

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: October 26, 2016

CASE NO(S): PL150042

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant:	Michael Koff
Subject:	Application to amend Zoning By-law No. 87-87 – Refusal of the application by the Township of Muskoka Lakes
Existing Zoning:	Waterfront Residential (WR5)
Proposed Zoning:	Site Specific - Waterfront Residential (WR5)
Purpose:	To permit increases in the dock and boathouse lengths and widths and to permit a reduced sideyard setback from the boathouse.
Property Address/Description:	3-1166 Morinus Road
Municipality:	Township of Muskoka Lakes
Municipal File No.:	ZBA-01/14
OMB Case No.:	PL150042
OMB File No.:	PL150042
OMB Case Name:	Koff v. Muskoka Lakes (Township)

Board Rule 107 states:

107. Effective Date of Board Decision A Board decision is effective on the date that the decision or order is issued in hard copy, unless it states otherwise.

Pursuant to Board Rule 107, this decision takes effect on the date that it is e-mailed by Board administrative staff to the clerk of the municipality where the property is located.

Heard: July 20, 2015, December 9, 2015 and April 28, 2016 in Port Carling, Ontario

APPEARANCES:**Parties****Counsel**

Michael Koff

S. Bellissimo

Town of Muskoka Lakes

H. Elston

Brock and Willa Napier
Doug and Carol Morley

D. Trinaistich

DECISION DELIVERED BY L. M. BRUCE AND SYLVIA SUTHERLAND AND ORDER OF THE BOARD

INTRODUCTION

[1] Michael Koff (the “Applicant”) has appealed the decision of the Township of Muskoka Lakes (the “Township”) in respect of an application to amend Township Zoning By-law No. 87-87, as amended, to permit a new two-storey boathouse with a sleeping cabin and sundeck on the second storey and an extended dock in the approximate location of an existing single storey boathouse. At the March 19, 2014 meeting of the Township’s Planning Committee of the Whole (the “Committee”) the application was deferred on the basis that the Committee did not support a two-storey boathouse but preferred a single storey boathouse.

[2] A revised plan was submitted to the Township for a one-storey boathouse with a reduced number of exemptions. The Committee turned down approval for circulation and a Notice of Refusal under s. 34 of the *Planning Act* was issued on December 17, 2014.

[3] Neighbours Willa and Brock Napier and Carol and Doug Morley object to the Applicant’s proposal. The Napiers and Morleys were made Parties to the hearing by Board Order on a motion for Party status heard via telephone conference call on July 6, 2015.

[4] Since the Applicant filed the appeal, the Township and the Applicant have entered into Minutes of Settlement which include a modified proposal and a Zoning By-law Amendment (“ZBA”). The Minutes of Settlement (“MOS”) were marked as Exhibit 8 and the resolution of the Township accepting and adopting the MOS was marked as Exhibit 9. Despite there being MOS, the Board has the responsibility to hear evidence from all parties and to make a decision on whether to authorize the revised ZBA.

[5] This is an appeal under s. 34(11) of the *Planning Act*. In accordance with s. 34(11.0.2) the Board shall “dismiss the appeal, amend the by-law in such manner as the Board may determine, or direct that the by-law be amended in accordance with the Board’s Order.”

[6] Dennis Trinaistich made extensive submissions that the Board should only be considering the original application. The Board was clear during the hearing that it had the jurisdiction to hear the amended application and would be considering the proposed single-storey boathouse and ZBA as described in the MOS.

[7] When assessing a ZBA the Board’s role is to assess if it is in keeping with the Provincial Policy Statement, 2014 (“PPS”), the District of Muskoka Official Plan (“DOP”), the Town of Muskoka Lakes Official Plan (“TOP”) and represents good planning.

[8] Wayne Simpson was qualified to provide expert land use planning opinion evidence in support of the application and Stephen Fahner was qualified to provide expert land use planning opinion evidence in support of the neighbours’ (the Napiers and Morleys) positions. In addition, the Township called Planning Director, David Pink to give expert land use planning evidence. Mr. Koff provided evidence in support of his application while Mr. Napier and Mr. and Mrs. Morley provided evidence in opposition to the application.

