

TOWNSHIP OF SOUTH FRONTENAC

BY-LAW NUMBER 2013-48

BEING A BY-LAW TO AUTHORIZE THE MAYOR AND THE CLERK TO EXECUTE A SITE PLAN AGREEMENT BETWEEN THE CORPORATION OF THE TOWNSHIP OF SOUTH FRONTENAC AND SANDRA AND ALAN GEORGE.

WHEREAS a Site Plan Agreement has been prepared to the satisfaction of the Township of South Frontenac;

NOW THEREFORE THE CORPORATION OF THE TOWNSHIP OF SOUTH FRONTENAC BY ITS COUNCIL, HEREBY ENACTS AS FOLLOWS:

1. THAT the Mayor and the Clerk are hereby authorized to execute a Site Plan Agreement between the Corporation of the Township of South Frontenac and Sandra and Alan George, a copy of which is attached hereto and forms part of this by-law.
2. THAT this By-law and Agreement shall be registered on the title of the property described as Part 1 on Plan 13R-16276, Part Lot 18, Concession IX, Storrington District, Township of South Frontenac.
3. THIS BY-LAW shall come into force and effect in accordance with section 41 of the Planning Act 1990, either upon the date of passage or as otherwise provided by the said section 41.

Dated at the Township of South Frontenac this sixth day of August, 2013.

Read a first and second time this sixth day of August, 2013.

Read a third time and finally passed this sixth day of August, 2013.

**THE CORPORATION OF THE
TOWNSHIP OF SOUTH FRONTENAC**

Gary Davison, Mayor

Wayne Orr, Clerk-Administrator

DELETED

**THIS SITE PLAN AGREEMENT made this day
of August, 2013.**

BETWEEN:

SANDRA & ALAN GEORGE

hereinafter called the "Owner"

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWNSHIP OF SOUTH FRONTENAC

hereinafter called the "Municipality"

OF THE SECOND PART

WHEREAS the Owner is the registered owner in fee simple of certain lands described in Schedule "A", attached hereto, located in the Township of South Frontenac (the "Owner's Land");

AND WHEREAS the Municipality is authorized to enter into this agreement and register it against the title to the Lands pursuant to section 41 of the Planning Act and section 6.17 of the Township of South Frontenac Official Plan;

AND WHEREAS the Municipality has passed by-law No. 2003-75 to designate all of the Township of South Frontenac as a "Site Plan Control Area";

NOW THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements contained herein, the parties agree each with the other as follows:

In this Agreement:

- a) *"Owner" includes a mortgagee in possession, a tenant in possession pursuant to a leasehold interest, and encumbrancer in possession and may mean more than one Owner specified in the Certificate of ownership.*
1. The Owner covenants that the Owner is the Owner in fee simple of the Owner's land.
2. The obligations imposed by this Agreement affect the land described in Schedule "A" hereto and any restrictive covenants expressed herein run with the land and bind successors in title to the said property as well as the successors and assigns of the Owner.
3. The encumbrancer agrees to satisfy all the obligations imposed pursuant to this document if it should enter into possession of the said land.
4. The following schedules are attached to and form part of this agreement and no new building, structure or other facility shall be erected, altered or placed on the said land except in accordance with the attached schedules which consist of:
 - A. Legal Description of Lands
 - B. Site Plan
 - C. Rideau Waterway Development Review Team Report dated July 17, 2013:
Conditions for Development:

