

THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS



REPORT

TO: Mayor & Members of Council
FROM: Stefan Szczerbak, Planner
DATE: July 21st, 2009
RE: **BY-LAW AMENDMENT APPLICATION: Z 11/09 LOB**
Applicant: Sheldon Drebin
Agent: Marie Poirier Planning & Associates
Part Lot 7, Concession 8, Sinclair Ward, on Bella Lake
Roll No. 020-008-06000
Civic Address: 1084 Colonization Road

RECOMMENDATION:

That Application **Z 11/09 LOB (Drebin)** to permit the recognition of an existing oversized sleeping cabin located within the shoreline yard be **DENIED** as it is not in keeping with the intent of the Township of Lake of Bays Official Plan; namely Sections D.12, D.14 and H.20.

However, should Council wish to give further consideration to this proposal, a copy of By-law 09-51 has been prepared for consideration.

ANALYSIS:

Development Considerations

On April 28th, May 26th and June 23rd, 2009, members of Council decided to defer making a decision on this matter in order to provide the applicant with additional time in which to consider the relocation of this existing structure outside of the required shoreline yard setback in accordance with the applicable Official Plan policies. A copy of the previous staff report is included for information purposes.

Since the deferral, the applicant's agent has indicated that a technical report was forthcoming so that a discussion respecting the options could be presented for Council's consideration. On July 13th, 2009, the attached report was submitted for Council's consideration.

The policy direction of the Township Official Plan and Development Permit does not support the recognition of the oversized sleeping cabin, almost twice the maximum height for such a structure and as it is located within the shoreline yard, staff cannot support this application. Our comments and policy review in our April 28th, 2009 report remain the same.

However, a copy of By-law 09-51 is attached for Council's consideration.

Respectfully submitted by,

Stefan Szczerbak, M.Sc, RPP, MCIP
Planner

**CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
BY-LAW 09-51**

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

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 is hereby amended by re-designating a portion of **Part Lot 7, Concession 8, Sinclair 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-E206)**" Development Permit Area, as shown on the attached Schedule "A".
2. Section 7 of By-law 04-180 be amended by the addition of the following:

"WR-E206:

On lands designated "**WR-E206**", as shown on Schedule "A" attached to By-law 09-51, 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:

- i) Despite the requirements of Section No. 4.5, the maximum allowable floor area of a sleeping cabin shall not exceed 55.89 square metres (602 sq.ft.).
- ii) Substituted Development Permit Area Provisions

MAXIMUM BUILDING HEIGHT OTHER ACCESSORY STRUCTURE

STANDARD	STAFF VARIATION	COUNCIL VARIATION
8.85 metres (existing private cabin)	None	Any

MINIMUM SHORELINE YARD SETBACK

STANDARD	STAFF VARIATION	COUNCIL VARIATION
12.4 metres (existing private cabin)	None	Any

