



Corporation of the  
**Township of Tay**

450 PARK ST.  
P.O. BOX 100  
VICTORIA HARBOUR  
ONTARIO L0K 2A0

(705) 534-7248  
FAX (705) 534-4493

**COMMITTEE OF ADJUSTMENT -AGENDA**

Wednesday, February 15, 2017 – 7:00 p.m.

Township of Tay Municipal Building – Council Chamber

450 Park Street, Victoria Harbour

1. OPENING ADDRESS FROM THE CHAIR
2. DECLARATION OF CONFLICT OF INTEREST
3. ADOPTION OF MINUTES FROM PREVIOUS MEETING
4. PUBLIC HEARING
  - 4.1.1 Consent Applications 2017-B-05, 2017-B-06, 2017-B-07 & 2017-B-08, 47, 49, 51 & 53 Bourgeois Beach Road  
Reo Global Ventures Ltd. – Applicant\*  
Rudy & Associates Ltd. (Michelle Cutts) - Agent  
  
Note\* – Ownership of Lots 1 through 4, Plan 51M-1083, regarding Consent Applications 2017-B-05 through 2017-B-08, transferred from Reo Global Ventures Ltd. to Seeley Homes Ltd. on January 25<sup>th</sup>, 2017.
  - 4.1.2 Minor Variance Applications 2017-A-04 & 2017-A-05, 27 & 51 Bourgeois Beach Road  
Reo Global Ventures Ltd. – Applicant\*\*  
Rudy & Associates Ltd. (Michelle Cutts) – Agent  
  
Note\*\* – Ownership of Lot 2, Plan 51M-1083, regarding Minor Variance Application 2017-A-04, transferred from Reo Global Ventures Ltd. to Seeley Homes Ltd. on January 25<sup>th</sup>, 2017.
  - 4.2 Minor Variance Application 2017-A-03, 174 Bayview Avenue  
Chris Pulis and Stephanie Pulis – Applicant  
Innovative Planning Solutions (Vanessa Simpson) – Agent
5. DECISIONS
6. OTHER BUSINESS – Review of process regarding Committee of Adjustment postings on the Township of Tay's website (Notices, Agendas, PowerPoints, etc.)
7. NEXT MEETING – March 15, 2017
8. ADJOURNMENT



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### PLANNING & DEVELOPMENT DEPARTMENT Staff Report

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<b><u>Department/Function:</u></b>	Committee of Adjustment
<b><u>Chair:</u></b>	Andy Ott
<b><u>Meeting Date:</u></b>	February 15, 2017
<b><u>Subject:</u></b>	<u>Consent Applications:</u> 2017-B-05, 2017-B-06, 2017-B-07 & 2017-B-08 <u>Minor Variance Applications:</u> 2017-A-04 & 2017-A-05. Reo Global Ventures.
<b><u>Location:</u></b>	<u>Consent Applications:</u> 47, 49, 51 & 53 Bourgeois Beach Road <u>Minor Variances:</u> 27 & 51 Bourgeois Beach Road.

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### **RECOMMENDATION:**

**THAT,**

**1) Consent Applications 2017-B-05, 2017-B-06, 2017-B-07 & 2017-B-08** be granted approval subject to the following conditions being imposed on the Committee's decision:

1. That a copy of a registered reference plan for the subject land indicating the severed parcel be prepared by an Ontario Land Surveyor and submitted to the Secretary-Treasurer;
2. That the applicant's solicitor prepare and submit a copy of the proposed conveyance for the parcel severed, for review by the Township;
3. That all municipal taxes be paid in full to the Township of Tay;
4. That Subsection 50 (3) and/or (5), of the *Planning Act* applies to any subsequent conveyance of or transaction involving the parcel of land that is the subject of this consent;
5. That if the property is to change ownership prior to the conditions of consent imposed by the Committee are fulfilled, an authorization from the new owner(s) must be received by the Township acknowledging the request to proceed with the applications as approved by the Committee;

6. That the applicant's solicitor prepare a letter of undertaking that the severed lands and the lands to be enhanced municipally known as 51 & 53 Bourgeois Beach Road **and** 49 & 47 Bourgeois Beach Road will merge on title.
7. That the conditions of consent imposed by the Committee be fulfilled within one year from the date of giving of the notice.

**AND THAT,**

The Planning and Development Department recommends that Minor Variance Applications **2017-A-04** and **2017-A-05** be granted approval subject to the following conditions being imposed on the Committee's decision:

1. That all municipal taxes be paid in full to the Township of Tay;
2. That the Minimum Exterior Side Yard setback be 4.5 metres,

**INTRODUCTION/BACKGROUND:**

The consent applications that are before the Committee of Adjustment propose to adjust the lot boundary between four lots. Applications **2017-B-05** and **2017-B-06** (51 and 53 Bourgeois Beach Road), and applications **2017-B-07** and **2017-B-08** (49 and 47 Bourgeois Beach Road) propose to reconfigure the lots in order to accommodate an appropriate building envelope on each of the four properties (see attached key map).

In addition to the consents mentioned above, minor variance applications **2017-A-04** (51 Bourgeois Beach Road) and **2017-A-05** (27 Bourgeois Beach Road) propose a minimum exterior side Yard setback of 4.5 metres on each of the lots, where the current standard in the Village Residential Exception Nineteen "R2-19" Zone is 8.0 metres. The intent of the exterior side yard setback requirements is to allow for adequate distance between structures and the roadway. The single detached dwellings that are proposed on the lots measure approximately 135 square metres in area (51 Bourgeois Beach Road) and approximately 139 square metres in area (27 Bourgeois Beach Road). In this case, the reduction of the exterior setback still allows for access to the lot and facilitates an enlarged building envelope while ensuring an adequate buffer between the dwelling and lot line, thus maintaining the intent of the Zoning By-law.

**ANALYSIS:**

The subject properties are located along the south side of Bourgeois Beach Road and are west of Vents Beach Road, within the Victoria Harbour Settlement Area. All subject properties are designated as Rural within the Township's

Official Plan and are zoned Village Residential Exception Nineteen (R2-19) in accordance with the Township's General Zoning By-law.

The subject lands associated with the consent applications are legally described as Lot 1, Lot 2, Lot 3 and Lot 4 - Plan 51M-1083 in the Township of Tay. The proposed consents will allow for a reconfiguration of the lots in order to accommodate an appropriate building envelope for the construction of single detached dwellings on each of the properties in the future.

In addition, to the consent application the applicant has applied for a minor variance for the lands legally described as Lot 2 and Lot 9 in Plan 51M-1083. The lots are within the registered plan of subdivision known as Victoria Glen Estates Phase 1, which was registered in May 2016. While the Zoning By-law requires a minimum exterior side yard setback of 8 metres, the applicant is proposing an exterior side yard setback of 4.5 metres which would allow for more flexibility in the type of dwellings to be constructed. In staff's opinion the reduction to the required exterior side yard setback would not appear to create any adverse impacts on existing or future proposed residential properties. The proposed 4.5 metre exterior side yard setback would be consistent with the lots within settlement areas and adjacent properties. The proposed variances therefore do not appear to create any adverse impacts on the services or functional uses along Bourgeois Beach Road.

***Provincial Policy Statement 2014 (PPS) and The Growth Plan for the Greater Golden Horseshoe (2006) Office Consolidation June 2013 (The Growth Plan):***

Provincial Policy generally directs growth and permits development and redevelopment within settlement areas, including consents provided the proposal efficiently uses lands and its resources such as existing infrastructure.

The PPS and The Growth Plan place the focus of new growth and development towards settlement areas and encourage efficient land use patterns by utilizing existing infrastructure to avoid the need for their unjustified and/or uneconomical expansion. The proposed boundary adjustment is within the Victoria Harbour settlement area and will be serviced by municipal services in the future.

It is the opinion of Planning staff that the proposed boundary adjustments will be consistent with the policies as outlined in the PPS and The Growth Plan.

***County of Simcoe Official Plan (2016):***

The County of Simcoe Official Plan designates Victoria Harbour as a Settlement Area. The objectives and policies of the County Plan reflect the Provincial Policy

*Committee of Adjustment Meeting Date: February 15, 2017*  
*Consent Applications 2017-B-05, 2017-B-06, 2017-B-07 & 2017-B-08 and Minor Variance Applications 2017-A-04 & 2017-A-05.*



documents by allowing development to occur within built up areas that utilize existing infrastructure. It is the opinion of the Planning staff that the both applications maintain the intent of the County of Simcoe Official Plan.

***Township of Tay Official Plan:***

The subject lands are designated Rural within the Township's Official Plan. For the purposes of this application, planning staff have reviewed the consent policies listed in Section 3.11 of the Official Plan and are satisfied that the proposed application would meet these policies. The proposed boundary adjustment and minor variance applications would be appropriate and suitable for the existing and proposed uses, and the lands front on an established public street. The Official Plan permits the boundary adjustments subject to meeting the consent policies of the Official Plan.

Planning Staff are satisfied that the overall intent of the Official Plan is met and that the requested boundary adjustments and minor variances would be appropriate on the subject lands.

***Zoning By-Law 2000-57, as amended:***

The severed, enhanced and the retained parcels are zoned Village Residential Exception Nineteen (R2-19) in accordance with the Township's General Zoning By-law. The consent applications would result in the new lot configuration meeting the requirements of the R2-19 Zone with the exception of the exterior side yard setback for the proposed dwelling design.

Both the retained lands and the enhanced lands are currently vacant. The proposed severed and retained lots have frontage on a public road, and comply with the standards of the Zoning By-Law. On the basis of the above, the proposed consent for residential purposes, generally maintains the intent of the Zoning By-law.

Staff is of the opinion that as the requested variance is required to provide the applicant flexibility in the building design and layout. As there are no physical changes contemplated to the site as a result of these applications, the variance can be considered minor and appropriate for the development of the lot

In staff's opinion, the reduction of 3.5 square meters to the required minimum exterior side yard setback would not appear to create any adverse impacts for existing or proposed residential properties in the immediate area. The proposed boundary adjustments and minor variances do not appear to negatively impact

the services or functional uses for neighbouring properties in the Victoria Glen Phase 1 subdivision or any additional phases.

Outside Agency, Internal Department and Public Comments:

**County of Simcoe** – No comments received to date.

**Newmarket-Tay Power Distribution Ltd.** – No comments received to date.

**Ministry of Transportation** – No comments received to date.

**Chief Administrative Officer** – No issues or concerns.

**Clerk** – No concerns.

**Director of Finance** – No concerns.

**Director of Public Works** – No Public Works issues.

**Water/ Sanitary Wastewater Superintendent** – No comments received to date.

**Manager of Roads and Fleet** – “The water service and sanitary lateral connection should remain within the projected view of the new property lines for each property. The setbacks from Bourgeois Beach Road should not be less than 8m.”

**Chief Building Official** – No concerns at this time.

**Fire Chief** – No concerns.

**FINANCIAL BUDGET IMPACT:**

There are no budgetary impacts to this report.

**CONCLUSION:**

Both the consent and minor variance applications are viewed as being reasonable and good planning as it will have no anticipated negative impacts. The deficiency of the exterior side yard setback does not appear to create any adverse impacts for existing or proposed surrounding residential properties. The Planning and Development Department has no objections to the approval of these applications, subject to the recommended conditions as outlined in the staff report.

Planning staff are recommending that Consent Applications **2017-B-05, 2017-B-06, 2017-B-07 & 2017-B-08** and Minor Variance Applications **2017-A-04 & 2017-A-05** be granted approval by the Committee of Adjustment.

