

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



TO: Members of the Committee of Adjustment
FROM: Kelly Stronks, Planning Technician
DATE: May 26th, 2009
RE: Consent
Application: B 26/08 LOB (Ross)
Applicant: Ruth Linda Ross
Part Lot 16, Conc. 9, Franklin Ward, on Lake of Bays
Roll Nos. 010-009-02100, 02200, 02400 & 03201
1059-2 Crosswinds Cove Road East
Agent: Wayne Simpson & Associates

RECOMMENDATION:

That the request to amend the boundaries of the proposed severed lands for consent application **B 26/08 LOB (Ross)** such that a portion of the proposed right-of-way not be incorporated into the severed lands, be **DENIED**, as the proposal does not conform to Section J.35 of the Township Official Plan, and the inclusion of the right-of-way more closely reflects the lot dimensions and configuration that were approved by the Committee of Adjustment in the Provisional Decision for consent application **B 26/08 LOB**.

However, should Committee wish to give further consideration to this file, the following resolution should be passed:

"WHEREAS Section 53(23) of the Planning Act RSO 1990, c.P.13 permits the Committee to change or clarify the intent of any conditions of a Provisional Consent;

AND WHEREAS in the matter of **B 26/08 LOB**, the applicant wishes to amend the approved sketch such that the proposed right-of-way which forms a portion of the westerly boundary of the severed lot (Parts 8 & 12 on Plan 35R-21559), not be included in the severed lot for consent application **B 26/08 LOB**, and instead be included in the retained lands;

AND WHEREAS the Committee is satisfied that the proposal still conforms to the general intent and purpose of the Township's Official Plan;

NOW THEREFORE the Committee hereby approves said request to exclude the right-of-way from the severed lot and include it in the retained lands instead, and that the severed lot shall be comprised of Parts 7, 9, 10, 11 and 15 on Plan 35R-21559.

AND FURTHER, pursuant to Section 53(26) of the Planning Act, R.S.O. 1990, c.P.13, as amended, the change is deemed minor in nature and no written notice is necessary, as required under Section 53(24) of the Planning Act, R.S.O. 1990, c.P.13, as amended."

ORIGIN:

On October 21st, 2008, Committee provisionally approved consent applications **B 26 & 27/08 LOB** to allow the creation of two new residential building lots fronting on Lake of Bays. Attached to this report is a copy of the original staff report and sketch.

Mr. Lanny Dennis, the applicant's agent, has requested that the proposed severed lot for consent application **B 26/08 LOB** be comprised of Parts 7, 9, 10, 11 and 15 on Plan 35R-21559. This description does not include a proposed right-of-way which forms the westerly boundary of the severed lot, being Parts 8 and 12 on Plan 35R-21559. The right-of-way is proposed to remain with the retained lands.

In reviewing the sketch, staff noted that although the right-of-way shown on the sketch approved by Committee is located on the retained lot and outside of the boundaries of the severed lot, the sketch is also clear in showing that there is no jog in the westerly side lot line, which would be the case if Parts 8 and 12 were not to be included in the severed lands. In addition, the sketch shows the width at the rear of the lot as 194 ft, and the width of the lot without Parts 8 and 12 is only 164 ft. It also appears that the proposed right-of-way to the severed lands of **B 27/08 LOB** (Parts 10 and 12 on Plan 35R-21559) is in a different location than shown on the approved sketch, and that the easterly side lot line on the survey is angled as it gets close to the water's edge. Accordingly, staff are bringing this matter to Committee for clarification and direction.

ANALYSIS:

Section J.35 of the Township's Official Plan states that the size, shape, dimension, and orientation of any lot will be appropriate to: a) the use proposed; b) the character of the area or the specific site; and c) the configuration and orientation of abutting parcels or buildings or structures. Section J.36 further states that the configuration of any lot will take into account the lot pattern in the area and abutting properties so that it will not result in conflicts. In this instance, the configuration of the severed lot as originally approved by Committee and shown on the approved sketch, without a jog along the westerly lot line, is in accordance with these policies.

With respect to the applicant's preference that the right-of-way not be included in the severed lands, staff wish to point out that access to the retained lands will not be affected, as the right-of-way over the severed lot would convey a legal means to access the applicant's dwelling that is located on the retained lands southwest of the severed lot.


