

**CROWE VALLEY WATERSHED ADVISORY BOARD HEARING**  
**Virtual Meeting via Google Meet**  
**17 November, 2022**

**MINUTES**

**MEMBERS PRESENT:**

Suzanne Partridge	Municipality of Highlands East
Catherine Redden	Municipality of Trent Hills
Jim Martin	Havelock-Belmont-Methuen Townships
Jan O'Neill	Municipality of Marmora and Lake
Edgar Storms	Stirling-Rawdon Township
Jan MacKillican	Limerick Township
Colin McLellan	Township of North Kawartha

**MEMBERS ABSENT:**

Jeff Swartman	Wollaston Township
Dan Bujas	Municipality of Faraday
Ronald Carroll	Tudor & Cashel Township

**ALSO PRESENT:**

Tim Pidduck, General Manager/Secretary Treasurer, CVCA  
Amanda Donald, Recording Secretary, CVCA  
Beth Lowe, Regulations Officer, CVCA  
Andrew McIntyre, Regulations Officer, CVCA  
David & Judy Messervey, Regulations Applicant  
Kim Ferguson, Regulations Applicant  
Ronald Aelick, Regulations Applicant  
Joan Phillips, Agent for Applicant  
Alex Lusty, Lawyer for Applicant  
Rick Hickson, R & J Machine  
Members of the Public

**CALL TO ORDER**

The Chair, Jan O'Neill, called the meeting to order at 10:02am.

## **LAND ACKNOWLEDGEMENT**

Jan O'Neill read a land acknowledgement thanking generations of Indigenous people who have taken care of the land for thousands of years before us.

## **APPROVAL OF AGENDA**

### **FA Motion H 06/22**

Moved by: Jim Martin

Seconded by: Suzanne Partridge

To approve the Watershed Advisory Hearing agenda as circulated.

Carried.

## **WELCOME**

Jan O'Neill welcomed the Board, staff, applicants and members of the public to the Watershed Advisory Hearing.

## **CHAIR'S OPENING REMARKS – Messervey Permit 124/22**

Chair O'Neill referred to the CVCA Board Member Code of Conduct to remind the Board the importance of conducting the hearing without bias and if a Board Member has any prior knowledge of the application, they should recuse themselves and declare a conflict prior to proceeding with the hearing.

The Chair, Jan O'Neill, informed the Watershed Advisory Hearing Board that a Hearing under Section 28 of the *Conservation Authorities Act* will now be held with respect to David & Judy Messervey's application for permission to construct a permanent dock within the flood hazard of Paudash Lake.

Chair Jan O'Neill gave the opening remarks as outlined in the hearing guidelines with respect to Ontario Regulation 159/06 and reviewed the procedure of the Hearing.

## **STAFF REPORT –ANDREW MCINTYRE**

Andrew McIntyre gave a presentation to the Board. He reminded the Board when a permit application does not conform to the CVCA policies, CVCA staff must recommend the application be denied. The applicant is then informed of their right to request a Hearing with CVCA's Watershed Advisory Board.

Andrew reviewed the application for a proposed new permanent dock within the flood hazard on Paudash Lake. The proposed dock would be built parallel to the shoreline with a section that would lift up for the winter season. The total area of the dock is 320 ft<sup>2</sup>. Andrew reviewed the location and drawings of the proposed permanent dock. CVCA policies do not permit new permanent docks and this proposed dock does not constitute a replacement of an existing dock and is considered new development within the floodplain of Paudash Lake.

Andrew reviewed a similar application from another neighboring Conservation Authority that went to the hearing board. The hearing board upheld the Conservation Authorities policies and the permit for the permanent dock was denied. The applicant appealed to the Ontario Land Tribunal a decision was made to deny the application for a permanent dock as the application did not comply with the Conservation Authorities policies.

Andrew recommended the application be denied since the proposed permanent dock would be located in the flood hazard on Paudash Lake and the proposed dock does not conform with CVCA Watershed Planning & Regulations Policies.

The Board asked if the applicant considered alternatives. Andrew informed them the only other options that can be considered under CVCA policies are a floating dock and cantilever dock.

## **APPLICANT REPORT – DAVID & JUDY MESSERVEY**

Joan Phillips introduced herself and informed the Board as the agent for David and Judy Messervey. There will be 3 members speaking to the proposed permanent dock including David Messervey, Rick Hickson from R & J Machine and herself.

David Messervey gave some background information to the Board about the property which was purchased in 1974. The current dock is a lift out dock and is removed for the winter season. The shoreline is quite steep which makes it difficult to carry the dock up from the shoreline every year. Mr. Messervey gave the Board some background information on the application process he has followed. The permanent portion of the dock is planned to be used for storage for the lift portion of the dock during the off season. The four piles will actually displace less water than the floating dock, and will have the least negative environmental impact.

Joan Phillips reviewed the permitting process the applicant has followed, informing the Board she was informed by CVCA staff member it was unlikely a permit would be required. She then received an email from a senior regulations officer informing her permanent docks are not permitted in CVCA watershed. Joan Phillips was under the impression if a building permit from Highlands East was received, a permit from CVCA would also be granted. She is requesting the Board approve this permit as they followed the process outlined by CVCA staff.