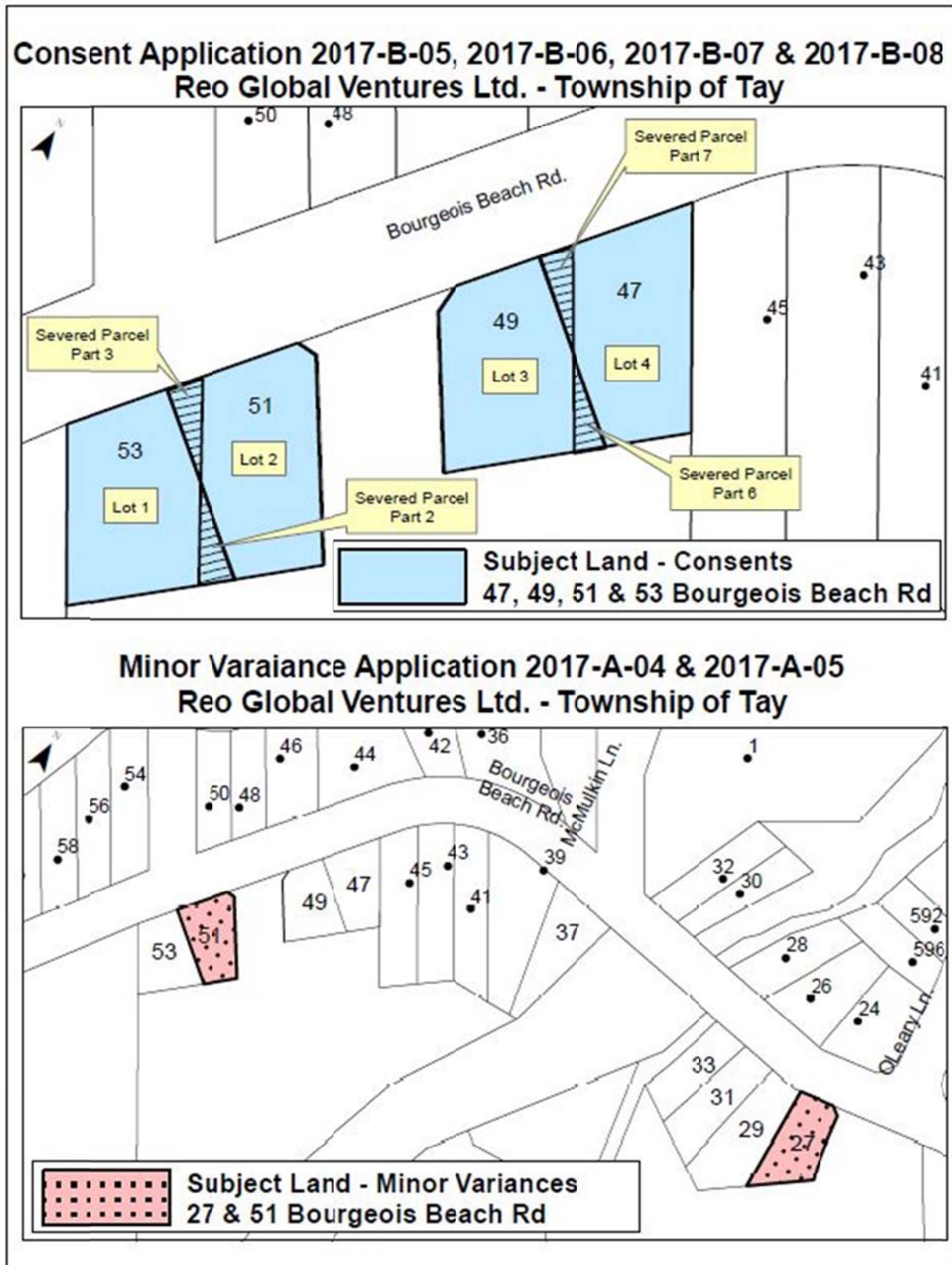
Prepared by;

Reviewed and Recommended By;

Jonathan Pauk, HBASc., MSc. Candidate  
Planning Student

Steve Farquharson, BURPI., MCIP. RPP  
Director of Planning and Development

**Attachment 1: Key Map**

**Key Map:**



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### PLANNING & DEVELOPMENT DEPARTMENT Staff Report

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**Department/Function:** Committee of Adjustment  
**Chair:** Andy Ott  
**Meeting Date:** February 15, 2017  
**Subject:** Minor Variance Application 2017-A-03, Innovative  
Planning Solutions on behalf of Chris and Stephanie  
Pulis

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#### **RECOMMENDATION:**

**THAT,**

The Planning and Development Department recommends that Variance Application 2017-A-03 be granted approval subject to the following conditions being imposed on the Committee's decision:

1. That the setbacks be in conformity with the dimensions as set out on the application and sketches submitted and approved by the Committee;
2. That the appropriate zoning certificate and building permit be obtained from the Township only after the Committee's decision becomes final and binding, as provided for within the Planning Act R.S.O. 1990, c.P. 13.
3. That an Ontario Land Surveyor provide verification to the Township of compliance with the Committee's decision by verifying in writing that:
  - a. The proposed boathouse has a minimum interior side yard setback of 0.24 metres for the eave/gutter encroachment;
  - b. The proposed boathouse has a minimum interior side yard setback of 0.49 metres from the east interior side lot line;
  - c. That the total lot coverage of all accessory buildings not exceed approximately 12%;
4. That the applicants provide to the satisfaction of the Township an Engineered Lot Grading Plan.
5. That the applicants verify that there is no easement along the south-east property line.

## **INTRODUCTION/BACKGROUND:**

The subject property is zoned Shoreline Residential (SR) and presently contains an existing dwelling and a boathouse under construction. It was identified during the building permit process that the boathouse did not comply with Zoning By-law as it relates to interior side yard setbacks, encroachment of eaves and gutters, and total lot coverage for accessory buildings.

## **ANALYSIS:**

The subject property is located on the south side of Georgian Bay, north of Bayview Avenue and is legally described as Lot 16, Plan 1474, Township of Tay.

The applicant is proposing to construct a boathouse and is requesting the following relief from Zoning By-law 2000-57:

<b><u>Zone:</u></b> <b><u>Shoreline Residential (SR) Zone</u></b>	<b><u>Required</u></b>	<b><u>Proposed</u></b>
Section 4.1.10– Minimum Interior Side Yard Setback	1.0 metres	0.49 metre
Section 4.20 Permitted Yard Encroachment (eaves, gutters, etc.)	0.76 metre setback	0.25 metres
Section 4.1.5 Maximum Lot Coverage (Accessory Buildings)	10%	12.5%

### ***Does the Variance meet the intent of the Official Plan?***

The subject lands are designated Shoreline in the Township's Official Plan. Permitted uses in this designation include single detached dwellings and accessory uses, including boathouse. Therefore, the proposed boathouse conforms to the general intent of the Official Plan.

### ***Does the Variance meet the intent of the Zoning By-law, and variance development appropriate on the lot?***

The subject property is zoned Shoreline Residential (SR) Zone in the Township's Zoning By-law and the SR Zone permits single detached dwellings and accessory buildings, including boathouses. The Zoning By-law's requirement for a minimum interior side yard setback is intended to achieve adequate space for

access and maintenance around buildings, as well as provide a separation that prevents the crowding of adjacent properties.

Planning Staff has completed various inspections of the lands and observed that the proposed boathouse, was constructed in its current location with the intent of lining up the marine rail, however it has since been shown that the shifting the south-east corner of the boathouse brought the boathouse into non-compliance with the required setback and resulted in an encroachment of the eaves. Also when the building permit was issued for the boathouse at which time it complied with all provisions of the Zoning By-law, portions of the existing deck attached to the dwelling were not included in the calculation and the addition of the rear entry to the upper floor of the boathouse put the boathouse over the allowable 10% lot coverage.

In terms of the variance for the proposed boathouse being located 0.49 metres from the required 1 metres, one of the purposes of regulating the location and size of boathouses in the Shoreline Residential (SR) Zone is to prevent over-development of the shoreline frontage which may lead to the shoreline being dominated by boathouse structures and ultimately impacting the character of the shoreline. The proposed setback of 0.49 metres to the interior side yard setback, it is the opinion of Planning staff that it would continue to provide access and maintenance around the boathouse. In order to ensure that the grades surrounding the boathouse would not cause adverse impacts to adjacent properties, Planning staff are recommending that a condition be included (if approved), that the applicants complete an engineered lot grading plan to the Township's satisfaction.

The boathouse currently has the eaves overhanging the property line and on the adjacent property to the east. The applicant is proposing to bring the eaves back and have a setback of 0.24 metres. This would have all the gutters direct the roof drainage away from the east property line to minimize impacts to the adjacent property.

With assessing the lot coverage variance, Planning staff reviewed the existing shoreline to determine if a 2.5% increase would be significant enough for not only the over development of this property but the shoreline in general. The surrounding shoreline properties in the area have boathouses with different setbacks and sizes. The adjacent properties have boathouse measuring approximately 5.2 metres wide at 176 Bayview Avenue and 5.0 metres wide with an additional 3.6 metres of deck at 178 Bayview Avenue. The proposed width of the boathouse at 174 Bayview Avenue is 4.7 metres, thus the width of the boathouse would be in keeping with the similar development in the area. In terms of shoreline development, the proposed boathouse at a width of 4.7 metres would occupy 16% of the shoreline, while the boathouse at 178 Bayview

Avenue covers approximately 26%. Thus the proposed boathouse would remain, visually, secondary to the dwelling, will not dominate the shoreline.

Based on the above, Planning Staff is of the opinion that the requested variances would conform to the general intent of the Zoning By-law and are appropriate for the desirable development of the lot.

***Is the Variance minor in nature?***

As the variances related to the proposed boathouse are considered to conform to the general intent of the Official Plan and Zoning By-Law, are considered appropriate for the desirable development of the lot, and are not anticipated to have an adverse effect on surrounding land uses, they are considered to be minor.

Outside Agency, Internal Department and Public Comments:

**County of Simcoe** – No comments received to date

**Newmarket-Tay Power Distribution Ltd.** – No comments or concerns

**Chief Administrative Officer** - No issues or concerns.

**Clerk** - No concerns

**Director of Finance** – No financial concerns

**Director of Public Works** – No Public Works comments.

**Water/ Sanitary Wastewater Superintendent** - No comments received.

**Manager of Roads and Fleet** – Property owner should verify that there isn't an easement along the south-east property line

- A certified lot grading plan should be produced.

**Chief Building Official** – Septic system confirmed by the CBO to meet the clearance as prescribed by the Ontario Building Code.

**Fire Chief** – No comments received to date

**Public** – correspondence objecting to the proposed variance received from:

Linda and Kent Jeffery (18 Grandview Road)

Kathy Dickinson (3397 Triple Bay Road)

Stan and Nancy Keith (176 Bayview Avenue)

Aynsley Anderson, Barriston Law

Marie Leroux

Paul Chambers

**FINANCIAL BUDGET IMPACT:**

There are no budgetary impacts to this report.



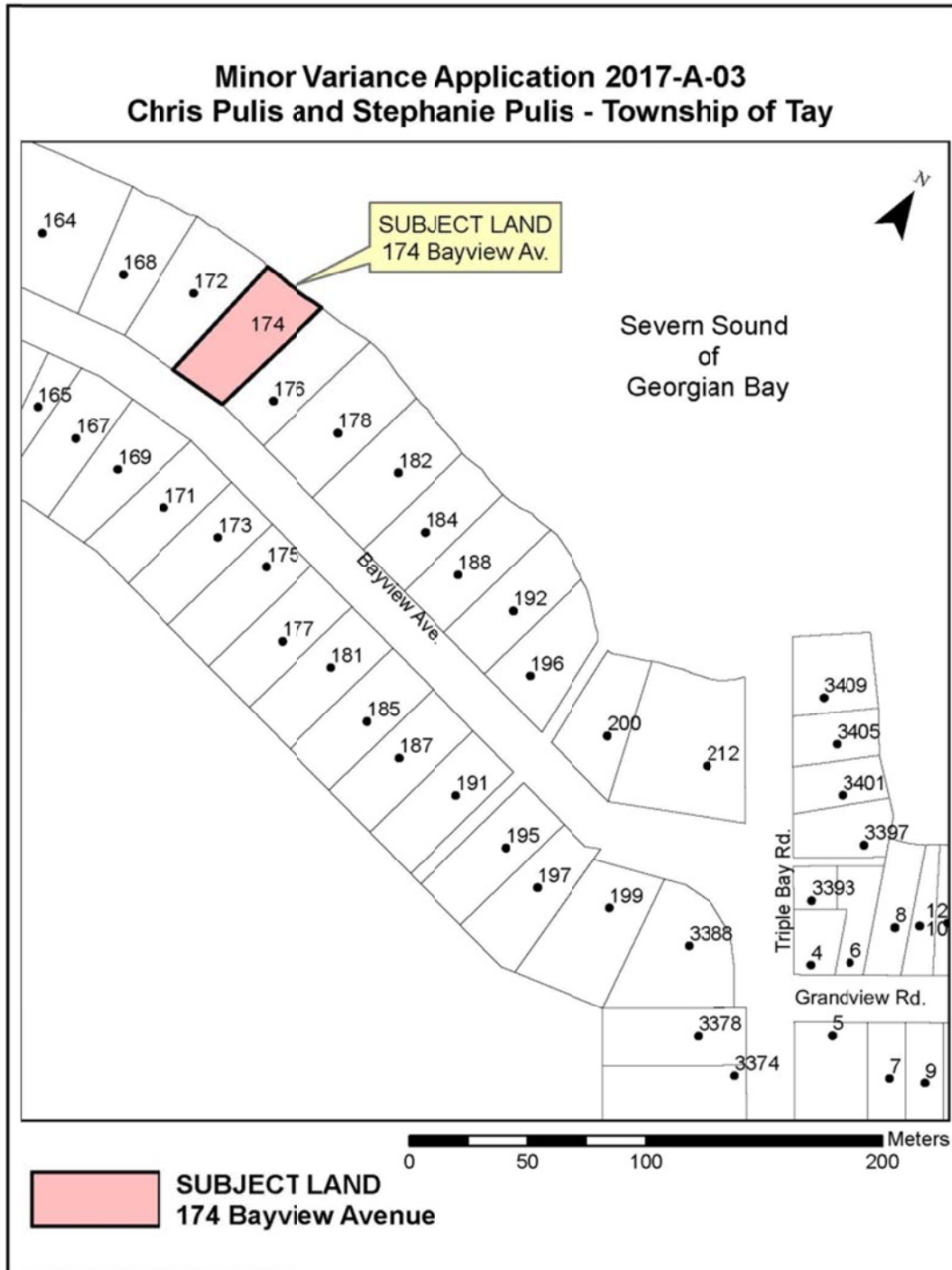
**CONCLUSION:**

Planning Staff are satisfied that the proposed variance maintains the intent of the Official Plan and Zoning By-law, and development is appropriate on the lot and is considered to be minor in nature.

