



Ontario Municipal Board

O 830048 S 830031  
R 840107 S 840014  
R 840326

IN THE MATTER OF Section 15 of The Planning  
Planning Act (R.S.O. 1980, c. 379)

- and -

**IN THE MATTER OF** a reference to this Board by the Honourable Claude F. Bennett, Minister of Municipal Affairs and Housing on a request by K. Lehmann of M.M. Dillon Limited on behalf of N. Tharani and Black Rock Estates Limited for consideration of Sections, 5.9, 6.4, 7.2, 10.3, 10.17, 10.17.1, 10.17.2, 10.17.3, 10.17.4, 12.3.1.1, 12.3.1.2, 12.3.1.4, 12.3.1.5, 12.3.1.6, 12.3.2.2, 12.3.2.3, 12.3.2.6, 14.6, 14.8, 14.9, 14.11, 14.17, 14.18, and 14.21 as it applies to the lands of N. Tharani comprised of part of Broken Lots 10, 11 and 12, Concession IX, and Broken Lots 11, 12, 13, 14 and part of Broken Lot 15, Concession VIII, in the former Township of Conger, now Township of The Archipelago; and to the lands of Black Rock Estates Limited comprised of part of Lots 11 and 12, Concession X, in the former Township of Conger, now Township of the Archipelago, Minister's File No. 49-OP-0070

**IN THE MATTER OF** appeals in respect of Zoning By-law A 100-83 of the Corporation of the Township of the Archipelago

and -

**IN THE MATTER OF** an appeals in respect of Zoning By-law A 103-84 of the Corporation of the Township of the Archipelago

and -

**IN THE MATTER OF** Section 51 of The Planning Act (R.S.O. 1980, c. 379)

- and -

**IN THE MATTER OF** a reference to this Board by the Honourable Claude F. Bennett, Minister of Municipal Affairs and Housing on a request by K.A. Lehmann of M.M. Dillon Limited for consideration of a proposed Plan of Subdivision of lands owned by Blackrock Estates Limited comprising Lot 11, Concession X in the Township of the Archipelago, Minister's File No. 49T-83002

- and -

**IN THE MATTER OF** a reference to this Board by the Honourable Claude F. Bennett, Minister of Municipal Affairs and Housing on a request by K.A. Lehmann of M.M. Dillon Limited for consideration of a proposed Plan of Subdivision of lands owned by J. Nowack comprising part of Lots 10, 11 and

12, Concession IX and part of Lots 11, 12,  
13, 14 and 15 Concession VIII, in the  
Township of the Archipelago, Minister's  
File No. 49T-81009

**C O U N S E L :**

W.D. Russell, Q.C.	for the Township of The Archipelago
W.B. Cunningham	for F. Irwin, Judson Arnold, Dr. Raymond Heimbecker, L.C. Rosenberg and R. Rosenberg, H. Johnson, Dennis Welch, Dr. John Bibbs, Jim and Lynn Grisdale
W.H. Green, Q.C	for Mr. and Mrs. Boris Bilton
R.R. Arblaster	- for J. Nowack and Black Rock Estates Limited
N.B. Roche	for Judge F. Nowak
H. Bourne, Q.C.	for Maude Jennings, Oswald Vankoughnett, Alex Vankoughnett and Winnifred Tracey
H.S. Dorsey	for Logos Investments
D.A. Thomson, Q.C.	for Robert MacLennon and Alan Shields Estates Limited

DECISION OF THE BOARD delivered by H.H. LANCASTER

The Township of the Archipelago is a new Township, having been incorporated on January 1, 1980. The Official Plan for the Township, as adopted, was approved, with modification and some exceptions by the Minister of Municipal Affairs and Housing, on June 1, 1983. The exceptions referred to were those matters which were deferred pending further study, and those matters which were referred to the Ontario Municipal Board.

The matters referred to the Ontario Municipal Board included:

- 1 A reference at the request of Mrs. Elizabeth Reiter, as to Sections 10.13 and 10.13.1 of the Official Plan as they apply to her property located on Lot Number 44 on Isabella Island in the former Township of Conger, now in the Township of the Archipelago. (Ontario Municipal Board File O 830046)  
referral was adjourned sine die on consent.