Given the above, staff are of the opinion that it is important to maintain the configuration of the severed lot as originally approved by Committee in order to be consistent with lot configurations in the area and to maintain a rear lot line distance that is close to what was originally approved.

Respectfully submitted by:

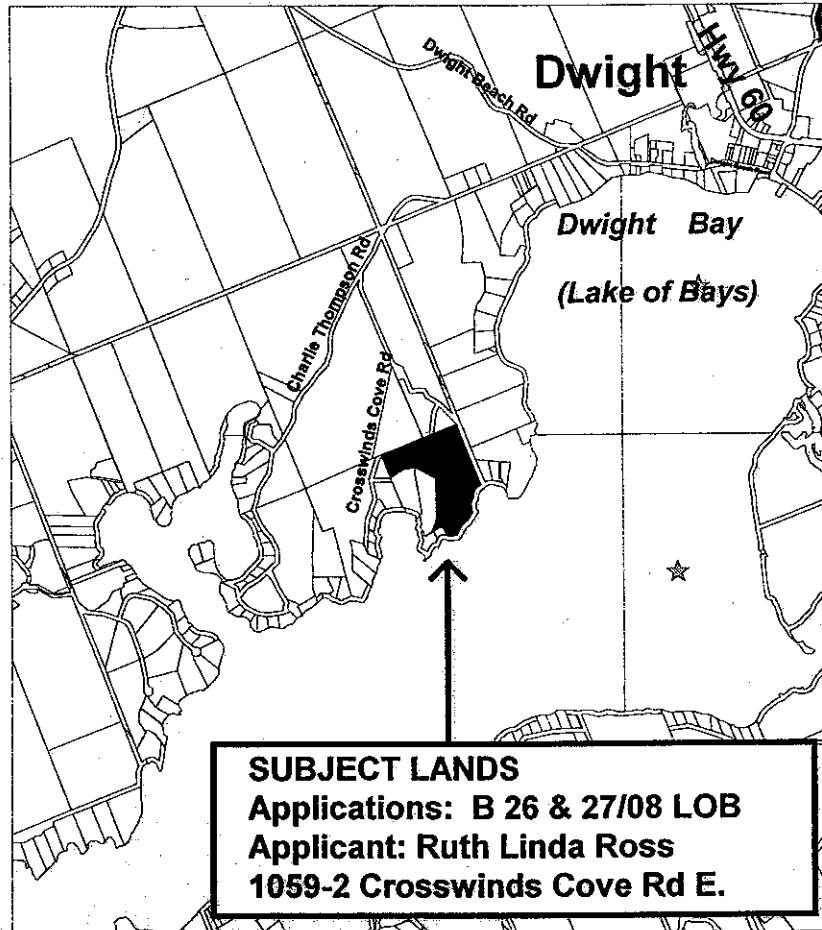
With the concurrence of:



