

**Ontario Municipal Board**  
Commission des affaires municipales  
de l'Ontario



**ISSUE DATE:** August 13, 2014

**CASE NO(S):** PL140067

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	John Gould
Subject:	By-law No. 2013-142
Municipality:	Township of Muskoka Lakes
OMB Case No.:	PL140067
OMB File No.:	PL140067

Heard: July 30, 2014 in Muskoka Lakes, Ontario

**APPEARANCES:**

<u>Parties</u>	<u>Counsel</u>
PJD Properties Inc.	B. Horosko
John Gould	P. Gross
Township of Muskoka Lakes	H. Elston

**MEMORANDUM OF ORAL DECISION DELIVERED BY M. A. SILLS ON JULY 30, 2014 AND ORDER OF THE BOARD**

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[1] John Gould ("Appellant") has appealed the passing of Zoning By-law Amendment No. 2013-142 ("ZBA") by the Council of the Township of Kawartha Lakes ("Township"), respecting the lands owned by PJD Properties Inc. ("Applicant") and described as Star Island, Lake Joseph ("subject property").

[2] The purpose and effect of the ZBA is to permit the construction of a new dwelling and two new boathouses on the subject property. Specifically, the ZBA provided exemptions to certain provisions of Zoning By-law No. 87-87 ("ZBL") to permit the following:

**Section 3.1.2.a (7):** maximum lot coverage of 11.0 percent within 200 feet ("ft.") of the shoreline (10 percent lot coverage permitted).

**Section 3.1.2.e (12):** maximum total cumulative width of shoreline structures of 142.3 ft. or 25.4 percent (lesser of 25 percent or 75 ft. permitted).

**Section 3.1.2.e:** maximum cumulative width of boathouses (first storey only) of 130.3 ft. or 23.2 percent (lesser of 16 percent or 75 ft. permitted).

[3] Upon arrival at the hearing venue, the Board was advised that the parties were engaged in negotiations aimed at reaching a settlement. After allowing additional time for the parties to pursue these discussions, the Board was informed that the parties had successfully resolved the issues in dispute and entered into a Settlement Agreement. The resulting implementing ZBA was filed with the Board as Exhibit 3.

[4] The Board was told that the Settlement and modified development proposal is the result of a consultative process involving the Applicant, the Appellant, Township Council and local residents. Counsel for the Appellant confirmed that the local residents in attendance had been fully apprised of the terms of the proposed settlement and are satisfied with same.

[5] Essentially, the settlement involves minor changes to the original development proposal. Principally, the proposed single-storey boathouse will now be located at a different point on the shoreline and a third dock and shade structure will be installed. The new proposal results in the cumulative width of shoreline structures being reduced to 137 ft. (from 142.3 ft.). Additionally, development will be prohibited on two adjacent islands, Zanzibar Island and Satellite Island.

[6] Angela Ghikadis is a registered professional planner and a member of the Canadian Institute of Planners and the Ontario Professional Planners Institute. She provided contextual and opinion evidence in support of the Settlement proposal and implementing ZBA.

[7] The subject property falls within the Waterfront designation of the Official Plan ("OP") and is zoned Waterfront Residential Habitat (WR-7). Lake Joseph is a Category 1 lake.

[8] It was Ms. Ghikadis' professional opinion that the modified development proposal and implementing ZBA is reflective of the principles of good land use planning. The appropriate

regard has been given to matters of provincial interest and the development proposal is consistent with the policy direction of the Provincial Policy Statement, 2014 ("PPS").

[9] The proposal respects the goals and policy objectives of the OP and the character and integrity of the waterfront and natural environment is being appropriately maintained and protected. The proposed ZBA appropriately implements these policies.

[10] In response to a question from the Board, Ms. Ghikadis confirmed that she has had recent discussions with a Ministry of Natural Resources biologist who has confirmed that the modified development proposal is not expected to impact the fish habitat.

[11] The Board accepts and adopts the evidence and opinion of Ms. Ghikadis to find that the modified proposal adheres to the policy directives of the PPS and OP and is consistent with the principles of good land use planning. The Board is satisfied that the proposal is respectful of the waterfront and natural heritage, and the fish habitat is being sufficiently protected. The proposed ZBA facilitates the development proposal and appropriately implements the intent of the OP.

#### **ORDER**

[12] The Board orders that the appeal is allowed in part, and Zoning By-law No. 87-87 of the Township of Muskoka Lakes is amended in the manner set out in Attachment 1 to this order.

