

**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: March 24<sup>th</sup>, 2009**  
**RE: Consent**  
**Application: B 04/09 LOB (Dymott)**  
**Applicants: Peter & Virginia Dymott**  
**Agent: John Jackson Surveying Ltd.**  
**Part Lots 16 & 17, Cons. 9 & 10, Franklin Ward, on**  
**Lake of Bays**  
**Roll No: 010-009-03300**  
**1114-2 Crosswinds Cove Road**

**RECOMMENDATION:**

That application **B 04/09 LOB (Dymott)** be **APPROVED**, subject to the following conditions:

- 1) That a registrable description of the severed lands, together with the applicable rights of ways over the subject lands, be submitted to the Secretary-Treasurer, along with two registered copies of the reference plan;
- 2) The Original Shore Road Allowance lying in front of the severed and retained lands shall be closed and conveyed into the same ownership as the proposed lots, and copies of the registered Transfer or Transfers be provided to the Secretary-Treasurer of the Committee of Adjustment;
- 3) That final approval be subject to confirmation by the Township of Lake of Bays that the severed lands are satisfactory for on-site sewage disposal;
- 4) That the severed lands be re-designated within the Development Permit By-law No. 04-180, by means of the severed lands being amended to address appropriate development setbacks in an effort to place a building envelope away from the peak of the rock outcrop located on top of the sloping shoreline; and
- 5) Cash-in-lieu of parkland dedication to be paid to the Township of Lake of Bays in the amount of \$xxxxxx(to be determined upon receipt of MPAC assessment).

**ORIGIN:**

Consent application **B 04/09 LOB** has been submitted by John Jackson on behalf of Peter & Virginia Dymott, which involves the creation of a new residential building lot together with a right-of-way. The lands are located in Part Lots 16 & 17, Concessions 9 & 10, in the former Township of Franklin, on Lake of Bays.

The current holding is developed with a single family dwelling, a garage, a boathouse and dock complex, as well as tennis courts with a frame outbuilding with deck. All of these structures are located on the proposed retained lands. The owners wish to sever the subject lands and create a new residential building lot as follows:

|                       | Water frontage on<br>Lake of Bays |          | Lot Area |          |
|-----------------------|-----------------------------------|----------|----------|----------|
|                       |                                   |          |          |          |
| <b>Severed Lot</b>    | 60.5 m                            | 198.5 ft | 0.34 ha  | .85 ac   |
| <b>Retained Lot</b>   | 75.5 m                            | 248 ft   | 18.9 ha  | 46.8 ac  |
| <b>Total Property</b> | 136 m                             | 446.5    | 19.3 ha* | 47.6 ac* |

\*does not include Original Shore Road Allowance (OSRA)

The proposed right-of-way will provide access to the severed lands from Charlie Thompson Road over Crosswinds Cove Road, an existing private road.

The same proposal was approved by the Committee of Adjustment under File **B 07/07 LOB**. As the conditions of the approval were not fulfilled within the legislated one year time frame, the approval lapsed.

**BACKGROUND:**

|                                     |   |
|-------------------------------------|---|
| <b>Previous Files:</b>              | <ul style="list-style-type: none"> <li>• Consent application B 07/07 LOB</li> </ul>   |
| <b>Natural Constraints:</b>         | <ul style="list-style-type: none"> <li>• Lake of Bays is classified as a Category 1 lake</li> <li>• "Type 2" fish habitat</li> <li>• Slopes ranging from 20 – 40%</li> <li>• Deer wintering habitat in northerly half of lot</li> </ul> |
| <b>Lake Phosphorous Sensitivity</b> | Low sensitivity to phosphorus.  |
| <b>LOB Official Plan:</b>           | Waterfront.   |
| <b>District Official Plan:</b>      | Waterfront.   |
| <b>LOB By-law 04-180:</b>           | <ul style="list-style-type: none"> <li>• Waterfront Residential "(WR)" Development Permit Area</li> </ul>   |
| <b>LOB By-law 04-181:</b>           | Rural "(Ru)" Zone.  |
| <b>OSRA:</b>                        | Open (in process of being closed), License of Occupation in place   |
| <b>Built Heritage Information:</b>  | n/a.  |

**Site Characteristics:**

The subject lands have varying topography, from some flat areas to steep slopes and several rock outcroppings. The retained lands contain an existing dwelling located 69 feet from the shoreline, as well as an attached garage, tennis court and a dock and boathouse structure located at the shoreline. The property generally slopes towards the water where it slopes steeply from the dwelling to the water's edge.

The proposed severed lot is vacant and is comprised of a steep rocky shoreline which continues to rise to a rock peak located approximately 100 feet from the water's edge. The remainder of the lot contains mature vegetation and generally slopes in a northwesterly direction towards the existing driveway.

**Surrounding Uses:**

The surrounding lands contain low density residential uses.


