

**THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
COMMITTEE OF ADJUSTMENT REPORT**



TO: Members of the Committee of Adjustment
FROM: Stefan Szczerbak, Planner
DATE: January 27th, 2009
RE: Consent
Applications: B 33 & 34/08 LOB (Sorbara)
Applicant: Edward Sorbara, Trustee
Part Lot 21, Conc. 7, Franklin Ward
Roll Nos. 010-014-08605
1060 Richards Island Road
Agent: Wayne Simpson & Associates

RECOMMENDATION:

That applications **B 33/08** and **B 34/08 LOB** be **DEFERRED** until the May 26th, 2009 meeting of the Committee in order to allow sufficient time for the applicant to submit a site evaluation report in accordance with Section E.4 of the Township Official Plan, completed to the satisfaction of the Township.

ORIGIN:

Consent applications **B 33 & 34/08 LOB** have been submitted by Edward Sorbara, Trustee, which involve the creation of two new waterfront building lots, together with proposed private rights-of-way. The lands are located in Part of Lot 21, Concession 7, Franklin Ward (Roll No. 010-014-08605), on Lake of Bays, at 1060 Richards Island Road.

The retained lands are currently developed with a single family dwelling with attached decks, as well as a garage, a boathouse & two dock areas. Severed Lot # 1 and the retained lands are vacant, while Severed Lot # 2 contains all structures. The owner wishes to sever the subject lands and create two new residential building lots as follows:

	Lot Area		Frontage on Lake of Bays	
Severed Lot #1 B 33/08 LOB	0.76 ha	1.9 ac	112.7 m	370 ft
Severed Lot #2 B 34/08 LOB	0.62 ha	1.55 ac	96 m	315 ft
Retained Lot	0.86 ha	2.14 ac	76.2 m	250 ft
Total Property	2.26 ha	5.59 ac	284.9 m	935 ft

The severed lots will be accessed from Richards Island Road and Birchcroft Road, with provisions for rights-of-way across the retained lands.

BACKGROUND:

Previous Files:	<ul style="list-style-type: none"> • Minor Variance A 01/84 LOB
Natural Constraints:	<ul style="list-style-type: none"> • Slopes ranging from 20% to 40%+

Lake Phosphorous Sensitivity	• Moderate sensitivity to phosphorous
LOB Official Plan:	• Waterfront
District Official Plan:	• Waterfront
LOB By-law 04-180	• Severed & Retained Lands: Waterfront Residential "(WR)" Development Permit Area
OSRA Status:	• Closed by By-law 90-145 attached to Inst. 251043

Site Characteristics:

In general the entire shoreline of the subject lands slopes steeply down to the shoreline of Lake of Bays, and is well vegetated with primarily coniferous trees. The lands at the top of the slope and inland contain varying topography, with some level areas interspersed with bedrock outcroppings, and are well vegetated with deciduous trees.

Proposed Lot # 1 is vacant, while proposed Severed Lot # 2 is developed with a single family dwelling with attached decks, as well as a garage, a boathouse & two dock areas. The retained lands are vacant and a hydro line traverses the property.

Surrounding Uses:

The surrounding lands contain low density residential uses.

ANALYSIS:

This application proposes the creation of two new residential building lots. The following items have been found and evaluated in our review of the applications:

New Lot Creation

Access

Section C.10 of the Muskoka Official Plan requires that the proposed lot has a proper and adequate means of access. In this regard, the Township Official Plan outlines a hierarchy of preference respecting access (H.26 & H.27) as follows:

- i) year round maintained public road;
- ii) seasonally maintained public road;
- iii) private road; and
- iv) water access.

It appears that access to the property is gained from Birchcroft Road (a private road) and Richards Island Road (Township owed but privately maintained), both roads being off of Port Cunnington Road. The application proposes a 20 ft wide right-of-way across the retained lands in order to access both severed lots, and evidence has also been provided that the subject lands have legal access to a public road, both of which fulfill the requirements for access as outlined in Section H.26 and Section H.27(b).

Water Frontage and Area

With respect to the proposed water frontages and areas, Section H.41 of the Township Official Plan requires a minimum 60 metres (200 feet) of water frontage onto Lake of Bays with a minimum area of 0.4 hectares (1 acre). The severed and retained lots proposed in these applications possess larger lot areas and frontages.

Natural Constraints

Type 1 Fish Habitat

The area immediately adjacent to the southerly lot line of the subject lands has been identified as containing "Type 1" fish habitat. Given that there is approximately 230 ft of remaining shoreline frontage that contains "Type 2" fish habitat, this would provide sufficient area in which to construct shoreline structures on the proposed retained lands. Accordingly, it is recommended that as a condition of approval that shoreline structures be limited to the northerly portion of the retained lands outside of the "Type 1" fish habitat, and that this be implemented by way of a by-law amendment.