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2. A reference at the request of Ms. S. Kamm of Section 9.5, 9.6 and Schedule D of the Official Plan, as they apply to her property located on Part I, Plan 42R-3427 in the Township of Archipelago. (Ontario Municipal Board File O 830047) matter has since been resolved to the satisfaction of Ms. Kamm, and those sections of the Official Plan were subsequently approved by the Minister.
3. A reference to this Board at the request of Mr. K. Lehmann of M.M. Dillon Limited on behalf of N. Tharani and Black Rock Estates Limited for consultation of those sections of the Official Plan as set out in the style of cause, as they apply of N. Tharani and of Black Rock Estates Limited as therein set out (Ontario Municipal Board File O 830048)

As an introduction to the hearing, the planning evidence stated that the Township of the Archipelago was created under The Parry Sound Local Government Act and that the Township comprises two separate sections, one north of the Municipality of Parry Sound, which includes the former Townships of Harrison and Shawanaga, and a section to the south, incorporating the former Township of Conger and Cooper. The Township extends westerly to the centre of Georgian Bay and includes some 6,000 islands.

The municipal planning consultant outlined that aside from the many islands within the municipality, there were several inland or internal lakes, particularly in the southern section. There was also a very large proportion of Crown lands. He stressed that the municipality had many features which were unique, in that in so far as the islands were concerned, area was the prime factor for planning, whereas in regard to the inland lakes, the shoreline was the prime factor. The entire municipality is environmentally sensitive, and land use planning and water use planning were equally important. He pointed out that while density was very important, it was not density in the usual sense, that is units or persons per acre, but rather, the number of dwellings or cottages that people are aware of from the waterways and the number which front onto the main channels. There are very few roads within the municipality, the waterways serve this function

The planning is based on the number of units per kilometre of channel frontage and then determined to be high, medium or low. If the density is determined to be high, then further development is to be restricted, if medium, continued development may be encouraged. The low density applies mainly to Crown lands

The planner stressed that there was very little in the way of services within the Township. Aside from a few roads, schools, garbage sites and a home for the aged, there were some permanent type of recreational meeting facilities, commercial marinas and anchorages. Hydro and telephone services very limited and very expensive because of the under water installations. There is no municipal water supply or sewage system.

The entire Archipelago is environmentally sensitive and the prime concerns here are recreational and commercial uses which will serve that recreational use. Because of this sensitivity, an "Environmentally Sensitive" category was included in the Official Plan, which category was considered only for privately owned lands. It does not apply to Crown lands.

The Board was advised that a different character of development has occurred throughout the municipality, in the form of family development such as camps or groups of cottages, which have been in the respective families for three or four generations. Such development is highly dependent on permanent marina services and locations. These are an integral part of the lifestyle of the area.

On reviewing the Official Plan, it was pointed out that the purpose of the Plan was to establish land use policies which would generate development for the entire Township and which would provide for the long-term use of land and water for public and private recreation, in accordance with the and objectives set out for the municipality. The general goal of the Plan is to preserve the unique and high quality of the natural environment for recreational purposes for both owners and visitors alike

In addition, the planning evidence reviewed the objectives of the Plan, which include maintaining and improving the natural environment of region; responding to social and economic changes; conserving non renewable resources, encouraging the continued supply of renewable resources, providing a limited system of services, and ensuring the compatibility of land and water usage. (Section 4)

Section 5 of the Official Plan addresses the Concept of the Plan, and represents 11 points of view regarding the "uniqueness" of the area. It points out that the local economy of the Township results primarily from the natural resources of the area and the recreational base of the municipality, and that the impetus for creating the Township originated from a strong desire by its inhabitants and the Province to preserve its high quality recreational character and the natural environment. The Township consists of seasonal and year-round residents, with the permanent residents, comprising a small proportion of the total population, generally fulfilling a service function to the recreational uses. The less major concentrations of full-time residents occur in the communities of Pointe au Baril in the north, and Sans Souci in the south.

The concepts consider the pressure for increased recreational use, the land tenure within the Archipelago.

The majority of the lands and islands are held in the name of the Crown and are generally undeveloped. There is, however, a significant amount of developable land currently held under private ownership which, in council's opinion, should be adequate to respond to the pressures for new cottage development.

It is considered that the most vital element of the Township's character is the resource provided by the clean water of Georgian Bay and the numerous internal lakes. These waters provide the main source for drinking water, for bathing, fishing and boating, as well as in the primary transportation system. They are a major contributory factor to the

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aesthetic qualities of the region. The protection of the water resources is of paramount concern in the Township. To this end, the Plan utilizes careful and tight controls and constant monitoring to determine the impact of existing, as well as future development.

There are two types of water bodies in the Archipelago, the internal lakes and the waters of Georgian Bay. While they have similar functions their characters vary and require different policy approaches. The Georgian Bay lands are more remote, have a harsher climate, and Georgian Bay is generally more tolerant to nutrient loading because of its vastness. The internal lakes are generally more accessible, have greater soil depths and provide a finite and confined area for which development capacities may be determined.

The formation of the Township of the Archipelago has united a series of predominantly water-based neighbourhoods all with similar physical characteristics, yet each having its own distinct activity pattern, each of which requires that individual attention be applied in order to respond to individual density concerns and to support the provision of a minimal level of services for defined communities of interest.

