



NOTE: CLOSED SESSION 4:30 p.m.

Town of Gravenhurst

Planning Council Agenda – REVISED **

Tuesday, April 23, 2013 - 5:00 p.m.

Page No.

I. Closed Session – 4:30 P.M.

1. Personal Information Pertaining to an Identifiable Individual & Advice Subject to Solicitor-Client Privilege

II. Adoption of Agenda

Recommendation: That the agenda as presented be adopted.

III. Disclosure of Pecuniary Interest

IV. Public Meetings – 5:00 p.m.

- | | | | |
|----|-------------|---|----|
| 1. | ZA02-2013 | King, Bruce (Lake Muskoka) | 1 |
| 2. | ZA04-2013 | Palter, Gilbert, Elisa & Robert (Lake Muskoka) | 6 |
| 3. | ZA05-2013 | Osborn, Glenn (Kahshe Lake) | 13 |
| 4. | ZA28-2013 | Town of Gravenhurst Housekeeping Amendments (To Be Distributed Separately) | |
| 5. | SRC 06-2012 | Grossman, Matthew & Avra (Kahshe Lake) | 20 |
| 6. | SRC07-2012 | Winterburn, Mark & Kelly (Riley Lake) | 24 |

V. Deputations/Delegations

- | | | |
|----|--|----|
| 1. | Sandi Allan re: Client Purchase of Original Shore Road Allowance | 29 |
| 2. | Rick Hunter and Carol Darnley re: Darnley Zoning Amendment Application | 30 |

VI. Minor Amendment Resolutions – Nil

VII. Unfinished Business - Nil

VIII. New Business

- | | | |
|----|---|----|
| 1. | Proposal for Alternative Original Shore Road Allowance Cost Calculation Measurement | 41 |
| 2. | Darnley Zoning Amendment | 45 |
| 3. | Indemnification of Members of Council, Local Boards, Volunteers and Employees | 51 |
| 4. | Appointing Municipal Law Enforcement Officers | 60 |

** 5. Osborn Zoning Amendment

IX. By-laws

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|---|---|----|
| By-law No. 2013-39
(Bill No. 102-2012) | Amend 10-04 (Darnley) 2nd & 3rd Reading Only | 63 |
| By-law No. 2013-40 | Amend 10-04 (King) | 66 |
| **By-law No. 2013-41 | Amend 10-04 (Palter) | |
| By-law No. 2013-42 | Amend 10-05 (Osborn) | 68 |
| By-law No. 2013-43 | Amend 10-04 (Town of Gravenhurst) (To Be Distributed Separately) | |
| By-law No. 2013-44 | Shore Road Closing (Grossman) | 70 |
| By-law No. 2013-45 | Shore Road Closing (Winterburn) | 73 |

Please Note That The Meeting May Be Audio Recorded

By-law No. 2013-46	Indemnify Council Members and Employees Against Certain Pecuniary Loss or Liability	76
By-law No. 2013-47	Appointing By-law Students	83

Planning Council Agenda
April 23rd, 2013
Page 2

X. Adoption of Minutes March 26, 2013		84
Recommendation: That the minutes be adopted as presented.		

XI. Closed Session - Nil

XII. Report from Closed Session

XIII. Confirming By-law
By-law No. 2013-48 That the by-law to confirm the proceedings of the Council meeting be adopted.

XIV. Adjournment

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| 4. | ZA28-2013 | Town of Gravenhurst Housekeeping Amendments (To Be Distributed Separately) | |
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| By-law No. 2013-46 | Appointing By-law Students | 83 |

Please Note That The Meeting May Be Audio Recorded

X. Adoption of Minutes

March 26, 2013

84

Recommendation: That the minutes be adopted as presented.

XI. Closed Session - Nil

XII. Report from Closed Session

XIII. Confirming By-law

By-law No. 2013-47 That the by-law to confirm the proceedings of the Council meeting be adopted.

XIV. Adjournment

TO: Mayor Paisley Donaldson and Members of Council
FROM: Development Services Department
SUBJECT: Zoning Amendment Application No. ZA 02-2013 KING, Bruce
DATE: April 23, 2013

Recommendation:

That Council defer Zoning Amendment Application No. ZA 02-2013 subject to District of Muskoka comments.

Purpose:

An application was received from Bruce King to rezone lands legally described as Part of Lot 23, Concession 7, in the former Township of Muskoka, now in the Town of Gravenhurst, District Municipality of Muskoka.

The subject property is currently zoned Residential Waterfront Zone (RW-6D) subject to Holding Provision 12 (H12) under By-law 10-04, as amended. The amending by-law would remove the Holding Provision from the property in order to permit development.

Zoning By-law 10-04 requires a Phase II Water Quality Assessment to be completed to the satisfaction of the District of Muskoka. A report has been submitted by Riverstone Environmental Solutions Inc., however comments have not yet been received by the District of Muskoka.

Background:

The application was submitted in order to permit development on the subject property.

a) Lot Dimensions:

Lot Area: 2630.4 square metres
Lot Frontage: 32.0 metres

b) Servicing:

Private water and private sewage system

c) Access:

Water access only via Lake Muskoka

d) Site Inspection:

A site inspection was conducted by Katie Kirton and Jeremy Rand in April, 2013

e) Shore Road Allowance:

Not Applicable

f) Fish Habitat:

The property fronts onto a Type 2 fish habitat area.

Analysis/Options:

The subject property is currently vacant and is in a predominately natural state. The majority of the property is mainly flat, however the front of the property has a steep high cliff over Muskoka Bay.

The applicant has submitted a Phase II Water Quality Assessment. The report concludes that the proposed development can occur in a manner that ensures negative impacts on the water quality of Muskoka Bay are negligible and impacts on significant natural heritage features will be minimized to acceptable levels.

The report recommends that a 25.0 metre buffer be implemented into any Site Plan Agreement and should also require that the buffer be disturbed as little as possible. The applicant has submitted a development plan which establishes development envelopes for primary and shoreline structures.

All development on the property will be subject to Site Plan Control. Prior to the issuance of a building permit, the owner(s) will be required to enter into a Site Plan Agreement with the Town of Gravenhurst.

Provincial Policy Statement

The application, as submitted, is consistent with the Provincial Policy Statement.

Official Plan Policies

The property is designated *Waterfront Area*, as identified in the Town of Gravenhurst Official Plan.

Section I1.4.11.1 of the Plan states that the property is located on an Over Threshold Moderately Sensitive waterbody. The plan further states that in order to ensure no negative impacts on recreational water quality, all substantial development on a lot within the waterfront designation, and on shoreline lots in the urban centre community designations, of moderate and high sensitivity and Over Threshold waterbodies will be subject to site plan control.

Section I1.4.11.1.6 states that where site plan control is required, or where on-site phosphorus management is required, the following measures will be addressed:

- a) Appropriate location of buildings, structures and sewage disposal systems;
- b) Retention or restoration of a natural vegetative buffer in accordance with Section I1.4.11.1.1 to prevent erosion, siltation and nutrient migration;
- c) Maintenance or establishment of native tree cover and vegetation on the lot wherever possible;
- d) Appropriate location and construction of roads, driveways and pathways, including use of permeable materials; and

- e) Implementation of stormwater management and construction mitigation techniques, including proper re-contouring, discharging or roof leaders, use of soak away pits and other measures to promote infiltration.

In accordance with the Town's Site plan Control By-law all development on the subject property will be subject to Site Plan Control. The application conforms to both the intent and policies of the Town of Gravenhurst Official Plan. The Site Plan will implement the recommendations of the Phase II Water Quality Assessment.

Zoning By-Law

Current Zoning:

Residential Waterfront Zone (RW-D) subject to Holding Provisions 12 (H12)

Proposed Zoning:

Residential Waterfront Zone (RW-6D). The removal of the Holding Provision would allow development to proceed on the subject property.

Consultation:

All neighbours within 120.0 metres of the subject lands and appropriate agencies have been circulated for comment, as per the requirements of the Planning Act, R.S.O. 1990, as amended.

Communications Plan:

Notification has been provided and a Public Hearing has been scheduled in accordance with the Planning Act, R.S.O. 1990, as amended.

Appendices:

Key Map
Schedule (Application Sketch)

Respectfully Submitted,

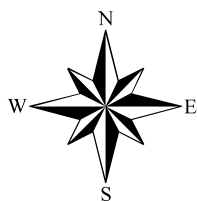
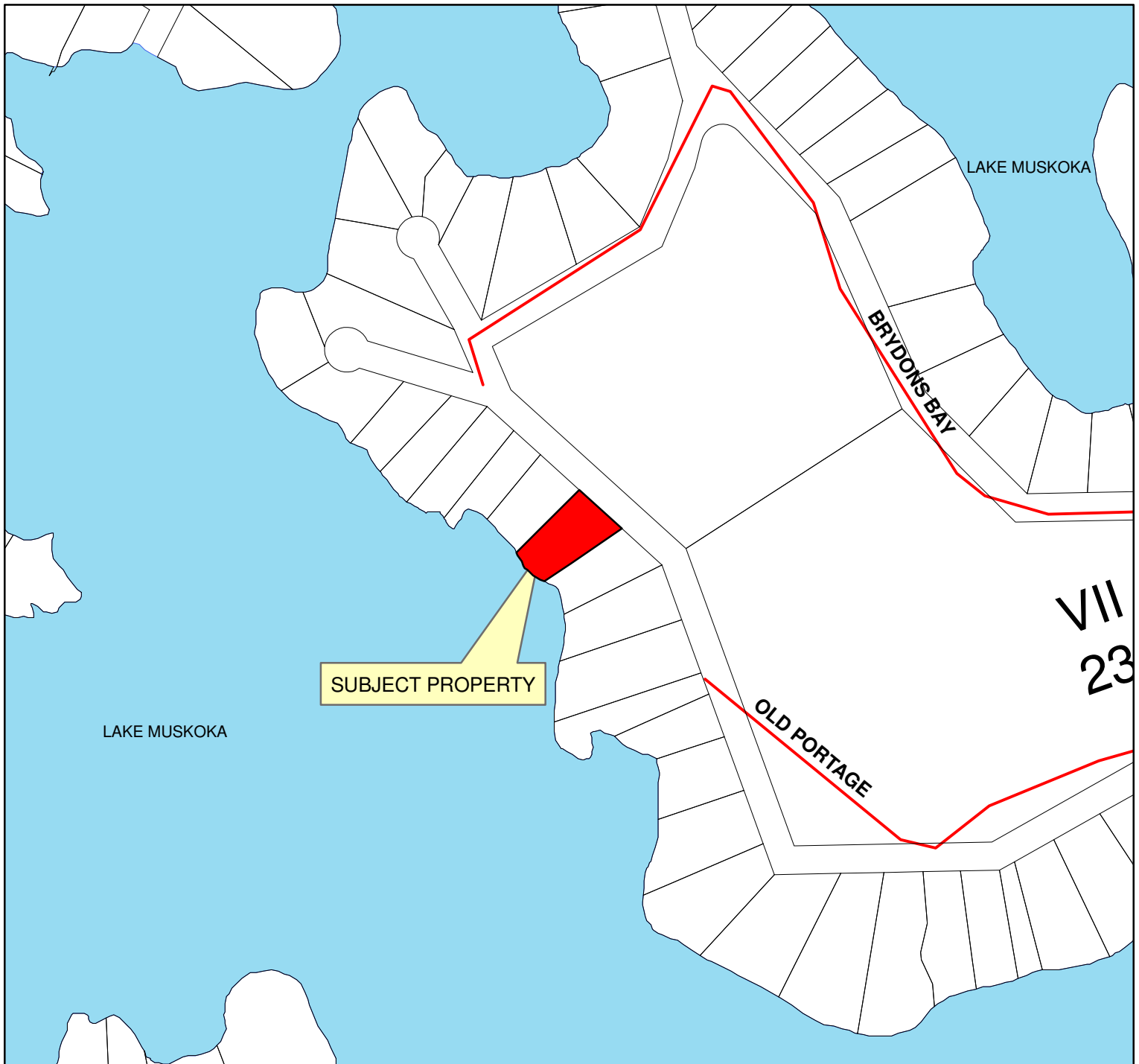
With Concurrence From,

Prepared By:
Jeremy Rand, Planner II

Reviewed By:
Katie Kirton, Senior Planner

KN/JR:sf

KEY MAP



0 37.5 75 150 225 300 Metre

1:4,000

Proposed Zoning Amendment
Application ZA#02-2013
KING, Bruce
Part of Lot 23, Concession 7 (Lake Muskoka)
in the former Township of Muskoka
now in the Town of Gravenhurst
District Municipality of Muskoka
being Lot 20 on Plan 28
Roll No. 020-019-05100

SCHEDULE

Proposed Zoning Amendment

Application No. ZA 02-2013

KING, Bruce

Part of Lot 23, Concession 7 (Lake Muskoka)

in the former Township of Muskoka

now in the Town of Gravenhurst

District Municipality of Muskoka

Roll No. 020-019-05100

Date: April 2, 2013



TO: Mayor Paisley Donaldson and Members of Council
FROM: Development Services Department
SUBJECT: Zoning Amendment Application No. ZA 04-2013, Palter, Gilbert, Elisa & Robert
DATE: April 23rd, 2013

Recommendation:

That Council deny Zoning Amendment Application No. ZA 04-2013.

Purpose:

An application was received from Greg Corbett of Planscape on behalf of the Palter Family Muskoka Cottage Trust to rezone lands legally described as Part of Lot 22, Concession 7, in the former Township of Muskoka, now in the Town of Gravenhurst, District Municipality of Muskoka, being Parts 1-3 and 12, Plan 35R-7671, municipally known as 1026 Sunny Bay Lane (Lake Muskoka).

The proposed amending By-law would add Special Provision 598 (S598) to the Residential Waterfront Zone (RW-6A) under By-law 10-04, as amended, in order to permit the construction of a covered area over a portion of a Boathouse Rooftop Deck.

Financial Impact:

N/A

Background:

a) Lot Dimensions:

Lot Area: 0.9 hectares
Lot Frontage: 97.8 metres

b) Servicing:

Private water and private sewage system.

c) Access:

Private maintained road: Sunny Bay Lane

d) Site Inspection:

A site inspection was conducted by Katie Kirton and Jeremy Rand on March 28th, 2013.

e) Shore Road Allowance:

The original shore road allowance has been closed and deeded to the applicant.

f) Fish Habitat:

The entire frontage of the lot is identified Type 2 Fish Habitat.

Analysis/Options:

A Site inspection revealed that the shoreline slopes significantly to the lake. The surrounding uses can generally be characterized as Residential Waterfront in nature.

All development on the property will be subject to Site Plan Control. Prior to the issuance of a building permit, the owner(s) will be required to enter into a Site Plan Agreement with the Town of Gravenhurst.

Provincial Policy Statement

The application, as submitted, is consistent with the Provincial Policy Statement.

Official Plan Policies

The property is designated *Waterfront Area*, as identified in the Town of Gravenhurst Official Plan.

D1.2 GOAL

All development in the Waterfront Area of the Town shall maintain and enhance where possible water quality, protect the ecological, natural, visual and aesthetic character of the lake and shoreline and protect the recreational, social, accessible and environmental qualities of the lakes and rivers.

The applicant has proposed to add a Covered Rooftop Deck to the Boathouse, which would be open on all sides. Although the Deck would not be enclosed, the overall visual effect of the increase in height when viewed from the Lake would be comparable to a second storey in terms of height and scale of the development.

D2.2 CHARACTER OF THE SHORELINE ENVIRONMENT

Buildings in the Waterfront Area will be designed and constructed to blend in to the natural environment and preserve the historic architectural characteristics of the area. Council will adopt design guidelines for the Waterfront Area that will include architectural details and landscape elements that will implement these policies. The Zoning By-law implementing this Official Plan will include regulations that will:

- a) limit lot coverage within 20.0 metres of the shoreline;*
- b) require the shoreline area and 75 percent of the front 20.0 metres of the lot be maintained primarily in a natural vegetative state and prevent further encroachment into this area;*
- c) limit the height of buildings within 20.0 metres of the shoreline to mirror the natural tree line;*
- d) limit the size of marine related structures relative to the amount of shoreline frontage of the lot;*
- e) limit the size of boathouses relative to the lot area within 20.0 metres of the shoreline and the height of boathouses to one storey; and,*

Although the proposal is not to allow for a second storey on the Boathouse, the overall intent of the Official Plan is to limit the height of a Boathouse to a height similar to a one storey building. Staff are of the opinion that the additional height would not meet the intent of what the Official Plan.

f) prevent the development of lands that are considered to be significant landscape features such as cliffs, steep slopes in excess of 40 percent, narrow channels and large areas of exposed barren rock.

The Boathouse is proposed to be located in front of a steep slope (between 20%-40%) as identified through the District of Muskoka Web Mapping. The Town Official Plan does not identify this area as a significant steep slope of 40% or over on Schedule B of the Official Plan.

These policies shall apply to new development and redevelopment of existing lands and buildings that increase the gross floor area by 50 percent or more.

Council may consider variations to the standards in the Zoning By-law where the intent of these policies is maintained and where lesser standards would be in keeping with the character of the existing development in the area and where there are specific physical conditions on the land that warrant special consideration.

The proposed Boathouse would not be in keeping with the character of the area. Upon site inspection, staff did not observe any other existing Boathouses of a similar height to the proposed in the immediate area.

The application does not conform to the intent of the policies of the Town of Gravenhurst Official Plan.

Zoning By-Law

Current Zoning:

By-law 10-04 as amended: Residential Waterfront (RW-6A)

Proposed Zoning:

By-law 10-04 as amended: Residential Waterfront (RW-6A), subject to Special Provision 598 (S598)

The proposed amending Zoning By-law(s) would establish provisions for the following:

- Permit a Covered Deck on the roof of a Boathouse, with a Maximum size of 38.0 square metres;
- Permit an increase in the Maximum Height of a Boathouse from 3.9 metres to 6.5 metres (measured from the water to half way between the ridge and the eaves); and
- Permit an increase in the Maximum Height of a Boathouse, measured to the peak of the roof, from 4.9 metres to 7.2 metres.

Consultation:

All neighbours within 120.0 metres of the subject lands and appropriate agencies have been circulated for comment, as per the requirements of the Planning Act, R.S.O. 1990, as amended.

Communications Plan:

Notification has been provided and a Public Hearing has been scheduled in accordance with the Planning Act, R.S.O. 1990, as amended.

