



**REPORT FOR: CROWE VALLEY CONSERVATION AUTHORITY WATERSHED ADVISORY BOARD**

**REGARDING: ONTARIO REGULATION 159/06, PERMIT APPLICATION NO. 080/23 BEING:  
A DWELLING, DECK AND SEPTIC SYSTEM LOCATED WITHIN THE CROWE LAKE  
FLOOD HAZARD.**

**DATE: MARCH 15, 2024**

<b>HEARING DATE</b>	March 21, 2024
<b>DATE APPLICATION RECEIVED</b>	May 05, 2023
<b>DATE HEARING REQUESTED</b>	September 13, 2023
<b>APPLICANT</b>	Brian Facey
<b>LOCATION</b>	#30 Mackenzie Road (Crowe Lake) Part Lot 12; Concession 3 Municipality of Marmora and Lake ARN: 1241-141-015-12600
<b>PROPOSAL</b>	To construct a dwelling, deck and septic system within the flood hazard.
<b>OVERVIEW</b>	The proposed development does not conform to the CVCA’s Watershed Planning and Regulations policies because: <ul style="list-style-type: none"> <li>1) New development within the Regulatory floodplain is not permitted. <ul style="list-style-type: none"> <li>a. The proposed reconstruction of the dwelling is within the flood hazard and exceeds the allowable habitable floor area increase (50% of original up to a maximum of 500 ft<sup>2</sup>).</li> <li>b. The dwelling is therefore considered new development.</li> <li>c. The proposed reconstruction of the deck (accessory structure) is within the flood hazard and exceeds the allowable ground floor footprint increase (up to a maximum of 500 ft<sup>2</sup>).</li> <li>d. The deck is therefore considered new development.</li> </ul> </li> <li>2) The development would require fill to create a building envelope within the Regulatory floodplain.</li> <li>3) The development would require changes to grade within the Regulatory floodplain for the purpose of permitting development.</li> </ul>



## **Executive Summary**

An application for development has been submitted by Mr. Brian Facey with regard to Ontario Regulation 159/06: Crowe Valley Conservation Authority: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses. The application is requesting permission to reconstruct a dwelling and deck and septic system. The dwelling, deck and septic tank are all within the floodplain of Crowe Lake.

The proposal does not conform to CVCA Watershed Planning and Regulations Policies (hereafter simply referred to as “CVCA policies”) on account of the proposed dwelling and deck exceeding the maximum allowable size increase within the floodplain and proposed fill and grading within the floodplain. CVCA staff believe there are other options available to the applicant that would avoid the flood hazard and/or represent a least impact alternative. These options were not explored by the Applicant nor were any revisions made to the original application despite suggestions from CVCA staff. Therefore, it is CVCA staff’s recommendation that the application be **denied**.

Provincial directive is clear that prevention is the preferred approach for development in flood hazard areas, with effective management of the flood hazard directing development out of the hazard. Mismanagement of the flood hazard will result in long term loss of floodplain control that would result in irreversible changes and ultimately cause an increase in costs, social disruption, as well as potential damage of property and loss of life.

The CVCA’s Policies are designed to minimize risk to life and property caused by flooding hazards. When making decisions on development proposals, the CVCA must have a wider perspective than one specific development scenario. The CVCA must use a preventative approach and consider cumulative impacts over a long period of time (i.e. all development over a 100-year horizon).

It is the CVCA’s responsibility to ensure new development avoids the hazard upfront and early in the planning process, as prevention is more effective than to deal with the long term impacts of developing within hazardous lands.

The proposed development does not conform to the CVCA’s Watershed Planning and Regulations policies for the following reasons:

1. In general, CVCA policies do not permit development within the regulatory floodplain.
2. New residential development is not permitted in the floodplain.
3. The proposed dwelling does not conform to CVCA’s Policy for replacement/reconstruction of existing dwelling within the floodplain.
  - Replacement of an existing dwelling is permitted where it is considered to be a minor increase, not to exceed 50% of the original habitable floor area up to a maximum of 500 ft<sup>2</sup>.
  - If the allowable size increase is exceeded, replacement/reconstruction of a dwelling is considered new development.
4. The proposed deck does not conform to CVCA’s Policy for replacement/reconstruction of existing accessory structures within the floodplain.
  - Replacement of an existing accessory structure is permitted where it is considered to be a minor increase, not to exceed maximum of 500 ft<sup>2</sup>.
  - If the allowable size increase is exceeded, replacement/reconstruction of a deck is considered new development.
5. Fill placement to create a building envelope within the Regulatory floodplain is not permitted.
6. Grade modifications, for the purpose of permitting development, is not permitted.

