

June 29, 2023

Township of Leeds and the Thousand Islands  
1233 Prince Street, PO Box 280  
Lansdowne, ON K0E 1L0

To Whom it May Concern:

**RE: Zoning By-law Amendment Application**  
**75 Benson Park Road (Tax Roll No. 0812-812-025-33504)**  
**Owner: Cathy Lyn Bain**  
**Applicant: Scott Winch**

ZanderPlan Inc. has been retained by property owner Cathy Lyn Bain, and applicant Scott Winch, to assist with a Zoning By-law Amendment application for the property located at 75 Benson Park Road. The property owner wishes to remove the existing dwelling and decking to rebuild a new dwelling with a partially covered deck, in addition to removing the existing roof truss system on the boathouse to replace it with a flat roof. The proposed flat roof is to be used as outdoor amenity space. Using the roof of a boathouse as amenity space is not permitted as per the corporation of the Township of Leeds and the Thousand Islands Zoning By-law No. 07-079. This planning justification report has been prepared to support the new dwelling and the proposed use of a new flat roof as outdoor amenity space. The following includes a description of the subject property, surrounding land uses and the proposed development, as well as a review of the Provincial Policy Statement (2020), the Township of Leeds and the Thousand Islands Official Plan and Zoning By-law No. 07-079.

#### **Description of Subject Property**

The subject lands are located on Hill Island in the Township of Leeds and the Thousand Islands. The property has frontage onto Benson Park Road to the south, and fronts onto the St. Lawrence River to the north. The subject property is legally described as Part 14 on Plan 28R 100, and is 2,132 square metres in size. There is a single detached dwelling, inground pool, and pool shed located on the land, as shown in Figure 1 below, along with an existing marine facility abutting the St. Lawrence River. The site is serviced with an individual well, which is proposed to be de-commissioned and a new well drilled on the site, and a private sewage system.



**Figure 1. Aerial Imagery of Subject Lands at 75 Benson Park Road (Source: AgMaps)**

### **Surrounding Uses**

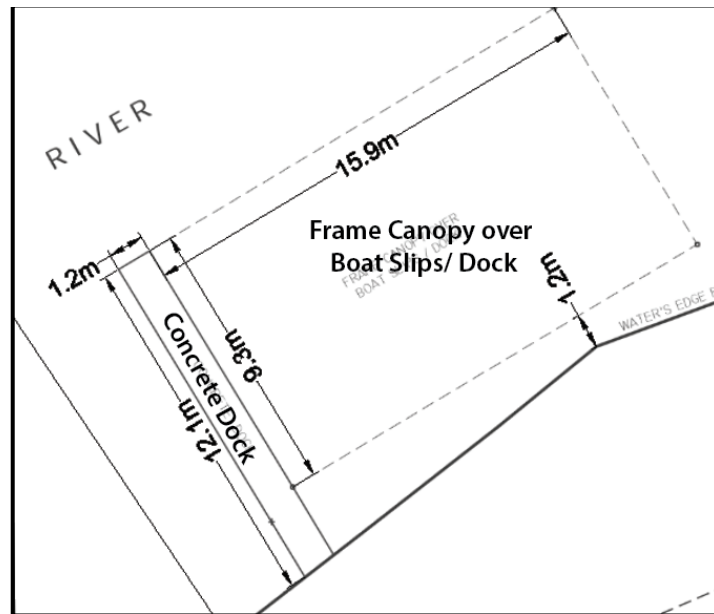
North of 75 Benson Park Road is the St. Lawrence River. To the east of the subject property is a similar sized waterfront residential lot with the civic address 69 Benson Park Road. Beyond the abutting property to the east, the lands are characterized by residential lots fronting onto the St. Lawrence River. The subject lands have frontage on Benson Park Road to the south. South of Benson Park Road is the Thousand Islands National Park of Canada. West of the site is similar sized waterfront residential lots, with the abutting property to the west having the civic address of 79 Benson Park Road.