[9] Neighbours Cuyler Conway and John Dunlop were granted Participant status, and spoke in opposition to the application.

[10] This hearing was originally scheduled for one day (July 20, 2015) but was subject to two continuances (December 9, 2015 and April 28, 2016) and a need for written final submissions.

SITE CONTEXT AND PROPOSAL

[11] The subject property is known legally as Part of Lot 28, Concession 10 in the geographic Township of Medora, Township of Muskoka Lakes. The municipal address is Unit 3, 1166 Morinus Road. The subject property is 0.82 hectares in size and is situated on a peninsula of Lake Rosseau with frontage on two bays, (38.1 metres (“m”) (125 feet (“ft.”)) on the west bay and 51.8 m (170 ft.) on the east bay. Under Zoning By-law 87-87, the longer of the front lot lines (170 ft.) is deemed to be the lot front lot line.

[12] The subject property has a modest one-storey cottage and in the west bay, a boathouse which has been described to the Board as being in poor condition (Exhibit 1, Tab C). On the east bay is a recently constructed dock that serves as an aerodrome. Crossing the Applicant’s property is a right-of-way, which provides access to the Napiers’ property and the southern part of the peninsula.

[13] The Board heard significant evidence from all parties that the west bay is very shallow. The proposed boathouse and dock is to be located in the same location as the existing boathouse near the south property boundary of Mr. Koff’s property.

[14] The proposed development considered by the Board consists of:

- a single storey boathouse that is a maximum of 38 ft. wide, 53 ft. long and that has part of a roof capable of being used as a sundeck. The boathouse would be set back a minimum of 24 ft. from the southerly side lot line and a minimum of 2 ft. from the right-of-way that crosses Mr. Koff’s property.
- a dock that is a maximum of 84 ft. in length and a maximum of 44 ft. in width, inclusive of the boathouse.

[15] The zoning standards are listed in Attachment 1.

[16] The proposed ZBA was provided as Exhibit 8, Schedule B, and is included as Attachment 2.

ISSUES

Planning Issues

[17] The Parties in opposition to the application were concerned that the ZBA, if authorized, would set a precedent. The Morleys, Mr. Koff's immediate neighbours, who own property on the west bay, were concerned the dock would impede their navigation and that the proposed boat house would be a visual impediment and a source of noise should the sundeck be used for parties. Mr. Napier was concerned that a sundeck on the boathouse would create an overlook and privacy issue when he and his family and guests were accessing his property or using the right-of-way for a walk. Through their planner, concerns were also expressed about the shoreline impacts from the construction of the dock and boathouse.

Procedural Issues

[18] In addition to the planning arguments, there were a number of issues raised by the parties:

- a) Should the Board hear evidence on the original application that had been before the Committee or on the application that was developed through the MOS?
- b) Did the Board's request for more detailed information on the depth of the bay following the Applicant's and the Township's submission of evidence constitute splitting of evidence?

- c) Whether Mr. Fahner's evidence should be given less or no weight due to what Mr. Bellissimo characterized as an advocacy role with the Morleys and Napiers?

[19] These issues will be discussed later in this decision.

PLANNING EVIDENCE

PPS

[20] The PPS provides policy direction on matters of provincial interest related to land use planning and development. It was Mr. Simpson's evidence that the proposed development and ZBA are consistent with the PPS. He specifically spoke to s. 1.1.5.2 and s. 1.1.5.3, which permit resource based recreational uses and promotion of recreational tourism.

[21] It was Mr. Fahner's opinion that the PPS is not detailed enough to comment on the consistency of the proposed development and ZBA. He did not speak to any specific sections in the PPS, stating only his opinion that if the proposal does not conform to the OP it must be inconsistent with the PPS.

[22] In closing submissions, Mr. Bellissimo questioned the logic of this conclusion using the following example:

...if an Official Plan said that all houses must be "purple" but someone proposes an "orange" house than by failing to conform to the Official plan, an "orange" house would be inconsistent with the PPS 2014.

