

KAWARTHA LAKES



10-5
Request to Make a
Deputation/Presentation to
Council/Committee
City of Kawartha Lakes
City Clerk's Office
26 Francis Street, PO Box 9000
Lindsay, ON K9V 5R8
705-324-9411

Name: *

James Blair

Address: *

[Redacted Address]

City/Town/Village:

[Redacted City/Town/Village]

Province: *

Ontario

Postal Code:

[Redacted Postal Code]

Telephone: *

[Redacted Telephone]

Email: *

[Redacted Email]

There can be maximum of two speakers for each deputation. Please list the name(s) of the individual(s) who will be speaking. The names that are listed here will be included on the Council Meeting Agenda: *

James Blair
Mary Ellen Blair

Please provide details of the matter to which you wish to speak: *

Application of an amendment to the Zoning By-law
File # D06-2018-022
Plan 2018-073 respecting Application D06-2018-022 be DENIED.

What action are you hoping will result from your presentation/deputation? *

To Deny an application to amend the Township of Mariposa Zoning By-law to add an observation tower and amend the development standards for the observation tower on the property identified as 132 Oakdene Crescent, Mariposa. As a direct neighbour ([REDACTED]), we are hoping that this application will be DENIED.

Signature:

Date:

September 17, 2018

[REDACTED]

**Please complete this form and return to the City Clerk's Office:
Fax: 705-324-8110 Email: agendaitems@kawarthalakes.ca**

The personal information is being collected by the City of Kawartha Lakes for the principal purpose of a request to make a deputation to Committee or Council pursuant to Section 10 of City of Kawartha Lakes By-law 2014-266. This information may be circulated to members of Council, staff and the general public. Questions about the collection of this information should be directed to the City Clerk or Deputy Clerk at 705 324-9411 ext. 1295 or 1322.

[REDACTED]

[REDACTED]

September 17, 2018

Subject: Zoning By-law Amendment for Observation Tower - AGAINST

File Application #: D06-2018-022

Re: Plan 2018-073

Mr. Mayor and Council

My name is James Blair. My wife Mary Ellen and I reside at 130 Oakdene Crescent, R.R # 1 Little Britain, directly adjacent to the property and structure in question. We are against the proposed by-law change.

The reason for our being here today, more than anyone that we may hear from during this hearing, the structure has a direct impact upon the safety, privacy and enjoyment of the property we have resided in for the past 22 years.

A brief outline of my family's history and of my own past work experience, I hope, will assist in your considering and finding merit in our concerns.

For the past 28 years I have been employed with Ontario Power Generation, stationed for a time at the Bruce Nuclear site and the Pickering Nuclear Generating Station; the last ten years of which was in one of the Engineering Departments.

My Great Grandfather, Leonard McClure Blair, immigrated to Canada from Ireland very early in the 1900's. Where did he decide to settle? Why, of all places, Lindsay. He married my Great Grandmother in 1910. He was employed as a locomotive Engineer with the Grand Trunk Railroad in those early years. When the First World War broke out, he enlisted in the 109th Battalion and eventually sent into battle in France, as part of a machine gun crew. He took part in many battles which included Passchendaele. After being wounded twice, he was invalided back to Canada in 1917. When he recovered from his wounds, he went back to his pre-war position with the rail his retirement. He passed away in 1962 and is beside his wife in Riverside Cemetery in Lindsay.

My mother's side arrived in Canada, emigrating from France in the early 1600's. I will not go into much depth as to the family history as it would take far too long. What is of importance though, is that there were many marriages over the time span, between different nationalities including many with Native or Aboriginal people. There was a time, including when I was younger, where there was a stigma associated with being and Aboriginal or a descendant of such. You never would have admitted such, unless of course you lived on a reservation. As is evident by the Federal Government's attempts to make amends for past wrongs, and even establishing a nation holiday to celebrate Native Canadians, but I believe a date has not been chosen yet.

I had to secretly embrace my past, being of Aboriginal descent. Upon moving to our home some 22 years ago, the setting allowed me to experience uninterrupted time to enjoy the spiritual contact and experience I had been lacking. I installed a bench at the top of our property, where I could go and sit to meditate and be one with nature. To simply relax and reflect in a spiritual sense. I did this for many years and that was my spot with no distractions, only the natural sights and sounds to aid in my spirituality.