**ANALYSIS:**


Committee may recall provisionally approving consent application **B 07/07 LOB** on April 10<sup>th</sup>, 2007. A copy of our previous planning report, as well as Committee's decision, is attached for reference. The conditions contained in the Provisional Decision were not fulfilled within the required one year time frame of the Planning Act. Therefore, the Committee's approval of the application has lapsed.

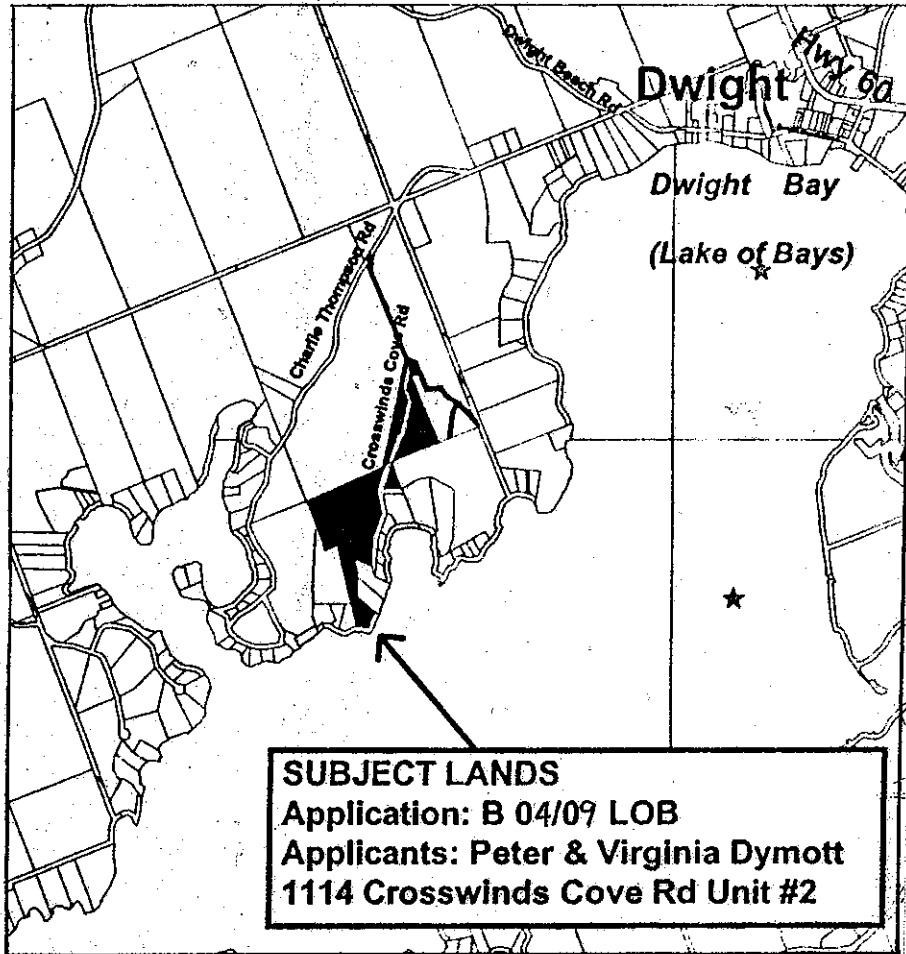
As staff were supportive of application **B 07/07 LOB** and as this application is a resubmission of the previous proposal, our comments and recommendations remain the same except for the recommended Condition No. 5 which reflects the latest assessed value when determining the required cash-in-lieu of parkland dedication.

Respectfully submitted by:

