

ISSUE DATE:

**March 7, 2008**



PL070482

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P. 13 as amended

Appellant: Central Lake Rosseau Residents Association  
Appellant: Frank Jaglowitz  
Appellant: Friends of Minett  
Subject: Proposed Official Plan Amendment No. 34 to the Township of Muskoka Lakes  
Municipality: Township of Muskoka Lakes  
OMB Case No.: PL070482  
OMB File No.: O070070

**APPEARANCES:**

**Parties**

**Counsel\*/Agent**

District of Muskoka

D. Royston\*

The Rosseau Developments Inc. and Ken Fowler Enterprises Limited

M. Bull\*

Friends Of Minett

R. Harvey

**MEMORANDUM OF ORAL DECISION DELIVERED BY SUSAN de AVELLAR SCHILLER ON MARCH 4, 2008 AND ORDER OF THE BOARD**

**Context**

The Township of Muskoka Lakes has adopted Official Plan Amendment 34 which, among other matters, designates the community of Minett a resort village with urban densities and services. The District of Muskoka has adopted Official Plan Amendment 31, a companion amendment to the Township Official Plan Amendment that deals primarily with servicing. These amendments have been appealed to this Board.

Rosseau Developments Inc. [Rosseau] and Ken Fowler Enterprises Limited [KFE] are related companies. Rosseau/KFE owns large areas of land within the community of Minett. Rosseau/KFE is currently developing the resort known as Red Leaves under the existing planning regime. Rosseau/KFE has also brought forward additional proposals for

certain of its lands; no specific proposal is before the Board. OPA 34 and OPA 31 have a direct impact on Rosseau/KFE lands and are the result of Rosseau/KFE proposals.

The Rosseau/KFE resort under construction requires a sewage treatment facility. A separate zoning by-law amendment to permit a sewage treatment facility for this resort to be located on an adjacent lot, also owned by Rosseau/KFE, has been appealed to this Board.

This matter began in a highly litigious atmosphere with an initial prehearing conference. Shortly after the first pre-hearing in this matter, Central Lake Rosseau Residents' Association [CLRRA] withdrew its appeals and withdrew as a party to these proceedings. In doing so, CLRRA advised the Board that it felt its issues overlapped those of the Friends of Minett [FOM] and that it was content to leave the handling of those issues to FOM. Subsequent to a Procedural Order and Issue List being set by the Board, a number of motions and cross motions were scheduled to be heard.

The day before the motions were to be heard the Board was advised that the parties were in settlement discussions; those discussions proved to be successful and the various motions abandoned. As a result, all appeals against the site specific zoning by-law amendment to permit the sewage treatment facility have been withdrawn, and that by-law amendment is now in full force and effect. All appeals against the District of Muskoka Official Plan Amendment 31 have also been withdrawn and that amendment is also now in full force and effect.

Frank Jaglowitz has withdrawn his appeal against OPA 34, indicating that he was satisfied with the settlement reached between FOM and Rosseau; neither Mr. Jaglowitz nor anyone on his behalf appeared today. The Muskoka Lakes Association [MLA], added as party at the pre-hearing conference, has also now advised the Board that it is content with the settlement; MLA did not appear today.

The Township of Muskoka Lakes appeared today through Mr. Stephen Fahner. Mr. Fahner appeared as a friend of the Board and gave evidence in answer to the Board's questions.

### **Official Plan Amendment 34**

The only matter remaining before the Board is the Township of Muskoka Lakes Official Plan Amendment 34. A slightly modified Official Plan Amendment 34 was filed as Exhibit 7 in these proceedings. No one appeared in opposition.

The Board heard from two qualified land use planners, both full Members of the Canadian Institute of Planners and Registered Professional Planners in Ontario: Mr. Stephen Fahner and Ms Margaret Walton.

Minett is one of six communities within the Township of Muskoka Lakes, each of which has its own section in the Township Official Plan. Minett has long been recognized as a community with a resort character. It has been home to some well-known Muskoka resorts, some dating to the 1800's. The community includes a marina but had only a small handful of single-family homes. These latter have since been bought by Rosseau/KFE and are adjacent to the Red Leaves resort now under construction.

In recognizing the resort character of Minett, OPA 34 designates Minett as a resort village. An environmental assessment, OPA 34, and the companion District OPA 31, will enable the introduction of municipal services into Minett. That, in turn, will support its further resort development.

OPA 34 was adopted by the Township in January, 2007, and by the District, with some amendments, in May, 2007. The version of OPA 34 before this Board as Exhibit 7 has been further modified in two respects:

1. a series of non-controversial editing changes have been made, primarily dealing with typographical errors, errors in numbering, and occasional word changes primarily to ensure the language of the amendment reflects the language and references in the Township Official Plan; and
2. a slight density reduction. The Township uses both imperial and metric measurement and has expressed the change as a reduction from 12 units per acre (30 u/h) to 10 units per acre (25 u/h).

Both Ms Walton and Mr. Fahner have reviewed these changes and agree that in their professional opinions OPA 34, as modified and filed as Exhibit 7 in these proceedings, meets the requirements of the *Planning Act*, is consistent with the Provincial

Policy Statement, conforms to the District of Muskoka Official Plan and to the policy regime of the Township Official Plan, and represents good planning.

On the evidence of Ms Walton and Mr. Fahner, the Board finds that OPA 34, as modified and filed in these proceedings as Exhibit 7, meets the requirements of the *Planning Act*, is consistent with the Provincial Policy Statement, conforms to the District of Muskoka Official Plan and to the policy regime of the Township Official Plan, and represents good planning.

Having regard to section 17(50) of the *Planning Act*, the appeal is allowed in part, Official Plan Amendment 34 is modified in accordance with Exhibit 7 of these proceedings and, as so modified, is approved.

So Orders the Board.

“Susan de Avillar Schiller”

SUSAN de AVILLAR SCHILLER  
MEMBER