

THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS



REPORT

TO: Mayor & Members of Council
FROM: Stefan Szczerbak, Planner
DATE: July 21, 2009
RE: By-law Amendment Application:

Z 18/09 LOB (Walker)
Applicant: Marlene Walker
Agent: Wayne Simpson & Associates
Part Lot 2, Conc. 7, Sinclair Ward
Roll No. 020-008-01001
1061 Swains Bay Road

RECOMMENDATION:

That Application **Z 18/09 LOB (Walker)** to permit the construction of a second storey addition onto the front (water) side of an existing dwelling be **APPROVED** and that By-law 09-81 be given three readings.

ORIGIN:

Application **Z 18/09 LOB** was submitted on June 5, 2009 and deemed complete on June 30, 2009.

The property is located within the "**Waterfront Residential (WR)**" Development Permit Area, and is developed with a 1.5 storey single family dwelling with attached deck, a dock, and a boathouse/dock structure. The applicant wishes to construct a 116 ft² cantilevered second storey addition to the existing dwelling, and would be situated over a portion of the existing open deck. As the dwelling is situated within the minimum 30 metre water setback of Bella Lake, and the height of the addition is proposed to be 2 feet higher than the existing height of the dwelling and will encroach approximately 1 foot closer to the shoreline of Bella Lake than the existing dwelling, a by-law amendment is required 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-E208"** Development Permit Area. The effect of the "**WR-E208**" Development Permit Area will be to seek relief from the requirements of By-law No. 04-180 as follows:

- i) Section 5.1.1(d) (Minimum Shoreline Yard Setback), decrease from a required 30 metres (98.4 ft) to 29.3 metres (96 ft) for the proposed addition to the dwelling; and
- ii) Section 4.39 (Expansion & increase in height and area of a legal non-complying dwelling within the shoreline yard), increase the allowable height for the proposed addition to 7.74 metres (25.3 ft).

BACKGROUND:

Previous Files:	<ul style="list-style-type: none"> • n/a
Natural Constraints:	<ul style="list-style-type: none"> • Category 2 Lake; • Deer Wintering Habitat; • Narrow Waterbody and • "Type 1 & 2" Fish Habitat.
Lake Phosphorous Sensitivity:	<ul style="list-style-type: none"> • Moderate sensitivity to phosphorous.
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.

Site Characteristics:

The subject lands are comprised of approximately 440 feet of water frontage together with an area of approximately 4.3 acres.

The property is well vegetated and the existing development is generally located on a level portion of the property. The lot slopes in an easterly direction towards Bella Lake. The shoreline has been generally left in a natural state. The existing open areas are a result of exposed bedrock within the shoreline yard.

Surrounding Uses:

The surrounding lands contain low density residential uses.

ANALYSIS:

Upon review of Schedule D.2 of the Township's Official Plan identifies this area on Lake of Bays as a Narrow Waterbody. In addition, Schedule C2 has identified deer wintering and fish habitat on these lands. However, as this proposal does not include the placement of new shoreline structures, the Official Plan policies pertaining to these constraints would not apply.

With respect to the maintenance of the waterfront character, when considering this proposal, the design principles found in Section H.20 of the Township Official Plan, figure prominently into Council's decision for these types of applications. When making decisions on development proposals to legal non-complying structures (existing structures located within the shoreline yard), a primary guiding principle for Council has been whether or not the proposal will result in a negative visual impact when viewed from the water's perspective. These waterfront design guidelines assist in the determination of whether or not there will be

impacts when being viewed from the water. In addition, these principles also require that buildings and structures be of a low profile and not exceed the height of the tree canopy.

Upon review of the property, it is noted that the existing dwelling is located approximately 21.6 metres from the water's edge at its closest point. An existing attached open deck is located on the water (front) side of the dwelling; however, due to the location of the shoreline, the deck and dwelling are generally located in close proximity to the required minimum 30 metre shoreline yard setback. The plans indicate that the proposed addition will be located on the southerly portion of the dwelling and located over a portion of the existing open deck. It is noted that this addition will be slightly higher than the overall peaked height of the central portion of this dwelling. As noted earlier, the shoreline yard is comprised of mature vegetation and staff feel this proposal would have minimal impact when viewed from the water's perspective. As the lands continue to slope away from the water, the proposal should not exceed the height of the tree canopy.