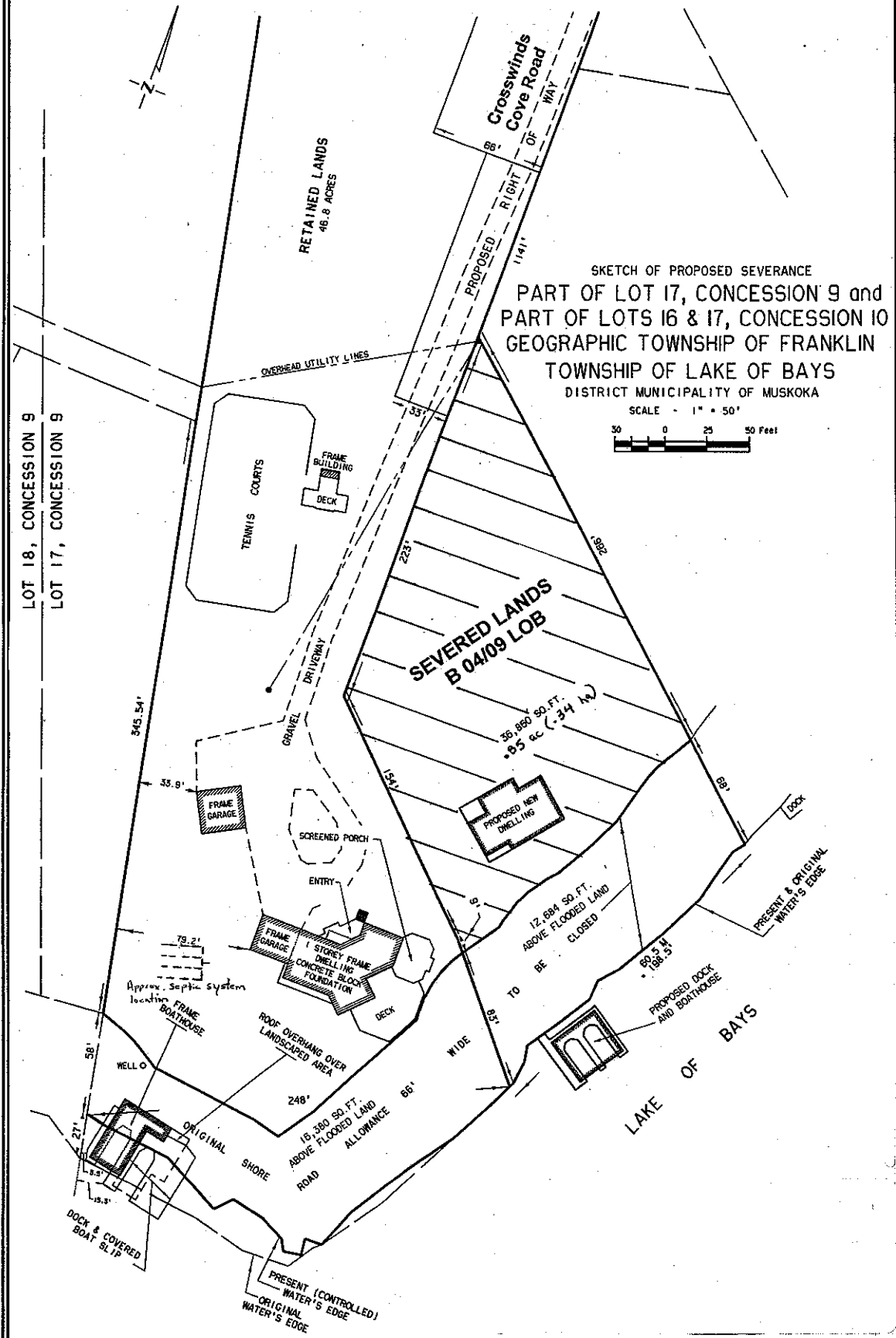
With the concurrence of:

  
\_\_\_\_\_  
for Kelly Stronks, CPT  
Planning Technician

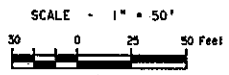
  
\_\_\_\_\_  
Stefan Szczepaniak, M.Sc., RPP, MCIP  
Planner



**CONSENT APPLICATION B 04/09 LOB**  
**Owners: Peter & Virginia Dymott**  
**Part Lots 16 & 17, Concessions 9 & 10, Franklin Ward**