Kelly Stronks, CPT
Planning Technician



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



ORIGINAL 66' ROAD ALLOWANCE
 BETWEEN LOTS 15 AND 16

478.85
 502.2

LOT 16

LOT 13

LOT 9

LOT 11

LOT 10

LOT 8

LOT 7

LOT 6

LOT 5

LOT 4

LOT 3

LOT 2

LOT 1

LOT 12

LOT 11

LOT 10

LOT 9

LOT 8

LOT 7

LOT 6

LOT 5

LOT 4

LOT 3

LOT 2

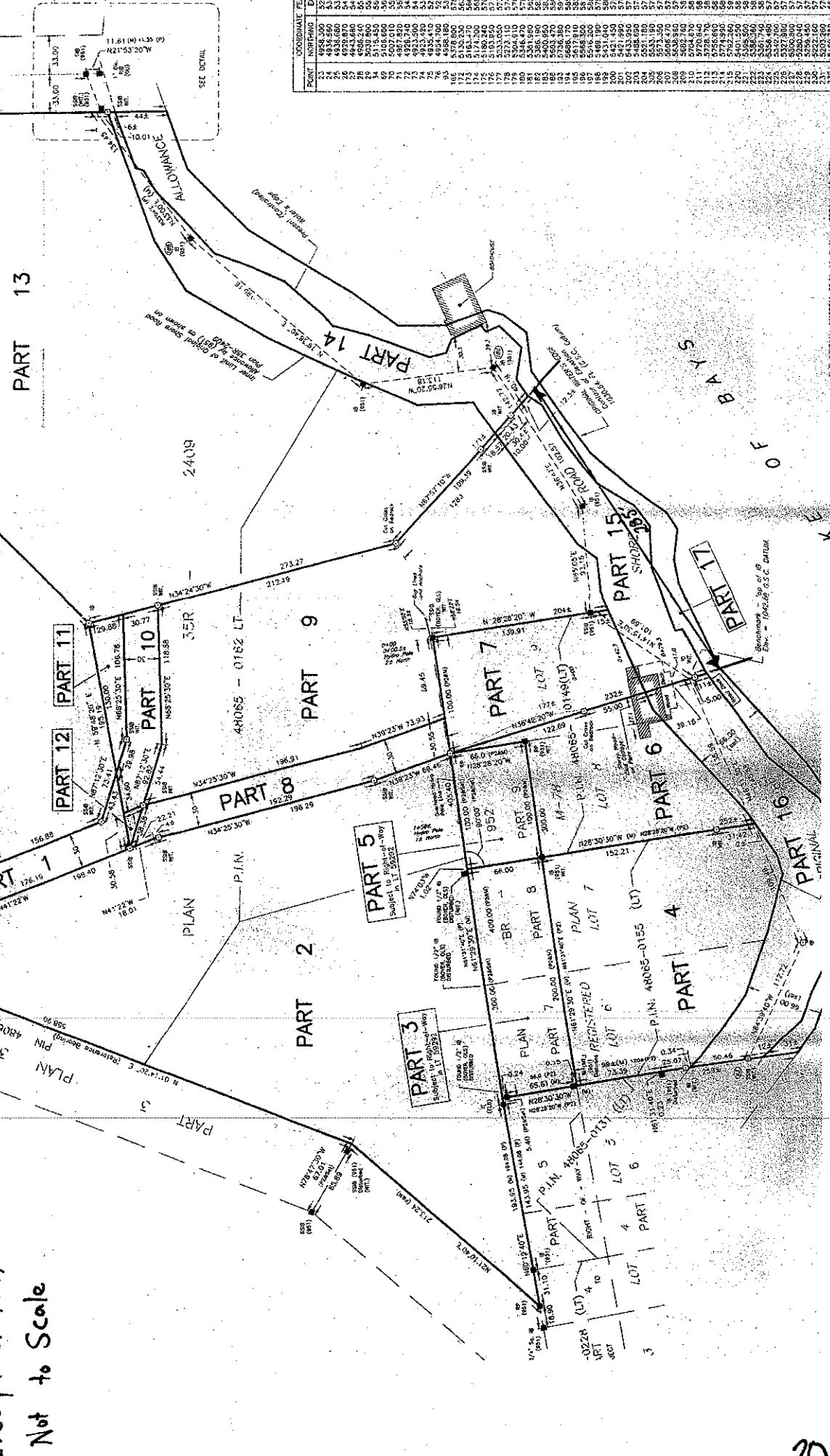
LOT 1

LOT 12

LOT 11

LOT 10

LOT 9

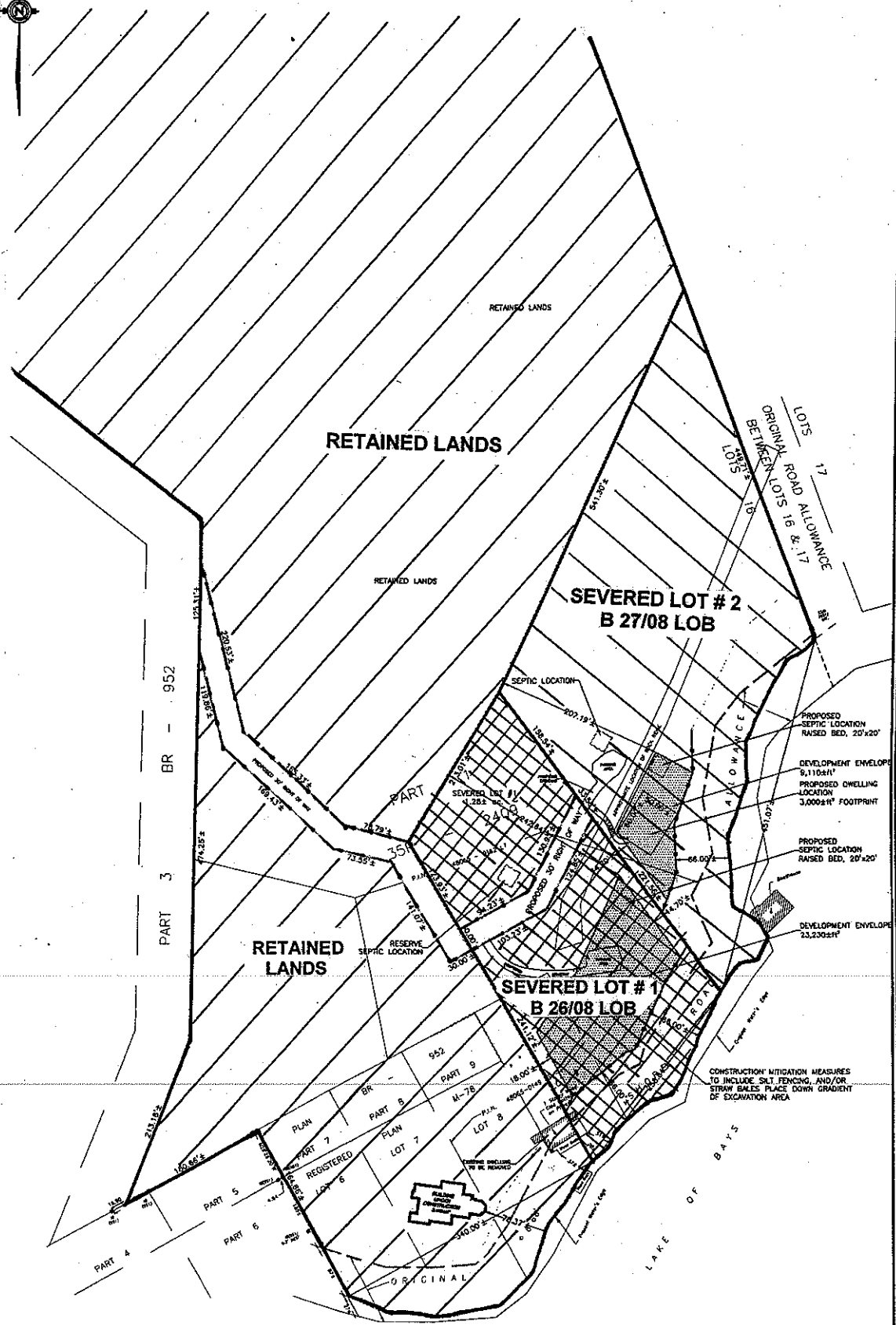


POINT	NORTHING	EASTING
1	4835.850	3.2
2	4835.850	3.2
3	4835.850	3.2
4	4835.850	3.2
5	4835.850	3.2
6	4835.850	3.2
7	4835.850	3.2
8	4835.850	3.2
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12	4835.850	3.2
13	4835.850	3.2
14	4835.850	3.2
15	4835.850	3.2
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19	4835.850	3.2
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96	4835.850	3.2
97	4835.850	3.2
98	4835.850	3.2
99	4835.850	3.2
100	4835.850	3.2

Excerpt of Plan 35R-21559
 Not to Scale



CONSENT APPLICATIONS B 26 & 27/08 LOB
 Owner: Ruth Linda Ross
 Part Lot 16, Concession 9, Franklin Ward



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: October 21st, 2008
RE: Consent
Applications: B 26 & 27/08 LOB (Ross)
Applicant: Ruth Linda Ross
Part Lot 16, Conc. 9, Franklin Ward
Roll Nos. 010-009-02100, 02200, 02400 & 03201
1059-2 Crosswinds Cove Road East
Agent: Wayne Simpson & Associates

COPY

RECOMMENDATION:

That application **B 26/08 LOB (Ross)** be **APPROVED** subject to the following conditions:

- (1) A registrable description of the severed lot and all applicable rights-of-way be submitted to the Secretary-Treasurer, along with two registered copies of the reference plan.
- (2) That the Applicant enter into an Agreement with the Township of Lake of Bays under Section 51(26) of the Planning Act and this Agreement be registered on the title of the severed lot. The Agreement shall implement the findings of the Site Inspection and Safety Report completed by Geo-Logic Inc. dated September 19th, 2005 and the addendum letter dated March 21st, 2006, and that development be in accordance with the sketch prepared by Wayne Simpson & Associates dated June 15, 2005 which shows construction mitigation measures, etc. The Agreement shall also state that a Development Permit is required prior to development, site alteration and vegetation removal on the lands, or issuance of a building permit;
- (3) Cash in lieu of parkland dedication to be paid to the Township of Lake of Bays in the amount of \$4,169.55.

That application **B 27/08 LOB** be **APPROVED**, subject to the following conditions:

- (1) That a registrable description of the severed lot and all applicable rights-of-way be submitted to the Secretary-Treasurer, along with two registered copies of the reference plan;
- (2) That the Applicant enter into an Agreement with the Township of Lake of Bays under Section 51(26) of the Planning Act and this Agreement be registered on the title of the severed lot. The Agreement shall implement the findings of the Site Inspection and Safety Report completed by Geo-Logic Inc. dated September 19th, 2005 and the addendum letter dated March 21st, 2006, and that development be in accordance with the sketch prepared by Wayne Simpson & Associates dated June 15, 2005 which shows construction mitigation measures, etc. The Agreement shall also state that a Development Permit is required prior to development, site alteration and vegetation removal on the lands, or issuance of a building permit;
- (3) Cash in lieu of parkland dedication to be paid to the Township of Lake of Bays in the amount of \$7,472.70.

ORIGIN:

Consent applications **B 26 & 27/08 LOB** have been submitted by Ruth Linda Ross, 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 16, Concession 9, in the former Township of Franklin (Roll Nos. 010-009-02100, 02200, 02400 (Lots 8 & 9) & 03201), on Lake of Bays, at 1059-2 Crosswinds Cove Road East.

A similar proposal was approved by the Committee of Adjustment under Files **B 22 & 23/05 LOB**. As the conditions of the approvals were not fulfilled within the one year time frame, the approvals lapsed.

The retained lands are currently developed with a new single family dwelling under construction that will replace the existing dwelling, as well as a boathouse. Severed lot # 1 is vacant, while lot # 2 contains a boathouse. The owner wishes to sever the subject lands and create two new residential building lots as follows:

	Lot Area		Frontage on Lake of Bays	
	ha	ac	m	ft
Severed Lot #1 B 26/08 LOB	0.87	2.14	79	285
Severed Lot #2 B 27/08 LOB	1.54	3.81	122	400
Retained Lot	10.3	25	100	330
Total Property	12.7	31.4	301	987

The severed lots will be accessed from Crosswinds Cove Road East, with provisions for rights-of-way across the severed and retained lands.

BACKGROUND:

Previous Files:	<ul style="list-style-type: none"> • Consent Applications B 22 & 23/05 LOB • Deeming By-law F 01/06 LOB (By-law 06-63)
Natural Constraints:	<ul style="list-style-type: none"> • Slopes ranging from 30% to 40% • Deer wintering habitat
Lake Phosphorous Sensitivity	<ul style="list-style-type: none"> • Moderate sensitivity to phosphorous
LOB Official Plan:	<ul style="list-style-type: none"> • Retained Lands: Waterfront & Rural • Severed Lands: Waterfront
District Official Plan:	<ul style="list-style-type: none"> • Retained Lands: Waterfront & Rural • Severed Lands: Waterfront
LOB By-law 04-180	<ul style="list-style-type: none"> • Severed Lands & Portion of Retained Lands: Waterfront Residential "(WR)" Development Permit Area
LOB By-law 04-181	<ul style="list-style-type: none"> • Portion of Retained Lands: Rural "(RU)" Zone
OSRA Status:	<ul style="list-style-type: none"> • Closed by By-law 07-63 attached to Inst. MT33381

Site Characteristics:

The subject lands have varying topography, from some flat areas to steep slopes and rock escarpments. The retained lands are being developed with a new single family dwelling, and once finished the old dwelling will be demolished. A dock is also located in this vicinity. The property generally slopes towards the water where it slopes steeply from the old dwelling to the water's edge.

