

STAFF REPORT

TO: Erica Kellogg, Deputy Clerk – Planning & Development
Municipality of Magnetawan

FROM: Patrick Townes, BA, BEd and Jamie Robinson, BES, MCIP, RPP
MHBC Planning Limited

DATE: January 22, 2025

SUBJECT: Zoning By-law Amendment Application – Robeson Herrnstein
c/o Denis Lachance, Part Lot 13, Concession 4, Reference Plan
PCL 699 S/S

Recommendation

Based on the land use planning analysis contained in this Planners Report, MHBC Planning Limited recommends:

THAT Council receive the Planners Report dated January 22, 2025 respecting the Zoning By-law Amendment application for Part Lot 13, Concession 4, Reference Plan PCL 699 S/S (Robeson Herrnstein c/o Denis Lachance); and,

THAT Council defers a decision on the Zoning By-law Amendment application for the following reasons:

- 1) To provide an opportunity for the Applicant to resubmit an application to the the Ministry of Natural Resources to specifically state that the request is for a dwelling unit on the second storey of the proposed boathouse;
- 2) To provide an opportunity for the Applicant to provide confirmation from the Ministry of Natural Resources the proposed development is supported; and,
- 3) To provide an opportunity for the Planners to conduct a site visit prior to making a final recommendation.

Proposal /Background

A Zoning By-law Amendment application has been submitted for the subject lands located on Part Lot 13, Concession 4, Reference Plan PCL 699 S which is located on the shoreline of Ahmic Lake. The owner of the subject lands is Robeson Herrnstein, and the application was submitted by Denis Lachance.

The purpose and effect of the Zoning By-law Amendment application is to permit the construction of a two-storey boathouse that contains a kitchen (cooking facilities) and a second-storey deck/covered dock. The proposed kitchen in the boathouse would make that portion of the boathouse a dwelling unit. The owner received approvals for a principal dwelling on the subject property, so the dwelling unit in the boathouse would be considered an additional dwelling unit.

The proposal seeks to amend the Municipality's Zoning By-law from the Shoreline Residential (RS) Zone to a site-specific Shoreline Residential Exception 41 (RS-41) Zone to permit the following:

- An additional dwelling unit to be located within a boathouse;
- An additional dwelling unit not to be located in the rear yard of a property located within the Shoreline Residential (RS) Zone; and,
- A boathouse that exceeds the maximum width requirement.

The subject lands have a lot area of approximately 7.4 hectares (18.3 acres) and have approximately 530 metres of frontage on Ahmic Lake. The subject lands are designated Shoreline and Rural in the Municipality's Official Plan and are zoned Shoreline Residential (RS) in the Municipality's Zoning By-law. Figure 1 shows the location of the subject lands and Figure 2 provides an aerial overview of the subject lands.