## **Subject Lands**

The subject property is located along the north shore of Crowe Lake. The property consists of approximately 0.14 hectares (0.34 acres), with approximately 32m of frontage on Crowe Lake. The subject property and adjacent properties are



developed. Mackenzie Road traverses the subject property east-west. A majority of the south portion of the property is considered floodplain, with about 1/3 being outside of the floodplain. The north portion of the lot is completely outside of the floodplain.

## **Background/Timeline**

The following outlines key events related to the application:

1. On May 05, 2023, The applicant submitted a permit application (#080/23) (Appendix A) with elevation survey (Appendix C).
2. On May 08<sup>th</sup>, 2023, CVCA staff completed the triage (initial) review of the application and requested confirmation of the status of the previous pending permit application. The Applicant had submitted an identical permit application in 2022 that they decided to withdraw. CVCA staff communicated policy requirements (including flood hazard policies) to the applicant as the proposed development did not meet policy.
3. On August 4<sup>th</sup>, 2023 CVCA received the Jewel Engineering Opinion Letter – Floodline Assessment (dated August 4, 2023) (Appendix D).
4. On September 13<sup>th</sup>, 2023, CVCA staff (Kelsey Davidson) communicated the outstanding policy requirements (including flood hazard policies) to the applicant again as the proposed development still did not meet policy. CVCA staff also requested a revised elevation survey to show the 6m setback from the flood hazard. The revised elevation survey was submitted promptly on September 13<sup>th</sup>, 2023.
5. On September 13<sup>th</sup>, 2023, the applicant/Agent requested that the application go to a hearing, stating that the CVCA recommendations were not viable options due to:
  - a. Hydro Easement
  - b. Municipal setback requirements
  - c. Flood Plain
  - d. Costs to “rejuvenate” existing structures
6. On September 13<sup>th</sup>, 2023, CVCA informed the Applicant of the hearing process when the applicant stated they were unwilling to consider alternative options.
7. On November 24<sup>th</sup>, 2023, the next available Hearing date was communicated to the Applicant.
8. On December 13<sup>th</sup>, 2023 the Applicant/Agent communicated that they would prefer the January 18<sup>th</sup>, 2024 Hearing date.
9. On December 15<sup>th</sup>, 2023, CVCA staff communicated that additional information be required for the applicant to be considered complete and before proceeding with the hearing.
10. On January 16<sup>th</sup>, 2024 CVCA staff communicated that additional information requirements:
  - a. Engineered designs demonstrating that the septic tank (located within the floodplain) is anchored to prevent the tank from becoming unsecured in a potential flood event.
  - b. Floodproofing details demonstrating the proposed structure is floodproofed to an elevation of 0.3 metre above the regulatory flood elevation as per floodproofing standards outlined in Appendix C – Floodproofing Guidelines.
  - c. Peer review of the Opinion Letter - Floodline Assessment (August 4th, 2023) provided with the application.



11. On January 22<sup>nd</sup>, 2024, a zoom meeting was scheduled with the Applicant and Agent. In addition to the scheduled attendees, the Applicant’s Lawyer, and Consultant were also in attendance. The following was discussed:
  - a. Hearing process and timelines
  - b. Policy clarification
  - c. Floodproofing requirements
12. On January 25<sup>th</sup>, 2024, CVCA requested peer review from EXP Services Inc.
13. On January 26<sup>th</sup>, 2024 EXP Services Inc. confirmed they could conduct the peer review.
14. On March 07, 2024, CVCA also received revised septic system details from the Applicant.
15. PENDING - the peer review to be completed by EXP Services Inc. (Appendix E). The peer review report will be sent to all parties.