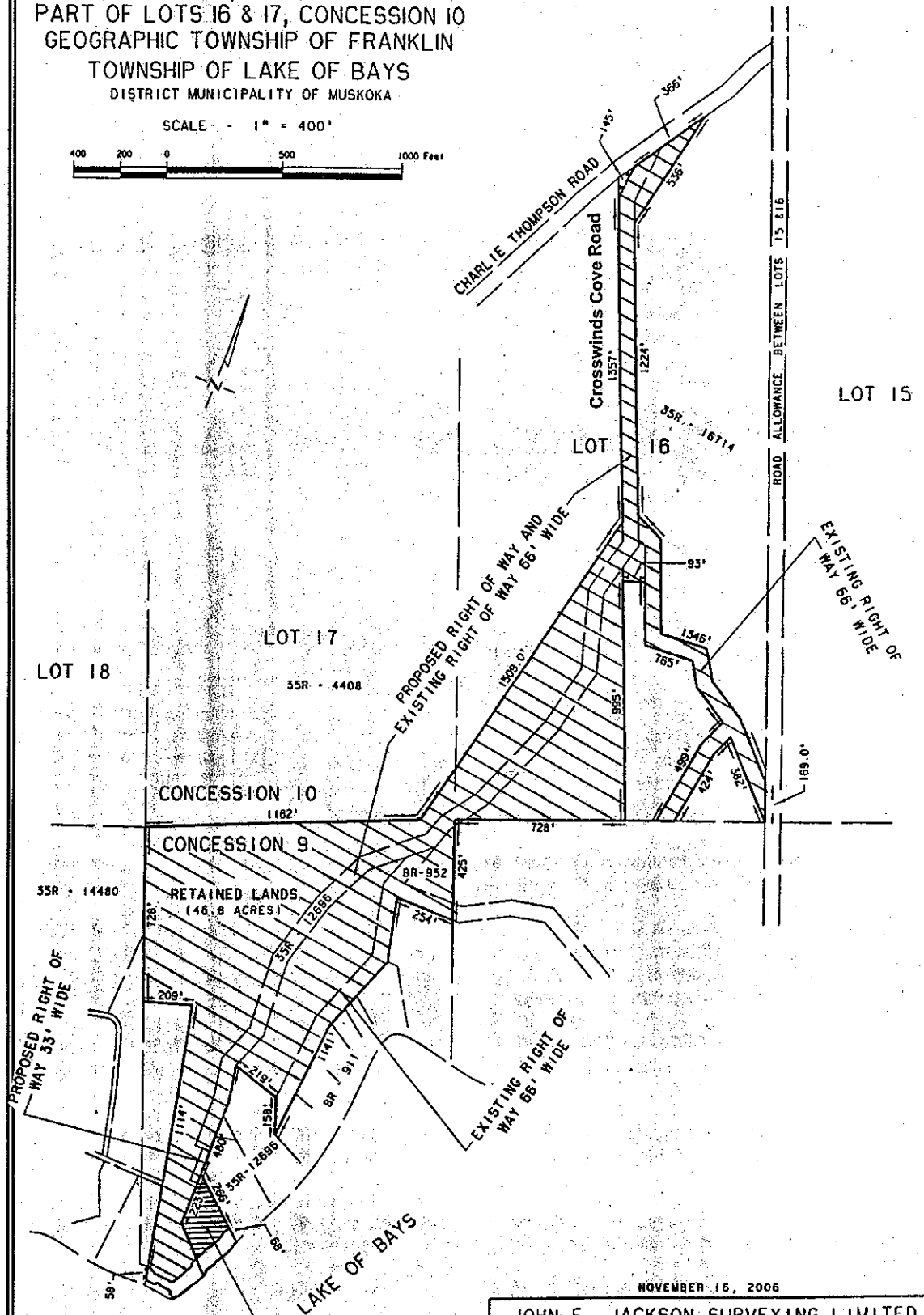
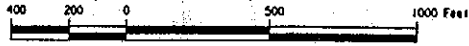
SKETCH OF PROPOSED SEVERANCE  
 PART OF LOT 17, CONCESSION 9 and  
 PART OF LOTS 16 & 17, CONCESSION 10  
 GEOGRAPHIC TOWNSHIP OF FRANKLIN  
 TOWNSHIP OF LAKE OF BAYS  
 DISTRICT MUNICIPALITY OF MUSKOKA



**CONSENT APPLICATION B 04/09 LOB**  
**Owners: Peter & Virginia Dymott**  
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SKETCH OF PROPOSED SEVERANCE  
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 GEOGRAPHIC TOWNSHIP OF FRANKLIN  
 TOWNSHIP OF LAKE OF BAYS  
 DISTRICT MUNICIPALITY OF MUSKOKA

SCALE - 1" = 400'



PROPOSED SEVERANCE  
 B 04/09 LOB

NOVEMBER 16, 2006

|   |                     |                 |
|---|---------------------|-----------------|
| <b>JOHN E. JACKSON SURVEYING LIMITED</b><br>9 MAIN STREET WEST, SUITE 101<br>HUNTSVILLE, ONTARIO<br>P1W 2C5 |                     |                 |
| Phone: (705) 789-8283   | Fax: (705) 789-9242 |                 |
| Drawn by: R.M   | File: 74195EV2      | Plan: 1-FR-9-21 |

**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:** April 10, 2007  
**RE:** Consent Application: **B 07/07 LOB (Dymott)**  
**Applicants:** Peter & Virginia Dymott  
**Agent:** John Jackson Surveying Ltd.  
**Part Lot 17, Conc. 9, Franklin Ward**  
**Roll No. 010-009-03300**  
**1114 Crosswinds Cove Road – Unit #2**

**RECOMMENDATION:**

That application **B 07/07 LOB** be **APPROVED**, subject to the following conditions:

**COPY**

1. That a registrable description of the severed lands, together with the applicable rights of ways over the subject lands, be submitted to the Secretary-Treasurer, along with two registered copies of the reference plan;
2. The Original Shore Road Allowance lying in front of the severed and retained lands shall be closed and conveyed into the same ownership as the proposed lots, and copies of the registered Transfer or Transfers be provided to the Secretary-Treasurer of the Committee of Adjustment;
3. That final approval be subject to confirmation by the Township of Lake of Bays that the severed lands are satisfactory for on-site sewage disposal;
4. That the severed lands be re-designated within the Development Permit By-law No. 04-180, by means of the severed lands being amended to address appropriate development setbacks in an effort to place a building envelope away from the peak of the rock outcrop located on top of the sloping shoreline; and
5. Cash in lieu of parkland dedication to be paid to the Township of Lake of Bays in the amount of \$1,583.60.

