

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Malcolm
Report Number COA2025-089

Public Meeting

Meeting Date: August 28, 2025

Time: 1:00 pm

Location: Council Chambers, City Hall, 26 Francis Street, Lindsay

Ward 2 – Geographic Township of Somerville

Subject: The purpose and effect is to facilitate the demolition of two existing boathouses and the construction of a new boathouse. The existing boathouses (circa 1950) hold a legal non-conforming status whereby the structures predate the Zoning By-law adopted in 1978, that zones the location of the existing boathouses and the proposed location of the new boathouse as Environmental Protection (EP) Zone, and Section 7.1 does not otherwise permit buildings or structures.

The variance is requested at **8 Delamere Island** (File D20-2025-075).

Author: Ahmad Shahid, Planner II

Signature:



Recommendations

That Report COA2025-089 – Malcolm, be received;

That minor variance application D20-2025-075 be GRANTED, as the application meets the tests set out in Section 45(2) of the Planning Act.

Conditions

- 1) **That** building construction related to this approval shall proceed generally in accordance with the sketch in Appendix C submitted as part of Report COA2025-089, which shall be attached to and form part of the Committee's Decision; and,
- 2) **That** building construction related to the minor variance shall be completed within a period of twenty-four (24) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the first Building Inspection.

This approval pertains to the application as described in report COA2025-089. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Application Summary

Proposal:	Demolition of two existing boathouses and the construction of a new boathouse.
Owners:	Joshua Malcolm
Applicant:	Joan Phillips
Legal Description:	Part 1, Island
Official Plan ¹ :	Prime Agricultural (City of Kawartha Lakes Official Plan, 2012)
Zone ² :	Limited Service Residential Exception One (LSR-1) Zone (Township of Somerville Zoning By-Law 78-45)
Site Size:	4,653.885 square metres (1.15 acres)
Site Access:	Water access
Site Servicing:	Lake drawn water and individual septic system
Existing Uses:	Residential
Adjacent Uses:	

Rationale

Legal non-conforming rights

Section 34 of the Planning Act authorizes municipalities to pass zoning by-laws to regulate buildings, structures and land use. Section 34(9) of the Act prevents the retroactive use of a zoning by-law. This section sets out the principle prohibiting zoning by-laws from interfering with the ability to prevent the continued use of lands. These land uses are referred to as legal non-conforming.

This section states:

*34(9) No by-law passed under this section applies,
(a) to prevent the use of any land, building or structure for any
purpose prohibited by the by-law if such land, building or structure*

¹ See Schedule 1

² See Schedule 1

was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose.

The application satisfies the provisions of the Planning Act

The extension and/or enlargement of a legal non-conforming use requires an application under Section 45(2) of the Act. Section 45(2)(a)(i) grants power to the Committee to grant permission for the extension or enlargement of legal non-conforming uses. This section states:

45(2) In addition to its powers under subsection (1), the committee, upon any such application,

(a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,

(i) the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed.

The Township of Somerville Zoning By-Law 78-45 was passed in the year 1978. The applicant has indicated that the existing boathouses, located in the Environmental Protection (EP) Zone, have existed on the property since the 1950s. This has also been substantiated by data from the Municipal Property Assessment Corporation (MPAC). The EP Zone permits various uses including but not limited to structures associated erosion or flood control or a dock. Therefore, the EP Zone does not permit the use of a boathouse. As such, the boathouses predate the current Zoning By-law and are a legal non-conforming use. The applicant is proposing a building enlargement and extension of use to the existing legal non-conforming boathouses.

Evaluation of Impact (Boathouse)

The subject property is located on Delamere Island in the former Township of Somerville, accessible only by water. Two existing boathouses extend beyond the shoreline and are in poor condition, with one largely submerged. Both will be removed and replaced with a single one-storey boathouse. The existing boathouses have a combined floor area of approximately 51 m² and a height of 4.57 m, while the proposed boathouse will measure 69 m² with a height of 4.5 m.

