

*Case Name:*

**Sherman v. Muskoka Lakes (Township)**

**Cynthia Sherman has appealed to the Ontario  
Municipal Board under subsection  
34(11) of the Planning Act, R.S.O. 1990,  
c. P.13, as amended, from Council's  
refusal to enact a proposed amendment to  
Zoning By-law 87-87 of the Township  
of Muskoka Lakes to provide exemptions  
to lands respecting 1416 Ferndale  
Road to permit 13.5% lot coverage within  
200 feet of the present water's  
edge, to permit a dwelling to be located  
44 feet from the front lot line,  
and to permit a landing of 60 square feet within the front yard**

[2012] O.M.B.D. No. 595

74 O.M.B.R. 189

2012 CarswellOnt 14279

OMB File No. PL120557

Ontario Municipal Board

**Panel: J.P. Atcheson, Member**

Decision: November 6, 2012.

(54 paras.)

**Appearances:**

Cynthia Sherman: A. Brown, counsel.

Township of Muskoka Lakes: H. Elston, counsel and A. Anderson, counsel.

---

### **DECISION DELIVERED BY J. P. ATCHESON**

**1** This was a hearing in the matter of an appeal by Ms. Cynthia Sherman ("Appellant") from a decision of the Council of the Township of Muskoka Lakes that refused to pass an amendment to Zoning By-law No. 87-87 for lands municipally known as 1416 Ferndale Road. The proposed by-law amendment would rezone the subject property to allow a lot coverage of 13.5%, whereas the zoning by-law only allows 10% lot coverage within 200 feet of the water's edge of Lake Rosseau. The proposed by-law amendment would also allow the dwelling to be setback 44 ft. from the water's edge, whereas the zoning by-law currently requires a 45 ft. setback from the water's edge. The third exemption seeks a landing area of 60 sq. ft. from the required front yard setbacks, whereas s. 3.1.2.b.ii) of the By-law permits a landing area of 50 sq. ft. The landing area is associated with new stairs leading from an existing deck to the ground.

**2** The by-law amendment is required in order to allow the screening in of 466 sq. ft. of an existing open deck associated with the existing one-storey main cottage dwelling located on the land portion of the property.

### **BACKGROUND AND EVIDENCE**

**3** The Board, during the course of the hearing, heard from two qualified Land Use Planners. Mr. R. Dragicevic was retained in early 2012, by the Appellant, to assist in the matters now before the Board and supports the applications. Mr. Dymont was retained by the Township in September 2012, to assist them in the matters under appeal, and to assist the Township's planning department in reviewing planning applications due to the recent retirement of the Township's Planning Director. He supports that the position of the Municipal Council in refusing the application.

**4** The subject property is designated "Waterfront" by the Township of Muskoka Lakes Official Plan and is zoned "Waterfront Residential" (WR-1) by the Township's Zoning By-law. There currently exist on the property a 1,825 sq. ft., one-storey main cottage structure, a 1,515 sq. ft. dwelling unit forming part of a two-storey boathouse/dwelling over water, a 645 sq. ft. sleeping cabin, and several non-habitable accessory structures totalling a lot coverage as defined by the zoning by-law of some 12.2% within 200 ft. of the lake. The location of these structures is shown on a site plan (Exhibit 2, Tab 6, page 23). The existing uses are permitted but the property is considered to be legal non-conforming with respect to some of the regulations of the zoning by-law. These facts are not in dispute.

**5** The Planners also agree that the 2005 Provincial Policy Statement and the District of Muskoka Official Plan would not be offended by this application. They agree that the applicable policy tests

are found in the Township's Official Plan as consolidated in June 2010, and extracted in part at Exhibit 2, Tab 8 and Exhibit 9.

**6** The Appellant through this application is seeking to construct a 466 sq. ft. screened in deck addition to the main dwelling located on the land. Construction of a portion of the deck enclosure commenced without the benefit of a building permit. The Township Building Department, on October 24, 2011, issued an Order to Comply, and on January 23, 2012, issued a Stop Work Order. The Appellant, subsequent to the issuing of the Stop Work Order and with the advice of the Township Planning Department, filed a rezoning application with the Municipality to amend the Zoning By-law. Township's planning staff, in a report dated April 17th, 2012, deemed the application to be complete pursuant to the requirements of the *Planning Act* (Act), which was concurred with by Township Council who authorized the circulation of the application and convened a public meeting consistent with the prescribed regulations.

