

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 06/09 LOB**  
Applicants: Stan and Iwona Salapatek  
Agent: Mark Ritchie of Solo Design and Drafting  
Part Lot 13, Concession 6, McLean Ward, on Dickie Lake  
Roll No. 040-003-02200  
Civic Address: 1265 Dickie Lake Road West

**RECOMMENDATION:**

That Application **Z 06/09 LOB (Salapatek)** to permit an addition onto an existing dwelling together with an open deck onto an existing dwelling located within the shoreline yard be **DENIED** as portions of the deck addition are proposed to be located closer to the water than the existing shoreline yard setback.

However, should Council wish to give further consideration to this proposal, a decision on application **Z 06/09 LOB** should be deferred to the March 24<sup>th</sup>, 2009 meeting of Council in order to permit additional time for the applicants to revise their proposal such that the proposed development not encroach further into the existing shoreline yard setback and to allow for the submission of a septic evaluation report in accordance with Section C.48 of the Township Official Plan which ensures that the lot can adequately contain an appropriate septic system in which to accommodate the proposed construction.

**ORIGIN:**

The property is located within the "**Waterfront Residential (WR)**" Development Permit Area of By-law 04-180, and is developed with a single family dwelling with attached deck, two sheds, and a dock. The applicants wish to construct a 16 ft x 29.10 ft addition (457 ft<sup>2</sup>) onto the northerly side of the dwelling, as well as extend the existing deck by 16 ft long by 6 ft wide (96 ft<sup>2</sup>) deck onto the easterly (lake) side of the dwelling, such that it extends in front of the proposed addition. As the proposal would exceed the lot coverage provisions for the property, and also encroach closer towards the shoreline than the existing dwelling, an amendment to By-law 04-180 is necessary in order to permit the proposed construction.

Accordingly, the purpose and effect of this by-law amendment will be to re-designate the property from the **Waterfront Residential "(WR)"** Development Permit Area to the **Waterfront Residential with an Exception "WR-E201"** Development Permit Area. The effect of the "**WR-E201**" Development Permit Area will be to seek relief from the requirements of By-law No. 04-180 as follows:

- i) Section 4.39 (Non-Complying (Legal) Buildings and Structures), to permit the expansion to a dwelling within the shoreline activity area which would exceed the maximum allowable addition size of 283.9 ft<sup>2</sup> and which is proposed to be 370.8 ft<sup>2</sup>;
- ii) Section 5.1.1(i) (Maximum Lot Coverage), increase from an allowable 8% to 18.9% (17.6% existing); and
- iii) Section 5.1.1(d) (Minimum Shoreline Yard Setback), decrease from a required 20 metres (65.6 ft) to 14.02 metres (46 ft) for the proposed addition to the dwelling, and to 12.19 metres (40 ft) for the proposed deck attached to the addition.

**BACKGROUND:**

<b>Previous Files:</b>	<b>None.</b>
<b>Natural Constraints:</b>	<ul style="list-style-type: none"> <li>• <b>Narrow Waterbody.</b></li> </ul>
<b>Lake Phosphorus Sensitivity:</b>	<ul style="list-style-type: none"> <li>• <b>Moderate Sensitivity to phosphorus.</b></li> </ul>
<b>LOB Official Plan:</b>	<ul style="list-style-type: none"> <li>• <b>Waterfront.</b></li> </ul>
<b>District Official Plan:</b>	<ul style="list-style-type: none"> <li>• <b>Waterfront.</b></li> </ul>
<b>LOB By-law 04-180:</b>	<ul style="list-style-type: none"> <li>• <b>Waterfront Residential “(WR)” Development Permit Area.</b></li> </ul>
<b>OSRA Status:</b>	<ul style="list-style-type: none"> <li>• <b>Closed.</b></li> </ul>

**Site Characteristics:**

The subject lands slope gradually from Dickie Lake Road leveling out around the dwelling. The lands then slope gradually again towards the water's edge. The shoreline yard contains some mature deciduous and coniferous vegetation, however the bulk of this area is mainly open and the existing dwelling is predominantly visible when viewed from the water's perspective.