The Plan is interested in the existing development pattern of each neighbourhood, and new development will be judged on the maintenance of the character of an area or, where possible, the rehabilitation of an area's character by prohibiting further development.

Section 5.9 outlines the policy of the Plan regarding "Density". It states that density, as a measure of scale or degree of development as traditionally understood, has little meaning in the Archipelago. Rather it considers that a major impression of the Archipelago is formed by boating excursions along the various waterways. A measure of density is obtained by the frequency with which one encounters human activity (cottages) along the way. In that sense, waterways present an important element in the consideration of density control. Regard also must be had for the physical suitability, vistas, degree of privacy and the scale of development in a particular area

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Section 5.9 was referred to the Board for its consideration. As noted, the opposing evidence is that development, with proper siting and screening, could achieve a low density appearance even with more concentrated development. Many cottagers enjoy social interaction with neighbours, and privacy, while adequate, need not be total. The Board is of the opinion that it is more a question of interpretation, and conformity to the policy would be a question of the demonstrated ability in any given application, whether it be for the development of a lot or holding in relation to others, or a proposed plan of subdivision. The concept is valid within the municipality, and the Board approves the Township's position

Sections 6 and 7 of the Plan, regarding Land Use policies and environmentally sensitive areas, are important as both land and water uses must be considered. Section 6.4, as modified, was referred to the Board. That section permits conversion of residential uses. (There is a concern that this policy, as well as others of the Plan, could result in additional facilities being permitted without environmental control)

As well Section 14.17 and 14.18, as referred, contain policies that permit additional cottages on some lots and permit sleeping cabins as accessory uses. It was noted that these policies permit such conversions, extra cottages and sleeping cabins, without environmental control. could add to the pollution loading of the lakes and are inconsistent with the controls mentioned in Section 12.3.2.3. It would appear to the Board that this concern may be addressed by specifically referring this section to Section 12.3.2.3., that is a modification to Section 14.17 and Section 14.18 that they are both subject to Section 12.3.2.3, and, as well as all other policies of the Plan, Section 6.4 be made specifically subject to Section 12.3.2.3 of the Official Plan. The Board would agree and will so modify the Plan.

Section 7.2 and Section 12.3.2.6 were also referred. Section 7.2 suggests that further Environmentally Sensitive areas will be added to the Plan schedules in the future and that Section 12.3.2.6 suggests that fish habitats will also be added to the Plan schedules, both after further study

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by the Ministry of Natural Resources. The concern was as to the interim period before such studies are concluded. It was suggested that the interim development proposals be reviewed by the Ministry of Natural Resources to ensure that Environmentally Sensitive areas are adequately protected, as as to ensure that spawning areas, habitats and nursery areas are protected, and that council shall have regard to the comments of that Ministry on any development application.

The Board can agree with these proposed modifications and will so modify Section 7.2 and Section 13.3.2.6.

Sections 9.5 and 9.6 of the Plan were initially referred to the Board by the Minister, but the request was withdrawn, and those sections were subsequently approved by the Minister

Section 10 sets out the neighbourhood growth policies of the Plan, and subsection 10.3, as referred, the policy basis for the neighbourhoods

The concern in this regard is that the policies expressed in Section 10.3 appear much too restrictive, that it would be sufficient that policies regarding all neighbourhood growth take into consideration those matters enumerated in paragraph 2. It is restrictive in that no further development be permitted in areas where there now is excessive development. It may be a matter of opinion as to what degree of developments amounts to excessive development. As well, where there is little or no development in an area, a similar restrictive approach applies to preserve the integrity of such areas

The Board would agree that the neighbourhood growth policies are important within this municipality, but that such policies need not be so absolute in all circumstances

Section 10.3 will be modified to the extent that the third sentence be amended to read "Further development will be discouraged in areas where is now excessive development, excepting infilling and isolated new lot creation". As well within sentence four, the word "restrictive" be deleted.



Sections 10.13 and 10.13.1 pertaining to Five Mile Bay, were referred to the Board by the Minister at the request of Mrs. Elizabeth Reiter, but consideration thereof was deferred upon consent

Section 10.17 including subsection (1) through (4) concerning Blackstone Lake was referred to the Board in its entirety.