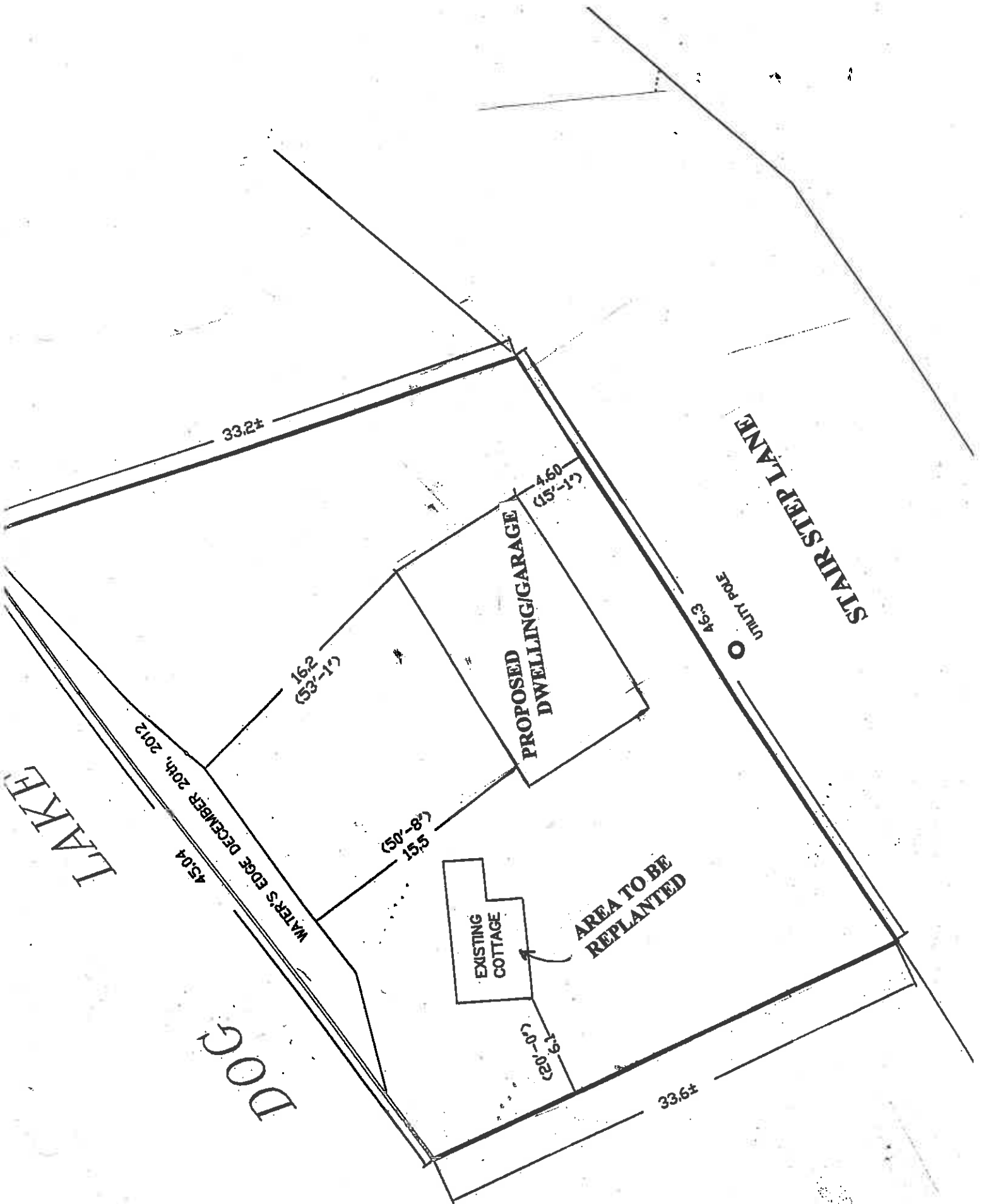
5. The Owner shall perform all the work and provide all the materials necessary for the construction of the principal building and private sewage facilities. The existing cottage and all other buildings existing as of the date of this agreement shall be removed and their ground surface area replanted prior to any new building permit being issued.
6. The Owner may construct a single detached dwelling with attached garage and decking totalling a maximum footprint of 1,600 square feet. This structure shall have a maximum gross floor area on the main level of 1,260 square feet and shall have a walk-out basement (habitable area) below the main level with a maximum area of 1,260 square feet. The structure and septic system must be located a minimum of 15.5 metres (50.5 ft.) from the highwater mark of Dog Lake and, except for this one principal structure, no other buildings or structures shall be permitted on the Lands. Development of the Lands shall be as shown on Schedule "B".
7. The following environmental protection measures shall also apply to the Lands:
 - 7.1 That a building permit will not be issued for new development on the lands until the owner/applicant has received a permit to install, replace, upgrade, or continue to use, a sewage system from Kingston, Frontenac, Lennox & Addington Public Health.
 - 7.2 That all roof and site run-off from the building be directed to sites away from the lake, to allow for natural treatment and infiltration to take place.
 - 7.3 That, except for the footprint of the building itself, the property be managed prior to, during and following all development of the lands in a manner whereby the natural soil and vegetation is maintained within 30m (98.4 ft.) of the wetland.
8. The following Limited Service notations also apply to the Lands:
 - 8.1 That the Municipality does not maintain or repair and will have no obligation to maintain or repair the private lane that provides access to the Lands or to perform or provide any other municipal services normally associated with public highways within the municipality.
 - 8.2 That the Municipality will not be responsible for any loss, damage, or injury, whether direct or indirect, arising from the inability of the Owner's lands because of the Owner's failure to properly maintain the private lane, and the Owner will indemnify and save harmless the Municipality, its councilors, officers, employees and agents from and against all claims, losses, damages, liabilities, costs and expenses (including legal fees and disbursements) which may be made or brought against the Municipality as a result thereof.
9. Development of the Lands shall be in accordance with the recommendations in the letter dated July 17, 2013 from the Rideau Waterway Development review Team as attached hereto as Schedule "C".
10. In the event of a sale of the improved Lands, the new Owner will assume full and complete responsibility for the continuing obligations under this Agreement. The enforcement of this Agreement is the responsibility of the Municipality.
11. The Agreement shall be registered against the title of the Lands and the Municipality shall be entitled to enforce its provisions against the Owner and any

