

**THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS**



**REPORT**

**TO: Mayor & Members of Council**  
**FROM: Stefan Szczerbak, Planner**  
**DATE: May 26<sup>th</sup>, 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 deferred to the June 23<sup>rd</sup>, 2009 meeting of Council at the request of the applicant. This deferral will permit additional time for the applicant and their consultants to consider the relocation of the structure 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.

**ANALYSIS:**

**Development Considerations**

At their previous meeting, members of Council decided to defer making a decision on this matter to allow the applicant with additional time to consider a relocated structure 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. A copy of the previous staff report is included for information.

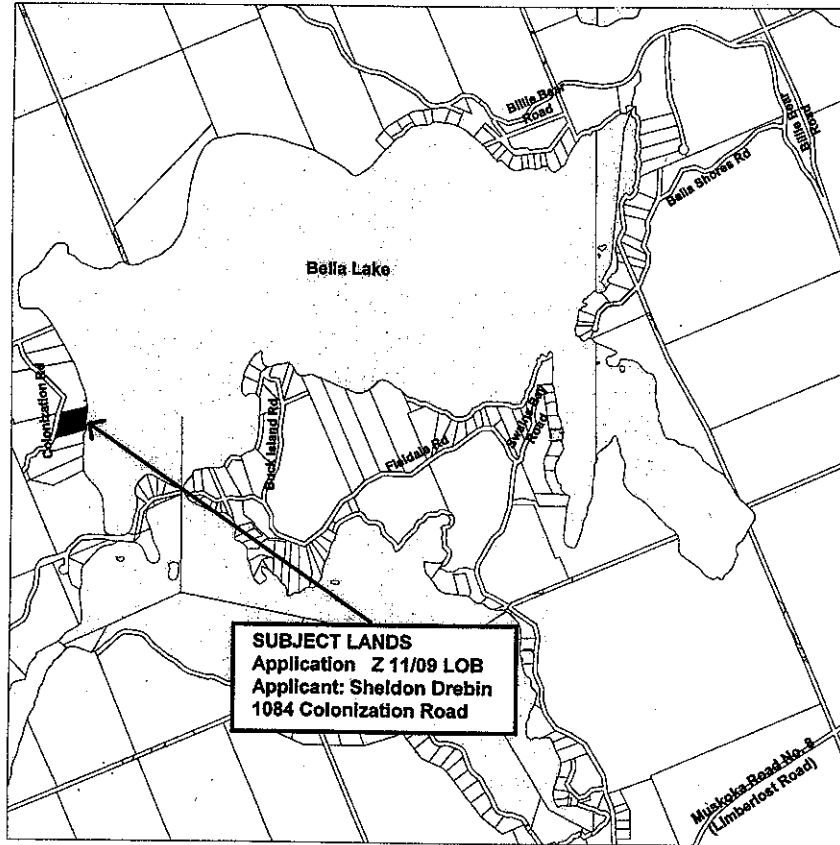
Since that time, the applicant's agent has indicated that additional information is forthcoming and has thereby requested a further deferral to consider Council's previous recommendation. Staff have no concerns with their request.

Respectfully submitted by,

A handwritten signature in black ink, appearing to read "Stefan Szczerbak", written over a horizontal line.

Stefan Szczerbak, M.Sc, RPP, MCIP  
Planner

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





## Stefan Szczerbak

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**From:** Marie Poirier Planning [marie@mpplanning.com]  
**Sent:** May 14, 2009 9:20 AM  
**To:** Stefan Szczerbak  
**Cc:** 'Gary Hall'; 'Dan Duke'  
**Subject:** Drebin

Good Morning Stefan:

Further to our conversation regarding the Drebin property, this will confirm that I had a site meeting this week with Garry Hall, and Dan Duke, P.Eng, to discuss options for moving the structure to locations to the rear of the existing dwelling.

Dan Duke is preparing an analysis of various options identified by you during your site inspection of Thursday, April 23 and relayed to me in a telephone conversation dated that same day wherein you advised you had just visited the site and were going to write a report recommending a deferral on this basis.