*"M. A. Sills"*

M. A. SILLS  
MEMBER

#### **Ontario Municipal Board**

A constituent tribunal of Environment and Land Tribunals Ontario

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# Attachment 1

## THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES BY-

### LAW 2013-142

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

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**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;

**AND WHEREAS** application was made to the Corporation of the Township of Muskoka Lakes for an amendment to Zoning By-law 87-87;

**AND WHEREAS** the Council of the Corporation of the Township of Muskoka Lakes made a Decision to pass the requested amendment;

**AND Whereas** an appeal was lodged with respect to the passage of said amendment to the Ontario Municipal Board;

**AND WHEREAS** the Council of the Corporation of the Township of Muskoka Lakes, the applicant and the appellant have entered into Minutes of Settlement which would allow the appeal in part;

**AND WHEREAS** the Ontario Municipal Board has the authority to allow the appeal in whole or in part;

**NOW THEREFORE** Zoning By-law 87-87 of the Corporation of the Township of Muskoka Lakes is hereby amended as follows:

1. Section 9 of By-law 87-87 is hereby further amended by the addition of the following subsection:
  - 87-1571 i) The lands affected are described as Star Island, (in the former Township of Medora), now in the Township of Muskoka Lakes, as shown hatched on Schedule I to By-law 2013-142.
  - ii) Despite the provisions of Section 3.1.2.a(7) of By-law 87-87, as amended, for those lands described above, the maximum lot coverage within 200 feet of the shoreline shall be 11.0 percent, as shown in the location and extent on Schedule II to By-law 2013-142.
  - iii) Despite the provisions of Section 3.1.2.e(12) of By-law 87-87, as amended, for those lands described above, the maximum total cumulative width of shoreline structures shall be 137 feet, as shown in the location and extent on Schedule II to By-law 2013-142.

- iv) Despite the provisions of Section 3.1.2.e(12) of By-law 87-87, as amended, for those lands described above, the following shall apply to the Structure on Dock 3:
  - (i) maximum dimensions 16 feet by 16 feet;
  - (ii) shall have no more than one solid wall with the balance of the walls temporary retractable storm shutters;
  - (iii) maximum distance of 22 feet from the high water mark.
- v) Despite the provisions of Section 3.1.2.e of By-law 87-87, as amended, for those lands described above, the maximum cumulative width of boathouses (first storey only) shall be 102 feet, and the maximum width of the Structure on Dock 3 shall be 16 feet for a total cumulative width of 118 feet, as shown in the location and extent on Schedule II to By-law 2013-142. The maximum length of Boathouse 1 shall be 50 feet 4 inches from outside wall to outside wall.
- vi) Despite the provisions of Section 3.1.2.e.(3) the maximum length of a dock from the high water mark is 71.5 feet for the southeasterly docks (associated with Boathouse 1) as shown in the location and extent on Schedule II to By-law 2013-142.
- vii) Despite the provisions of Section 3.1.2.e.(9) the maximum length of a boathouse from the high water mark is 68.5 feet for Boathouse 1, as shown in the location and extent on Schedule II to By-law 2013-142.
- viii) Despite the provisions of Section 3.1.2.a of By-law 87-87, as amended, for those lands described above, the minimum lot area shall be 2.0 acres and the minimum lot frontage shall be 555 feet.
- ix) Despite the provisions of Section 6.2.5 of By-law 87-87, as amended, buildings and structures shall be prohibited on Zanzibar Island and Satellite Island, as shown on Schedule II to By-law 2013-142.