3. Schedules "A" and "B" hereby forms 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 21st day of July, 2009.

Mayor

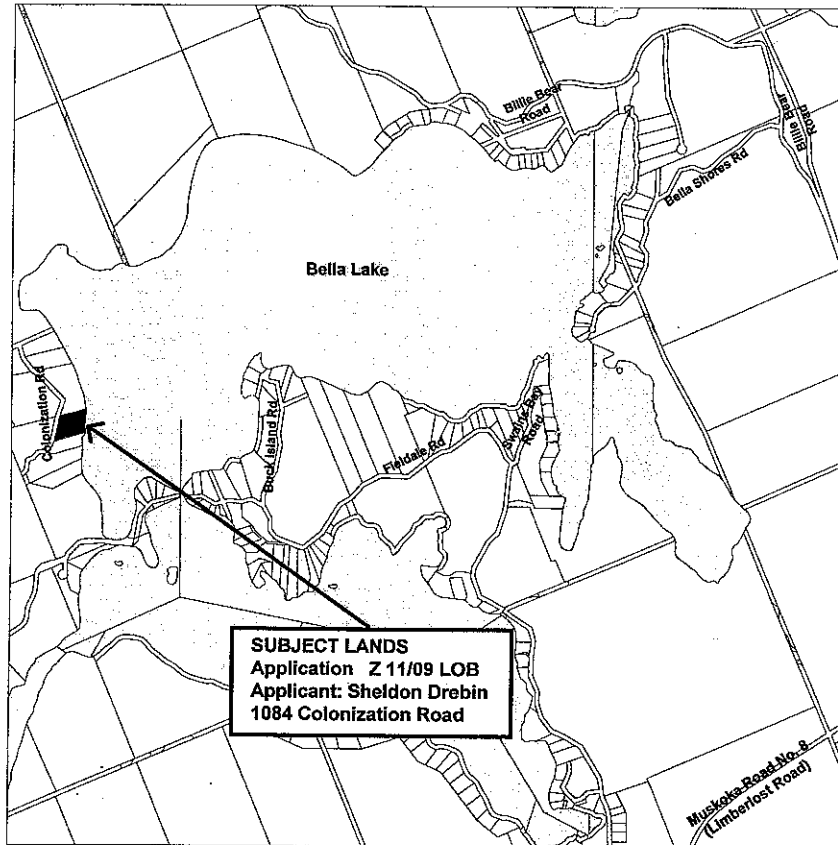
Deputy Clerk

READ a THIRD time and finally passed this 21st day of July, 2009.

