

NPFAQ and Freymond Lumber reach settlement over proposed quarry

By Mike Riley

In a surprise announcement on Sept. 20 at the NPFAQ/Freymond Lumber Ontario Land Tribunal hearing, it was revealed that the two parties had reached a settlement with regard to NPFAQ's appeal under the Ontario Planning Act against the Freymond Lumber proposed quarry on Bay Lake Road in Faraday Township. A press release and the minutes of the settlement agreement were subsequently made available to all parties and participants in the hearing and is now posted on the NPFAQ website at www.noplaceforaquarry.com. While NPFAQ, Hastings County and Freymond Lumber will be withdrawing from the hearing under the OPA appeal, the hearing will continue for the next several weeks to hear the Aggregate Resource Act Appeal between the ARA objectors and Freymond Lumber.

At the virtual OLT hearing on Sept. 20 were NPFAQ legal counsel Eric Gillespie, Yasmeen Peer and articling student Kristian Ferreira, legal counsel for Freymond Lumber John Buhlman and Chantal deSereville and the lawyer for Hastings County Darrell Mast. There were also representatives from NPFAQ, Freymond Lumber, Fowler Construction and the objectors under the ARA appeal.

The chair of the hearing, David Lanthier, revealed that he'd been apprised of a settlement of the OPA appeal matter between NPFAQ, Hastings County and Freymond Lumber, which Buhlman and Gillespie both confirmed, with Gillespie calling it a "fair and reasonable outcome." In addition to the withdrawal of NPFAQ, Hastings County and Freymond Lumber under the OPA appeal from the hearing proceedings, Gillespie also said that as part of the minutes of settlement, four of the objectors under the ARA appeals hearing would also be removing themselves from the proceedings; Alysha Domincio, James Cunningham, Andrew Norrie and Peter Wagner.

The ARA hearing portion of the main hearing will proceed before the OLT beginning Sept. 21, with testimony from the remaining ARA objectors, Freymond Lumber's expert witnesses and any cross examinations from either side. However, with the OPA appeal segment now settled, the hearing will now be approximately two weeks versus the initial 36 day estimate.

NPFAQ had been appealing to the OLT under an official plan amendment No. OPA 18 under section 17(36) of the Planning Act by Hastings County that allowed Freymond Lumber to proceed with the quarry under the OPA. With this now settled, the appeal has been withdrawn. An appeal of the Class A aggregate license granted to Freymond Lumber for the removal of aggregate under section 11(5) of the ARA is still being pursued by the ARA objectors however.

The press release announcing the settlement of the OPA appeal, dated Sept. 20, revealed that NPFAQ, the Freymond family and several members of the community were pleased that a settlement had been reached. The parties in the settlement thanked the OLT for their assistance in providing mediation services back in June and July that spurred on further discussions between the parties and "changes to the application that provided NPFAQ and its supporters with additional assurances regarding the operation and rehabilitation of the proposed quarry," leading to the resolution of their differences, and ultimately the settlement.

In the press release, the Freymond family expressed that they care deeply about the community and cite this settlement as another example of the changes made to address community concerns about the proposed quarry. Additional water monitoring (data loggers installed and monitored at specific wells at the site) noise mitigation (maintaining tree cover wherever possible, possibly reducing the crusher and screening plant and generator with quieter technologies, additional noise audit at the commencement of phase three of the project, attempt to minimize truck noise wherever possible) and ecological enhancements (increasing the size of the amphibian pond in the final rehabilitation by 500 metres, planting milkweed around the edges of the amphibian pond which attracts and provides food for butterflies) are some specific changes that will arise due to the settlement agreement. Full details of the minutes of settlement can be found at the NPFAQ website at www.noplaceforaquarry.com.

In addition to withdrawing their OPA appeal, NPFAQ agreed that their expert witnesses; Dalila Giusti, Karl Konze, Stefan Szczerbak,

Andrew Gibson, Dr. Richard Carmona and Chris Helmer, would not testify at the hearing in the ARA appeal. They also agreed that Eric Gillespie and his law firm would not act for, represent or advise any of the remaining ARA objectors. Also, as part of this settlement agreement, Freymond Lumber has agreed to pay, within 30 days of the dismissal of NPFAQ's appeal, \$61,000 to help mitigate NPFAQ's costs in hiring experts who helped to make the settlement a reality.

A Community Liaison Committee will be convened to maintain openness and transparency regarding the quarry's operations, as part of the Freymond family's open-door policy, with representation from NPFAQ, Grail Springs and other members of the community.

Both sides had a list of people they wanted to thank for their participation and support over the years. The Freymond family thanked the community and NPFAQ for their willingness to arrive at an equitable settlement. NPFAQ and its board members offered thanks to the community, all the volunteers, researchers, experts and donors, who helped them reach this final resolution. NPFAQ, Grail Springs Spa and Resort and the community also thanked the Freymond family and Fowler construction for listening to their concerns and making changes to the proposed quarry that will protect the region's prosperity and its natural features.

After the settlement was announced at the Sept. 20 hearing, Catherine van der Oye from NPFAQ called it a win-win for everyone involved, and again thanked everybody for their support.