[23] The Board accepts Mr. Simpson's evidence that while the PPS by its nature is not specific, the proposed ZBA is consistent with the PPS.

Official Plans

[24] Within the District of Muskoka there is an upper tier DOP and a lower tier TOP.

DOP

[25] The subject property, located within 500 ft. (150 m) of a water body, is designated Waterfront under the DOP. The Waterfront designation permits residential development and related commercial development. Mr. Fahner stated that the retention of the natural shoreline and allowing development that is compatible with existing development is of utmost importance. He stated that lot sizes are to be sufficient for the proposed use and associated structures, which require that the built form should not occupy more than 25% of the shoreline. It was Mr. Fahner's opinion that the subject property, specifically the west bay frontage, is not large enough to accommodate the proposed boathouse and dock structure. He stated that while the policies are strategic, there is a principle conveyed in s. K.67 that approval authorities should be cognizant of the visual impact of development and strive to mitigate adverse impacts. It was his opinion that the proposal will have a significant visual impact on the Morleys and other neighbours in the west bay.

[26] Mr. Simpson proffered that the development proposal and ZBA conforms to the DOP. It was his opinion that the site is of sufficient size to accommodate the proposed development. It was also his opinion that the proposed development is consistent with Policy D.20, which requires the maintenance of the natural and cultural heritage of the shoreline including tree cover and vegetation and upholds the visual and environmental integrity of the Waterfront. It was Mr. Simpson's opinion that the proposal has been designed and will be located in a manner that is consistent with shoreline development and environmental policies set out in the DOP policy K.60.

[27] Mr. Simpson stated that the proposed boat house and dock would be in the same location as the existing boathouse and would therefore minimize the amount of additional vegetation that requires removal. The Board heard evidence that, consistent with OP provision K.67, the Township and Mr. Koff worked together to mitigate the adverse visual impacts associated with his original application.

[28] Mr. Fahner opined that the mitigation of visual impact is difficult since it is directly in front of the Morley residence. The Morleys shared this concern with the Board. The Board was provided with evidence based on the site plan and photos that the Morley residence will have a view of the side of the boathouse but since it is a view of the side, the requested larger width of the boathouse will not impact on their view. The setback from the Morleys is consistent with the ZBL. The location of the longest dock is on the south side of the proposed development, which places the boating activity away from the Morley property. The Morleys will continue to have a view of the bay.

[29] The Morleys also expressed concern about the use of the sundeck on the proposed boat house. The Board heard evidence that Mr. Koff in his revised plan and as an outcome of the MOS, has restricted the sundeck to the southern half of the roof of the proposed boathouse with a partial roof/wall on the north side which provides privacy to the Morley property. This partial roof, Mr. Simpson stated will also help to mitigate any noise. It was Mr. Simpson's opinion that Mr. Koff would have the right to build two boathouses which would be governed by the width of his two frontages. In Exhibit 5 he provided a combined bay analysis which showed that the sum of the development rights were greater than what was proposed.

[30] It was Mr. Pink's and Mr. Simpson's opinions that the proposed development and ZBA was in conformance with the DOP while it was Mr. Fahner's opinion that the proposal did not conform to the local OP and by way of inference also does not conform to the District OP.

TOP

[31] The subject property is designated Waterfront in the TOP.

[32] Mr. Simpson opined that the proposed development and the ZBA conform to the TOP. He spoke to the principles of the TOP and proffered that the proposed development and ZBA has proper regard to the character and unique resource afforded by the Waterfront setting. It was his opinion that the proposed development would

protect the character of the waterfront and in fact improves upon the current situation by replacing a “dilapidated boathouse” with an attractive structure. At issue was the appropriateness of this size of dock and the boathouse in this location. It was Mr. Simpson’s opinion that the site is suited to the proposed development and would not dominate the waterfront. Mr. Simpson said that the property had two frontages and is not a small lot, with a total of 295.3 ft. of overall water frontage. Further, while the TOP states that the cumulative width of all shoreline structures be less than 25%, Mr. Simpson offered the opinion that it does not differentiate between continuous and broken frontages. With a cumulative width of 44 ft. on 295 ft. of combined frontage, it is approximately 15% of the total frontage which, in Mr. Simpson opinion, was significantly less than what could have been built on a lot with a contiguous frontage of 295 ft.