### **Proposed Development**

The existing marine facility at 75 Benson Park Road is a legal non-complying structure due to its size, which will be discussed in detail later in this report. The facility has a total area of 163 square metres, which includes a concrete dock that extends into the St. Lawrence River by 12 metres, and is 1.2 metres in width. The boathouse is located approximately 1.2 metres from the shoreline and is 15.9 metres in width and 9.3 metres in length. A plot plan of the existing dock and boathouse are shown in Figure 2. The property owner wishes to remove the roof truss system on the boathouse and replace it with a flat roof which will allow the boat to be lifted with the existing boat lift. The owner would like to use the flat roof as outdoor amenity space, and propose to construct a glass railing on the rooftop to maintain a clear view of the water and minimize visual obstruction. There is an existing steel and concrete stair system which accesses the boathouse from the land. An existing landing in the stair system will be used to access the rooftop.

In addition to the modification of the boathouse, the property owners are proposing to demolish the existing dwelling, sheds and decking to rebuild a new dwelling with a partially covered deck facing the shoreline. The proposed dwelling is slightly larger than the existing dwelling but will maintain the same

overall lot coverage of 14.7%, exceeding the 10% maximum; the proposed front yard setback to the water for the proposed dwelling is 21.8 m. It is notable that the shoreline is not a straight line on this lot. The proposed development does not worsen any of the non-conforming circumstances on the site. Existing sheds will be removed to accommodate the slightly larger home and maintain the current lot coverage. A new septic and well are proposed; their locations and building footprint can be seen in the attached site plan.



**Figure 2. Existing Concrete Dock and Boathouse**

**Provincial Policy Statement**

The Provincial Policy Statement (PPS) 2020 provides policy direction on matters of Provincial interest related to land use planning and development. The PPS is issued under Section 3 of the *Planning Act* and approval authorities are required to ensure that decisions on planning matters are consistent with the policies. The following policies are relevant to this proposal.

**Section 1.0** of the PPS speaks to Building Strong Healthy Communities with policies for Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns in Section 1.1. The Zoning By-law amendment would allow for the existing boathouse to be used for amenity space, which would make use of an existing structure on a lot that is already developed, representing efficient development and land use patterns. The new dwelling, septic and well will enhance the lot, ultimately contributing to sustaining the financial well-being of the Township (Sec. 1.1.1a). The proposed amenity space will be located on top of the existing boathouse requiring no additional buildings or structures to be developed within close proximity to the shoreline. The proposed dwelling and septic will be located in similar proximity to the existing and shall maintain all existing natural features along the shoreline. It is not anticipated that the rooftop amenity space or dwelling will cause environmental concerns or public

health and safety concerns (Sec. 1.1.1c). The re-zoning of the subject property will not prohibit any settlement area from future expansion, as the property is located on an island which does not have a settlement area (Sec. 1.1.1d).

**Section 1.1.4** of the Provincial Policy Statement provides policies for Rural Areas in Municipalities. The new dwelling and flat roof of the boathouse which will be used as amenity space will build upon rural character and leverage rural amenities and assets through developing a dwelling compatible and cohesive with neighbouring lots and by making use of an existing building in the water of a rural lot (Sec. 1.1.4.1a). Section 1.1.5 of the PPS provides policies for Rural Lands in Municipalities. The proposal will be compatible with the rural landscape, which will be discussed more when addressing the land use compatibility policies in the Township of Leeds and the Thousand Islands Official Plan (Sec. 1.1.5.4).

**Section 1.2.6** of the PPS speaks to Land Use Compatibility noting that *“Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects”*. The use does not meet the definition of a major facility as defined by the Provincial Policy Statement, nor is the subject property near a major facility with which it would conflict.

**Section 2.0** of the Provincial Policy Statement sets forth policies for the Wise Use and Management of Resources. The subject property does not contain natural features that need to be protected as per Section 2.1 of the PPS. However, the boathouse is located on the St. Lawrence River, which is protected under Section 2.2 which provides policies for protecting, improving or restoring the quality and quantity of water. The roof will be replaced and no changes will be made to the dock foundation. It is not anticipated that there will be any impacts to the quality or quantity of the river as the boathouse will maintain the same footprint and distance to the shoreline that already exists. As per Section 2.3, Section 2.4, Section 2.5 and Section 2.6 of the Provincial Policy Statement, there are no Prime Agricultural, Mineral and Petroleum, Mineral Aggregate, or Cultural Heritage or Archeological Resources on or abutting the subject lands that will be affected by the proposed development.