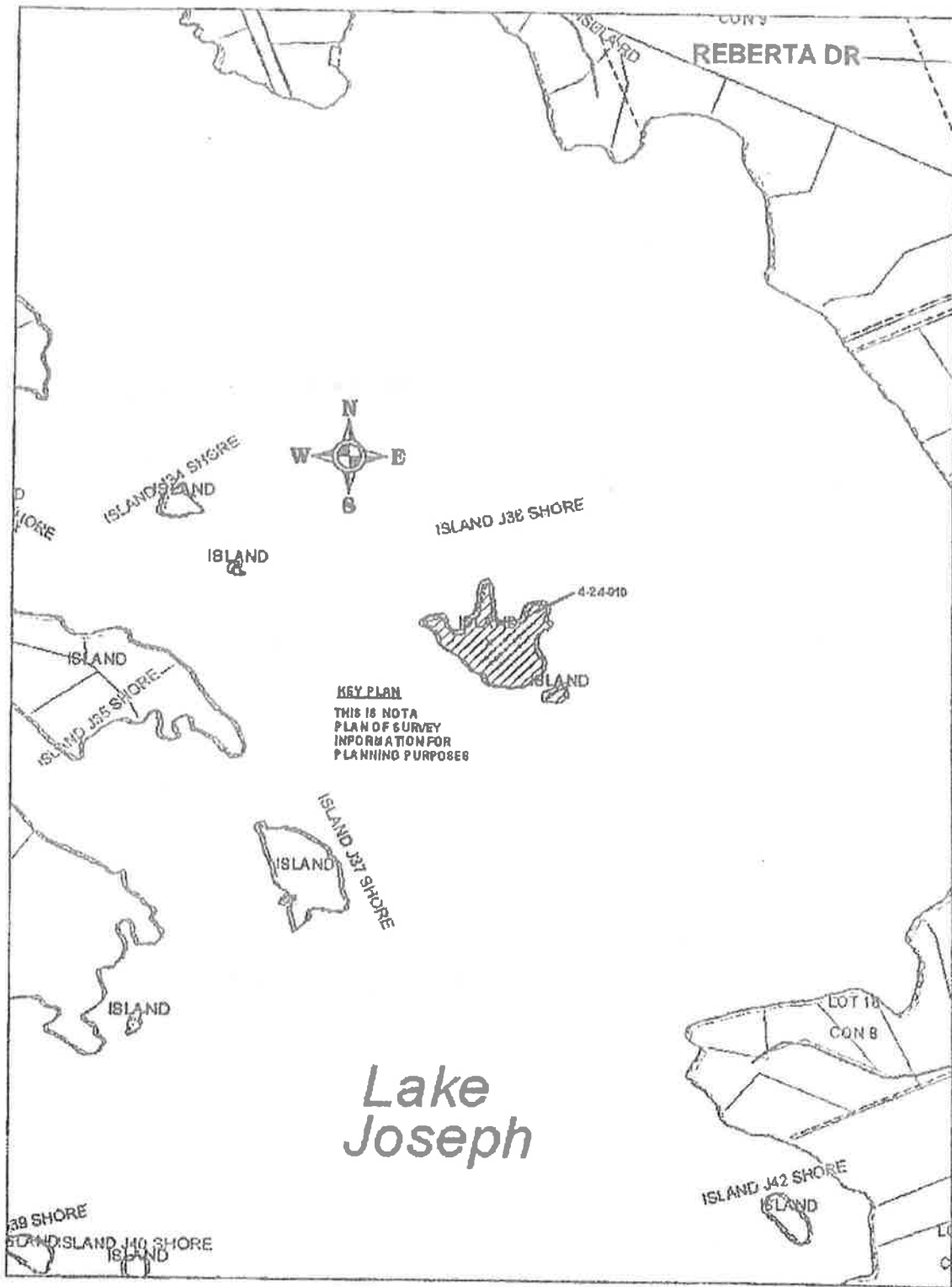
All other provisions of By-law 87-87 apply. To the extent of any conflict between By-law 2013-142 and By-law 87-87, as amended, the provisions of By-law 2013-142 shall apply.

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

This By-law shall come into effect upon approval of the Ontario Municipal Board on the \_\_\_\_\_ day of \_\_\_\_\_, 2014