## **Timeline**

05 May 2023	Applicants apply for CVCA permit (#080/23)
08 May 2023	CVCA completes triage and notifies Applicant of Policy requirements
04 August 2023	CVCA receives Jewel Engineering Opinion Letter – Floodline Assessment
13 September 2023	CVCA requests revised elevation survey CVCA receives revised survey Applicant requests hearing
September 2023 - present	CVCA staff working with applicant to complete technical information required prior to requesting hearing with CVCA Watershed Advisory Board
24 November 2023	CVCA communicates the next available Hearing date to the Applicant.
13 December 2023	The Applicant/Agent communicated that they would prefer the January hearing date.
15 December 2024	CVCA communicates that application is not considered complete and requires additional information
16 January 2024	CVCA communicates additional requirements prior to proceeding with hearing - Septic system information is still outstanding.
25 January 2024	CVCA Requests peer review from EXP Services Inc.
26 January 2024	EXP Services Inc. confirms they can conduct the peer review.
07 March 2024	CVCA received updated septic system details.
PENDING	Peer Review to be received and communicated to all parties.
21 March 2024	Hearing with CVCA Watershed Advisory Board

## **Proposal Description**

### Existing Development (see Appendix A and B)

- Single storey dwelling with deck and crawlspace
- The dwelling is 625.5ft<sup>2</sup> with irregular footprint of 27 feet by 8 feet and 10 feet by 11 feet
- The deck is 286ft<sup>2</sup> located on the south side of the dwelling
- Entire dwelling is within the floodplain



### Proposed Development (see Appendix A and B)

- Single-storey residential dwelling with crawlspace
- Build area of 64 feet 8 inches by 36 feet 1 inch
- 2,272 square feet of gross floor area (slight irregular shape)
- Entirely within the floodplain and 6m setback
- Will be 4.8m from shoreline of Crowe Lake

### Fill (see Appendix A and B):

- 123.4 cubic metres (4,358 cubic feet) net fill placed in the existing floodplain required for construction and to achieve floodproofing requirements
- Flood Apron exceeding 1 metre in width surrounding the dwelling and graded further towards the lake than what would be recommended by CVCA staff.

### Septic System (see Appendix A and B):

We acknowledge receipt of the revised changes to the septic system as per documents received March 07, 2024.

- Septic bed and tank are located outside of the floodplain
- Septic pump is located inside the floodplain
- Consists of septic tank and filter bed
  - o Tank will be 3,600L
  - o Filter bed will be 37.21m<sup>2</sup>
- Septic system floodproofing will include:
  - o Septic bed will be floodproofed by ensuring that the bottom of the filter bed runs will be at or above the regulatory flood elevation of 183.88m (CGVD28).
  - o Septic tank will be securely anchored.

### **CVCA Regulated Features:**

- Regulatory floodplain of Crowe Lake.
  - o Requisite minimum development setback is 6 metres.
  - o If floodplain cannot be avoided, the proposed should represent the area of least amount of encroachment / impact.
- Wetland greater than 2 hectares.
  - o Requisite minimum development setback is 30 metres.
  - o The Hearing scheduled for March 21, 2024, does not require the Board to consider impacts to the wetland as the proposed development is greater than 30m from the wetland boundary.



## **Applicability of the Conservation Authorities Act, Ontario Regulation 159/06 and the Crowe Valley Conservation Authority's Watershed Planning and Regulations Policy Manual**

Ontario Regulation 159/06, was made pursuant to section 28 of the Conservation Authorities Act, R.S.O. 1990. Ontario Regulation 159/06. The Conservation Authorities Act and Ontario Regulation 159/06 are attached as **Appendix D**.

The proposed development is within an area regulated by the CVCA due to the regulatory flood hazard of Crowe Lake.

Section 2 (1) (a) (iii) (A) of the Regulation states:

### **Development prohibited**

2. (1) Subject to section 3, no person shall undertake development or permit another person to undertake development in or on the areas within the jurisdiction of the Authority that are,
  - (a) river or stream valleys that have depressional features associated with a river or stream, whether or not they contain a watercourse, the limits of which are determined in accordance with the following rules:
    - (i) where the river or stream valley is apparent and has stable slopes, the valley extends from the stable top of bank, plus 15 metres, to a similar point on the opposite side,
    - (ii) where the river or stream valley is apparent and has unstable slopes, the valley extends from the predicted long term stable slope projected from the existing stable slope, or if the toe of the slope is unstable, from the predicted location of the toe of the slope as a result of stream erosion over a projected 100-year period, plus 15 metres, to a similar point on the opposite side,
    - (iii) **where the river or stream valley is not apparent, the valley extends the greater of,**
      - (A) the distance from a point outside the edge of the maximum extent of the flood plain under the applicable flood event standard, plus 15 metres, to a similar point on the opposite side, and**
      - (B) the distance from the predicted meander belt of a watercourse, expanded as required to convey the flood flows under the applicable flood event standard, plus 15 metres, to a similar point on the opposite side;**
  - (b) **hazardous lands;**
  - (c) wetlands; or
  - (d) other areas where development could interfere with the hydrologic function of a wetland, including areas within 120 metres of all provincially significant wetlands and wetlands greater than 2 hectares in size, and areas within 30 metres of wetlands less than 2 hectares in size.