The location of the proposed boathouse will remain compliant with the Zoning By-law's permitted setbacks, distance from the main dwelling, and height requirements. As a result, the continuation and minor enlargement of the boathouse beyond what exists today is not anticipated to impact the abutting neighbouring properties. The Kawartha Region Conservation Authority has already issued a permit for the proposed work, which addressed the matters related to

development within/to shorelines and watercourses. The applicant and property owner have also received permits from the Trent Severn Waterway (TSW).

The surrounding lots on Delamere Island are used for seasonal residential purposes. All but one of the lots on the Island contains a boathouse. Considering the lots is an island lot only accessibly by water access, a boathouse is considered an appropriate and useful structure on these lots.

Overall, the proposed boathouse reconstruction/expansion is considered desirable as it provides an upgraded newer structure for the owners. Upgrading the structure will improve the view of the property from the shoreline. Additionally, while the proposed boathouse is larger than what exists on the property today, the proposal will reduce the number of boathouses from two to one, resulting in an overall decrease in number of structures and contributing to a less built-up island shoreline.

Other Alternatives Considered:

No alternatives considered.

Consultation Summary

Notice of this application was circulated in accordance with the requirements of the Planning Act.

Agency Comments:

No comments received as of the writing of the staff report.

Public Comments:

No comments received as of the writing of the staff report.