**Surrounding Uses:**

The surrounding lands contain low density residential uses.

**ANALYSIS:**

**Natural Constraints**

With respect to the narrow waterbody, as the proposal does not include any new development at the water's edge, staff feel that there would be little or no impact to this feature.

## **Proposal**

Upon review of the proposed development plans it is noted that the existing dwelling is located within the required shoreline yard setback and is considered to be legal and non-complying. Currently the dwelling is located approximately 15.5 metres at its closest point from the present controlled water's edge. An attached wrap around deck extends an additional 2.7 metres closer to the water's edge at the most north-easterly corner. Section J.41 of the Official Plan permits the recognition of this structure in this location, as well as, an expansion thereto provided that the non-compliance is not further compounded (i.e. moving closer towards the water's edge).

Further, Section D.12 of the Official Plan permits development on existing lots, provided it is setback a minimum of 20 metres from the water's edge. However, in this case, as a dwelling is located on the existing lot, Section D.14(c) would permit an addition to the existing dwelling where the water setbacks are not further reduced.

In this case, the addition onto the dwelling is proposed to be setback approximately 15 metres (15.5 metres existing) while the attached deck onto that portion of the addition is proposed to be located at approximately 12.2 metres (12.8 existing) at its closest point from the water's edge. It is for this reason that staff recommend this application be denied as that portion of the proposed addition encroaching further into the water setback does not conform to the intent of Section D.14(c) of the Township Official Plan and staff cannot support that portion of the proposal moving closer to the water's edge. However, should Council choose to consider this application, staff have assessed the proposal based on the following policy review.

## **Character**

Section H.58 of the Township Official Plan sets out the framework to impose the applicable zoning requirements. The framework is intended to generally reduce the dominance of built form throughout the Township, ensure compatibility and maintain privacy between lots. In addition, Sections D.10, H.18, H.19 and H.20 provide the specific waterfront design principles when considering similar applications. Of particular importance, Section H.20(i) requires that building mass and lot coverage be limited in relation to the size and frontage of the property and the character of the surrounding area. With respect to the character of the surrounding area, several neighbouring lots in this vicinity are comprised of similar undersized lots. When considering the total overall coverage for the entire lot, it is noted that all of the structures found on the property currently comprise approximately 10.4% coverage and the proposed additions would increase this to 13.2%.

With respect to the potential for impacts of the proposed addition from the water's perspective, a primary guiding principle for Council has been whether or not the proposed structure(s) will result in a negative visual impact when viewed from this perspective. This consideration ensures the character of this particular area will be maintained. The specific waterfront design principles found in Section H.20 of the Official Plan figure prominently in the determination of whether or not there will be a negative visual impact. Upon attending the site, as portions of the shoreline yard located outside of the permitted shoreline area are currently in a cleared state and/or established with a low profile rock retaining wall, should Council wish to consider this proposal, staff would recommend that Council agree to the re-establishment of the shoreline yard immediately in front of the proposed addition and that

consideration be given to exclude the identification of the applicable shoreline activity area in order to further mitigate the potential for negative visual impacts when viewed from both the water and northerly neighbouring property's perspective.

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 with the Building Official that the proposed addition to the dwelling 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 submitted proposal.

In view of the foregoing, should Council wish to consider the application, it is recommended that this application be deferred to a) permit additional time to revise the deck and meet or exceed the existing shoreline yard setback, b) that the applicants submit a septic evaluation report and c) that a shoreline yard be re-established with plantings.