**7** The parties agree that there are no issues with respect to the landing area associated with the stairs leading from the main cottage as shown on a photograph Exhibit 4F, nor did the parties express any concerns with the setback relief of 44 ft. from the water's edge resulting from the enclosed screening of a portion of the existing deck associated with the main dwelling. The dispute, as expressed to the Board, has to do with the increase in lot coverage that is the result of a portion of the existing deck being enclosed as a screened in area.

**8** Under the definitions of the Zoning By-law No. 87-87, the screening in of the portion of the existing deck would, by definition, constitute habitable room space that is to be calculated in the overall lot coverage. An open deck is not calculated as part of the lot coverage according to the definitions found in the by-law. The result is that the existing lot coverage as defined by the Zoning By-law would increase from the existing 12.2% to 13.5%.

**9** It is clear from the evidence of both planners that the Township, through its Official Plan policies, places a high value on protecting and ensuring orderly development within the "Waterfront" designation around all of its lakes and has established very specific policies in its Official Plan and Zoning By-law to regulate development in the area stretching back 200 ft. from the water's edge. This theme of requiring high development standards and limiting density in the "Waterfront" designation is found throughout the Principles and Goals and Objectives of Section B "Waterfront".

**10** It is also clear in s. B 2.4 of the Official Plan that the Municipality through its planning policies see the limiting of density of buildings and structures in the Waterfront area as an important planning tool in protecting the Waterfront areas, and that "strict adherence" to limiting density is to be employed in achieving this end.

**11** Section B 2.4 states that:

2.4 Limiting density of buildings and structures in the Waterfront area is

important in protecting the character of the Waterfront area. Many factors affect Waterfront character such as number of structures, setbacks, shoreline vegetative buffers, height, built size, built form, shoreline structures and the historical lake development. Strict adherence to policies limiting density related to these factors is paramount.

**12** Where the planners diverge in their evidence and opinions proffered to the Board is, in the interpretation to be applied to lot coverage as set out in s. B 9.6 and the By-law Administration Section found at F 1.6 of the Official Plan.

**13** The Board for the ease of the reader will reproduce the applicable sections of the Official Plan.

### **Official Plan Policies**

#### *Section B Waterfront*

9.6 Coverage is a means by which density is controlled; therefore, strict compliance is required. However, no Official Plan Amendment is required for:

- a) variation not exceeding 1/10 of the permitted coverage; or,
- b) variation to recognize coverage of existing structures.

#### *Section F Implementation*

##### 1.6 By-law Administration

1.6.1 Applications to amend the Township's Comprehensive Zoning By-law shall take the form of zoning changes and exemptions to the by-law, or minor variances.

1.6.2 A zoning amendment may result in a change in zone category and appropriate zone schedule.

1.6.3 An exemption to the by-law may include:

- \* Additions to permitted uses,
- \* Defining two separate parcels as one lot,

- \* Additions/alterations to non-complying dwellings and sleeping cabins,
- \* Setbacks and height variations which are not minor variances,
- \* Change definitions as they apply to a specific property,
- \* Width of shoreline structures.

1.6.4 In considering applications, the potential impact of similar approvals will be considered. The cumulative impact of amendments on this and other lands will be considered to have greater weight than site specific considerations.

1.6.5 In considering exemptions/minor variances to the Comprehensive Zoning By-law, Council shall consider, among others, the following matters:

- \* Cumulative impact on such matters as the environmental, visual/aesthetics, and lake character,
- \* Impact of decisions on future development in the Township,
- \* Habitable vs. non-habitable space,
- \* Setback from the lake,
- \* Size of building not in compliance with by-law (subject to the application),
- \* Whether the structure contains walls (ie. Boatports, carports),

- \* Buffering from lake,
- \* Buffering from neighbouring properties,
- \* Terrain and possible building locations,
- \* Location of buildings on neighbouring properties,
- \* Visual impact,
- \* Impact on the natural shoreline.