Appendices:

Key Map

Schedule (Application Sketch)

Respectfully Submitted,**“original signed”**

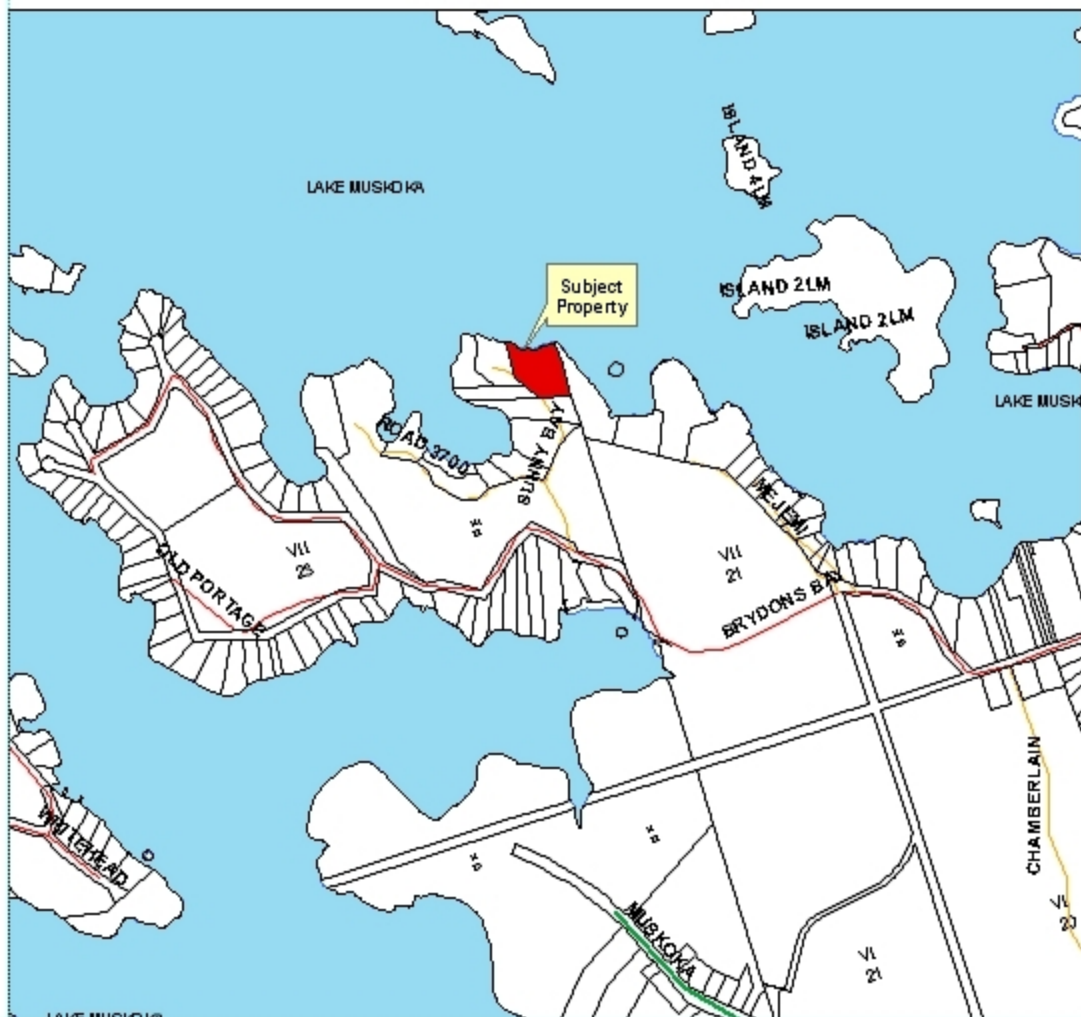
Prepared By:
Katie Kirton, Senior Planner

KK/SL:sf

With Concurrence From,**“original signed”**

Reviewed By:
Scott Lucas, Director of Development Services

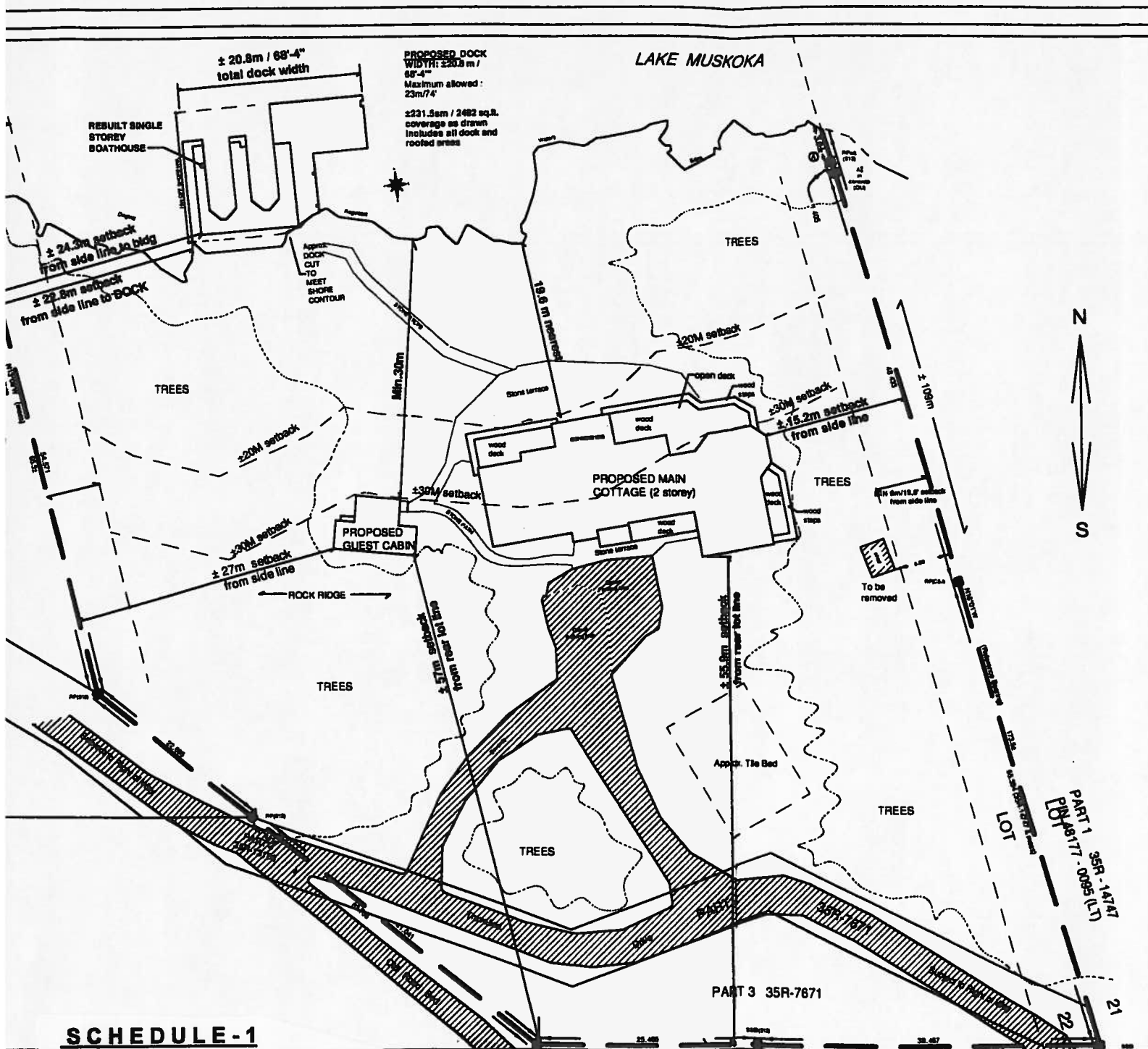
KEY MAP



0 100 200 400 600 800 Metre

1:11,292

Proposed Zoning Amendment
Application ZA 04-2013
PALTER, Gilbert, Elisa & Robert
Part of Lot 22, Concession 7
in the former Township of Muskoka
now in the Town of Gravenhurst
District Municipality of Muskoka
Municipally known as 1026 Sunny Bay Lane
Roll No. 020-019-00101



SCHEDULE - 1

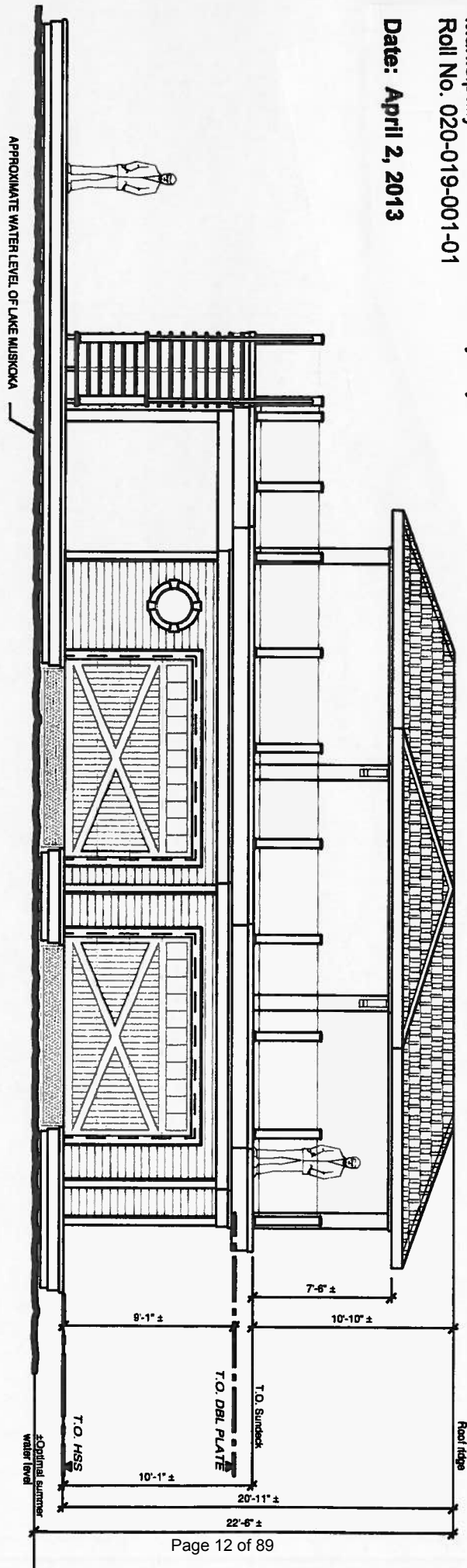
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in the former Township of Muskoka
now in the Town of Gravenhurst
District Municipality of Muskoka
Being Parts 1 to 3 and 12, Plan 35R-7671
Municipally known as 1026 Sunny Bay lane
Roll No. 020-019-001-01

Date: April 2, 2013

SCHEDULE-2

Proposed Zoning Amendment
Application No. ZA 04-2013-2013
PALTER, Gilbert, PALTER, Elisa and PALTER, Robert
(Palter Family Muskoka Cottage Trust)
Part of Lot 22, Concession 7 (Lake Muskoka)
in the former Township of Muskoka
now in the Town of Gravenhurst
District Municipality of Muskoka
Being Parts 1 to 3 and 12, Plan 35R-7671
Municipally known as 1026 Sunny Bay lane
Roll No. 020-019-001-01

Date: April 2, 2013



Palter Boathouse FRONT VIEW from North

TO: Mayor Paisley Donaldson and Members of Council
FROM: Development Services Department
SUBJECT: Zoning Amendment Application No. ZA 05-2013; OSBORN, Glenn
DATE: April 23, 2013

Recommendation:

Staff would recommend that the following portion of the Zoning Amendment be approved:

Removal of the following provisions from Special Provision 922 (S922):

- The Shoreline Development Area shall be 121.0 square metres.
- The maximum Habitable Space of a Sleeping Cabin shall be 46.5 square metres; and
- The maximum permitted size of a Sleeping Cabin, inclusive of Decking, shall be 59.0 square metres.

Staff would recommend that the following portion of the Zoning Amendment requested by the applicant be denied:

Addition of the following provisions to Special Provision 922 (S922):

- The maximum Lot Coverage permitted within 60.0 metres of the Optimal Summer Water Level shall be 277.0 square metres;
- The maximum permitted size of a Sleeping Cabin shall be 49.0 square metres; and
- The Shoreline Development Area shall be 150.0 square metres.

Council may wish to approve Zoning Amendment Application No. ZA 05-2013 with the amendments as requested by the applicant:

Purpose:

An application was received from Glenn Osborn to rezone lands legally described as Part of Lot 8, Concession 6, in the former Township of Morrison, now in the Town of Gravenhurst, District Municipality of Muskoka, being Lot 31, Plan M-453.

The proposed amending By-law will add Special Provision 960 (S960) in order to permit additional development on the subject property.

Background:

The application was submitted in order to permit additional Lot Coverage, Shoreline Development as well as an enlarged Sleeping Cabin.

a) Lot Dimensions:

Lot Area: 1699.6 square metres
Lot Frontage: 32.7 metres

b) Servicing:

Private water and private septic system

c) Access:

Water access only via Kahshe Lake

d) Site Inspection:

A site inspection was conducted by Jeremy Rand.

e) Shore Road Allowance:

Not Applicable

f) Fish Habitat:

The property fronts onto unclassified fish habitat area. This may affect the availability of a building permit for any shoreline work on the subject lands.

Analysis/Options:

A site inspection revealed that the subject property slopes steeply towards the water. The property is well treed with some rock outcropping. The location of the proposed dwelling is mainly flat. The surrounding uses are waterfront residential in nature.

The applicant submitted a Site Evaluation Report dated October 2009. The report outlines appropriate building, docking and septic envelopes.

The property was subject to a previous zoning by-law amendment passed in June of 2012. The By-law established Special Provisions in order to permit:

- An increase to the permitted Lot Coverage within 60.0 metres of the Optimal Summer Water Level to 256.7 square metres,
- A reduced setback from the Optimal Summer Water Level for a Detached Dwelling to 20.0 metres
- An increase to the height of a Sleeping Cabin with a height of 6.0 metres
- A reduction to the Side Yard Setback for a Sleeping Cabin to 4.0 metres
- An increase to the maximum Shoreline Development Area of 121.0 square metres; and
- An increase to the maximum Width of the Shoreline Development Area to 15.0 metres.

The applicant has not provided any planning rationale outlining the need for additional Shoreline Development, an increase to the Sleeping Cabin or the increase to the maximum Lot Coverage.

Zoning By-law 10-04 was amended through a Housekeeping By-law (By-law 2012-160) in December of 2012 which removed the reference to the Shoreline Development Factor. The change would have increased the Shoreline Development on the subject property to 138.0 square metres. However, the previous zoning amendment permitted a Shoreline Development Area of 121.0 square metres. Staff are recommending that the by-law be amended to permit 138.0 square metres only instead of the 142.4 square metres requested by the applicant.

The Shoreline Development requested is proportional to approximately 21.0 percent of the total area of the lot within 20.0 metres of the shoreline. Given the amount of development already permitted through Special Provision 959 (S959), staff are of the opinion that the proposal would exceed the amount of development appropriate for the lot.

If approved, all development on the property will be subject to Site Plan Control. Prior to the issuance of a building permit, the owner(s) will be required to enter into a Site Plan Agreement with the Town of Gravenhurst.

Provincial Policy Statement

The application, as submitted, is consistent with the Provincial Policy Statement.

Official Plan Policies

The property is designated *Waterfront Area*, as identified in the Town of Gravenhurst Official Plan.

Section D1.5 states that one sleeping cabin per lot may be permitted in the *Waterfront Area* designation as an accessory use to a residential use provided the lot meets the minimum requirements for sleeping cabins outlined in the Zoning By-law. The zoning by-law currently limits the size of the habitable portion of a Sleeping Cabin to 45.6 square meters. It should be noted that Sleeping Cabins are limited in size to ensure that they are clearly incidental to the main building and use.

Section D2.2 pertains to the Character of the Shoreline Environment and states that buildings in the *Waterfront Area* will be designed and constructed to blend in to the natural environment and preserve the historic architectural characteristics of the area. Council will adopt design guidelines for the *Waterfront Area* that will include architectural details and landscape elements that will implement these policies. The Zoning By-law implementing this Official Plan will include regulations that will:

- a) limit lot coverage within 20.0 metres of the shoreline;
- b) require the shoreline area and 75 percent of the front 20.0 metres of the lot be maintained primarily in a natural vegetative state and prevent further encroachment into this area;
- c) limit the height of buildings within 20.0 metres of the shoreline to mirror the natural tree line;
- d) limit the size of marine related structures relative to the amount of shoreline frontage of the lot;
- e) limit the size of boathouses relative to the lot area within 20.0 metres of the shoreline and the height of boathouses to one storey; and,

- f) prevent the development of lands that are considered to be significant landscape features such as cliffs, steep slopes in excess of 40 percent, narrow channels and large areas of exposed barren rock.

The application, as submitted, does not conform to the policies or the intent of the Gravenhurst Official Plan. Specifically, staff are of the opinion that the proposed Sleeping Cabin would not meet the requirements of the Official Plan. The intent of these policies is to restrict size to ensure that a Sleeping Cabin is incidental (secondary) to the primary residence.

Zoning By-Law

Current Zoning:

By-law 10-04 as amended: Residential Waterfront Zone (RW-6F1) subject to Special Provision 922 (S922)

Proposed Zoning:

By-law 10-04 as amended: Residential Waterfront Zone (RW-6F1) subject to Special Provision 922 (S922)

The proposed amending Zoning By-law would amend Special Provision 922 (S922) by removing the following provisions from the current Special Provision 922 (S922):

- The Shoreline Development Area shall be 121.0 square metres.
- The maximum Habitable Space of a Sleeping Cabin shall be 46.5 square metres; and
- The maximum permitted size of a Sleeping Cabin, inclusive of Decking, shall be 59.0 square metres.

The proposed amending Zoning By-law would amend Special Provision 922 (S922) by adding the following provisions to Special Provision 922 (S922):

- The maximum Lot Coverage permitted within 60.0 metres of the Optimal Summer Water level shall be 277.0 square metres;
- The maximum permitted size of a Sleeping Cabin shall be 49.0 square metres; and
- The maximum Shoreline Development Area shall be 150.0 square metres.

Consultation:

All neighbours within 120.0 metres of the subject lands and appropriate agencies have been circulated for comment, as per the requirements of the Planning Act, R.S.O. 1990, as amended.

Communications Plan:

Notification has been provided and a Public Hearing has been scheduled in accordance with the Planning Act, R.S.O. 1990, as amended.

Appendices:

Key Map
Schedule (Application Sketch)

Respectfully Submitted,**With Concurrence From,**

"Original Signed"

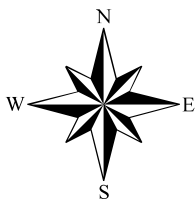
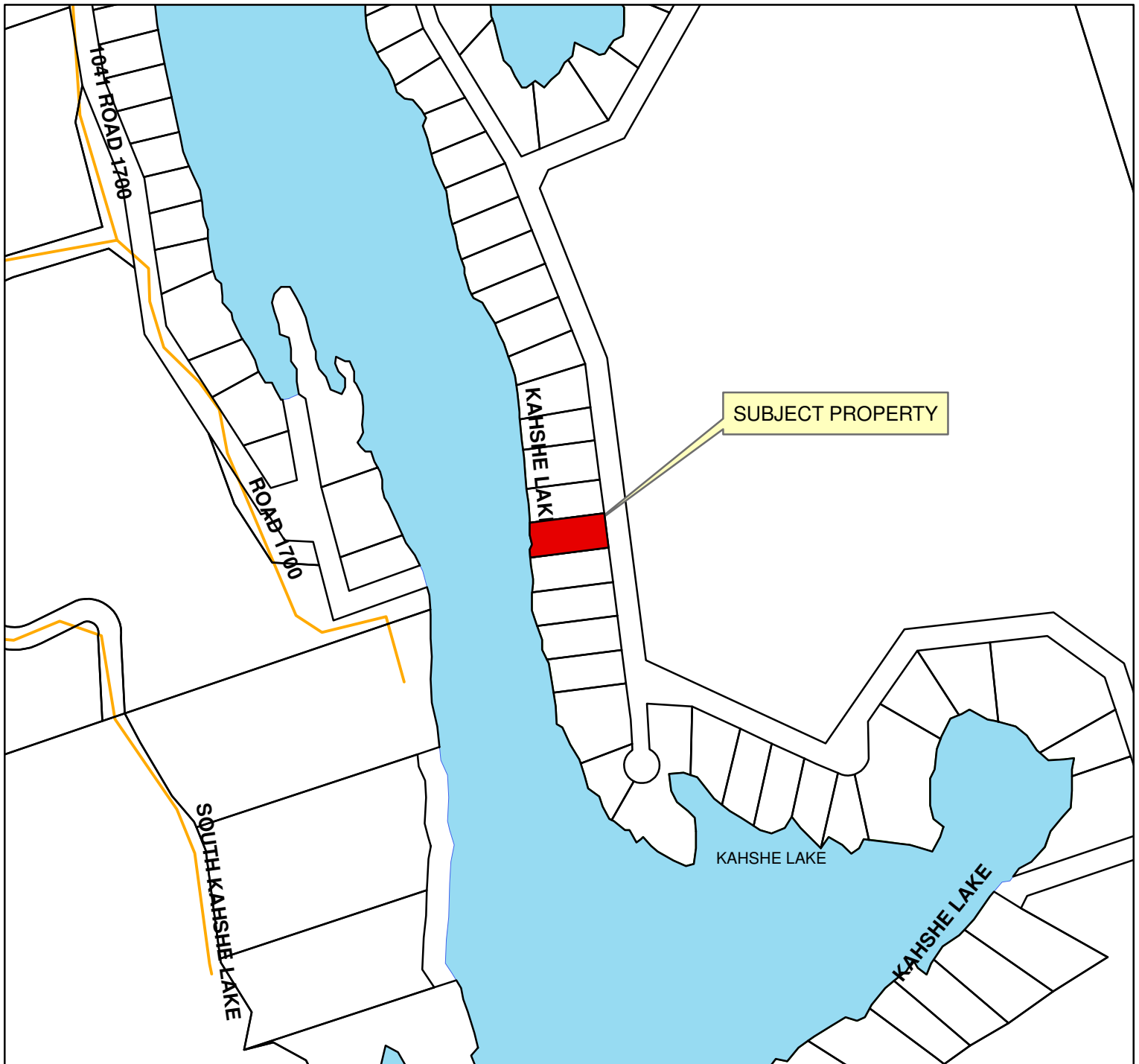
Prepared By:
Jeremy Rand, Planner II

KN/JR:sf

"Original Signed"

Reviewed By:
Katie Kirton, Senior Planner

KEY MAP



0 30 60 120 180 240
Metres

1:5,000

Proposed Zoning Amendment
Application ZA#05-2013
OSBORN, Glenn
Part of Lot 8, Concession 6 (Kahshe Lake)
in the former Township of Morrison
now in the Town of Gravenhurst
District Municipality of Muskoka
being Lot 31, Plan M-453
Municipally known as 5850 Kahshe Lake
Roll No. 030-018-03600

PLANNING COUNCIL – April 23, 2013

Application to Close Shore Road Allowance SRC 06-2012; GROSSMAN, Matthew & Avra

Recommendations

The Director of Development Services, in consultation with Management staff recommends:

THAT the attached By-law be passed by Council.

Economic Impact

The consideration fee for an Original Shore Road Allowance closure at the time of receipt was \$595.00. The purchase price (rate per running foot of shoreline) at the time of receipt was \$48.00. The application fee is deposited into a reserve fund account.

Communications Plan

The application was circulated to internal agencies and the comments received to date do not identify any major concerns.

The Notice of the proposed By-law to close, stop up and sell the original shore road allowance was advertised in the Gravenhurst Banner for 2 weeks, commencing April 3, 2013.

Purpose

The purpose of this report is to advise Council of the original shore road allowance closure application and to seek Council's approval of the By-law.