Based on the forgoing, Planning staff has no objection to the proposed variances and are hereby recommending approval by the Committee of Adjustment subject to the conditions as outlined above.

Prepared and Recommended by;

Steven Farquharson, B.URPL, MCIP, RPP  
Director of Planning and Development





**Tony Huguenin**

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**From:** kent jeffery <l  
**Sent:** February-06-17 5:25 PM  
**To:** Tony Huguenin  
**Cc:** Councillor Sandy Talbot  
**Subject:** Expressing our concern

To whom it may concern:

Re: Tay variance application, at 174 Bayview Avenue, File # 2017A03

We have lived at 18 Grandview Road for 10 years and love the natural beauty of our community and delight in residing on the shores of Georgian Bay.

We are concerned about this application for a minor variance, as we believe it will negatively effect our community, and in particular our precious, Georgian Bay shoreline. We are most concerned that if this request for a variance, is allowed it will set a dangerous precedent.

Our concerns include:

1. The excessive height of this boat house; right at the shores edge, as it interferes with the natural beauty and the views from land and from the water. We would not want to see this become an acceptable norm in our community.
1. The excessive closeness to neighbouring properties; as we believe this would cause disruption and hardship to neighbour's maintenance and enjoyment of their property. We would not want to see this encroachment encouraged or accepted.
1. The alteration to the elevation of the natural shoreline and it's possible negative effects to wildlife.

We are unable to attend the upcoming meeting as we are out of the country, but would very much like our concerns to be considered, and that the request for a minor variance be denied.

We appreciate your attention and consideration of this manner and look forward to hearing from you.

Linda and Kent Jeffery

Sent from my iPad

## **Tony Huguenin**

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**From:** Kathy Dickinson  
**Sent:** February-07-17 9:10 PM  
**To:** Tony Huguenin  
**Cc:** Councillor Sandy Talbot; Councillor Jim Crawford  
**Subject:** Minor Variance Application for 174 Bayview Ave File No. 2017A03

February 7, 2017

Mr. Tony Huguenin

Secretary Committee of Adjustments

Dear Mr. Huguenin,

My name is Kathy Dickinson and I live at 3397 Triple Bay Rd, Port McNicoll. I am writing to you with some concern about a boathouse building being erected on 174 Bayview Ave.

I see there is an application for variances submitted to the township.

Tay Township should hold person's building new structures (or renovating) accountable to their building permit which has a site plan and enforce all the by laws and zoning rules that apply, and make the structure comply and not grant them variances.

A variance in my opinion should only be granted prior to construction or to clean up issues with old structures. A new build should not need any variances. A variance for a new build being constructed too close to a property line is **inexcusable** when those rules are very clear and easy to comply with.

Obviously eaves should not be over property lines. I am familiar with this boathouse from kayaking and boating along this shoreline and feel it is excessively high. In fact, higher than a lot of the homes

and cottages along the shoreline. If boathouses like this were built all along this shoreline it's beauty would be ruined. Let's try and keep our shoreline as beautiful as possible. I spend many hours every summer keeping the public beach by our house as beautiful as I can, I remove phragmites, pick up all the lake grass that washes up along the beach with lots of other debris and cart it away, at least 15 trailer loads last year. So this is really disappointing to see the shoreline I love so much to be abused like this.

Please stop this from happening.

Sincerely,

Kathy Dickinson

## Tony Huguenin

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**From:** Stan Keith ~  
**Sent:** February-09-17 11:39 AM  
**To:** Tony Huguenin  
**Subject:** [USE CAUTION] Minor Variance application file # 2017-A-03  
**Attachments:** BOATHOUSE OBJECTION LETTER FEB 9 2017.doc; PICTURE 1 BEFORE CONSTRUCTION.JPG; PICTURE 2 GRADE BEFORE CONSTRUCTION.jpg; PICTURE 3 BACKFILL ON OUR PROPERTY.jpg; PICTURE 4 NW VIEW FROM BACKYARD.JPG; PICTURE 5 WORKERS.jpg; PICTURE 6 EROSION.jpg; PICTURE 6A EROSION.jpg

REMINDER: DO NOT open zip, doc, docx (or any other) files that you are not expecting, even from people you know. For files from people you know, confirm with them that they sent it intentionally before opening the file. Thank you for your co-operation. - Daryl C. W. O'Shea

\*\*\*\*\*

Hello Tony

Here is our letter of objection to this application for the boathouse.

Please ensure the committee of adjustment and Steve Farquharson receive their copies along with the pictures.

Please confirm when it has been delivered to them.

Thank you in advance.

Regards

Stan Keith



Feb 9 2017

To: Tony Huguenin and Committee of Adjustment Members  
Township of Tay  
450 Park St, Victoria Harbour

Re: File # 2017A03  
Building Permit #150254 Plan 1474 Lot 16  
Non-compliant boathouse  
174 Bayview Ave, Port McNicoll  
Township of Tay

We respectfully request your consideration to have the boathouse being constructed at 174 Bayview Ave., Port McNicoll by Mr. Anthony (Chris) Pulis, be relocated and re-constructed to be in compliance with the Tay Township Official Plan and the Township of Tay zoning by-law #2000-57, Sections 4.1.7, 4.1.10 and 4.20. My wife Nancy and I object to the minor variance for the side yard reduction unless the boathouse is changed to a single story (one floor) structure with a flat roof or a low pitch roof with a maximum height at the peak of the north wall to the concrete slab of 18 feet. ( 5.48 meters)

We, Stan and Nancy Keith, live at 176 Bayview Ave, on the adjacent lot to the east where the subject boathouse has been under construction since Sept 2015.

**PLEASE NOTE THAT WE CONTEND THIS APPLICATION FOR MINOR VARIANCE IS INCOMPLETE AND HAS SOME DISCREPANCIES.**

#### **SIDE YARD SETBACK REDUCTION FROM 1 METER TO 0.46 METERS**

We contend that the boathouse has not been constructed on the site location submitted to the township and this application for minor variance is **"not minor"** in nature.

On the site location drawing submitted to the township by the applicant for the building permit approval, the location of the boathouse shows it will meet the required 1 meter setback from our property line the entire length of the building. Also that drawing shows the exterior marine rail running northwesterly from the proposed boathouse on an angle to the west. It is impossible to bring a boat into a boathouse on such an angle because the interior rails must run straight in line with the exterior rails. The applicant has intentionally changed the location of the building to line up with his exterior marine rail as reported in the IPS Planning Justification Report page 8. Now the building has encroached onto our property and the eaves of the boathouse are extended over our property line by 19 cm.

The **"marine rail"** should have been moved to allow the boat to go into the boathouse and maintain the 1 meter setback. There is no need or justification for this variance.

Workers are using our property to construct this boathouse. (see picture 5). We had to pick up roofing nails from our land for a week after shingling. Imagine what a mess we'll have to deal with when the shingles need to be replaced in the future?

It is impossible to clean the gutters or maintain the building or their own property next to the east side of the boathouse without trespassing. If it was a one floor building and had a much lower pitch roof they could access the west side of the roof via a ladder and walk anywhere on the roof to service/clean the gutters or repair/replace shingles. The pitch of the existing roof is too severe and too high to safely walk from one side to the other.

Staff and people from IPS planning attended the site and could not walk down the east side of the building without trespassing onto our land. It is simply too close (46 cm or 18 inches) and therefore not minor in nature.

Our property has been excavated and now the grade of our land has been raised significantly. (see pictures 2 and 3)

We are so concerned about the negative effects and proximity of the boathouse to our property that we paid to have an OLS to locate the final position of the boathouse in relation to the property line. The resulting survey clearly shows the foundation of the building is 46 cm (18.11 in) to the west and the overhang of the eaves is 19 cm (7.48 in) to the east of the property line extending onto our property. Not 0.49 m setback as noted on the application for which there is no OLS survey from the applicant that I saw. Only a re-creation site plan document from the applicant's planner which referred to measurements being taken in April 2016. This appears to be an error in the application.

At the time our survey was conducted the survey monument at the North East corner of the lot next to the boathouse had been buried under 3 feet of large stones and boulders placed there by the applicant and witnessed by my wife and I.

### **PROJECTION OF EAVES INTO REQUIRED SETBACK**

We contend the application for the eave encroachment and solution proposing to cut them back will simply result in further non-compliance regarding the maximum height of the boathouse.

The landowner has proposed to cut off the eaves along the east wall to comply. In order to comply they must cut off 53cm of the total eave overhang. This would allow for the 19 cm projection, 24 cm set back which must include about 10 cm for the gutter. Gutters must be included within the allowed encroachment as per section 4.20 of the bylaw. This then further raises the mid point elevation of the trusses causing a further non-compliance of the height. The applicant should not be allowed to solve one non-compliance by increasing another non-compliance.

Contained in the application is an "ASBUILT ELEVATIONS OF BOATHOUSE" drawing that was prepared by **B. Pulis on August 16, 2016 and NOT CONFIRMED BY AN OLS.** It

indicates that from ground level (final grade) elevation , the average height of the boathouse will be 4.5 meters. Extended to 2 decimals it is actually **4.53 meters**. This exceeds the maximum height by 3 cm before the eaves are cut back by 53 cm resulting in the mid truss elevation to increase. Therefore the overall average height will be higher than 4.53 meters .

**WE CONTEND THAT THE BOATHOUSE DOES NOT MEET THE REQUIREMENTS OF THE OFFICIAL PLAN.**

Marie Leroux, MCIP RPP, Registered Professional Planner acting on our behalf will present her report and summary separately.

This is our retirement home and we are full time residents of Tay Township. This non-complying boathouse has had major negative effects on us including physical alteration and damage to our property, and our enjoyment of our property including:

- 1) Water is now flowing onto our property causing damage and erosion for over a year. The IPS planner report states on page 13 there are no negative impacts to "DRAINAGE". (See pictures 6 & 6B)
- 2) Our original natural views of trees, water and sunsets to the west and northwest from our living room, deck, back yard and our boathouse are now gone and are being obstructed. Nearly all the trees along the property line have been removed which destroyed the natural look and views even though the IPS planner report states that "NO TREES HAVE BEEN REMOVED" on page 9. (See pictures 1 and 4 )
- 3) There is no room between the property line and the boathouse for trees to be planted to bring the view back to its original and natural state and conceal at least some of the boathouse . They cannot plant trees "on their own property" along the east wall of the boathouse to replace them because they did not meet the required 1 meter setback .
- 4) Our land has been built up with backfill material up to 2 feet deep in places and as far as 6 feet to the east of the property line onto our property which we did not give permission to do. ( See picture 3)
- 5) All excavation and construction and completion of the building can only be done and has been done by trespassing on our land which we did not give permission to do.
- 6) The IPS planner report on page 10 says this is minor and there is sufficient space to walk around the structure. Staff attended the site with that planner and they themselves "could not" walk along the east wall without trespassing let alone conduct any construction, maintenance or repairs.
- 7) The building is so high ( 26 feet from peak to concrete floor ) that it causes 100 % shading of our beach and our boathouse deck from the late afternoon to sundown.