1.6.6 When considering alterations/additions to non-complying structures, which require a by-law exemption/ variance, the structure shall be brought into compliance with the by-law as much as possible.

1.6.7 When considering an application for exemptions, the application may be accompanied by a brief report outlining the reasons for the application. Such planning reasons may include: terrain, location of buildings, tree retention, water depth, drainage, slope, architecture, tile bed location and requirements.

1.6.8 Due to carefully planned origins of certain provisions of the zoning by-law, exemptions may not be granted for lot coverage, oversized sleeping cabins, additions to second dwellings/sleeping cabins, front yard setbacks for non-complying structures, reduced side yard setbacks for two storey boathouses or sundecks on a boathouse, and shoreline structure widths. These origins must be considered in relation to any such application.

**14** Mr. Dragicevic, in his testimony, relies in part on the fact that the development, while intensive, has existed for many years and, in fact, informs and is an integral part of the lake's shoreline character that has existed for many years in this area. He pointed out to the Board through an aerial photograph (Exhibit 3) and a series of photographs of the property (Exhibit 4) that the closest property across the bay is some 870 ft. away and proffered that the roof line extension to cover the deck would not be visible. He further suggested that the proposed extension of the roof is screened in part by existing buildings and trees on the property.

**15** It was his opinion that due to the non-complying nature of the existing development on the property that Section B 9.6.b) would apply, and that, on that basis, no Official Plan Amendment would be required in this case as the buildings and deck structures preceded the by-law and would be considered a variation to the lot coverage requirements found in the Official Plan and Zoning By-law. He sees the roof and the screening in of the deck being proposed having no adverse impacts on the shoreline in this area of Lake Rosseau beyond what currently exists. He noted for the Board that even with the larger circulation area associated with a rezoning application, that no neighbours have objected to the application. He sees the screening in of the deck as having no impact and would not increase in any way the land coverage beyond what exists and is recognized by s. B. 9.6.b). He opined on questioning from the Board that the matter could have been considered as a s. 45(2) *Planning Act* application for an extension to an existing non-conforming use, but that it was township planning staff's recommendation to his client that the matter proceed by way of rezoning application.

**16** It was his opinion that s. F 1.6 allows for the consideration of exemptions to the zoning bylaw and that in his opinion the applicable criteria found at s. F.1.6.5 would be met. He opined that from his planning review there would no adverse impacts to the shoreline area, that the revised setback resulting from the enclosing of the existing deck was not an issue, that there would be no visual impacts due to the configuration and location of other existing buildings and trees on the property in closer proximity to the lake. He sees no cumulative impacts resulting from the screening in of the existing deck on such matters as the environmental, visual/aesthetics, and lake character as set out in s. F.1.6.5.

**17** He proffered a zoning by-law amendment set out at Exhibit 6. He noted that Schedule II to the by-law amendment clearly states that the extension is for a screened in porch over an existing deck and that his client has no intention of further enclosing the area. He proffered that if the Municipality felt this was going to be enclosed and form part of the main building in the future, that the by-law amendment as written and shown on Schedule II would preclude this from occurring. However, out of an abundance of caution he proffered that his client was prepared to declare and have included in section 1.ii) to the by-law amendment wording to the effect that the his client undertakes not to further enclose, at any time, the screened in porch area shown on Schedule II to the amending by-law.

**18** He testified both in direct and under cross examination that the applicable criteria set out in s. F 1.6.5 would be met in this case, and that the by-law amendment before the Board should be approved.

**19** Mr. Dymont, on the other hand, opined that s. F 9.6.a) was applicable and the application did not follow the "strict adherence" to the lot coverage requirements of the Official Plan as implemented in Zoning By-law No. 87-87. He is of the opinion that going from a lot coverage of 12.2% to 13.5% did not follow the strict adherence to the 1/10 rule, which in this case, would only permit coverage of 13.4%.

**20** He opined that the development that currently exists on the site is a "post child" for the type of development that should not be permitted within the "Waterfront" designation. He sees the current site as being overdeveloped and the application before the Board a mere expansion to a form of development that the Municipality wishes to discourage. He sees the allowing of this application as setting a precedent that would negatively affect the visual/aesthetics and lake character and, as such, would not be in conformity with criteria found in s. F 1.6.5 dealing with cumulative impacts.

