

THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS



REPORT

TO: Mayor & Members of Council
FROM: Stefan Szczerbak, Planner
DATE: February 24, 2009

RE: BY-LAW AMENDMENT APPLICATION: Z 41/08 LOB
Applicant: Isaac Jesin
Agent: Jerry Jesin
Part Lot 14, Concession 8, McLean Ward, on Lake of Bays
Roll No. 040-007-06700
Civic Address: 1086 Burlmarie Road

RECOMMENDATION:

That Application Z 41/08 LOB (Jesin) to permit the reconstruction of three existing private cabins be **APPROVED** and that By-law 09-28 be given three readings.

ORIGIN:

The property is currently located within the "Community Residential (R)" Zone of the Community of Baysville under By-law No. 04-181. It fronts onto the south branch of the Muskoka river and portions of the river directly adjacent to the property are zoned "Environmental Protection (EP)". The property, previously known as the Burlmarie Lodge resort contains the following former resort structures: a two storey former lodge, a private accessory multi-unit structure, four sleeping cabins, a two storey boathouse, a garage, two sheds, two docks, and a tennis court. The property is currently being used as a private residential property, similar to a private family compound property. The applicant wishes to replace and enlarge three of the four legal non complying sleeping cabins. As the proposed cabins are to be located within the water setback, and as private sleeping cabins are not a permitted accessory structure within the Community designations, a by-law amendment is required to permit the proposed construction.

Accordingly, the purpose and effect of this zoning by-law amendment will be to rezone the subject lands from the "Community Residential (R)" Zone to the "Community Residential with an Exception (R-E113)" Zone to permit the following:

- i) Permit a total of three accessory sleeping cabins on the subject lands;
- ii) Section 5.1.1(k)(Minimum Shoreline Yard from Sensitive Fish Habitat), reduce from the required 30 metres (98.4 ft) to 8.53 metres (28 ft) for proposed Cabin E, to 7.31 metres (24 ft) for proposed Cabin F and to 6.4 metres (21 ft) for Cabin G; and
- iii) Limit the height and size of each of the proposed sleeping cabins.

BACKGROUND:

Previous Files:	A 10/03 LOB.
Natural Constraints:	<ul style="list-style-type: none"> • 20%-30% Slopes; • Narrow Waterbody; • Tertiary Aggregate Deposit and • "Type 1" Fish Habitat.
Lake Phosphorus Sensitivity:	<ul style="list-style-type: none"> • Moderate Sensitivity to phosphorus.
LOB Official Plan:	<ul style="list-style-type: none"> • Community.
District Official Plan:	<ul style="list-style-type: none"> • Urban Centre.
LOB By-law 04-180:	<ul style="list-style-type: none"> • Community Residential "(R)" Zone.
OSRA Status:	<ul style="list-style-type: none"> • Closed.

Site Characteristics:

The lands contain the former Burlmarie Lodge physical plant as described above. The property generally slopes gradually from the centre of the property towards both the northerly and southerly portions of the Muskoka River. The property is somewhat level around the former lodge, tennis court and multi-unit structure. The shoreline yard varies in the degree of slope towards the water's edge. This yard mainly contains mature deciduous and coniferous vegetation, however the remainder of the central portion of the property is mainly open due to the large existing structures found in this area.

Surrounding Uses:

The surrounding lands contain low density community residential uses. The Landscapes Resort and The District of Muskoka's water treatment and sewage plant are located on the opposite (southerly) shore of the Muskoka River.

ANALYSIS:

Natural Constraints

During our review of this application, Schedule E.1 of the Township Official Plan identifies this area as a tertiary aggregate deposit. Given that the surrounding lots contain sensitive land uses, extraction of this deposit in this location is unlikely.

With respect to the identified slopes and narrow waterbody identified on the lands, as this proposal has been submitted to replace three of the four existing cabins located within the

shoreline yard, and as the application does not include any new development on the water, staff feel that there would be little or no impact to these features.

A review of Schedule C2 of the Township Official Plan has revealed that the southerly reach of shoreline on the subject lands front onto "Type 1" fish habitat. In accordance with Section 2.1.6 of the 2005 Provincial Policy Statement, Section F.84 of the Muskoka Official Plan, and Section D.100 of the Township Official Plan, development on existing lots of record are permitted provided the ecological function on the adjacent lands to the fish habitat have been evaluated and it has been demonstrated that there will be no negative impacts on the fisheries or their functions. Therefore, in accordance with Sections D.95 and D.98 of the Township Plan, a municipally directed fish habitat impact assessment was conducted by Riverstone Environmental Solutions Inc. (January, 2009).