Background – Analysis and Options

The application pertains to the proposed sale of real property as outlined above. The closure is required to allow the registered owner of the abutting lands to acquire ownership of the original shore road allowance as there are multiple private structures on the Town owned shore road allowance.

It should be noted that Council passed By-law 2012-091 on July 24, 2012, in order to recognize the historic use of 2 dwellings on the property as well as recognize the setbacks of one of the Dwellings. The application was required as one of the Dwellings was lost in a fire and it would not have been feasible to reconstruct the Dwelling within a two year timeframe required by the zoning by-law.

The owners have also applied for and received a Temporary Licence of Occupation (File No. LO 08-2012) in order to allow the structures to remain while their original shore road allowance application is being processed.

Consultation

Members of the Senior Management Team.

Conclusion

Staff are recommending that Council approve the attached By-law in order for the applicants to proceed with the application.

Attachments

1. Draft By-law
2. Key Map
3. Portion of Plan 35R-24116
4. Proposed Development Sketch showing location of encroaching structures.

Respectfully Submitted,

“Original Signed”

Prepared By:
Jeremy Rand
Planner

“Original Signed”

Reviewed By:
Scott Lucas
Director of Development Services

“Original Signed”

Approved By:
C. David Weldon
Chief Administrative Officer

OF PART OF
LYING IN
(GEOGRA
TOW.
DISTRICT 1

KAHSHHE LAKE

LAKE LEVEL: 242.25m

CROWN

Portion of O.S.R.A. to be closed
(being Parts 1 & 2, Plan 35R-24116)

ORIGINAL NO 20.12
PIN

ALLIANCE
PART 1,
PLAN
35R-19983

PLAN 4442
35R-113442
CLOSED BY BY-LAW NO. 54-35
APR. 1980

WIDE SHORE NO
PART 2
PIN

PART 10,
PLAN
35R-8051

11,

COVE

ROAD
PLAN 35R-6051

PART 3, PLAN 35R-6051

SSION 8

NOT TO SCALE

WEST CORNER
CONCESSION 8

NOTES:
REMARKS ARE MADE, BASED UPON CHARTERS OF CONVEYANCES ON RECORD, SHOWING A CHAIN OF INTERESTS, FROM 1917, CALLED IN FOR BEING CONVEYED, A RECORD OF "OT-1917" WAS APPLIED TO BY

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LEGEND

Application to Close Original Shore Road Allowance
Application Nos. SRC #06-2012

GROSSMAN, Matthew and Avra
Part of Lot 11, Concession 8 (Kahshe Lake)
in the former Township of Morrison
now in the Town of Gravenhurst
District Municipality of Muskoka
Being Part 10, Plan 35R-6051 and
Lots 561 to 572, Plan M-27
Municipality known as 1093 Oak Road
Roll No. 030-022-13000

Plan 35R-24116

Application to Close Original Shore Road Allowance
 Application Nos. SRC #06-2012
 GROSSMAN, Matthew and Avra
 Part of Lot 11, Concession 8 (Kahshe Lake)
 in the former Township of Morrison
 now in the Town of Gravenhurst
 District Municipality of Muskoka
 Being Part 10, Plan 35R-6051 and
 Lots 561 to 572, Plan M-27
 Municipally known as 1093 Oak Road
 Roll No. 030-022-13000

KAHSHE LAKE

Portion of O.S.R.A. to be closed
 (being Parts 1 & 2, Plan 35R-24116)

ORIGINAL SHORE
 ROAD ALLOWANCE
 (TO REMAIN OPEN)

NAGAYA ROAD

AREA =
 0.10 Ha [0.25 Ac]

WETLAND

PART 2
 663.8 m² [7,442.0 ft²]

PART 1
 616.3 m² [6,633.7 ft²]

WOOD DECK
 (EXISTING &
 PROPOSED)

LOT AREA =
 0.33 Ha [0.83 Ac]








WOOD DECK
 1.5m x 1.5m
 PROPOSED

Area of Property
 owned by applicant


COVE ROAD
 (PUBLIC ROAD ALLOWANCE)

ADDITIONAL LANDS
 OWNED BY GROSSMAN

PROPOSED DEVELOPMENT SKETCH	
PLAN OF LOTS 561 TO 572 INCLUSIVE REGISTERED PLAN M-27 AND PART 1 35R-6051 PART OF LOT 11, CONCESSION 8 GEOGRAPHIC TOWNSHIP OF MORRISON TOWN OF GRAVENHURST DISTRICT MUNICIPALITY OF MUSKOKA GROSSMAN	

	EXISTING DEVELOPMENT
	PROPOSED DEVELOPMENT
	WETLAND BOUNDARY
	PRESENT WATER'S EDGE
	PROPERTY BOUNDARY
	PROJECTION OF LOT LINE RELATED TO POTENTIAL SHORE ROAD CLOSING
	SHORE ROAD ALLOWANCE (TO BE CLOSED - PARTS 1 & 2)

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 whole or in part without authorization from Planscape

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PROJECT NO.	355000
DATE	May 25, 2012
BY	JT
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Base Mapping Source:
 DEARBORN and STANTON LTD.

PLANNING COUNCIL – APRIL 23, 2013

Application to Close Shore Road Allowance SRC 07-2012, WINTERBURN, Mark & Kelly

Recommendations

The Director of Development Services, in consultation with Management staff recommends:

THAT the attached By-law be passed by Council

Economic Impact

The consideration fee for an Original Shore Road Allowance closure at the time of receipt was \$595.00. The purchase price (rate per running foot of shoreline) at the time of receipt was \$48.00. The application fee is deposited into a reserve fund account.

Communications Plan

The application was circulated to internal agencies and the comments received to date do not identify any major concerns. The Notice of the proposed By-law to close, stop up and sell the original shore road allowance was advertised in the Gravenhurst Banner for 2 weeks, commencing April 10, 2013.

Purpose

The purpose of this report is to advise Council of the original shore road allowance closure application and to seek Council's approval of the By-law.

Background – Analysis and Options

The application pertains to the proposed sale of real property as outlined above. The closure is required to allow the registered owners of the abutting lands to acquire ownership of a portion of the original shore road allowance as there is a dock, located on the Town owned shore road allowance.

Consultation

Members of the Senior Management Team.

Conclusion

Staff are recommending that Council approve the attached By-law in order for the applicants to proceed with the application.

Attachments

1. Draft By-law
2. GIS Map
3. Portion of Plan 35R-24115, showing the location of the encroaching structures.

Respectfully Submitted,

“Original Signed”

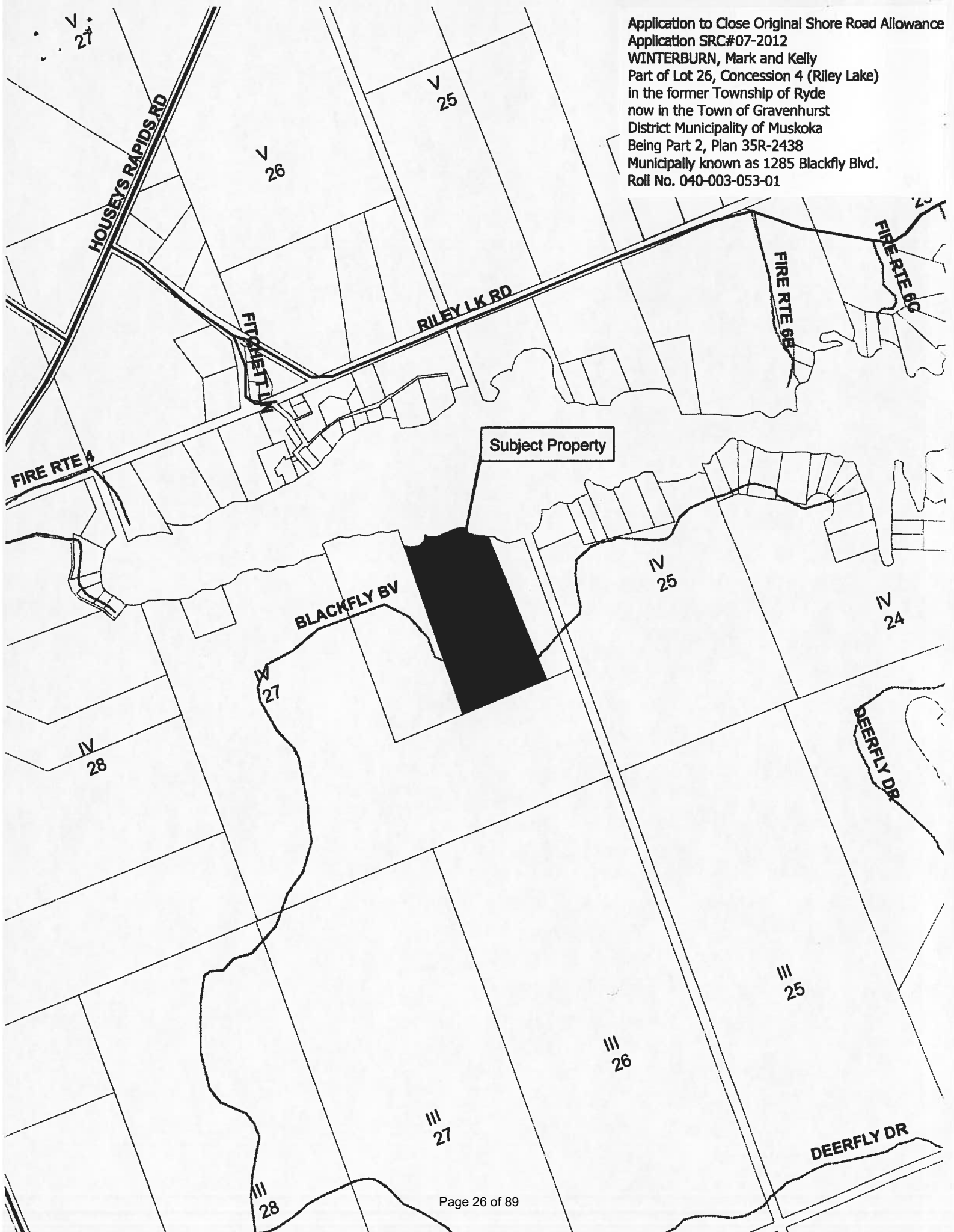
Prepared By:
Susan Flemming
Planning Administrator

“Original Signed”

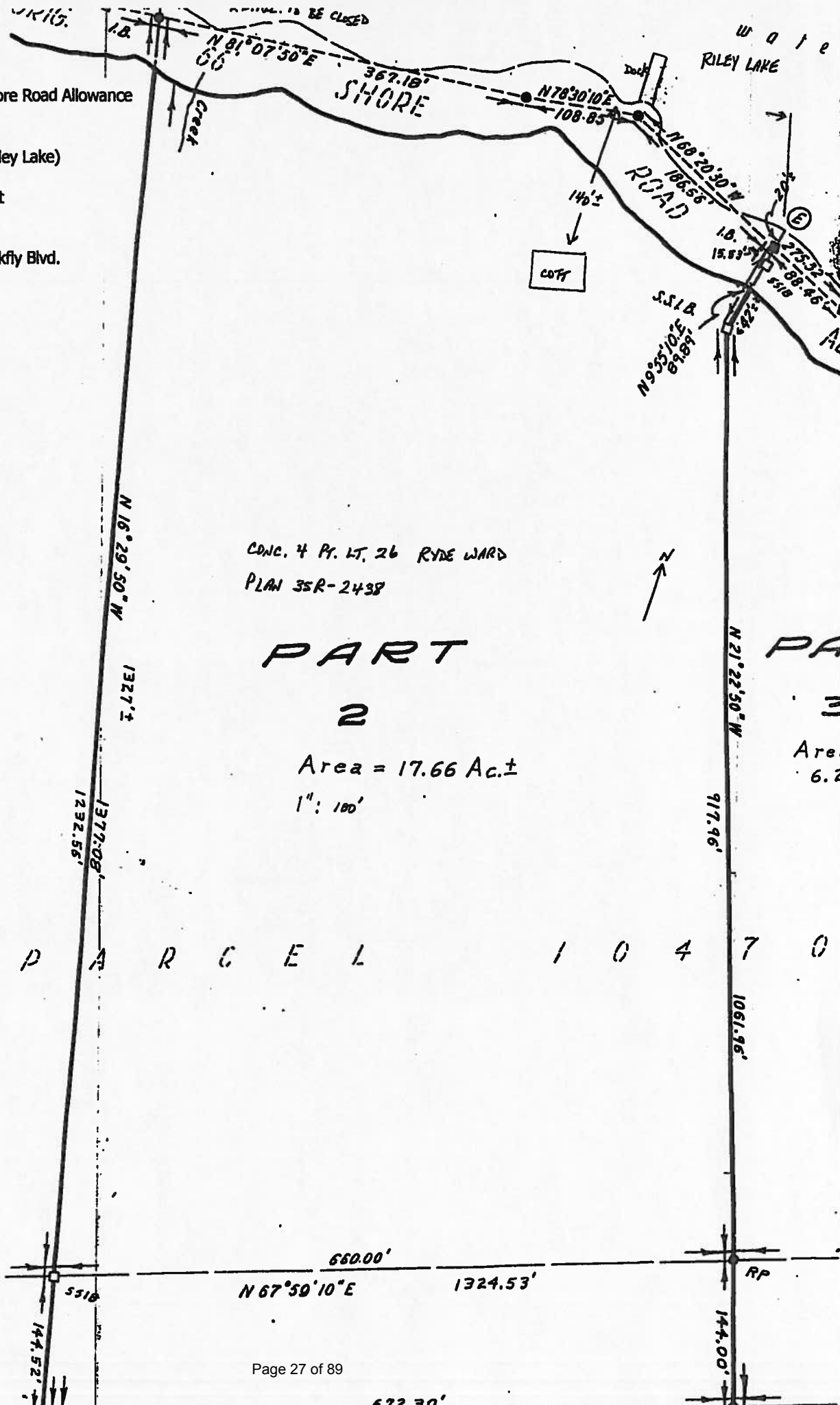
Reviewed By:
Scott Lucas
Director of Development Services

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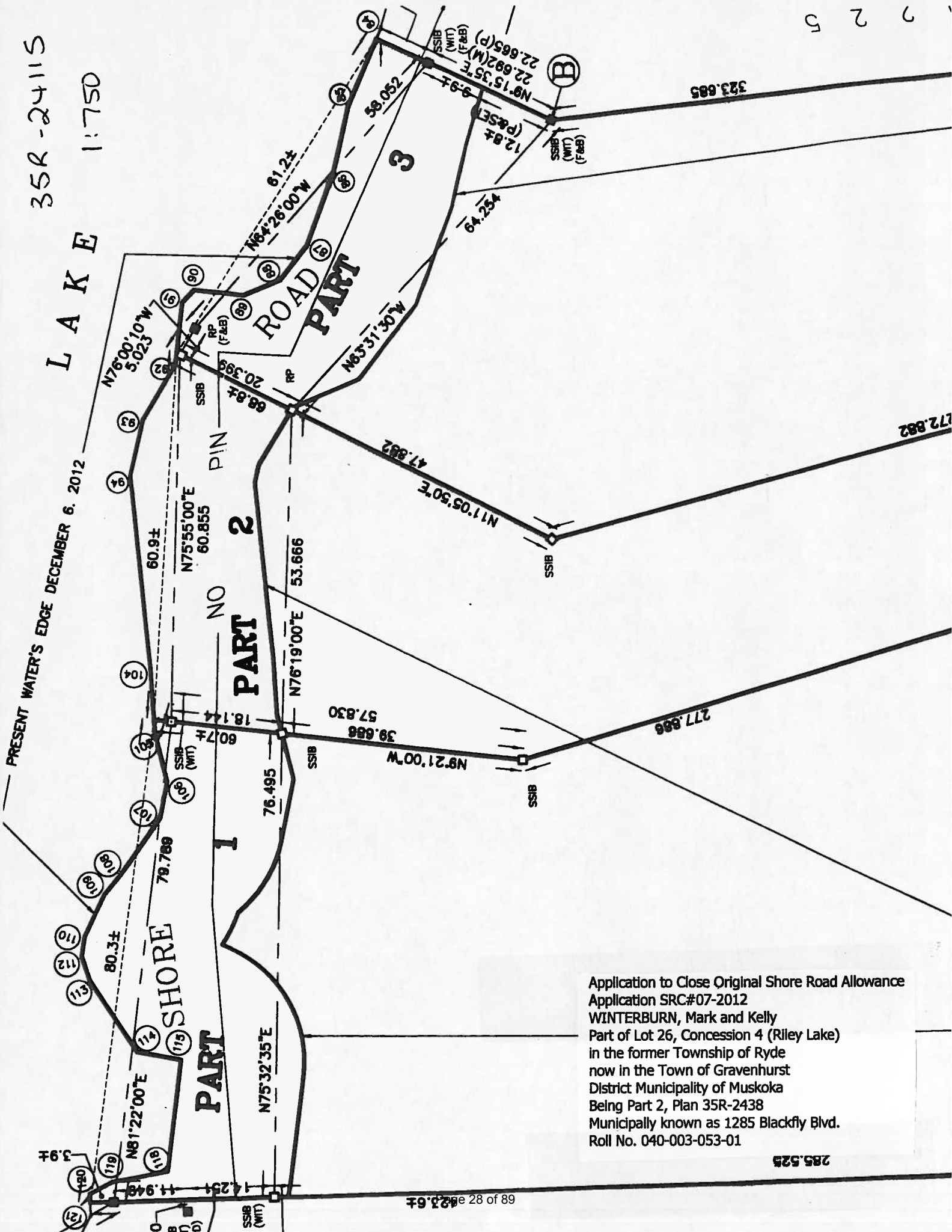
Application to Close Original Shore Road Allowance
Application SRC#07-2012
WINTERBURN, Mark and Kelly
Part of Lot 26, Concession 4 (Riley Lake)
in the former Township of Ryde
now in the Town of Gravenhurst
District Municipality of Muskoka
Being Part 2, Plan 35R-2438
Municipally known as 1285 Blackfly Blvd.
Roll No. 040-003-053-01



Application to Close Original Shore Road Allowance
 Application SRC#07-2012
 WINTERBURN, Mark and Kelly
 Part of Lot 26, Concession 4 (Riley Lake)
 In the former Township of Ryde
 now in the Town of Gravenhurst
 District Municipality of Muskoka
 Being Part 2, Plan 35R-2438
 Municipally known as 1285 Blackfly Blvd.
 Roll No. 040-003-053-01



35R-24115
L A K E 1:750



Application to Close Original Shore Road Allowance
Application SRC#07-2012
WINTERBURN, Mark and Kelly
Part of Lot 26, Concession 4 (Riley Lake)
in the former Township of Ryde
now in the Town of Gravenhurst
District Municipality of Muskoka
Being Part 2, Plan 35R-2438
Municipally known as 1285 Blackfly Blvd.
Roll No. 040-003-053-01



GRAVENHURST

GATEWAY TO MUSKOKA

Request for Deputation

Name of Person to Make Presentation: SANDI ALAN

Organization (If applicable): _____

Contact Information: Tel # 705. 687. 3474 Cell #: 705. 644. 3261

Meeting Date Requested: April 23, 2013

(Note: In accordance with the Procedural By-law, the Clerk's Department has the discretion to reschedule or deny an appearance before Council where: the number of deputations is greater than Council has established; the topic is not within the jurisdiction of the Council; the person has exceeded the number of permitted appearances; the matter is such that it requires consultation with staff and a report to accommodate the request.)

Subject Matter: Purchase of Original Shore Road Allowance

Brief Description of Purpose of Deputation:

To discuss possible measurement figures
for the purpose of purchasing the original
Shore Road Allowance

Have you been in contact with a member of staff with regard to this matter? ☒ Yes ☐ No

If Yes, please provide name: Candy Thwaites ! Scott Lucas

I will have a presentation

For Handout at Meeting * ☒ Yes ☐ No

PowerPoint ** ☐ Yes ☐ No

* Handouts require twelve (12) copies to be provided to Clerk prior to the meeting.

** PowerPoint is to be e-mailed to the Clerk's Office no later than 12:00 Noon on the Monday prior to the meeting.

Personal information on this form is collected in accordance with the Municipal Freedom of Information and Protection of Privacy Act and becomes part of the public record. Questions with respect to the collection and use of this information should be directed to the Clerk's Office, Town of Gravenhurst, 3-5 Pineridge Gate, Gravenhurst, ON P1P 1Z3.



MEMORANDUM

TO: Candace Thwaites
Clerk, Town of Gravenhurst

FROM: Rick Hunter

COPIES TO: Carol Darnley
Katie Kirton

DATE: April 17, 2013

SUBJECT: Darnley/Walsh, Zoning Amendment ZA 35-2012
Kahshe Lake, Gravenhurst

Candace:

As discussed, here are some of the points that I wish to address as a delegation at next week's council meeting in advance of Council's consideration of the zoning amendment application for the Darnley/Walsh property on Kahshe Lake. I understand this will be forwarded to Council as part of the agenda package.