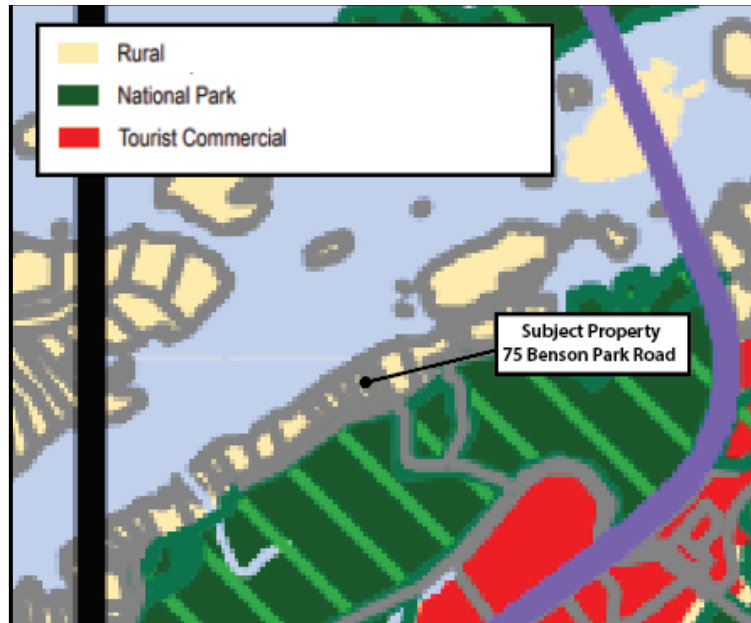
**Section 3.0** of the Provincial Policy Statement provides policies for Protecting Public Health and Safety, with Section 3.1 speaking to Natural Hazards, and Section 3.2 speaking to Human-Made Hazards. There are no known Natural or Human-made Hazards affecting the subject land that need to be addressed as per Section 3.1 or 3.2 of the PPS.

Overall, the Zoning By-law Amendment which would permit the new dwelling, septic and flat roof of the boathouse to be used as amenity space would be consistent with the policies in the 2020 Provincial Policy Statement.

### **Township of Leeds and the Thousand Islands Official Plan**

The Township of Leeds and the Thousand Islands Official Plan (OP) provides policies to manage growth and development for lands within the Township. The subject property is designated as “Rural” on the Township’s Official Plan Schedule A1 – Land Use, as shown in Figure 3 below. Schedule A3 – Natural

Heritage Systems: Woodlands identifies woodlands on the subject property, and Schedule A6 – Source Protection Vulnerable Areas identifies the subject land as a highly vulnerable aquifer area. The purpose of this section is to demonstrate how the proposal complies with the Township’s Official Plan.



**Figure 3. Excerpt from Official Plan Schedule A1**

**Section 4.0** of the Official Plan provides General Land Use policies. The following policies are relevant to this proposal.

**Section 4.2** of the Official Plan provides a general provision for Accessory Uses, Buildings or Structures and states that “wherever a use is permitted in the land use designation, it is intended that uses, buildings, or structures that are normally incidental or accessory, and essential to the use shall also be permitted” (Sec. 4.2.1). This shall be discussed again later in this report.

**Section 4.6** of the Official Plan, Compatibility and Built Form, provides policies to ensure that new uses be compatible with existing surrounding uses and built form. As per Section 4.6.1.1, when reviewing development applications, Council shall be satisfied that the proposed development is compatible with the surrounding uses, built form, and general character of the area. Section 4.6.1.2 of the Plan notes that compatibility of new development should be considered in the following ways:

In reviewing all types of development and redevelopment applications,

- a) *Height and massing: Building height, massing, and scale should be assessed based on the planned or existing uses of adjacent properties, as well as the character established by the prevailing pattern of abutting development and development that is across the street;*