Proposal

The Comprehensive Zoning By-law No. 04-181 (CZB) only permits the construction of private cabins located within the rural designations throughout the Township. The intent and purpose of permitting accessory structures within this designation is that most of the rural lots currently have sufficient lot area to accommodate several accessory structures while maintaining those rural characteristics as identified within the Official Plan. In most cases these lots contain a significant amount of vegetation to further screen these structures from both the neighbour's and road's perspective. Site Plan agreements are utilized to ensure the proper placement of these structures while protecting or enhancing vegetative buffers.

As it relates to the community designations, private cabins are not permitted as-of-right as community lots are generally smaller lots and usually cannot accommodate several accessory structures.

With respect to this application, the property contains four existing private cabins averaging 200 square feet in size and being located approximately 2 metres to 3 metres from the shoreline. The cabins are currently used on a seasonal basis and utilize an adjacent dug pit as a septic system. The applicant wishes to replace and expand three of the four existing private cabins and utilize the existing septic system to service these structures. In terms of the existing septic system, Section C.48 of the Township Official Plan requires that all development have a suitable system for sewage disposal which is adequate to serve the proposed development. In this regard, it has not been confirmed by the Building Official that the proposed development will not necessitate a change to the existing design flow rate. Should a change to the filter bed be required, the applicant should be aware that the re-development plans could alter the existing systems. A building permit will not be available until this has been confirmed to the satisfaction of the Building Official.

The Official Plan and CZB consider these cabins to be legal and non-complying structures. Therefore, Section J.41 of the Official Plan and Section 4.33 of the CZB permit the recognition of these existing cabins in this location as well as an expansion thereto provided that the non-compliance is not further compounded and that there would not be a negative impact on the environment or the abutting properties.

Related to the potential for impacts to the identified fisheries habitat, the municipally directed report has concluded that the re-development of the three cabins on or near their current footprints can proceed without negative impacts on this identified habitat provided that the following Best Management Practices are addressed: 1) prevent erosion and sedimentation; 2) maintenance of mitigative measures; 3) retention of most of the native and existing vegetation; and 4) re-vegetation of cleared areas.

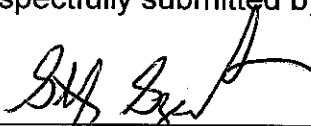
Based on these principles, the following recommendations were presented:

- Based on the site conditions, particularly vegetation, slopes and fish habitat, it is recommended that Cabins A, B and C be rebuilt (proposed E, F and G), with Cabin D being removed and not rebuilt;
- The development setback from the shoreline for each of the proposed cabins, taking into consideration the orientation of each building, be established as follows: Cabin E – SW corner 23 ft (7.0 m), SE corner 22 ft (6.7 m), Cabin F – SW corner, 26 ft (7.8 m) and SE corner 23 ft (6.8 m) and Cabin G – SW corner 21 ft (6.5 m) and SE corner 20 ft (6.0 m). These are the current setbacks for existing cabins. The Screened porch associated with Cabin C should be excluded from the future building footprint of Cabin G;
- The development setbacks stated above should only apply to the areas fronting each Cabin along with a reasonable side yard work area. The remainder of the shoreline requires the standard 20 m development setback with 15 m left in a natural state;
- The development setbacks should also be considered a natural buffer in their entirety, with no removal of vegetation or maintenance permitted, including grading or backfilling for the new cabins;
- Prior to the use of heavy equipment onsite, sediment fencing should be properly installed and verified by a qualified person. The fencing should be installed along the development setback as noted above. It should be recognized that there will be no room for heavy equipment to work between the front of the proposed cabins and the shoreline;
- A key priority will be to maintain as much vegetation as possible, particularly large trees with root systems that hold the soil and prevent erosion. It would be desirable to shift the location of the new cabins slightly to the north, east or west to maintain large trees;
- Where a cabin is to be removed and not directly replaced (Cabin A, Cabin D and screened porch area of Cabin C), a re-vegetation plan should be implemented to stabilize the exposed soils and promote native vegetation growth. The re-vegetation should use a variety of native species including trees, shrubs and groundcover;
- There are existing footpaths along the shoreline between the cabins. These paths should be kept in their current state and not upgraded or changed in a manner that would require any further vegetation removal or installation of impermeable surfaces; and

- The existing cabins are serviced by gray water pits adjacent to the cabins, in close proximity to the shoreline. Each of the new cabins should be connected to the septic system that services the former lodge in the centre of the property, subject to confirmation that the system is appropriately sized to accept effluent from the cabins. The existing pits should be decommissioned and material disposed of in the appropriate manner according to Provincial requirements, including that for Cabin D which will not be rebuilt.