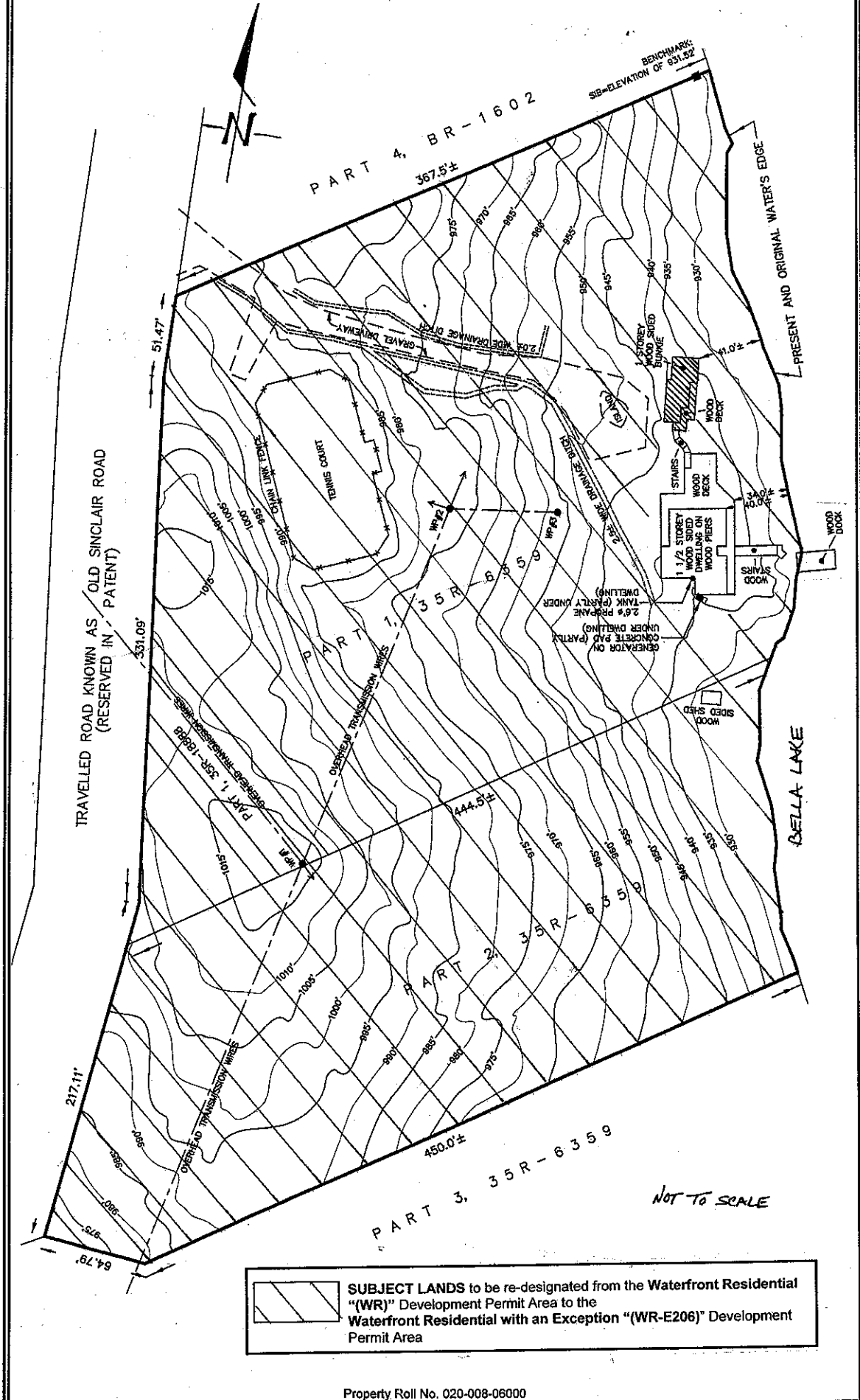
Mayor

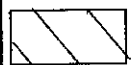
Deputy Clerk

SCHEDULE "A"
By-law Amendment No. 09-51



SCHEDULE "B"
By-law Amendment No. 09-51



 **SUBJECT LANDS** to be re-designated from the Waterfront Residential "(WR)" Development Permit Area to the Waterfront Residential with an Exception "(WR-E206)" Development Permit Area

1768509 Ontario Inc. O/A

Duke Engineering

98 Camp Newport Road Utterson, ON P0B 1M0 (705) 787-0007 Fax (705) 787-0420 dukeengineering@sympatico.ca

FACSIMILE TRANSMISSION COVER SHEET

Date: July 13, 2009	File #: 09-50-01
To: Township of Lake of Bays	Fax #:
Attention: Stefan Szczerbak	
From: Dan Duke	Phone #: 705 787-0007
Re: Marie Poirer - Drebin	
4 pages including cover	
Copy to: Marie Poirier	
Original to follow by mail? Yes No X	
<p>Message:</p> <p>Hi Stefan,</p> <p>Marie's fax does not appear to be working as a result from her move today – please find attached my report.</p> <p>Thanks,</p> <p>Dan Duke</p>	

Please call if all pages are not received, if copy is unclear, or if you have received this in error.

1768509 Ontario Inc. O/A

Duke Engineering

98 Camp Newport Road, Utterson Ontario P0B 1M0 (705) 787-0007 Fax 787-0420 e-mail dukeengineering@sympatico.ca

July 10, 2009

File No. 09-50-01

Marie Poirier Planning & Associates Inc.
2-25846 Highway 35
Dwight, Ontario
P0A 1H0

Attention: Marie Poirier

Dear Ms. Poirier:

**Re: Drebin Sauna/Cabin
1084 Colonization Road
Township of Lake of Bays
Roll No. 020-008-06000**

Duke Engineering was retained by Marie Poirier Planning and Associates to undertake a site assessment resulting from a request from the Township of Lake of Bays to consider relocating the structure to an alternate location on the subject lands following a Township site visit of April 23, 2009. Please find below my comments following my attendance to the property on May 12, 2009 and subsequent discussions with you.

The lot is an existing developed property on the west side of Bella Lake. The lot slopes steeply towards the lake and is vegetated with mature trees, with the exception of a tennis court and associated landscaping, driveway and parking area. In addition, there is a level area to the north of the cabin, which is the existing septic bed area. The focus of my report is to discuss the location of the existing Sauna/Cabin, and review the option of locating this structure elsewhere on the property where it will satisfy existing setback issues. This report does not deal with issues in regard to Orders issued by the Building Department. While I do recognize there are OBC non-conformities with the building, these issues will be dealt with in a subsequent report once the location of the building has been finalized with the Planning Department.

The existing Sauna/Cabin structure has been built in three phases. The first being the construction of the sauna, the second a Sleeping Cabin with a bedroom and bathroom addition and the third being a "Yoga" room.

The focus of my report is to discuss the suitability of the existing location of the building from a stability and general suitability perspective, and to review alternate locations for the structure on the lot.

July 10, 2009

Drebin Sauna/Bunkie, 1084 Colonization Road, Bella Lake

Existing Location

The most recent work on the buildings was in 2006 which included renovations and construction of the Yoga Room. The building rests on wood pier foundations and has been nestled into the existing mature trees. The lands around the building have stabilized since the construction and storm runoff from the driveway and parking area from the steeply sloping driveway have been directed away from the structure. In addition, the area to the rear of the cottage has been protected through the construction of a boulder retaining wall and associated grading and vegetation to prevent disposition of silt laden runoff beyond the driveway and parking areas. The building as it currently sits does not pose any issues with regard to steep slopes, erosion and storm runoff and the construction of the building on piers has prevented significant disruption to the lands which may have resulted from a perimeter concrete foundation.

Alternate Locations

As shown on the attached topographic plan by Tulloch Engineering, the entire lot slopes steeply towards the lake. Several flat areas exist within the property, namely the area near the west side of the property bounded by the 1015' contour, the area currently occupied by the existing tennis court and the level area which is the existing septic bed area.