- We are requesting approval of the application as submitted, specifically to recognize a reduced side yard to 2.7 metres to allow for the addition to the Darnley/Walsh dwelling, as well as additional lot coverage to 14%. .
- The applicants have been trying to work with the Town over the past couple of years to obtain approval for the addition, which will allow for an expansion of an existing small bedroom, and the inclusion of main floor laundry facilities attached to and existing small bathroom in the dwelling.
- The dwelling is a two bedroom dwelling, although the existing 2nd bedroom is extremely small, barely large enough to contain a bed and dresser.
- The proposal is to permit a 17.7 square metre (190 square foot) addition to the side of the house, as an extension of the existing bedroom and washroom. The existing bedroom has an area of 6.3 square metres (68 square feet). The addition will project into the existing side yard, resulting in a side yard between 2.7 metres (8.9 feet) and 3.9 metres (13 feet), reduced from the 6 metre (19.7) standard.
- The public meeting was held in August, 2012, and was deferred to review possible alternative locations for the addition.
- Attached is a letter forwarded to Town staff on December 10, 2012, which outlines the rationale for the proposed addition in its current location. The letter provides for a detailed review of the

proposal, including the reasons in support of the proposal in its current location and consideration of alternate locations.

- The reasons for the addition in its current location include:
 - The current building design and layout are most conducive to a “bump-out” of the east wall. The dwelling is constructed as a two bedroom home, with the living area in the centre of the dwelling, master bedroom to the one side, and the existing second bedroom and washroom on the east side. Access to the attached garage is through the basement.
 - The addition is scaled to provide a reasonable enlargement to the existing facilities in the house, and would remain small in scale while accommodating the needs of the owners.
 - The addition would be located on a rock ridge, not requiring an extensive basement.
 - The addition would not require the removal of significant vegetation, as it is on a small rock ridge.
- A relocation to the rear, while possible from a building design perspective, would require:
 - a larger addition (a complete new bedroom),
 - changes to the roof line of the dwelling at the addition,
 - redesign of the entrance and interior layout,
 - a complete two storey addition (to recognize the change in grade at the entrance compared to the rock ridge where the addition is proposed),
 - the removal of existing tree cover that currently provides a visual buffer with the neighbouring property.
 - a possible relocation of the existing septic facilities that are located behind the dwelling
 - a significantly more expensive proposition than extending the dwelling as proposed.
- The lots in this part of Kabshe Lake are existing historic lots that vary considerably in their frontages and area, with a large variety of dwellings setbacks (from both the water and their respective side yards.
- The following summarizes the planning rationale in support of the proposed addition as contemplated:
 - Accessibility – the addition contemplates the installation of main floor laundry facilities (which are currently in the basement), which will assist Mrs. Darnley, who has developed mobility problems, with negotiating the stairs. The applicants are also proposing to modify the existing entrance to the dwelling, to provide a ramp and reduce the number of stairs getting in and out of the property.
 - Topographic and vegetation features on the site – the proposal is modest in scale and will result in less impact and intrusion on the existing topography and vegetation.
 - Character of the surrounding area – varied size and location of lots and dwellings;
 - Past development on the site – this property did have an existing sleeping cabin that was located approximately 4 metres (13 feet) from the east side property line, which was demolished when the new dwelling was constructed in 2000; the shore road allowance was closed in 2000 and the owners agreed at the time to a deviation in how the lot line between their property and the neighbours property was determined – had the standard Town practice of a straight line projection of the lot line to the shore been followed, there would not likely be a need for any reduction in the current side yard.



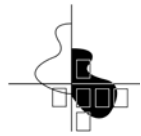
However, the effect at the time would have been a significant reduction in the neighbour's frontage and yard.

- Impact of the reduction of the side yard setback – Side yard setback reductions are not uncommon in existing developed areas, and often reflect a combination of topographic features and historic development patterns. Setbacks are provided for a variety of reasons, and vary depending on the zone in which they are located. Setbacks ensure that maintenance can occur on a property without trespassing on a neighbour's lot; they allow for visual screening (whether fencing or natural vegetation), provide for a separation between uses (building code and fire code considerations) and reduce the overall impact of a building. It is noted that side yards, even in other shoreline areas of Gravenhurst, vary considerably, from 1.3 metres (4.3 feet) in the R1 and R2 zones, 3.0 metres (9.8 feet) in the R3 and R4 Zones, and 6 metres in the RW6 zones.
- Site plan control – the use of site plan control can provide for the retention of existing vegetation along the property line, and the provision of additional vegetation to further screen the addition.
- Conformity to planning documents – the proposal does not offend the PPS, the Muskoka Official Plan or the Gravenhurst Official Plan.
- For all of these reasons, we are requesting that the proposed zoning amendment be approved, and to cover the following matters:
 - Reduced east side yard to 2.7 metres;
 - Increased lot coverage from 13% to 14% (to accommodate a ramp at the entrance to the dwelling);
 - Recognition of the existing setbacks from the shoreline;
 - The correction of the zone boundary between the EP zone and the RW 6F zone, as recommended in the EIS that was prepared by Riverstone Environmental.

Respectfully submitted,

Rick Hunter, mcip, rpp
Planning Consultant





December 10, 2012

Town of Gravenhurst
3-5 Pineridge Gate
Gravenhurst, ON P1P 1Z3

Attention: Ms Katie Kirton

Dear Katie:

Re: Darnley and Walsh
Zoning Amendment Application ZA 35-2012
1028 Oak Road, Kabshe Lake, Gravenhurst

Background:

Planscape has been retained to provide planning advice and assistance to Ms Darnley and Mr. Walsh with respect to their application for zoning amendment on Kabshe Lake. This is further to our recent meeting on December 5, 2012, and provides additional information in advance of upcoming Council meeting. You have indicated that the meeting will be either on December 19, 2012, or at the next meeting in January, 2013. We have requested that the matter be considered on December 19, rather than in January. We have requested the opportunity to appear before Council at the meeting.

Ms. Darnley and Mr. Walsh have been working with the Town to permit an addition to their dwelling, to allow for an expansion of an existing main floor washroom (to include main floor laundry facilities) and an expansion of an existing small bedroom. The expansion is to the east, and will encroach on the existing side yard. The current building is located approximately 6 metres (19.7 feet) from the closest point of the side lot line, and the addition will encroach on the required side yard, to 2.7 metres (9 feet) from the zoning requirement of 6 metres. The addition itself is modest and is intended to match the design of the existing dwelling. It is intended to be a total of 3.05 metres wide by 5.8 metres long, being 17.7 square metres (10 feet x 19 feet, being 190 square feet.)

It is understood that the matter has been ongoing for a considerable length of time, and that the most recent activity was a public meeting held on August 28, 2012, to consider the proposed zoning amendment. Prior to that, because of the EP zoning on a portion of the property, an EIS was

undertaken by RiverStone Environmental Solutions, which confirmed that the boundary of the EP zoning did not accurately reflect the conditions on the site.

The following provides an overview of the process that Ms. Darnley and Mr. Walsh have been involved with over the past year or so:

- 2011 – retain Strongman Surveying to identify survey stakes on the east property line;
- May 2012 – consider a proposed addition to the side of the dwelling, following discussions with the Town and the neighbour;
- 2012 – an elevation survey was requested by the Town to address the Kahshe Lake Flood Elevation (letter obtained from Strongman confirming the addition is above any flood elevation);
- June 2012 – application submitted to permit the addition;
- July 2012 – Town requires and EIS regarding the location of the EP Zone on the property;
- August 2012 – EIS completed by RiverStone; Notice circulated for the public meeting; Public meeting held and decision deferred;
- October 2012 – applicants met again with Town staff; Planscape retained to review the application and assist with the process;
- November 2012 – Revised by-law prepared along with staff report for November 22, 2012 meeting, withdrawn at our request to meet;
- December 2012 – Meeting with staff and preparation of current report.

It is understood that the proposed by-law will require exemptions to the side yard setback and maximum dwelling width to recognize the proposed addition. In addition, an exemption is proposed to the front yard setback to recognize the location of the existing deck that was constructed when the cottage was constructed in 1999/2000. Also, By-law 2010-04 had zoned a portion of the property Environmental Protection, which did not reflect the topographic features of the property. The proposed by-law will correct the EP zoning as well.

At the August public meeting, the by-law was deferred to explore possible alternatives to the location of the addition. Subsequent to that meeting, the applicants contacted Planscape for advice. I met with Ms Darnley and Mr. Walsh and inspected the property, prior to concluding that I could support their request. The following provides a rationale for the conclusions that I reached in recommending approval of the current application to the Town.

Context

The Town staff report of August 28, 2012 provides a review of the features of the site and the surrounding area, and I do not propose to repeat any of that information. The issue raised in the report

deals specifically with the potential impact of the side yard exemption and addition on the neighbouring property owner. The report noted that:

Staff would comment that there may be an opportunity to relocate the addition to the rear of the building or provide additional screening to reduce the visual impact from the neighbouring property and the lake.

The recommendation at the time was a deferral to allow consideration of an alternate location.

The property is described as Lot 16, Plan M93 and Part 1, 35R-17963, and is accessed from Oak Road.

The property is zoned RW6F and EP. The proposed zoning would remove the EP zoning and add special provisions S935, which would recognize the setback from the shoreline for the existing deck, and permit an easterly side yard setback of 2.7 metres (8.8 feet) for the expansion of the dwelling. The RW6F zone requires a 6 metre (19.7 feet) side yard setback. Since the public meeting, the Town has determined that the maximum width of the dwelling would also have to be recognized, as it exceeds the current by-law requirement for a dwelling located within 20 metres of the shoreline.

The existing dwelling was constructed in 2000 following the closing of the shore road allowance and its conveyance to Ms Darnley and Mr. Walsh. The septic system was also installed at the time. A variance was approved in 2000 allowing a setback from the shoreline of 5.5 metres (18 feet) to recognize the location of the open deck on the proposed cottage.

When the shore road allowance was closed, there was a small cabin located within 4.1 metres (13.5 feet) of the property line.

When the dwelling was constructed, the existing cottage and an existing cabin were removed from the property.

Opinion

There are a number of factors that need to be considered regarding whether or not this exemption to the zoning by-law is appropriate.

Reason for the current proposal

The applicants are proposing a small addition to their existing dwelling that would accomplish two things:

- allow for an enlargement to an existing very small bedroom that is currently 68 square feet in area; and
- allow for an enlargement to an existing small bathroom, to permit the installation of main floor laundry facilities.

The dwelling is a two bedroom home, with the master bedroom suite on one side of the dwelling, and the second dwelling, bathroom and entrance on the other side of the dwelling. The centre portions of the dwelling are occupied by the kitchen and dining area (in the rear) and the living area (in the front). The existing bedroom is barely able to support a bed and chair, and is too small to accommodate visiting family members.

The existing laundry facilities are located in the basement of the dwelling. The applicants wish to install main floor laundry facilities as Ms Darnley has accessibility problems and is finding it increasingly difficult to negotiate stairs in the dwelling.

As discussed at our meeting on December 5, 2012, the applicants have advised that they are also proposing to add a ramp from their current main entrance to the grade at the driveway, to further reduce the number of stairs that Ms Darnley would have to navigate to get in and out of the house. You have indicated that there may be a need to recognize an increase in the lot coverage on the property to recognize the addition of a ramp on the site. At this time, while the ramp has not been designed, it is expected that it would be approximately 1 to 1.5 metres wide by 6 to 10 metres long (depending on the grade and starting near the garage entrance), requiring an area of between 6 square metres and 15 square metres. You have indicated that the current site plan shows a coverage of 228 square metres (including the existing dwelling and proposed addition), which is below the 247.9 metres that would be permitted. While the proposed ramp looks like it may be able to fit within the current coverage requirements, it is quite close. As such, in order to provide some flexibility in the design and size of the ramp, we would request a slight increase in the permitted lot coverage, from 13% to 14%.

Design of the dwelling and location of the addition

The applicants have explored alternative locations for the addition. However, any other locations are impractical given the design of the existing dwelling, its location on the property and the location of the existing driveway and septic facilities. Alternatives would require significant changes to the building itself, and would result in a need for considerably larger addition, with associated redesign of the building.

The existing dwelling is a two bedroom home, and contains a small bathroom and bedroom on the east side of the building. The bedroom has an area of approximately 6.3 square metres (68 square feet), and the bathroom has an area of 5.9 square metres (64 square feet). The applicants propose to extend the bathroom and bedroom, to provide for a larger bedroom that can accommodate more than one bed and to enlarge the bathroom to accommodate main floor laundry facilities. The current bedroom is quite small and requires enlargement to accommodate the applicants' family when they visit.

Based on the way the original dwelling was constructed, the extension to the side provides the most effective way to enlarge the building. The total addition is for 17.7 square metres (190 square feet) (external dimensions). Given the layout of the dwelling, the proposal represents a logical, affordable extension of the existing rooms inside the dwelling. It also provides the opportunity to basically blend the façade of the proposal with the existing dwelling and keep it in character with the balance of the

structure, without introducing new roof lines. The addition is also located on a rock outcrop, which reduces the need for a basement or deeper foundations. It is understood that the extension would be more cost effective because of the way the existing joists are located in the dwelling.

While the dwelling could be reconfigured with a different orientation to accommodate the proposed expansion, it would require an extension to the rear of the building that would require changes to the roof line of the dwelling, and changes to the interior layout (including plumbing), and construction of a new entrance to the dwelling. As the property drops off to the rear of the building, any addition would be larger as it has to deal with the change in elevation of the site. The addition to the rear would also change the roof line of this part of the dwelling. Any addition to the rear of the dwelling would result in a need to redevelop the existing entrance to the property, and would require a considerably larger addition to accommodate a new bedroom and integrate the addition with the existing dwelling.

The additional costs associated with such a reconfiguration would make the project financially prohibitive for the owners.

It is noted that there was an original sleeping cabin on the property that was removed when the new dwelling was constructed. While originally intended to be relocated on the site, the applicants determined that a suitable location for a relocated cabin was not available, due to the nature of the property and the location of the driveway and tile field location. For these reasons, a separate sleeping cabin is not considered feasible at this time.

For these reasons, the proposed addition is able to remain small in scale to accommodate the needs of the applicants, and is desirable for the use of both the dwelling and the property.

Accessibility

One of the principal reasons for the installation of main floor laundry facilities are to reduce accessibility problems for Ms Darnley, who is finding it more and more difficult from a health perspective to handle a full flight of stairs. The proposal will reduce the need for navigating stairs in the dwelling.

As noted, the applicants are also proposing to construct an exterior ramp to reduce the need to climb stairs to obtain access from the outside of the dwelling.

Topographic and vegetation features of the site

The existing cottage and the proposed addition are located on a rise of land on the property. The rock rise drops off both to the rear and side of the property, beyond where the addition is proposed. The addition will be located on an extension of the existing rock, in a logical location on the property, with minimum impacts on the surrounding topography. Similarly, the proposed addition will result in minimal removal of mature vegetation that exists on the property.

Any addition to the rear could result in the removal of a number of mature trees that provide a natural buffer and privacy in the rear yard area of the property.

Character of the surrounding area

Plan M93 contains a variety of smaller lots, with dwellings of varying sizes and setbacks from all property lines, since most of the original dwellings were developed long before the current zoning standards applied to them.

As such, there is tremendous variety in the location of dwellings around this part of Kabshe Lake. Within this particular bay, existing dwellings vary from 4 metres (13 feet) to over 20 metres (66 feet) from the shoreline. In this instance, the Darnley/Walsh dwelling is located at 5.5 metres (18 feet) from the shoreline and the neighbouring property to the east is located over 20 metres (66 feet), behind the Darnley/Walsh dwelling. The predominant views from the neighbouring property are to the lake, although the Darnley/Walsh dwelling is visible from portions of the neighbouring dwelling. However, the extent of the proposed expansion will not materially affect the existing views out to the lake from the neighbouring dwelling.

Impact of the reduction in the side yard setback – Neighbour's concerns

The principal issue affecting the redevelopment of the property is the side yard setbacks. Setbacks are provided for a number of reasons, and can include maintaining the ability to provide access around a property without encroaching or trespassing on neighbouring properties, to provide for a visual break between properties or uses, or to reduce the overall visual impact of development. Consideration of side yard reductions through variances or zoning exemptions are not unusual and are evaluated on the basis of their desirability for the redevelopment of a property, and consideration of the impact on any neighbouring property.

Based on the inspection of the property and a review of the side yard, it is my submission that the proposed addition will not have significant negative impacts on the abutting property owner. While the addition will be seen from parts of the neighbour's property, so does the existing dwelling. The existing vegetation provides a natural screen that reduces the visual impact of the existing dwelling, and will continue to do so for the addition. The applicants have also expressed an intention to supplement the vegetation along the side yard to further assist with buffering and screening the addition from the neighbour's view.

In my view, the proposed side yard setback reduction is appropriate for the development of the property, and will result in minimal change and disturbance to the neighbouring property owner's use and enjoyment of their property. This opinion is based on a number of considerations, including:

- the 2.7 metre setback maintains the ability to get around the building without possibility of trespass on the abutting property, and allows for ongoing maintenance of the dwelling at this location;
- the topographic features on the side yard result in minimized site disturbance, reducing the extent of the foundation work;

- the addition at this location can better follow existing roof lines and fits with the character of the dwelling itself;
- the general orientation of the neighbour's dwelling is straight toward the shoreline, and existing views from the dwelling to the water over the corner of the applicant's property is already screened by both the rock rise and the existing vegetation between the two properties; and
- the applicants will be providing additional screening, implemented through site plan control.

Site Plan Control

It is understood that a site plan agreement will be required since this is a shoreline property. As part of the site plan approval, provision can be made for additional natural planting along the east property boundary, to develop and maintain a visual separation between the neighbouring properties.

Shore Road Allowance closing

While not directly related to the current request for a reduction of the side yard setback, the location of the easterly side lot line of the applicant's property was established when the shore road allowance was closed for the applicant's and the neighbour's property. The shore road allowance was closed in 2000, following the Town's standard procedures, and included both the Darnley/Walsh property and the neighbour's property to the east. It is noted that this application resulted in a deviation from the usual approach utilized by the Town in extending the lot lines for the shore road closing. In usual circumstances, the approach is to extend the existing lot line from where it touches the shore road allowance to the shore. In this instance, such a lot line projection would have significantly reduced the frontage of the neighbour's property, to approximately 10 metres (33 feet). The current owners agreed at the time that it was reasonable to maintain the neighbour's water frontage and beach area. As it stands, as a result of the deviation to the lot line agreed to between the owners at the time, the neighbour's property has over 15 metres (50 feet) of frontage (straight line measurement) or 18 metres (60 feet) of actual shoreline. The effect of this deviation, however, brings the lot line closer to the Darnley/Walsh building. It is noted that had the usual practice been followed, the side yard for the proposed addition would conform to the requirements of the zoning by-law.

Conformity to planning documents

There is no issue with respect to consistency with the Provincial Policy Statement 2005, as noted in the Town's previous reports on the matter.

Similarly, I have reviewed the District of Muskoka Official Plan and would advise that the proposal would not offend any provisions of the Official Plan.

With respect to the Gravenhurst Official Plan, it is my opinion that the proposed addition will conform to the applicable provisions of the Plan. The proposal represents a small scale addition to an existing developed dwelling on an existing lot of record in an area that has a variety of lot sizes and building

conditions. It is consistent with the character of the shoreline development for this particular area, and it respects the special provision applicable to development and redevelopment on Kahshe Lake.

Conclusions

The request for the addition to the dwelling represents a small scale change to the dwelling, adding a total of 17.6 square metres (190 square feet) of building coverage, and allowing the expansion of an existing small bedroom and installation of main floor laundry facilities to assist the existing owners with accessibility in the dwelling.

The proposed location of the addition is a practical, affordable means for the applicants to improve the dwelling.

The proposal conforms to the provisions of the Official Plan.

The proposal is desirable for the appropriate use and development or use of the land, building or structure. It is modest in size, and represents the least impact on both the design of the building and the use of the property.

The side yard setback and associated width of the building will not result in significant negative impacts from either the lake or from the neighbour's property. As such, the proposal would, in my opinion, represent good planning and be in the public interest.

For all of these reasons, I would request that Council adopt the amending zoning by-law that would allow both the proposed addition and a ramp to provide improved accessibility to the dwelling.

I look forward to discussing the matter with Council.

Yours truly,

PLANSCAPE Inc.

A handwritten signature in black ink, appearing to read "Rick Hunter".

Rick Hunter, MCIP RPP
Planning Consultant

PLANNING COUNCIL – April 23, 2013

Proposal for Alternative Original Shore Road Allowance Cost Calculation Measurement

Recommendation

The Director of Development Services, in consultation with Management staff are not able to recommend the proposed alternatives to the cost calculation for the sale of an Original Shore Road Allowance.

Economic Impact

The application fee for an Original Shore Road Allowance Closure would be \$607.00. The purchase price (rate per linear foot of Original Shore Road Allowance) is \$51.00, plus H.S.T.

Communications Plan

Correspondence has, and will, occur with the applicant's agent prior to proceeding with the application to close all or a portion of the Original Shore Road Allowance.

Purpose

The purpose of this report is to advise Council of proposed alternatives to calculating the fee per linear foot of Original Shore Road Allowance in anticipation of an upcoming deputation.