Figure 1: Location of the Subject Lands

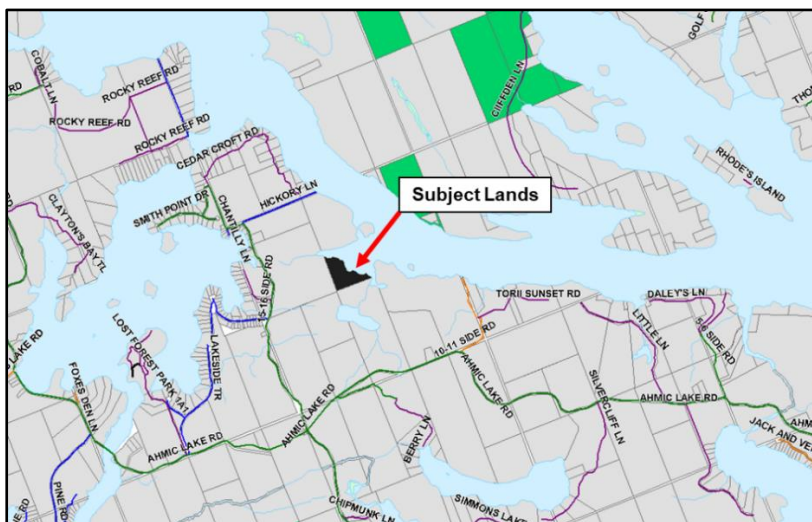
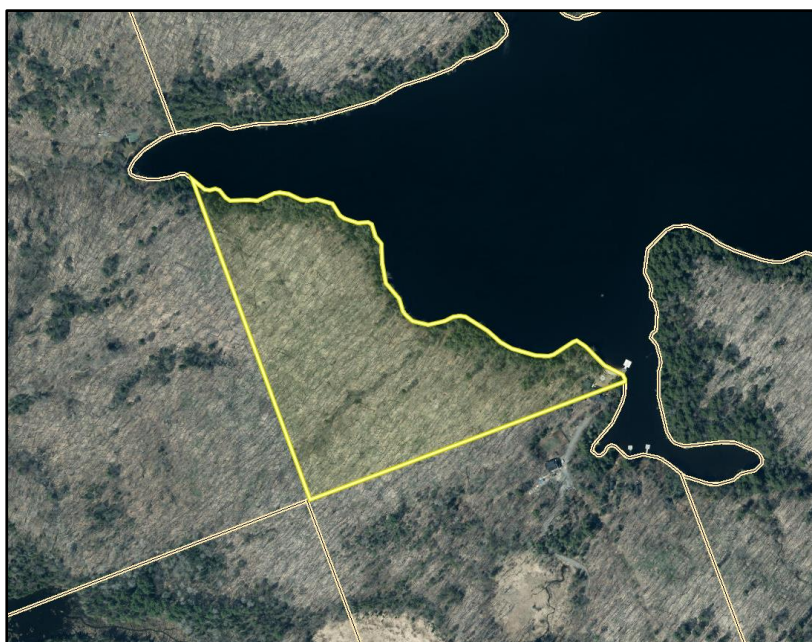
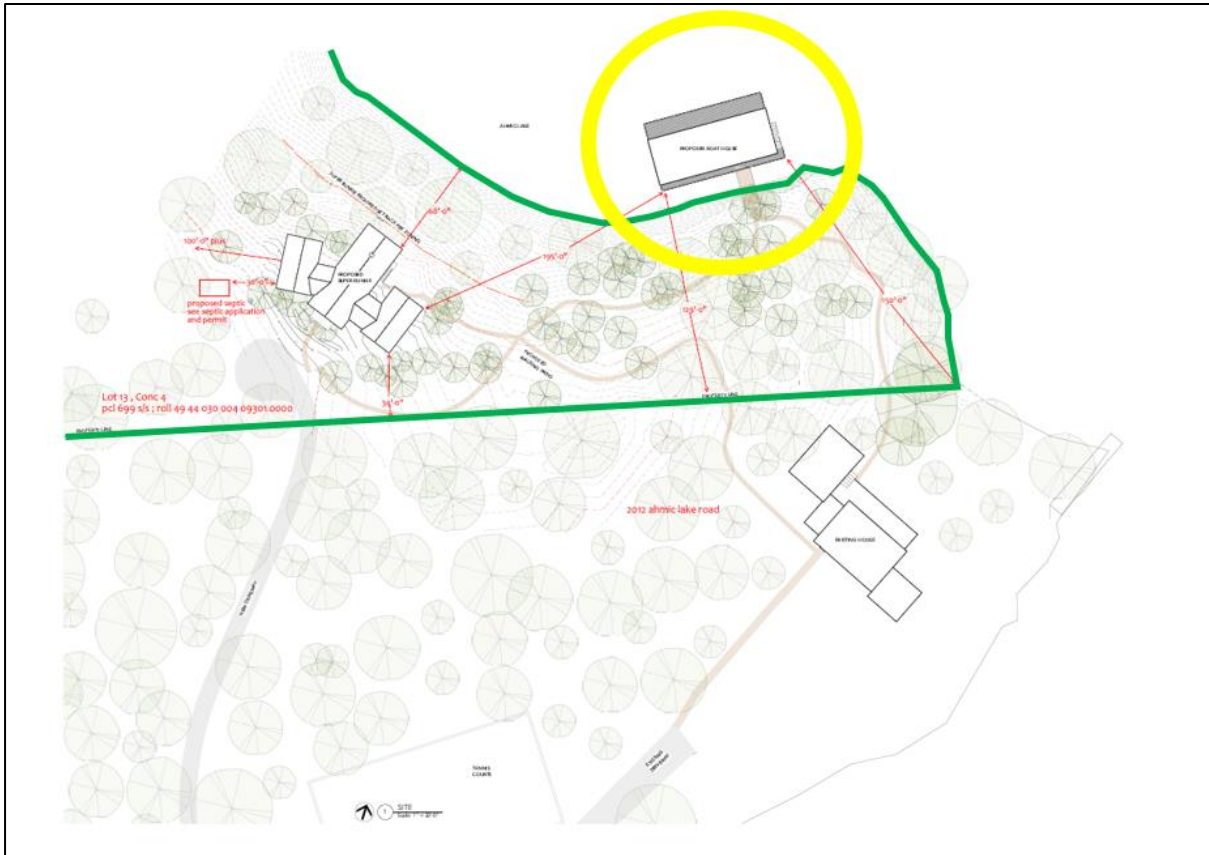