**ORIGIN:**

The application involves the creation of a new residential building lot together with a right-of-way. The current holding is developed with a single family dwelling, a garage, a boathouse and dock complex, as well as tennis courts with a frame outbuilding with deck. All of these structures are located on the proposed retained lands. The owners wish to sever the subject lands and create a new residential building lot as follows:

|                       | Water frontage on<br>Lake of Bays |          | Lot Area |          |
|-----------------------|-----------------------------------|----------|----------|----------|
|                       |                                   |          |          |          |
| <b>Severed Lot</b>    | 60.5 m                            | 198.5 ft | 0.34 ha  | .85 ac   |
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| <b>Total Property</b> | 136 m                             | 446.5    | 19.3 ha* | 47.6 ac* |

\*does not include Original Shore Road Allowance (OSRA)

The proposed right-of-way will provide access to the severed lands from Charlie Thompson Road over Crosswinds Cove Road, an existing private road.

**BACKGROUND:**

|                                |  |
|--------------------------------|--|
| <b>Previous Files:</b>         | None.  |
| <b>Natural Constraints:</b>    | <ul style="list-style-type: none"><li>• Deer Wintering Habitat in northerly half of lot; and</li><li>• Slopes ranging from 20-40%.</li></ul> |
| <b>LOB Official Plan:</b>      | Waterfront and Rural.  |
| <b>District Official Plan:</b> | Waterfront and Rural.  |
| <b>LOB By-law 04-181:</b>      | Rural "(Ru)" Zone.   |
| <b>LOB By-law 04-180:</b>      | Waterfront Residential "(WR)" Development Permit Area.   |
| <b>OSRA:</b>                   | License of Occupation submitted March 22, 2007.  |

**Site Characteristics:**

The subject lands have varying topography, from some flat areas to steep slopes and several rock outcroppings. The retained lands contain an existing dwelling located 69 feet from the shoreline, as well as an attached garage, tennis court and a dock and boathouse structure located at the shoreline. The property generally slopes towards the water where it slopes steeply from the dwelling to the water's edge.

The proposed severed lot is vacant and is comprised of a steep rocky shoreline which continues to rise to a rock peak located approximately 100 feet from the water's edge. The remainder of the lot contains mature vegetation and generally slopes in a northwesterly direction towards the existing driveway.

**Surrounding Uses:**

The surrounding lands are developed with low density residential uses.

**ANALYSIS:**

Section H.41 of the Township Official Plan requires a minimum 60 metres (200 feet) of water frontage onto Lake of Bays. The lot has 360 feet of shoreline frontage according to tax assessment information. However, as defined in By-Law 04-180, "Water Frontage" is the horizontal straight-line distance where the lot abuts a shore road allowance that has not been closed, is the distance along the shortest line joining the points where the side lot lines intersect the inner limit of the shore road allowance. Therefore, in accordance with the above definition, and when reviewing the survey provided with this application, the water frontage would appear to be approximately 363 feet. The proposal therefore does not meet the minimum water frontage requirement of Section H.41 of the Township Official Plan.

However, it is noted that should Council consider divesting the original shore road allowance, the water frontage would become approximately 413 feet, thereby meeting the minimum frontage requirements of the Plan. Staff have included the closure of the original shore road allowance as part of the conditions should the Committee agree with the recommended conditions above.

**Deer Wintering Habitat**

A review of Schedule C2 of the Township Official Plan has revealed that the northerly portions of the subject lands contain deer wintering habitat. Section D.109 states that development within a deer wintering area should be located in such a way that significant portions of this area will be preserved to continue to provide food and shelter. As the retained parcel is currently developed and the remaining lands contain Crosswinds Cove Road, it

is unlikely that new development would be located within this area.

### **Terrain**

A review of Schedule D1 "Terrain" of the Township's Official Plan has revealed that portions of the subject property contain steep slopes of 20% to 40%. Therefore, the steep slope policies of the Township (Section E.3 – 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. In addition, the location of buildings and structures on parcels with steep slopes must also address the potential for negative visual impacts when viewed from the water's perspective in accordance with the design principles found in Section H.20 of the Official Plan.

As the proposed severed parcel slopes upwards towards to a rock peak which appears to be visible from the water's perspective, it would be recommended that the dwelling be situated on a lower depression in an effort to minimize the potential for negative visual impacts when viewed from the water. This will essentially have the effect of preserving the panorama and also ensure that the existing vegetation is maintained along the ridge line adjacent to the top of this rock slope located adjacent to the water's edge.

Staff have attended the site and note that there would appear to be several building envelopes located in lower areas throughout the proposed lot, particularly along the southerly lot line or near the centre of the lot. In view of the foregoing, staff would recommend a building envelope be located on the lot and a site specific amendment be considered to ensure future development is contained within the identified envelope.

### **Summary**

Provided the above noted conditions are incorporated as part of the Committee's approval of this proposal, development of the lots can be carefully undertaken such that there is no substantial alteration of the landscape, thereby ensuring that there will not be the potential for negative visual impacts when viewed from the water's perspective. In view of this staff have no concerns with the approval of this proposal, as the consent application generally conforms to both the District and Township Official Plans.