### **Permission to develop**

3. (1) The Authority may grant permission for development in or on the areas described in subsection 2 (1) if, in its opinion, the control of flooding, erosion, dynamic beaches, pollution or the conservation of land will not be affected by the development.

Section 3, above, refers to "tests" of the Regulation. Any application for development within an area regulated by the Conservation Authority is reviewed through the lens of these tests. The CVCA's Watershed Planning and Regulations Manual was developed to govern how these tests are applied to a multitude of possible development scenarios, as well as to provide guidance to CVCA staff in order to implement a consistent and practical approach for granting or refusing permission for development.



## **Hearing Process and Role of the CVCA's Watershed Advisory Board**

When an application for development does not conform to the CVCA policies, CVCA staff must recommend the application for denial. The applicant then has the ability to request a Hearing with the CVCA's Watershed Advisory Board. The Watershed Advisory Board is tasked with reviewing the application for development, considering the applicable CVCA policies that have not been satisfied, and ultimately making a decision as to whether the application is consistent with the tests of the Regulation.

### **Tests of the Regulation**

The development will not affect the control of:

- **flooding,**
- erosion,
- dynamic beaches (not applicable in CVCA watershed),
- pollution or
- the conservation of land

The CVCA Watershed Advisory Board may grant or refuse permission. Permission may be granted with or without conditions. The applicant will receive written notice of the decision. **The notice of decision must state the reasons for which the application was either approved or refused.** The applicant has the right to appeal the decision within 30 days of receipt of the notice of decision. Appeals are to the Ontario Land Tribunal. The applicant can appeal a refusal or the conditions of an approval.

### **CVCA Staff Recommendation**

Based on the information submitted, CVCA staff recommend that the application be **denied** for the following reasons:

1. The proposed development would be located within hazardous lands, being the Crowe Lake regulatory flood hazard. Therefore, the proposed development has the potential to negatively impact the control of flooding.
2. The proposed development does not conform to the CVCA's Watershed Planning and Regulations Policies, specifically:
  - a. The proposed development exceeds the maximum allowable increase in habitable space for reconstruction of a dwelling within the flood hazard, being 50% of the existing dwelling, up to a maximum of 500 ft<sup>2</sup>.
  - b. The proposed development exceeds the maximum allowable increase in ground floor footprint for reconstruction of an accessory structure within the flood hazard, being up to a maximum of 500 ft<sup>2</sup>.
  - c. That placement of fill to create a building envelope for the proposed development within the Regulatory floodplain shall not be permitted.
  - d. That fill placement for the purpose of changing the grade on a property within the flood hazard for the purpose of permitting development will not be permitted.

The applicable policies from the CVCA Watershed Planning and Regulations Policy Manual are listed and detailed in the following section of this report. Policy sections that are not relevant to this application have been omitted.

The CVCA Board approved Watershed Planning and Regulations Policy Manual provides a framework for the CVCA and its staff to consistently administer its powers under Ontario Regulation 159/06. When reviewing development applications, the Authority must have regard for its objectives of preventing loss of life and minimizing property damage as a result of natural hazards. Section 3(1) of Ontario Regulation 159/06.





## **Administrative Policies**

The following sections speak to over-arching policies that every application must be tested against. Areas subject to the regulation include several different items with hazardous lands being a critical component. Hazardous lands include all lands that are or could be flooded.

### **3.8 General Regulation Policies**

**3.8.1** *That development, interference or alteration will not be permitted within a regulated area, except in accordance with the policies contained within this document. In the event of a conflict between the policies applicable to the development, interference or alteration, the most restrictive policy shall apply.*

**3.8.2** *That notwithstanding Policy 3.8.1, the CVCA's Board of Directors may grant permission for development, interference and/or alteration where the application provided evidence acceptable to the Board of Directors that documents the development and/or activity will have no adverse effect on the control of flooding, erosion, pollution or the conservation of land with respect to river or stream valleys, hazardous land, wetland and areas of interference, or result in unacceptable interference with a watercourse or wetland).*

**3.8.3** *That development, interference or alteration within a regulated area may be permitted where it can be demonstrated to the satisfaction of CVCA, through appropriate technical reports, assessments, site plans and/ or other documents as required by CVCA, that:*