Blackstone Lake, located in the south portion, is the largest inland lake in the Township. It is a cold water lake, managed by the Ministry of Natural Resources and is capable of accommodating further development. Water quality studies by the Ministry of the Environment have indicated that a limited amount of new cottage development should be permitted over the next five years, until base line data on water quality and cold water fisheries capability can be established and verified. The lake presently has 85 existing lots with buildings, and 30 vacant lots or parcels. It is the policy of the Plan, as adopted, to permit the creation of only 25 additional lots by either severance or subdivision during the five year period ending on December 31, 1987. The evidence indicated that the lake could support in excess of 100 additional cottage lots, the owner referror claimed up to 296 additional seasonal cottages, which, on the basis of the "Dillon Model", a change from Class 1 to Class 2 in the trophic status of lake could occur

The referror has two proposed plans of subdivision, one for a total of 49 lots located at the south easterly rim of the lake, and another 9 lot subdivision on its eastern shore. Both of these proposed plans of subdivision have been referred to the Board in conjunction with this hearing.

Exhibit 52 is a Plan of the area including Blackstone Lake, which depicts the possible developable shoreline area of Blackstone Lake, including Crown lands, areas of natural constraints, and lands possible for cottage development

The Board concluded that it would hear such evidence the referror cared to advance, in the presence of the municipality, and that the balance of the hearing of the matter would be deferred to a later date. Accordingly, after hearing some of the evidence, the matter was adjourned sine die to be brought by either party upon the giving of at least 30 days notice.

K.A. Lehmann of M.M. Dillon Limited, on behalf of Blackstone Estates Limited and J. Nowack, has requested the Minister of Municipal Affairs and Housing to refer consideration of a proposed plan of subdivision comprising part of Lots 10, 11 and 12, Concession IX and part of Lots 11, 12, 13, 14 and 15, Concession VIII in the Township of the Archipelago, to the Ontario Municipal Board

The plan of subdivision, as proposed, is for 49 lots and 7 blocks with water access only, as illustrated on Exhibit 18, along much of the south-easterly shoreline of Blackstone Lake, from the area of Lawson Bay on the east to a river location on the west, which river connects Blackstone Lake with Crane Lake to the west.

The area of the proposal connects with three unopened road allowances over vacant lands to the south and east of the site. The only road accesses, at two locations, are at the northerly extremity of the lake, some distance from the site. Access could possibly be obtained by an extension of an existing roadway through Humphry Township to the east, over intervening railway lines, however the referrors do not intend such access and the Official Plan, as approved, would not permit public or private road access to this proposed subdivision

Blackstone Lake is considered as a Cold Water lake trout fishery area, one of relatively few of the thousands of lakes within Ontario, and has been designated as an environmentally sensitive area by the Ministry of National Resources, which Ministry has general concerns regarding the lake. These concerns include cottage development on or near Blackstone River (south westerly end), docks, boat-houses and subsequent effects on the existing

canoe route through Blackstone River, which connects Blackstone and Crane Lakes. The Ministry is also concerned about the erosion potential along steep shoreline areas, the protection of fish habitat areas and the lake trout fishery.

Exhibit 15, including an outline of Blackstone Lake, illustrates the extent of Crown land shoreline and privately owned lands, as well as the location of several cottages and existing vacant lots. That exhibit disclosed that there were 85 existing cottages on the lake (other evidence included slightly varying numbers) and 30 existing vacant lots. The Ministry concluded from its studies that the lake could assimilate additional shoreline development without having a negative impact on the lake trout fishery, a fact readily agreed to by the planner for the Municipality, although not necessarily to the amount suggested by the Ministry of the Environment. An interim report of the Ministry indicated that an additional 296 cottages or 58 permanent residences could be built.

On the proposed plan, the lots are designed on the basis of a minimum lot frontage of 61 metres (200 feet) and a minimum lot area of approximately 5,000 square metres (53,821 square feet), both of which minimums are greater than the minimums required by the township's interim Zoning By-law 80-012

Zoning By-law A 100-83, Schedule B, however, includes most of the proposal area within a Residential 8 (R8) zoning, which zoning would require minimum lot frontages of 400 metres and maximum areas of 0.4 hectares. The balance of the lands are zoned "Natural State" (NS) or "Environmentally Sensitive" (ES) which lands do include, inter alia, Blocks 50, 51, 52 and 53.

Block 53, near the centre of the plan is 2.55 hectares in size, which is said to be 5% of the area intended to be developed and is proposed as a park site to serve the cottage community.

Block 51 (1.57 ha) and Block 52 (2.84 ha), both adjacent to Block 53, are designated for possible future use, as is Block 50 (0.85 ha) located at the extreme westerly end of the entire proposal. Blocks 54, 55 and 56 extend the entire length of the proposal at the rear of the lots (and Blocks) and is said to be a 66 foot wide walkway access to all lots, as well as a utilities service corridor.

Section 10.17 of the Official Plan of the Township (herein before considered) concerns the Blackstone Lake Neighbourhood. It expresses various matters which the Municipality has concerning further development. The policies of the Official Plan, as adopted on June 1, 1983, would limit the amount of new cottage development to only 25 additional lots by either subdivision or severance during a five-year period, ending on December 31, 1987, during which time the Municipality and the Ministry of Natural Resources would conduct further studies and undertake a water quality monitoring program, designed to detect any change resulting from such permitted development.