Background – Analysis and Options

An application to close and purchase all or a portion of an Original Shore Road Allowance on Riley Lake is being considered by the owners to facilitate the redevelopment of the property. The potential applicant owns an elongated parcel of land, as illustrated in the attached, which abuts a municipally owned Original Shore Road Allowance running along the peninsula's entire shoreline.

A deputation is forthcoming by the applicant's agent, who will be requesting alternatives to the method of calculating fee per linear foot of the Original Shore Road Allowance in order to make the purchase more affordable.

The first process of the Town Policy for the Sale or Disposition of Land states that prior to selling any real property, the Town of Gravenhurst shall: pass a resolution declaring the subject property surplus, specifying the proposed method of disposal, and the proposed option for disposal. The applicant wishes to investigate the opportunity to calculate the property fee in an alternative manner prior to proceeding with an application to do so.

Consultation

Members of the Senior Management Team.

Conclusion

The Town Policy for the Sale or Disposition of Land indicates that the calculation of the land fee to purchase an Original Shore Road Allowance is based on a linear foot measurement along the shoreline, and therefore, staff is not in a position to recommend the alternative calculations. Notwithstanding this, previous Councils have entertained such alternatives,

primarily utilizing a straight line measurement through the centre of the property in these circumstances rather than selling only portions of the property.

Attachments

1. GIS Location Map
2. Copy of the sketch showing the proposal measurement alternatives

Respectfully Submitted,

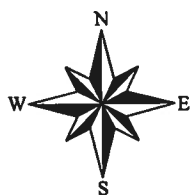
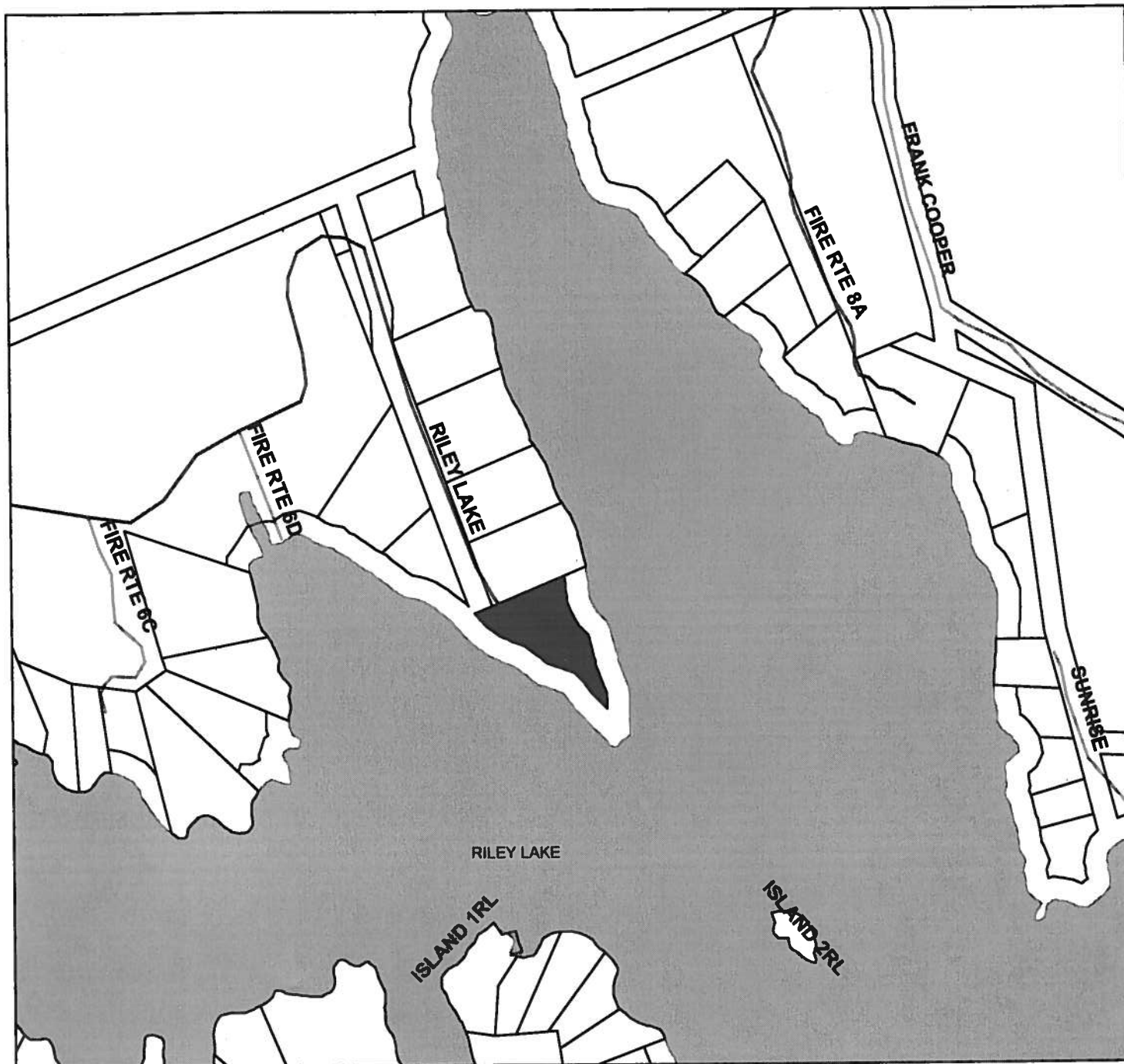
“Original Signed”

Prepared and Reviewed By:
Scott Lucas,
Director of Development Services

“Original Signed”

Approved By:
C. David Weldon,
Chief Administrative Officer

KEY MAP



0 50 100 200 300 400 Metres

1:5,000

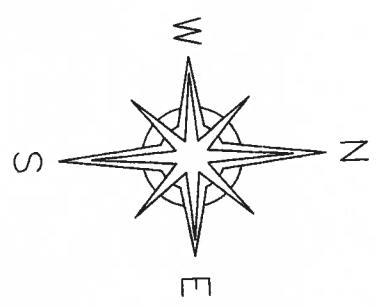
Original Shore Road Allowance Proposal
Athur Gordon Haughton
Parcel 7935 Section Muskoka
Part of Lot 22, Concession 4
in the former Township of Ryde
now in the Town of Gravenhurst
District Municipality of Muskoka



ROBERT C. T

SURVEYOR'S

- I CERTIFY THAT:
- 1) THIS SURVEY AND THE SURVEYORS
 - 2) THE SURVEY W/



JANUARY 16, 2011
BRACEBRIDGE, ON

LEGEND

- IB
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BEARING F

BEARINGS ARE PARTS 1 AND 2

REPORT

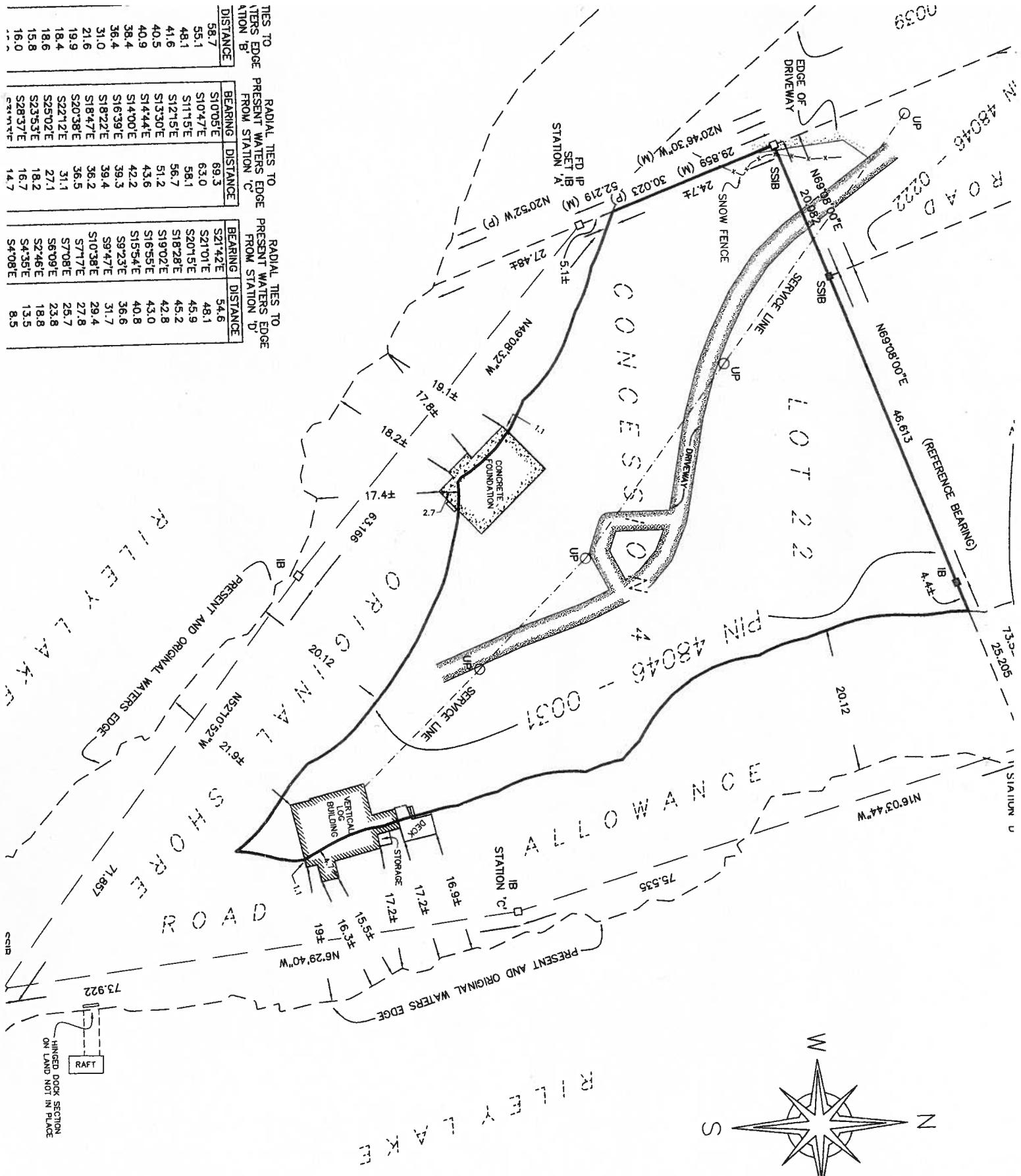
EASEMENTS

THERE ARE 1

ACCESS

ACCESS TO ROAD, THE BEEN INVES

COMPLA



STATION	BEARING	DISTANCE	STATION	BEARING	DISTANCE
58.7	S10°05'E	69.3	S21°42'E	54.6	
55.1	S10°47'E	63.0	S21°01'E	48.1	
48.1	S11°15'E	58.1	S20°15'E	45.9	
41.6	S12°15'E	56.7	S18°28'E	45.2	
40.5	S13°30'E	51.2	S19°02'E	42.8	
40.9	S14°44'E	43.6	S16°55'E	43.0	
38.4	S14°00'E	42.2	S15°54'E	40.8	
36.4	S16°39'E	39.3	S9°23'E	36.6	
31.0	S18°22'E	39.4	S9°47'E	31.7	
21.6	S18°47'E	36.2	S10°38'E	29.4	
19.9	S20°38'E	36.5	S7°17'E	27.8	
18.4	S22°12'E	31.1	S7°08'E	25.7	
18.6	S25°02'E	27.1	S6°09'E	23.8	
15.8	S23°37'E	18.2	S2°46'E	18.8	
16.0	S28°37'E	16.7	S4°35'E	13.5	
	END OF	14.7	S4°08'E	8.5	

TO: Mayor Paisley Donaldson and Members of Council
FROM: The Department of Development Services
SUBJECT: Zoning Amendment Application No. ZA 35-2012 DARNLEY, Carol
DATE: April 23, 2013

Recommendation:

Although Planning staff would recommend approval, in part of the application as there may be an opportunity to relocate the proposed addition further from the shoreline. Staff would recommend that the following portion of the Zoning Amendment be approved:

- Remove the Environmental Protection Zone (EP) from the subject lands and rezone the EP lands to Residential Waterfront (RW-6F) subject to Special Provision 935 (S935);
- Reduce the Setback from an Environmental Protection Zone to 0m; and
- Recognize the existing Setback of 4.8 metres from the Optimal Summer Water Level for the existing Open Deck only.

Staff would recommend that the following portion of the Zoning Amendment be denied:

- To relieve the subject lands from the Maximum Dwelling Width requirement; and
- To reduce the side yard setback from 6.0 metre to 2.7 metres for an addition to the existing Dwelling.

Council may wish to approve Zoning Amendment Application No. ZA 35-2012 with the following amendments, as requested by the applicant:

- Remove the Environmental Protection Zone (EP) from the subject lands and rezone to Residential Waterfront (RW-6F) subject to Special Provision 935 (S935);
- Reduce the Setback from an Environmental Protection Zone to 0m;
- Recognize the existing Setback of 4.8 metres from the Optimal Summer Water Level for the existing Open Deck only;
- Relieve the subject lands from the Maximum Dwelling Width provision;
- Reduce the side yard setback from 6.0 metre to 2.7 metres for an addition to the easterly side of the existing Dwelling;
- To increase the Lot Coverage from 13% to 14%; and
- To require that a 2.0 metre wide vegetative buffer, consisting of evergreens, be planted along the entire length of the easterly side yard abutting the addition.

If approved, as a condition, the applicant would be required to enter into a Site Plan Agreement with the Town to ensure, amongst other matters, that the minimum 2.0 metre wide vegetative buffer is planted in accordance with Zoning requirements.

Purpose:

An application was received from Carol Darnley to rezone lands legally described as Part of Lots 12 & 13, Concession 8, in the former Township of Morrison, now in the Town of Gravenhurst, District Municipality of Muskoka, being Part 1, Plan 35R-17963, municipally known as 1028 Oak Road (Kahshe Lake).

The proposed amending By-law would zone the land from Residential Waterfront (RW-6F) and Environmental Protection (EP) to Residential Waterfront (RW-6F) subject to Special Provision 935 (S935) under By-law 10-04, as amended, in order to redefine the boundary of the Environmental Protection Zone (EP), to permit an addition to the easterly side yard of an existing Dwelling, to relieve the proposal from the Maximum Dwelling Width Calculation, to recognize the existing Setback from the Optimal Summer Water Level for an Open Deck, and to increase the Lot Coverage from 13% to 14% in order to permit the construction of an addition to the east side of the Dwelling and a ramp for accessibility purposes.

Financial Impact:

N/A

Background:

A Minor Variance application was approved in 1999 to the permit the existing Deck on the front of the Dwelling to be located 5.5 metres from the Optimal Summer Water Level. The sketch that the applicant has provided indicates that the Deck was built 4.8 metres from the water. Staff have recommended that the applicant obtain confirmation of the setback from a Surveyor to ensure that a future Planning application would not be required to recognize a further encroachment.

An Environmental report has been submitted by RiverStone Environmental Solutions Inc. which has recommended that the Environmental Protection Zone (EP) located on the property is inaccurate and therefore should be removed from the property. Furthermore, the report concludes that if fencing is installed during construction to protect water quality and fish habitat, "the development can occur without negatively impacting natural features on the subject property and adjacent lands."

A letter from C.T. Strongman, Surveyor, confirming the proposed addition would meet the required Lake Elevation was submitted to the Town.

A Public Hearing was held on August 28th, 2012. The application was deferred to allow staff and the applicant the opportunity to review an alternative location for the addition. The applicant's have obtained a Planning Consultant, Rick Hunter of Planscape, to review the location of the proposed addition and to provide Council with a professional planning opinion in support of the proposal.

a) Lot Dimensions:

Lot Area:	0.21 ha
Lot Frontage:	42.0 metres

b) Servicing:

Private water and private sewage system.

c) Access:

Private maintained road: Oak Road

d) Site Inspection:

A Site inspection was conducted by Jeremy Rand on June 28th, 2012 and by Scott Lucas and Katie Kirton on August 22nd, 2012.

e) Shore Road Allowance:

The original shore road allowance has been closed and deeded to the applicant.

f) Fish Habitat:

The property fronts onto an unclassified portion of Fish Habitat. This may affect the availability of a building permit for any shoreline work on the subject lands.

Analysis/Options:

A Site inspection revealed that the shoreline is mostly natural with a mixture of rock and mature vegetation. The proposed location of the Dwelling addition is mainly flat rock. The surrounding uses can generally be characterized as Residential Waterfront.

Provincial Policy Statement

The application, as submitted, is consistent with the Provincial Policy Statement.

Official Plan Policies

The property is designated *Waterfront Area*, as identified in the Town of Gravenhurst Official Plan.

D1.2 GOAL

All development in the Waterfront Area of the Town shall maintain and enhance where possible water quality, protect the ecological, natural, visual and aesthetic character of the lake and shoreline and protect the recreational, social, accessible and environmental qualities of the lakes and rivers.

The majority of the development on the property is located within close proximity to the lake. An addition to the east side of the Dwelling would intensify the use of the near-shore area and would increase the visual impact from the lake and the neighbouring property.

D2.2 CHARACTER OF THE SHORELINE ENVIRONMENT

Buildings in the Waterfront Area will be designed and constructed to blend in to the natural environment and preserve the historic architectural characteristics of the area. Council will adopt design guidelines for the Waterfront Area that will include architectural details and landscape elements that will implement these policies. The Zoning By-law implementing this Official Plan will include regulations that will:

- a) limit lot coverage within 20.0 metres of the shoreline;*

The proposal would permit additional lot coverage within the first 20.m metres of the shoreline, which is where the majority of the development is currently located.

- b) require the shoreline area and 75 percent of the front 20.0 metres of the lot be maintained primarily in a natural vegetative state and prevent further encroachment into this area;*

Due to the extensive development within the first 20.0 metres of the shoreline, the goal of 75% shoreline vegetation to be maintained within the shoreline buffer cannot be achieved. Permitting additional development within this setback would further reduce the area that is currently in a natural state.

- c) *limit the height of buildings within 20.0 metres of the shoreline to mirror the natural tree line;*

This policy could be achieved as the proposed addition would be one storey in height.

- d) *limit the size of marine related structures relative to the amount of shoreline frontage of the lot;*

Two shoreline structures currently exist (excluding the Dwelling). No additional marine structures are being requested.

- e) *limit the size of boathouses relative to the lot area within 20.0 metres of the shoreline and the height of boathouses to one storey; and,*
- f) *prevent the development of lands that are considered to be significant landscape features such as cliffs, steep slopes in excess of 40 percent, narrow channels and large areas of exposed barren rock.*

These policies shall apply to new development and redevelopment of existing lands and buildings that increase the gross floor area by 50 percent or more.

Council may consider variations to the standards in the Zoning By-law where the intent of these policies is maintained and where lesser standards would be in keeping with the character of the existing development in the area and where there are specific physical conditions on the land that warrant special consideration.

Kahshe Lake Policies

D4.1.2 *The natural qualities that help define the character of the lakes include their topography and landscape, their shorelines with a natural and undeveloped appearance and their significant natural areas and habitats. The cultural features of the lakes also define the character of the lakes, from the clustering of development in Kluey's Bay and Kilworthy, and the historic resorts and marinas that have been the focus of community activities, to the large number of multi-generational family owned properties, remaining large family owned properties and the significant number of water access properties. The lakes are characterized by smaller cottages/dwellings that tend to blend in with the surrounding natural features. Shoreline structures tend to be modest in size and do not dominate their shorelines. These natural and cultural features will be protected and enhanced while allowing a limited amount of new development and careful redevelopment of existing properties, consistent with the lakes' ability to sustain additional development.*

The majority of the existing Dwelling is located within the first 20.0 metres of the lake, additional development within this area would add to the existing extensive development along the shoreline and would further reduce the natural appearance of the undeveloped portion of the shoreline.

D4.1.3 *When viewed from the water, the visual impact of development from the water is an important consideration in maintaining the character of the lake. The natural environment is intended to be the dominant landscape feature around the lake. Disturbance on lots should be limited and minimized and the maximum amount of vegetation should be retained on a lot. Vegetation should be maintained on skylines, ridge lines or adjacent to the top of rock cliffs. Additional natural screening should be provided to supplement existing vegetation along the shoreline. In general, structural development that would occur above the tree line should not be permitted.*

The undeveloped portions of the shoreline consist of rock and a mixture of trees and low lying vegetation. It is staff's opinion that it would be difficult to plant additional vegetation in front of the proposed addition for the purposes of screening due to the terrain. According to the applicant, little to no additional vegetation would be disturbed due to the existing rock terrain in the location of the proposed easterly addition.

D4.1.15 The minimum setback for all structural development (including redevelopment on existing properties) shall be 30.0 metres, measured horizontally from the high water mark. This provision does not apply to docks or boathouses or other approved shoreline structures.

A lesser setback may be permitted only if:

- a) it is not physically possible, due to terrain or lot depth features, to meet the required setback, or*
- b) in the case of redevelopment of a property, the imposition of the new setback would result in a more negative impact on the property than allowing reconstruction at the existing setback.*

It is staffs opinion that although it may not be physically possible to meet the 30.0 metre setback for the proposed addition due to the location of the existing Dwelling, staff are of the opinion that it would be possible to move the addition to the rear of the Dwelling to bring it into greater conformity with the policies of the Official Plan and the requirements of the Zoning By-law.