8) The roof pitch is so severe and high that the east side cannot be accessed from the west side on the applicants property for service or maintenance. (See picture 5)

This boathouse has been constructed at a location and height the applicant very well knew would not comply with municipal by-laws. Rather he took the approach it is easier to ask for forgiveness than for permission. Municipal Zoning By-laws, the Official Plan and the Ontario Building Code are put in place to set standards that are acceptable for development, construction and to **"protect neighbouring properties"**. The applicant should be required to meet these standards in every respect and the boathouse should be relocated and brought into compliance in every respect.

Further, he will have to do this without taking liberties, trespassing or negatively altering our land in any way whatsoever for his own benefit. I don't think any other rate payer in any township would stand for anything less if it was their property next door. **Would you ?**

By allowing anyone to build up grades and manipulate elevations, you will render our maximum height bylaws **"UN-ENFORCEABLE"**. That then brings into consideration the amount of setback required because accessory buildings are intended to be subordinate to the main dwelling and much smaller in size. This boathouse is the size of a house along the east side. 32 feet long by 26 feet high. The setback "should" be 3 meters because the boathouse is not subordinate in "size and height".

The fact this boathouse has been substantially constructed should be irrelevant. Ask yourselves if this application had come to you prior to construction as it should have, would you allow the applicant to:

- take liberties with our land because it is so close to the property line?
- encroach for no good reason what-so-ever other than avoiding the inconvenience of moving a marine rail even though their lot is 84 feet wide?
- excavate and dump that material including parts of their weeping bed tiles onto their beach rather than haul it away?
- cut down and remove nearly all the trees along the property line with no room left to replace them and hide the structure being built?
- raise the grade of our land to help manipulate the maximum height restriction?
- raise the grade of his own land to help manipulate the height restriction and allow water runoff onto our land causing erosion and damage for the past year?
- build a boathouse that is 4 or 5 feet higher than surrounding houses and become the dominant structure along the shoreline? (There was 3 feet high of concrete foundation wall added beyond the original foundation drawings.)

My wife Nancy and I object to the minor variance for the side yard reduction unless the boathouse is changed to a single story (one floor) structure with a flat roof or a low pitch roof with a maximum height at the peak of the north wall to the concrete slab of 18 feet. ( 5.48 meters).

As members of the Committee of Adjustments for our Township we look to you to ensure our Townships By-laws, the Official Plan and the Ontario Building Code are enforced and complied with regarding this non-compliant boathouse in all respects. Please provide us with notice of your decision.

Respectfully submitted

Stan and Nancy Keith  
176 Bayview Ave.  
Port McNicoll  
Tay Township  
Home phor  
e-mail:



Photo No. 1

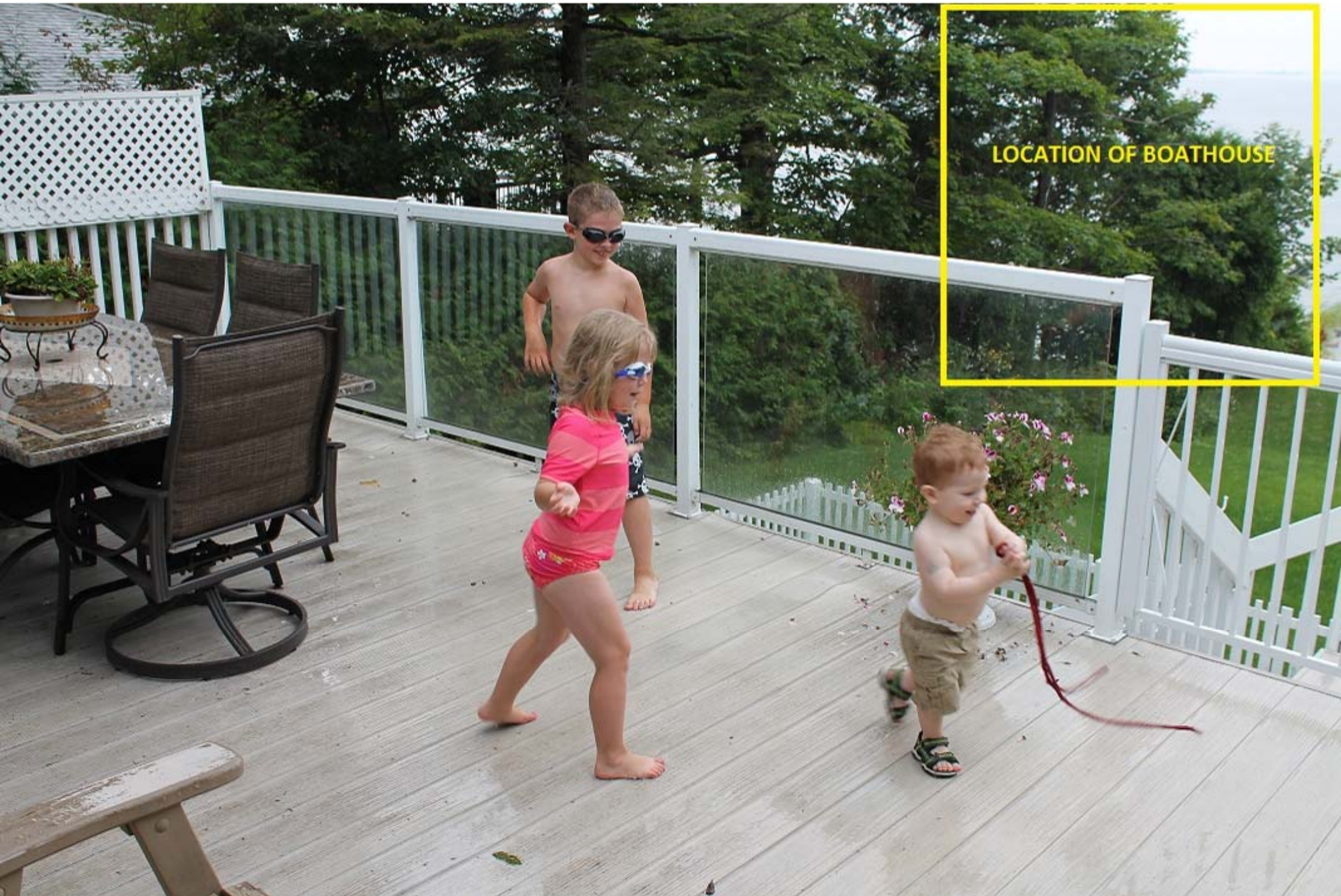




Photo No. 2





Photo No. 3





Photo No. 4





Photo No. 5



**SURVEY STAKE**

**IS 18" FROM BOATHOUSE**



Photo No. 6





Photo No. 6A



## **Tony Huguenin**

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**From:** Marie Leroux <marieleroux24@hotmail.com>  
**Sent:** February-09-17 3:22 PM  
**To:** Tony Huguenin; Stan Keith  
**Subject:** Minor Variance 2017A03 - Pulis Boathouse  
**Attachments:** Minor Variance 2017A03 Pulis Report Feb 9 2017.pdf

Hi Tony,

Thanks for all your emails today. Attached to this email is my report. Please have this report emailed to all of the Committee of Adjustment members. Please confirm that it has been emailed to them.

Thanks and have a great day,

Marie Leroux, MCIP RPP  
551 Simcoe Street  
Collingwood Ontario L9Y 1K2  
H: 705-444-0703  
C:

February 9, 2017

Township of Tay  
Committee of Adjustment  
450 Park Street  
Victoria Harbour ON L0K 2A0

Dear Committee of Adjustment Members:

RE: MINOR VARIANCE APPLICATION 2017A03 – PULIS BOATHOUSE  
174 BAYVIEW AVENUE  
TAY TOWNSHIP  
KEITH'S OBJECTION TO VARIANCE – PLANNING REPORT

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Chris and Stephanie Pulis, owners of 174 Bayview Avenue, had obtained a building permit on September 18, 2015 from the Township of Tay to construct a boathouse on their lot described as Lot 16, Plan 1474 in Port McNicoll, Township of Tay.

Stan and Nancy Keith, owners of 176 Bayview Avenue, live next door to 174 Bayview Avenue to the east. Their lot is described as Lot 15, Plan 1474 in Port McNicoll, Township of Tay. The Keith's have been impacted by the construction of this boathouse and the grading and filling on Mr. Pulis's lot.

I am Marie Leroux, a registered professional planner. I am acting on the Keith's behalf with respect to the development that has occurred at 174 Bayview Avenue, the boathouse with 2 floors that has been construction, and the proposed minor variances.

Stan and Nancy Keith have been impacted by the development of the boathouse and object to any minor variances being granted to permit the boathouse to remain and the lot to be further filled in with rocks/boulders and soil. Any boathouse to be constructed on Mr. Pulis's lot should comply with all by-laws and regulations under the Ontario Building Code. Stan and Nancy Keith are requesting this boathouse be removed along with all of the rocks/boulders and fill that has been placed on their lot by Mr. Pulis. This is unless the boathouse is changed to be a single storey (1 floor) and comply with all of the zoning by-law provisions except the south east corner side yard setback of 0.46 metres and for the eaves with gutters to have a minimum side yard setback of 0.24 metres.

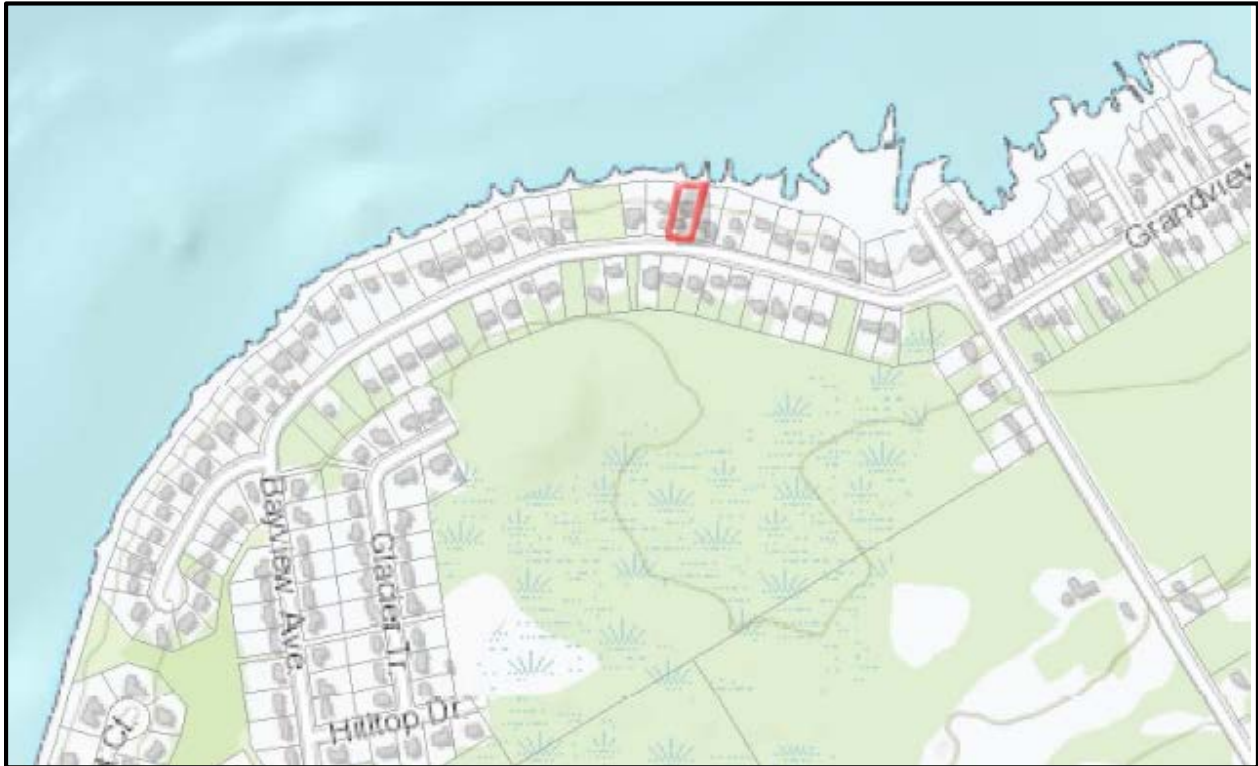
I will proceed to explain in this report the properties, the boathouse and associated development that has occurred, the impacts, and how in my professional planning opinion the proposed minor variance for the boathouse is NOT minor, NOT desirable, DOES NOT meet the intent and purpose of the Township of Tay Official Plan, and DOES NOT comply or meet the intent and purpose of the Zoning By-Law. In my professional opinion it is not in the public interest, and not in the best interest for the residents of Tay Township, to permit this boathouse to remain.