[33] A substantial issue at the hearing was the impact of the proposed dock on boat access to both the Koffs’ and the Morleys’ waterfront. The location of the proposed Koff dock, the Morleys stated, would have an adverse impact on their ability to access their own dock. The TOP (s. 4.14) states that one of the objectives of waterfront policies is to ensure development does not result in a hazard to navigation. It was Mr. Koff’s perspective that he needed the longer dock in order to have adequate draft for his boat. He characterized adequate draft as 36 inches (Exhibit 16, Tab 3). Mr. Simpson stated that the proposed length of the Koff dock is similar to the length of the three closest docks on the north shore, including both the Morleys’ and the Dunlops’.

[34] Mr. Simpson spoke to the implications of the variances from the zoning standards (Attachment 1). He stated that some of these deviations were in fact intended to minimize adverse effects consistent with s. 5.14b of the TOP. Referring to the reduction in the side yard setback on the south side of the boathouse, he stated that it is needed due to shallower water on the more northern area of the shoreline. In addition, he stated that by pushing the boathouse and dock closer to the southern property boundary it would help maintain reasonable views and separation from the Morley property, yet would not unduly impinge on the Napier property. This, he opined, is also consistent with the provisions of s. 5.14c, which provides for the consideration of

alternatives where setbacks are not possible due to “other constraints”, in this case, shallow water.

[35] Mr. Fahner spoke to the s. B 5.14 of the TOP, which articulates the need for sideyard setbacks. Mr. Simpson noted that, in fact, the setback is in compliance with the ZBL for the Morleys and is not a concern for the Napier property since they have no structures or dwelling in the west bay. The reduced setback on the south side (i.e. closer to the Napiers) is to minimize potential impact on the Morleys.

[36] There was consistent and clear evidence from all parties that there is shallow water in the west bay. This can be seen in the water depth photos (Exhibit 20) provided by Mr. Fahner, and was also referenced in the Township’s Planning report, dated October 30, 2014, which stated that:

It is critical to recognize that dock extensions in excess of the requested 95 feet length have been granted for existing docks on neighbouring lots to the west due to the shallow water depths in the bay.

[37] Mr. Fahner took the Board to s. F 1.6.4 of the TOP which states that:

In considering applications, the potential impact of site approvals will be considered. The cumulative impact of amendments on this and other lands will be considered to have greater weight than site-specific considerations.

[38] It was submitted by Mr. Bellissimo, that Mr. Fahner, when working for the Township, had supported the rezoning of the Ross property, also located in the west bay, to allow for a long dock. It would hold then that Mr. Fahner would have considered the cumulative impact of similar requests and deemed them to not have an unacceptable cumulative impact in the west bay.

[39] As noted above, the Morleys were concerned about the potential impact of the proposed dock and boathouse on their views. The TOP states that “Shoreline structures shall not impede the immediate view of surrounding properties, as defined by the extension of property lines onto the water (B.13.5)”. It was Mr. Simpson’s opinion

that the boathouse and docks will not impede upon the immediate view of surrounding properties. The ZBA is seeking an increase to the width of the boathouse. Since the Morleys' view is of the side of the boathouse, it was Mr. Simpsons' opinion that the width is immaterial to the potential for visual impact from the boathouse, and that the length of the boathouse and the setback from the Morleys' property line is consistent with the standards established in the ZBL. The Morleys also expressed concerns that the sundeck would be used for parties and thus would create a noise impact. Section B.13.6 of the TOP states that the primary use of docks is for the docking and berthing of boats as well as access to the lake for swimming. It was Mr. Koff's evidence that his intent was not to use the deck for parties but rather as complementary to his waterfront activities.

[40] The Morleys stated to the Board that they were also concerned about the water line which extends beyond the end of their dock. They stated that the line is in 3 ft. of water and that propeller wash from the boats entering the proposed boathouse will stir up the sediment and impact the water intake. The Board notes that while this is a reasonable concern, there was evidence presented by all parties to suggest that turbulence from boat ingress and egress is an existing situation and that there was no evidence that it would be made worse by the proposed dock and boathouse.