Then the structure, which looks right down on my bench was erected. I stopped visiting my bench shortly after completion of the structure (or tower as the owners refer to it.) Noise from those up on the structure, abusive comments raining down, the shouting of obscenities all emanating from individuals on the platform of the structure, my wife cannot walk about our own yard without hearing these from either behind the privacy fence or from the top of the structure.

The structure is an invasion of our privacy rights as property owners, and an invasion, and prevention of myself to continue my spiritual practices. Just the mere presence of the structure is enough of a distraction now to prevent me from obtaining the state where I am able to meditate or spiritually connect. I no longer visit that area of my yard or my bench.

Safety Concerns

- Support posts are sunk into unstable ground. Earth has the consistency of beach sand (see sample provided)
- Structure is constructed on a grade
- Structure is already leaning in a downhill direction

- Structures location in relation to the property line equals 7 metres. Total height of structure as provided by owner exceeds 29 feet. If the structure fails, the top section of the structure could fall onto our property. The top of the structure is where the bulk of construction material is located (observation deck). This creates an unstable load, making the structure top heavy. If the structure were to fall in the direction of the property line, there may be a possibly be interference by two trees growing between the structure and the fence, then again, there may not. Any shrapnel from the structure or broken tree limbs would cause serious or possible fatal injuries to any persons or pets in the vicinity of the collapse.
- Cables installed between support posts offer no reinforcement to the structure. They may have aided in the assembly of the structure, but in no way prevent the structure from failing. It is virtually a free standing structure, only supported by four posts set in the ground.

Case in Point

We recently switch from oil heating to propane. Before any fuel tanks could be delivered, we were required to provide a level concrete pad for the tanks. Why would a structure, such as the one we are currently discussing, not require the same regulations? We are not debating fuel tanks here, but human lives!

- Access to the structure is virtually unrestricted. On two sides of the property (North and East sides), is a four foot chain link fence, the south side boundary has a six foot privacy fence and a four foot section of fence and a gate. On the North side of the home, top of the driveway, exhibits no barrier to the backyard or rear of property. Any of the fences, including the privacy fence, are easily scalable from outside the property in question. Kids being kids, are naturally curious and some quite adventurous. This structure is easily visible from the roadway and only invites those of both traits. There are many resident and non-resident teens and preteen youths on the street. It would only take one, to climb the structure and through either misadventure or accident, become injured or suffer a fatality. Who is then responsible? I think the city of Kawartha Lakes may find itself, and the property owner, responsible and liable for any incident that may occur, whether through trespass or failure of the structure.

- Scaffolding is being employed as stairs to access the top of the structure. In industry, scaffold cannot be used as a permanent part of a structure. How does it apply in a residential situation? Does it have to be CSA or TSAA approved? In regards to the use or even manufacture of this equipment, does it have to be purchased from a manufacturer who has been certified by either CSA or TSAA for use where people use it for access or egress from a structure.
- One of two major fault lines in Ontario passes on both sides of Lake Scugog. This area is not immune to earthquakes and or tremors. This Fault Line is considered to be a major fault line and is reported to be capable of producing a major seismic event at any time.
Is this structure seismically qualified?
- **In reference to the Ontario Building Code, has any information been provided, in particular to Division "B" Part 4 Sections:**

- 4.1.3 Limit States Design**
- 4.1.3.2 Strength and Stability**
- 4.1.3.3 Fatigue**
- 4.1.3.4. Service Ability**
- 4.1.3.5 Deflection**
- 4.1.4 Dead Loads**

It has come to our attention that a petition of sorts was circulated in an attempt to garner support for this structure. Regardless of the number of names, if this committee were to dissect the list, first eliminating those who do not reside in the City of Kawartha Lakes, next those who do not reside on Oakdene Crescent. Followed by those who do not live in close proximity to the structure. By that, I mean who cannot see it at all from their property. Lastly, those who are seasonal residents who are not directly affected. I think that all that would remain would be one or two names, not including the owners responsible for the structure. I hope this reviewing Committee will consider this and disregard any such list provided by



Should this rezoning go ahead, a precedent may be set for anyone else who may decide to erect a similar structure on their property, regardless of where that property may be located? Structures could be spring up like invasive weeds throughout the City of Kawartha Lakes. If a precedent is to be set, it should be one in which the city will no longer tolerate flagrant violation of its regulations. I.E. Building Permits, and making a mockery of the process in dealing with such violations.