SCHEDULE "A"

LEGAL DESCRIPTION OF THE LANDS

**Part 1, Plan 13R-16276; Part of Lot 18, Concession IX, Storrington District,
Township of South Frontenac: Municipally known as 4539 Stair Step Lane.**

SCHEDULE "B"



**UNITS: METRIC
SCALE: N.T.S.**

July 17, 2013

CRCA File: ZBL/FRS/142/2013

Sent via email

Ms. Anne Levac, Planning Assistant
Township of South Frontenac
P.O. Box 100
Sydenham, ON K0H 2T0

Dear Ms. Levac:

**Re: Application for Zoning By-law Amendment Z-13/07 (George)
Lot 18, Concession 9; 4539 Stairstep Lane
Township of South Frontenac (Storrington District)
Waterbody : Dog Lake (Rideau Canal)**

The Rideau Waterfront Development Review Team (RWDRT), made up of staff from the Cataraqui Region Conservation Authority (CRCA) and Parks Canada, has reviewed the above-noted application for Zoning By-law Amendment and provide the following comments for the Township's consideration. The property was visited June 14 and July 4, 2013.

Site Description / Summary of Proposal

The subject property is approximately 0.15 ha in size with approximately 46 m of road frontage on Stairstep Lane and approximately 49 m of water frontage on Dog Lake. The eastern portion of the lot consists of a steep, densely vegetated, till embankment (approximately 5 m high) extending from Stairstep Lane towards the water. The embankment flattens before reaching the shoreline where there is a 1.5 m slope to the water consisting mainly of a till embankment covered with rip rap material. The western half of the property consists of a relatively flat, manicured landscape with an approximately 42 m² seasonal dwelling and two small accessory structures (sheds).

The subject property is designated 'Rural' in the Township of South Frontenac's Official Plan and is presently zoned 'Limited Service Residential-Waterfront Zone (RLSW)' in the implementing Zoning By-law.

The proposal involves an amendment to the Comprehensive Zoning By-law to create a site-specific Limited Service Residential-Waterfront zone in which:

- the required 30 m high water mark setback will be reduced to 15 m;
- the 30 m roadway setback will be reduced to 4.6 m; and
- the lot coverage maximum of 10 percent (5 percent for principle building and 5 percent for accessory structure) will be amended to allow 8.4 percent lot coverage for the proposed principle dwelling and 1.6 percent for a proposed accessory structure (detached garage).

The site-specific zone will permit the construction of a 117 m² dwelling, approximately 15.5 m from the

high water mark and a 22 m² detached garage approximately 17 m from the high water mark. The existing cottage would be removed as part of this proposal.

Staff note that, based on our measurements, the actual closest distance between the proposed buildings and the high water mark of Dog Lake is 14.5 m.

Discussion

The main interests of the RWDRT in this application are the avoidance of flooding and erosion hazards associated with the shoreline of Dog Lake, the protection of the water quality of the lake and the visual values of the waterway, as a part of the Rideau Canal National Historic Site and UNESCO World Heritage Site.

Flooding Hazard

Under Ontario Regulation 148/06, the CRCA regulates development and site alteration within and adjacent to the regulatory 1:100 year floodplain. A minimum 6 m setback is required for all buildings and structures adjacent to the regulatory flood plain.

For Dog Lake, CRCA policy defines the regulatory flood plain as the highest recorded water level for the lake (98.86 m GSC). The maximum recorded water level is not anticipated to overtop the shoreline embankment at the front of this property.

Based on information gathered during a site visit on June 14, 2013 and from the proposed plans for the new dwelling and accessory structure, it would appear that the proposed structures, at their closest point to the water, are approximately 14.5 m from the high water mark. As such, the proposed dwelling and garage would be located outside of lands subject to flood risk.

Erosion Hazard

The shoreline of the aforementioned property consists of a mix of rip rap material and till embankment with an approximate height of 1.5 m.

The CRCA defines the extent of potential erosion hazards, the 'erosion hazard limit', adjacent to an inland lake to be a stable slope allowance of 3(h):1(v) for till plus an erosion access allowance of 6 m from the top of stable slope. As such, the erosion hazard limit would extend approximately 10.5 m from the toe of the slope inland or, in other words, 10.5 m from the base of the shoreline towards the road. The CRCA, under Ontario Regulation 148/06, restricts all development (buildings, structures, septic systems) and site alteration (including placement of fill, excavation, grading) within this area.

