

CORPORATION OF THE TOWNSHIP OF WESTMEATH

BY-LAW NUMBER 88-17

A By-Law to enter into an agreement with Andrew Nellestyn regarding a building permit issued in error.

Whereas:

- 1) The Council of the Corporation of the Township has authority under Section 104 of the Municipal Act RSO 1980 to pass By-Laws concerning the welfare of the inhabitants of the Municipality.
- 2) A building permit issued in error by the Municipality and the ensuing stop work order would impose extreme financial hardship on the owner of the land involved, and could also result in considerable cost to the Municipality if a law suit ensued.
- 3) The original error can probably be rectified by means of a zoning amendment at minimum cost and inconvenience to the landowner and to the Municipality.
- 4) The landowner has agreed to enter into an agreement with the Municipality to absolve the Corporation of the Township of Westmeath of any liability as a result of the issuance in error of the building permit; and the Council considers it expedient to enter into such agreement.

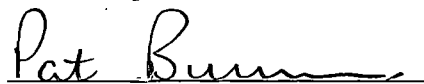
Now therefore the Council of the Corporation of the Township of Westmeath enacts as follows:

1. That the Corporation of the Township of Westmeath enters into an agreement, known as Schedule "A", attached to, and forming part of this By-Law, with Andrew Nellestyn.
2. That the Reeve and the Clerk are hereby authorized to sign the agreement referred to in Section 1, on behalf of the Corporation.

Passed and ENACTED this 19th day of October, 1988



Reeve



Clerk

SCHEDULE "A" TO BY-LAW 88-17

THIS AGREEMENT MADE THIS 14th DAY OF October,

A.D. 1988.

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF WESTMEATH

THE PARTY OF THE FIRST PART
(Hereinafter called the
"Municipality").

-AND-

ANDREW NELLESTYN

THE PARTY OF THE SECOND PART
(Hereinafter called "The Owner")

WHEREAS the above mentioned owner has obtained a building permit from the Municipality for the building of a residence on land owned by him, namely, Part of Lot 9, Concession EFC, more particularly described as Part 4 and 5 on Reference Plan 3202;

AND WHEREAS it was subsequently ascertained that the lands referred to above were zoned Environmental Protection and that accordingly the building permit had been granted in error;

AND WHEREAS the Municipality has imposed a stop work order number 64-88 issued on the 19th day of September, 1988 which order if enforced would impose extreme financial hardship on the owner in view of the approaching winter season;

AND WHEREAS the Municipality has investigated and is satisfied that the Ontario Ministry of Natural Resources will not object to a re-zoning of the property if the owner complies with certain requirements imposed by the Ministry;

AND WHEREAS the owner has agreed to apply for a re-zoning of the property and the Municipality is willing to suspend the enforcement of the stop work order if a satisfactory agreement is entered into between the parties;

NOW THEREFORE WITNESSETH THAT IN CONSIDERATION of the sum of \$1.00 (ONE DOLLAR) and covenants hereinafter referred to the parties hereto agree as follows:-

1. The Municipality agrees not to enforce the stop work order number 64-88 issued the 19th day of September, 1988 with respect to the property owned by the owner, namely parts 4 and 5 on Reference Plan 3202, Township of Westmeath, for a period of nine months provided the owner agrees as follows:-

(A) The owner agrees to apply for a suitable re-zoning of the above mentioned land and agrees to comply with all requirements proposed by any government or municipal agency with respect to the said re-zoning.

(B) The owner obtains and files with the Municipality a letter provided by the Ministry of Natural Resources indicating that the Ministry is prepared to consent to the re-zoning upon the terms specified.

(C) The owner acknowledges that the said lands are not suitably zoned at present and agrees to accept full responsibility and all consequences arising from any failure to

obtain a re-zoning for any cause whatsoever including the necessity of removing the building and restoring the lot at his own expense within a reasonable time and notwithstanding the issuance by the Township in error of the building permit.

2. The Owner agrees that the Municipality will not be legally prejudiced in any enforcement of its By-Laws and/or any Provincial Laws on account of it having entered into this agreement and agrees to waive any claim against the Municipality arising as a result of its entering into this agreement.

THIS AGREEMENT shall enure to the benefit of and be binding upon the parties hereto and their heirs, executors, successors and permitted assigns.

IN WITNESS WHEREOF THE parties hereto have executed this agreement in my presence this 14th day of October, A.D. 1988.

Pat Burns Clerk.
CORPORATION OF THE MUNICIPALITY
OF WESTMEATH

S Gordon White-Reeve
October 19th 1988.

AOTB

Andrew Nellestyn
ANDREW NELLESTYN

DATED: OCTOBER , 1988

AGREEMENT BETWEEN:

The Corporation of the Municipality of Westmeath

and

ANDREW NELLESTYN

PREPARED BY:

HUCKABONE, SHAW, O'BRIEN, RADLEY-WALTERS AND REIMER
Barristers and Solicitors
284 Pembroke Street East
Pembroke, Ontario
K8A 6X7

D. A. O'BRIEN,

Solicitor for the Municipality