If this is the normal process for dealing with such matters, I believe it may be time for the Mayor and Council to review this process so that in the future failure to abide and follow the regulations is dealt with swiftly and decisively. If the task appears too difficult, I am sure that the newly elected provincial Government may be more than willing to assist in setting up a procedure and regulations to eliminate such mockery.

It is my understanding that when the city was made aware of the structure, it was found that no permit was applied for or obtained prior to the erection and completion of the structure. It was also determined that the structure exceeded what is the allowable by some sixteen feet. The owners of the structure were instructed to apply for a Minor Variance. The application was rejected, leading us to this hearing. ***Why are we here?***

For the reasons already presented, the owners should be directed to remove the structure.
END OF STORY.

Closing

In closing, I request that this reviewing committee should any rezoning be considered, allowing this structure to remain, obtain the following:

- A document from the property owner's insurance company acknowledging their knowledge of the structure, and liability insurance for the specific structure in question. Not just simple homeowners insurance, as most likely the insurance company is completely unaware of the structure.
- A complete in depth comprehensive inspection of the structure, the site, and through analysis of the concerns as previously outline. I.E. Location and grade, no stable base materials, etc. To be performed by the cities own Civil Engineering staff.

The city of Kawartha Lakes should also realize that being aware of these concerns and failure to act in a reasonable course to investigate them could result in further liability, and the case of personal injury or death, through either failure of the structure, or misadventure...criminal proceedings.

Attachment:

After reviewing a letter submitted by [REDACTED], [REDACTED], 2018, to the City of Kawartha Lakes Planning Department, I can only hope that this Reviewing Committee does not fall victim to the ruse as detailed in the same mentioned letter. The supposed "wildlife habitat" outlined in the document did not exist until after this 'observation tower' became an issue with the area residents and it's referral to the City of Kawartha Lakes for investigation. I think if the committee might further waste it's time investigating some of the claims. i.e. clubs and associations, except perhaps 'The Friends of the Osprey', you will find that the memberships, articles and associations listed groups or associations, did not exist prior to community concerns over the structure. It is all a complete fabrication to garner support and possible acceptance of any rezoning of the property to allow the structure to remain.

I would also like to refer to document from M.B. Finney Ltd. There appears to be a couple of misleading headings on the document.

1 Contractor - Scott Sommerville

Scott Sommerville does not indicate what type of contractor he is. To the best of our knowledge, Scott Sommerville may be an Electrical Contractor, not a General, or Structural Contractor.

2 Project- Elevated Osprey Nest Platform

There are not Ospreys on the platform. It is a platform intended for Humans. When the Ospreys are nesting, any visit to the platform only serves to harass the Osprey as they are nesting and rearing young, during a span from the birds arrival in spring, until their departure in the fall. The remainder of the year, the birds have migrated south. How than can the structure be associated at all with the Osprey. Again, only a ruse to justify the structures existence.

Also, attention should be paid to the footnotes on page 1 (one) of the same document. M.B. Finney is not assuming any responsibility for his inspection of this structure. In my 10 plus years' experience in one of the Engineering Departments of Ontario Power Generation, many drawings crossed my desk for review, especially pertaining to new builds or engineering changes. The drawings or related documents always bared the stamp identifying that the Engineer is a member of the society of Professional Engineers of Ontario. I have no doubt that

Mr. Finney is a member of this Fraternity, but the absence of his stamp on either the written document or the submitted drawing of the structure should raise red flags. Although he may have been impressed by some aspects of the structure, specifically some of the pieces used in its construction, it in no way states that the location, means of construction, foundation, or the intent to be used by persons, or the number of persons that the structure may support safely. As an Engineering basis for the continued existence of the structure it has no legal basis, especially for liability only excluding liability of Mr. Finny.

Further to the document from Mr. Finney, the recommendations in particular 6.2, would likely require the use of heavy equipment such as a boom truck or similar equipment. It would also require some disassembly of the structure, without an approved building permit or minor variance if sections are removed. Can they be reinstalled without these approvals. Also because of the location of the structure, I do not believe it will be accessible to the required heavy equipment to complete the task.

