

THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS



**REPORT**

**TO:** Mayor & Members of Council  
**FROM:** Stefan Szczerbak, Planner  
**DATE:** September 22, 2009  
**RE:** By-law Amendment Application:  
Z 23/09 LOB (Chen)  
Applicant: Richard Chen  
Agent: Lanny Dennis of Wayne Simpson & Associates  
Part Lots 7 & 8, Conc. 6, Franklin Ward  
Roll No. 010-018-00500  
1013 Birkendale Road

**RECOMMENDATION:**

That Application **Z 23/09 LOB (Chen)** for an amendment to Development Permit By-law No. 04-180, to fulfill a condition of Consent Application **B 28/08 LOB** for the creation of one new waterfront lot, be **APPROVED**, and that By-law 09-109 be given three readings.

**ORIGIN:**

The property is located within the "**Waterfront Residential (WR)**" Development Permit Area of By-law 04-180, while a portion of the shoreline is located within the "**Waterfront Environmental Protection One (WEP1)**" Development Permit Area. The applicant received approval to sever this property under Consent Application **B 28/08 LOB**, for the purpose of creating one new waterfront residential building lot. One of the conditions of the provisional consent approval was that the retained lands be re-designated in order to specify that shoreline structures be located outside of the "**WEP1**" designation, and address any deficiencies that may be noted. Therefore, this application will fulfill a condition of the provisional consent approval.

Accordingly, the purpose and effect of this by-law amendment will be to re-designate the retained lands of application **B 28/08 LOB** from the "**Waterfront Residential (WR)**" Development Permit Area to the "**Waterfront Residential with an Exception WR-E219**" Development Permit Area to seek relief from the requirements of By-law 04-180 as follows:

- 1) Specify that shoreline structures are to be located outside of the "**Waterfront Environmental Protection One (WEP1)**" Development Permit Area; and
- 2) Section 5.1.1(c) (Minimum Road Frontage on a provincial highway), reduce from the required 150 metres (492.1 ft) to 44.8 metres (157 ft).

The application was received on July 16, 2009 and deemed to be complete on September 2, 2009.

**BACKGROUND:**

Previous Files:	• Consent Application B 28/08 LOB (provisionally approved on November 25, 2008)
-----------------	---

<b>Natural Constraints:</b>	<ul style="list-style-type: none"> <li>• Deer wintering habitat on entire property</li> <li>• "Type 1" &amp; "Type 2" fish habitat</li> <li>• Narrow Waterbody</li> <li>• Private land pit located in close proximity to the subject property (source: Schedule E1)</li> <li>• Tertiary Aggregate Deposit located to the east of the subject property (source: Schedule E1)</li> <li>• Crown land pit/quarry located on Lot 5, Con. 5, approx. 1 km east of subject property (Roll No. 010-019-05000) (source: Schedule E1)</li> <li>• "Highway 35 Rockcut" ANSI (Area of Natural &amp; Scientific Interest) located in Lot 5, Con. 5, approx. 845 metres east of subject property (Roll No. 010-019-05000) (source: Schedule E1)</li> <li>• Locally significant wetland located approx. 76 metres north from closest point of subject property (DMM constraints mapping). The outlet of this wetland flows adjacent to the subject lands</li> </ul>
<b>Lake Phosphorous Sensitivity</b>	Moderate sensitivity to phosphorus.
<b>LOB Official Plan:</b>	Waterfront.
<b>District Official Plan:</b>	Waterfront.
<b>LOB By-law 04-180:</b>	"Waterfront Residential (WR)" Development Permit Area.
<b>OSRA:</b>	Closed by By-law 91-50, registered as Inst. 165863
<b>Heritage Information:</b>	None

**Site Characteristics:**

The severed lands front onto Lake of Bays and slope gently down towards the lake. This lot contains the existing dwelling and dock and has access directly off of Birkendale Road. The property is generally level and contains some mature natural vegetation along the shoreline. The area between the dwelling and the road appears to be an old field or lawn area that has regenerated to become a meadow.

The proposed retained lands are vacant and have frontage onto both Lake of Bays, as well as a watercourse/inlet that flows along the easterly boundary of the lands. The portion of the property fronting onto Lake of Bays is generally level and slopes gently down towards Lake of Bays. The land adjacent to the lake and inland contains a low lying area. The portion of the property that fronts onto the inlet contains a steep bank down to the watercourse. The shoreline areas of the property are well vegetated with natural vegetation, while the area in the central portion of the lot appears to be an old field or lawn area that has regenerated to become a meadow. There was evidence of the remains of two small cabins that existed on the property, as well as some old household debris that was associated with them.

**Surrounding Uses:**

The lands to the west and north contain low density residential uses. The lands to the east are designated as "Waterfront Resort Commercial" and were developed with the previous Birkendale resort, now known as Waldemar Chateau Estates.