Respectfully submitted by,



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Stefan Bzeczak, M.Sc, RPP, MCIP  
Planner

**CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS  
BY-LAW 09-31**

**BEING A BY-LAW TO AMEND BY-LAW 04-180 KNOWN AS THE DEVELOPMENT PERMIT BY-LAW (Salapatek)**

**WHEREAS** it is deemed expedient to amend By-law 04-180.

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

1. Schedule "A" to By-law 04-180 as amended, is hereby further amended by re-designating **Part Lot 13, Concession 6, McLean Ward**, now in the Township of Lake of Bays, from the "Waterfront Residential (WR)" Development Permit Area to the "Waterfront Residential with an Exception (WR-E201)" Development Permit Areas, as shown on the attached Schedule "B".
2. Section 7 of By-law 04-180 be amended by the addition of the following:

**"WR-E201:**

On lands designated "WR-E201", as shown on Schedule "B" attached to By-law 09-31, no person shall use any lot or erect, alter or use any building or structure except in accordance with the Waterfront Residential (WR) Development Permit Area designation permitted uses and amended by the following:

- a) Despite Section 2.20, a development permit is required to re-vegetate portions of the shoreline yard prior to any development or site alteration on the subject lands.
- b) Despite Section 4.39 an addition to a legal non-complying dwelling will be restricted to 375 square feet.
- c) Substituted Development Permit Designation Provisions:

**i) MAXIMUM LOT COVERAGE**

SITUATION	STANDARD	STAFF VARIATION	COUNCIL VARIATION
All other situations	19%	None	Any

**ii) MINIMUM SHORELINE YARD SETBACK**

SITUATION	STANDARD	STAFF VARIATION	COUNCIL VARIATION
All	12.2 metres	None	Any

3. Schedules "A" & "B" hereby form part of this By-law.
4. All other provisions of By-law 04-180, as amended, shall apply.