The flat area bounded by the 1015' contour line has been designated as Part 1 and has an existing overhead transmission lines and it therefore not an option for the relocation/reconstruction of the structure.

The existing tennis court area has been shaped for the natural landscape to create the level footprint required for the tennis court. Relocating/reconstructing the Sauna/Cabin to this area would require extensive excavation and grading work to prepare the lands to satisfy current Ontario Building Code (OBC) requirements for a foundation. This will result in the potential for erosion and sedimentation issues, from an area that is now well established following the construction of the tennis court.

The existing septic area is not suitable for the construction for the relocation of this structure.

Another option is to relocated the structure onto the steeply sloping lot within the setback requirements. This will result in significant cutting of the natural vegetation in order to create a building envelope and construction access. In addition, this work will expose the soil slopes to erosion and as in any new construction will take several years to be fully re-established upon completion of the construction phase of the project.

Given the natural foliage around the cabin and steeply sloping driveway, relocation of the structure in whole or parts has been reviewed with the capacity and reach of the local mobile cranes available in the area. The space required for the crane and associated outriggers and opening through the tree cover will prove difficult, if not impossible from an economic viability aspect to relocate the structure. Relocation will likely require, in my opinion, dismantling and or demolition and reconstruction on the new site. In addition, relocation will result in "hole" in the foliage and even with planting with large nursery trees will require many years before the area has re-vegetated back to its natural state.

July 10, 2009

Drebin Sama/Bunkie, 1084 Colonization Road, Bella Lake

As mentioned earlier in this report, some OBC violations exist with the existing structure. I am of the opinion that the structure can be corrected to be fully Code compliant with minor bracing on the wood pier foundation, some details on the floor system and a septic review to determine the capacity of the existing sewage system and current area/fixture unit loading.

Based on the above, I can conclude from a purely engineering related review, correcting the existing structure in situ and options for relocating/reconstructing elsewhere on the property, correcting the existing structure will result in far less disturbance to the property.

I trust the above is satisfactory for your immediate requirements, should you have any questions or require additional information, please do not hesitate to contact me.

Yours truly,



Daniel W. Duke, P. Eng.
Duke Engineering

DWD:dd

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THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS



REPORT

TO: Mayor & Members of Council

FROM: Stefan Szczerbak, Planner

DATE: April 28, 2009

RE: **BY-LAW AMENDMENT APPLICATION: Z 11/09 LOB**
Applicant: Sheldon Drebin
Agent: Marie Poirier Planning & Associates
Part Lot 7, Concession 8, Sinclair Ward, on Bella Lake
Roll No. 020-008-06000
Civic Address: 1084 Colonization Road

COPY

RECOMMENDATION:

That Application **Z 11/09 LOB (Drebin)** to permit the recognition of an existing oversized sleeping cabin located within the shoreline yard be **DENIED** as it is not in keeping with the intent of the Township of Lake of Bays Official Plan; namely Sections D.12, D.14 and H.20.

However, should Council wish to give further consideration to this proposal, a decision on application **Z 11/09 LOB** should be deferred to the May 26th, 2009 meeting of Council in order to permit additional time for the applicant to revise the proposal such that the sleeping cabin be relocated to an area outside of the required shoreline yard setback in accordance with Section D.12 of the Township Official Plan. In addition, a septic evaluation report in accordance with Section C.48 of the Township Official Plan is required to ensure that the existing septic system can adequately accommodate the sleeping cabin.

ORIGIN:

An application has been received from Mr. Sheldon Drebin to re-designate the subject lands. The property is located within the "**Waterfront Residential (WR)**" Development Permit Area of By-law 04-180, and is developed with a dwelling with attached decks, a shed, a dock and a tennis court. It was recently discovered that a private sleeping cabin with attached deck had been newly erected and constructed without the benefit of a building permit. As By-law 04-180 limits the floor area of sleeping cabins to 54 m² (581 ft²), and the cabin has a floor area of 55.89 m² (602 ft²), an amendment to By-law 04-180 is necessary in order to recognize the size of this structure. In addition, as the cabin was constructed within the shoreline yard, relief is required to permit a reduced water setback.

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-E206"** Development Permit Area. The effect of the "**WR-E206**" Development Permit Area will be to seek relief from the requirements of By-law No. 04-180 as follows:

- i) Section 4.5 (Maximum floor area of sleeping cabin), increase from 54 m² (581 ft²) to 55.89 m² (602 ft²); and

- ii) Section 5.1.1(d) (Minimum Shoreline Yard Setback), reduce from a required 30 metres (98.4 ft) to 12.4 metres (41 ft) to recognize the setback of the sleeping cabin.