**21** He further testified that s. F 1.6.8 of the OP clearly indicates that the Municipality may not grant exemption to lot coverage, and that this rule of not allowing any increases in lot coverage beyond that set out in the Official Plan is followed religiously by the Municipality.

**22** He testified that if the screened in porch was allowed, there was nothing the Municipality could do to prevent the entire area being fully enclosed and thus, expanding the habitable living space of the main cottage dwelling. In formulating this opinion, he relies on a conversation with the chief building official of the Municipality.

**23** Mr. Dymont, under cross examination, reluctantly agreed that the Official Plan provided no definition of the term "existing structures" as found in Sections. B.9.6.b). He further conceded that the existing decks on the property under the zoning by-law definition would be considered structures requiring a building permit and could be considered "existing structures." If this is the case, he reluctantly conceded the existing coverage of all existing structures on the property would be at least 13.5%. This is coverage now being sought by the Appellant in their proposed by zoning by-law amendment. He noted that the definition of lot coverage in the zoning by-law is somewhat different in that non-roofed structures are excluded from the zoning by-law definition for the calculation of lot coverage.

**24** The definition of Lot Coverage found in Zoning By-law No. 87-87 is as follows;

means that percentage of area covered by **BUILDINGS** and **STRUCTURES** including **ACCESSORY BUILDINGS** and **STRUCTURES** on the **LOT** inclusive of any such area covered on lands adjacent to the **LOT** in a WOS Zone and excluding non-roofed **STRUCTURES** and **DOCKS**.

**25** It is the act of covering a portion of the existing deck structure that invokes the change in the lot coverage calculation, as prescribed in the zoning by-law, and which Mr. Dymont opines would be bad planning in this case.

**26** He opined that the proposed zoning by-law would fly in the face of the Township "strict adherence" policy to lot coverage percentages as set out in the Official Plan and that, on that basis for the by-law amendment to be considered, it was his opinion that an Official Plan Amendment should have also been filed with the rezoning application.

**27** He sees the relief being sought as a dangerous precedent that would permit the continued over

development of the site, which he views as bad planning.

**28** Mr. Dymont, under cross-examination, freely admitted that he had only reviewed the proposed by-law amendment on the morning of the hearing and, as such, was unable to proffer any opinion with respect to its form, content or the modification offered by Mr. Dragicevic. The Board, after carefully reviewing the evidence, the Exhibits filed, and the submissions made by the parties, makes the following findings.

## **FINDINGS AND CONCLUSIONS**

**29** The Board accepts the uncontradicted evidence of the planners that there are no matters of Provincial interest affected by this application and that the application is in conformity with the intent and purpose of the District of Muskoka Official Plan, and that the determination of the matter rests with the policy directions found in the Township of Muskoka Lakes Official Plan and the directions found in the Act.

**30** Similarly, the Board accepts the position candidly put forward by the parties that there are no issues with respect to the size of the landing associated with the stairs from the existing deck or the setback of 44 ft. if the Board were to determine that the 466 sq. ft. of deck could be screened in as is being proposed.

**31** It is most unfortunate that the Appellant's contractor proceeded with the works without the benefit of a building permit. However, this fact has no bearing and will be given no weight in the determination the Board must make. The Board must view this application as if the structure already under construction was not in place.

**32** Counsel for the Municipality, in his submissions, reiterate the concern of the Municipality that allowing this application would set a dangerous precedent that could result in a plethora of applications to enclose existing open decks with the Waterfront designation.

**33** In support of this position, he referred the Board to my colleague S. J. Sutherland's determination in *Gerasolo v. Muskoka Lakes (Township)*, [2008] O.M.B.D. No. 672, where she states:

By asking further coverage on a lot where the existing coverage is already in excess of what is required is pushing the envelope. The request may seem minor because of the size of the addition, but the implications are not minor.

**34** In the Gerasolo case, the appeal was from a decision of the Township's Committee of Adjustment that allowed a minor variance but required, as a condition, that in exchange for an increase in lot coverage an existing shed on the property was to be removed. It was the removal of the shed condition that was under appeal. The Board upheld the condition in that case and the relief from the lot coverage requirement was granted with that condition in place.