[41] There was considerable disagreement between the land use planners on the provision in s. F 1.6.8:

Due to carefully planned origins of certain provisions of the zoning by-law, exemptions may not be granted for lot coverage, oversized sleeping cabins, additions to second dwellings/sleeping cabins, front yard setbacks for non-complying structures, reduced side yard setbacks for two storey boathouses or sun decks on a boathouse and shoreline structure widths.

[42] It was Mr. Simpson's opinion that s. F 1.6.8 should not be interpreted as saying no exemptions for reduced side yard setbacks will be granted for sun decks or for an increase in the width of shoreline structures since the policy uses the permissive phrase "may not" rather than "shall not". It was Mr. Fahner's interpretation that this was a "strict

adherence policy”.

[43] Mr. Simpson highlighted for the Board the section of the TOP that acknowledges that zoning amendments are anticipated. Section F1.6.3. states that an exemption to the by-law may include:

- additions to permitted uses
- defining two separate parcels as one lot
- additions/alterations to non-complying dwellings and sleeping cabins
- setbacks and height variations which are not minor variances
- change definitions as they apply to a specific property
- width of shoreline structures

[44] Mr. Fahner opined that the TOP requires certain matters to be strictly adhered to and, as such, no exemptions would be granted. Mr. Bellissimo submitted in his closing remarks that, “To read this section otherwise would bring it in conflict with section F1.6.3, where applications for exemptions to setbacks and the width of shoreline structures are clearly anticipated.”

[45] Official plans are to be read in full. Section F1.6.8 may suggest there is a strict adherence provision but, when considering the use of the phrase “may not” rather than “shall not”, in relation to the provisions of s. F1.6.3, which specifically acknowledge the potential for exemptions for several of the items listed in s. F1.6.8, the Board concludes this is not a strict adherence policy.

Procedural Issues

[46] Mr. Trinaistich held firm to the position that the Board should not be hearing the revised application as described in the MOS because the revised proposal and ZBA had

no status since the original rezoning application had never been formally amended by Mr. Koff and that the MOS had not been previously passed by council resolution prior to July 20, 2015 the first day of the hearings.

[47] Mr. Trinaistich also submitted that the MOS were inappropriately signed by Mr. Pink, not the Township solicitor. It was his submission that the Board should only consider the original application and not the revisions that arose from the MOS. As noted in Harold Elston's closing submission, "it is a generally accepted principle that the settlement of disputes is to be encouraged. In the case-at-bar, the Township worked with the Applicant to refine and improve the proposed boathouse and entered into Minutes of Settlement. Although the bona fides of the settlement were challenged, the Township submits that its efforts to settlement were conducted in a proper and fair fashion".

[48] Mr. Trinaistich also took issue with the appropriateness of the Board requesting more detailed information on the depth of the bay following the Applicant's and the Township's submission of evidence.

[49] Following the second day of hearings, and following the Applicant's and the Township's evidence, the Board asked that additional information be provided on water depth in the bay. It was evident that both the Applicant and the neighbours had notable concerns about the shallowness of the bay.

[50] In response to the Board's request, Mr. Koff provided information to the Board (Exhibit 16) on the third day of the hearing. Mr. Trinaistich took exception to the Board's request stating that this allowed the Applicant to split his case. The Board has the latitude to request information that will inform its understanding of the issues. This should be done in a manner that is fair to all parties. Mr. Trinaistich was provided the opportunity, of which he availed himself, to cross-examine and call similar evidence. The Board in fact did not rely solely on Exhibit 16 for consideration of depth, but rather the evidence of all parties respecting depth. The conclusion was simply that there is a

water depth issue in general in the bay. What weight to give to the evidence of Mr. Fahner was another issue before the Board.