In view of the foregoing, provided Council agrees with the implementation of the following recommendations through a Section 41 Site Plan Agreement and a suitable septic evaluation to the satisfaction of the Township's Chief Building Official, staff have no objection to the proposed amendment and feel that this proposal generally conforms to the intent and principles of the Muskoka and Township Official Plans and is consistent with the Provincial Polity Statement. As a Section 41 Agreement is considered other applicable law within the Ontario Building Code, staff has no concerns with the approval of this application as a building permit will not be available until the agreement has been executed.

Respectfully submitted by,



Stefan Szczerbak, M.Sc, RPP, MCIP
Planner

**CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
BY-LAW 09-28**

BEING A BY-LAW TO AMEND BY-LAW 04-181 KNOWN AS THE COMPREHENSIVE ZONING BY-LAW (Jesin)

WHEREAS it is deemed expedient to amend By-law 04-181.

NOW THEREFORE the Council of the Corporation of the Township of Lake of Bays enacts as follows:

1. Schedule "A" to By-law 04-181 is hereby amended by rezoning portions of **Part Lot 14, Concession 8, McLean Ward**, now in the Township of Lake of Bays, from the "**Community Residential (R)**" Zone to the "**Community Residential with an Exception (R-E113)**", as shown hatched on the attached Schedule "B".
2. Section 6 of By-law 04-181 is hereby amended by the addition of the following:

" **R-E113**

On lands designated "R-E113", as shown on Schedule "B" attached to By-Law 09-28, no person shall use any lot or erect, alter or use any building or structure except in accordance with the Community Residential Zone permitted uses and provisions, amended by the following:

- a) Despite Sections 4.4 and 4.8 a maximum of three private sleeping cabins are permitted.
- b) Despite Section 4.5, the maximum gross floor area of Sleeping Cabin E shall not exceed 53.1 square metres. The maximum floor area for Sleeping Cabin F shall not exceed 53.1 square metres and the gross floor area shall not exceed 106.2 square metres. The maximum floor area for Sleeping Cabin G shall not exceed 68.4 square metres while the gross floor area shall not exceed 121 square metres.
- c) Despite any provision(s) the walk-out (basement) level for Private Cabins F and G shall only be used for storage purposes.
- d) Substituted Zone Provisions:

I.

Shoreline Yard Setback		Maximum Height
Private Cabin E – SW Corner	7.0 metres	5.1 metres
SE Corner	6.7 metres	
Private Cabin F – SW Corner	7.8 metres	7.8 metres
SE Corner	6.8 metres	
Private Cabin G – SW Corner	6.5 metres	7.8 metres
SE Corner	6.0 metres	

3. Schedules "A", "B" and "C" hereby form part of this By-law.
4. All other provisions of By-law 04-181, as amended, shall apply.

READ a **FIRST** and **SECOND** time this 24th, day of **February, 2009**.