That being said, I confirm what I relayed to you verbally yesterday, that there would be a substantial amount of site alteration (tree removal and blasting) in order to move the structure. It would have to be moved by a crane, and the introduction of such heavy equipment to this site given its topography and vegetation cover would have implications to the Township's policies, far more reaching than permitting the structure to remain in its current location. Mr. Duke will go into greater detail in his report.

Mr. Duke will also prepare a site analysis with respect to permitting the structure to remain in its current location.

We are hoping to have these reports to you by mid week (next week) so that they can be appended to the Council agenda next Thursday. If we find by that time the reports cannot be completed we will advise you so that the matter can be deferred to the June meeting.

If you require anything further, please do not hesitate to contact me.

Kindest regards,

Marie

Marie Poirier, B.Sc., MCIP, RPP

Marie Poirier Planning & Associates  
P.O. Box 216  
2-25846 Highway 35  
Dwight, On POA 1H0  
Office: 705.635.9860  
Fax: 705.635.9768  
Email: marie@mpplanning.com

**J. David Burgess, P.Eng.** RECEIVED MAY 20 2009  
1472 Fieldale Road, RR # 4  
Huntsville, ON P1H 2J6  
Tel: 705-635-3263 Fax: 705-635-2054



May 19<sup>th</sup>, 2009

Stefan Szczerbak, M.Sc, RPP, MCIP  
Planner  
Township of Lake of Bays  
1012 Dwight Beach Road  
RR # 1  
Dwight, ON P0A 1H0

Dear Mr. Szczerbak,

**Re: Development Permit By-Law Amendment Application: Z11/09 LOB (Drebin)  
1084 Colonization Road**

Thank you for the recently received Notice concerning the above noted application.

I have been both a seasonal and full-time resident of Bella Lake since the early 1950's and have knowledge of the above noted property since my brother originally developed it. He constructed a year-round residence, dock and other structures on the subject property prior to the formation of the Muskoka District government in 1971.

While the land currently owned by Mr. Drebin is over 5 acres and has approximately 580 feet of shoreline on Bella Lake, building on this parcel has always been somewhat limited by rocky outcroppings and steep slopes.

The existing Drebin cottage and bunkie blend in well and have considerable architectural merit. The structures are certainly consistent with development in the area.

By way of this letter I wish to express my support of the Drebin Application.

It would be appreciated if you could forward this letter of support to the Mayor and Council. Thank you for your assistance.

Yours truly,



J. David Burgess, B.A.Sc., P.Eng.

**Stefan Szczerbak**

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**From:** Bob Hutcheson [bobh@vianet.ca]  
**Sent:** May 21, 2009 3:43 AM  
**To:** Stefan Szczerbak  
**Subject:** Drebin Property

Please circulate this letter before the meeting to be used in the meeting re this property on May 26th.

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**Township of Lake of Bays  
1014 Dwight Beach Road  
Dwight ON P0A 1H0**

**Attention: Mayor Peake and Council  
Planning Department**

**Dear Madame/Sir:**

**Subject: Drebin Planning Application Z 11/09  
1084 Colonization Road – Bella Lake**

**We are neighbours of Shelley Drebin. We are aware that there is a bunkie on the property attached to the old sauna that does not meet the by-law requirement for minimum distance setback from the water, and that it is a few square feet bigger than the by-law requires.**

**We do not see any impact to the Lake, or views, or our privacy or to the environment by letting the Bunkie stay. It isn't hurting anything and if moved, we then might be able to see it over the trees and we would prefer not to see it attached to the house which they could legally do. Right now it is hidden and we can't see or hear anybody Steeven using the Bunkie.**

**We believe everything is best just left the way it is.**

**Sincerely,**

**Bob Hutcheson**

21/05/2009

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 26<sup>th</sup>, 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 m<sup>2</sup> (581 ft<sup>2</sup>), and the cabin has a floor area of 55.89 m<sup>2</sup> (602 ft<sup>2</sup>), 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 m<sup>2</sup> (581 ft<sup>2</sup>) to 55.89 m<sup>2</sup> (602 ft<sup>2</sup>); 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:**

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

**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.

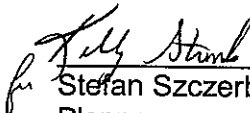
### **Septic**

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,

  
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Stefan Szczerbak, M.Sc, RPP, MCIP  
Planner