Staff would comment that the applicant has indicated that a tree buffer would be planted along the easterly side lot line at the Site Plan stage, to reduce the visual impact on the neighbouring property.

Staff have included a number of policies that were considered, however, it should be noted that staff's review of the proposal was not limited to the above noted policies only.

Zoning By-Law

Current Zoning:

By-law 10-04 as amended: Residential Waterfront (RW-6F)

Proposed Zoning:

By-law 10-04 as amended: Residential Waterfront (RW-6F), subject to Special Provision 935 (S935)

The proposed amending Zoning By-law(s) would establish provisions to reconfigure the Environmental Protection Zone (EP), to recognize the existing Setback of 4.8 metres from the Optimal Summer Water Level, to relieve the subject lands from the Maximum Dwelling Width requirement, and to reduce the side yard setback from 6.0 metre to 2.7 metres for an addition to the Dwelling, and to permit a Maximum Lot Coverage of 14%.

Consultation:

All neighbours within 120.0 metres of the subject lands and appropriate agencies have been circulated for comment, as per the requirements of the Planning Act, R.S.O. 1990, as amended.

A letter of objection was received from the neighbour to the east of the subject lands. The neighbours has concerns regarding the visual impact of the proposed addition on the neighbours view of the lake, the

encroachment of the structure into the Side yard Setback, and the lack of vegetative buffering along the easterly side lot line. The neighbour would like the applicant to consider an alternative location for the proposed addition to the rear of the Dwelling.

Communications Plan:

Notification has been provided and a Public Hearing has been scheduled in accordance with the Planning Act, R.S.O. 1990, as amended.

Appendices:

Schedule B: Location Map

Schedule C: Application Sketch

Respectfully Submitted,

With Concurrence From,

“original signed”

Prepared By:
Katie Kirton, Senior Planner

“original signed”

Reviewed By:
Scott Lucas, Director of Development Services

KK/SL: sf

Indemnification of members of Council, local boards, volunteers and employees.

Recommendations

The Chief Administrative Officer, in consultation with Management staff and outside counsel recommends:

1. That, pursuant to Sections 279 and 283 of the *Municipal Act*; S.O. 2001, as amended, Council enact a By-law to indemnify Council members and employees against certain pecuniary loss or liability which may arise as a result of duties while acting on behalf of the Town of Gravenhurst. ;

Economic Impact

In the event that actions covered by the terms of the proposed By-law are brought against covered individuals, legal fees and disbursements will be payable. The number of instances and the costs per instance that might occur during the course of a year or term cannot be estimated

Communications Plan

If approved, current members of Council, local boards and staff will be advised of the By-law. Newly elected officials will be advised of the provisions of the By-law upon taking office, as will persons appointed to local boards at the time of their appointment.

Purpose

The purpose of this report is to recommend that Council enact a By-law to indemnify covered individuals for legal expenses incurred as a result of actions taken in the performance of their duties while acting on behalf of the Town.

Background – Analysis and Options

Members of Council, like Town employees, while acting within the scope of their Town duties are covered by the Town's insurance policies against claims alleging unintentional act, e.g. negligence. The Town's insurance policies do not provide coverage for fines, penalties, or legal defense costs arising from regulatory or statutory offences (e.g. occupational health and safety) or civil action alleging intentional wrongdoing, for example theft.

Currently there is no formal policy or By-law in place to pay or reimburse individuals for legal fees incurred in defending themselves from actions brought against them as a result of their actions taken in good faith while acting on behalf of the Town. Section 279 of the *Municipal Act* allows municipalities to indemnify individuals for such costs, and Section 283 of the Act allows municipalities to pay such expenses.

The By-law, as drafted, provides for the Town to pay legal fees for most actions brought against covered individuals. "Covered individuals" include members of Council, members of local Boards (Library Board) employees, and volunteers. As well, if an action is commenced against a member of council or an employee, they continue to be covered if they leave the employ of the Town or cease to be a member of Council before the action is completed. Similarly, if an action is commenced after the member or employee leaves the Town, but it pertains to an action or omission that occurred while they were a member or employee, they would be covered.

Actions not covered by the proposed By-law include:

- Actions relating to a grievance under a collective agreement or disciplinary action taken by the Town as an employer,
- Actions brought under the Highway Traffic Act or the Criminal Code
- Expenses of a member of council or local board in obtaining legal advice to determine if the member has a pecuniary interest in a matter.
- Actions where a member is found to have contravened Section 5 of the Municipal Conflict of Interest Act (disclosure of pecuniary interest). In such actions, funds cannot be advanced to named individuals before a decision has been rendered nor is the individual entitled to reimbursement if found to have contravened Section 5 of the Act.

Consultation

Members of the Senior Management Team, Loopstra Nixon LLP, and a number of Ontario municipalities were consulted in the preparation and drafting of the By-law

Conclusion

When employees, members of Council, members of local boards and volunteers undertake duties while acting on behalf of the Town in good faith they should be able to do so knowing that costs associated with defending their actions will be borne by the Town within the limits allowed by current statutes. The draft By-law proposed provides that protection.

Attachments

1. Draft By-law to Indemnify Council members and employees against certain pecuniary loss or liability which may arise as a result of duties while acting on behalf of the Corporation of the Town of Gravenhurst.

Respectfully Submitted,

“Original Signed”

Prepared By:
C. David Weldon, Chief Administrative Officer

Follow Up - To Be Completed By The Clerks Department	
	<input type="checkbox"/> Approved <input type="checkbox"/> Not Approved <input type="checkbox"/> Referred <input type="checkbox"/> Received <input type="checkbox"/> Deferred
Committee/Council Disposition & Comments	
Notification of Decision to Applicant	
Assigned Department & Date for Completion	



THE CORPORATION OF THE TOWN OF GRAVENHURST

Resolution No. _____ Date: April 23, 2013

Moved By: _____

Seconded By: _____

BE IT RESOLVED THAT pursuant to Sections 279 and 283 of the *Municipal Act*; S.O. 2001, as amended, Council enact a By-law to indemnify Council members and employees against certain pecuniary loss or liability which may arise as a result of duties while acting on behalf of the Town of Gravenhurst

DISCLOSURE OF PECUNIARY INTEREST		RECORDED VOTE			
MEMBER OF COUNCIL	(√)	YEA	NAY		
Councillor Bratty					
Councillor Cairns					
Councillor Colhoun					
Councillor Donoghue				LOST	CARRIED
Councillor Jorgensen					
Councillor King					
Councillor Lorenz					
Councillor Watson					
Mayor Donaldson				SIGNATURE	

BY-LAW NUMBER XXXXX

BEING A By-law to indemnify Council members and employees against certain pecuniary loss or liability which may arise as a result of duties while acting on behalf of The Corporation of the Town of Gravenhurst.

WHEREAS Section 279 of the *Municipal Act*; S.O. 2001, as amended, provides that despite the *Insurance Act*, a municipality may be or act as an insurer and may exchange with other municipalities in Ontario, reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act* with respect to the following matters:

1. Protection against risk that may involve pecuniary loss or liability on the part of the municipality or any local board of the municipality.
2. The protection of its employees or former employees or those of any local board of the municipality against risks that may involve pecuniary loss or liability on the part of those employees.
3. Subject to Section 14 of the *Municipal Conflict of Interest Act*, the protection of the members or former members of the council or any local board of the municipality or any class of those members against risks that may involve pecuniary loss or liability on the part of the members.
4. Subject to Section 14 of the *Municipal Conflict of Interest Act*, the payment of any damages or costs awarded against any of its employees, members, former employees or former members or expenses incurred by them as a result of any action or other proceeding arising out of acts or omissions done or made by them in their capacity as employees or members, including while acting in the performance of any statutory duty.
5. Subject to Section 14 of the *Municipal Conflict of Interest Act*, the payment of any sum required in connection with the settlement of an action or other proceeding referred to in Paragraph 4 and for assuming the cost of defending the employees or members in the action or proceeding.

AND WHEREAS Section 283 of the *Municipal Act*; S.O. 2001, as amended, provides that:

1. A municipality may pay any part of the remuneration and expenses of the members of any local board of the municipality and of the officers and employees of the local board.
2. Despite any Act, a municipality may only pay the expenses of the members of its council or of a local board of a municipality and of the officers and employees of the municipality or local board if the expenses are of those persons in their capacity as members, officers or employees and if,
 - (a) the expenses are actually incurred; or

(b) the expenses are, in lieu of the expenses actually incurred, a reasonable estimate, in the opinion of the council or local board, of the actual expenses that would be incurred

AND WHEREAS THE Council of the Corporation of the Town of Gravenhurst deems it desirable, in accordance with the *Municipal Act, s. 279*, S.O. 2001, as amended, to indemnify its members and employees against certain pecuniary loss or liability which may arise as a result of their duties on behalf of the Town;

NOW THEREFORE the Council of The Corporation of the Town of Gravenhurst enacts as follows:

DEFINITIONS:

1. In this By-law,

“action or proceeding” means an action or proceeding referred to in Section 2;

“council” means the Council of The Corporation of the Town of Gravenhurst;

“covered action or proceeding” means an action or proceeding commenced after the passing of this By-law or pending but not finally determined as of January 1, 2013, and arising out of acts or omissions done or made by a covered individual in the attempted performance in good faith of his/her duties as a member of Council or as an employee of the Town including while acting in the performance of any statutory duty;

“covered individual” means a person who was a member of Council or was an employee, as the case may be, at the time the cause of action or other proceeding arose or at the time that the act or omission occurred that gave rise to the action or proceeding, notwithstanding that prior to judgement or other settlement of the proceeding the person may have ceased to be a member or to be an employee

“employee” means any salaried officer, or any other person in the employ of the Town or of a local board and includes persons that provide their services on behalf of the Town without remuneration, exclusive of reimbursement of expenses or honoraria provided that such persons are appointees of the Town or volunteers acting under the direction of a person in the employ of the Town;

“former employee” means a person who was formerly an employee of the Town or of local board;

“former member” means a person who was formerly a member of Council or of a local board;

“local board” means a local board as defined in the *Municipal Act* S.O. 2001, as amended;

“member” means a member of the Council of the Town of Gravenhurst or of a local board;

“Town” means The Corporation of the Town of Gravenhurst;

INDEMNIFICATION

2. The Town shall indemnify a covered individual in the manner and to the extent provided by Section 5 in respect of any civil, criminal or administrative action or proceeding, including appeals where authorized by Section 11 by a third party for acts or omissions arising out of the scope of their authority or within the course of their employment or office if:

(i) the covered individual acted honestly and in good faith with a view to the best interests of the Town; and

(ii) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the covered individual had reasonable grounds for believing that his/her conduct was lawful.

3. In the event that any determination is required as to whether a covered individual meets the requirements of this Section, the Chief Administrative Officer shall obtain the advice and assistance of a qualified and independent solicitor.

EXCLUDED ACTIONS OR PROCEEDINGS

4. This By-law does not apply to:

(i) an action or proceeding where the legal proceeding relates to a grievance filed under a collective agreement or to disciplinary action taken by the Town as an employer;

(ii) an action or proceeding brought under the *Highway Traffic Act* S.O. 2001, as amended, or the *Criminal Code* R.S.C. 1985 as amended, unless such proceedings arose as a result of the individual’s good faith pursuit or performance of his/her assigned duties;

(iii) any expenses incurred by a member of council or a local board in obtaining legal advice to determine whether the member has a pecuniary interest in a matter which is the subject of determination or consideration by council or a local board as defined herein.

DAMAGES COSTS AND FINES

5. Subject to this By-law, in a covered action or proceeding, the Town shall:

- (i) pay all damages and legal costs, including interest, awarded against the covered individual;
- (ii) pay all sums required in connection with the settlement of the action or other proceeding against a covered individual, provided that as a condition of settlement, the Town approves the terms of the settlement;
- (iii) pay any fines, monetary penalties or award of damages levied or imposed against a covered individual by reason of the covered individual being convicted of any violation except the *Highway Traffic Act*, municipal parking and traffic By-laws, and offences under the *Criminal Code* or the *Controlled Drugs and Substances Act*;

provided always that the legal liability for damages or for the imposition of a fine or monetary penalty arose out of acts or omissions done or made by the covered individual in her/his capacity as a member of Council or as an employee of the Town including while acting in the performance or attempted performance of any statutory duty.

6. The Town shall indemnify a member of Council or an employee in the manner and to the extent provided by Section 5 of this By-law, in respect of any covered action or proceeding only if, in the opinion of Council:

- (i) the member of Council or employee acted honestly and in good faith with a view to the best interests of the Town; and
- (ii) the member of Council or employee had reasonable grounds to believe that his/her conduct was lawful.

7. As a condition precedent to the Town making any payment with respect to the costs associated with defense or representation of any covered individual in any covered action or proceeding or making any payment under Section 5 of this By-law, a covered individual shall

- (i) cooperate fully with the Town in the defense, investigation, negotiation or settlement of the covered action or proceeding;
- (ii) not have or engage in any contact, discussion or negotiations with any adverse person or party without the prior written consent of the Town's Solicitor;
- (iii) promptly disclose to the Town's Solicitor all contact, discussions or negotiations with any adverse person or party;
- (iv) apprise the Town's Solicitor on an ongoing basis of all matters related to the covered action or proceeding; and
- (v) execute any documents required by the Town to enable the Town to subrogate as to the position and as to any rights or cause of action of the covered individual, or required by the

Town to enable the Town to recover as an assignee of the covered individual of any right of entitlement of the covered individual under an award of costs or otherwise.

RETAINING LEGAL COUNSEL

8. A covered individual may retain their own legal counsel for their defense or representation in a covered action in lieu of defense or representation by the Town, provided that the Town shall not reimburse the covered individual for their legal costs and shall not make payment under this by-law unless the Town declined to provide or terminated defense or representation and determined instead to reimburse the covered individual for their legal costs or defense or representation in accordance with this by-law, either because:

- (i) the covered individual has demonstrated to the satisfaction of the Town that there exists a clear legal conflict between the interests of the Town and the covered individual; or
- (ii) the Town has determined that it would be inappropriate for the Town to defend or continue to defend the covered individual.

9. Notwithstanding the foregoing,

- (i) where an action or proceeding pertaining to a member began after December 1, 2010, but prior to the enactment of this By-law, and a member retained legal counsel for their defense or representation, the prior approval of the Town to obtain such defense or representation is not required.
- (ii) in extending coverage under this By-law, the Town shall have the right to reasonably limit the amount which it shall pay a covered individual for legal costs and may:
 - (a) set a reasonable global upset limit for legal costs paid pursuant to Section 5; and
 - (b) establish reasonable hourly rates which it will pay legal counsel retained to defend or represent a covered individual.
- (iii) the covered individual shall not retain legal counsel, and the Town shall not be obligated to repay or reimburse the covered individual for defense costs where the covered individual is an insured under a policy of insurance maintained by the Town and the covered action is defended on behalf of the covered individual by the insurers under that policy to the extent that the coverage under that policy will reimburse all defense costs and will pay all damages and costs assessed.

10. Any requirement that the Town reimburse a covered individual for the costs of defence or representation in a covered action or proceeding shall take into account any pre-paid legal assistance plan or any defence cost insurance or funding that the covered individual has purchased or is available to the covered individual and shall be reduced by or repaid to the Town by the covered individual to the

extent of any costs received or recovered by the covered individual, including costs awarded in the action or proceeding.

APPEALS

11. Where a covered individual seeks to appeal a judgement in a covered action or proceeding, the Town shall have the sole discretion to determine whether coverage of the nature set out in Section 5 shall be extended by the Town for the purposes of the appeal. If a covered individual pursues an appeal without representation by the Town and is successful in that appeal, The Town shall have the sole discretion to determine whether the covered individual will be indemnified for his/her legal costs.

12. In exercising discretion under Section 9, the Town shall consider the factors set out in Section 6.

EXCLUDED ACTIONS OR PROCEEDINGS

13. Notwithstanding the foregoing, in respect of any action or proceeding where

- (i) a covered individual has acted in bad faith or intentionally outside of the scope of their authority;

- (ii) the action or proceeding arises out of the conduct of the member or employee which constitutes wanton or malicious wrongful conduct;

- (iii) the covered individual fails or refuses to comply with the provisions of this By-law; or

- (iv) coverage is otherwise precluded under the provisions of this By-law or any other Act or Regulation of the Province of Ontario or the Government of Canada;

then the member, employee, or covered individual shall not be entitled to coverage under this By-law and the Town shall not be liable to pay any of the damages, costs awarded, expenses incurred, sums required in connection with settlement or the cost of defending any such member or employee or covered individual under Section 3 hereof.

14. In the case where the Town has determined that a covered individual is not entitled to coverage, that covered individual shall:

- (i) be responsible for all costs in connection with representation in the action or proceeding;

- (ii) reimburse the Town for all costs paid by the Town;

- (iii) not be entitled to coverage under this By-law or to have the Town make any payments under this By-law; and

- (iv) be responsible for payment of any penalty or damages or costs awarded or imposed against the covered individual in the action or proceeding.

PLANNING COUNCIL – April 23, 2013

Appointing Municipal Law Enforcement Officers

Recommendations

The Chief Municipal Law Enforcement Officer in consultation with Management staff recommends:

1. That Kathryn Saunders and Dylan Grant be appointed Municipal Law Enforcement Officers

Economic Impact

Each of these positions have been approved as part of the 2013 Budget.

Purpose

The purpose of this report is to appoint two Municipal Law Enforcement Officers under authority of s. 15(2) of the Police Services Act to augment staff for the summer season. For 2013, the two summer Municipal Law Enforcement Officers will be new to their position. Kathryn Saunders is in her fourth and final year at Nipissing University majoring in criminology. Last summer she worked with the OPP marine unit patrolling the waterways. Kathryn's goal is to become a police officer. Dylan Grant is currently enrolled at Georgian College in the Police Degree Studies Program. Dylan has worked in the family construction business and in food preparation. Dylan's goal is to be a police officer. Both have volunteer experience and will serve the community well.

Consultation

These positions have been filled in consultation with the Director of Human Resources and the Director of Development Services.

Conclusion

Appointments of these positions are required under the Police Services Act and have been approved in the 2013 budget.

Attachments

1. Appointment by-law

Respectfully Submitted,

“Original Signed”

Prepared By:
Jim Wouters, CMLEO

“Original Signed”

Reviewed By:
Scott Lucas, Director of Development Services

“Original Signed”

Approved By:
C. David Weldon, Chief Administrative Officer

Follow Up - To Be Completed By The Clerks Department	
	<input type="checkbox"/> Approved <input type="checkbox"/> Not Approved <input type="checkbox"/> Referred <input type="checkbox"/> Received <input type="checkbox"/> Deferred
Committee/Council Disposition & Comments	
Notification of Decision to Applicant	
Assigned Department & Date for Completion	

THE CORPORATION OF THE TOWN OF GRAVENHURST

BY-LAW NO. 2013-

Being a By-law to appoint Municipal Law Enforcement
Officers for the Town of Gravenhurst
(Kathryn Saunders and Dylan Grant)

WHEREAS pursuant to the provisions of the Police Services Act, Chapter P.15, section 15 (1), R.S.O. 1990, the Council may appoint persons to enforce the by-laws of the municipality;

AND WHEREAS section 15 (2) of the Police Services Act, Chapter P.15, R.S.O. 1990 reads,"
Municipal Law Enforcement Officers are peace officers for the purpose of enforcing municipal by-laws";

AND WHEREAS it is deemed expedient to appoint Municipal Law Enforcement Officers for the Town of Gravenhurst;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF GRAVENHURST ENACTS AS FOLLOWS:

1. Kathryn Saunders is hereby appointed a Municipal Law Enforcement Officer for the Town of Gravenhurst effective April 29, 2013.
2. Dylan Grant is hereby appointed a Municipal Law Enforcement Officer for the Town of Gravenhurst effective May 27, 2013.
3. These appointments will terminate upon the expiration of the employee's contract.

READ A FIRST, SECOND, AND THIRD TIME and finally passed this 23rd
day of April 2013.

MAYOR

CLERK

THE CORPORATION OF THE TOWN OF GRAVENHURST

BY-LAW 2013-

Being a By-law to amend Zoning By-law 10-04
as amended (DARNLEY)

WHEREAS By-law 10-04 of the Corporation of the Town of Gravenhurst has been passed to constitute the Comprehensive Zoning By-law regulating land use in the Town of Gravenhurst;

AND WHEREAS the Council of the Municipality may amend such Zoning By-law in accordance with the provisions of Section 34 of the Planning Act, R.S.O. 1990, Chapter P.13;

AND WHEREAS the Council of the Town of Gravenhurst has received an application to amend such By-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF GRAVENHURST ENACTS AS FOLLOWS:

1. Schedule H08 of Appendix "A" of By-law 10-04 of the Town of Gravenhurst, as amended, is hereby further amended by changing the Environmental Protection Zone (EP) to a Residential Waterfront Zone (RW-6F) and with the addition of Special Provision 935 (S935) to the Residential Waterfront Zone (RW-6F), on Part of Lots 12 & 13, Concession 8, in the former Township of Morrison, now in the Town of Gravenhurst, District Municipality of Muskoka; being Part 1 on Plan 35R-17963, and as shown on Schedule "A-1" affixed hereto.
2. Appendix "C" to By-law 10-04 of the Town of Gravenhurst, as amended, is hereby further amended by the addition of the following Special Provision:

935.Notwithstanding any provisions to the contrary of Zoning By-Law 10-04, as amended, the following special provisions shall apply:

- (i) Regulations:
 - a. The Setback from the Optimal Summer Water Level shall be 4.8 metres for the existing open Deck only; and
 - b. The Setback from an Environmental Protection Zone (EP) shall be 0.0 metres.

