

# Zoning appeal from Hawthorn Cottages in Eugenia is denied

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(by Don Crosby)

The Local Planning Approval Tribunal has denied an appeal by Brian and Jayne Legree to permit and regulate 13 campsites at 109 Hawthorn Lane in Eugenia. Grey Highlands had refused a zoning bylaw amendment and the Legrees had appealed to the tribunal.

Jayne Legree commented that she and her husband Bryan are still in shock and are considering their options.

She said all their decisions in the past six years to make improvements to the property were done with the support and approval of Grey Highlands staff and even some members of council.

"We can't figure this one out. Somehow we got stuck in the middle of some sort of battle or something. We want the public to know that every step we took since we purchased the property was on the advice of the

municipality," she said.

She said including the cost of the appeal they have spent over \$100,000 on the question.

The appeal was heard September 6 and 7 in Owen Sound. The decision was given Oct. 1 by hearing officer S. Tousaw.

The tribunal (successor to the OMB) ruled that the property is not zoned for a campground but has been used for that purpose during recent years by the Legrees and is referred to in some exhibits and oral evidence as the existing campground.

The municipality and the Lake Eugenia Property Owners Association do not accept that the property has a legal non-conforming status. The Legrees were not seeking a ruling on the legal non-conforming status, but were appealing the zoning bylaw amendment decision.

The Tribunal considered the campground not to exist for the purpose of the

appeal.

Nancy Matthews president of the Lake Eugenia Property Owners Association said all that the decision does is explain what the law is and always was throughout this whole situation and it upholds it.

"It should never have come to this," Matthews said. "The decision makes it clear that those trailers should not have been put there in the first place."

Grey Highlands Mayor Paul McQueen pointed a way forward. "They need to do an official plan amendment and not a zoning amendment," he said. He had proposed an official plan amendment back in January of this year, but couldn't get council support.

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The Tribunal decision named three main issues: Does the zoning bylaw amendment conform with the Grey Highlands official plan? Have the needed environmental studies been addressed adequately? Does the proposed method of servicing comply with applicable requirements?

The decision turned on the first issue, although the other two issues were addressed also. The author of the decision found all three questions to be answered in the negative.

The Tribunal found that a tent-and-trailer campground is not permitted in the land use designation affecting this property in Grey Highlands official plan.

"The zoning bylaw amendment must be denied for failure to conform with the Grey Highlands official plan. And for other reasons the appeal is dismissed and the zoning bylaw amendment is refused," wrote Tousaw.

The property is located at the southeast corner of Lake Eugenia, on a second tier lot 80 metres from the lake, separated by an intervening first tier of lakefront properties and a private lane. The entrance to the property is on Hawthorn Lane.

The property contains a rental cabin in its southwest corner that is not part of this zoning bylaw amendment. The cabin is part of the seasonal cabin

rental business, Hawthorn Cottages, which is operated by the Legrees on the lakefront property directly across Hawthorn Lane from the property in question.

In the language of the decision, the campground "is proposed" on the rectangular portion of the

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## Zoning

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property, about 0.35 ha of open land.

There has been camping at Hawthorns since the 1950s, and it was operated as a campground from 2004 until purchased in 2012 by the Legrees. The current zoning question has been a long and controversial one among property-owners and for council.

About 1,500 people signed a petition in favour of

the Legrees being able to continue to use the site as a campground, they said.

The zoning bylaw amendment (with certain revisions submitted during final submissions from the Legrees) proposed to rezone this area to permit 13 campsites subject to various regulations for buffering, setbacks, parking, and amenity area, and prohibiting a septic system on the site or connection to a septic system on an adjacent property.

The Legrees proposed to allow the residents of the campground to use the facilities on their Hawthorn Cottages property across the lane, including washrooms with showers and the amenities of the lakefront. This area of Grey Highlands is not supplied with municipal water and sewer services. The Legrees' specific proposals for regulating the campground for waste were presented in detail during the hearing.

The Legrees' planner Ron Davidson argued that it was an oversight that campgrounds were not included along with golf

courses in the 2003 Grey Highlands official plan, and that the permission for golf courses can be implied to include the other resource based recreational uses permitted by the Grey County official plan.

Davidson considered the Grey Highlands official plan to allow for recreational uses on the property and concluded that the proposed campground conforms with the Grey Highlands Official Plan. He also noted that the municipality's consulting planner also concluded that "the proposed use does conform to the official plan."

Tousaw said the Tribunal accepted a plain reading of the Grey Highlands official plan and finds that it does not include a campground as a permitted use in the Inland Lakes designation.

Tousaw said that in the absence of required studies the Tribunal finds the application fails to confirm with Provincial Policy Statement, the Grey County official plan and Grey Highlands environmental standards pertaining to this zoning bylaw amendment.

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Thanks

Paul