Mayor

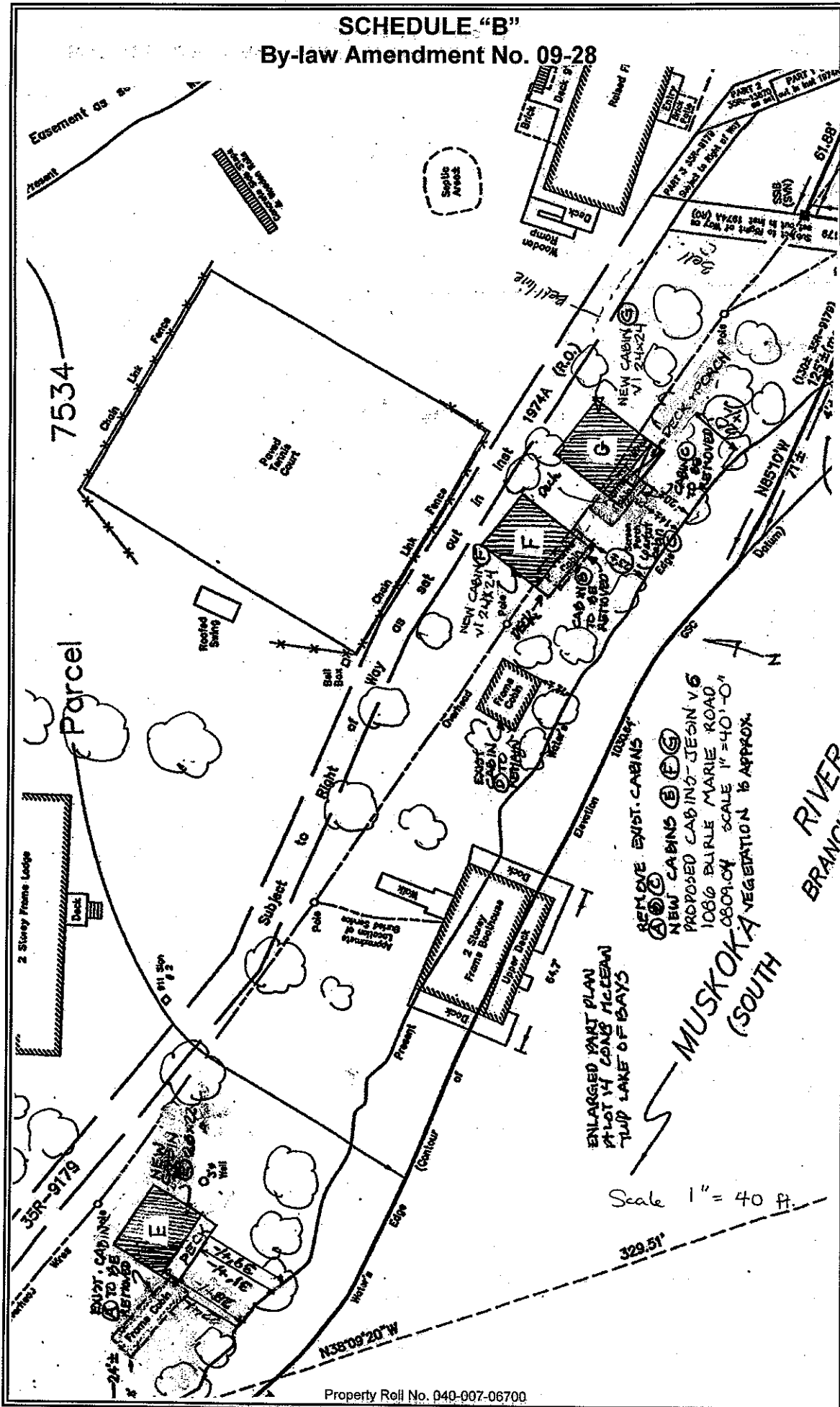
Deputy Clerk

READ a **THIRD** time and finally passed this 24th, day of **February, 2009**.

Mayor

Deputy Clerk

SCHEDULE "B"
By-law Amendment No. 09-28



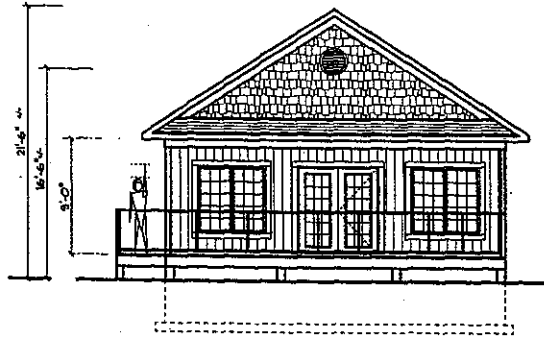
REMOVE EXIST. CABINS
 NEW CABINS (E)(F)(G)
 PROPOSED CABIN - JESIN V6
 1086 BURLE MARIE ROAD
 0809.04 SCALE 1" = 40'-0"
 REMOVE VEGETATION IS APPROX.

ENLARGED PART PLAN
 AT LOT 14 CONS MCELAN
 TUP LAKE OF BAYS

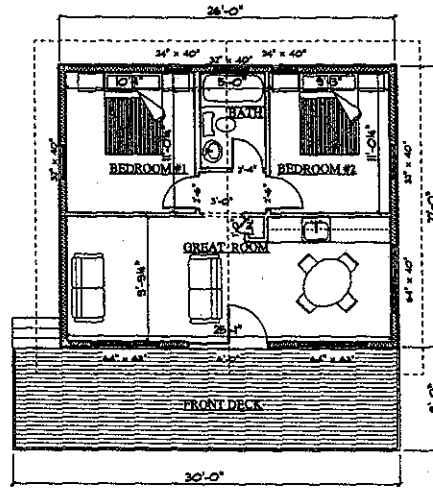
Scale 1" = 40 ft.