Figure 2: Aerial of the Subject Lands



The owner submitted a site plan drawing with the application. The outline of a portion of the subject property is shown in green and the location of the proposed boathouse is circled in yellow in Figure 3.

Figure 3: Site Plan Drawing



Area Context

The following is a summary of the surrounding land uses:

- North:** Shoreline residential lots on Ahmic Lake.
- East:** Ahmic Lake.
- South:** Woodlands, wetlands.
- West:** Woodlands, wetlands, shoreline residential lots on Beaver Lake.

Policy Analysis

Public Lands Act

Ontario's Crown Lands, commonly referred to as Public Lands, include areas of Ontario that the Ministry of Natural Resources (MNR) has stewardship responsibility for under the authority of the *Public Lands Act*. These include the beds of lakes and rivers, such as Ahmic Lake.

The proposed two-storey boathouse adjacent to the subject lands is considered a dwelling unit (additional dwelling unit) as it contains a kitchen. The location of the proposed boathouse is considered Crown Lands, and the Ministry of Natural Resources has approval authority for dwelling units on Crown Lands. Prior to the construction of the boathouse with an additional dwelling unit, a Permit of Occupation is required from the Ministry of Natural Resources.

The owner did submit a copy of the Application for Work Permit associated with the proposed boathouse. A copy of the Application for Work Permit is included in this Report as Attachment 1. The Application that has been provided references that the proposed works include a two-storey boathouse and a “bunkie” on the second storey. The Application should be revised to specifically state that the request is for a dwelling unit on the second storey of the proposed boathouse.

If the Zoning By-law Amendment is passed, approval from the Ministry of Natural Resources is required prior to the construction of the boathouse due to the additional dwelling unit.

Provincial Planning Statement

The Provincial Planning Statement (PPS) is a document that provides policy direction on matters of Provincial interest concerning land use planning. Ontario has a policy-led planning system, and the PPS sets the foundation for regulating the development and use of land in the Province. Policies are set out to provide for appropriate development while also protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. When making land use planning decisions, Planning Authorities must ensure that all planning decisions are consistent with the PPS.

The subject lands are located outside of a Settlement Area and are considered Rural Lands in the context of the PPS. Section 2.6 of the PPS outlines policies for Rural Lands. Resource-based recreational uses, including recreational dwellings and accessory uses (e.g., boathouses), are permitted.

Section 3.6 of the PPS outlines policies for sewage, water, and stormwater. Where municipal sewage services and municipal water services are not available, planned or feasible, individual on-site sewage services and individual on-site water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impacts. Planning for stormwater management includes integration with sewage and water services to ensure that the systems are optimized and minimizing or preventing increases in contaminate loads and minimizing erosion and changes in water balance. The subject lands are intended to be serviced by individual on-site sewage services and individual on-site water services.