- *there is no feasible alternative location for development outside the hazard;*
- *the risk to public safety is not increased;*
- *susceptibility to natural hazards is not increased and no new hazards are created (e.g. there will be no impacts on adjacent properties with respect to natural hazards);*
- *there are no adverse hydraulic or fluvial impacts on rivers, creeks, streams, or watercourses;*
- *negative or adverse hydrological or ecological impacts on natural features and functions, including wetlands, are avoided and mitigated as demonstrated by a qualified professional;*
- *intrusions on natural features, areas and systems contributing to the conservation of land, including areas providing ecological functions and hydrologic functions, are avoided or mitigated as demonstrated by qualified professional;*
- *access for emergency works and maintenance of flood or erosion control works is available;*
- *pollution, sedimentation and erosion during construction and post-construction is minimized using best management practices including site, landscape, infrastructure and/or facility design (whichever is applicable based on the scale and scope of the project), construction controls, and appropriate remedial measures;*
- *the control of flooding, erosion, dynamic beaches, pollution or the conservation of land will not be affected during and post development, interference or alteration;*
- *proposed development is constructed, repaired and/or maintained in accordance with accepted engineering principles and approved engineering standards to the satisfaction of CVCA, whichever is applicable based on the structural scale and scope, and the purpose of the project.*

**3.8.7** *That notwithstanding supplementary policies or stand-alone policies as specified in Sections 4.0 through to and including 7.0, development within a regulated area shall be set back from the greater of the following:*

- a) Valley and Stream Corridors: 15 metres from the long term stable top of slope, stable toe of slope, meander belt and any contiguous natural features and areas that contribute to the conservation of land;*
- b) Natural Hazards: 6 metres from the extent of a hazard;***
- c) Wetlands: 30 metres from provincially significant wetlands and wetlands greater than 2 ha and 15 metres for all other wetlands; and*





*d) Setbacks based upon the results of a comprehensive environmental study or technical report completed to the satisfaction of the CVCA.*

**Conformity**

**The proposed development does not conform as it is not set back 6 metres from the extend of a natural hazard (flooding, erosion, unstable soil or bedrock).**

**Hazardous Lands Policies**

This component of the Regulation applies to development within hazardous lands which is defined under Section 28 of the CA Act as land that could be unsafe for development due to naturally occurring processes associated with flooding, erosion, dynamic beaches, or unstable soil or bedrock.

The following policies are specific to development in the flood hazard. Any development within a flooding hazard requires permission from the CVCA. In general development within the Regulatory floodplain shall not be permitted.

**Policy 4.2.6**

*Development will be permitted within 15 metres of the greater of the floodplain or predicted meander belt width (erosion hazard) of the river or stream provided that:*

- ***it can be demonstrated through appropriate technical reports (e.g., topographic survey, geomorphologic assessment, floodplain mapping) that all development will be located a minimum of 6 metres beyond the greater of the floodplain OR the predicted meander belt width (erosion hazard);***
- *safe access (ingress/egress) is present;*
- *inert fill material will be used. The proponent may be required to provide proof of the origin and quality of the fill material and conduct other studies and/or monitoring as may be required to ensure the control of pollution and the conservation of land is not impacted;*
- ***development does not change drainage or vegetation patterns that would exacerbate flooding hazards and/or erosion hazards;***
- *the potential for erosion has been addressed through proper drainage, erosion and sediment control and site stabilization/restoration plans;*
- *the finished floor/lowest opening of proposed habitable structures is to be located at least 0.3 metres above the regulatory flood elevation; and,*
- *all electrical circuits, outlets and permanently installed electrical equipment are to be located at least 0.3 metres above the regulatory flood elevation.*

*A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of existing and proposed buildings/structures, where applicable must be submitted.*

**Conformity**

**The proposed development does not conform as it is not located a minimum of 6 metres beyond the greater of the floodplain OR the predicted meander belt width (erosion hazard) and will change drainage on the site and exacerbate flood hazard.**

**5.2.1** *Development within the Regulatory floodplain shall not be permitted.*

**Conformity**

**The proposed dwelling, deck, septic tank and fill placement /grading is located within the regulatory floodplain.**



**5.2.2** Placement of fill to create a building envelope for future / proposed development within the Regulatory floodplain shall not be permitted.

### **Conformity**

To achieve floodproofing requirements, the proposed development would require 123.4 m<sup>3</sup> of fill to be placed in the floodplain. The proposed fill amount exceeds the recommended amount for a fill apron.