[51] The Board heard evidence that originally neighbours Morley, Ross and Dunlop supported Mr. Koff's application allowing construction of a larger two-storey boathouse that was before the municipality. Letters provided as Exhibit 12 support this perspective. Mr. Napier was concerned about the proposal filed and appeared before the Committee. Subsequently Mr. Fahner contacted the Morleys. The Board was provided with an email which originated with Mr. Fahner (Exhibit 11) that states that the Morley, Ross and Dunlop properties will likely have their waterfront enjoyment impacted by the proposed development. Mr. Fahner then stated in this email that "it would be very helpful if those of you who initially had no concerns with the proposal could rescind those comments and send a letter or email to me early next week stating your concern, so that they could be relayed to counsel."

[52] It was the submission of Mr. Bellissimo that Mr. Fahner acted in an advocacy role rather than providing evidence that was fair, objective and non-partisan, and as such that his evidence should be given no weight. Mr. Bellissimo in his closing submissions referenced the Supreme Court decision in *White Burgess Langille Inman v. Abbott and Haliburton Co.*, 2015 SCC 23 which concluded that there are three duties of expert witnesses: impartiality, independence and absence of bias. In this decision, the Supreme Court states that the trier of fact may exclude evidence after considering whether the evidence "is sufficiently beneficial to the trial process to warrant its admission despite the potential harm to the trial process that may flow from admission".

[53] This decision reinforces that, while Mr. Fahner was qualified to provide opinion land use planning evidence, it was left with the Board to assign the appropriate weight to that evidence. In this instance, there was not enough evidence to suggest that Mr. Fahner acted in an advocacy role, and the Board gave the same weight to his evidence as it did to Mr. Simpson's and Mr. Pink's.

CONCLUSION

[54] In determining that the application should be approved, the Board has had regard to matters of provincial interest and the direction of the Township.

[55] The key issues which were supported with evidence on the two OPs and the PPS were that:

- the boat house was too large for the size of the waterfront
- the boathouse and dock would create a visual impact for the Morleys
- the dock would create a navigation issue for the Morleys and potentially result in impacts to their waterline
- a sundeck on the boathouse would create an unacceptable overlook issue for Mr. Napier as he used the right-of-way for access and egress and create noise impacts for the Morleys

[56] The Board heard opinion evidence from Mr. Simpson that at 35% the amount of waterfront on the west bay that will be occupied by the boat house and dock is not significantly larger than what is permitted. This is particularly notable when considering the cumulative waterfront on Mr. Koff's property. The Board accepts Mr. Simpson's opinion that the OP recognizes that there may be site specific situations when the standards may not apply, and that this is one of those instances due to the dual waterfront, the shallowness of the bay and the character of boathouses and docks in the area.

[57] The Board is sympathetic to the value placed on views from cottage properties. That said, it needs to be balanced against a property owner's reasonable use of their property. Mr. Koff is seeking to build a reasonably modest boathouse by Lake Rosseau standards. By modifying the design of the boat house (single storey with half of the roof

used as sundeck) and locating it away from Morleys, he has endeavoured to mitigate impacts on the Morleys. The length of the dock is not out of character with other docks on the bay. There was in fact overwhelming evidence from all parties that there is an issue with water depth. The Board heard evidence that there are other examples of approved and/or existing docks in the area that are in the order of 100 ft. This is a function of the shallow nature of the bay. While the Napier photo study (Exhibit 20) showed that many of the docks in the west bay had shallow water, this in and of itself is not an argument against steps being taken by Mr. Koff, and potentially others in the bay who are seeking longer docks, to address shallow water.

[58] The location of the dock on the south side of the proposed boathouse should help minimize navigational impacts on the Morleys.

[59] There was no evidence of substantial impact on Mr. Napier as a result of overlook on the right-of-way which crosses Mr. Koff's property to be used for ingress and egress to his property.

[60] The proposed single storey boathouse and dock will create a more functional and aesthetically pleasing structure, with water depths that will permit safer navigational access to the Koff property. The configuration of the boat house and dock, with the dock nearer the southern part of the Koff property appears to still facilitate adequate access for the Morleys to reach their dock based on consideration of all photos provided and particularly the plan view shown in Exhibit 5.