Attachments

Appendix A – Location Map

Appendix B – Aerial Photo

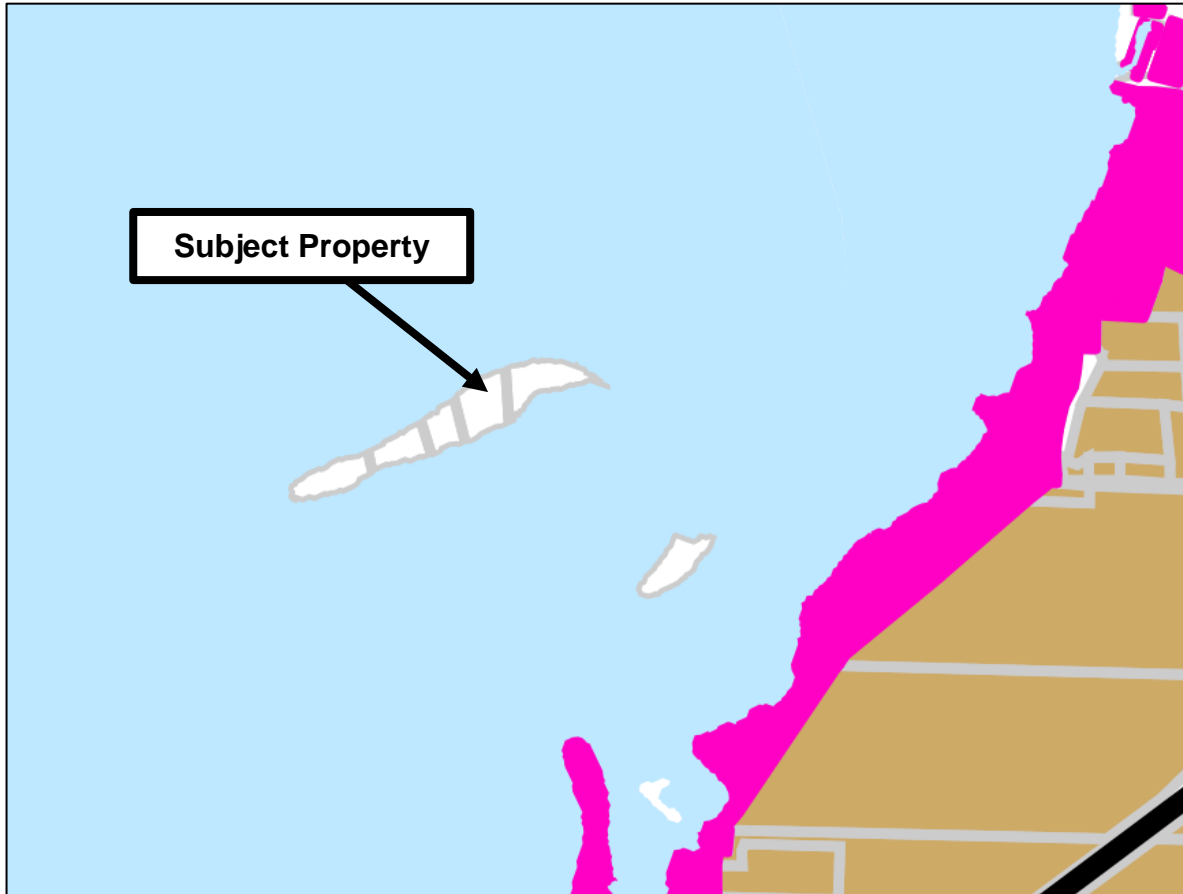
Appendix C – Applicant's Sketch

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E-Mail:	ashahid@kawarthalakes.ca
Department Head:	Leah Barrie, Director of Development Services
Division File:	D20-2025-075

