

CHAIR'S REMARKS WHEN DEALING WITH HEARINGS WITH RESPECT TO THE CONSERVATION AUTHORITIES ACT AND ONTARIO REGULATION 041/24.

Date: 17 April 2025
O. Reg. 041/24: Permit Application # 085/24
Applicant: Gary Bowen

We are now going to conduct a hearing under Section 28.1 of the Conservation Authorities Act in respect of an application by Mr. John Bowen, Mr. Gary Bowen, and Mr. Robert Bowen, for permission to construct a 130m long, 4m wide 1m deep ATV trail within a wetland greater than 2 hectares and a watercourse.

Under Section 28.1 of the *Conservation Authorities Act*, the Authority may issue a permit to a person to engage in an activity specified in the permit that would otherwise be prohibited by Section 28, if, in the opinion of the authority:

- a) the activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;
- b) the activity is not likely to create conditions or circumstances that, in the event of a natural hazard, might jeopardize the health and safety of persons or result in the damage or destruction of property; and
- c) any other requirements that may be prescribed by the regulations are met.

This Hearing is about the possibility of granting permission to develop in a regulated area, with or without conditions, which is a separate matter from approvals under the *Planning Act*.

Staff has reviewed this development proposal and prepared a detailed report which has been circulated to the CVCA Watershed Advisory Board members and to the applicant.

Subsection 28.1 (5) of the Conservation Authorities Act provides that:

"An Authority shall not refuse an application for a permit or attach conditions to a permit unless the applicant for the permit has been given the opportunity to be heard by the authority."

In holding this hearing, the Watershed Advisory Board is to determine whether or not a permit is to be issued, with or without conditions. In doing so, the Watershed Advisory Board can only consider the application in the form that is before it, the staff report, and any evidence as may be given, and the submissions to be made on behalf of the applicant. Only information disclosed prior to the hearing is to be presented at the hearing. It is not the role of the CVCA Watershed Advisory Board to consider or suggest alternative development options.

It is to be noted that if the Watershed Advisory Board renders a decision "to refuse" or not support the application for development as proposed, the Chairperson or Acting Chairperson shall notify the owner/applicant of his/her right to appeal the decision to the Ontario Land Tribunals.

The proceedings will be conducted according to the *Statutory Powers Procedure Act*. Under Section 5 of the *Canada Evidence Act*, a witness may refuse to answer any question on the ground that the answer may tend to incriminate the person or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the Watershed Advisory Board members.

If the applicant has any questions to ask of the Watershed Advisory Board or of the Authority representative, they must be directed to the Chair of the Board.

At this time, if any member of this Board has intervened on behalf of the Applicant with regards to this matter, they should recuse themselves so there is no apprehension of bias and that a fair and impartial hearing may be conducted.

Regarding the hearing protocols, the Watershed Advisory Board members, CVCA staff and the applicants and their representatives shall abide by the following:

1. Everyone shall mute their computers at all times and must raise their hands to be recognized by the Chair.
2. Non-participants must remain muted and cameras off to minimize distractions.
3. Public observers are not allowed to participate in any manner during the course of the Hearing.
4. If requested by the Board or Chair, recorded votes may be required.
5. If an in camera session is required, the applicants and members of the public will be requested to leave the Hearing.
6. Once a decision has been reached, the applicants will be contacted by Kelsey Davidson, Regulations Officer.

Thank you.