SCHEDULE "C"
By-law Amendment No. 09-28

cabin E - v4



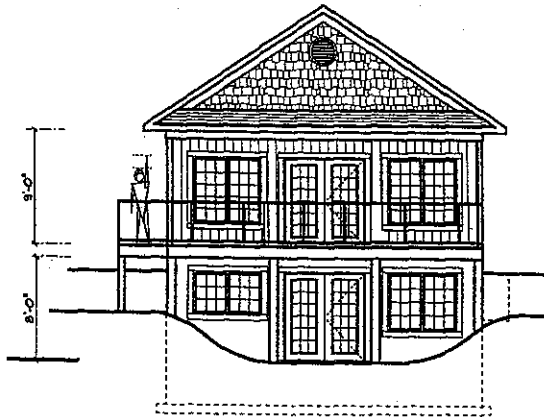
FRONT (LAKE) ELEVATION



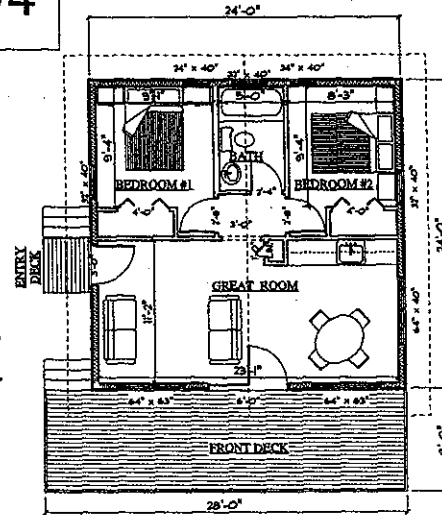
MAIN FLOOR PLAN

AREA = 972 sq.ft.

cabin F - v4



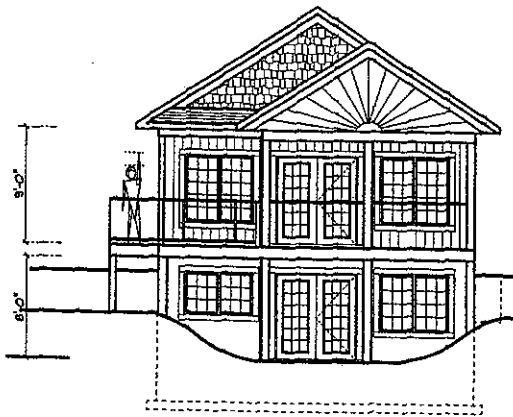
FRONT (LAKE) ELEVATION



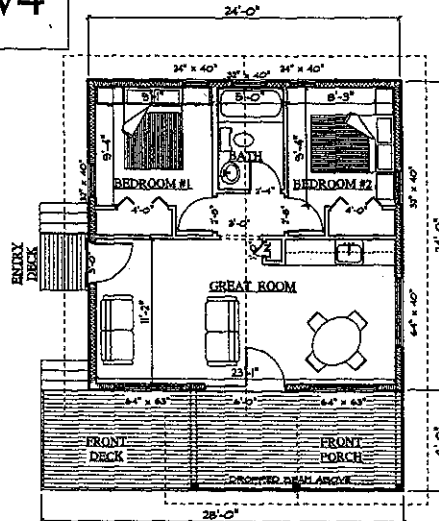
MAIN FLOOR PLAN

AREA = 576 sq.ft.

cabin G - v4



FRONT (LAKE) ELEVATION



MAIN FLOOR PLAN

AREA = 576 sq.ft.

Ruth & Arnold Kravetz

RECEIVED FEB 09 2009

Monday, February 02, 2009

Planning Department
Township of Lake of Bays
1012 Dwight Beach Road
Dwight, Ontario
POA 1H0

To Whom It May Concern;

Re: 1086 Burlmarie Road

We are the owners of the property adjacent to the Jesin family compound (formerly the Burlmarie Lodge) on 1086 Burlmarie Road.

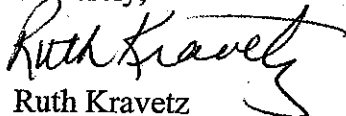
Our address there is: 1086 Burlmarie Road

We understand that the Jesin family is planning to tear down 3 cabins along one of their shorelines, and then rebuild them. We understand that the new cabins will be larger in size.

We have seen the Jesin's plans for these cabins, and have no objections at all to them.

If you should have any further questions, please feel free to contact either one of us at

Sincerely,


Ruth Kravetz


Arnold Kravetz

Copy: Dr. Jerry Jesin

1