Rick Hickson from R & J Machine reviewed the process followed for dock installation informing the Board the impact to the lake bed is very minimal. He informed the Board this particular design for the dock would actually displace much less water than a floating dock and the dock will not float away in the Spring with high water levels. Other Conservation Authorities as well as Department of Fisheries and Oceans (DFO) and Ministry of Natural Resources and Forestry (MNR) approve of the design of this type of dock. Mr. Hickson claims this is the new standard for docks and stated the CVCA should be changing policies to reflect current trends.

There was some discussion on procedure for the next two hearings. The Board decided to hear from all the applicants and staff reports then go into closed session to deliberate and make decisions on the files.

The Board took a short break and the meeting was called back to order at 11:06am.

### **CHAIR'S OPENING REMARKS – Ferguson Permit 088/22**

Chair O'Neill referred to the CVCA Board Member Code of Conduct to remind the Board the importance of conducting the hearing without bias and if a Board Member has any prior knowledge of the application, they should recuse themselves and declare a conflict prior to proceeding with the hearing.

The Chair, Jan O'Neill, informed the Watershed Advisory Hearing Board that a Hearing under Section 28 of the *Conservation Authorities Act* will now be held with respect to Kim Ferguson's application for permission to construct a permanent dock within the flood hazard of Paudash Lake.

Chair Jan O'Neill gave the opening remarks as outlined in the hearing guidelines with respect to Ontario Regulation 159/06 and reviewed the procedure of the Hearing.

## **STAFF REPORT –ANDREW MCINTYRE**

Andrew McIntyre gave a presentation to the Board. He reminded the Board when a permit application does not conform to the CVCA policies, CVCA staff must recommend the application be denied. The applicant is then informed of their right to request a Hearing with CVCA's watershed Advisory Board.

Andrew reviewed the proposed location of the new permanent dock within the flood hazard on Paudash Lake. The total area of the proposed permanent dock will be 400ft<sup>2</sup> and is a u-shaped dock designed by R & J Machine. The dock is designed using 12 helical piles with no lift system in place. Andrew reviewed the location of the permanent dock on the property.

Andrew reviewed a similar application from another neighboring Conservation Authority that went to the hearing board. The hearing board upheld the Conservation Authorities policies and the permit for the permanent dock was denied. The applicant appealed to the Ontario Land Tribunal a decision was made to deny the application for a permanent dock as the application did not comply with the Conservation Authorities policies.

Andrew reviewed the recommendation to deny the application as it would be located within the flood hazard of Paudash Lake and it does not conform with CVCA Watershed Planning and Regulations Policies.

## **APPLICANT REPORT – Kim Ferguson**

Kim Ferguson informed the Board the land was purchased in 1974. The current dock is made of wood that is deteriorating. She is seeking approval for a permanent dock that would have low impact on the lake.

Joan Phillips informed the Board of the process followed during the application process. She informed the Board the current floating dock system is the same size as the proposed permanent dock. The dock was designed by R & J Machine and uses helical piles. Ms. Phillips referred to email chains from CVCA and was under the impression that a CVCA permit would be granted once a Highlands East building permit was received.

Rick Hickson talked to the Board about the size of the permanent dock. He informed the Board the current floating dock would displace approximately 5000 pounds of water and the pile dock would displace approximately 190 pounds of water. The applicant plans to use one section to store kayaks and does not want to remove the dock every year.

The Board asked some questions regarding the number of piles used for the permanent dock and if a lift system was considered. Rick Hickson informed the Board a lift system for this dock is possible but the land owner would need to remove some panels and store them for the winter. There was discussion on water level fluctuations on Paudash Lake. Rick Hickson informed the Board the variant of water levels is 18 inches to 2 feet and he has not seen flooding that would overtop the dock. There was some discussion on how long this CVCA policy has been in place. Andrew McIntyre believes it has been in place since at least 2015 maybe longer. The Board asked if the applicants were willing to consider alternatives to the design of the dock and Mr. Hickson informed them alternatives would be considered.

The Board took a 15-minute break at 11:45am.

The Watershed Advisory Hearing was called back to order at 12:00pm.

## **CHAIR'S OPENING REMARKS – Aelick Permit 101/22**

Chair O'Neill referred to the CVCA Board Member Code of Conduct to remind the Board the importance of conducting the hearing without bias and if a Board Member has any prior knowledge of the application, they should recuse themselves and declare a conflict prior to proceeding with the hearing.

The Chair, Jan O'Neill, informed the Watershed Advisory Hearing Board that a Hearing under Section 28 of the *Conservation Authorities Act* will now be held with respect to Ronald Aelick's application for permission to rebuild an in-water boathouse and construct a new permanent dock along the shoreline and within the flood hazard of Chandos Lake.

Chair Jan O'Neill gave the opening remarks as outlined in the hearing guidelines with respect to Ontario Regulation 159/06 and reviewed the procedure of the Hearing.

## **STAFF REPORT –BETH LOWE**

Beth Lowe gave a presentation to the Board. She reminded the Board when a permit application does not conform to the CVCA policies, CVCA staff **must** recommend the application be denied. The applicant is then informed of their right to request a Hearing with CVCA's watershed Advisory Board.