In regards to the proposed development on the subject property, it would appear that all of the proposed structures are outside of the 10.5 m erosion allowance.

Water Quality and Visual Impact

In accordance with Section 2.2 of the Provincial Policy Statement, RWDRT staff strive to maintain, and where possible, enhance water quality in our review of planning applications.

Similarly, RWDRT staff strive to preserve and enhance the cultural, natural and scenic values of the Rideau Canal World Heritage Site so that all Canadians can enjoy this legacy into the future. This can be achieved through the maintenance of a natural shoreline, the maintenance and enhancement of vegetation

on the property, development which complements the visual character of the landscape, and the maintenance of a minimum 30 m setback of all development from the water.

The Township of South Frontenac Official Plan and Zoning By-law require that all development occur at a minimum setback of 30 m from the high water mark of a waterbody. The intent of the setback is to provide a buffer of undisturbed soil and vegetation along the shoreline, which will help to filter runoff, prevent soil erosion, and provide wildlife habitat.

This 30m setback corresponds with the 30 m buffer zone surrounding the World Heritage Site. For the land within and beyond the buffer zone, Parks Canada works closely with the municipalities, counties and conservation authorities along the waterway to ensure the visual values of the canal are protected alongside the environmental values.

Similar to the Township's Official Plan, CRCA Planning Policy considers new development within the 30m water setback area only if there are no reasonable alternatives for locating the development outside of the water setback area, the development is no closer to the water than existing buildings or structures on the property, and is set back as far as possible from the water in all directions, complies with the maximum lot coverage provisions of the Zoning By-law, and suitable methods to minimize negative impacts on water quality are incorporated into the development.

Staff recognize that, due to the size of the subject property, new development cannot meet the 30 m high water mark setback. As a result of the proposed zoning amendment, development on the site would be set back further from the water than existing structures, as far from the water as possible and the maximum combined lot coverage of 10 percent would not be exceeded, provided that existing structures are removed.

Since the proposed development would result in the lot having the maximum 10% lot coverage, the RWDRT would not support future planning applications for additional development on the property. This includes all decking and minor accessory structures such as gazebos or platforms. We recommend that a provision explicitly restricting future development on the lot be included into the site-specific zone. We also recommend that the existing accessory structures on the subject property be removed either through site plan control or as a provision in the site-specific zone.

We stress the fact that the proposed building footprint, at the maximum 10% coverage, is all that we would support on this lot and, if it is the intent of the proponent to build a deck or other structure, it must be located within the proposed footprint at 15.5 m from the high water mark.

In order to help protect and enhanced the visual values of the landscape, Parks Canada recommends that the proposed residential development for this site complements the visual character of the landscape and is screened from the waterway by planting native tree species within the setback area. We recommend that provisions to this effect be incorporated through a site plan agreement or as a provision in the site-specific zone.

As noted, staff measured the closest point between the proposed dwelling and high water mark as 14.5 m. We support the application based on the development being no closer than 15.5 m from the high water mark. The proponent must ensure that the buildings are consistent with this setback prior to commencing construction. CRCA staff will confirm this at the permit stage, if the subject application is approved.

Ms. Levac (Z-13/07)
July 17, 2013

Recommendation

RWDRT staff have no objection to the approval of application Z-13/07 provided the recommendations regarding accessory structure removal, restrictions on future development and vegetative screening be incorporated into the approval. Please inform both the CRCA and Parks Canada in writing of any decision made by the Township regarding this application.

Ontario Regulation 148/06

The property is subject to Ontario Regulation 148/06: *Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses*, which is implemented by the CRCA. The purpose of Ontario Regulation 148/06 is to ensure that proposed changes (e.g. development and site alteration) to a property are not affected by natural hazards, such as flooding and erosion, and that the changes do not put other properties at greater risk from these hazards. By virtue of this regulation, the CRCA regulates all development and site alteration activities within 15 m of the flooding and erosion hazard limits on the subject property. A permit will be required from the CRCA prior to construction of the proposed dwelling and garage.

If you have any questions, please contact the undersigned at (613) 546-4228 extension 228, or via e-mail at mdakin@cataraquieregion.on.ca.

Yours truly,



Michael Dakin
Resource Planner, CRCA

cc: Susan Millar, Planner, Parks Canada – Rideau Canal Office, via email
Lindsay Mills, Planning Coordinator, Township of South Frontenac, via email
Alan George, applicant, via email