Terrain

A review of Schedule D1 "Terrain" of the Township's Official Plan has revealed that portions of the subject property contain steep slopes ranging from 20% to areas in excess of 40%. Therefore, the steep slope policies of the Township (Section E.1 – E.7) and Muskoka (Section F.54 – F.59) Official Plans would apply. When creating lots in areas containing steep slopes, the direction of both Official Plans is that the development of the lot be carefully undertaken, such that there is no substantial alteration of the landscape, thereby ensuring that there will be no subsequent erosion, slope instability, or increased stormwater runoff into the adjacent water body. In addition, the location of buildings and structures on parcels with steep slopes must also address their visual impact when viewed from the water's perspective in accordance with the design principles found in Section H.20 of the Official Plan. One way that the policies address this issue is to require larger lot areas and frontages in order to provide additional area in which to locate applicable building envelopes.

When assessing a particular lot in terms of steep slopes, the direction of the Township's Plan is to undertake a preliminary site inspection and evaluate the proposal based on the principles found in Subsection E.3 of the Plan. Staff have attended the site and note that steep slopes exist along the shoreline of both severed parcels and the retained lot, and contain numerous rock outcroppings. This can present constraints with respect to locating waterlines and locating shoreline structures. Although the subject lands may be able to accommodate the placement of appropriate building envelopes for a single family dwelling, permitted shoreline activity area structures, and appropriate access to each of these areas, staff are not comfortable making this assessment.

Therefore, it is the direction of the Official Plan that a site evaluation report be prepared in accordance with Section E.4 to ensure that severed Lot 1 and the retained lot are suitable for development, and that at a minimum this report include the following:

- a) identification of appropriate lot frontages, areas and lot line locations;
- b) suitable building and septic system envelopes;
- c) establishment of minimum setbacks from the slope or the top of the bank;
- d) appropriate access routes and pathways;
- e) locations for a shoreline activity area and particularly a dock;
- f) natural vegetative buffers and vegetation to be retained;
- g) environmentally sensitive areas or habitat to be protected;
- h) storm water management and construction mitigation measures; and
- i) necessary mitigation measures to protect existing natural features in relation to any proposed

construction.

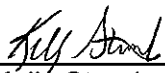
With respect to the proposed water frontage and area, as previously noted, Section H.41 of the Township Official Plan requires a minimum 60 metres (200 feet) of water frontage onto Lake of Bays with a minimum area of 0.4 hectares (1 acre). Subsection E.3 (f) requires that proposed lots containing steep slopes should include larger frontages and lot areas than the minimum sizes permitted within the Official Plan. Although these applications include larger lot areas and frontages, a site evaluation report would ensure that future development can be carefully undertaken, such that there is no substantial alteration of the landscape and the development would not create any visual impacts when viewed from the water's perspective

Summary

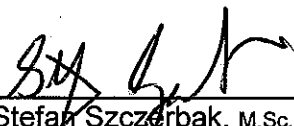
In view of the foregoing concerns, staff recommend that a decision on these applications be deferred, pending receipt of a site evaluation report in accordance with Section E.4 to ensure that development of Severed Lot 1 and the retained lot can be carefully undertaken such that there is no substantial alteration of the landscape, or no potential for negative visual impacts when viewed from the water's perspective.

Respectfully submitted by:

With the concurrence of:



Kelly Stronks, CPT
Planning Technician



Stefan Szczerbak, M.Sc., RPP, MCIP
Planner

SUBJECT LANDS
Applications B 33 & 34/08 LoB
Applicants: Edward Sorbara Trustee
1060 Richards Island Road