## **5.3 Specific Policies for Flooding Hazards**

**5.3.1.2** New single residential development on an existing lot will not be permitted within a flooding hazard regardless of previous approvals provided under the Planning Act or other regulatory process (e.g., Building Code Act).

### **Conformity**

The proposed development is considered 'new single residential development' under the CVCA's policies because it exceeds the allowable size increase for minor additions (policy 5.3.1.3)

**5.3.1.3** Additions (including ground floor, second storey or an attached garage) to existing residential dwellings located, even partially, within a flooding hazard will be permitted provided it can be demonstrated that:

- **the addition is 50% or less of the original habitable floor space\* to a maximum footprint of 46.5 square metres (~500 square feet), whichever is less, or in the case of multiple additions, all additions combined are equal to or less than 50% of the original habitable floor space to a maximum footprint of 46.5 square metres (~500 square feet), whichever is less;**
- the number of dwelling units is the same or fewer;
- the addition will not be subject to flows that could cause structural damage;
- where feasible, an improvement in the existing dwelling will occur with respect to floodproofing of the structure;
- safe access (ingress/egress) is present;
- the addition will be floodproofed to an elevation of 0.3 metre above the regulatory flood elevation as per floodproofing standards outlined in Appendix C – Floodproofing Guidelines;
- the structure is properly anchored to prevent flotation, is not subject to damage by flooding or other hazards and flood flows and flood water storage are not impeded;
- no basement is proposed and any crawl space is designed to facilitate service only;
- the proposed development will not prevent access for emergency works, maintenance, and evacuation;
- the potential for surficial erosion has been addressed through the submission of proper drainage, erosion and sediment control and site stabilization/restoration plans;
- natural features and/or ecological functions associated with conservation of land are protected, pollution is prevented, and erosion hazards have been adequately addressed; and,
- the plan has been carried out by a qualified professional with recognized expertise in the appropriate discipline and must be prepared using established procedures and recognized methodologies to the satisfaction of the CVCA.

*These policies apply to any addition to a dwelling that is located entirely or partially in the flood hazard regardless of whether or not the addition, or part thereof, is located in the flood hazard.*

*A site plan prepared by qualified professional illustrating the elevations of existing and proposed grades and lowest openings of existing and proposed buildings/structures must be submitted. In*



*addition, detailed technical analysis completed by a qualified professional engineer may be required to be submitted to demonstrate the acceptability of the proposal.*

### **Conformity**

The proposed development (2,272 ft<sup>2</sup>) is greater than 50% of the existing habitable floor space, up to a maximum of 500 ft<sup>2</sup>. The existing dwelling was 625.5 ft<sup>2</sup>. The allowable proposed dwelling would be capped at 938.25 ft<sup>2</sup> (50% of 625.5 ft<sup>2</sup> = 312.75 ft<sup>2</sup>). The proposed represents an increase of 263% or 1,646.5 ft<sup>2</sup>.

*5.3.1.4 Additions to existing residential dwellings greater than the size provision identified in 5.3.1.3 above would be considered Single Residential Development and therefore subject to Policy 5.3.1.2.*

### **Conformity**

**This policy renders development proposals that exceed the allowable size increase for additions to be considered ‘new development,’ and subject to Policy 5.3.1.2 (above): new development not permitted within a flooding hazard.**

### **Policy 5.3.1.5**

*Reconstruction of residential dwellings located within a flood hazard will be permitted provided it can be demonstrated that:*

- ***the dwelling to be replaced is relocated outside the flooding hazard where feasible;***
- *there is no increase in the number of dwelling units;*
- ***the new dwelling is the same size or smaller than the previous dwelling;***
- *the use of the new dwelling is the same as the previous dwelling;*
- *the dwelling will be floodproofed to an elevation of 0.3 metre above the regulatory flood elevation, as per floodproofing standards identified in Appendix C – Floodproofing Guidelines;*
- *safe access (ingress/egress) is present;*
- *no basement is proposed, and any crawl space is designed to facilitate service only;*
- *there is no risk of structural failure due to potential hydrostatic/dynamic pressures;*
- *the proposed development will not prevent access for emergency works, maintenance, and evacuation;*
- *the potential for surficial erosion has been addressed through the submission of proper drainage, erosion and sediment control and site stabilization/restoration plans;*
- *natural features and/or ecological functions associated with conservation of land are protected, pollution is prevented, and erosion hazards have been adequately addressed; and,*
- *the plan has been carried out by a qualified professional with recognized expertise in the appropriate discipline and must be prepared using established procedure and recognized methodologies to the satisfaction of the CVCA.*