The proposed dwelling shall ensure cohesiveness and compatibility with the surrounding building stock by maintaining a similar size to what is existing. The proposed dwelling would occupy 254 m.sq. and have a height of 11.9m which is under the maximum height permitted in the rural area. The flat roof proposed on the marine facility will replace an existing metal roof truss on the marine facility. The existing marine facility is 16 feet in height from the top of the concrete dock to the top of the roof. On July 25, 2022, the applicant measured the top of the water to the top of the concrete deck as being 3 feet. Thus, the height of the existing structure is approximately 19 feet from the water. The new roof will also measure 16 feet from the top of the concrete dock to the top of the new flat roof. Thus, the height of the marine facility will not change, and does not exceed the maximum height of 6 metres (19.7ft) for a marine facility. Therefore, no additional height or massing would result from the proposal. The amenity area would remain uncovered and unenclosed, with a 42-inch (3.5 feet) glass panel railing. The glass panel railing was chosen for installation to maintain a clear view of the water and minimize visual obstruction. Adjacent properties along the shoreline have a mix of docks, decks and marine facilities which provide outdoor recreation and amenity space for other property owners. The proposed use is not out of character with these other uses.

- b) *Landscaping: Landscaping may be required as a buffer between uses and shall be of a sufficient depth as determined through the Zoning By-law;*

The existing marine facility is located over the river, and is screened from the dwelling to the east, at 69 Benson Park Road, and west, at 79 Benson Park Road, by mature trees and vegetation, shown in Figure 4 below. The owner intends to preserve the trees on the subject land to ensure that the existing buffer between the proposed and existing dwellings on abutting properties is maintained.



**Figure 4. View of existing marine facility and abutting properties from the St. Lawrence River**

*c) Lighting: The potential for light spill over or glare onto adjacent light sensitive areas or the sky must be minimized;*

Any lighting that is installed is required to be downward directed as per Section 3.25 of the Zoning By-law. As the property will be subject to site plan control approval, this requirement can be included in a site plan agreement.

*d) Noise and air quality: The development should be located and designed to minimize the potential for significant adverse impacts on adjacent sensitive uses related to noise, odours, and other emissions;*

The rooftop deck area and dwelling are intended for residential use only, and are not expected to generate any noise or air quality impacts beyond normal residential uses.

*e) Outdoor amenity areas: The privacy of outdoor amenity areas of adjacent residential units must be respected;*

The outdoor amenity areas on land of adjacent residential units will be screened from the proposed by existing trees and vegetation. It is notable that the abutting lots have docks or decks at or near the water. The roof top amenity space will be setback more than 4.6 metres from the straight-line projection of the side lot lines into the waterbody and the dwelling tucked closer to

the road, surrounded by existing trees. Further, the flat roof will be located more than 15 metres from the dock at 69 Benson Park Road, and more than 20 metres from the dock at 79 Benson Park Road. The use of the rooftop of the existing marine facility for outdoor amenity space is not unlike a dock or deck on any other waterfront residential lot; outdoor amenity space at or near the water is evident on almost every waterfront lot. The proposed rooftop deck and dwelling is not anticipated to result in any impact beyond what might be realized from a dock or deck at grade.

*f) Parking: Adequate on-site parking must be provided in accordance with the provisions of the Zoning By-law, with minimal impact on adjacent uses. For higher density development within settlement areas, the Township may consider permitting reduced standards for on-site parking, or off-site parking, where accommodation of on-site parking is not possible;*

The use of the rooftop of the existing marine facility for an open deck and new dwelling is not expected to result in any additional need for parking on the property; the subject property already has adequate parking to meet its residential needs.

*g) Safety: The development should be designed with the principles of Crime Prevention Through Environmental Design (CPTED) and other best practices, to ensure that opportunities for crime and threats to public safety are reduced or minimized. CPTED is a proactive design philosophy based on the belief that the proper design and effective use of the built environment can lead to a reduction in the fear and incidence of crime, as well as an improvement in the quality of life (CPTED Ontario, 2014);*

Not Applicable.