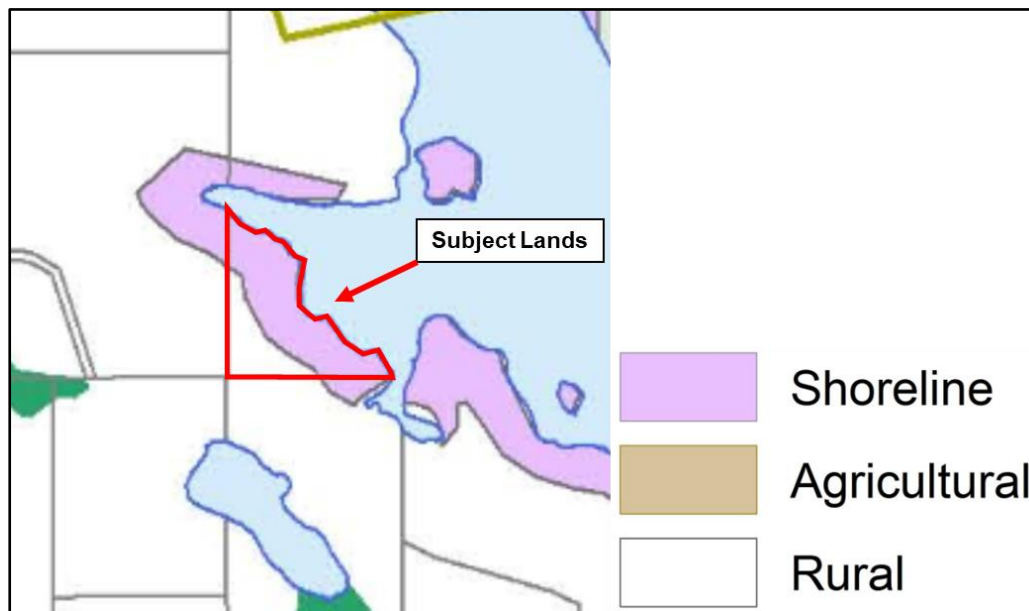
Section 4.1 of the PPS outlines policies for natural heritage. The subject lands are not located in or adjacent to any significant natural heritage features as shown in the Municipality of Magnetawan schedules to the Official Plan. There are areas on adjacent lands identified as Fish Habitat, however these features are located approximately 120 metres from the location of the proposed boathouse. Section 4.1.8 of the PPS specifies that development and site alteration is not permitted on lands adjacent to fish habitat unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. The Municipality’s Official Plan

identifies that adjacent lands from Fish Habitat shall be 120 metres, therefore the location of the proposed boathouse is outside of these adjacent lands. The owner has submitted correspondence from Fisheries and Oceans Canada included in this Report as Attachment 2. This correspondence includes recommended mitigation measures and if implemented, the proposed development will not require an authorization under the *Fisheries Act* or the *Species at Risk Act*. One of the mitigation measures include restrictions on in-water works between October 15 and July 15 in any given year.

Municipality of Magnetawan Official Plan

The Municipality's Official Plan provides policy direction on growth and development within Magnetawan. The policies in the Plan address the environment, cultural and built heritage, natural resources and servicing and transportation. Schedule A (Land Use Map) of the Official Plan identifies the subject lands as being designated Rural and Shoreline. Figure 4 includes an excerpt of Schedule A of the Official Plan.

Figure 4: Excerpt of Schedule A of Official Plan



Section 5.2 of the Official Plan contains policies for Rural Areas in the Municipality and states that the permitted uses include residential dwellings and accessory uses provided they are in close proximity to other residential uses and existing roadways.

Section 5.4 of the Official Plan contains policies for the Shoreline designation and states that permitted uses include detached dwellings and accessory uses. The proposed boathouse is considered a permitted use on the subject lands.

Section 4.7 of the Official Plan states that new development or site alteration shall have no negative impact on fish habitat or functions. Section 4.10 establishes 120 metres from the boundary of a significant fish habitat area as adjacent lands within which potential impacts of a development proposal must be considered. The proposed boathouse is located approximately 120 metres from the adjacent Fish Habitat and the owner has provided correspondence from Fisheries and Oceans Canada that provide mitigation measures associated with the construction of the boathouse and in-water works.

The Official Plan does not include policies regarding boathouses or additional dwelling units within shoreline structures, however the Zoning By-law only does permit additional dwelling units on shoreline properties where a minimum lot frontage is met and where the additional dwelling unit is located within the rear yard.

This application has been submitted following a housekeeping amendment to the Zoning By-law that permits boathouses to be two-storeys. The ability to include a kitchen in a boathouse is not permitted within the Zoning By-law and this application has precedent setting implications if a dwelling unit is approved within a boathouse.