Proposed Lot # 1 contains the start of an escarpment feature which traverses the midway point of the property. It is on top of this feature where the lands eventually level out to a plateau which contains smaller rock outcroppings which is indicative of shallow soils. This lot also contains a portion of the old dwelling.

Proposed Lot # 2 also contains the escarpment feature which runs parallel to the shoreline. The lands include a plateau, high above the water's edge, which also contains smaller rock outcroppings which are indicative of shallow soils. and an increased setback will be required when the building envelope is identified. This lot contains an existing boathouse.

An engineering report prepared for the property has found that building envelopes exist at the base of the plateau for both severed lots, and that suitable areas exist for septic systems. A parking area is proposed for the top of the plateau on severed lot # 2, however access to the shoreline may require an engineered set of stairs to get to the proposed building envelope at the base of the escarpment.

Surrounding Uses:

The surrounding lands contain low density residential uses.

ANALYSIS:

Committee may recall approving consent applications **B 22/05 LOB** and **B 23/05 LOB** on March 28th, 2006. A copy of our previous planning report, as well as Committee's decisions, are attached for reference. Although several of the conditions of the provisional decisions were fulfilled (including providing a registered plan, as well as the registering of a deeming by-law), the applicant failed to fulfill the conditions requiring the closure of the original shore road allowance and the registration of a 51(26) agreement on title. As these conditions were not fulfilled within the required one year time frame of the Planning Act, Committee's approval of the applications lapsed. Accordingly, this application is a resubmission of the previous proposal.

The subject applications will have the effect of creating two new residential building lots, together with a 30 ft wide right-of-way that will provide for access to the retained lands as well as severed lots 1 and 2.

Terrain

Committee may recall that Schedule D1 "Terrain" of the Township's Official Plan revealed that the two proposed lots contain steep slopes ranging from 30 to 40%. As part of the review of the original applications, **B 22 & 23/05 LOB**, the applicant was required to submit a site evaluation report from a qualified professional engineer, as they indicated that they wished to locate a building envelope below the escarpment on proposed lot 1. This report was required to ensure that development of the lot would be carefully undertaken, such that there would be no substantial alteration of the landscape, thereby ensuring that there would be no subsequent erosion, slope instability, or increased stormwater runoff into the adjacent water body. In addition, the report addressed the visual impact of the location of buildings and structures on the proposed lot. The report was prepared by Geo-Logic Inc. and peer reviewed by Totten Sims Hubicki Associates, who found that the locations of the building and septic envelopes proposed in the agent's sketch were the most desirable and

aesthetically pleasing. These locations are shown in the sketch for the current consent applications.

In order to ensure that the recommendations of the site evaluation reports are implemented during the development of the proposed lots, it is recommended that a Section 51(26) Agreement be entered into and registered on the title of the property.

Original Shore Road Allowance

Since the time that the previous applications have lapsed, the applicant has completed the closure of the Original Shore Road Allowance, and therefore this is no longer required as a condition.

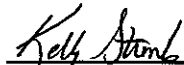
Cash-in-lieu of Parkland

As part of the fulfillment of the conditions of the provisional approvals for the previous severance applications, the applicant paid the cash-in-lieu of parkland values that were required, being \$5,782.20 and \$3,384.35 respectively, totaling \$9,166.55. Since that time, the value of the property has increased, and the amounts are now \$4,169.55 and \$7,472.70, totaling \$11,642.25, resulting in a difference of \$2,475.70. Although the recommended conditions each specify the full amount, staff will take into account the amount that has already been paid.

Summary

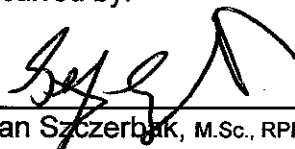
As staff were supportive of the original application, staff continue to have no concerns with the approval of this application, subject to the conditions outlined earlier in this report.

Respectfully submitted by:



Kelly Stronks, CPT
Planning Technician

Concurred by:



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