*h) Setbacks: Prevailing patterns of rear and side yard setbacks, building separation, landscaped open spaces, and outdoor amenity areas as established by existing zoning where the proposed pattern is different from the existing pattern of development;*

The marine facility is existing, and is legal non-complying. The existing structures on the lot have continued to exceed the maximum lot coverage for some time. The property is in an area of waterfront residential dwellings with a variety of docks, decks and marine facilities for recreational use. Permitting the re-development of the dwelling and the use of the rooftop of the existing marine facility for outdoor amenity space does not worsen any setbacks, building separations or landscaped spaces. The marine structure is existing and shall not be altered horizontally, while the proposed dwelling is located in a similar location and orientation as the existing dwelling to minimize disruption to the lot.

*i) Shadowing: Shadowing on adjacent properties must be minimized, particularly on outdoor amenity areas;*

The marine facility is already existing on the subject property. The use of the rooftop for amenity space will not result in any additional height or building mass which would create any shadowing, beyond the existing structure. The proposed dwelling shall also be similar in height to the existing and will not create new shadowing.



*j) Traffic impacts: The road network or waterbody in the vicinity of the proposed development can accommodate the vehicular or boat traffic generated;*

The subject property already contains a dwelling and marine facility, the size and scale of which is already existing and similar to the proposed. The new dwelling and additional use of the rooftop as amenity space is not expected to result in any additional boat or vehicular traffic to the site.

*k) Transition: The need to provide a transition between areas of different development intensity and scale, including through the use of incremental changes in building height, massing, setbacks and setbacks;*

As noted, the marine facility is existing and legally complies with the Township's policies around size, height and massing. The proposal would see the development of a new dwelling and the use of the rooftop of the marine facility for outdoor amenity space. The location of the marine facility will not be affected, where the dwelling is similar in shape and orientation maintaining the existing transition area between different development.

*l) Vehicular access: The location and orientation of vehicle access must take into account impact on adjacent properties including noise, glare, and loss of privacy, as well as safety of pedestrians and pedestrian access.*

The use of the rooftop of the existing marine facility for amenity space will not have any impact on vehicular access. The development of the new dwelling is proposing to remove the existing asphalt driveway and replace it with a new permeable gravel driveway. There will be no impacts on vehicular access to the site once completed.

**Section 4.11** of the Plan provides provisions for Existing Land Uses, including land uses which are non-complying. As will be discussed later in this report, the marine facility is a permitted use in the Island Residential Zone, but is a legal non-complying structure as it exceeds the maximum permitted area of marine facilities on the property. The legal non-complying status of the marine facility means that the structure is allowed to continue at its current location and size. The intent of the Zoning By-law amendment is to replace the roof and to use the roof as amenity space, in addition to recognizing an overall exceedance of the maximum lot coverage. The footprint of the boathouse will not change.

**Section 5.0** of the Plan contains policies applicable to the Land Use designations and overlays in the Township which are shown on the corresponding Official Plan Schedules. As mentioned, the subject property is designated as "Rural" on the Township's Official Plan Schedule A1 – Land Use Schedule A3 – Natural Heritage Systems: Woodlands identifies woodlands on the subject property, and Schedule A6 – Source Protection Vulnerable Areas identifies the subject land as a highly vulnerable aquifer area. The proposed use will continue to be residential and this type of use is not anticipated to have any impact on the local aquifer.

**Section 5.2** of the Official Plan provides policies to ensure Environmental Protection, with specific marine facility policies in Section 5.2.2. It is recognized in the Official Plan that the Township's waterbodies provide important recreational opportunities to the permanent and seasonal residents of the Township.

The marine facility policies permit an appropriate amount of dockage and storage for vessels associated with the recreation functions for waterfront properties in the Township, while being of a type and scale and well-maintained to minimize their environmental, navigational and visual impact. The proposal will enhance an existing marine facility continuing an appropriate type and scale to serve the recreational function for the waterfront property.

**Section 5.5** of the Official Plan provides policies for Natural Heritage System components in the Township. As mentioned, there are woodlands identified on the subject property. As per Section 5.5.8, new development should be directed away from woodlands. Development of the new dwelling is proposed where the existing resides to minimize effects and to maintain the existing woodlands for privacy. The amenity space will be located at the water, on top the existing boathouse, away from the woodlands on the property.