All other provisions of By-law 10-04 as applicable to a Residential Waterfront Zone (RW-6F) shall apply.

3. Schedule "A-1" is hereby declared to form part of this By-law.
4. This By-law shall take effect on the date of passage and come into force in accordance with Section 34 of the Planning Act, R.S.O. 1990, Chapter P.13.

READ A FIRST TIME this 28th day of August , 2012

MAYOR

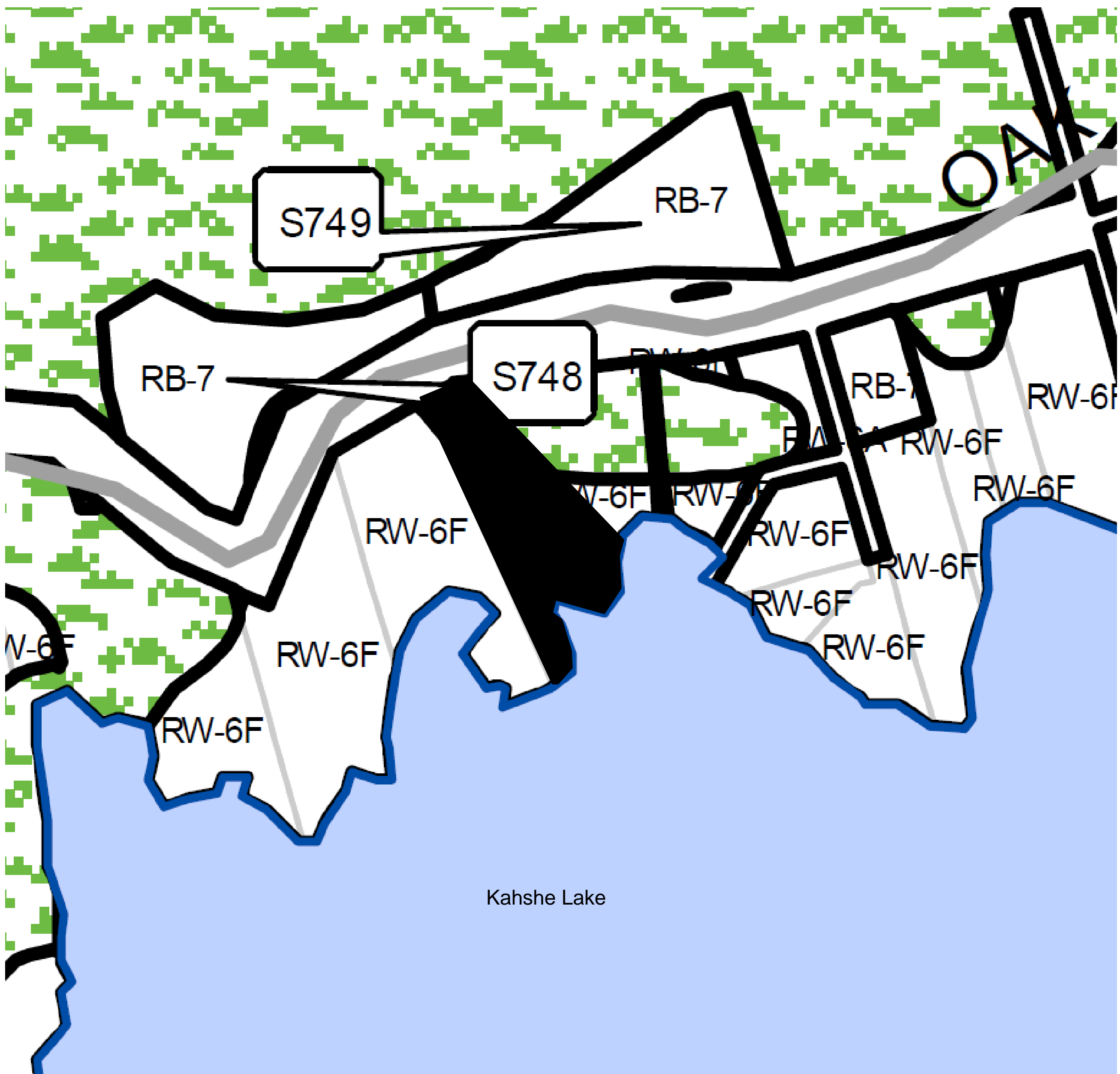
CLERK

READ A SECOND, AND THIRD TIME AND FINALLY PASSED

this day of , 2013

MAYOR

CLERK




This is Schedule "A-1" to By-law 2012- of the Town of
 Gravenhurst, passed this day of , 2012.



NTS

 Mayor

 Clerk

 Lands zoned Residential Waterfront (RW-6F), subject to Special Provision 935 (S935), on Part of Lots 12 & 13, Concession 8, in the former Township of Morrison, now in the Town of Gravenhurst, District Municipality of Muskoka; being Part 1 on Plan 35R-17963

Roll No. 030-022-19100

THE CORPORATION OF THE TOWN OF GRAVENHURST

BY-LAW 2013-

Being a By-law to amend Zoning By-law 10-04
as amended (KING)

WHEREAS By-law 10-04 of the Corporation of the Town of Gravenhurst has been passed to constitute the Comprehensive Zoning By-law regulating land use in the Town of Gravenhurst;

AND WHEREAS the Council of the Municipality may amend such Zoning By-law in accordance with the provisions of Section 36 of the Planning Act, R.S.O. 1990, Chapter P.13;

AND WHEREAS the Council of the Town of Gravenhurst has received an application to amend such By-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF GRAVENHURST ENACTS AS FOLLOWS:

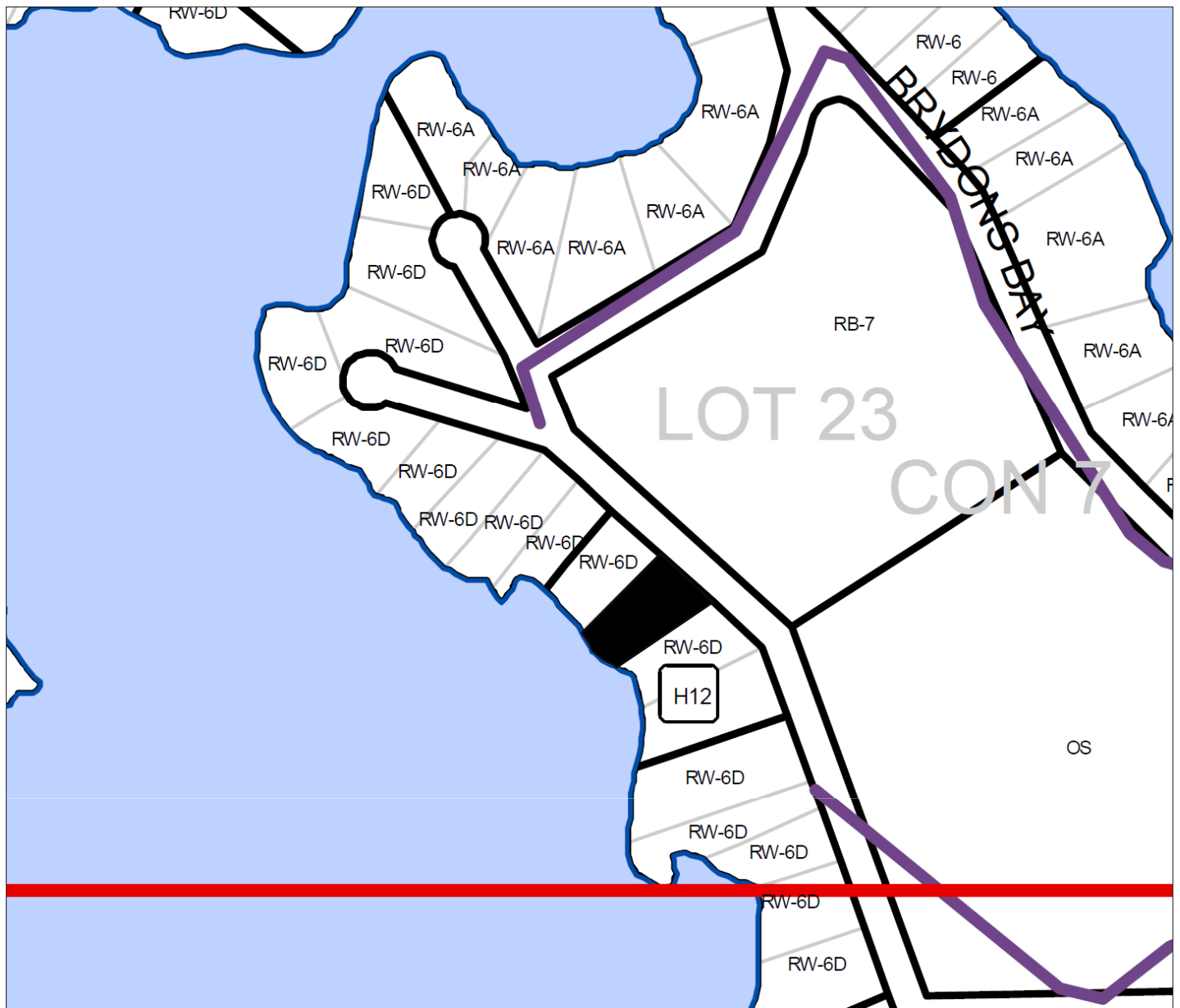
1. Schedule C-05 of Appendix "A" of By-law 10-04 of the Town of Gravenhurst, as amended, is hereby further amended by the removal of Holding Provision 12 (H12) to the Residential Waterfront Zone (RW-6D), on Part of Lot 23, Concession 7, in the former Township of Muskoka, now in the Town of Gravenhurst, District Municipality of Muskoka, and as shown on Schedule "A" affixed hereto.
2. Appendix "E" of By-law 10-04 of the Town of Gravenhurst, as amended, is hereby further amended by the removal of Holding Provision 12 (H12) to the Residential Waterfront Zone (RW-6D), on Part of Lot 34, Concession 6, in the former Township of Muskoka, now in the Town of Gravenhurst, District Municipality of Muskoka, being Lot 20, Plan M-398, and as shown on Schedule "A" affixed hereto.
3. Schedule "A" is hereby declared to form part of this By-law.
4. This By-law shall take effect on the date of passage and come into full force in accordance with Sections 36 of the Planning Act, R.S.O. 1990, Chapter P.13.

READ A FIRST, SECOND AND THIRD TIME and finally passed this

day of 2013.

MAYOR

CLERK



NTS

This is Schedule "A-1" to By-law 2013- of the Town of
Gravenhurst, passed this day of , 2013.

Mayor

Clerk



Lands zoned Residential Waterfront Zone (RW-6D), on Part of Lot 23, Concession 7, in the former Township of Muskoka, now in the Town of Gravenhurst, District Municipality of Muskoka

Roll No. 020-019-05100

THE CORPORATION OF THE TOWN OF GRAVENHURST

BY-LAW 2013-

Being a By-law to amend Zoning By-law 10-04
as amended (OSBORN)

WHEREAS By-law 10-04 of the Corporation of the Town of Gravenhurst has been passed to constitute the Comprehensive Zoning By-law regulating land use in the Town of Gravenhurst;

AND WHEREAS the Council of the Municipality may amend such Zoning By-law in accordance with the provisions of Section 34 of the Planning Act, R.S.O. 1990, Chapter P.13;

AND WHEREAS the Council of the Town of Gravenhurst has received an application to amend such By-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF GRAVENHURST ENACTS AS FOLLOWS:

1. Appendix "C" to By-law 10-04 of the Town of Gravenhurst, as amended, is hereby further amended by the removal of the following Provisions from Special Provision 922 (S922):

(ii) Regulations:

- The maximum Shoreline Development Area shall be 121.0 square metres;
- The maximum Habitable Space permitted in a Sleeping Cabin shall be 46.5 square metres; and
- The maximum permitted size of a Sleeping Cabin, inclusive of Decking, shall be 59.0 square metres.

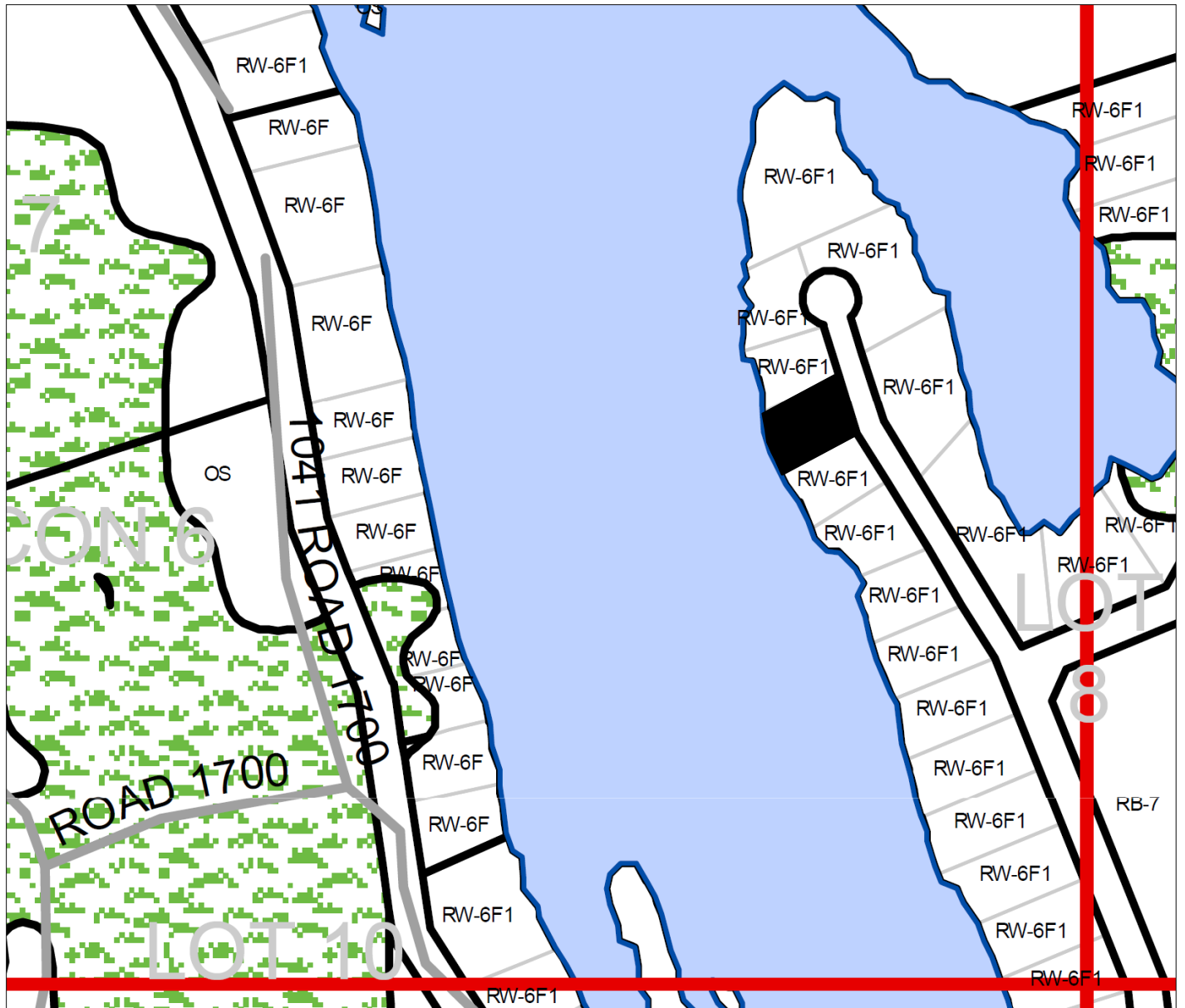
All other provisions of By-law 10-04 as applicable to a Residential Waterfront Zone (RW-6F1) shall apply.

3. Schedule "A-1" is hereby declared to form part of this By-law.
4. This By-law shall take effect on the date of passage and come into force in accordance with Section 34 of the Planning Act, R.S.O. 1990, Chapter P.13.

READ A FIRST, SECOND AND THIRD TIME and finally passed this
day of 2013.

MAYOR

CLERK



NTS

This is Schedule "A-1" to By-law 2013- of the Town of
Gravenhurst, passed this day of , 2013.

Mayor

Clerk



Lands zoned Residential Waterfront Zone (RW-6F1) subject to Special Provision 960 (S960) on Part of Lot 8, Concession 6 in the former Township of Morrison, now in the Town of Gravenhurst, District Municipality of Muskoka being Part of Lot 31, Plan M-453

Roll No. 030-018-05100

THE CORPORATION OF THE TOWN OF GRAVENHURST
BY-LAW NUMBER 2013-

BEING A By-Law to close, stop up and sell:

That part of the original shore road allowance in front of Lot
11, Concession 8, Township of Morrison, now Town of
Gravenhurst, District Municipality of Muskoka, designated as
Parts 1 and 2 on 35R-24116 (Grossman)

WHEREAS it is deemed expedient in the interest of The Corporation of the Town of Gravenhurst, hereinafter called the 'Corporation', that those lands hereinafter mentioned be closed and stopped up and such portion as hereinafter mentioned be sold to the adjoining owner or owners of them;

AND WHEREAS Notice of this By-Law has been published once a week for two consecutive weeks in the Gravenhurst Banner, a newspaper published in the Town of Gravenhurst;

AND WHEREAS the Council for the said Corporation has heard in person, or by his Counsel, Solicitor or Agent, all persons claiming that their land will be prejudicially affected by this By-Law and who applied to be heard;

NOW THEREFORE the Council of The Corporation of the Town of Gravenhurst enacts as follows:

1. That upon and after the passing of this By-Law, all those lands as set out and described in Schedule "A" attached hereto, be and the same are hereby closed and stopped up.
2. That part of the original shore road allowance designated as Parts 1 and 2 on 35R-24116 and as hereinbefore described and stopped up shall be sold to the adjoining owner or owners of them.
3. The Mayor and Clerk of The Corporation of the Town of Gravenhurst are hereby authorized to sign or execute such documents as may be necessary to effect conveyance of those lands as hereinbefore described and which have been stopped up and closed.

READ A FIRST, SECOND and THIRD TIME and finally passed this 23rd day of April, 2013

Paisley Donaldson - Mayor

Candace Thwaites - Clerk

SCHEDULE "A"

**That part of the original shore road allowance in front of Lot 11, Concession 8,
Township of Morrison, now Town of Gravenhurst, District Municipality of Muskoka
designated as Parts 1 and 2 on 35R-24116**

THE CORPORATION OF THE TOWN OF GRAVENHURST
BY-LAW NUMBER 2013-

BEING A By-Law to close, stop up and sell:

That part of the original shore road allowance in front of Lot 26, Concession 4, Township of Ryde now Town of Gravenhurst, District Municipality of Muskoka, designated as Parts 1, 2 and 3 on 35R-24115 (Winterburn)

WHEREAS it is deemed expedient in the interest of The Corporation of the Town of Gravenhurst, hereinafter called the 'Corporation', that those lands hereinafter mentioned be closed and stopped up and such portion as hereinafter mentioned be sold to the adjoining owner or owners of them;

AND WHEREAS Notice of this By-Law has been published once a week for two consecutive weeks in the Gravenhurst Banner, a newspaper published in the Town of Gravenhurst;

AND WHEREAS the Council for the said Corporation has heard in person, or by his Counsel, Solicitor or Agent, all persons claiming that their land will be prejudicially affected by this By-Law and who applied to be heard;

NOW THEREFORE the Council of The Corporation of the Town of Gravenhurst enacts as follows:

1. That upon and after the passing of this By-Law, all those lands as set out and described in Schedule "A" attached hereto, be and the same are hereby closed and stopped up.
2. That part of the original shore road allowance designated as Parts 1, 2 and 3 on 35R-24115 and as hereinbefore described and stopped up shall be sold to the adjoining owner or owners of them.
3. The Mayor and Clerk of The Corporation of the Town of Gravenhurst are hereby authorized to sign or execute such documents as may be necessary to effect conveyance of those lands as hereinbefore described and which have been stopped up and closed.