[61] The Board accepts the opinions of Mr. Simpson and Mr. Pink that the proposed ZBA conforms to the PPS, the two OPs, and is good planning. Mr. Trinaistich criticized the short period between the time Mr. Simpson was hired and the hearing. The Board does not consider that to be a measure of the quality of evidence provided. On the basis of substance, the Board prefers the opinion evidence of Mr. Simpson and Mr. Pink and, based on the evidence provided, finds that this appeal should be allowed.

ORDER

[62] The Board orders that the appeal against By-law No. 87-87, as amended, of the Township of Muskoka Lakes is allowed in part and By-law No. 87-87 is further amended as set out in Attachment 1 to this Order. In all other respects, the Board orders that the appeal is dismissed.

"L. M. Bruce"

L. M. BRUCE
MEMBER

"Sylvia. Sutherland"

SYLVIA SUTHERLAND
MEMBER

If there is an attachment referred to in this document
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

- a) Section 3.1.2.e (3) -- To permit a dock to extend to a maximum length of 84 feet, as shown on the attached "Schedule B" to these minutes of settlement.
- b) Section 3.1.2.e (3) -- To permit a dock with a cumulative width of 44 feet, as shown on the attached "Schedule B" to these minutes of settlement.
- c) Section 3.1.2.e (12) -- To permit a boathouse with a cumulative width of 38 feet, as shown on the attached "Schedule B" to these minutes of settlement.
- d) Section 3.1.2.e (8) -- To permit a boathouse with a roof capable of being used as a sundeck to be located 24 feet from the extension of the southerly lot line, as shown on the attached "Schedule B" to these minutes of settlement.
- e) Section 7.12 -- To permit a dock and boathouse to be located 2 feet from a right-of-way, as shown on the attached "Schedule B" to these minutes of settlement.

MM

ATTACHMENT 2

SCHEDULE "B"

REVISED BY-LAW

MR

THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES

BY-LAW 2015-89

Being a By-law to amend Comprehensive Zoning By-law 87-87, as amended, in the Township of Muskoka Lakes

WHEREAS the authority to pass this by-law is provided by Section 34 of the Planning Act, R.S.O. 1990, Chapter P.13 and amendments thereto;

AND WHEREAS By-law 87-87 was enacted by the Corporation of the Township of Muskoka Lakes to regulate land use within the Municipality;

NOW THEREFORE the Ontario Municipal Board enacts as follows:

1. Section 9 of By-law 87-87 is hereby further amended by the addition of the following subsection:
 - 87-1641 i) The lands affected are described as Part of Lot 28, Concession 10, (in the former Township of Medora), now in the Township of Muskoka Lakes, as shown hatched on Schedule I to By-law 2015-89.
 - ii) Despite the provisions of Section 3.1.2.e (3) of By-law 87-87, as amended, for those lands described above, docks shall be permitted to extend to a maximum length of 84 feet, as shown in the location and extent on Schedule II to By-law 2015-89.
 - iii) Despite the provisions of Section 3.1.2.e (3) of By-law 87-87, as amended, for those lands described above, the maximum permitted cumulative dock width shall be 44 feet, as shown in the location and extent on Schedule II to By-law 2015-89.
 - iv) Despite the provisions of Section 3.1.2.e (12) of By-law 87-87, as amended, for those lands described above, the maximum permitted cumulative boathouse width shall be 38 feet, as shown in the location and extent on Schedule II to By-law 2015-89.
 - v) Despite the provisions of Section 3.1.2.e (8) of By-law 87-87, as amended, for those lands described above, the minimum permitted setback from the southerly side lot line extension for a boathouse with a roof capable of being used as a sundeck shall be 24 feet, as shown in the location and extent on Schedule II to By-law 2015-89.
 - vi) Despite the provisions of Section 7.12 of By-law 87-87, as amended, for those lands described above, the minimum permitted setback from a right-of-way for docks and a boathouse shall be 2 feet, as shown in the location and extent on Schedule II to By-law 2015-89.