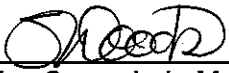
**ANALYSIS:**

Members of Council may be familiar with this property and will recall that staff were supportive of the proposal to create one new waterfront residential lot by way of Consent Application **B 28/08 LOB**. A copy of this staff report can be found on our website ([www.lakefbays.on.ca](http://www.lakefbays.on.ca)). This amendment application has been submitted to fulfil a condition of the approval for this related consent file.

Within the provisional decision pertaining to Consent Application **B 28/08 LOB**, Condition No. 2 requires that the severed lot be re-designated to a site specific amendment within Development Permit By-law No. 04-180 to only permit the construction of shoreline structures outside of the identified fish habitat area. In addition, it is noted that although this lot contains existing frontage onto Highway No. 35, the applicant has provided a right-of-way through the retained lands which will only be accessed from Birkendale Road. Therefore this By-law will contain a provision to recognize the deficient road frontage on Highway No. 35 in accordance with Section H.27 of the Township Official Plan and Section G.18 of the Muskoka Official Plan.

Accordingly, as this application has been submitted to fulfill a condition of provisional approval for the related consent file and as these applications generally meet the intent of the Township Official Plan, the Muskoka Official Plan and is consistent with the Provincial Policy Statements, staff have no concerns with the approval of this application and it is recommended that By-law 09-109 be given three readings at this time.

Respectfully submitted by:

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

**CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS  
BY-LAW 09-109**

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

**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 of Lots 6 & 7, Concession 6, Franklin 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-E219)**" Development Permit Areas, as shown on the attached Schedule "B".
2. Section 7 of By-law 04-180 be amended by the addition of the following:

**"WR-E219:**

On lands designated "WR-E219", as shown on Schedule "B" attached to By-law 09-109, 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:

- a) Notwithstanding any provisions within the Development Permit By-law No. 04-180, shoreline structures will not be permitted within the identified "Waterfront Environmental Protection One (WEP1)" Development Permit Area located adjacent to these lands.

- b) Substituted Development Permit Designation Provisions:

i) **MINIMUM ROAD FRONTAGE FOR NEW LOTS**

SITUATION	STANDARD	STAFF VARIATION	COUNCIL VARIATION
Lot on a provincial highway	44.8 metres	None	Any

3. Schedules "A" & "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 22<sup>nd</sup> day of September, 2009.**

\_\_\_\_\_  
Mayor

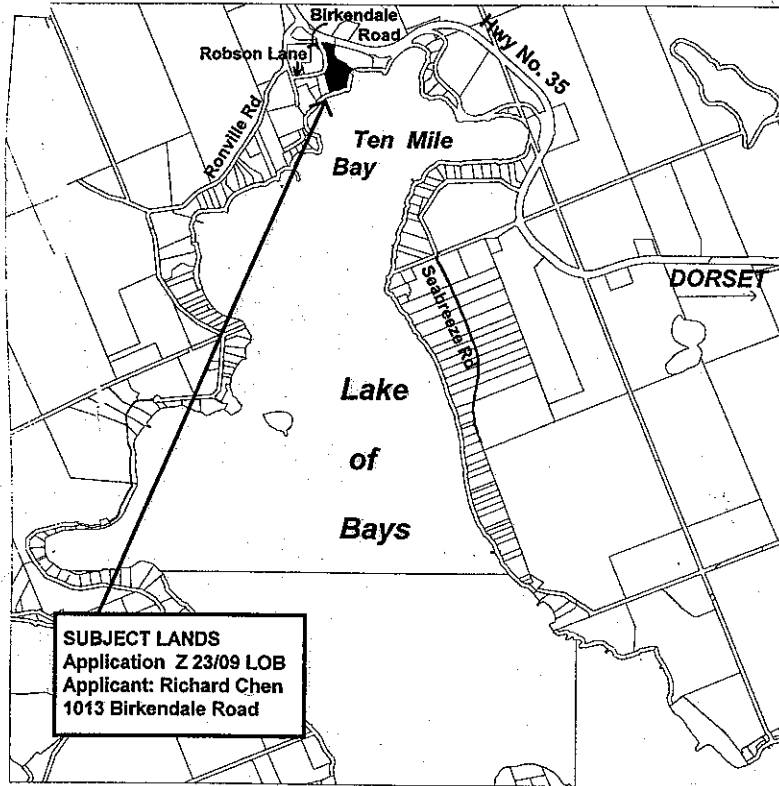
\_\_\_\_\_  
Deputy Clerk

**READ a THIRD time and finally passed this 22<sup>nd</sup> day of September, 2009.**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Deputy Clerk