#### **SUBJECT PROPERTIES**

The subject properties are located in Port McNicoll along the shoreline of Georgian Bay. This area of Georgian Bay is referred to as Severn Sound. These two lots are waterfront lots, with road frontage on Bayview Avenue. In this area there are residential lots on both sides of the road that extends for miles along the shoreline. Most of these lots would have been created on old plans and do not meet today's

standards for minimum width for lot frontages and lot areas. Most of them would have been for cottages that are now changing to permanent homes.

**Map showing the location of the lots in the area. 174 Bayview Avenue is outlined in red**



Pulis's lot consists of 25.31 metres of frontage by 58.58 metres of depth, with an overall area of 1600.8 sq. metres. There is an existing dwelling with a walkout basement (2 floors) and a detached garage with 2 floors at the front of the lot. There is a boathouse under construction at the waters edge with 2 floors.

Keith's lot consists of 24.41 metres of frontage by 58.58 metres of depth, with an overall area of 1430 sq. metres. There is an existing dwelling with a walkout basement (2 floors) at the front of the lot. There is a single storey flat roof boathouse at the waters edge.

Both lots slope down from the road to the waters edge of Georgian Bay. According to the contour lines, on the Site Plan with the application, the elevation at the road is 184.5 metres and at the waters edge it is 176.75 metres. So there is a drop of 7.75 metres (25.4 feet). There are trees along the side lot lines and at the front of both lots. Both lots are serviced by municipal water and private septic systems.

## **THE BOATHOUSE DEVELOPMENT**

### ***Building***

The boathouse is 9.75 metres (32 feet) long by 4.88 metres (16 feet) wide, and has a ground floor area of 47.58 sq. metres (512 sq. feet). Plus, there is a concrete landing at the south end which is 1.55 metres (5 feet) by 2.4 metres (7.87 feet), overall 3.72 sq. metres (40 sq. feet). This brings the area covered on the ground to be a total of 51.3 sq. metres (552 sq. feet). There is a concrete floor and a block wall foundation completed in rows in a step-up fashion. At the waters edge the foundation starts



with 8 blocks and at the other end there is 18 blocks. The building is then a wooden framed building with a peaked roof and on the west side there is a dormer jutting out. There are no openings on the east side. The waters edge (north side) there is a garage type door on the ground level being 11 feet high by 10 feet wide. On the second floor is patio doors with deck. On the west side is a man door 7 feet by 3 feet +/- and on the second floor, in the dormer, a window 4 feet by 5 feet +/- . On the south side on the second floor is a man door 7 feet by 3 feet +/- . The first floor would have a 12-foot ceiling and the second floor would have an 8.9-foot ceiling.

### ***Height***

There has been substantial filling, large boulders placed, and large and small rocks placed all around the building to bring up the lot grades. It would appear as though the boathouse has been constructed into the side of a hill. According to the contour lines on the surveyor's drawing with the minor variance application, which was prepared by Rudy Mak, dated September 9, 2015, at the water front the ground elevation is 177.75 metres and at the other end of the building the ground elevation, now with the filling, is 180.85 metres. This is a difference of 3 metres or about 10 feet.

**We were not able to go onto the property to measure the building height. The following is my estimate of the height of the building from the current ground elevation to the peak based on the following: Mr. Keith's surveyor's report on the elevations of the top of foundation walls; viewing the building; building construction plans; and photos. The drawing with the minor variance application report titled "Asbuilt Elevations of the Boathouse" dated August 16, 2016 was based on measurements given by B. Pulis (the owners brother) and not confirmed by a surveyor. Mr. Keith's surveyor has confirmed elevations for the top of foundation at the mid wall point which proves this drawing is inaccurate and the building exceeds the maximum height of 4.5 metres. The Township should require the lot owner to have the height of the building confirmed by an Ontario Land Surveyor before they proceed with any variances unless the building is changed to a single storey.**

Waters Edge – concrete floor to peak 7.97 metres (26.15 feet)

South End – existing ground elevation to peak 5.26 metres (17.26 feet)

East Side – existing ground elevation to peak 6.52 metres (21.39 feet)

West Side – existing ground elevation to peak 6.86 metres (22.51 feet)

### ***Location***

The boathouse setbacks are as follows based on the measurements on the County of Simcoe GIS mapping and on the survey completed for Mr. Keith by J.C. Stanton, OLS dated November 2, 2016.

North lot line – 5 metres

South lot line – 42 metres

East lot line – 0.46 metres (south end), 1.32 metres (north end), eaves over on adjacent lot by 0.19 metres (OLS measurements)

West lot line – 22 metres



***Lot Grading and Filling***

The land on the west side of the building has had over 3 metres (10 feet) of fill consisting of large stone boulders and soil in a step-up fashion, with progressive landings. Gravelly soils have been placed around the south end of the building and extends around to the east side and onto the Keith's lot. There has been over 0.6 metres (2 feet) of fill placed on the Keith's lot in some places. Along the east side at the north end of the building the Pulis's contractors have placed stones and stone boulders that extend to the waters edge. This included covering the survey monument by 3 feet. The Keith's surveyor could not even dig it out.

Pulis's contractors have continue to trespass onto the Keith's lot for the construction and when shingling the roof left numerous nails all over which the Keith's had to pick up.

Mr. Pulis during the construction of the boathouse was advised by Mr. Keith that the building was too close to their lot line. Mr. Pulis checked this with his surveyor and advised Mr. Keith that it was not a big issue as he would just need a minor variance and Mr. Pulis choose to continue on with his construction without dealing with non-compliance issue.

**We would respectfully request the Committee of Adjustment members review the requested minor variances as if the building did not exist. We would request the Committee members to ask themselves if they would grant the requested variances for a proposed 2 floor boathouse.**

**PROPOSED MINOR VARIANCE**

The Minor Variance application is requesting approval for the following minor variances as specified in the Planning Justification Report.

The requested minor variance are as follows:

- 1) A reduced minimum interior side yard setback for the southeast corner/wall of the boathouse, from the required 1.0 metre to the constructed 0.49 metres;
- 2) A reduced maximum projection of eaves into required setback along the east side of the boathouse, from the required 0.76 metres to 0.25 metres; and
- 3) An increased maximum lot coverage for accessory structures, from the required 10% to the constructed 12.5%.

The report then states:

**"The height of the boathouse currently exceeds the permitted height of 4.5 metres, however, the boathouse is still under construction and finished grade has not been established."**

**This statement is NOT ACCEPTABLE. Before a building permit can be issued an applicant must provide the building plans and the proposed lot grading elevations so it can be determined if what is proposed complies with the zoning by-law provisions. A building permit could not have been issued for this boathouse if the proposed height was non-complying with the maximum of 4.5 metres based on building plans and proposed grade elevations. And it was provided initially for the building permit because it was issued. However, after that Mr. Pulis added additional blocks at the rear of the foundation raising the building height. The Township then required his construction plans changed so they could confirm if the change would still comply with the zoning by-law. There are two (2) design**

information sheet attached to the Minor Variance Application that are part of information required with a building permit. This was obviously needed as part of what the Township needed to address the changes to the boathouse for the building permit and to allow for the construction to continue. I would like to ask, "what was required from the Township to confirm the height change still complied with the maximum permitted"? Mr. Keith has asked for this and has not been successful in getting that answer.

Since then it has been stated by the Township and is within the Planning Report that the finished grade has not been established so apparently the height of the boathouse remains a mystery until the construction is completed. **THIS IS SO WRONG.** The minor variance application must include the proposed height of the building so the Committee of Adjustment know what it is they are considering to approve. Are the Pulis's proposing to add more fill, boulders, or a retaining wall along the east side of the building? Can the Pulis's add more fill, etc. or will that not comply with the Ontario Building Code by going over the top of the foundation where the code requires the grading to be at least 6 inches below the top of the foundation? How will that effect the non-compliance issues? Will a retaining wall along the east side of the building create a more of a side yard issue with respect to the ability to maintain the building and retaining wall without trespassing onto the Keith's lot? Should a retaining wall be permitted along the east side? Would the Keith's object to the side yard setback reduction if a retaining wall is proposed?

**THE COMMITTEE OF ADJUSTMENT MUST HAVE A COMPLETE APPLICATION BEFORE CONSIDERING ANY MINOR VARIANCES.**

The Asbuilt Elevation Drawing of the boathouse attached to the report is on a surveyor's letter head but it has a note on it stating the measurements have been provided by B. Pulis and not confirmed. That means not confirmed by the surveyor. This drawing suggests the height to be calculated at 4.5 metres. The owner is agreeing to cut the eaves back from encroaching. By just cutting off the eaves will increase the height to be non-complying. This is because the height is measured from the average height between the eaves and ridge (peak) to the average finished grade.

According to Mr. Keith's surveyor, the boathouse can not comply with the height requirement and this application is errored as it states the height to be 4.5 metres which is incorrect. This application should have included a minor variance to request an increase in the maximum height or what was proposed for the building to comply.

The effect and purpose for the minor variances is stated in the report as:

**"This minor variance application attempts to rectify three (3) deficiencies related to the boathouse structure,"**

#### **EXISTING POLICY FRAMEWORK**

The subject lot is designated Shoreline Residential in the Township of Tay Official Plan and zoned Shoreline Residential (SR) in the Township of Tay Zoning By-Law 2000-57. The lot is in a Rural Area, not in a Settlement Area.

In accordance with the *Planning Act*, the Committee of Adjustment may authorize a minor variance if in their opinion it meets the four (4) tests as set out in the *Planning Act*. Such minor variance from the

provisions of the by-law, in respect of the land, building or structure or use thereof must meet the following four (4) tests: 1) is the request maintaining the general intent and purpose of the Official Plan; 2) is the request maintaining the general intent and purpose of the Zoning By-law; 3) is the request minor in nature; and 4) is the request desirable for the appropriate development or use of the land.

**1) Is the request maintaining the general intent and purpose of the Official Plan?**

The Township of Tay Official Plan establishes goals, objectives, and policies for future development. Tay is identified as a natural, scenic and waterfront destination. The Township has 48 kilometres of shoreline on the Severn Sound of Georgian Bay. This waterfront is a unique resource and a significant land and water asset to the Township of Tay.

The plan provides specific policy direction for development along the shoreline. Any development along the waterfront should enhance and protect the qualities that contribute to the character and attraction of this unique resource. Any development or redevelopment of the waterfront should be based on the following nine principles of a "Green Waterfront". Those nine principles being clean, green, useable, diverse, open, accessible, connected, affordable, and attractive.

Section 2.2.11, Shoreline & Rural Areas policies defines two of these as follows:

.4 e) Open – "The density and design of waterfront development should not create a visual barrier or be an intrusion on the shoreline area."

.4 l) Attractive – "Waterfront design should protect vistas and views of the lake, emphasize sensitive design and massing of buildings, incorporate attractive and usable links, and create distinctive and memorable places along the waterfront."

The Pulis's waterfront lot, prior to the construction of the boathouse, had a more natural waterfront with a sandy beach and trees along the side lot lines. This lot was lower in elevation than the Keith's lot where the boathouse has been located. This lot, with the construction of the boathouse, has been substantially filled (over 3 metres (10 feet)) with large boulders and fill and is now higher in elevation than the Keith's lot. Looking at the boathouse from the waters edge it appears to be higher in height than the existing 2 floor dwelling on the lot. The boathouse at the waters edge from the concrete to the peak is over 7.97 metres (26.15 feet) in height, and the 2 floor dwelling appears to be 6.7 metres (22 feet) from the basement floor to the peak.

The Owner has removed that naturalized shoreline by removal of several trees and by constructing an excessively large 2 floor boathouse. Not only does this boathouse block the view of the scenic water and area from the Keith's lot and neighbouring lots but also from the existing dwelling on the property. The view from the water has also been degraded from the natural shoreline by the excessively large boathouse.

The lots along the shoreline in this area are smaller in size with the average width (frontage) being 25 metres (82 feet). The density and design of buildings along the waterfront should not create a visual barrier or be an intrusion on the shoreline area. There should not be the massing of buildings that take away the attractiveness of the shoreline area. With the widths of the lots in the area and the number of lots along the shoreline, if each of these lots were to have a similar size and height of boathouse as this one on them, there would definitely be a massing of buildings along the shoreline

that would take away the natural attractiveness of the shoreline and would not comply with the policies or direction of the Official Plan.

The minor variances to allow this boathouse to be that close to a lot line should NOT be granted as it does not comply with the Official Plan policies to protect the views and vistas of the shoreline. The proposed minor variance to allow the size and design of this boathouse does NOT maintain the intent of the plan to protect and maintain the attractiveness of the shoreline. In my opinion this boathouse is NOT sensitive in height or design to meet the intent and purpose of this policy.

