

**MLA Delegation to Planning Committee re Site Alteration
July 15, 2021**

Words in bold were delivered by Susan Eplett to Planning Committee; words not in bold are additional detail that may be helpful

The MLA has been in existence for 127 years. We have stood up to many threats facing Muskoka through the decades, but the latest threat goes to the core of why our community loves this place – Muskoka’s unique natural environment is being destroyed by irresponsible development and reckless, destructive building practices.

Muskoka’s natural, treed shorelines are one of the most important reasons people want to be here. We should not be building with a view to putting back. The rock is part of the pre-cambrian shield and cannot be replaced. 100 year old trees whose roots have spread out in the thin soil cannot be replaced by something 6 feet tall.

Property ownership does not come with unlimited rights – government creates restrictions on how the property is used and developed for the public good. This Council has the right to set those restrictions, to preserve what is valued by the community, and no one has the right to breach those restrictions for their own selfish purposes.

We comply with bylaws on our property for benefit of others who look at it. And we are entitled to assume other people will comply as well, so we can look out at natural shorelines. I have yet to see an advertisement for Muskoka real estate that does not have a view of a beautiful, treed shoreline.

Our community is in Muskoka because someone built here. The MLA does not oppose all development – we oppose reckless, irresponsible development. It is possible to build responsibly, as Hugh Smith has just explained.

Responsible builders ensure their contractors maintain Muskoka’s values by working around trees rather than clear cutting, by working with slopes and rock outcrops rather than blasting away entire slopes. Responsible builders build so the finished product looks like natural Muskoka, not something artificial that could be anywhere.

Climate change has created a new imperative for retaining trees and vegetation. They filter water to keep our lakes and rivers clean, provide shade and habitat for wildlife, and absorb carbon.

The MLA has many suggestions of changes that can be made. Given my limited time, I will briefly describe seven key ones and will email details to you and Director Pink after this meeting.

1. **As Mr Oatley said, require all builders and contractors to have a licence in order to work in Muskoka. Educate them about our bylaws, and if they breach them, revoke their licence.** It is not a new idea to require contractors to obtain a licence in order to do work in a municipality. It makes sense because the municipality is able to educate contractors about the local building bylaws, which can vary significantly between municipalities. The contractor will also learn that if they breach the bylaws, their licence will be revoked, which will give them added incentive to comply. The administrative cost could be easily covered through licencing fees and building fees.
2. **Adopt a blasting bylaw, and require a blasting permit before any blasting is done. The permit should set out exactly where blasting will occur, and include tree protection barriers, and sediment barriers to ensure blast does not end up in the water or on a neighbours' property. The permit also should set out where the blast will be deposited, so contractors dispose of it appropriately.**
3. **Revoke someone's building permit if they breach the bylaws – if they illegally cut trees or blast away slopes, for example. The fines you are able to charge are clearly not large enough to deter. We urge you to obtain legal advice on two questions.**
 - **First, if someone contravenes the bylaws, can their building permit be revoked? If so, can it be revoked for long enough – a year for example – that people will have an incentive to comply with the bylaws?**
 - **Second, if outstanding building permits cannot be revoked, then what terms should be included in the future to allow the Township to revoke them?**
4. **Obtain legal advice as to whether staff can refuse to issue a building permit if the site alteration bylaws have been breached, and for how long. For example, until experts have certified that replacement trees and vegetation have been planted and survived for at least a few summers.** There is new technology available that gives evidence of previous site conditions– including the aerial photos on the District's Geohub website and photos from property listings.
5. When illegal site alteration happens now, staff enters into a site plan agreement with the property owner. The result is that illegal site alteration is given the Township's blessing. **When illegal site alteration has occurred, Planning Committee should consider the site plan application, not staff. This means the site plan agreement will be considered at a public meeting where the public may comment and the public**

impact will be considered. This change can be done very easily. Section 4 of the Site Plan Control delegates approval of ‘minor’ site plan agreements to staff. Council could pass a resolution that a site plan agreement will not be considered minor when there has been illegal site alteration, or when the site plan includes blasting.

6. **As Mr. Oatley said, keep stop work orders in place for as long as it takes for the property to be fully remediated and revegetated,** for all legal steps to be resolved, and for a revised site plan agreement to be approved by Planning Committee. A construction delay will be far more meaningful to a builder or property owner than a fine, especially given the amount of the fines the Township is able to charge.

7. **Staff made many excellent suggestions about improving the enforcement of site plan agreements in their report to Planning Committee on Feb 14, 2020. The MLA urges you to move ahead with Staff’s recommendations, including:**
 - : increased inspections, during and after construction**
 - : property owner reports at regular intervals during construction with photos of the property**
 - : tree inventories of all trees to be removed and retained**
 - : tree protection and site protection barriers**
 - : reports from qualified biologists, restoration ecologists, limnologists etc as to compliance with the site plan agreement
 - : take security deposits in more situations, and release it in phases over a number of years to ensure plantings survive

8. **As Mr. Oatley suggested, take securities for the time required to ensure replanted trees and vegetation survive.** When illegal site alteration occurs, require a remediation plan to be prepared and carried out by qualified engineers and other experts approved by the Township at the property owner’s expense. The remediation plan should return the site to its previous conditions, including adding soil that has been lost through blasting. Take securities for a period of at least 3 years to ensure replacement vegetation is established, with the release of securities to be determined by a professional forester or arborist approved by the Township and paid for by the property owner.

There are many solutions here, but it will take commitment from this Council and likely the next one. Commitment to create bylaws, invest in enforcement tools and take quick and strong action to ensure development is done responsibly and in a way that prioritizes the natural environment, learning from what happened at Sugarloaf.

The MLA is counting on Council to make it clear to every landowner, builder and contractor that reckless, illegal construction practices are not tolerated in Muskoka – and those who try getting away with it will pay dearly in time, lost business and money.

Thank you.