Respectfully submitted by:

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

**CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS  
COMMITTEE OF ADJUSTMENT  
PROVISIONAL DECISION OF COMMITTEE WITH REASONS**

[The Planning Act, R.S.O. 1990, Chapter 13, Section 45(8) and (10)]

**APPLICATION FOR CONSENT:** Peter & Virginia Dymott

**APPLICATION NO. B 07/07 LOB** ROLL NO. 010-009-03300

In respect of property that is located in: **Part Lot 17, Concession 9, in the former Township of Franklin, now in the Township of Lake of Bays.**

We the undersigned concur in the following provisional decision and reasons for provisional decision of the Committee of Adjustment for the Corporation of the Township of Lake of Bays, made on April 10<sup>th</sup>, 2007.

**DECISION:**

That application B 07/07 LOB be **APPROVED** subject to the following conditions:

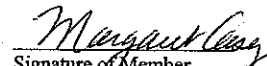
- (1) That a registrable description of the severed lands, together with the applicable rights of ways over the subject lands, be submitted to the Secretary-Treasurer, along with two registered copies of the reference plan;
- (2) The Original Shore Road Allowance lying in front of the severed and retained lands shall be closed and conveyed into the same ownership as the proposed lots, and copies of the registered Transfer or Transfers be provided to the Secretary-Treasurer of the Committee of Adjustment;
- (3) That final approval be subject to confirmation by the Township of Lake of Bays that the severed lands are satisfactory for on-site sewage disposal;
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- (5) Cash in lieu of parkland dedication to be paid to the Township of Lake of Bays in the amount of ~~\$1,583.60.~~  
\$ 465.47<sup>90</sup>

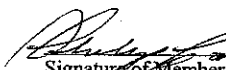
**REASON:**

1. This application generally conforms to the intent of the District and Lake of Bays Official Plans, and will serve to create one new residential building lot together with a right-of-way.

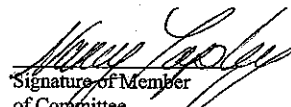
  
Signature of Member  
of Committee


  
Signature of Member  
of Committee

  
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of Committee

  
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of Committee

  
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of Committee

  
Signature of Member  
of Committee

  
Signature of Chairperson

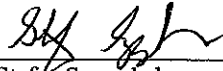
COPY

**CERTIFICATION**

(The Planning Act, R.S.O. 1990, chapter 13, Section 45(8) and (10))

I, Kelly Stronks, Secretary-Treasurer of the Committee of Adjustment for the Corporation of the Township of Lake of Bays, in the District Municipality of Muskoka, certify that the provisional decision for Application **B 07/07 LOB (Dymott)** is a true copy of the provisional decision of the Committee with respect to the application recorded therein.

Dated this 10<sup>th</sup> day of April, 2007.



Stefan Szczerbak, M.Sc., RPP, MCIP  
Acting Secretary-Treasurer  
Committee of Adjustment  
Township of Lake of Bays  
Dwight, ON P0A 1H0

**LAST DAY FOR APPEALING TO THE MUNICIPAL BOARD: May 2<sup>nd</sup>, 2007.**

The applicant, and every other agency or person to whom a Notice of Provisional Decision was sent, may appeal the Provisional Decision and/or any conditions imposed to the Ontario Municipal Board (OMB). In order to appeal, you must submit a Notice of Appeal setting out written reasons for the appeal and, if applicable, specifying which conditions are being appealed, within twenty (20) days of the making of the Provisional Decision. If you wish to appeal to the OMB, a copy of an appeal form is available from the OMB website at [www.omb.gov.on.ca](http://www.omb.gov.on.ca).

This Notice should be submitted to the Secretary Treasurer of the Committee of Adjustment and be accompanied by a payment of One Hundred and Twenty-Five Dollars (\$125.00) for the first application being appealed. If more than one application is being appealed, the fee for each additional application is Twenty-five Dollars (\$25.00). Cheques must be certified and made payable to the Minister of Finance, Ontario; money orders are also acceptable.

Send to: Secretary-Treasurer - Committee of Adjustment  
Township of Lake of Bays  
1012 Dwight Beach Road  
Dwight, ON P0A 1H0

**Forwarded by Mail on: April 12<sup>th</sup>, 2007.**

x.c. Solicitor (if applicable)  
Agent (if applicable)  
Applicant  
Stephen Watson, Chief Building Official  
Derrick Hammond, Director of Planning Services, District Municipality of Muskoka