Thus the policies, as adopted, would discourage further development of small cottage lots on Blackstone Lake. Except for the general area designated for the 49 lot proposal, development under the provision of Section 36 of The Planning Act, R.S.O. 1980 will not be permitted. The remaining development would be by way of severance.

Section 10.17.3 of the Official Plan provides the exception for the subject proposal (with corrected and amended lot and concession references) and would allow for a maximum of 15 lots being approved during the five-year period. That section would permit lots having a minimum frontage of 100 metres and minimum areas of one hectare. These minimums are not necessarily the maximum dimensions of the lots, and the Township would expect the lots to be designed with due regard for a high level of privacy, adequate water access and all of the Development Standards and policies of the Plan

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At the hearing before the Board, the Municipality having had the opportunity to acquire further information regarding the lake, requested the Board modify these sections of the Official Plan to the extent that Section 10.17 would permit up to 35 (rather than 25) additional lots, and Section 10.17.3 would permit the development of 25 lots (not 15) within the five-year period. A proposal was presented to so modify the Official Plan.

Board has modified the Official Plan in this regard as hereinbefore stated

Other concerns of the Municipality were that all future development (with some stated exceptions) will require frontage on a navigable waterway and that such development must be appropriate for an area in terms of its density or prematurity. Development proposals must have sites which are suitable for a sewage disposal system, and an acceptable water supply, as well as an appropriate building location. Other development standards would not permit the construction of docks, wharves or other shoreline structures which could be hazardous to navigation or where the passage of boats could be hazardous to the users of such shoreline facilities. The Plan policies require that aesthetic control be used and that new buildings recognize existing development so that maximum privacy is provided.

The Ministry of the Environment, in its review of the proposal, noted that with respect to sewage disposal systems, all of the proposed 49 lots were suitable for development if fill was imported, but only if road access was possible. If access is by water only, that Ministry was of the opinion

13 lots could not be developed, since steep water fronts would not allow for landing areas to bring in the required fill.

The Ministry of the Environment had no objection to the remaining 36 which it red lined on a draft plan with condition attached. Lots unsuitable for development were eliminated or combined with adjoining lots.

The Municipality also objected to the inclusion of some areas within a plan of subdivision. Its concerns were that there was not accurate and detailed information included within the proposed plan of subdivision to indicate the actual slope of certain portions of the site. The Township was

also concerned that the proposal included some low lying areas and areas with environmental concerns. To address these concerns, the Municipality filed a form in plan which more accurately depicted the contours of the site area (Exhibit No. 33). The Board agrees with the Township that more detailed and accurate contours should have been provided by the developer to assist the Township in its analysis of the proposal

Concern was also expressed by both the Ministry and Township that some of the areas of shoreline involved are fish breeding areas which require protection from residential use.

Notwithstanding a significant amount of evidence adduced by the developer in this regard, the Board notes that the Ministry of the Environment requested consultation prior to any development near these areas, and that appropriate zoning be implemented. The Ministry also noted that there were no flood hazard areas that required protection

As to the importation and stockpiling of fill for installation of sewage systems on the lots, as may be required, the developer was of the view that sufficient amounts could be deposited in appropriate locations within the area, so that encroachment onto other lots would not be necessary when the development of specific lots did occur. This approach was not acceptable to the Municipality, nor is it a desirable procedure in the Board's opinion

The Municipality objected to the provision of a 66 foot wide "walkway" along the rear of the proposed lots. It feared that such an allowance would ultimately become a roadway for access to the lots, which is not permitted

The Township filed a proposed amended plan of subdivision for the area, on Exhibit 21. That proposal depicted 25 lots which would be in compliance with the Official Plan policies, and which would avoid the environmentally sensitive areas, as well as those areas with steep slopes, and adjacent to navigable routes.

Considering all the evidence before it, the Board concludes that the 49  
7 Block proposal before it is not desirable for development in this  
area. The Board is convinced that up to a 30 lot subdivision, properly  
staged, could be suitable and desirable, provided there is conformity with  
all of the Official Plan policies.