Portage Bay



**Lake
of
Bays**



**Richards
Islands Rd**

Blickart Road

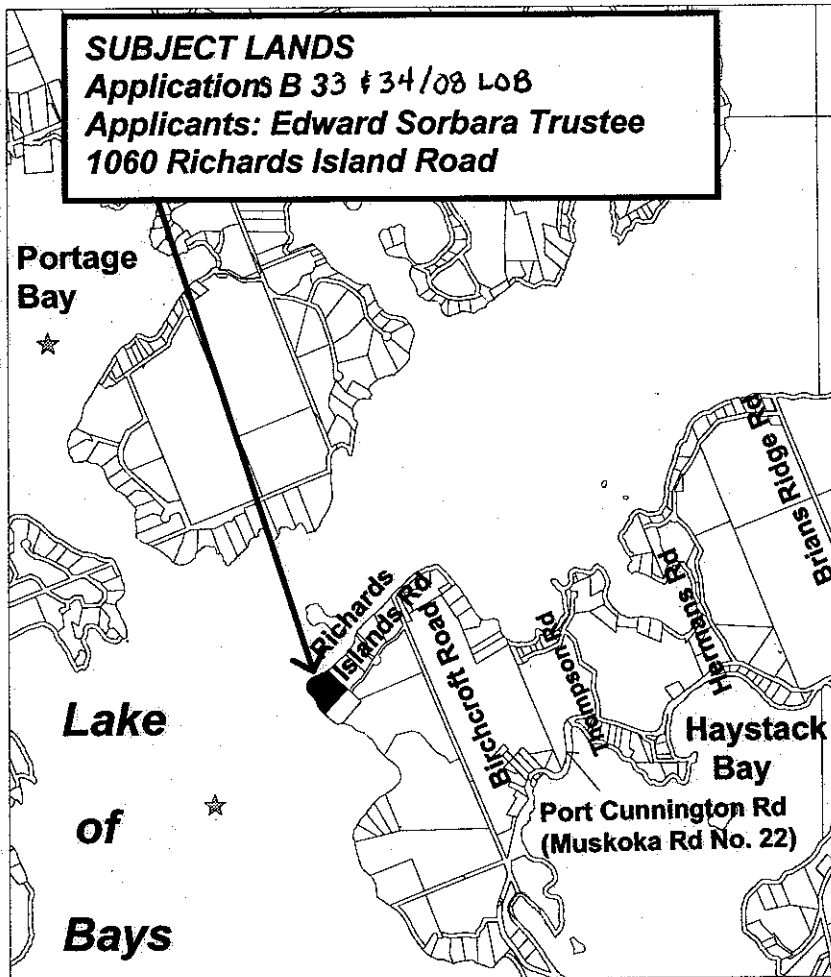
Temple Rd

Hartman Rd

Brans Ridge Rd

Haystack Bay

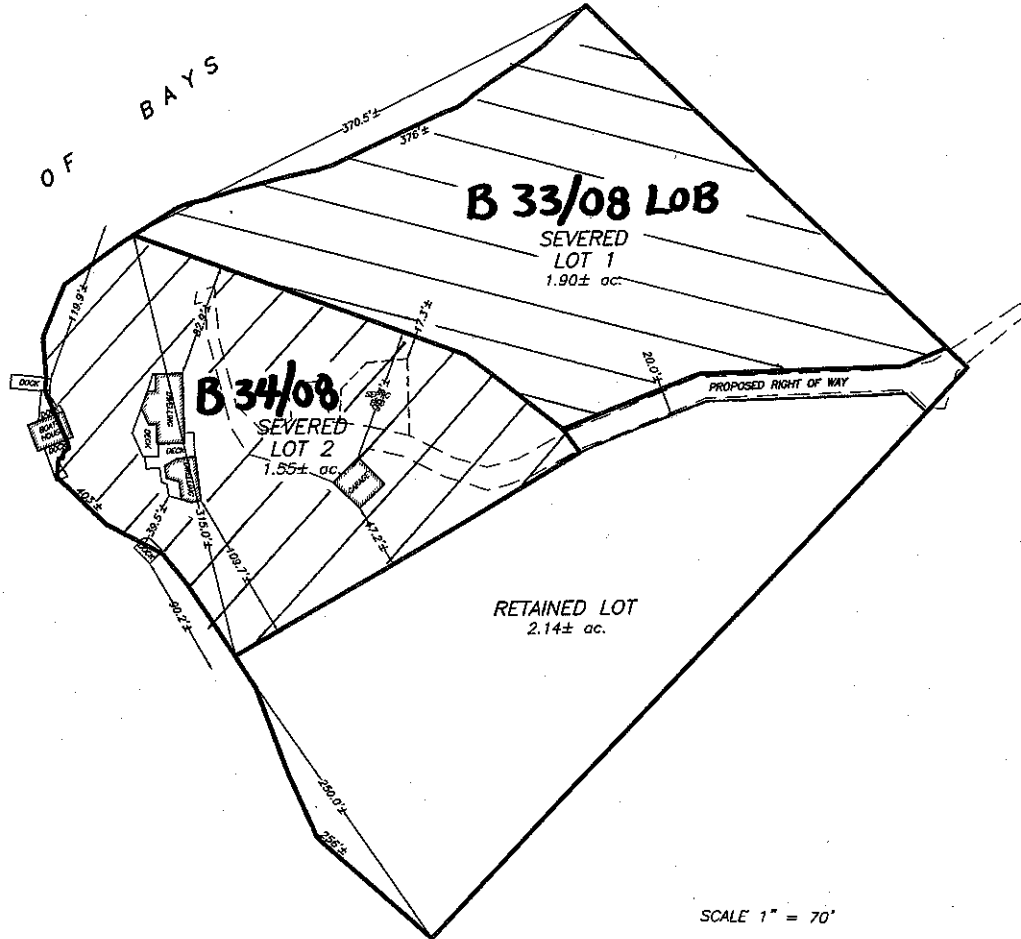
**Port Cunningham Rd
(Muskoka Rd No. 22)**



CONSENT APPLICATIONS B 33 & 34/08 LOB
Owner: Edward Sorbara, Trustee
Part Lot 21, Concession 7, Franklin Ward



LAKE OF BAYS



SCALE 1" = 70'

NOVEMBER 2008