

THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS



REPORT

TO: Mayor & Members of Council
FROM: Terri-Lyn Magee, Planning Technician
DATE: October 27th, 2009

RE: DEVELOPMENT PERMIT APPLICATION: DP 74/09 LOB
Applicant: Bruno Ciccotelli
Part Lot 5, Concession 7, McLean Ward
Roll No. 040-005-05400
Civic Address: 1025 McCabe Road

RECOMMENDATION:

That Council pass the following resolution to **APPROVE** Development Permit Application **DP 74/09 LOB (Ciccotelli)**:

WHEREAS the applicant has submitted Development Permit Application **DP 74/09 LOB (Ciccotelli)** in order to seek relief from:

- i) Section 4.39 (Addition to a legal, non-complying structure located within the shoreline yard resulting in exceeding the height of the original structure [i.e. the deck]); and
- ii) Section 5.1.1 (d) (Minimum Shoreline Yard Setback), decrease from the required 20 metres (65.6 feet) to 15.1 metres (49.7 feet)

of Development Permit By-law 04-180, in order to permit the existing, non-complying shoreline yard setback and enclosure of an open deck of 10 ft x 24 ft fronting the existing dwelling, located in Pt. Lot 5, Conc. 7, McLean Ward, on Echo Lake (Ciccotelli) (1025 McCabe Road) (McLean) (0400-005-05400);

AND WHEREAS a shoreline activity area has not been identified in order to prevent the removal of any shoreline vegetation without further approval under By-law 04-180;

AND WHEREAS the Council of the Corporation of the Township of Lake of Bays considers the notice of this application to be sufficient;

NOW BE IT RESOLVED THAT the Council of the Corporation of the Township of Lake of Bays is satisfied that the criteria as outlined in Schedule C of the Development Permit By-law has been fulfilled, and hereby **APPROVES** the proposal in accordance with the attached sketch subject to the following conditions:

1. That the works be carried out in accordance with plans submitted: September 25th, 2009 and marked: **DP 74/09 LOB**;

2. That the permission granted herein shall lapse two years from the start date of construction/development, unless the work for which the permission has been given has been completed. If the works have not been completed by the aforementioned date, an extension to this condition may be required and all on-going and future work must cease until an extension to this permit or a new development permit is obtained. What shall be deemed as "complete" is within the sole discretion of the Township of Lake of Bays;
3. That the Township of Lake of Bays be notified 48 hours prior to the commencement of any works and be notified of the completion of the project;
4. All lighting facilities shall be directed downwards and be required to minimize the impact on lake views, night skies and environmental features; and
5. That a shoreline buffer shall be established and maintained abutting any portion of a shoreline that does not form part of the shoreline activity area. A shoreline buffer shall be a minimum of 15 metres (49.2 ft) in depth measured inland from ordinary water's edge, unless otherwise specified in this by-law. All other provisions of the By-law must be complied with.

ORIGIN & DESCRIPTION:

Staff reviewed and rendered application **DP 74/09 LOB**, received from Mr. Bruno Ciccotelli to be complete on October 13th, 2009. The lands subject of this application are currently located within the "**Waterfront**" designation and more specifically within the "**Waterfront Residential (WR)**" Development Permit Area and are developed with a single family dwelling with attached open deck, as well as a private cabin and floating dock. The applicant seeks relief from By-law No. 04-180 in order to enclose an existing open deck fronting his dwelling and which is to serve as a Muskoka Room. As the proposed area to be enclosed (240 ft²), will exceed the height of the existing legal, non-complying deck that is located within the required shoreline yard and whose setback, while approved under Minor Variance **A 29/93 LOB**, was approved without the benefit of a survey and where a distance of 18.8 metres (62 ft) was referenced, a Council Variation is required in order to exempt the following Sections of By-law 04-180:

- i) Section 4.39 (Addition to an existing, legal, non-complying structure located within the required shoreline yard resulting in exceeding the height of the original structure [i.e. the deck]); and
- ii) Section 5.1.1(d)(Minimum Shoreline Yard Setback), reduce from a required shoreline yard of 20 metres (65.6 ft) to 15.1 metres (49.7 ft) in order to recognize the corrected shoreline yard setback to the open deck.

Site Characteristics:

The lands, located at the most northwesterly extent of McCabe Road and almost entirely of Original Shore Road Allowance (which has been closed), are flat and slope gradually towards the water's edge. The shoreline yard is fairly well vegetated with mature vegetation such that the dwelling with attached deck, for the most part, blends into this existing vegetation.

