

1 of 1 DOCUMENT

*Case Name:*

**Muskoka Lakes (Township) Zoning By-law 87-87 (Re)**

**Still's Bay Landing Corporation 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 or neglect to enact a proposed amendment to Zoning By-law 87-87 of the Township of Muskoka Lakes to provide an exemption to lands respecting 1045 Hamils Point Road in order to permit the reconstruction and enlargement of existing docks**

[2013] O.M.B.D. No. 334

OMB File No. PL110246

Ontario Municipal Board

**Panel: J.E. Sniezek, Member**

Decision: April 24, 2013.

(11 paras.)

**Appearances:**

Still's Bay Landing Corporation: Leo Longo, counsel.

Township of Muskoka Lakes: Harold Elston, counsel.

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**DECISION DELIVERED BY J. E. SNIEZEK  
AND ORDER OF THE BOARD**

## **INTRODUCTION**

1 Still's Bay Landing Corporation owns and operates a marina on the shoreline of Lake Joseph on Still's Bay. It applied to amend the Township of Muskoka Lakes Zoning By-law 87-87 in order to increase the size of the marina from 38 to 50 slips. The council of the Township of Muskoka Lakes ("Township") denied the request. Still's Bay Landing Corporation ("applicant/appellant") appealed its denial to the Board.

2 The subject lands are designated "Waterfront" in both the Regional Municipality of Muskoka Official Plan and the Township Official Plan. The property in question is zoned Waterfront Commercial (WC2) in the Township of Muskoka Lakes Zoning By-law 87-87. The zoning by-law limits the dock length to 80 feet and the width to 25% of the lot frontage. The appellant/applicant originally applied for a dock length of 150 feet and a dock width of 75.6% and a side lot line setback of two feet where the by-law requires 30 feet.

3 The parties presented the Board with a settlement that results in a dock length of 139 feet (formerly 150 feet) a side lot setback of one foot (formerly two feet) and a permitted width of 133 feet or 77% of the lot (previously 130 feet and 75.6% of the lot). The Board was informed that the parties to the settlement agreement in addition to the Township and the applicant/appellant were the cottagers association and the neighbour to the south.

4 The Board heard evidence from three witnesses, Margaret Walton, consulting planner retained by the appellant/applicant, David Massey, a neighbour to the east and Wayne Gibson, a neighbour to the north.

## **THE LAW**

5 A zoning by-law amendment must be consistent with the Provincial Policy Statement ("PPS"), conform to the Official Plan and must represent good planning. These are requirements contained in the *Planning Act*.

## **THE ISSUES**

6 The neighbouring residents expressed concerns about traffic, drainage, shoreline erosion, water pollution, ecosystem health, garbage and bear attraction, the provision of a landscaped buffer and illegal building activity.

## **THE DISCUSSION OF THE ISSUES**

7 The Board accepts that there are problems with the existing use of the marina. Problems with garbage, drainage and buffers can be addressed at the site plan stage.

8 The Board also accepts that marina operations such as this are necessary to the development of recreational tourism and cottage development. The PPS, and both Official Plans provide for

recreational and cottage development that is a major component of the local economy. The evidence of Ms. Walton was uncontested and persuasive and the Board finds it compelling.

9 The issues of illegal building activity is troublesome but does not negate the evidence in support of this proposal.

**FINDINGS**

10 The Board finds that the zoning amendment represented in Exhibit 3 is consistent with the PPS, conforms to the Official Plans and represents "good planning".

11 The Board orders that the appeal be allowed in part and By-law 87-87 is hereby amended in the manner set out in Attachment 1 to this order. (Exhibit 3)

J.E. SNIEZEK  
MEMBER

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ATTACHMENT 1

**THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES**

**BY-LAW 2010-160**

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

**WHEREAS** the authority to pass this by-law is provided by Section 34 of the Planning Act, R.S.O. 1990, Chapter P.13 and amendments thereto;

**AND WHEREAS** By-law 87-87 was enacted by the Corporation of the Township of Muskoka Lakes to regulate land use within the Municipality;

**AND WHEREAS** the Council of the Corporation of the Township of Muskoka Lakes deems it advisable to further amend By-law 87-87;

**NOW THEREFORE** the Council of the Corporation of the Township of Muskoka Lakes enacts as follows:

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

87-1474 i) The lands affected are described as Part of Lot 8, Concession 8 (in the former Township of Medora), now in the Township of Muskoka Lakes, more particularly described as Parts 4, 5, & 8, Plan 35R-10754, as shown hatched on Schedule I to By-law 2010-160.

- ii) Despite the provisions of Section 3.2.2.e.i) a) of By-law 87-87, as amended, for those lands described above, docks are permitted to a maximum length of 139 feet, as shown in the extent and location on Schedule II to By-law 2010-160.
- iii) Despite the provisions of Section 3.2.2.e.i) b) of By-law 87-87, as amended, for those lands described above, docks are permitted to be located at a minimum setback of one foot from the projected southerly side lot line, as shown in the extent and location on Schedule II to By-law 2010-160.
- iv) Despite the provisions of Section 3.2.2.e.i) d) of By-law 87-87, as amended, for those lands described above, docks are permitted to a maximum width of 132 feet or 77% of the lot frontage, as shown in the extent and location on Schedule II to By-law 2010-160.

All other provisions of By-law 87-87 apply.

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

This By-law shall come into effect upon approval of the Ontario Municipal Board on the \_\_\_\_\_ day of \_\_\_\_\_ 2013.



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**SCHEDULE II TO BY-LAW 2010-160**

qp/e/qlspi