READ A FIRST, SECOND and THIRD TIME and finally passed this 23rd day of April, 2013

Paisley Donaldson - Mayor

Candace Thwaites - Clerk

SCHEDULE "A"

That part of the original shore road allowance in front of Lot 26, Concession 4,
Township of Ryde, now Town of Gravenhurst, District Municipality of Muskoka
designated as Parts 1, 2 and 3 on 35R-24115

THE CORPORATION OF THE TOWN OF GRAVENHURST

BY-LAW NUMBER 2013-

To Indemnify Council Members and Employees
Against Certain Pecuniary Loss or Liability Which may Arise as a Result
of Duties While Acting on Behalf of The Corporation of
the Town of Gravenhurst

WHEREAS Section 279 of the *Municipal Act*; S.O. 2001, as amended, provides that despite the *Insurance Act*, a municipality may be or act as an insurer and may exchange with other municipalities in Ontario, reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act* with respect to the following matters:

1. Protection against risk that may involve pecuniary loss or liability on the part of the municipality or any local board of the municipality.
2. The protection of its employees or former employees or those of any local board of the municipality against risks that may involve pecuniary loss or liability on the part of those employees.
3. Subject to Section 14 of the *Municipal Conflict of Interest Act*, the protection of the members or former members of the council or any local board of the municipality or any class of those members against risks that may involve pecuniary loss or liability on the part of the members.
4. Subject to Section 14 of the *Municipal Conflict of Interest Act*, the payment of any damages or costs awarded against any of its employees, members, former employees or former members or expenses incurred by them as a result of any action or other proceeding arising out of acts or omissions done or made by them in their capacity as employees or members, including while acting in the performance of any statutory duty.
5. Subject to Section 14 of the *Municipal Conflict of Interest Act*, the payment of any sum required in connection with the settlement of an action or other proceeding referred to in Paragraph 4 and for assuming the cost of defending the employees or members in the action or proceeding.

AND WHEREAS Section 283 of the *Municipal Act*; S.O. 2001, as amended, provides that:

1. A municipality may pay any part of the remuneration and expenses of the members of any local board of the municipality and of the officers and employees of the local board.
2. Despite any Act, a municipality may only pay the expenses of the members of its council or of a local board of a municipality and of the officers and employees of the municipality or local board if the expenses are of those persons in their capacity as members, officers or employees and if,
 - (a) the expenses are actually incurred; or
 - (b) the expenses are, in lieu of the expenses actually incurred, a reasonable estimate, in the opinion of the council or local board, of the actual expenses that would be incurred

AND WHEREAS THE Council of the Corporation of the Town of Gravenhurst deems it desirable, in accordance with the *Municipal Act, s. 279*, S.O. 2001, as amended, to indemnify its members and employees against certain pecuniary loss or liability which may arise as a result of their duties on behalf of the Town;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF GRAVENHURST ENACTS AS FOLLOWS:

DEFINITIONS:

1. In this By-law,

“action or proceeding” means an action or proceeding referred to in Section 2;

“council” means the Council of The Corporation of the Town of Gravenhurst;

“covered action or proceeding” means an action or proceeding commenced after the passing of this By-law or pending but not finally determined as of January 1, 2013, and arising out of acts or omissions done or made by a covered individual in the attempted performance in good faith of his/her duties as a member of Council or as an employee of the Town including while acting in the performance of any statutory duty;

“covered individual” means a person who was a member of Council or was an employee, as the case may be, at the time the cause of action or other proceeding arose or at the time that the act or omission occurred that gave rise to the action or proceeding, notwithstanding that prior to judgement or other settlement of the proceeding the person may have ceased to be a member or to be an employee;

“employee” means any salaried officer, or any other person in the employ of the Town or of a local board and includes persons that provide their services on behalf of the Town without remuneration, exclusive of reimbursement of expenses or honoraria provided that such persons are appointees of the Town or volunteers acting under the direction of a person in the employ of the Town;

“former employee” means a person who was formerly an employee of the Town or of local board;

“former member” means a person who was formerly a member of Council or of a local board;

“local board” means a local board as defined in the *Municipal Act* S.O. 2001, as amended;

“member” means a member of the Council of the Town of Gravenhurst or of a local board;

“Town” means The Corporation of the Town of Gravenhurst;

INDEMNIFICATION

2. The Town shall indemnify a covered individual in the manner and to the extent provided by Section 5 in respect of any civil, criminal or administrative action or proceeding, including appeals where authorized by Section 11 by a third party for acts or omissions arising out of the scope of their authority or within the course of their employment or office if:

(i) the covered individual acted honestly and in good faith with a view to the best interests of the Town; and

(ii) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the covered individual had reasonable grounds for believing that his/her conduct was lawful.

3. In the event that any determination is required as to whether a covered individual meets the requirements of this Section, the Chief Administrative Officer shall obtain the advice and assistance of a qualified and independent solicitor.

EXCLUDED ACTIONS OR PROCEEDINGS

4. This By-law does not apply to:

(i) an action or proceeding where the legal proceeding relates to a grievance filed under a collective agreement or to disciplinary action taken by the Town as an employer;

(ii) an action or proceeding brought under the *Highway Traffic Act* S.O. 2001, as amended, or the *Criminal Code* R.S.C. 1985 as amended, unless such proceedings arose as a result of the individual's good faith pursuit or performance of his/her assigned duties;

(iii) any expenses incurred by a member of council or a local board in obtaining legal advice to determine whether the member has a pecuniary interest in a matter which is the subject of determination or consideration by council or a local board as defined herein.

DAMAGES COSTS AND FINES

5. Subject to this By-law, in a covered action or proceeding, the Town shall:

(i) pay all damages and legal costs, including interest, awarded against the covered individual;

(ii) pay all sums required in connection with the settlement of the action or other proceeding against a covered individual, provided that as a condition of settlement, the Town approves the terms of the settlement;

(iii) pay any fines, monetary penalties or award of damages levied or imposed against a covered individual by reason of the covered individual being convicted of any violation except the *Highway Traffic Act*, municipal parking and traffic By-laws, and offences under the *Criminal Code* or the *Controlled Drugs and Substances Act*;

provided always that the legal liability for damages or for the imposition of a fine or monetary penalty arose out of acts or omissions done or made by the covered individual in her/his capacity as a member of Council or as an employee of the Town including while acting in the performance or attempted performance of any statutory duty.

6. The Town shall indemnify a member of Council or an employee in the manner and to the extent provided by Section 5 of this By-law, in respect of any covered action or proceeding only if, in the opinion of Council:

(i) the member of Council or employee acted honestly and in good faith with a view to the best interests of the Town; and

(ii) the member of Council or employee had reasonable grounds to believe that his/her conduct was lawful.

7. As a condition precedent to the Town making any payment with respect to the costs associated with defense or representation of any covered individual in any covered action or proceeding or making any payment under Section 5 of this By-law, a covered individual shall

(i) cooperate fully with the Town in the defense, investigation, negotiation or settlement of the covered action or proceeding;

(ii) not have or engage in any contact, discussion or negotiations with any adverse person or party without the prior written consent of the Town's Solicitor;

(iii) promptly disclose to the Town's Solicitor all contact, discussions or negotiations with any adverse person or party;

(iv) apprise the Town's Solicitor on an ongoing basis of all matters related to the covered action or proceeding; and

(v) execute any documents required by the Town to enable the Town to subrogate as to the position and as to any rights or cause of action of the covered individual, or required by the Town to enable the Town to recover as an assignee of the covered individual of any right of entitlement of the covered individual under an award of costs or otherwise.

RETAINING LEGAL COUNSEL

8. A covered individual may retain their own legal counsel for their defense or representation in a covered action in lieu of defense or representation by the Town, provided that the Town shall not reimburse the covered individual for their legal costs and shall not make payment under this by-law unless the Town declined to provide or terminated defense or representation and determined instead to reimburse the covered

individual for their legal costs or defense or representation in accordance with this by-law, either because:

- (i) the covered individual has demonstrated to the satisfaction of the Town that there exists a clear legal conflict between the interests of the Town and the covered individual; or
- (ii) the Town has determined that it would be inappropriate for the Town to defend or continue to defend the covered individual.

9. Notwithstanding the foregoing,

(i) where an action or proceeding pertaining to a member began after December 1, 2010, but prior to the enactment of this By-law, and a member retained legal counsel for their defense or representation, the prior approval of the Town to obtain such defense or representation is not required.

(ii) in extending coverage under this By-law, the Town shall have the right to reasonably limit the amount which it shall pay a covered individual for legal costs and may:

(a) set a reasonable global upset limit for legal costs paid pursuant to Section 5; and

(b) establish reasonable hourly rates which it will pay legal counsel retained to defend or represent a covered individual.

(iii) the covered individual shall not retain legal counsel, and the Town shall not be obligated to repay or reimburse the covered individual for defense costs where the covered individual is an insured under a policy of insurance maintained by the Town and the covered action is defended on behalf of the covered individual by the insurers under that policy to the extent that the coverage under that policy will reimburse all defense costs and will pay all damages and costs assessed.

10. Any requirement that the Town reimburse a covered individual for the costs of defence or representation in a covered action or proceeding shall take into account any pre-paid legal assistance plan or any defence cost insurance or funding that the covered individual has purchased or is available to the covered individual and shall be reduced by or repaid to the Town by the covered individual to the extent of any costs received or recovered by the covered individual, including costs awarded in the action or proceeding.

APPEALS

11. Where a covered individual seeks to appeal a judgement in a covered action or proceeding, the Town shall have the sole discretion to determine whether coverage of the nature set out in Section 5 shall be extended by the Town for the purposes of the appeal. If a covered individual pursues an appeal without representation by the Town and is successful in that appeal, The Town shall have the sole discretion to determine whether the covered individual will be indemnified for his/her legal costs.

12. In exercising discretion under Section 9, the Town shall consider the factors set out in Section 6.

EXCLUDED ACTIONS OR PROCEEDINGS

13. Notwithstanding the foregoing, in respect of any action or proceeding where

- (i) a covered individual has acted in bad faith or intentionally outside of the scope of their authority;
- (ii) the action or proceeding arises out of the conduct of the member or employee which constitutes wanton or malicious wrongful conduct;
- (iii) the covered individual fails or refuses to comply with the provisions of this By-law; or
- (iv) coverage is otherwise precluded under the provisions of this By-law or any other Act or Regulation of the Province of Ontario or the Government of Canada;

then the member, employee, or covered individual shall not be entitled to coverage under this By-law and the Town shall not be liable to pay any of the damages, costs awarded, expenses incurred, sums required in connection with settlement or the cost of defending any such member or employee or covered individual under Section 3 hereof.

14. In the case where the Town has determined that a covered individual is not entitled to coverage, that covered individual shall:

- (i) be responsible for all costs in connection with representation in the action or proceeding;
- (ii) reimburse the Town for all costs paid by the Town;
- (iii) not be entitled to coverage under this By-law or to have the Town make any payments under this By-law; and
- (iv) be responsible for payment of any penalty or damages or costs awarded or imposed against the covered individual in the action or proceeding.

EFFECT

15. This By-law shall come into full force and effect on the date of passage.

READ A FIRST, SECOND AND THIRD TIME and finally passed this 23rd day of
April , 2013 .

MAYOR

ACTING DEPUTY CLERK

THE CORPORATION OF THE TOWN OF GRAVENHURST

BY-LAW NO. 2013-

Being a By-law to appoint Municipal Law Enforcement
Officers for the Town of Gravenhurst
(Kathryn Saunders and Dylan Grant)

WHEREAS pursuant to the provisions of the Police Services Act, Chapter P.15, section 15 (1), R.S.O. 1990, the Council may appoint persons to enforce the by-laws of the municipality;

AND WHEREAS section 15 (2) of the Police Services Act, Chapter P.15, R.S.O. 1990 reads, "Municipal Law Enforcement Officers are peace officers for the purpose of enforcing municipal by-laws";

AND WHEREAS it is deemed expedient to appoint Municipal Law Enforcement Officers for the Town of Gravenhurst;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF GRAVENHURST ENACTS AS FOLLOWS:

1. Kathryn Saunders is hereby appointed a Municipal Law Enforcement Officer for the Town of Gravenhurst effective April 29, 2013.
2. Dylan Grant is hereby appointed a Municipal Law Enforcement Officer for the Town of Gravenhurst effective May 27, 2013.
3. These appointments will terminate upon the expiration of the employee's contract.

READ A FIRST, SECOND, AND THIRD TIME and finally passed this 23rd day of April, 2013.

MAYOR

ACTING DEPUTY CLERK

**Minutes of
Town of Gravenhurst
Planning Council - March 26th, 2013 - 5:00 p.m.**

Those in attendance were Mayor Donaldson, Councillors Bratty, Colhoun, Donoghue, Jorgensen, King, Lorenz and Watson.

Councillor Cairns had previously advised that she would be absent from the meeting.

Also in attendance were the Chief Administrative Officer D. Weldon, Director of Development Services S. Lucas, Senior Planner K. Kirton and Director of Legislative Services/Clerk C. Thwaites.

I. Closed Session

Nil.

II. Adoption of Agenda

Moved by Councillor Jorgensen
Seconded by Councillor King

#66 BE IT RESOLVED THAT the agenda as presented to Council on March 26th, 2013 be adopted as amended.

CARRIED.

III. Disclosure of Pecuniary Interest

Nil.

IV. Public Meetings – 5:00 p.m.

1. ZA # 64-2012 & OP02-2012– Stein & Viner (Sparrow Lake)

The Senior Planner advised that notices were sent on March 5th, 2013 and provided an explanation of the proposed rezoning.

The Senior Planner advised that the following correspondence was received.

- 1) Building Department including the Septic Inspector;
- 2) Trent-Severn Waterway;
- 3) District of Muskoka;
- 4) Ministry of Natural Resources.

Ms. Melinda Bessey, from MBHC Planning Consultants and agent for the applicant thanked staff for their assistance and provided a brief overview of the application explaining that the owner was hoping to maintain the property under one ownership.

There were no comments from members of the public.

Members of Council requested clarification with regard to the comments from the District of Muskoka and Ministry of Natural Resources, a site meeting that had been held in the Fall with the MNR, the criteria that was used to determine whether property was

considered Provincially Significant Wetland, the expense the property owner would have to incur in the future if they wished to incorporate the third dock that was originally proposed and the number of septic systems to be located on the property.

The Senior Planner recommended that the by-law as circulated be adopted.

Mayor Donaldson indicated that the by-law would be considered by Council later in the evening and explained the 20-day appeal period.

2. ZA03-2013 – Lamb & Sharp (Lake Muskoka)

The Senior Planner advised that notices were sent on March 5th, 2013 and provided an explanation of the proposed rezoning.

The Senior Planner advised that the following correspondence was received.

- 1) Building Department including the Septic Inspector;
- 2) Emergency Planning;
- 3) Community Services Department;
- 4) Veridian Connections;
- 5) District of Muskoka.

Mr. Ian McLaren, agent for the applicant, was present to answer any questions.

There were no comments from members of the public.

Members of Council inquired about the setback and ensuring that any impact to the shoreline was minimized as well as minimizing any impact for the neighbouring properties. Clarification was requested on the height requirements.

The Senior Planner recommended that the by-law as circulated be adopted.

Mayor Donaldson indicated that the by-law would be considered by Council later in the evening and explained the 20-day appeal period.

3. ZA06-2013 – Town of Gravenhurst (Housekeeping By-law)

The Senior Planner advised that the proposed amendments were mainly housekeeping and that it would correct errors and omissions from By-law No. 10-04.

There were no comments from members of the public.

Clarification was requested on the special provisions included for the Commercial Waterfront Zone.

The Senior Planner recommended that the by-law as circulated be adopted.

Mayor Donaldson indicated that the by-law would be considered by Council later in the evening and explained the 20-day appeal period.

4. RC01-2012 – Butler (Sunny Lake)

The Senior Planner advised that the notice was advertised in the local newspaper, being the Gravenhurst Banner, for two consecutive weeks commencing March 6th, 2013 in accordance with the Municipal Act, 2001 and the Town's Procedural By-law.

The applicants were not present at the meeting.

Clarification was requested on whether there were other neighbouring properties that would be affected by the sale of this portion of the road allowance.

3. SRC04-2012 – Gray (Kahshe Lake)

The Senior Planner advised that the notice was advertised in the local newspaper, being the Gravenhurst Banner, for two consecutive weeks commencing March 13th, 2013 in accordance with the Municipal Act, 2001 and the Town's Procedural By-law.

Mr. Rick McCann, agent for the applicant, was present to answer any questions.

There were no comments from members of the public or Council.

V. Deputations/Delegations - Nil.

VI. Minor Amendment Resolution

Clarification was requested on the changes that had been incorporated into the by-laws.

Moved by Councillor Donoghue
Seconded by Councillor Colhoun

#67 WHEREAS Council has conducted a Public Meeting in accordance with the provisions of Section 34 of the Planning Act regarding a proposed Zoning By-law for the Town of Gravenhurst (Application No. ZA 06-2013 – Housekeeping Amendments & ZA 64-2012 – Stein and Viner)

AND WHEREAS it has been deemed necessary to incorporate further amendments to the Proposed Zoning By-law;

AND WHEREAS Section 34(17) of the Planning Act, R.S.O. 1990, Chapter P.13 provides that Council may determine whether further notice is to be given where a change is made to a Proposed By-law;

NOW THEREFORE BE IT RESOLVED THAT Council, after due consideration of the Proposed By-law and amendments thereto, concludes that the amendments are of such minor nature that no further notice need be given with respect to the Proposed By-law.

CARRIED.

VII. Unfinished Business - Nil.

VIII. New Business

1. SRC01-2013 – Corcelli (Lake Muskoka)

Moved by Councillor Watson

Seconded by Councillor King

#68 WHEREAS an application (File No. SRC 01-2013) has been received from Richard and Maryellen Corcelli, to close a portion of an original shore road allowance (portion of Survey Plan attached);

AND WHEREAS the lands must be declared surplus prior to selling, therefore

BE IT RESOLVED THAT the following property is hereby declared surplus:

All that part of the original shore road allowance in front of Part of Lot 193, Registered Plan No. 23 (Gravenhurst), further described as Part 1 on Plan 35R-9237, in the Town of Gravenhurst, District Municipality of Muskoka, designated as Parts 2 and 3 on Plan 35R-9237.

CARRIED.

2. Revised Site Plan Control By-law

The Director of Development Services explained the purpose of the revised Site Plan Control By-law was to streamline the process, remove obstacles to development and to allow for more efficient use of staff time.

A brief discussion ensued with regard to when site plan agreements would be required and the criteria for requiring a site plan agreement and who the approval authority was for the different types of agreements.

IX. By-laws

Moved by Councillor Colhoun

Seconded by Councillor Lorenz

#69 BE IT RESOLVED THAT the following by-laws be received and read a first time.

Bill No. 28	Zoning By-law (Stein & Viner)
Bill No. 29	Official Plan Amendment No. 7 (Stein & Viner)
Bill No. 30	Zoning By-law (Lamb & Sharp)
Bill No. 31	Zoning By-law (Town of Gravenhurst-Housekeeping Amendments)
Bill No. 32	To Close a Road Allowance (Butler – Sunny Lake)
Bill No. 33	To Close a Shore Road Allowance (Gray – Kahshe Lake)
Bill No. 34	Site Plan Control By-law

CARRIED.

Moved by Councillor Watson

Seconded by Councillor King

#70 BE IT RESOLVED THAT the following by-laws be read a second time:

Bill No. 28	Zoning By-law (Stein & Viner)
Bill No. 29	Official Plan Amendment No. 7 (Stein & Viner)
Bill No. 30	Zoning By-law (Lamb & Sharp)
Bill No. 31	Zoning By-law (Town of Gravenhurst-Housekeeping Amendments)
Bill No. 32	To Close a Road Allowance (Butler – Sunny Lake)
Bill No. 33	To Close a Shore Road Allowance (Gray – Kahshe Lake)
Bill No. 34	Site Plan Control By-law

CARRIED.

Moved by Councillor Donoghue
Seconded by Councillor Colhoun

#71 BE IT RESOLVED THAT the following by-laws be read a third time and engrossed in the By-law Book:

By-law No. 2013-27	Zoning By-law (Stein & Viner)
By-law No. 2013-28	Official Plan Amendment No. 7 (Stein & Viner)
By-law No. 2013-29	Zoning By-law (Lamb & Sharp)
By-law No. 2013-30	Zoning By-law (Town of Gravenhurst-Housekeeping Amendments)
By-law No. 2013-31	To Close a Road Allowance (Butler – Sunny Lake)
By-law No. 2013-32	To Close a Shore Road Allowance (Gray – Kahshe Lake)
By-law No. 2013-33	Site Plan Control By-law

CARRIED.

X. Adoption of Minutes

February 26th, 2013

Moved by Councillor Watson
Seconded by Councillor Bratty

#72 BE IT RESOLVED THAT the minutes of the Council meeting of February 26th, 2013 be adopted as circulated.

CARRIED.

XI. Closed Session

Moved by Councillor Jorgensen
Seconded by Councillor King

#73 BE IT RESOLVED THAT the next portion of the meeting be closed to the public in order to consider personal matters about an identifiable individual including municipal or local board employees pursuant to Clause 239 (2) of the Municipal Act, 2001, C. 25.

CARRIED.

The Director of Development Services and the Senior Planner left the meeting at 6:22 p.m.

The Director of Human Resources joined the meeting at 6:22 p.m.

XII. Report from Closed Session

Nothing to Report.

XIII. Confirming By-law

Moved by Councillor Colhoun
Seconded by Councillor Watson

#74 BE IT RESOLVED THAT Bill No. 35 to confirm the Council Meeting held on March 26th, 2013 be passed and numbered By-law No. 2013-34.

CARRIED.

XIV. Adjournment

On verbal motion by Councillors Lorenz and Colhoun, the meeting adjourned at 6:56 p.m.

Mayor

Clerk