Municipality of Magnetawan Zoning By-law

The subject lands are currently zoned Shoreline Residential (RS) Zone as shown in Figure 4. Section 4.2 of the Zoning By-law outlines the provisions for the RS Zone and a detached dwelling, and accessory uses are permitted. In accordance with Section 3.1 g) iii) of the Zoning By-law, a two-storey boathouse is permitted on the subject lands, subject to the criteria within this section. These criteria include the following:

- a) maximum width of 15 metres or 25% of the lot frontage, whichever is less;
- b) minimum side yard 6 metres;
- c) minimum lot frontage of 75 metres;
- d) maximum height of 7.6 metres;
- e) prior to the issuance of a building permit, the Chief Building Official shall receive foundation plans certified by a professional engineer or professional architect.

The proposal seeks to amend the Municipality's Zoning By-law from the Shoreline Residential (RS) Zone to a site-specific Shoreline Residential Exception 41 (RS-41) Zone to permit the following:

- An additional dwelling unit to be located within a boathouse. A guest cabin with no kitchen is permitted within a boathouse.
- An additional dwelling unit is only permitted in the rear yard of a property located within the RS Zone.
- A boathouse that exceeds the maximum width requirement. The maximum width of a boathouse in the Zoning By-law is 15 metres.

While a guest cabin with a sleeping area is permitted within a two-storey boathouse, cooking facilities and a kitchen are not permitted. The proposed dwelling unit is considered an additional dwelling unit and Section 4.2.3 of the Zoning specifically states that an additional dwelling unit is not permitted within shoreline storage buildings (i.e., boathouses) and relief from this provision is required. The Zoning By-law permits a guest cabin within a boathouse to have a maximum size of 40 square metres.

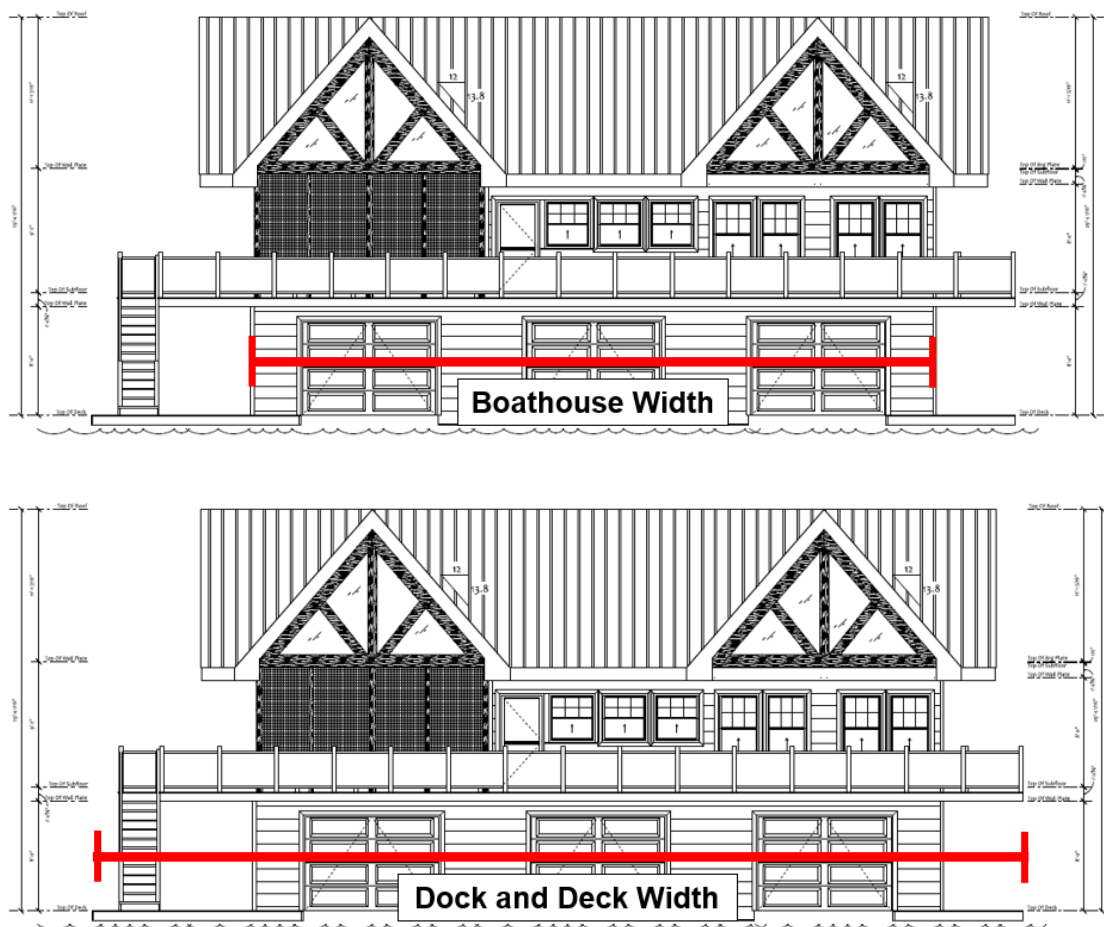
The drawings for the proposed boathouse are attached to this Report as Attachment 3. A summary of the proposed size of the boathouse and its components is included in Table 1. The metric numbers have been rounded to provide flexibility in the proposed amendment.