BACKGROUND:

Previous Files:	<ul style="list-style-type: none">• Minor Variance Application A 03/96 LOB; and• Minor Variance Application A 05/98 LOB
Natural Constraints:	<ul style="list-style-type: none">• 20%-40% Slopes• Bella Lake has been identified as a Lake Trout Lake and at capacity for new lot creation.
Lake Phosphorus Sensitivity:	<ul style="list-style-type: none">• Moderate Sensitivity to phosphorus
LOB Official Plan:	<ul style="list-style-type: none">• Waterfront
District Official Plan:	<ul style="list-style-type: none">• Waterfront
LOB By-law 04-180:	<ul style="list-style-type: none">• Waterfront Residential "(WR)" Development Permit Area.
OSRA:	<ul style="list-style-type: none">• Closed

Site Characteristics:

The property is well vegetated especially on the undeveloped slopes. In the developed areas around the cottage and sleeping cabin, the vegetative cover consists of some mature individual deciduous and coniferous species; and new plantings have been undertaken to restore the shoreline buffer.

Surrounding Uses:

The surrounding lands contain low density residential uses.

ANALYSIS:

Development Considerations

Upon review of Appendix A to the Township's Official Plan, Bella Lake has been identified as a Sensitive Lake Trout Lake at capacity for new lot creation by the Province of Ontario. Sections D.12 and D.100 of the Official Plan permit development on existing lots, provided it is setback a minimum of 30 metres from the water's edge and maintains or establishes a minimum 15 metre wide vegetative buffer.

Visual Impacts

When considering applications of this nature, a primary guiding principle for Council has been whether or not those structures constructed and proposed onto the existing dwelling result in a negative visual impact when viewed from the water's perspective. This consideration ensures the proposal is keeping with the direction of the Plan, which is to ensure that the character of the waterfront designation will be maintained. The 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. Essentially, development should blend into the natural shoreline.

In addition, the direction of the Township Official Plan (Section D.10) is to consider several principles to ensure that proposed development is sympathetic with the natural landscape and will be designed

to maintain the natural characteristics and features of the individual lot. Some of these principles require that built form should not dominate the landscape and visual impacts should be minimized. With respect to preservation of the waterfront characteristics noted earlier, Sections H.18, H.19 and H.20 provide additional design principles to consider when reviewing applications within the waterfront designation. With respect to the potential for impact when considering an oversized private cabin, a primary guiding principle for Council has been whether or not the proposed structure will result in a negative visual impact when viewed from the water's perspective. In addition to those applicable waterfront principles is Section H.20, specifically Section H.20 (k) which requires the appropriate location of building envelopes and associated activity areas to be defined, and located in the most appropriate area on the property.

Upon attending the site, it is noted that the lands contain a legal non-complying dwelling located within the required shoreline yard setback. However, this setback to the dwelling is not recognized over the entire lot especially when considering the recognition of the sleeping cabin.

Steep Slopes

The applicant's agent has suggested that the presence of slope constraints of this lot do justify a reduced shoreline yard setback since there are limited areas on the property where development can occur. Should this be the case, it is the direction of the Official Plan (Section E.1-E.4) to conduct a preliminary site inspection to visually verify the slopes on the property. After attending the site and review of the topographical survey, it would appear that there are several areas located elsewhere on the property where the cabin could be located either in a relatively flat area or on a similar slope which exists in the current location of the cabin.

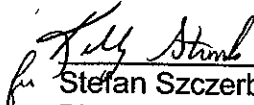
Septic

In terms of the property's 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, the Chief Building Official is not satisfied that the recognition of this cabin would necessitate a change to the existing design flow rate. Should a change to the filter bed be required, due to the presence of slopes on the property, a change to this system may be problematic.

As a result, the recognition of this cabin in this location does not conform to the intent of Sections D.10, D.12, D.14, H.18, H.19 and H.20 of the Township Official Plan and staff cannot support this application as presented.

However, should Council choose to consider this application, it is recommended that the proposal be amended and the structure be relocated to an area outside of the required shoreline yard setback in accordance with the applicable Official Plan policies, and a satisfactory septic suitability report is necessary prior to the consideration of this application.

Respectfully submitted by,



Stefan Szczerbak, M.Sc, RPP, MCIP
Planner