#### Section 4.1.2, Shoreline Residential

Development should be compatible with existing land uses in the adjacent areas and have appropriate servicing. Development in the Shoreline Residential designation shall have regard to the aesthetic quality of the waterfront and shoreline area and to the principle for a “Green Waterfront”.

Permitted Uses allow for seasonal and permanent single detached dwellings which would include accessory uses.

Under the Shoreline Residential policies, which this lot is designated, again it reinforces the “Green Waterfront” principles that development SHALL have regard to the aesthetic quality of the waterfront and shoreline area. The Keith’s, being neighbourly, spoke with Mr. Pulis about boathouse and advised him and the Township of their concerns about the non-complying location and height of the building when the trusses were going onto the building. And still the construction just continued. They then asked Mr. Pulis if he would consider having a flat roof on the boathouse. Mr. Pulis stated that he would not accept changing the boathouse to be a flat roof. Mr. Pulis continued to build the boathouse knowing it did not meet the setback requirements and was excessive in height, and choose to fill in his lot in an attempt to comply with the maximum height permitted for an accessory building, so that he could have a 2 floor boathouse. Mr. Pulis is now requesting for variances for a boathouse that has been built too close and has the eaves overhanging onto the Keith’s lot, blocks their north-west and westerly views of the beautiful Georgian Bay from their home. Mr. Pulis has had excessive fill placed on his lot that has extended onto the Keith’s lot, and has not given any consideration for his development to maintain the aesthetic quality of the waterfront and shoreline area. This development has **great impact** to the Keith’s and their aesthetic quality of their views of the waterfront and their neighbour’s view of the waterfront let alone how intrusive it looks from the water.

The minor variances to permit this boathouse and associated development **DOES NOT maintain the intent and purpose of the Official Plan and should NOT BE GRANTED**. The Township should require the Owner to remove the boathouse. If the owners want to rebuild, the boathouse should be built to comply. The Owner should also be required to remove all of the fill, stones, and boulders from the Keith’s lot.

#### **2) Is the request maintaining the general intent and purpose of the Zoning By-Law?**

The subject lot is zoned Shoreline Residential (SR) in Tay Zoning By-law 2000-67. According to the zoning by-law no land or building shall be permitted unless the land, use, and building comply with the by-law. The **SR zone requires a minimum lot frontage and lot area of 30 metres and 2000 sq. metres**

respectively. The **Pulis lot consists of 25.31 metres of frontage with an overall area of 1600 sq. metres and does not meet these minimums.** However, Section 4.11, Lots Substandard, of the zoning by-law allows the uses permitted on an existing lot, that existed at the time of the passing of the by-law (which this lot did), provided it is sufficient in size for the use and **services** and meets the zone provisions. So the uses permitted under the SR zone are permitted ie. dwelling, accessory buildings, and boathouse.

The boathouse is considered an accessory building. The chart below shows the applicable zoning provisions for accessory buildings, uses and structures.

#### Section 4.1 Accessory Buildings, Uses & Structure

Zone Provision	Minimum Required	Proposed/Existing	Comments
1. Accessory uses normally incidental to main use shall be permitted.	The boathouse is to be incidental and subordinate to the dwelling.	The 2 floor boathouse is 26.15 feet high at the waters edge and the dwelling on the property is about 22 feet on the water side. The boathouse is 32 feet long and the dwelling is 26 feet long.	The 2 floor boathouse does not appear to be a small accessory building to the dwelling and especially from the water. It would not be considered incidental or subordinate to the dwelling and <b>does not comply with this provision.</b>
2. No accessory building shall be used for human habitation.	No human habitation.	The 2 <sup>nd</sup> floor is intended for human habitation. According to Mr. Pulis it is for a games room.	<b>The use of the boathouse does not comply.</b>
5. Maximum lot coverage for all accessory Buildings & Structures in..SR..zones shall be 10%.	10% lot coverage	10% of the lot area 1600 sq. metres is 160 sq. metres 58.7 garage + 51.3 boathouse = 110 sq. metres <b>complies.</b>	<b>Accessory Building lot coverage complies.</b> The Minor Variance application has included the attached decking on the dwelling for this calculation. According to the definition for accessory use it is detached use. It would not include attached garage or decking to the dwelling they would be part of the overall lot coverage maximum of 30%.
Maximum lot coverage in SR zone is 30%	The 10% is the specified lot coverage for accessory buildings. Accessory buildings	30% for total lot coverage is not exceed as it is 18.8% for all	<b>Complies.</b>

Zone Provision	Minimum Required	Proposed/Existing	Comments
	must also not exceed the lot maximum ground coverage of 30% for all buildings and structures in that zone.	buildings and structures on the lot.	
6. Maximum ground floor area of any one detached accessory building or structure in any Residential Zone is 93 sq. metres.	Maximum ground floor area 93 sq. metres	Boathouse 51.3sq. metres <b>complies</b>  If this was max. gross floor area the boathouse would be 102.6 sq. metres and exceed the maximum.	Accessory buildings are the only buildings in the zoning by-law that specify maximum ground floor area. All other proposed uses have a specified maximum or minimum gross floor area. I would interpret the zoning by-law has applied this because accessory buildings where to be only 1 floor.
7. No accessory building or structure shall exceed a height of 4.5 metres.  Definitions for height.  Height is defined as the vertical height from the finished grade and shall be calculated as follows; c) in the case of a gable, hip or gambrel roof, the average heights between the eaves and ridge; exclusive of any accessory roof construction.....  Grade, Finished or Established is defined as the average of the finished ground level at the centre of all walls	Maximum height for the boathouse is the vertical height from finished grade (or proposed grade) to the mid point between the eaves and ridge (peak) at the centre of all 4 walls.  Please note that the Maximum height 4.5 metres, in my opinion, equates to the height of a single storey. As opposed to the Dwelling in the SR zone has a maximum height of 11 metres.	According to the MV application the boathouse is 4.5 metres in average height. Please note that the Asbuilt Elevations drawing of the boathouse are in accordance with B. Pulis and NOT CONFIRMED BY AN OLS. This drawing indicates the following measurements for the mid walls: N – 6.40 m S – 3.40 m E – 4.60 m W- 3.70 m  They constructed the building with an “A” frame roof and have placed substantial fill, large rocks and boulders around the	Mr. Keith’s Ontario Land Survey has confirmed that the boathouse can not comply with the maximum height at the existing ground. He has also the top of foundation wall elevation which confirms the Asbuilt Elevations drawing is incorrect.  <b>THIS APPLICATION FOR MINOR VARIANCE IS INCORRECT AND INCOMPLETE.</b>  <b>The Owner should be required to confirm the building height by having an OLS complete a true/confirmed building elevations</b>

Zone Provision	Minimum Required	Proposed/Existing	Comments
of the building or structure.		building to bring the grades up in an attempt to comply with the building height. <b>And they are proposing more fill and/or a retaining wall but have not supplied this information which is required.</b>	<b>with proposed grades at the mid point of all 4 walls.</b>
8. In SR zone - a maximum of two detached accessory buildings shall be permitted.	2 accessory buildings per lot	2 – detached garage and boathouse complies	Complies.
9. Setbacks – in SR zone - not in front yard, 1 metre for side & rear yard	1 metre setback from side & rear	Not in front 0.46 m east side 5 m rear yard 18 m+ west side yard  <b>DOES NOT COMPLY WITH EAST SIDE YARD NOTE VARIANCE IS FOR 0.49 WHICH IS INCORRECT</b>	The minor variance application is <b>INCORRECT</b> . Mr. Keith's had a survey completed for his property that illustrates the location of the adjacent buildings and the <b>boathouse in the south east corner is 0.46 m from the lot line.</b>
10. Boathouses, pump houses, and boat docks are permitted in any yard of a waterfront lot except the front yard, provided they are located no closer than 1 metre from the interior side lot line.	Boathouses to not be in front yard and 1 metre from interior side lot line	Not in front 18 metres + west side 0.46 metres east side <b>east side yard DOES NOT COMPLY</b>	<b>East side yard does not comply and is incorrect on the Minor Variance request.</b>
4.20 Permitted Yard Encroachments – Eaves and gutters all yards by 0.76m	Yard Requirement for accessory building - Side yard 1 m Rear yard 1 m Encroachment of 0.76m requires the eaves and gutters are to be 0.24 m from the side and rear lot line.	Owner is proposing to cut back to eaves to be 0.24 m for the east lot line. Requesting variance for encroachment to be for 0.25m for the east side. This is because they are requesting the	This variance may be requested to clarify compliance of the eaves and gutter setback. <b>Please note that it should be for eaves and gutters as the gutters protrude</b>



Zone Provision	Minimum Required	Proposed/Existing	Comments
		side yard changed to a minimum of 0.49. So $0.49 - 0.25 = 0.24$ m	further out from the eaves. The request is <b>INCORRECT BECAUSE THE BUILDING IS 0.46M FROM THE LOT LINE</b> . If the variance is given to allow the encroach to be 0.25m into the side yard that would be $0.46 - 0.25 = 0.21$ m from the lot line.

The above chart sets out the zoning provisions and definitions to be considered for the boathouse plus the eaves encroachment provision. My review of the zoning by-law and the evidence that I have reviewed has determined that the boathouse does not comply with the following zoning provisions.

**NON-COMPLIANCES: the boathouse does not meet side yard setback; the boathouse is not incidental and subordinate to the principle use; the proposed use of the building to have human habitation is not permitted; and it exceeds the maximum height permitted and intent of the by-law to be a single storey.**

The above chart also points out the incorrect and incomplete information with the minor variance application. **This application should at least be deferred until it is correctly completed with an OLS confirming the height of the Boathouse unless the Owners agree to change the building to be a single storey (1 floor).**

The minor variance request includes an increase for a **maximum lot coverage** for accessory structures which is **not required**. My interpretation of the zoning by-law is that a deck attached to the dwelling is not considered as accessory structure which has been included as part of the 10% lot coverage permissible for **detached** accessory buildings and structure. This is based on the definition for Accessory Uses shall mean a use, **detached** building or structure, which is usually incidental, subordinate, exclusively devoted to and located on the same lot as the principle use, building or structure but not include a building or structure which is used for human habitation unless otherwise permitted. The definition for a deck shall mean a structure **abutting** a dwelling with no roof or walls except for visual partitions and railings, which is constructed on piers or a foundation above grade for use as an outdoor living area.

The minor variance application requests a reduction for an **eaves encroachment which is not required**. I believe it may have been included for clarification but right now the by-law allows the eaves, under this circumstance, to be 0.24 metres from the side yard. The owners are proposing to cut the eaves back to comply. I believe they thought this was needed because the side yard setback reduction but it could be just noted as a condition that the eaves and gutter along the east side of the building be minimum of 0.24 metres from the side lot line.



**In the event that it is not deferred I will provide, in my professional opinion, that this boathouse does not meet the intent of the zoning by-law.**

**East side yard Does not comply.** The intent of the zoning by-law is to provide sufficient room between a building and the lot line so the building can be built and maintained without going onto adjacent properties. And to provide room for the lot grading and drainage on the lot. An accessory building setback has only 1 metre setback because it is usually a small building with one storey. The Pulis contractors have had to go on the Keith's lot to construct the building, time and time again. They have left building material and nails on the Keith's lot which they had to pick up. There has been excessive filling of the lot all around the boathouse just to cover the foundation with the fill extending onto the Keith's property. The drainage from the lot with all of the fill has caused the soils on the Keith's to erode towards the water. And they will have to trespass to finish construction, if it is permitted.

A minor variance to reduce the side yard setback for a 2 floor large boathouse from 1 metre to 0.46 metre **DOES NOT MEET the intent of the by-law** as it has created numerous impacts to the Keith's lots and the owner will have to trespass to maintain the building and lot grading. They are proposing eaves troughs along the eaves and they will have to trespass to clean out the gutters. This building is almost as large as a principle building which the side yard setback under the SR zone is 3 metres, which is what this building should have. **The zoning by-law clearly sets out how the higher the building the higher the side yard setback should be.** Below is the chart from Section 8.4.14 for the Interior Side Yard.

Minimum Yards	1 Storey Building	2 Storey Building	3 or More Storeys
Interior Side Yard	1.22 metres	1.8 metres	5 metres

The eaves along the east side of the building are proposed to be cut back to be 0.24 m from the lot line. Should the Committee proceed with the variances requested, we would request the Committee of Adjustment to **make the minor variance conditional on the eaves** on the east side of the building being cut back to be a minimum 0.24 metres from the side lot line and gutters and down spouts be installed to capture the water drainage from the roof and have it directed onto the subject lot.