**35** The Board finds that the Gerasolo case has little bearing on what the Board must decide other than to reiterate the proposition that, in planning matters, each case must be determined on its own merits and the specific planning issues that are unique to this site, and must be considered within the planning policies in place and the physical context within which the application is situated.

**36** This case is not a minor variance case and the four tests of s. 45(1) of the Act do not apply. This matter now before the Board, might have been a s. 45(2) case if that route had been followed. However, the election was to deal with the issue through the zoning by-law amendment process, and, in this case, the determination the Board must make is whether the zoning by-law amendment implements the policies of the Official Plan and results in good planning for this part of the Municipality. These are entirely different tests to those required by the statute for minor variances.

**37** The Board would note that the proposed screened in deck, as set out in Exhibit 2, Tab 6, pages 23 to 26, is similar, in its location, to the deck that existed in the past, as shown on a photograph (Exhibit 6). The deck is not being moved closer to the water or enlarged. The change in the setback requirement results solely from the desire on the Appellant to enclose with screening this portion of the deck. The Board has reviewed the photographic evidence and plans submitted by both planners and finds that there is no evidence that the relief sought will have any impact on any abutting property or that any adverse impacts would result to the shoreline area that do not already exist.

**38** The Board clearly understands the development that has existed on this site for many years would not be permitted under the current zoning standards and planning policy directions in place today. It is also clear to the Board that the Official Plan and the Act recognize development that has occurred in the past and may be non-conforming with respect to contemporary standard, and recognizes and makes allowances for such situations.

**39** Counsel for the Municipality suggested that the interpretation the Board should give to s. B.9.6.b) is that it permits the Municipality to only status zone existing non-conforming uses to recognize them as complying with the by-law. If that were the case, the Municipality could have simply used a zone to recognize any use that existed at the date of the passing of the by-law as a conforming use. This has been done in other municipalities and requires a subsequent rezoning for any change to the existing use status when new development is being contemplated beyond what is already on the ground.

**40** It is unfortunate that the Township's Official Plan and Zoning By-law do not use the same terminology when considering "existing structures" and their relationship to lot coverage. Due to the non-conforming nature of the site and its existing development, the Board finds that s. B.9.6.b) applies and not s. B.9.6.a). In other words, in this case, the Board prefers the opinions of Mr. Dragicevic that the Official Plan through s. B.9.6.b) permits and recognizes the existing coverage of all "existing structure" on the property which, by all accounts, results in a lot coverage of at least 13.5%, if not more.

**41** It is also the Board's finding that when s. B.9.6.b) is read, in conjunction with s. F.1.6, that

exemptions to a "strict adherence" to the numerical policies of the Official Plan and Zoning By-law may be considered subject to the consideration of the criteria set out in s. F.1.6. of the Official Plan.

**42** The Board has carefully reviewed the Official Plan documents filed during this hearing and accepts that the Municipality has established a very rigorous planning regime for its waterfront areas, and that any new development must meet these tests. However, planning is not just a numbers game; good planning, to be effective must be able to respond to unique and special conditions. The exemption provisions in the Township's Official Plan, in the Board's judgement, recognize this planning reality.

**43** There is a wide body of case law and decisions dating back to *Bele Himmell Investments v. Mississauga (City)* [1982] O.J. No. 1200) that confirm that policy documents such as Official Plans should be given a broad interpretation. The Board has some difficulty with the very narrow interpretation proffered by Mr. Dymont, regarding his opinion with respect to the Municipal Official Plan and the need for an official plan amendment in this case. The Board prefers the constructions proffered by Mr. Dragicevic as being reasonable and applying the appropriate weight to a full and fair understanding of the application of this policy document to the specific circumstances found in this case.

**44** Furthermore, the Board does not accept the assertion proffered by Mr. Dymont that the zoning by-law amendment cannot be considered because it does not conform to the Official Plan and that an accompanying Official Plan amendment should have been filed with the application.

**45** At no time, until this hearing was the Appellant or her Counsel ever advised by the Municipality that an Official Plan Amendment was required in order for the application to be complete. It was only during the testimony of Mr. Dymont that the issue of this requirement for an Official Plan Amendment was brought forward as a reason for the Board to deny the application and the appeal.