Sincerely,

James (Jim) Blair

130 Oakdene Crescent, Little Britain, KOM 2C0

Plan 2018-073

File: D06-2018-022

Subject: Application for Zoning By-law Amendment for Observation Tower - AGAINST

File #: D06-2018-022

Re: Plan 2018-073

Dear Mayor and Council

We have lived at 130 Oakdene Crescent for the past 22 years and have enjoyed this time and have respected our privacy and our neighbours privacy. Since Suzanne and Scott have moved in there has been a lot of issues but the Tower is the most significant one.

Initially when the Osprey nest was erected we were asked not to make noise or limit our use of our backyard due to the Osprey nesting. We tried to abide, but we have grandchildren who love to play and make noise. This was prior to the tower being built. After the tower was built, I asked Suzanne and Scott about building without a permit and they stated if caught they would state it was the largest birdfeeder ever and "Guinness Book of Record" worthy. Suzanne stated that once it was up, she would never take it down and would just plead forgiveness. She stated she knew a lot of people on various committees in the City of Kawartha Lakes that would side with her.

She claimed this dispute, regarding the tower, came about due to a neighbourly disagreement. That is not true. Facts being that she ensures everyone on the street abide by all the rules and by-laws, but apparently they do not apply to her as in her words, "She knows people".

In the Planning Meeting, held September 12 2018, she emphasized that they do no approach or climb the tower during the Osprey season so as to not disturb them. The tower itself does disturb them and I have pictures to prove they are up there entertaining on a frequent basis. If you ask to go up, Suzanne and Scott would never say no. Even if it was disturbing the birds they would encourage you to go up and stay a while in order to gain a vote to keep the tower.

Contrary to what was stated in the Planning meeting, Suzanne and Scot use the tower all summer as Suzanne has stated in her letter that it is for sanity and relaxation and to watch the sunsets, but it is also used in the winter months. New Years of 2017, I was outside when I heard the commotion of a group of people climbing the tower to bring in the New Year. Weather conditions were not great and so I stayed outside to ensure they all got down safely as I could tell they had been ringing in a lot of cheer for the evening. Please note that she also has a letter submitted from a visitor from Scotland...a friend of a neighbour, which proves they are up there on summer months.

My husband and I have lost the use of our backyard for privacy. We can no longer participate in family functions or common use due to the obscenities being rained down upon us even when our grandchildren are present. Obscenities I believe due to the fact she believes we started this process.. which we did not.

Plan 2018-073

File: D06-2018-022

In the past we had anticipated cutting down trees but could not as we would be further exposed. Instead we hired people to trim our trees to still provide us with some semblance of privacy. This tower limits the use of our yard and activities as we are constantly being watched and criticized from above.

Yes they built a fence to provide for their privacy, but with the tower have no consideration for the privacy of others. The people she has had submit letters in favor of the tower either do not live here, or are just cottagers that are here part time and do not have voting privileges in this area.

I wish more people could attend this meeting to protest this grotesque structure, but this is a weekday and they must work to earn their living and cannot take the time off.

But, we are the most impacted of them all. We live beneath this tower, scrutinized day and night by their use and voices.

We used to use our yard, but now remain on our deck under a gazebo as we feel we are no longer able to branch beyond its privacy and safety.

In conclusion, I must mention that this tower will definitely decrease the value of our home and surrounding homes. I feel that the by-laws are not being taken seriously as this issue should never have reached this point. Suzanne has stated in her initial letter that she hates it here and if she should move, what will happen with the tower and the use of it by the new owners? If this does get rezoning...does it limit what we can do in **our** own back yard.

If Suzanne and Scott had applied for a permit initially this would not be an issue as they could not have been able to build it too high and too wide. I guess we can all build towers if this is approved and apply for forgiveness later.

With Respect,



MaryEllen Blair

130 Oakdene Crescent, Little Britain KOM 2C0 (705) 786-3779

Attachments – Six Pictures & Video



Front view. Does not blend in to background.
Very obvious & not a favorable looking structure.
Looks ridiculous.



According to Suzanne they do not use the tower during summer months (Osprey nesting time), but they entertain often.



Fall view 2017

No privacy

Their view to our yard.

Note: Is this something you would like in your neighbours back yard?



No barrier /fence to prevent entry to back yard.