*A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of existing and proposed buildings/structures must be submitted.*

### **Conformity**

**The proposed development does not conform because it is not located outside the hazard, and the new dwelling is not the same size or smaller than the previous dwelling. In such case, Policy 5.3.1.6 applies.**

*5.3.1.6 Replacement of residential dwellings within a flooding hazard that would result in an increase in dwelling size will be permitted provided it can be demonstrated that the conditions for Minor Residential Additions (Policies 5.3.1.3, 5.3.1.4) can be satisfied, and safe access is present.*



### **Conformity**

If reconstruction or replacement of a dwelling is proposed where there is an increase in size, CVCA's dwelling addition policies apply, which, if the allowable size increase is exceeded, ultimately point to policy 5.3.1.2 (above): **new development not permitted within a flooding hazard.**

#### **Policy 5.3.4.1 – Accessory Structures (Deck)**

*Accessory buildings or structures associated with an existing residential, agricultural, commercial, industrial or institutional use such as detached garages, decks, sheds, silos, gazebos and other similar structures (but not including on-shore boathouses: see Policy 5.3.5), will be permitted within a flooding hazard provided it can be demonstrated that:*

- ***there is no feasible alternative site outside of the flooding hazard;***
- *there is no habitable floor space associated with the building or structure and no opportunity for conversion into habitable floor space in the future;*
- *the site is not subject to frequent flooding;*
- ***the building or structure does not exceed a ground floor footprint of 46.5 square metres for settlement areas or shoreline development areas and for rural areas, the building or structure does not exceed a ground floor footprint of 100 square metres;***
- *the risk of property damage and pollution is minimized through site and facility design to ensure that the development will not result in a pollution hazard (e.g., release of a biohazard substance, nutrients, pesticides or other chemicals during a flood event);*
- *the building or structure is securely anchored to either a concrete pad or footings;*
- *no basement is proposed, and any crawl space is designed to facilitate service only;*
- *where dry floodproofing cannot be achieved, wet floodproofing is undertaken in accordance with floodproofing standards identified in Appendix C – Floodproofing Guidelines;*
- *the proposed development will not prevent access for emergency works, maintenance, and evacuation;*
- *the potential for surficial erosion has been addressed through the submission of proper drainage, erosion and sediment control and site stabilization/restoration plans;*
- *natural features and/or ecological functions associated with conservation of land are protected, pollution is prevented, and erosion hazards have been adequately addressed; and,*
- *the plan has been carried out by a qualified professional with recognized expertise in the appropriate discipline and must be prepared using established procedures and recognized methodologies to the satisfaction of the CVCA.*

*A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of proposed buildings/structures must be submitted.*

### **Conformity**

**The proposed development does not conform to policy because the proposed accessory structure (deck) exceeds the prescribed size limitation of 46.5 square metres (500ft<sup>2</sup>). In such case, Policies 5.3.4.1 and 5.3.4.2 apply. The proposed deck is 780ft<sup>2</sup> which is an increase of 173% or 494ft<sup>2</sup>.**

#### **Policy 5.3.4.2**

*Additions to existing accessory buildings or structures located within a flooding hazard will be permitted provided it can be demonstrated that:*

- ***the total size of the building or structure that would result from the addition does not exceed the maximum size identified in Policy 5.3.4.1;***
- *there is no habitable floor space associated with the addition and no opportunity for conversion into habitable floor space in the future;*
- *no basement is proposed, and any crawl space is designed to facilitate service only;*



- *an improvement in the existing building or structure will occur with respect to floodproofing;*
- *the risk of property damage and pollution is minimized through site and facility design to ensure that the development will not result in a pollution hazard (e.g. release of a biohazard substance, nutrients, pesticides or other chemicals during a flood event);*
- *where dry floodproofing cannot be achieved, wet floodproofing is undertaken in accordance with floodproofing standards identified in Appendix C – Floodproofing Guidelines;*
- *the proposed development will not prevent access for emergency works, maintenance, and evacuation;*
- *the potential for surficial erosion has been addressed through the submission of proper drainage, erosion and sediment control and site stabilization/restoration plans;*
- *natural features and/or ecological functions associated with conservation of land are protected, pollution is prevented, and erosion hazards have been adequately addressed; and,*
- *the plan has been carried out by a qualified professional with recognized expertise in the appropriate discipline and must be prepared using established procedures and recognized methodologies to the satisfaction of the CVCA.*

