

The Corporation of the City of Kawartha Lakes
Council Report

Report Number RS2018-022

Date: July 17, 2018
Time: 2:00 p.m.
Place: Council Chambers

Ward Community Identifier: 13

Title: Boathouse Encroachment – 781 Kenstone Beach Rd.,
Bobcaygeon

Author and Title: Christine Oliver, Law Clerk of Realty Services

Recommendation:

That Report RS2018-022, Boathouse Encroachment – 781 Kenstone Beach Rd., Bobcaygeon, be received.

Department Head:_____

Financial/Legal/HR/Other:_____

Chief Administrative Officer:_____

Background:

The City passed the City Lands Encroachment By-law 2018-017 in February 2018. The City Lands Encroachment By-law provides that encroachments on City property are not permitted, unless authorized by the City pursuant to by-law, statute, regulation, policy, resolution of the City, or encroachment agreement.

The City Lands Encroachment By-law provides further that any person wishing to encroach on City lands must make an application to the Land Management Committee.

The Land Management Committee consists of the Director of Public Works, the City Solicitor, the Asset Manager, the Director of Engineering and Corporate Assets, the Director of Development Services and a Land Use Planner. All members are employed by the City. Unlike other Committees, the purpose of the Land Management Committee is not only to make recommendations to Council; in some cases, the purpose of this Committee is to make administrative decisions within Staff's delegated authority, set out in the City Lands Encroachment By-law and the Signing Authority By-law.

More specifically, the Land Management Committee makes recommendations to Council regarding land acquisition and land disposition, and with respect to longer term leases and licenses having a higher annual associated revenue or expense. The Land Management Committee also is used as a venue for Staff to process shorter term leases and licenses that have a lower annual associated revenue or expense, for which Staff have delegated authority.

Pursuant to section 5.05 of the Signing Authority By-law 2016-009, License Agreements with associated revenue of \$10,000.00 or less per year are signed by the City Solicitor or the Director of Corporate Services. A Council by-law is not required.

With respect to License Agreements for encroachments, the criteria upon which the Land Management Committee makes its decisions is set out at section 4.01 of the City Lands Encroachment By-law. Some examples of when an application will be denied include: the encroachment creates an unsafe condition; the encroachment creates liabilities for which the City cannot assign full responsibility to the owner of said encroachment; etc.

Section 4.04 of the City Lands Encroachment By-law provides that an applicant will be advised of the Committee's decision and has the opportunity to bring a deputation to a Special Meeting of Council. At that Special Meeting, Council may refer the matter back to Staff for a Report, which will allow Council to consider the matter and make a final decision on it.

Rationale:

The Applicant, being the homeowner at 781 Kenstone Beach Rd., Bobcaygeon, applied to the Land Management Committee to allow an existing boathouse (photographs and aerial showing property lines at Appendices A and B) to remain in its current location being along the travelled road allowance for Kawartha Lakes Road 24. The entire boathouse encroaches into the City's road allowance (shown on the draft plan of survey at Appendix C).

In the application, the Applicant noted that they are prepared to repair the boathouse.

The Land Management Committee denied the application on the grounds that the boathouse is in disrepair and should be removed. The associated dock was permitted to remain.

Council has passed a Dock Encroachments Policy CP2018-001 – expressly allowing docks to encroach on City property – with respect to the Encroachment By-law, but has not yet considered Boathouse encroachments. Realty Services envisions formalizing a set of boathouse policies in a Council Policy or Management Directive in 2019. The Committee previously made a decision of general application concerning boathouses: in each of the instances that a boathouse is in substantial or structural disrepair such that substantial costs would be required to bring it into repair, such that a building permit would be required for its rehabilitation, or such that it creates an unsafe condition, the boathouse should be removed. This would result in its removal at the most convenient time for the boathouse owner.

The reason for this decision is the fact that boathouses constitute a larger impediment to general public access, and a larger visual impairment, than do docks. They also have the potential for bigger risks to the City: Specifically, gas stored in boathouses present additional risk of discharge of contaminants into the environment. Further, roofed structures such as boathouses or covered boat slips carry additional personal injury risk associated with collapse. Accordingly, it was the opinion of the Committee that these structures will ideally be located on private property.

Other Alternatives Considered:

The City could choose to enter into a License Agreement with the Applicant to allow the boathouse to remain in its current location. This would be achieved by adding a second statement to the recommendation, in passing the Council Resolution: "That Staff be directed to enter into a License Agreement with the owner of 781 Kenstone Beach Rd., Bobcaygeon, to allow the boathouse at the

north side of the travelled road allowance for Kawartha Lakes Road 24 to remain in its current location.”

Financial/Operation Impacts:

None, if the encroachment is not permitted.

If the encroachment is permitted, then the License Agreement will be structured in a way so that the City will be insured and indemnified for any government order or third party claim (such as an environmental spill from contents stored in the boathouse, or personal injury) resulting from the encroachment.

Relationship of Recommendation to the 2016-2019 Strategic Plan:

This Report does not specifically align with any of the goals in the Council Adopted Strategic Plan. This Report is in alignment with the strategic enabler of “efficient infrastructure and asset management”.

Consultations:

Land Management Committee

Appendixes:

Appendix A – Photograph of Current Structure



Appendix A-
Photo.pdf

Appendix B – Aerial Photograph



Appendix B-
Aerial.pdf

Appendix C – Draft Plan of Survey



Appendix C-Plan.pdf

Department Head E-Mail: rcarlson@kawarthalakes.ca

Department Head: Robyn Carlson

Department File: L17-18-RS060