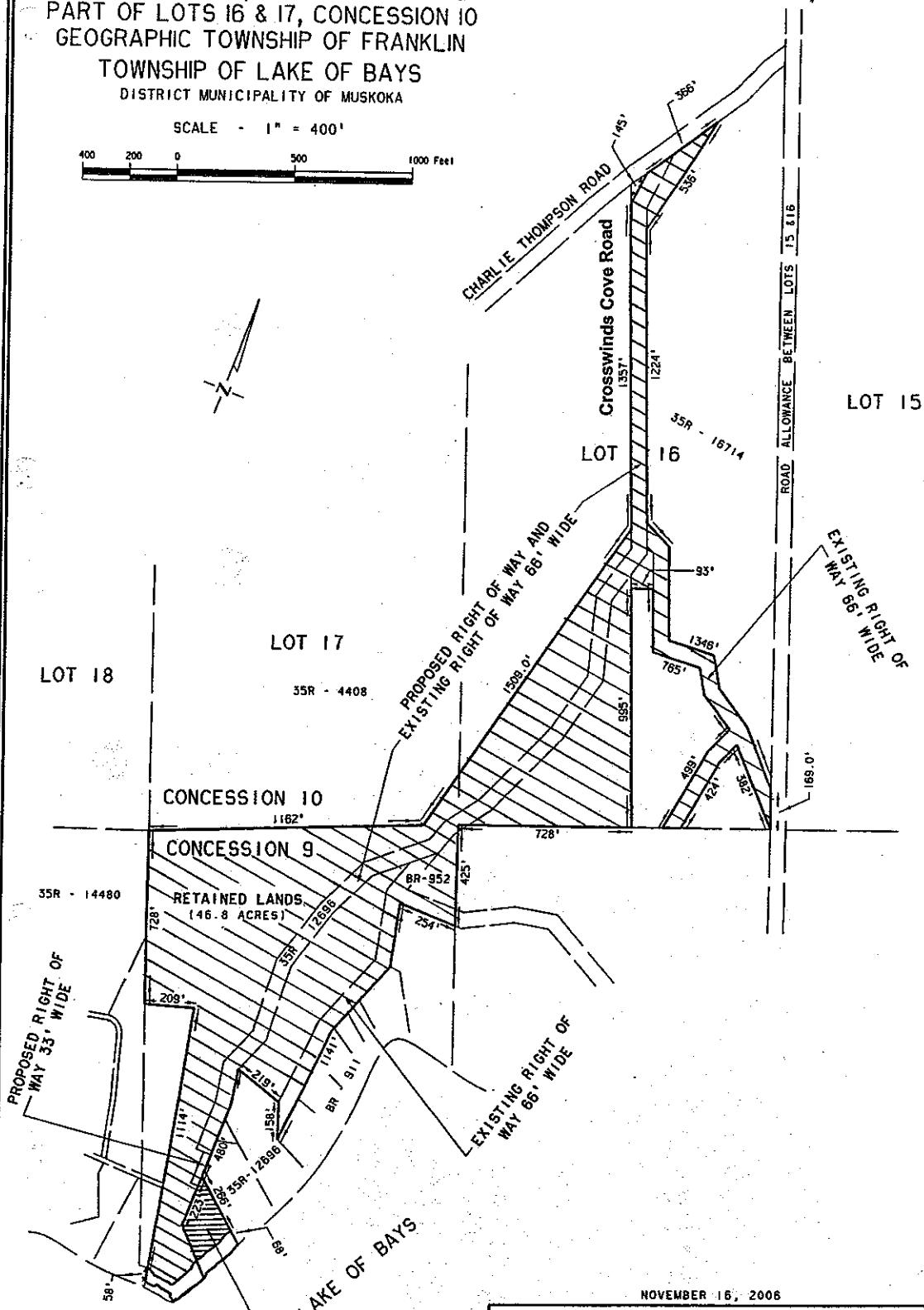
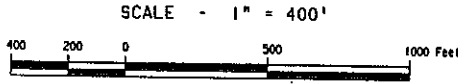
**TIME LIMIT FOR FULFILLING CONDITIONS**

Pursuant to Subsection 20 of Section 52 of the Planning Act, all conditions imposed must be fulfilled within **ONE YEAR** from the date of the sending of the Notice of Provisional Decision or the application is deemed to be refused.

It is the requirement that all conditions imposed be fulfilled prior to the granting of this consent and the giving by the Secretary Treasurer of the certificate provided for, in Subsection 21 of Section 52 of the Planning Act.