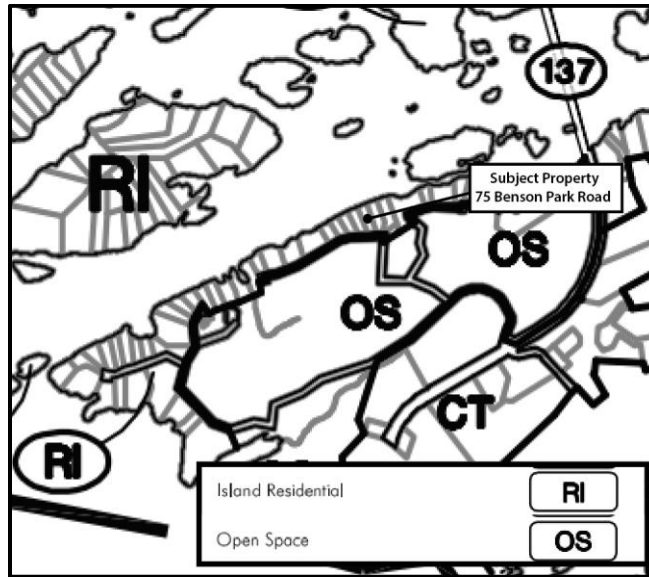
**Section 5.7** of the Official Plan provides policies for lands within the Rural designation. The use of the property is residential, and a single-detached dwelling is located on the site. Residential uses are permitted in the Rural designation as per Section 5.7.1. In addition to the single-detached dwelling, the subject property contains a variety of accessory buildings including the boathouse and two sheds. As mentioned, when discussing Section 4.2 of the Official Plan, wherever a use is permitted in the land use designation, it is intended that uses, buildings, or structures that are normally incidental or accessory, and essential to the use shall also be permitted. Not only are boathouses normally incidental to residential uses, especially on waterfront residential lots, but amenity areas are also normally incidental to residential uses.

**Section 6.0** of the Official Plan Water Resource Policies. As mentioned, the subject property is identified as a highly vulnerable aquifer on Official Plan Schedule A6. The proposed dwelling shall not inflict any new impacts to the vulnerable aquifer identified. The proposed enhancement to the marine facility is on top of a structure located entirely in the water and shall have no effect on the aquifer.

Overall, the proposal meets the intent of the policies in the Township of Leeds and the Thousand Islands Official Plan.

**The Corporation of the Township of Leeds and the Thousand Islands Zoning By-Law No. 07-079**

The Corporation of the Township of Leeds and the Thousand Islands Zoning By-Law No. 07-079 and its corresponding schedules put the Official Plan into effect by outlining how land can be used. As shown in Figure 5 below, the subject property is zoned as Island Residential (RI).



**Figure 5. Excerpt from Zoning By-Law No. 07-079 Schedule A – Ward 1**

**Section 3.0** of the Zoning By-law provides General Provisions, with policies in Section 3.18 providing provisions for Marine Facilities. Table 1 below demonstrates how the existing and proposed structures comply or do not comply with Section 3.18. As mentioned, the existing boathouse is legal non-complying and does not meet Section 3.18(a) of the Zoning By-law which requires that the boat house have a maximum area of 64 square metres. The existing boathouse and docking are a total of 163 square metres. Further, the existing boathouse does not meet Section 3.18(c) and 3.18(e) as the boathouse exceeds the minimum width and does not meet the minimum yard requirement. It is notable that the roof of the marine facility is located 5.5 metres from the extended west lot line, which means that the new flat roof with the amenity space will meet the requirement of Section 3.18(e). Further, the existing boathouse meets the minimum yard requirement from the extended side lot line to the east.