The Board would accept and approve a proposal for 30 lots for this

The evidence is that the shoreline of Blackstone Lake is 37 kilometres  
whereas the shoreline of Crane Lake is 50.7 kilometres, with lake areas of  
similar size (approximately 54 hectares). The testimony indicates that the  
"opposite" shores on Crane Lake are generally much closer than is the case  
of Blackstone Lake. The Board finds that development on the shoreline of  
Blackstone Lake would not give the "overcrowded" vista as now exists on some  
parts of Crane Lake. In addition, the influence of the Muskoka Lakes,  
particularly Lake Joseph is clearly evident in this part of the Township.  
The Board therefore concludes that some smaller lots than are now proposed  
by the Township can be considered on Blackstone Lake

This would require that a variety of lot frontages and areas be  
considered; with no more than one half of the lots having a minimum frontage  
of 100 metres and a minimum area of one hectare, and the remaining lots  
having a minimum frontage of 70 metres and minimum lot area of 0.7 hectares.  
Minimal variation to permit such a 30 lot subdivision to be incorporated  
within the area bounded by the northeasterly boundary of Lot No. 1 and the  
westerly boundary of Lot No. 44 on proposed Plan of Subdivision as evidenced  
by Exhibit Number 18, and also excluding Blocks 51, 52 and 53, would be  
permitted

With this proposal, development to the larger requirements would be  
properly phased in on the lake. On the evidence, the environmental  
sensitivity of the lake will be maintained, proper siting of each lot should  
be possible and sewage disposal systems properly accommodated

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respect to a motion for costs, the Board sees no need for such action as it finds that any actions and resulting costs are the result of the procedures anticipated in the Planning Act.

Anja Laukkanen was added as a party to the hearing under Section 34(33) of The Planning Act (R.S.O. 1893). Her land is proposed as a Natural State zone in By-law A 100-83. It was agreed that her property has frontage on Healey Lake and should be zoned Residential 1. The Board agrees and amends By-law A 100-83 (Sheet No. 24) accordingly

No other appellants, who were indicated as such on Exhibit 2, testified at the hearing. As such, the Board will dismiss those appeals

Attached hereto as Schedule A are amendments and attachments to By-law A 100-83 as amended by By-law A 103-84. The Board has heard evidence on, and considered such amendments during the course of the hearing, and will further amend the by-law, as amended, accordingly.

#### Plans of Subdivision

These matters were heard by the Board in conjunction with the hearing of the Official Plan referrals and the appeals as to By-law A 100-83 and amending By-law A 103-84 of the Township of the Archipelago.

At the commencement of the hearing, Counsel for the Municipality argued that the reference by the Minister of Municipal Affairs and Housing to the Ontario Municipal Board of the proposed plan of subdivision of lands owned by Blackstone Estates Limited, and located within Lot 11, Concession X in the Township, was on such short notice that the Municipality was not afforded an opportunity to adequately prepare its position in the matter. The referror was prepared to proceed.



The Board accepts the contention that the Class I lake environment will be maintained by the proposal, even if an additional small subdivision were approved at some later date. The Board takes comfort in the evidence of the developer's expert environmentalist that the lake could accommodate even more such development.

The Board is also of the opinion that there is merit for the provisions of a right-of-way adjoining the lots for the purpose of providing access from one lot to another, and to public parkland, and for permitting a utility corridor for the use of all lots. However such a right-of-way, in the Board's opinion, should be restricted in width to 20 feet, so that it might not, in future, become a roadway. A one-foot reserve should also be placed along the southerly limit of this right-of-way to guard against any future connection to the existing unopened road allowances. The one-foot reserve area shall be deeded to the Municipality.

With draft approval, the following conditions would apply:

1. The owner will convey an area to the municipality suitable for park purposes in accordance with the requirements of The Planning Act.
2. That prior to the signing of the final plan, the area to be subdivided be zoned in an amendment to the restricted area by-law, which zoning will conform to the minimum lot size and frontage as would be permitted under the Official Plan policies, and the 20 foot right-of-way block, if any, be zoned so that no structures of any type are permitted except those required for public utilities. In addition a one foot reserve shall be placed along the southerly limit of such right-of-way

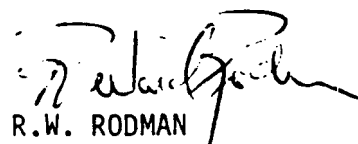
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3. That the subdivision agreement between the owner and the municipality require agreements of purchase and sale of lots within the area encompassed by Lots 20 to 34 inclusive, on Exhibit No. 18, to provide notice that no docks or boat-houses shall be erected on this shoreline to protect the fish habitat adjacent to that area without the written permission of the Ministry of Natural Resources
4. That the subdivision agreement between the owner and the municipality require agreements of purchase and sale of the area encompassed by Lots 1 to 4 inclusive on the proposed Plan of Subdivision to provide notice that docks and boat-houses proposed for that area, must demonstrate compliance with the Navigable Waters Protection Act. Such compliance can be shown by a written exemption from the Act as issued for the proposed structure by the Federal Ministry of Transport
5. That the owner agrees in writing to satisfy all the requirements, financial and otherwise, of the Township of the Archipelago, concerning the installation of services and drainage and provisions for dock facilities that may be required as a condition of development to provide access to lots mentioned in Section 4.
6. That such easements as may be required for utility or drainage purposes shall be granted to the appropriate authority and that those easements be located within the right-of-way within the area of Blocks 54, 55 and 56 to the maximum extent possible.
7. That the subdivision agreement requires all agreements of purchase and sale for all lots provide notice that:
  - a) The importation of suitable fill may be required to construct a septic system tile bed to the satisfaction of the Ministry of the Environment;
  - b) All lake water should be treated before human consumption.