M

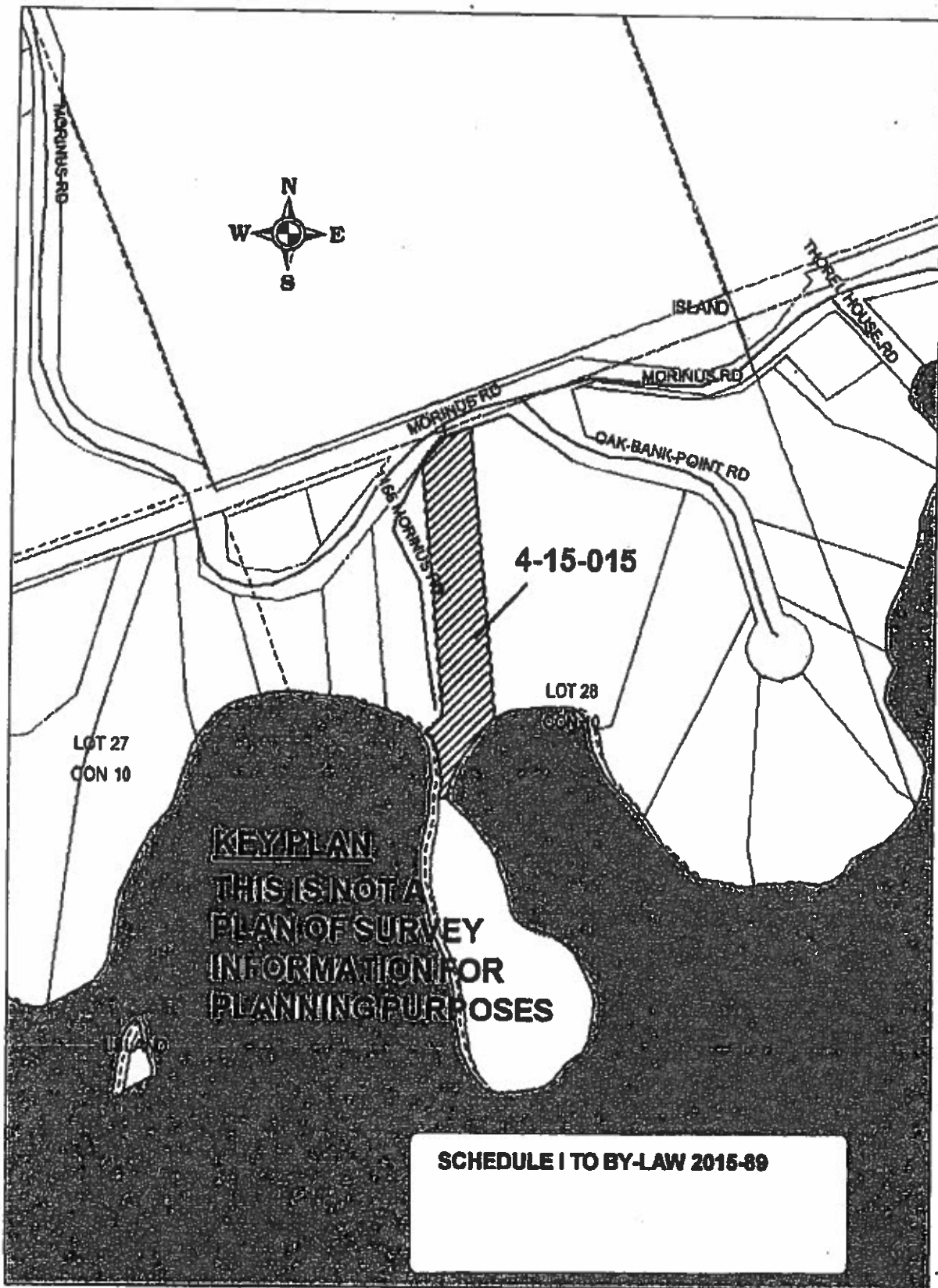
All other provisions of By-law 87-87 apply. To the extent of any conflict between By-law 2015-89 and By-law 87-87, as amended, the provisions of By-law 2015-89 shall apply.

2. Schedules I and II attached hereto are hereby made part of this By-law.

APPROVED THIS ____ day of _____, 2016.

Member, Ontario Municipal Board

MA



21