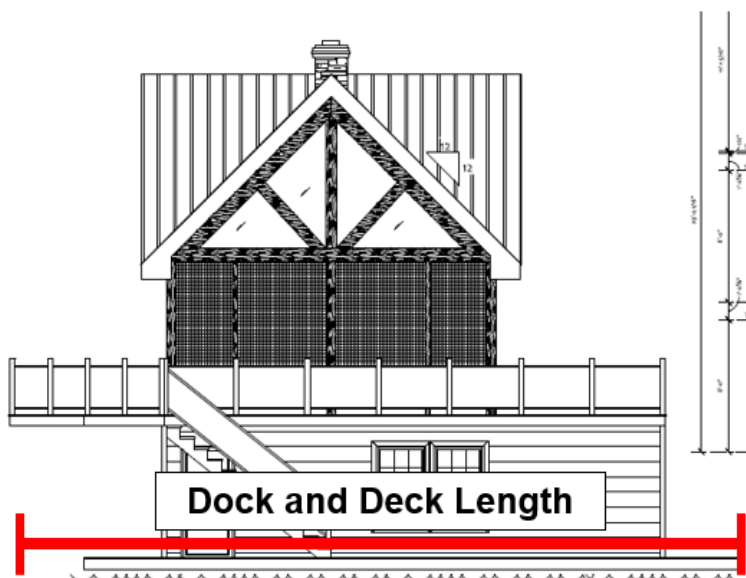
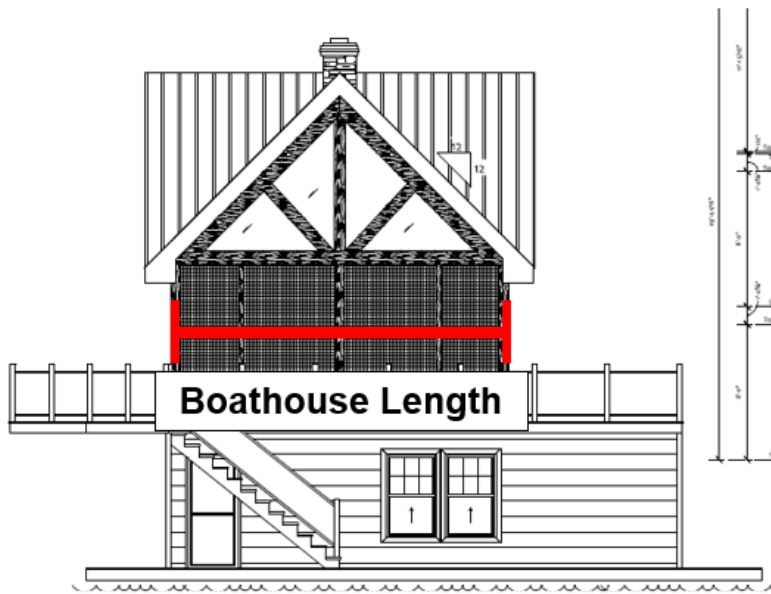
Table 1: Size of Proposed Boathouse

Size of Boathouse		
	Imperial	Metric
Width of Boathouse	50 feet	15.5 metres
Length of Boathouse	30 feet	9.5 metres
Width of attached second-story deck and covered dock	68 feet	21 metres
Length of attached second-story deck and covered dock	40 feet	12.5 metres
Height of Boathouse	24 feet and 9 ¾ inches	7.6 metres
Area of Boathouse	1500 square feet	140 square metres
Size of Additional Dwelling Unit	1,000 square feet	95 square metres

Figure 5 illustrates how the measurements of the boathouse were completed.