In view of the foregoing, in an effort to comply with the general intent of the Township Official Plan, staff would recommend the amendment not include a shoreline activity area in order to prevent the removal of any vegetation within the shoreline yard and ensure that the potential for negative visual impacts when viewed from the water would therefore be mitigated. Provided Council agrees with this recommendation, staff are satisfied that the criteria set out in Schedule C.3 of the By-law has been met as the proposal is appropriate for the lands, off site impacts appear to be mitigated and the proposal conforms and maintains the general intent of the Township Official Plan and the Development Permit By-law.

Respectfully submitted by:



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

**CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
BY-LAW 09-81**

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

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 2, Concession 7, 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-E208)**" Development Permit Area, as shown on the attached Schedule "A".
2. Section 7 of By-law 04-180 be amended by deleting the wording associated with **WR-E208** and replaced with the following:

"WR-E208:

On lands designated "WR-E208", as shown on Schedule "A" attached to By-law 09-81, 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 any provision, a Shoreline Activity Area shall not be identified to prevent any significant removal of shoreline vegetation.
- ii) Despite Section 4.39 an addition to the legal non-complying dwelling will be permitted to a height of 7.74 metres (25.3 feet).
- iii) Substituted Development Permit Area Provisions

MINIMUM SHORELINE YARD SETBACK

STANDARD	STAFF VARIATION	COUNCIL VARIATION
29.3 metres (96 feet)	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

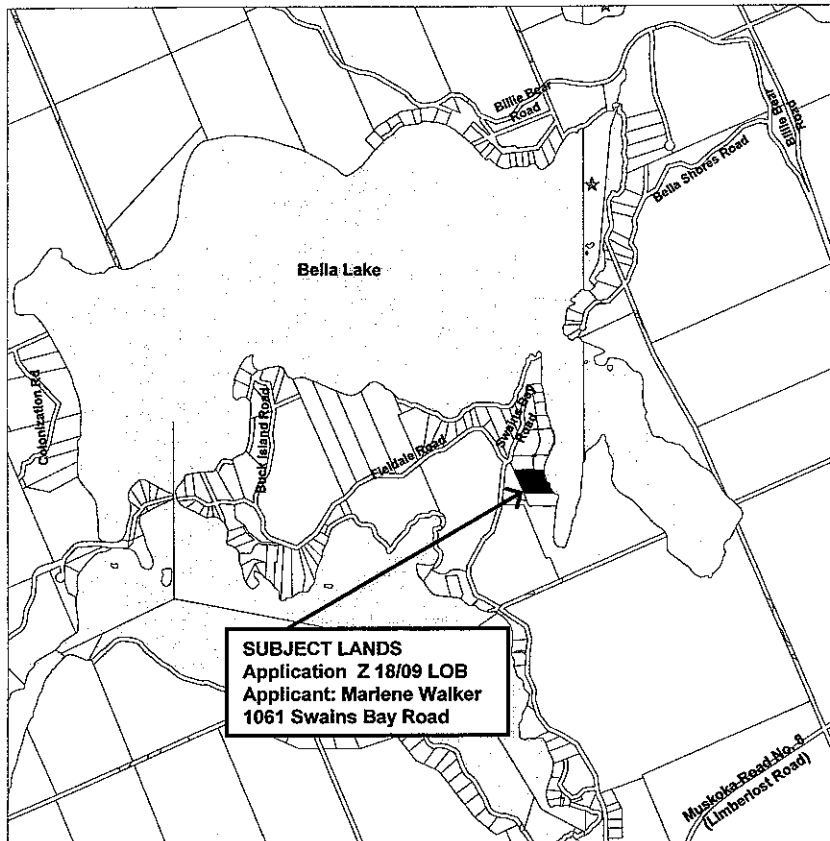
Deputy Clerk

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

Mayor

Deputy Clerk

SCHEDULE "A"
By-law Amendment No. 09-81



SCHEDULE "B"
By-law Amendment No. 09-81