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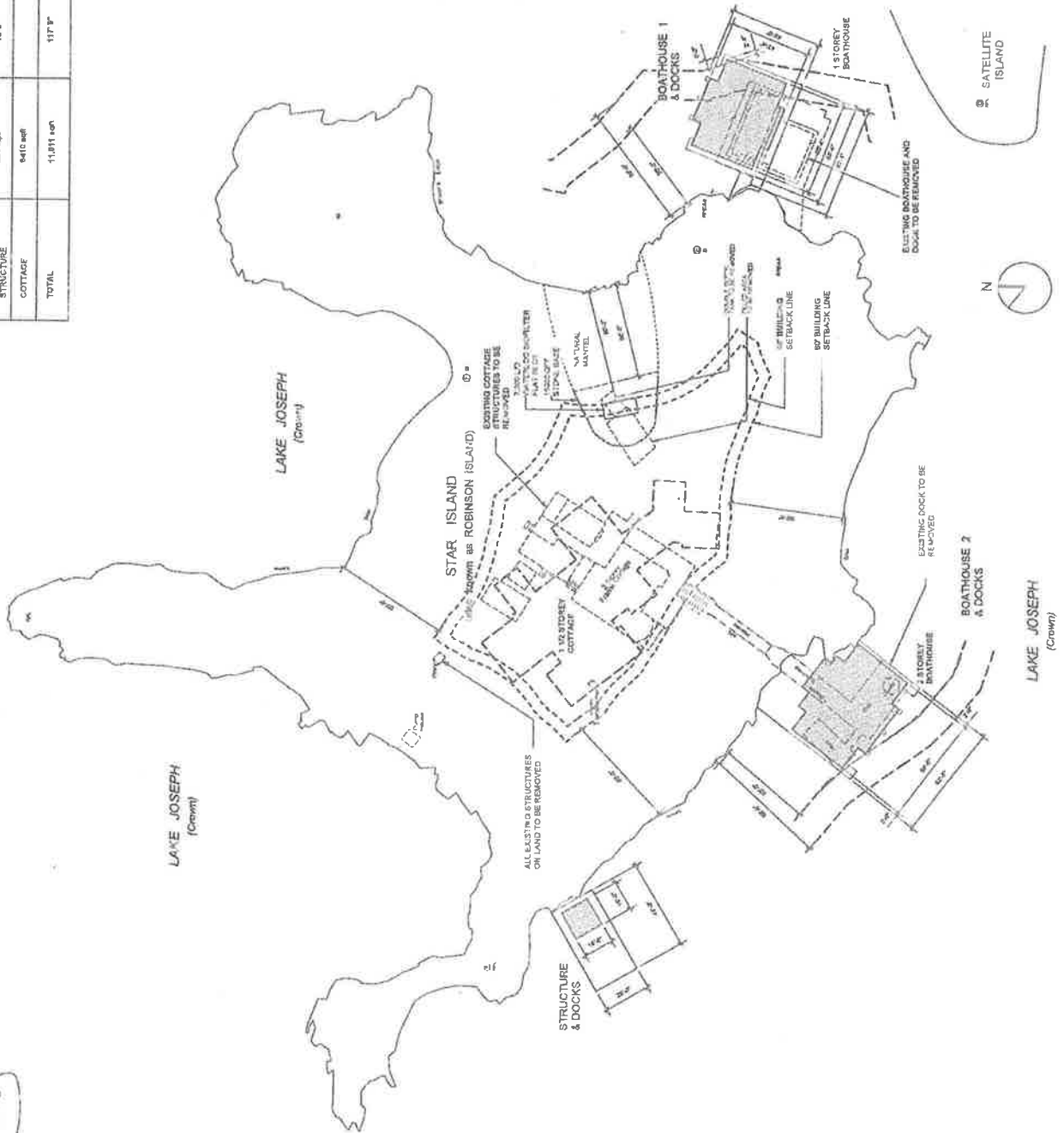


**SCHEDULE I TO BY-LAW 2013-142**

The Applicant is not responsible for the accuracy of the information provided. The Applicant is responsible for the accuracy of the information provided. The Applicant is responsible for the accuracy of the information provided.

**SITE STATS**

COVERAGE	BOATHOUSE STRUCTURE WIDTH	COUNCIL DOKK STRUCTURE WIDTH
BOATHOUSE 1	43' 4"	48' 0"
BOATHOUSE 2	88' 8"	62' 0"
DOCK W/ STRUCTURE	16' 0"	25' 0"
COTTAGE	64' 0"	136' 8"
TOTAL	118' 8"	136' 8"



**SCHEDULE II TO BY-LAW 2013-142**

No.	Date	Description
1	07/28/2014	ISSUED FOR APPROVAL
2	07/28/2014	COTTAGE OUTLINE REVISED
3	07/28/2014	DOCKS FOR APPROVAL
4	07/28/2014	ISSUED FOR APPROVAL
5	07/28/2014	ISSUED FOR REVIEW
6	07/28/2014	ISSUED FOR REVIEW
7	07/28/2014	ISSUED FOR REVIEW
8	07/28/2014	ISSUED FOR REVIEW
9	07/28/2014	REVISIONS FOR APPROVAL
10	07/28/2014	ISSUED FOR REVIEW
11	07/28/2014	REVISIONS FOR APPROVAL
12	07/28/2014	ISSUED FOR REVIEW



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**STAR ISLAND  
LAKE JOSEPH**

Project: SITE PLAN

Drawn By: WS  
Checked By: WS  
Date Drawn: JULY 2013  
Project Number: 12007  
Scale: 1" = 50'-0"

**A-1.0**