Beth reviewed the application to rebuild an in-water boathouse and construct a new permanent dock on Chandos Lake. The proposal does not conform with CVCA Watershed Planning and Regulations Policy. The current boathouse has direct access to Chandos Lake by means of a wet boat slip and a mechanical boat lift system. The proposed rebuilt boat house would no longer, 1) contain a wet boat slip, 2) would no longer allow direct entry and exit to and from the lake and 3) would include the addition of a solid floor. The application also includes a new permanent dock to accommodate the change in design of the boathouse and the total area would exceed the total amount of existing dock and deck structures.

Beth reviewed the timeline of the planning and permitting process for the application. CVCA office was circulated planning application for the reconstruction of an existing boathouse on the same footprint. Based on the information provided by North Kawartha Township, CVCA submitted comments stating CVCA had no concerns from a natural hazard perspective. Based on the information submitted by North Kawartha, it was CVCA's understanding the in-water boathouse would be reconstructed on the same footprint and design as the existing boathouse by adhering to these parameters the new boathouse would



maintain the same functionality as the current structure. Planning relief from North Kawartha was not required for the construction of the new permanent dock. When the permit application was circulated, CVCA did not receive the detailed drawings and additional information during the planning process. During the permit review it was determined the proposal was to reconstruct the boathouse on the same footprint, however the new in water boathouse proposal included the addition of a solid floor. The application also includes construction of a new permanent dock which CVCA Policies do not permit.

Beth reviewed the policy for in-water boathouses with the Board informing them new in-water boathouses are not permitted. However, when existing development is in place, leniency is afforded to recognize it and “grandfather” in replacement development on the same footprint.

Beth reviewed the recommendation to deny the permit application as it does not conform with CVCA’s Watershed Planning and Regulations Policies and constituted unnecessary development within the floodplain.

#### **APPLICANT REPORT – Aelick**

Alex Lusty introduced himself to the Board as the lawyer for Mr. Aelick. Mr. Lusty informed the Board Mr. Aelick is a grandfather and wants to ensure his grandchildren have a safe place. He has done everything right and has gained approvals for the project from DFO, MNRF and the municipality. Mr. Lusty reviewed the timeline of events stating CVCA had no concerns for the planning file in March. Once the permit application was sent in, CVCA notifies Mr. Aelick of the concerns once month later. Mr. Lusty referred to CVCA’s Watershed Planning and Regulations Policy Manual and compared it to sections of the staff report provided to the Board for the hearing.

Mr. Lusty informed the Board Mr. Aelick’s proposed boathouse does include a solid floor and not a wet boat slip because Mr. Aelick no longer wants a motorboat. Mr. Lusty also noted the proposed boat house does not include any running water or sanitary services and therefore should not be considered habitable space. The new permanent dock is increased in size in order to consolidate two smaller docks. Mr. Aelick has provided engineered stamped plans for the project and has followed all the rules. Mr. Lusty requested the Board approve the permit applications without conditions.

The Board asked questions around the environmental impact of the proposal. Beth Lowe informed the Board the main concern with this project is the solid floor of the boathouse could very easily be converted to habitable space for the owner or future owners.

Jan O'Neill thanked everyone for the presentations. She would like to take a 5-minute break before going into closed session for deliberations.

Jan O'Neill called the meeting back to order at 12:59pm.

## **BOARD DELIBERATIONS**

### **Motion H 07/22**

Moved by: Catherine Redden

Seconded by: Jim Martin

To adjourn the public hearing and to move in camera session for deliberations.

Carried.

### **Motion H 08/22**

Moved by: Edgar Storms

Seconded by: Jim Martin

That the Watershed Advisory Hearing Board move into open session.

Carried.

## **DECISIONS**

### **Motion H 09/22**

Moved by: Jim Martin

Seconded by: Jan MacKillican

The Watershed Advisory Board approved permit application 124/22 as presented at the hearing held on 17 November 2022.

Carried.

**Motion H 10/22**

Moved by: Jan MacKillican

Seconded by: Catherine Redden

The Watershed Advisory Board deferred permit application 088/22 as presented at the hearing held on 17 November 2022 and;

That staff be directed to contact the applicant to further discuss alternatives to the proposed permanent dock.

Carried.

**Motion H 11/22**

Moved by: Jan MacKillican

Seconded by: Catherine Redden

The Watershed Advisory Board denied permit application 101/22 as presented at the hearing held on 17 November 2022 based on the following;

- 1.The proposed development does not conform to the CVCA's Watershed Planning and Regulations Policies
- 2.The reconstruction of an in-water boathouse with a floor results in there no longer being direct access to the water.
- 3.CVCA policies do not allow for new permanent docks.

Carried.

**ADJOURNMENT**

**Motion H 12/22**

Moved by: Jan MacKillican

Seconded by: Jim Martin

That the Watershed & Advisory Board Hearing Meeting be adjourned at 2:20pm.

Carried.

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Amanda Donald  
Recording Secretary

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Jan O'Neill  
Chair