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

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Mayor

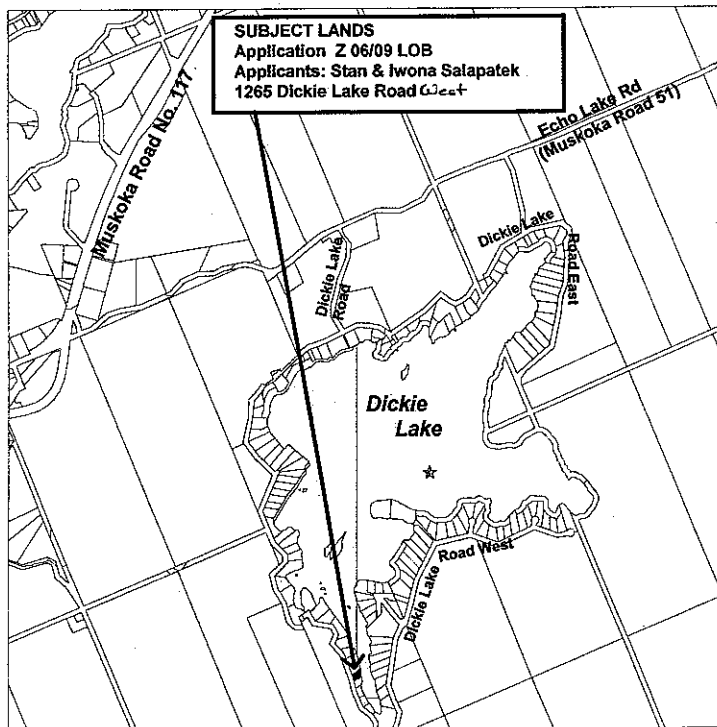
\_\_\_\_\_  
Deputy Clerk

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Deputy Clerk

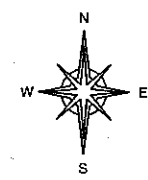
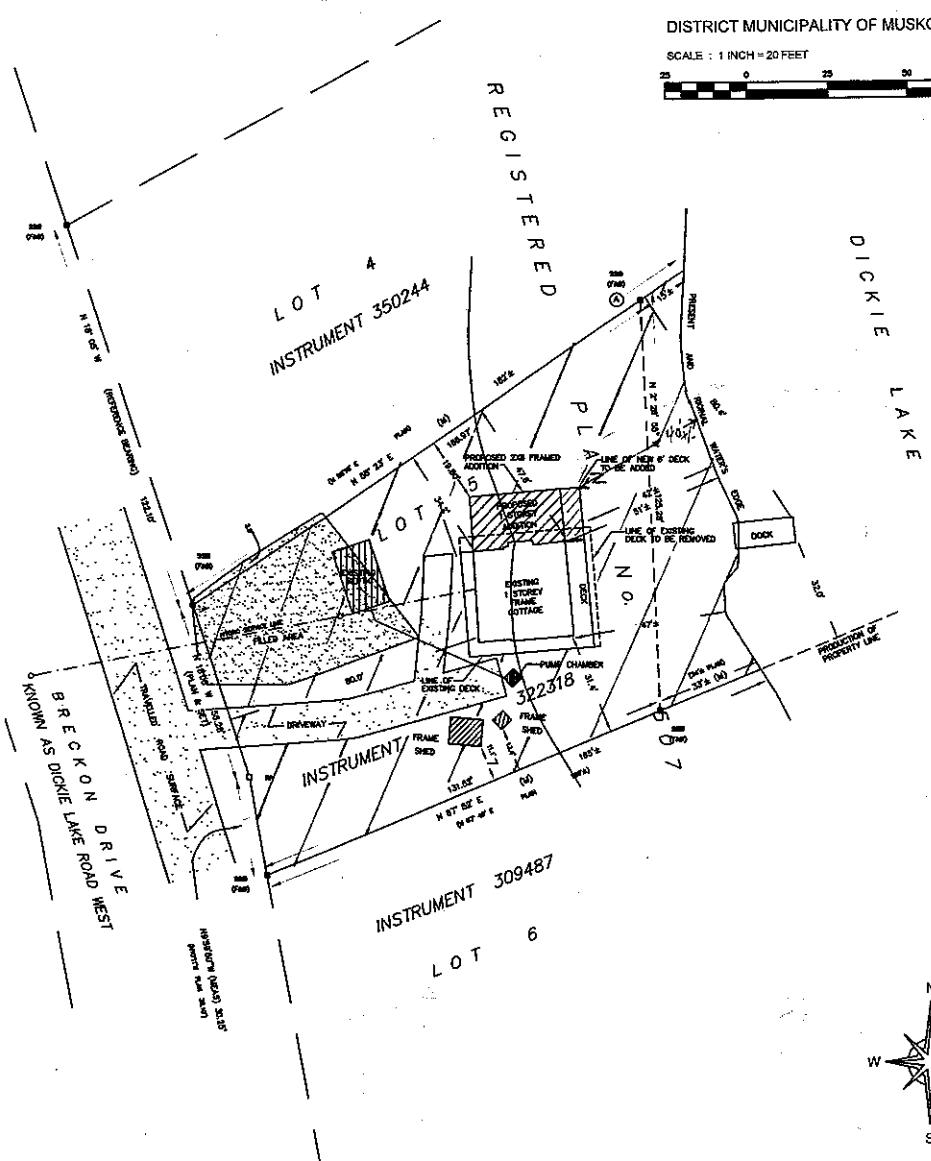
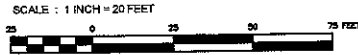
**SCHEDULE "A"**  
**By-law Amendment No. 09-31**