Surrounding Uses:

The surrounding lands contain low density, residential uses.

ANALYSIS:

Applicable Official Plan Policies

Section D.12 of the Township Official Plan permits development on existing lots, provided it is setback a minimum of 20 metres from the water's edge. Where a lot is currently developed, Section D.14(c) permits additions to an existing dwelling where the water setbacks are not further reduced.

In this case and upon review of the applicant's plans, it has been identified that the attached deck onto the existing dwelling is actually located within the required 20 metre shoreline yard setback and closer too than that which had been approved under previous Minor Variance Application, **A 29/93 LOB**. This proposal has been submitted to cover the existing open deck to be used as a Muskoka Room and where the applicant is staying within the existing footprint and will not be encroaching further into the existing water setback.

Applicable Development Permit By-law Provisions

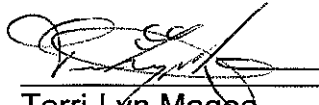
With respect to the appropriate provisions found within the Development Permit By-law, Section 4.39 requires the issuance of a Category 2 - Council Development Permit when considering an increase in height from an existing structure located within the applicable shoreline yard setback, which would also included the covering of an open deck within this yard. The purpose of this requirement is to assess the proposal in accordance with the appropriate Official Plan waterfront policies, in an effort to minimize the potential for any negative visual impacts when being viewed from the water's perspective (Sections D.10, H.18, H.19 and H.20). Schedule C of the By-law sets out the criteria for Council's consideration when varying the standards set out within the By-law.

Upon attending the site, it appears that the open deck, is generally buffered from the water's perspective along with the presence of buffering from the northeasterly side lot line. As a result, it would seem appropriate to conclude that the proposed construction would not likely present the potential for any negative visual impacts when being viewed off-site.

In terms of the septic system, it is our understanding that the proposed enclosed area, which is to serve as a Muskoka Room, will not necessitate a change to the existing design flow rate.


In view of the foregoing, in order to ensure this proposal continues to be buffered from the water's perspective, staff would recommend not identifying an applicable shoreline activity area, which would have the effect of ensuring that the existing shoreline vegetation will remain as an appropriate natural buffer. Therefore, as the proposal generally conforms to the intent and purpose of the Township Official Plan, staff have no concerns with Council's approval of this application.

Respectfully submitted by:

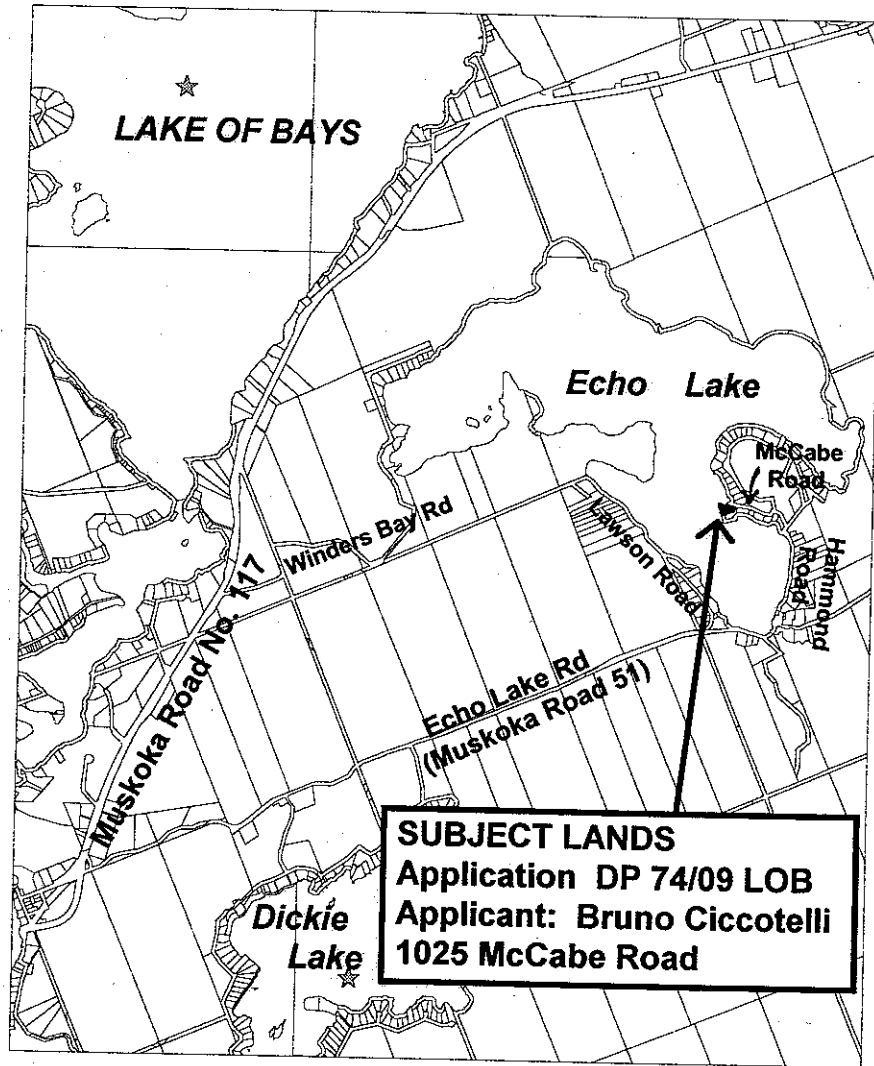


Terri-Lyn Magee
Planning Technician

With the concurrence of:



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

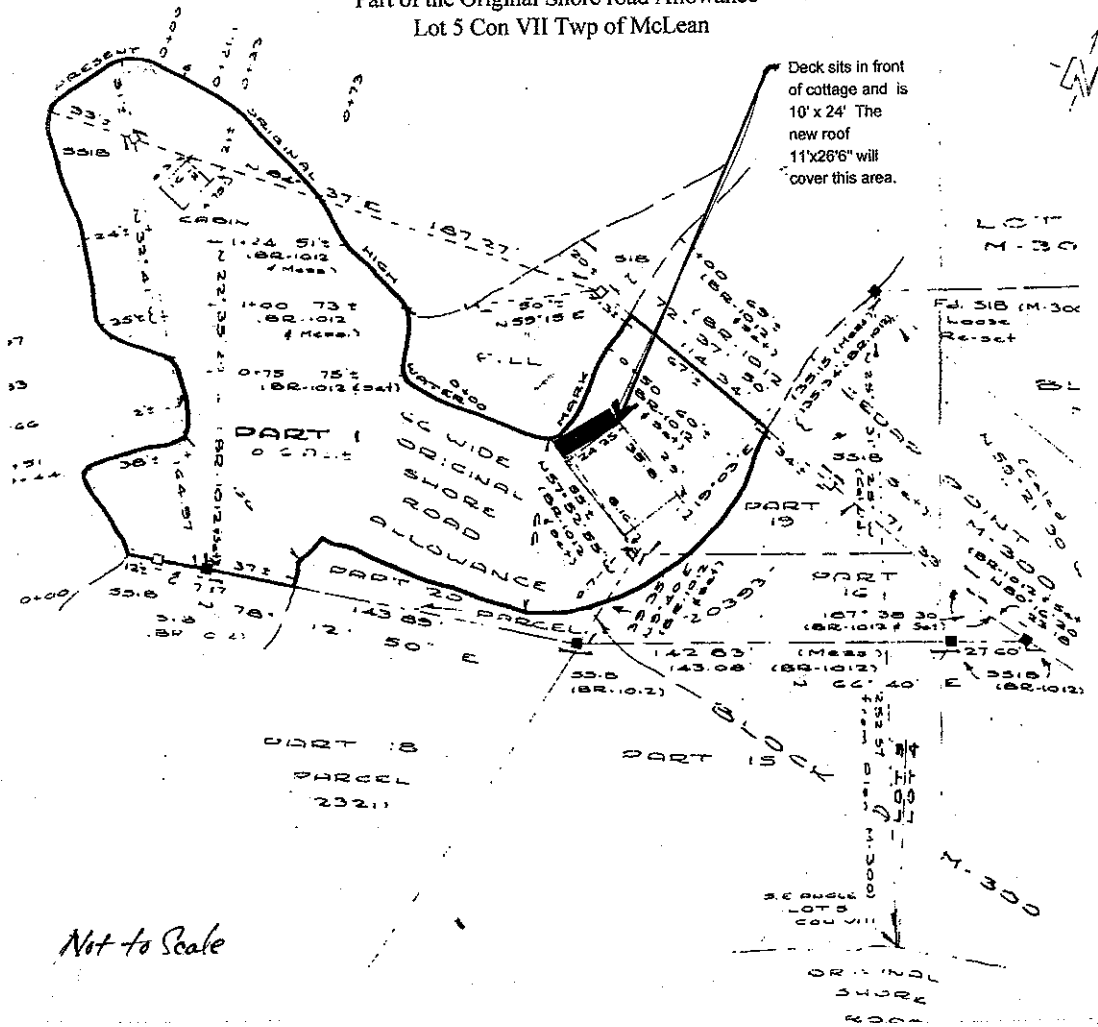


KEY MAP
APPLICATION DP 74/09 LOB
Applicant: Bruno Ciccotelli
Part Lot 5, Concession 7, McLean Ward

