the 2010 minor variance was granted. This sleeping cabin has been removed, so the creation of a sleeping cabin on the second story of the boathouse will be the only sleeping cabin on the property. However, neighbours and staff did not agree to having a sleeping cabin on the second story of the boathouse, where the impact of noise and light will have greater impact on neighbours than a sleeping cabin off the waterfront.

By prohibiting second stories on boathouses, By-law 2014 recognizes the enhanced negative impact of living spaces on second stories of boathouses.

The MLA is concerned that **the Applicant now seeks to reverse the restriction it agreed to in 2010 as part of discussions with staff and neighbours, especially in the face of objections from neighbours who were involved in the 2010 discussions.** The MLA believes **Council should rigorously enforce its by-law zoning decisions**, especially in cases such as this when neighbours were actively involved in reaching the decision.

Concerns with 128' Cumulative Dock Width

The maximum cumulative dock width permitted under By-law 2014-14 (Section 4.1.7.12) is 75 feet. The Applicant was granted a variance in 2010 to have 123 feet of cumulative dock width, on the conditions listed above.

The Applicant initially sought permission to increase its cumulative dock width to 128 feet. However, Staff's Report notes that the Applicant has now advised that a portion of its dock is actually a swim platform/raft that is being stored at the shoreline during the winter and will be removed from the shoreline during cottage season. If this portion of dock is excluded, the cumulative dock width is 118.3 feet.

Although the MLA would not typically be concerned with a request to have 5 additional feet of cumulative dock width, the MLA is concerned that the Applicant already has permission to exceed the allowed width by 64% and yet had still asked for more.

**The MLA recommends that Council inform the Applicant that they must apply to Council and obtain consent if in the future they want to tie this portion of dock to the mainland during the cottage season.**

We wish to be notified of the decision of the Township of Muskoka Lakes in respect of this application. Please send notices to Katie Edwards (katie@mla.on.ca).

Sincerely,



Deborah Martin-Downs  
Chair, Government and Land Use Committee

cc: David Pink, Director of Planning  
Cheryl Mortimer, Clerk  
Katie Edwards, General Manager, MLA