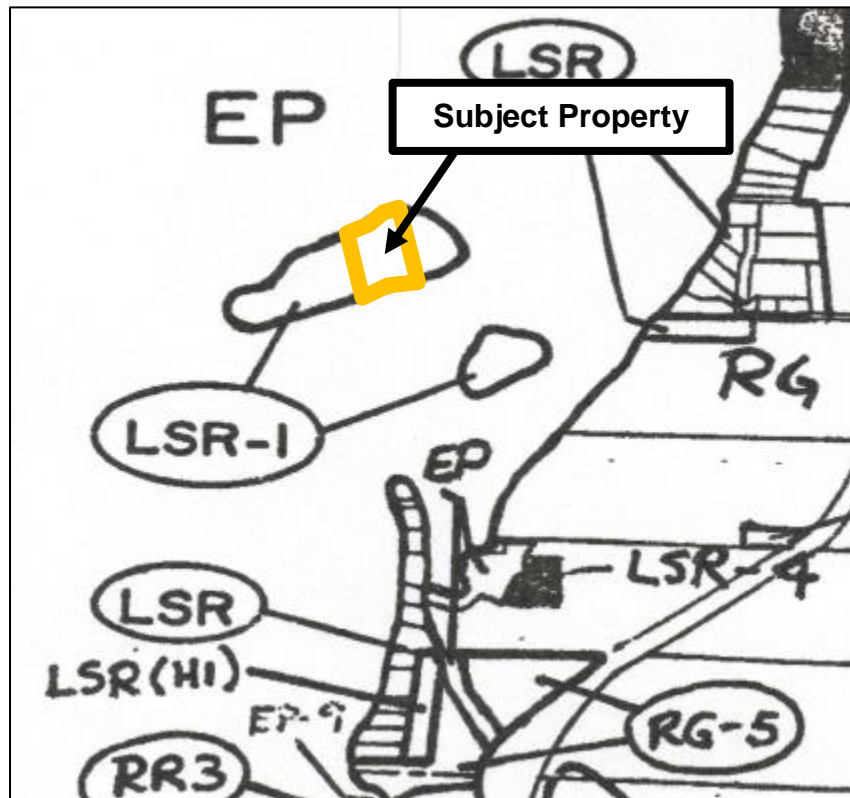
Schedule 1

Relevant Planning Policies and Provisions

City of Kawartha Lakes Official Plan



Township of Somerville Zoning By-Law 78-45



Section 5. Limited Service Residential (LSR) Zone

Section 5.3.1. Limited Service Exception One (LSR-1) Zone

Section 7. Environmental Protection (EP) Zone

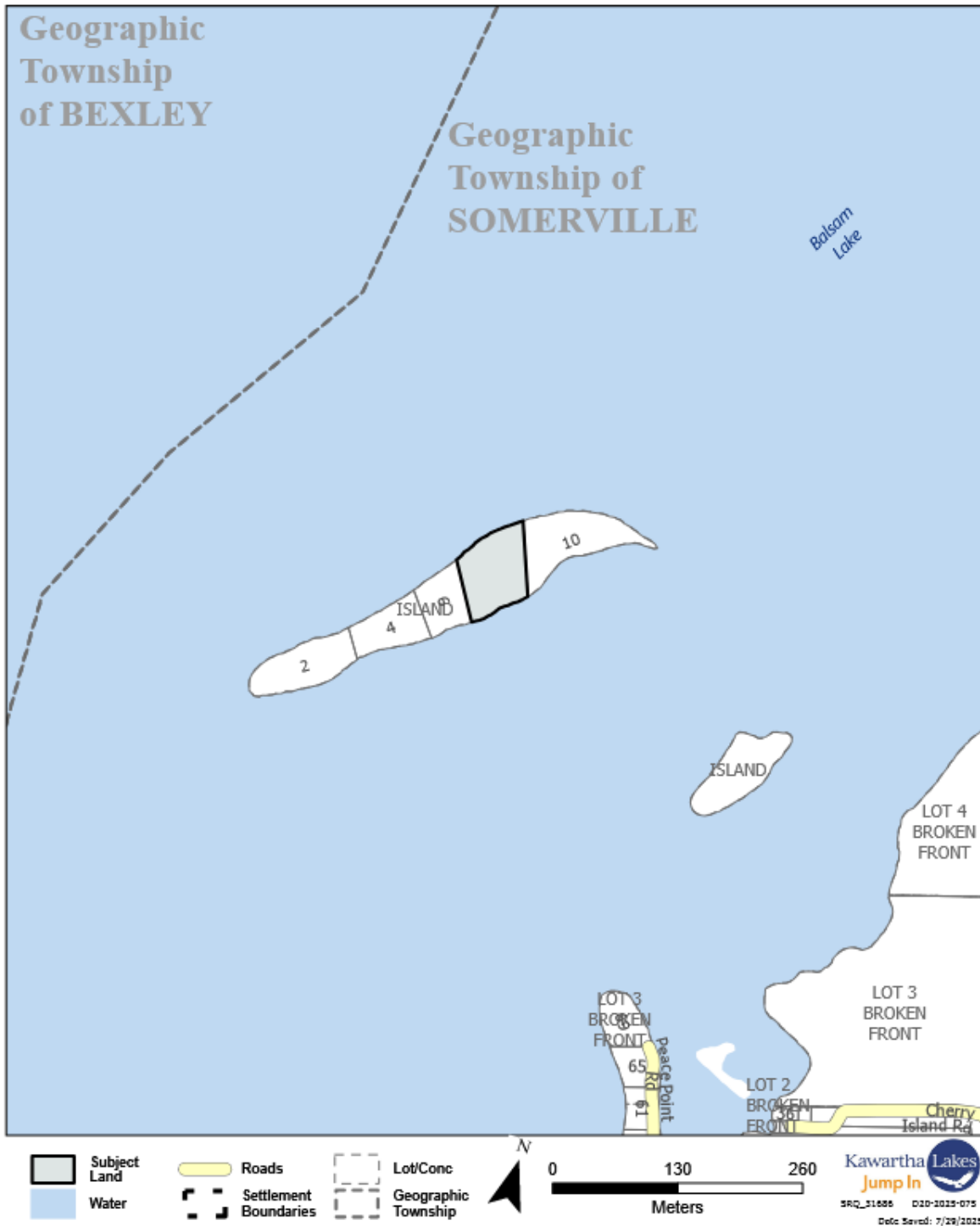
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LOCATION MAP

D20-2025-075



APPENDIX " B "

to

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AERIAL PHOTO (2023)



to

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APPLICANT'S SKETCH