8. That prior to registration of certain lots, the owner be required to agree to the placing of leaching material on each lot in an amount, soil type and location satisfactory to the Ministry of the Environment
9. That prior to the signing of the final plan, the shore line road allowance abutting the lots within the Plan of Subdivision shall be properly closed, purchased by subdivider and incorporated into the Plan of Subdivision as part of the lots.
10. That before final approval is given, the Board is to be advised, in writing, by the Ministry of the Environment that conditions 3, 4 and 8 have been satisfied.
11. That prior to final approval being given, the Ontario Municipal Board is to be advised, in writing, by the Township of the Archipelago that conditions 1 to 9 have been satisfied
12. That before the Ontario Municipal Board's final approval is given, it is to be advised in writing by the Ministry of Natural Resources that conditions 4 and 5 have been satisfied.

DATED at TORONTO this 18th DAY OF MARCH, 1985

  
H.H. LANCASTER  
VICE-CHAIRMAN

  
R.W. RODMAN  
MEMBER



O 830048 S 830031  
R 840107 S 840014  
R 840326

Ontario Municipal Board  
SCHEDULE "A"

to the decision of the Ontario Municipal Board

AMENDMENTS TO BY-LAW NO. A100-83

AS AMENDED BY BY-LAW NO. A103-84

TOWNSHIP OF THE ARCHIPELAGO

In accordance with the Board's authority to amend by-laws pursuant to Section 34(27) of The Planning Act 1983,  
NOW THEREFORE, the Board hereby enacts the following amendments

Section 1 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by adding the following subsection 1.04:

"1.05 It is recognized that the provisions of this by-law may not apply to Crown land uses or uses authorized by the Crown. However, it is the intent that this By-law reflect the established planning policy of the Municipality and the Crown shall have regard for the provisions of this By-law".

2. Subsection 2.03(e) of By-law No. A100-83 as amended by By-law No. A103-84 is hereby deleted in its entirety.
3. Subsection 2.05(f) of By-law No. A100-83 as amended by By-law No. A103-84 is hereby deleted in its entirety.
4. Subsection 2.06 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by deleting the subsection and replacing it with the following:

"2.06 Bridges and Causeways

No person shall use land adjacent to or abutting the high water mark of a navigable waterway for the purpose of erecting a structure or placing material for the construction of a road or walkway, bridge or causeway to join two lots separated by water".

5. Subsection 2.12 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by deleting the subsection and replacing it with the following:

"2.12 Docking Area Regulations

No person shall use land adjacent to or abutting the high water mark of a lot on a navigable waterway for the purpose of docking or storing boats in the water at a dock or in a boathouse unless the following regulations are met:

- a) a dock or wharf permitted under Section 2.03c) hereof shall not extend beyond a high watermark more than 25 per cent of the total distance across the adjacent waterway between the land to which it is attached and the land on the opposite side of the waterway,
- b) a boathouse permitted under Section 2.05 hereof shall not occupy more than 33 per cent or 10 meters, whichever is the lesser, of the distance across the adjacent waterway between the land to which it is attached and the land on the opposite side of the waterway,



- c) where a dock or a boathouse is built under the provisions of a) or b) above on either side of a waterway of less than 30 meters in width between two islands or lots, the said dock or boathouse shall be constructed so that the dock or boathouse slip causes the boat, when docked, to be approximately parallel to the centre line through the narrowest part of the waterway,
- d) In the case of a minor channel as defined in Section 17.019 where a course line is determined to be less than 10 meters from the high water mark of a lot or island, any dock or boathouse built under this section may not project more than 2.5 meters from the high water mark, and where the course line is more than 10 meters but less than 20 meters from the high water mark, any dock or boathouse may not project more than 5 meters from the said high water mark".

6. Subsection 2.28 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by adding the following words to the end of the subsection:

"unless a permit has been issued under The Mining Act".

7. Subsection 2.50 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by adding the following subsection after subsection 2.50 as follows:

"2.50.1 The term "site" as used in this paragraph means the area of the subject lands used for tents and trailers and not the individual unit location of such tents or trailers".