**46** Mr. Dymont, in his testimony, opined that the application was not consistent with the Township's Official Plan and that an amendment to the Official Plan would be required for the Board to consider the Zoning By-law amendment found at Exhibit 5. Mr. Dymont cannot have both ways, either an Official Plan Amendment is required and the proponent should have been told this at the time her application was reviewed for completeness by the Municipality, or alternatively, there are no conformity issues. This does not mean that the rezoning application could not be turned down on other planning grounds such as adverse planning impact to the shoreline area or the development not being appropriate for the site, or that the new development would result in impacts to abutting properties or even the further development of this site is not in the public interest to cite just a few examples.

**47** The Board heard no compelling evidence of any adverse impacts to abutting properties or to the existing shoreline area beyond what currently exists, nor was any evidence lead that any structures on the property should be removed in exchange for the rezoning request nor was any

consideration given to any shoreline improvements by the planning staff in their report to Council or by Mr. Dymont in his review of the appeal.

**48** The Board concludes, after carefully reviewing, the building plans, the photographic evidence of both planners, the by-law amendment submitted by the Appellant, the facts on the ground, and the submission of Counsel that the intent of the Official Plan would be maintained in this case. The Official Plan through a rigorous set of policies does allow for the consideration of exemptions in specific cases subject to a review of criteria set out in s. F.1.6 By-law Administration and policies found in s. B "Waterfront."

**49** It is the Board's determination, after review of the evidence and the submissions of Counsel that, in this case, the zoning by-law amendment being sought would conform to the policy objectives of the Official Plan and would not create any adverse impacts to the shoreline in this area of Lake Rosseau beyond what currently exists. The Board finds that in allowing the by-law amendment there would be no cumulative impacts on this or other lands in the immediate area and there would no cumulative impacts to the shoreline with the Waterfront designation of the Official Plan.

**50** The Board wishes to make it clear that in making its determination in this case, that it is based solely on the specific facts of this case, and should not be construed as setting any precedent. Good planning demands that each case be considered on its merits and its merits alone.

**51** The Board has considered the proposed zoning by-law amendment found at Exhibit 5 and finds it satisfactory, subject to the addition of wording in clause ii) after the word "area," which shall read:

"and shall be used exclusively as a screened in porch and shall not be further enclosed".

**52** The Board will approve on a contingent basis the zoning by-law amendment substantially in the form set out in the attachment to this decision with the addition of the wording noted above, but will withhold its final order to allow the Municipality within 35 days of the issuing of this decision to submit to the Board, on consent, a final version of the zoning by-law amendment consistent with this direction, and the municipalities formatting procedures.

**53** The Board allows the appeal and the Municipality is directed to amend Zoning By-law No. 87-87 as set out substantially in Attachment "1" to this decision, subject to the amended wording noted herein.

**54** The Board will withhold its final order pending receipt of a zoning by-law amendment in a form satisfactory to the Municipality and containing the wording directed by the Board in this decision.

J.P. ATCHESON  
MEMBER

\* \* \* \* \*

**ATTACHMENT "1"**

**EXPLANATORY NOTE TO ZONING BY-LAW AMENDMENT**

This is an application to amend the Township of Mushoka Lakes Zoning By-law 87-87, as amended ("the By-law") to provide exemptions to the Bylaw for lands municipally known as 1416 Ferndale Road (the "Site") in the former Village of Port Carling, now in the Township of Muskoka Lakes more particularly described as Part 3, Plan 35R-8738, as shown on the attached Key Map.