Accessory Building is defined to be a building that is incidental & subordinate to the principle building & use. In a residential zone the main building is the dwelling and the principle use is residential. Accessory Use is defined as a use that is incidental, subordinate, and exclusively devoted to the principle use and not to be used for human habitation. Boathouse means a building or structure used for the storage of private boats and equipment accessory to their use. Habitable is defined as a room designated for living, sleeping, eating or food preparation. Habitable is different from a dwelling unit as a dwelling includes a kitchen and washroom. In the definition of gross floor area for a dwelling, a sunroom is to be included if it is habitable in all seasons. Hence **any kind of living human space would be human habitation which is not permitted in an accessory building and boathouse.**

The boathouse is a 2 floor building; higher in height than existing dwelling; it is 32 feet long by 16 feet; appears as a large building from the land and water; and the intended use is human habitation on the 2<sup>nd</sup> floor. It is quite obvious with windows, man doors, patio door, and top deck on the 2<sup>nd</sup> floor that the intended use for a residential use as opposed to just storage. Chris Pulis has stated that he would like the 2<sup>nd</sup> floor for a games room. In the planning report with the minor variance application there are attached sheets from the building permit. On the one "Designer Information" it has it checked off as

being a house and small building, then indicates the work to 16' x 32' Boathouse with loft above, then notes, "plans drawn in 2006 for owners Brother to be reused".

The boathouse **does not comply as accessory building**, given the height and size, it is not subordinate & incidental to the dwelling. **The boathouse does not comply as an accessory use** as it has a second floor which is not for storage but more for a residential use. No human habitation is permitted in the boathouse. The boathouse **would not comply** with the definition of a boathouse as the 2<sup>nd</sup> floor is not just for storage of equipment accessory to a private boat use.

No human habitation in buildings close to the water front is also stated in the Zoning by-law under Section 4.31, Waterfront Lots – no building or structure shall be located within 15.0 m of the 178 m G.S.C. elevation on a waterfront lot abutting Georgian Bay. This shall not apply to detached non-habitable accessory buildings and structures. The intent of the by-law is to make sure no residential buildings are located at the waters edge to avoid damage to the building from water and so there is safe access to and from the building that is not threatened by raising water conditions. **The use of the boathouse for habitable space on the 2<sup>nd</sup> floor makes it also not comply with this zone provision.**

Council approved a zoning by-law amendment to permit a boathouse and specifically require it to NOT be permitted any living or habitation space. It is in the Zoning By-law as a zone exception, 7.4.8 R1-8 Zone. This Zoning amendment permitted 1 accessory boathouse subject to a number of provisions including: (b) No living or habitation space shall be permitted. Council has determined that boathouses should not be permitted living or habitation space. **The boathouse DOES NOT COMPLY with Council's direction on this policy for the Township.**

**Although the Owners have not included in their minor variance application a request to increase the maximum height permitted, we have evidence that it is required. The Committee of Adjustment should have correct information on this building before considering any variances, including the height, for the boathouse. I have included in this report my review of the exceedance in height for the boathouse.**

A minor variance to allow for the increase in the height for this excessively high boathouse **would not meet the intent of the zoning by-law**. The intent of the by-law is for accessory buildings, including a boathouse, to be incidental and subordinate to the principle building ie. the dwelling. By only allowing the accessory building to be 4.5 metres which equates to the height of a one storey building and with a maximum ground floor area of 93 sq. metres the by-law sets out to allow for the maximum size to be like a single storey detached 3 car garage that would be 30 feet wide by 32 feet in depth. In comparison to that of the dwelling or principle buildings that have a maximum height of 11 metres which is more than double of that for accessory buildings. The by-law did not intend for an accessory building to be 2 full storeys which is what the boathouse is. If the definition for building height was to the peak, there is no way it could be 2 storeys or have 2 floors. If this boathouse was built on level ground it could not have been 2 storeys. The Owner has attempted to meet the height requirement by extensive filling of the lot and with an "A" frame roof. Because the building is on a slope the height is measured from the finished grade at the centre of the 4 walls to the mid point between the eaves and peak. And with this roof it reduces the height more so than if it was a flat roof or a lower pitched roof. You add the 4 measurements then divide it by 4 to come up with the average height. Even with more fill added to the lot, the average height will still exceed the maximum of 4.5 metres. The intent of the zoning by-law is to

restrict accessory buildings and boathouses to a single storey so they do not end up being used for human habitation.

The boathouse is 7.97 metres (26.15 feet) at the north end (water front). It is higher than the dwelling on the lot. It is not incidental or subordinate in height to the dwelling. In fact, from the water it appears to be the prominent building. The boathouse should have been a single storey building to comply and meet the intent of the zoning by-law. The true height of this boathouse in my opinion is 7.97 metres (26.15 feet) at the waterfront side and 5.26 metres (17.26 feet) at the south end. Think about how high are you, your TV, your fridge, what ever, it is the vertical height from bottom to top. If this building was on flat ground, using the Height of Building definition from grade to mid point between the eaves and peak, the boathouse would be 6.39 metres (21 feet) in height.

**The boathouse clearly does not meet the intent of the zoning by-law maximum height intended for accessory building of 4.5 metres.**

**The Owner should be required to have an Ontario Land Surveyor confirm the height of the building both at existing grade and proposed grade. This should include the elevation of the top of foundation along the sides of the building because the fill must be 6 inches below the top of foundation.**

**The proposed minor variances for the existing 2 floor boathouse and proposed living or habitation space on the 2<sup>nd</sup> floor clearly DOES NOT comply with the zoning provisions or use or meet the intent and purpose of the zoning by-law and SHOULD NOT BE GRANTED. IF THE BOATHOUSE WAS A SINGLE STOREY (1 floor) there would be no issues with the boathouse use and height.**

**If a use is proposed on land or in a building that is not permitted in the zoning by-law it must be approved by Council through a zoning by-law amendment. The Committee of Adjustment do not have the authority, according to the Planning Act, to permit a use that is not permitted.**

### **3) Is the request minor in nature?**

It is understandable that everyone that has a waterfront lot would want to have such a building, 2 floor boathouse, with habitable space on the second floor. However, by-laws are put in place to set standards which are appropriate for the use and for the protection of people and our resources. It is clear in the Official Plan that the waterfront is an asset that is to be protected and enhanced. There is not to be a massing of buildings at the waterfront that would detract from it's natural beauty. So the zoning by-law implements the Official Plan policies and limits buildings at the water but does allow for a boathouse as an accessory building. But it should have been a single storey boathouse no matter how the Owner's worked the filling and measurements to make it comply. They have removed several trees. They have placed so much fill on their lot that the fill has extended onto the Keith's lot. Their lot used to be lower than the Keith's lot. With the filling, the water now drains from their lot onto the Keith's lot and has caused erosion of the soil. And they are proposing to do more filling and/or a retaining wall. **The side yard setback would not be such an issue if it was a single storey.** They have trespassed onto the Keith's lot to construct and fill their lot. They not only placed fill on the Keith's lot they placed boulders and stones. With a 2 storey building even after construction, with a 0.46 side yard, they will still have to trespass to cut grass and/or clean the gutters. If it was a single storey they may not even have gutters and or could reach them from the ground to clean. They could wiper snip the grass along the side of the building without trespassing.

It would be different if this was a large Rural lot with lots of frontage on the water but it is not nor are the rest of the lots in this area. If this was permitted, then others should have the same opportunity. If this was to occur, it would be devastating to the aesthetics of the waterfront. Which the Council for Tay Township have directed in their policies should not happen for the residents of Tay. **This minor variance to permit a 2 floor boathouse is not minor in nature and should not be permitted as it against policy and has impacts to the neighbours.**

**4) Is the request desirable for the appropriate development or use of the land, building or structure?**

The requested minor variance is to permit a reduced side yard setback, reduce an eaves encroachment (which is not needed but could be added as a condition for the setback), and to increase the lot coverage for accessory structures (which is not needed). In the planning report it states the Owner will cut back the eaves which will then raise the calculations on the height over the 4.5 metres which they state it presently is. They knowingly have applied for minor variances without the increase in height so the application to the Committee of Adjustment would seem minor because it is just for a side yard setback.

**It is not minor, desirable, or appropriate to have a 2 storey (2 floor) building that close to a side yard. The back yard to any residential lot is to be for an open space area. It should be green and appealing. If it was a single storey shed in the back yard it usually does not take away from that. And for these lots it should be green and extremely appealing to have a waterfront view. Now several of the neighbours have lost that or a portion of that. Many of the neighbours are objecting to this boathouse. They are very concerned that one might go up beside them. It is not what the Township wants to see along the water's edge or anyone for that matter. It is problem throughout Ontario waterfronts. There are some who know how to manipulate by-laws to get what they want, but that does not make it right. It is clear, now with the construction of this boathouse, that the Council may want to change the zoning by-law so there will not be a proliferation of similar boathouses built all along the beautiful shoreline.**

**The applicants have applied for a side yard setback reduction (which is needed) but it is much more than that. If it was for a single storey, it would be totally different. The minor variance will allow for the boathouse that is constructed and it should not be granted because it could be precedent setting and it is not minor, desirable, or appropriate.**

**CONCLUSION**

The Township of Tay Zoning By-law 2000-057 states "the interpretation and application of this By-law shall be held to be the minimum requirements for the promotion of the health, safety, comfort, convenience and general welfare of the inhabitants of the Township of Tay".

Nothing in this By-law shall relieve any person from the obligation to comply with this By-law, the Ontario Building Code Act, or any other by-law. In case any building or structure or use contravenes any requirements of this By-law, such contravention may be restrained by action at the insistence of any ratepayer or the Corporation of the Township of Tay.

Any request to change a provision of the by-law may be considered through a minor variance application to a Committee of Adjustment. Any request for a change in use must be considered by a

zoning by-law amendment to Council. The Committee of Adjustment do not have the authority to permit a boathouse that is proposed to be used for human habitation.

**The proposed minor variance to reduce the side yard setback for a 2 storey (2 floor) boathouse can not meet the 4 tests set out in the Planning Act and should be NOT GRANTED.**

**If the Owners were prepared to change the boathouse to a single storey (1 floor) with or without a flat roof, it would then meet the 4 tests for a reduction in the side yard setback which is all it would need.**

**Stan and Nancy Keith would not object to the reduction in the side yard setback to 0.46 metres south east corner for the existing boathouse provided the following conditions apply:**

- 1. The eaves along the east side of the boathouse are to be cut back so the eaves and gutter have a minimum setback of 0.24 metres and gutters and downspouts are install to capture the water drainage from the roof and direct the drainage onto the subject lot;**
- 2. The 2<sup>nd</sup> floor is removed from the boathouse, so that the boathouse is a single (1 floor) boathouse; and**
- 3. That the Owner enter into an agreement with the Township to complete these works and provide the Township with a reasonable amount of securities to ensure the works are completed.**

**The use of human habitation would no longer be a concern, the maximum height would be met, the owner would not need to trespass to maintain the building or lawn, they would not have to add more fill or retaining wall just to try to meet the height requirements, and it would not impact the view and vistas of the waterfront. The Owners would also not be concerned about moving the building over which would require their marine rails to be moved and possibly have to install a new septic system.**

**Please provide me with the notice of decision for this minor variance application.**

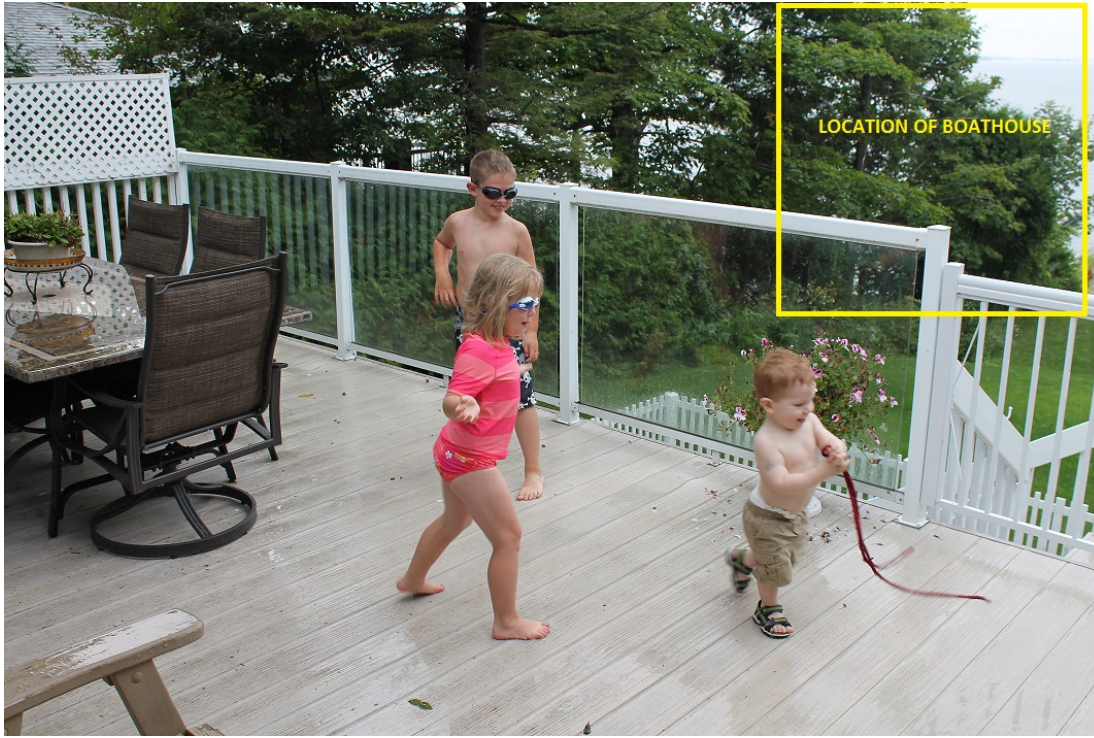
Report Prepared By:

Marie Leroux, MCIP RPP  
Urban and Rural Land Use Planner



**PHOTOS OF THE SUBJECT PROPERTY AND BOATHOUSE**

Before construction









**After construction**





















**Airphoto illustrating the boathouse location and filling of the lots**



## Tony Huguenin

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**From:** Aynsley Anderson <AAnderson@barristonlaw.com>  
**Sent:** February-09-17 1:59 PM  
**To:** Tony Huguenin  
**Cc:** Steve Farquharson; Stan Keith  
**Subject:** [USE CAUTION] 174 Bayview Ave  
**Attachments:** Feb 9 17 letter to Township revised.docx; ATT00001.htm

REMINDER: DO NOT open zip, doc, docx (or any other) files that you are not expecting, even from people you know. For files from people you know, confirm with them that they sent it intentionally before opening the file. Thank you for your co-operation. - Daryl C. W. O'Shea

\*\*\*\*\*

Dear Tony:

Please see correspondence, attached.

Best regards,  
Aynsley



**PLEASE RESPOND TO: THE ADMIRAL BUILDING, ONE FIRST STREET, SUITE 224, COLLINGWOOD, ON. L9Y 1A1**

February 9, 2017

**BY EMAIL ONLY**

Mr. Tony Huguenin, Secretary-Treasurer  
Township of Tay  
450 Park Street  
Victoria Harbour, ON L0K 2A0

Dear Mr. Huguenin:

**RE: MINOR VARIANCE APPLICATION 2017A03 – PULIS – 174 BAYVIEW AVENUE,  
TOWNSHIP OF TAY (THE “SUBJECT LANDS”)  
OUR FILE NO. 79840**

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Please be advised that I have been retained by Stan & Nancy Keith with respect to the issues regarding the above-noted minor variance application. The Keith's reside next door to the subject lands, at 176 Bayview Avenue.

It is our understanding that this matter will go to the Committee of Adjustment (the “Committee”) for decision on February 15, 2017. Please accept this as my client's opposition to the granting of the variances, as applied for, as well as the Township's notice that it is premature to consider this application as all deficiencies have not been properly addressed.

The nature of the shoreline in the area of the subject lands is a consistently developed, waterfront residential area of cottages and some accessory structures. I am attaching a photo which displays the partially-constructed boathouse, the subject of this application, which is clearly excessive in scale and out of character for the area. My clients have obtained professional planning advice with respect to the required approvals, and that opinion will be shared with the Committee in detail at next week's meeting. In short, the requested variances are not minor in nature, are not desirable for the development of the land, and do not maintain the intent of the Official Plan or Zoning By-law.

Of significant concern to my clients is the massing and height of the proposed boathouse. In this zone, one-storey boathouses are a permitted use, and in keeping with the character of the area. What is proposed here, and has been partially constructed in advance of obtaining the necessary approvals, is a two-storey boathouse, with a second-storey designed for human habitation, as described by the owner to be a games room. A variance for height has not been



applied for, as it appears that the Township is permitting the owner to construct in excess of the by-law requirement of 4.5 meters (consistent with a single storey) and then grade the land after construction to come within the requirement. This is a backwards approach, and defeats the purpose and intent of such a restriction.

We request that the Township require that the applicant provide measurements, by an Ontario Land Surveyor, and not be permitted to rely on the estimates that have been submitted to date, in advance of consideration by the Committee. My client, at his own expense, has had a survey conducted that demonstrates that their calculations are inaccurate. Deardon and Stanton Limited OLS confirm the elevation in the middle of the west wall at the top of the foundation to be 180.025.

What this means is that in order to achieve compliance for the structure that is under construction, the applicant will be required to grade above the top of the foundation. This does not comply with the Ontario Building Code section 9.15.4.6, which requires an exposed foundation of 150 mm. It is impossible for the under-construction structure to come within the 4.5 meters height restriction.

It is unfair to my client and all residents of this municipality that the Town does not require satisfactory information from an applicant who is proposing development that will severely impact other residents. If all development occurred by simply constructing first and subsequently grading to achieve conformity, the Township's planning process would be rendered meaningless. The Committee, and staff, must consider this application as if no construction has taken place.

Should you require any additional information, please contact me directly. We look forward to receiving a staff report and recommendation in advance of the Committee meeting.

Yours very truly,

**BARRISTON**<sup>LLP</sup>

Per: Aynsley Anderson

aanderson@barristonlaw.com

cc: Client

Mr. Steve Farquharson, Director of Planning and Development



## **Tony Huguenin**

---

**From:** Paul Chambers  
**Sent:** February-09-17 11:38 PM  
**To:** Tony Huguenin  
**Cc:** Councillor Jim Crawford; Councillor Sandy Talbot  
**Subject:** [USE CAUTION] Re: application for adjustment notice posted at 174 Bayview Ave.  
consent Application 2017-A-03  
**Attachments:** Letter re 174 Bayview Final.docx

REMINDER: DO NOT open zip, doc, docx (or any other) files that you are not expecting, even from people you know. For files from people you know, confirm with them that they sent it intentionally before opening the file. Thank you for your co-operation. - Daryl C. W. O'Shea

\*\*\*\*\*

Att: Mr. Tony Huguenin  
Secretary Treasurer  
Committee of Adjustment

cc. J. Crawford  
S. Talbot

Mr. Huguenin,

Please see attached objection to the Consent Application 2017-A-03. Can you please confirm receipt of this email and that it will be presented to the committee for their perusal.

Thank you.  
P. Chambers

Paul Chambers  
10 Georgian Lane, Port McNicoll  
L0K1R0

**Re: application for adjustment notice posted at 174 Bayview Ave. consent Application 2017-A-03**

February 9, 2017

To whom it may concern,

The letter is with respect to the notice of application for adjustment posted at 174 Bayview Ave. (the **Application**) before the Committee of Adjustment (the **Committee**) for Tay Township (the **Township**). While I am not directly affected by this dispute, a decision on this Application will have a precedential effect on future applications of similar nature.

I have witnessed the impact of boathouse construction on a number of occasions. In this instance, the boathouse structure located at 174 Bayview Ave. (the **Structure**) caught my interest based on its height in relation to other structures in the vicinity.

Observing this situation over the last few months has raised a number of concerns that the Committee ought to address. However, by even considering the Application, the Township is giving merit to the actions of the property owner (the **Owner**) and encouraging other property owners to openly flaunt by-laws with the possibility of succeeding in their efforts.

Primarily, my concerns are:

1. The Application is deficient in that it neglects to address the height of the Structure;
2. The property owner (the **Owner**) has taken an approach that has been careless or purposely misleading throughout the construction process; and
3. The by-laws and enforcement of same should be amended to prevent this situation from occurring in the future.

***1. The Application is deficient in that it neglects to address the height of the Structure***

The Structure's foundation was altered such that it made the Structure higher than had been originally approved. Allowing the Owner to alter the existing grade to satisfy the height by-law requirements is counter intuitive and at cross purposes with the very existence of the by-law. This sets a worrisome precedent.

The Structure is approximately 25' to 26' high and is set forward of neighbouring homes such that it impacts sightlines and enjoyment of property for neighbours. This demonstrates a disregard and inconsideration for its impact on neighbouring properties. I believe there is also a by-law that requires secondary buildings to be subordinate to surrounding structures. It is unclear whether the Structure meets this requirement.

***2. The Owner has taken an approach that has been careless or purposely misleading throughout the construction process***

The Application is a case of "it's easier to ask for forgiveness, than to ask for permission". Any building permit application with similar deficiencies as are being considered in the Application would not have been approved by the Township. On this basis alone, the Application should be disregarded.

When taking into consideration the totality of issues in the Application and those not addressed by the Application, this is not a case of a minor oversight, innocent omission or innocent misrepresentation by the Owner. The Owner's actions indicate that that he was fully aware, or at least willfully blind to the encroachment and other issues and proceeded with construction of the Structure in any event.

This appears as a deliberate attempt to obtain indirectly that which could not have been obtained directly. The Committee should not set the precedent of granting approval through the back door applications for structures that cannot be approved through the front door.

***3. The by-laws and enforcement of same should be amended to prevent this situation from occurring in the future***

Consideration by the Committee to clarifying and recommending an amendment of relevant by-laws would help prevent this situation from occurring in the future:

- i) Do not allow subsequent grade changes to conform to existing by-laws, especially when non-conformity is not a result of an innocent misrepresentation or reasonable oversight on the part of the property owner
- ii) Clarify and amend the height restriction to take into consideration the roof style of the structure (for example, if it is a flat roof, then a shorter height is desirable; if a peaked roof over a certain pitch, then a height is restricted at the peak of the roof). The current by-law presumably allows for an extremely tall roof given it is measured at a mid-point (which is the case with this Application). This is an absurd result.
- iii) For secondary structures such as boathouses or garages, require that footings are pinned by a licensed surveyor to determine location prior to inspection and commencement of constructing the foundation
- iv) If a property owner wishes to have a structure such as a boathouse located on one's property, the owner should be required to build it such that it blocks the property owner's view and therefore affects that owner's property value first

This Application worries property owners who may be faced with similar situations if the Township does not effectively enforce existing bylaws. A by-law regime that is openly flaunted or manipulated without consequences or regard for neighbouring properties serves little purpose.

**Paul Chambers**  
**10 Georgian Lane, Port McNicoll**  
**LOK1R0**

By-laws are to protect a township's and citizens' interests. The increase in popularity of secondary structures such as boathouses requires that this Committee consider the future impacts and precedential nature of this Application.

We only have to look to neighbouring townships (ie Muskoka) to observe how non-enforcement of by-laws, or lack thereof, with respect to boathouses can start a troublesome trend that was never intended to occur. These can get out of control unintentionally.

I respectfully submit that the Application should be dismissed. In the alternative, the Committee should defer a decision to enable all relevant departments to review fully all areas of non-conformity and present the Committee with a recommendation on how to proceed.

Thank you for your consideration, and I trust that the appropriate action will be undertaken.

Regards,

P. Chambers



## Tony Huguenin

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**From:** Stephen Hoskin <shoskin@nmhydro.ca>  
**Sent:** February-09-17 11:37 AM  
**To:** Tony Huguenin  
**Cc:** Tammy Gravel  
**Subject:** FW: Planning Act Application - Circulation of Notice (Tay)  
**Attachments:** 2017A03 Application & Notice & PJR.pdf

Good morning

We do not have any comments or concerns regarding the above application.

Thanks

Stephen Hoskin  
Superintendent  
Newmarket-Tay Power Distribution Ltd.  
(905) 953-8548 ext 2223  
Fax (905) 895-8931

---

**From:** Tony Huguenin [mailto:thuguenin@tay.ca]  
**Sent:** Thursday, February 02, 2017 4:20 PM  
**To:** planning.notices@simcoe.ca; rowcentre@bell.ca; Stephen Hoskin  
**Subject:** Planning Act Application - Circulation of Notice (Tay)

Attached please find Notice of Application and/or Public Hearing and associated application package for:

Minor Variance Applications 2017-A-03 (174 Bayview Av.)

This is scheduled for the Township of Tay's Committee of Adjustment Hearing on February 15th, 2017. Please provide comments if applicable to your interests.

Regards,

***Tony Huguenin, CPT ACST***  
***Planning Technician***  
*The Corporation of the Township of Tay*  
*P.O. Box 100*  
*Victoria Harbour, ON, L0K 2A0*  
*705-534-7248 Ext. 238*  
*705-534-4493 Fax*

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