8. Section 15, Special Provisions of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by adding the following subsections after subsection 15.13:

"15.14 Notwithstanding the provisions of this By-law, the minimum side yard on the north side of the land described as Part 3, Reference Plan No. 42R-3183 adjacent to Part 1 of Reference Plan No. 42R-5527 all being within Lot 41, Concession 4 in the former Township of Conger, shall be 20 meters and further that the buffer area thus created shall not be used for any purpose except the preservation of all live trees and vegetation.

15.15 Notwithstanding the use provisions in the Natural State (NS) Zone, one additional single family dwelling with accessory buildings is permitted in part of Lot 41, Concession 4, former Township of Conger and more particularly described as part of Part 3 of Reference Plan No. 42R-3183 subject to a setback from adjacent Residential and Commercial zone boundaries of 60 meters and further provided that all other applicable requirements for the Residential (R1) Zone are met.

15.16 Notwithstanding the permitted use provision in the Natural State (NS) Zone, as set out in Section 3.01 of this By-law and notwithstanding the frontage requirements set out in Section 2.14 of this By-law, one single family dwelling together with any appropriate accessory buildings is permitted in Lot 40, Concession 3, former Township of Conger, subject to the following conditions:

(a) the applicable requirements of the Residential 1 (R1) Zone are met, and

(b) as provided by Section 38 of The Planning Act 1983, the existing travel trailer, tent platform and accessory structures, located on the said lot are authorized as a temporary use until November 30, 1985".

9. Subsection 17.018 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by deleting the subsection and replacing it with the following:

"17.018 Channel, Major: means the navigable course or track shown as a line on the nautical charts published by the Canadian Hydrographic Service from time to time and which course or track indicates that sufficient water depth exists for safe navigation of watercraft".

10. Subsection 17.019 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by deleting the subsection and replacing it with the following:
- "17.019 Channel, Minor: means a course line which can be determined on nautical charts published by the Canadian Hydrographic Service and which line marks the location of the deepest water as shown by the soundings or depth contours and which line is between two land areas or islands".
11. Schedule A, Sheet No. 1 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by removing the Environmentally Sensitive (ES) Zoning from the westerly bay on Island No. 551A as shown by the shaded area on a copy of part of Schedule A, Sheet No. 1, attached to this Schedule and labelled Attachment No. 1.
- Schedule A, Sheet No. 2 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended rezoning Island No. 882A from the Residential 1 (R1) Zone to the Residential 2 (R2) Zone as shown by the shaded area on a copy of part of Schedule A, Sheet No. 2, attached to this Schedule and labelled Attachment No. 2.
- Schedule A, Sheet No. 4 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by removing the Environmentally Sensitive (ES) Zoning from the westerly bay on Island No. 551A as shown by the shaded area on a copy of part of Schedule A, Sheet No. 4, attached to this Schedule and labelled Attachment No. 3.
- Schedule A, Sheet No. 13 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by rezoning that part of Sandy Island and Ingersoll Island which are presently zoned Natural State (NS) to the Residential 1 (R1) Zone as shown by the shaded area on a copy of part of Schedule A, Sheet No. 13, attached to this Schedule and labelled Attachment No. 4.
- Schedule A, Sheet No. 22 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by rezoning that part of Lot 18, Concession VII on the north side of the river from the Natural State (NS) Zone to the Residential 1 (R1) Zone as shown by the shaded area on a copy of part of Schedule A, Sheet No. 22, attached to this Schedule and labelled Attachment No. 5.
16. Schedule A, Sheet No. 22 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by removing the Environmentally Sensitive (ES) Zones in front of Lot 19 and 20, Concession X and by rezoning that portion of Lot 20, Concession X from Natural State (NS) to Residential 1 (R1), all of which are shown by the shading on a copy of part of Schedule A, Sheet No. 22, attached to this Schedule and labelled Attachment No. 6.
17. Schedule A, Sheet No. 24 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by removing the Commercial General (CG) Zone from part of Lot 41, Concession IV as shown by the shaded area on a copy of part of Schedule A, Sheet No. 24, attached to this Schedule and labelled Attachment No. 7.
18. Schedule A, Sheet No. 24 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by rezoning those parts of Lots 38 and 39, Concession II on the north side of the river from the Natural State (NS) Zone to the Residential (R1) Zone as shown by a shaded area on a copy of Residential (R1) Zone as shown by a shaded area on a copy of part of Schedule A, Sheet No. 24, attached to this Schedule and labelled Attachment No. 8.
19. Schedule A, Sheet No. 24 of By-law No. A100-83 as amended by By-law No. A103-84 is hereby further amended by rezoning the north side of Lot 39, Concession 3 from the Residential (R1) Zone to the Natural State (NS) Zone as shown by a shaded area on a copy of part of Schedule A, Sheet No. 24, attached to this Schedule and labelled Attachment No. 8.