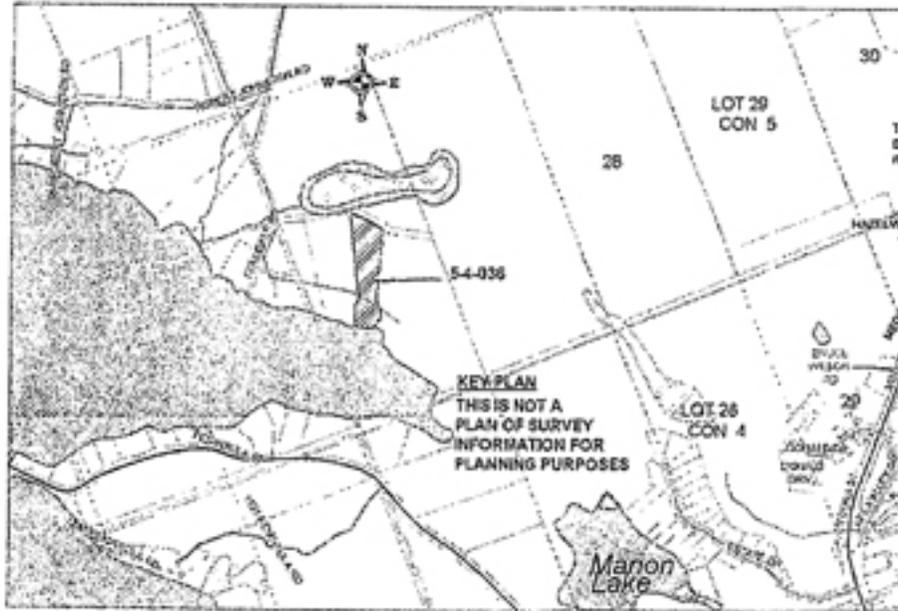
The Site is designated as "Waterfront Residential" pursuant to the Township of Muskoka Lakes Official Plan (the "Official Plan"), as amended. The Site is currently placed in the "Waterfront Residential Zone (WR)" pursuant to the By-law.

The existing zoning of the Site does not allow for the extension of a dwelling unit on a lot where only one dwelling unit is permitted, and more than one of dwelling unit exists; does not allow for lot coverage of more than 10% of the lot area within 200 feet of the present water's edge on a Category 1 Lake (Lake Rosseau); and does allow for a dwelling and screened porch within 45 and 44 feet of the present water's edge, and, does not permit a landing of more than 50 square feet within the front yard setback and as such, an amendment to the By-law is required.

The existing development of the Site contains two dwelling units and a sleeping cabin, with coverage of 12.2%, within 200 feet of the present water's edge and as such is legal non-conforming to the Bylaw.

The Site will be remain in a Waterfront Residential (WR) Zone subject to an Exception which will provide for the extension of one of the existing dwelling units on the lot and permit the construction of a 466 square foot screen porch addition and a 60 square foot landing within the front yard of the property. The regulations contained in the Exception will reflect the specifications of the proposed development.

**KEY MAP**



Corporation of the Township of Muskoka Lakes

**BY-LAW No. \_\_\_\_\_**

**Being a By-law to amend Comprehensive Zoning By-law 87-87, as amended, in the Township of Muskoka Lakes**

WHEREAS the authority is given to the Ontario Municipal Board by Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to pass this By-law;

The Ontario Municipal Board HEREBY APPROVES as follows:

1. Section 9 of By-law 87-87 is hereby further amended by the addition of the following subsection:

87- \_\_\_\_\_ i) The lands affected by this by-law are described as Part of Lot 26, Concession 5, (Port Carling), Part 3, Plan 35R-8738, Roll #5-4-036, now in the Township of Muskoka Lakes, as shown hatched on Schedule I to By-law \_\_\_\_\_.

ii) Despite the provisions of Section 7.2.A1 an extension of a dwelling unit may be permitted, such extension not to exceed 466 square feet in area, as shown in the location and the extent on Schedule II to By-law \_\_\_\_\_.

iii) Despite the provisions of Section 3.1.2a maximum lot coverage of 13.5% may be permitted within 200 feet of the present water's edge, as shown in the location and extent on Schedule II to By-law \_\_\_\_\_.

iv) Despite the provisions of Section 3.1.2a the minimum permitted front yard setback from the present water's edge shall be 45 feet for a dwelling unit and 44 feet for a screened porch, as shown in the location and extent on Schedule II to By-law \_\_\_\_\_.

v) Despite the provisions of Section 3.1.2.b.ii) a landing may be permitted within the front yard setback, such landing not to exceed 60 square feet in area, as shown in the location and extent on Schedule II to By-law \_\_\_\_\_.

2. All other provisions of By-law 87-87, as amended apply.

3. Schedules I and II attached hereto are hereby made part of this By-law.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2012

\_\_\_\_\_  
Member, Ontario Municipal Board



qp/e/qlspi/qlacx/qljac