**Table 1. Zoning Provisions for Marine Facilities**

Section	Provision	Existing	Proposed
3.18(a)	<p>“For Islands and lots on islands having an area between 1 ha (2.47 ac.) and 0.1 ha (0.25 ac.), the area of marine facilities shall not exceed 3% or a maximum of 150 square metres (1614.59), whichever is less, of the total area of the island or lot and the maximum perimeter will be 120.0 metres (400 ft).”</p> <p>Permitted Area: 3% of 2,132 square metres = 64 square metres</p>	<p>Perimeter: 57 metres (187 ft)</p> <p>Area: 163 square metres (1,755 sq.ft)</p>	No change
3.18(b)	<p>“Marine facilities shall not exceed 6.0 metres (20 ft) in height measured from high water geodetic;”</p>	5.9 metres (19 ft)	No change
3.18(c)	<p>“The area of a pump house shall not exceed 6.0 square metres in area and 3.0 metres (9.84 ft.) in height;”</p>	n/a	n/a
3.18(d)	<p>“The total and combined width of marine facilities, shall not occupy more than 20% of the width of the shoreline or 15.0 metres (49.21 ft.), whichever is lesser, of any lot which abuts a waterbody;”</p>	55%	No change
3.18(e)	<p>“No marine facility shall be located within 4.6 metres of a side lot line and from the straight-line projection of a side lot line into the abutting waterbody. There shall be no minimum yard requirement for the yard adjacent to the water.”</p>	4.2 metres	<p>No change</p> <p><i>Note: The amenity space will be located more than 5.5 metres from the side lot line projection</i></p>
3.18(f)	<p>“The length of the marine facility shall not exceed the width of the water frontage of the lot containing the subject dock.”</p> <p>Width of water frontage = 30.6 metres</p>	12.1 metres	No change

**Section 5.0** of the Zoning By-law provides provisions for various Residential Zones in the Township, with provisions for lands zoned Island Residential (RI) in Section 5.6. As per Section 5.6(a), a single detached dwelling and a marine facility are permitted uses in the Island Residential Zone. While the marine facility is permitted in the RI Zone, the Township Zoning By-law only permits marine facilities to be used for marine facility purposes and the definition provided in Section 2.114 of the Zoning By-law does not include the use of the roof or the marine facility functioning as a deck or outdoor amenity space. The proposed dwelling is a permitted use but does not conform to all the required provisions of the Island residential zone similar to the existing dwelling on site.

<b>Provisions</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Front Yard	30m	22.68 m	<b>21.82 m</b>
Rear Yard	7.5m+10m	29.6 m	28.7 m
Exterior Side Yard	7.5m	N/A	N/A
Interior Side Yard	3m	3.03m	3.04m
Building Height	12m	N/A	11.9m
Lot Coverage	10%	14.7%	<b>14.7%</b>
Dwellings Per Lot	1	1	1

**The property owner and applicant are requesting that the zoning for the subject lands located at 75 Benson Park Road be amended to establish a site-specific Island Residential zone to permit the proposed roof of the boathouse structure for amenity space and to permit the new development of the dwelling to maintain the existing lot coverage of 14.7% and front yard setback of 21.82 m.**

**Summary**

Property owner, Cathy Lyn Bain, and applicant, Scott Winch, are proposing to replace the dwelling and septic system on the subject property, and also replace the existing roof truss system on their boathouse with a flat roof. A Zoning By-law Amendment application is required to permit a lot coverage of 14.7% and front yard setback of 23.9m (as existing) and to use the flat roof of the boathouse as amenity space.

Overall, the proposed development is considered compatible with the surrounding waterfront residential properties. The marine facility is legal non-complying, and the new roof will not result in the marine facility being raised or enlarged. The installation of a glass panel railing will be constructed to maintain views and sightlines. The proposed dwelling will maintain adequate distance and space from the shoreline similar to



Your rural land planning experts

what is existing, to preserve view sheds and natural features on the lot. Overall, the Zoning By-law Amendment at 75 Benson Park Road is consistent with the policies in the Provincial Policy Statement (2020), and conforms with the intent of the Township of Leeds and the Thousand Islands Official Plan and Zoning By-law No. 07-079.

Should you require any additional information, please contact the undersigned.

With regards,

A handwritten signature in blue ink that reads "Tracy Zander". The signature is written in a cursive style and is positioned over a light grey rectangular background.

Tracy Zander, M.Pl, MCIP, RPP