# SCHEDULE "B"

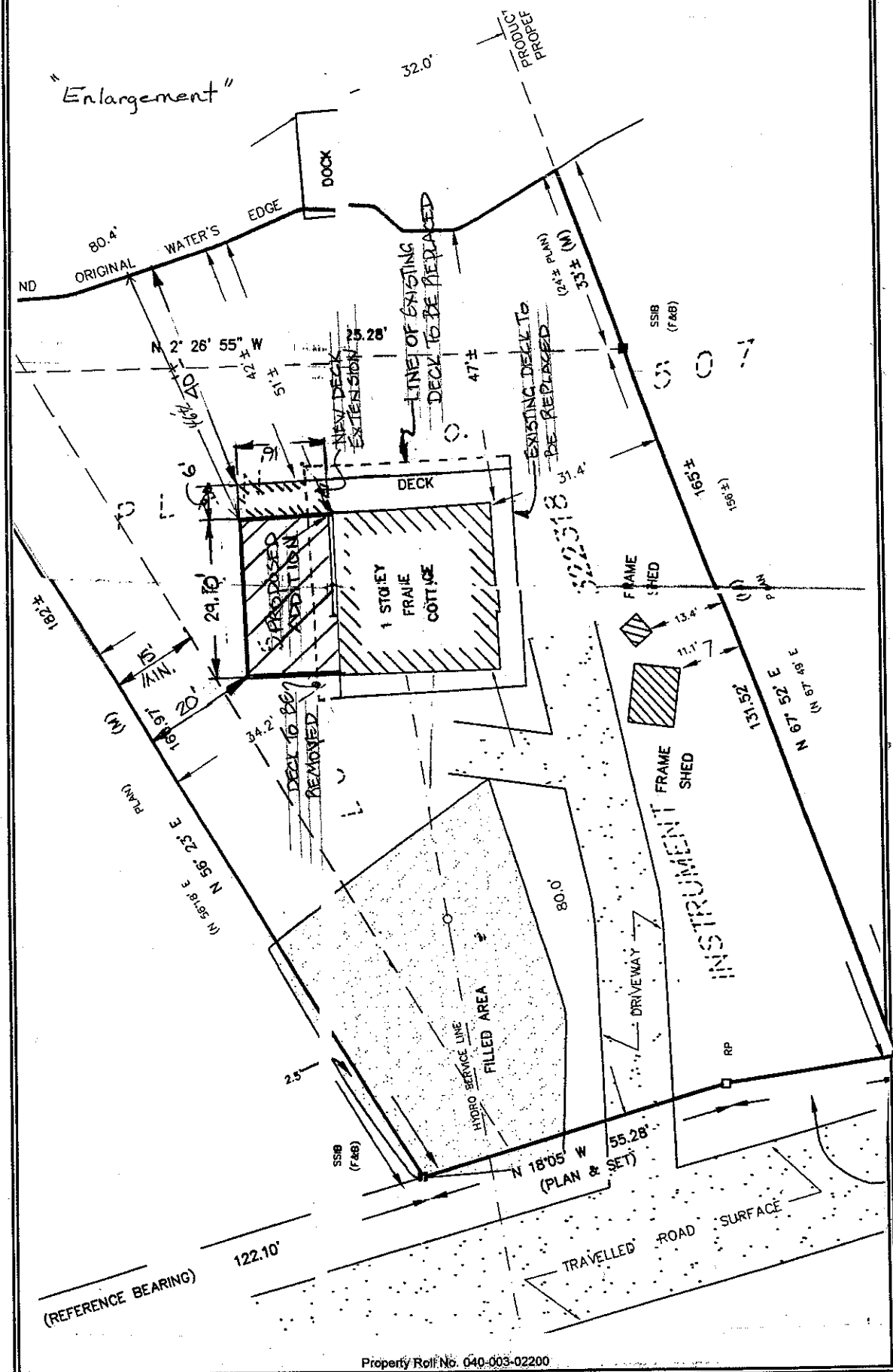
## By-law Amendment No. 09-31

PLAN OF  
 LOT 5  
 REGISTERED PLAN No. 507  
 GEOGRAPHIC TOWNSHIP OF McLEAN  
 TOWNSHIP OF LAKE OF BAYS  
 DISTRICT MUNICIPALITY OF MUSKOKA



**SUBJECT LANDS** to be re-designated from the "Waterfront Residential (WR)" Development Permit Area to the "Waterfront Residential with an Exemption WR-E(201)" Development Permit Area

**KEY MAP**  
**By-law 04-180 Amendment Application Z 06/09 LOB**  
**Applicants: Stan & Iwona Salapatek**  
**Part Lot 13, Concession 6, McLean Ward**



KEY MAP

By-law 04-180 Amendment Application Z 06/09 LOB

Applicants: Stan & Iwona Salapatek

Part Lot 13, Concession 6, McLean Ward