**SCHEDULE "A"**  
**By-law Amendment No. 09-109**



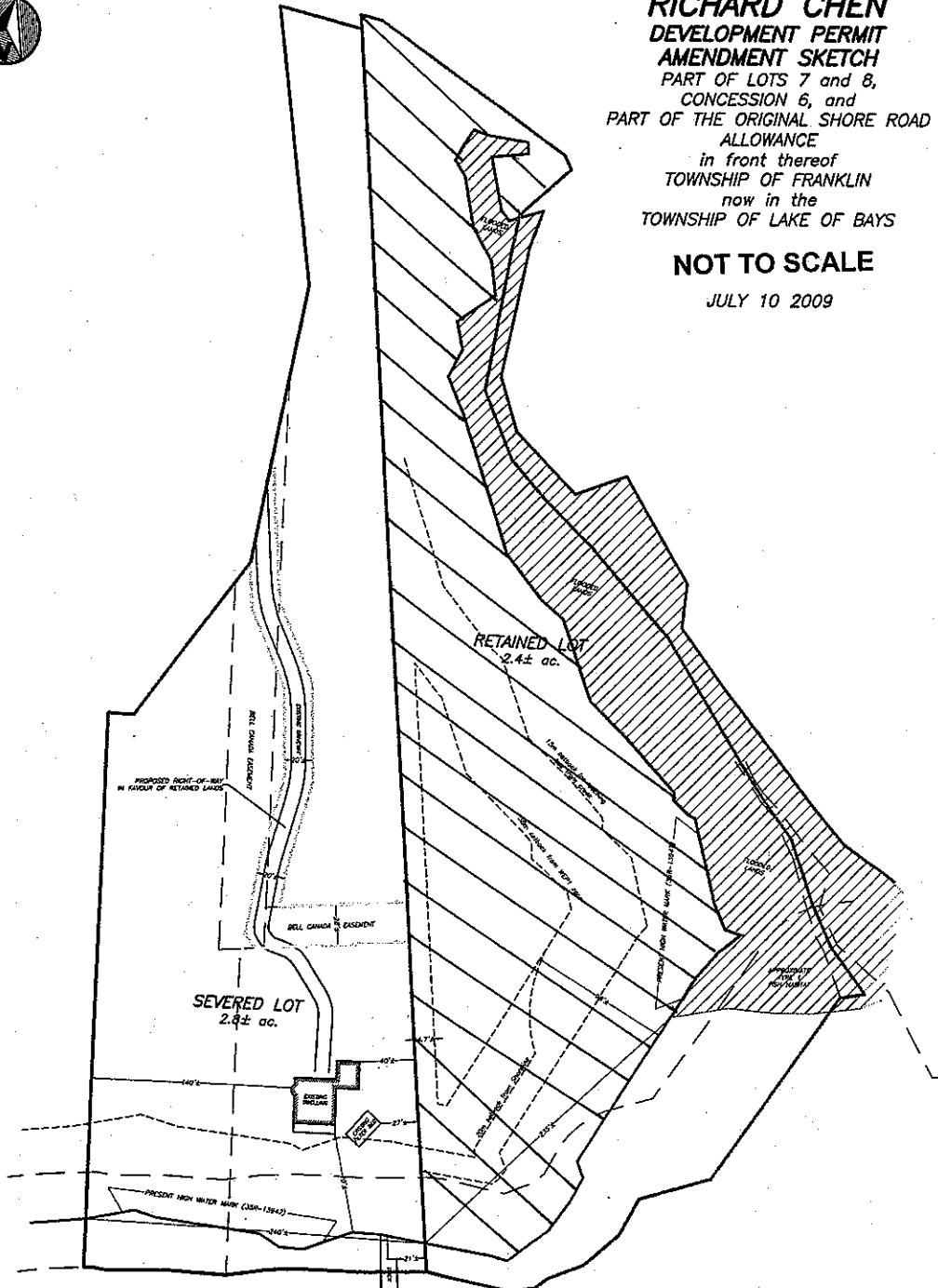
**SCHEDULE "B"**  
**By-law Amendment No. 09-109**



**RICHARD CHEN**  
**DEVELOPMENT PERMIT**  
**AMENDMENT SKETCH**  
 PART OF LOTS 7 and 8,  
 CONCESSION 6, and  
 PART OF THE ORIGINAL SHORE ROAD  
 ALLOWANCE  
 in front thereof  
 TOWNSHIP OF FRANKLIN  
 now in the  
 TOWNSHIP OF LAKE OF BAYS

**NOT TO SCALE**

JULY 10 2009



LAKE OF MILE BAYS  
 (TEN MILE BAY)



 **SUBJECT LANDS** to be re-designated from the Waterfront Residential "(WR)" Development Permit Area to the Waterfront Residential with an Exception "(WR-E219)" Development Permit Area