**CONSENT APPLICATION B 07/07 LOB**  
**Applicants: Peter & Virginia Dymott**  
**Part Lot 17, Concession 9, Franklin Ward**

SKETCH OF PROPOSED SEVERANCE  
 PART OF LOT 17, CONCESSION 9 and  
 PART OF LOTS 16 & 17, CONCESSION 10  
 GEOGRAPHIC TOWNSHIP OF FRANKLIN  
 TOWNSHIP OF LAKE OF BAYS  
 DISTRICT MUNICIPALITY OF MUSKOKA



NOVEMBER 16, 2006

**JOHN E. JACKSON SURVEYING LIMITED**  
 9 MAIN STREET WEST, SUITE 101  
 HUNTSVILLE, ONTARIO  
 PIN 2C5

Phone: (705) 789-8283

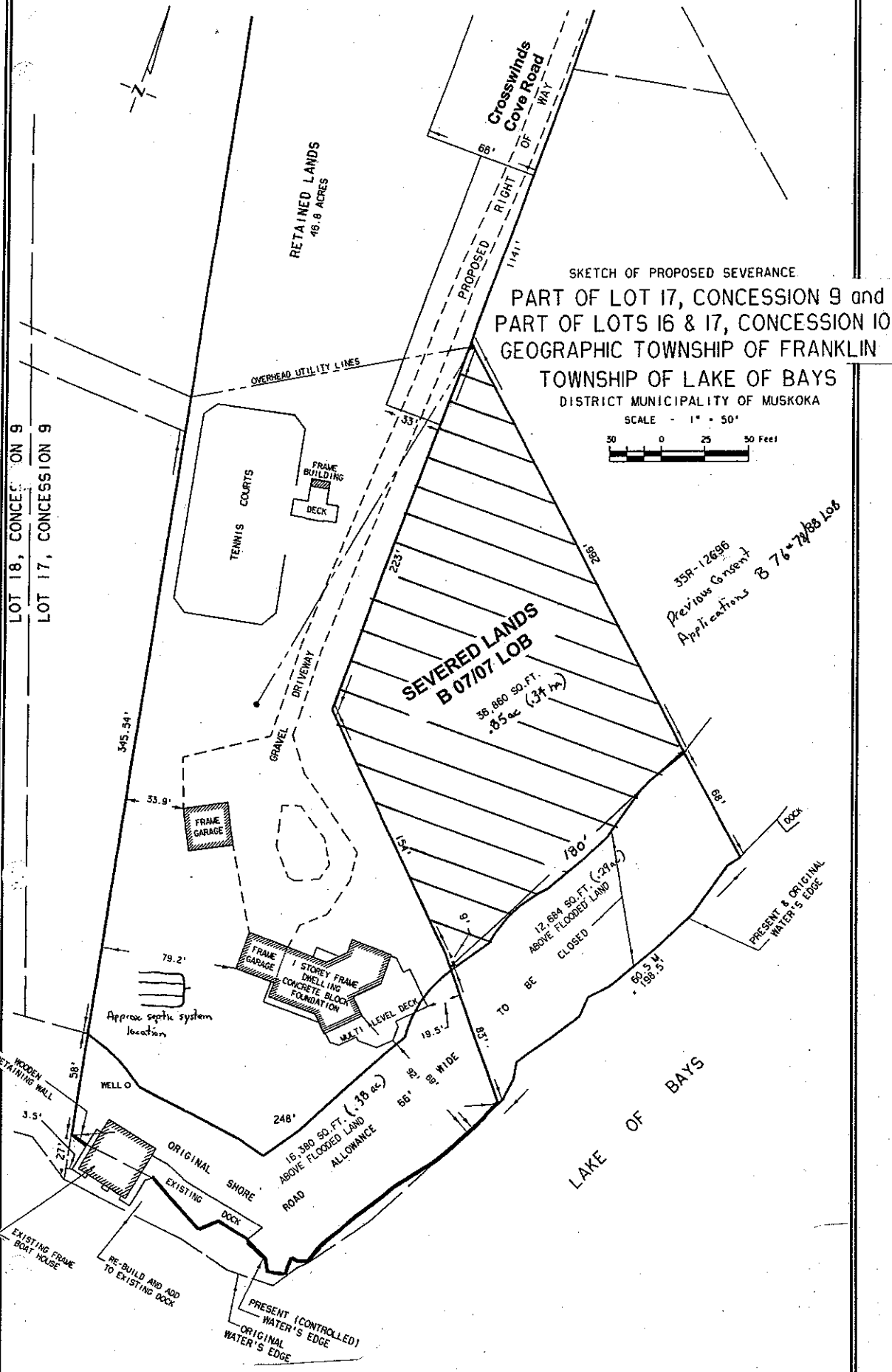
Fax: (705) 789-9242

Drawn by: R.M.

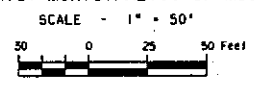
File: 7419SEV2

Plan: 1-FR-9-21

CONSENT APPLICATION B 07/07 LOB  
Applicants: Peter & Virginia Dymott  
Part Lot 17, Concession 9, Franklin Ward



SKETCH OF PROPOSED SEVERANCE  
PART OF LOT 17, CONCESSION 9 and  
PART OF LOTS 16 & 17, CONCESSION 10  
GEOGRAPHIC TOWNSHIP OF FRANKLIN  
TOWNSHIP OF LAKE OF BAYS  
DISTRICT MUNICIPALITY OF MUSKOKA



35R-12696  
Previous Consent  
Applications B 76-77/88 Lob