Figure 5: Boathouse Measurements





The maximum width of a boathouse in the Zoning By-law is 15 metres. The boathouse portion of the boathouse just exceeds this width, therefore an amendment to permit a boathouse width of 15.5 metres is recommended.

The size of the proposed additional dwelling unit is approximately double what is permitted in terms of the size of a guest cabin in a boathouse, which only includes sleeping facilities. This is a large increase from what is permitted in terms of maximum size.

Under Section 4.2.3 of the Zoning By-law, the location of an additional dwelling unit is restricted to the rear yard on a property located within the RS Zone. Additional dwelling units are also only permitted on a property that has greater than 180 metres of lot frontage. The subject property has approximately 530 metres of lot frontage and exceeds this requirement, however the proposed additional dwelling unit is not located

within the rear yard or even the front yard for that matter, because the dwelling unit is to be located within the boathouse and over the lake.

At a future meeting a Zoning By-law Amendment should include the above items in Table 1 to ensure that the approval applies specifically to the drawings and design that have been submitted with the Zoning By-law Amendment application. Prior to passing a Zoning By-law Amendment the proposal to include a dwelling unit in a boathouse requires approval from the Ministry of Natural Resources and following the housekeeping amendment to permit two-storey boathouses, would be a precedent setting decision from Council.

Other than the proposed width of the boathouse and the inclusion of the additional dwelling unit, the proposed two-storey boathouse complies to the Zoning By-law.

The Zoning By-law was updated to reflect permissions for two-storey boathouses, however provisions were not included to apply to second storey decks or covered docks associated with the construction of two-storey boathouses. For the purposes of the boathouse width, only the width of the boathouse was included however if the application is supported at a future meeting the Zoning By-law Amendment should include measurement references to the size of the second storey deck and dock areas.

Comments from Departments

The following comments were received on the application:

Road Department: No Comment due to access provided by water

Fire Chief: It appears the only access that would be provided to the boat house is walking trails. If that is the case my comment is:

Limited services may be provided for the boat house due to inaccessibility for fire apparatus and equipment. If no access is available, fire services may not be provided.

As the new driveway appears to be quite long, I would offer a similar comment:

Limited service may be provided for these properties. As it is a long private driveway, it may not always be maintained in an acceptable condition to provide access for fire apparatus.

Building Department: No comment to the application

By-law Department: No comment to the application

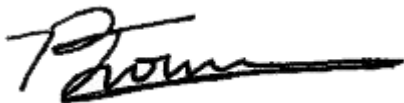
Summary

Prior to making a recommendation, it is recommended that the application be deferred to provide the Planners with an opportunity to conduct a site inspection to determine if there are any impacts on adjacent land uses as a result of the proposed boathouse and the use of the boathouse.

Dwelling units are currently not permitted within shoreline structures, and it is difficult for the Planner to make a recommendation prior to visiting the subject lands, reviewing public comments on the application, and seeking initial input from the Ministry of Natural Resources regarding the proposed dwelling unit on the lake.

Council may wish to deny, defer or approve the proposal as presented after confirmation from the Ministry of Natural Resources has been provided that the proposed dwelling is supported. Alternatively, Council may wish to approve the two-storey boathouse without a kitchen. In this case, only sleeping facilities would be permitted and this would be considered as a guest cabin in the context of the Zoning By-law definitions, and not a dwelling unit.

Respectfully submitted,



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MHBC Planning



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Attachment 1: Application for Work Permit from Ministry of Natural Resources
Attachment 2: Correspondence from Fisheries and Oceans Canada
Attachment 3: Boathouse Drawings