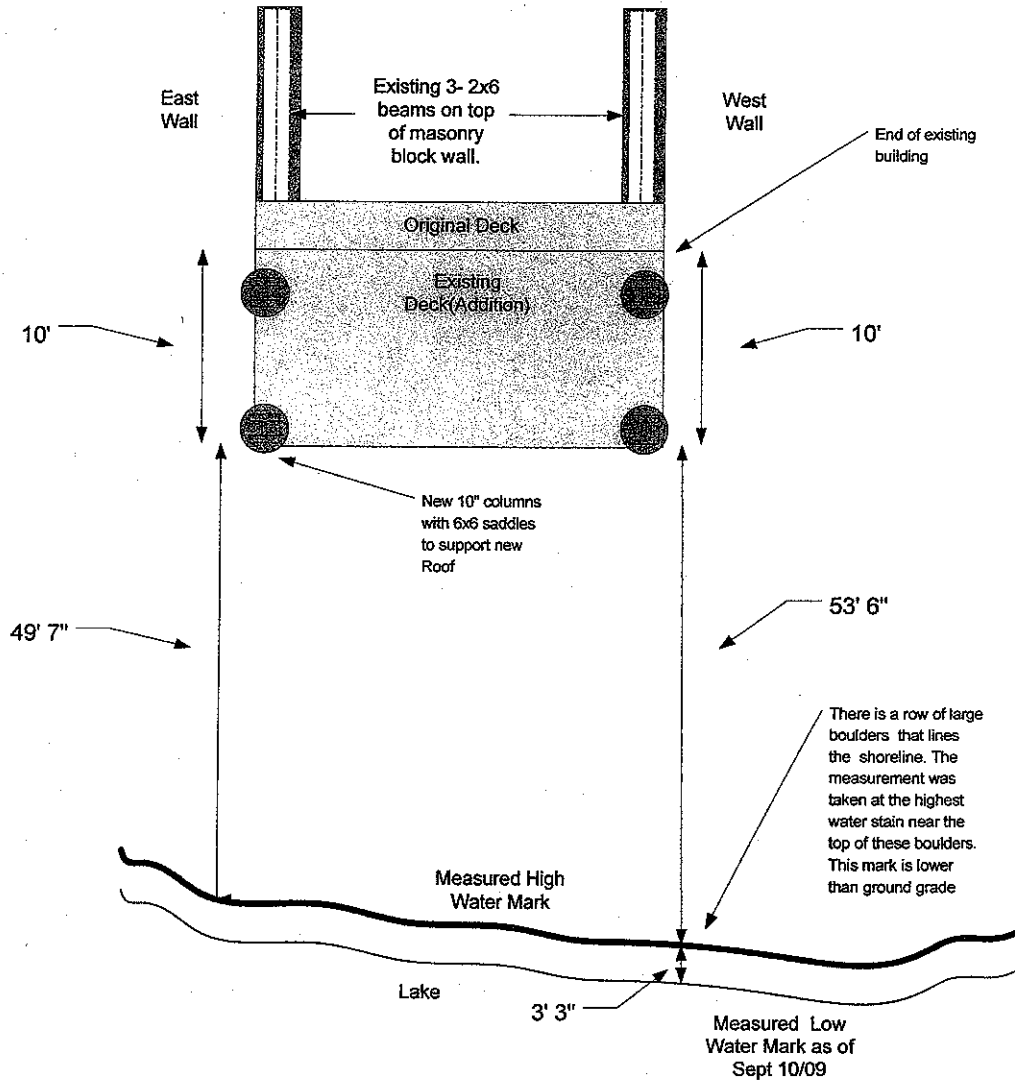
CAUTION:-
 THIS PLAN IS NOT A
 SUBSTITUTION OF THE
 ORIGINAL PLANNING ACT

ECIO
 LAKE

Scanned from:
 Plan 35R-9177 (Oct 20/83)
 Part of the Original Shore road Allowance
 Lot 5 Con VII Twp of McLean



KEY MAP
APPLICATION DP 74/09 LOB
Applicant: Bruno Ciccotelli
Part Lot 5, Concession 7, McLean Ward



Distance from Deck
to High Water Mark
at 1025 McCabe
Rd ; Echo Lake