*A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of existing and proposed buildings/structures must be submitted.*

### **Conformity**

**The proposed development does not conform to policy as the total size of the building or structure exceeds the maximum size identified in Policy 5.3.4.1.**

### **Policy 5.3.4.3**

*Replacement or reconstruction of existing accessory buildings or structures that have been damaged or destroyed by causes other than flooding will be permitted provided it can be demonstrated that:*

- ***there is no feasible alternative site outside the flooding hazard;***
- ***the building or structure to be replaced is relocated to an area within the existing lot where the risk of flooding and property damage is reduced to the greatest extent, wherever possible;***
- ***the new building or structure is the same size or smaller than the previous building or structure (Note: replacements to accessory buildings or structures located within a flooding hazard that would result in an increase in building or structure size are subject to the provisions of Policy 5.3.4.2;***
- *there is no habitable floor space associated with the building or structure and no opportunity for conversion to habitable floor space in the future;*
- *no basement is proposed, and any crawl space is designed to facilitate service only;*
- *where dry floodproofing cannot be achieved, wet floodproofing is undertaken in accordance with floodproofing standards identified in Appendix C – Floodproofing Guidelines; and*
- *the proposed development will not prevent access for emergency works, maintenance, and evacuation;*
- *the potential for surficial erosion has been addressed through the submission of proper drainage, erosion and sediment control and site stabilization/restoration plans;*
- *natural features and/or ecological functions associated with conservation of land are protected, pollution is prevented, and erosion hazards have been adequately addressed; and,*
- *the plan has been carried out by a qualified professional with recognized expertise in the appropriate discipline and must be prepared using established procedures and recognized methodologies to the satisfaction of the CVCA.*

*A site plan prepared by a qualified professional illustrating the elevations of existing and proposed grades and lowest openings of existing and proposed buildings/structures must be submitted.*



### Conformity

The proposed development does not conform to policy because the proposed accessory structure exceeds the maximum allowable size of 500 ft<sup>2</sup>. In such case, Policies 5.3.4.1 and 5.3.4.2 apply.

### **5.3.13 Fill Placement, Excavation and/or Grade Modifications**

**5.3.13.1** Fill placement and or excavation for the purpose of changing the grade on a property within the flood hazard for the purpose of permitting development will not be permitted.

### Conformity

The proposed development would require placement of 123.4m<sup>3</sup> fill and grade changes within the flood hazard to achieve minimum floodproofing requirements. With the proposed dwelling surpassing the allowable size increase to be considered reconstruction of existing development, more fill is required to meet the minimum floodproofing requirements than what is recommended for a fill apron.

## Summary

Hazard land management was delegated to Conservation Authorities by the Province of Ontario through the establishment of the Conservation Authorities Act and Ontario Regulation 159/06. The CVCA's Watershed Planning and Regulations Policies have been developed to guide CVCA staff with the administration of the Regulation. CVCA staff review development proposals in an effort to protect people and their property in areas susceptible to natural hazards and other areas where development could interfere with the hydrologic function of wetlands.

The proposed development does not conform with the CVCA's Policies, which state:

- 1) That development within the Regulatory floodplain shall not be permitted;
- 2) That new single residential development on an existing lot will not be permitted within a flooding hazard regardless of previous approvals provided under the Planning Act or other regulatory process (e.g., Building Code Act).
  - a) The proposed dwelling exceeds the size increase allowance (50% of original up to 500 ft<sup>2</sup>) to be considered reconstruction of existing development, and is therefore considered new development under CVCA policies.
    - i) ***The proposed development (2,272 ft<sup>2</sup>) is greater than 50% of the existing habitable floor space, up to a maximum of 500 ft<sup>2</sup>. The existing dwelling was 625.5 ft<sup>2</sup>. The allowable proposed dwelling would be capped at 938.25 ft<sup>2</sup> (50% of 625.5 ft<sup>2</sup> = 312.75 ft<sup>2</sup>). The proposed represents an increase of 363% or 1,646.5 ft<sup>2</sup>.***
    - b) The proposed deck exceeds the size increase allowance (up to 500 ft<sup>2</sup>) to be considered reconstruction of existing development, and is therefore considered new development under CVCA policies.
      - i) ***The proposed deck is 780ft<sup>2</sup> which is 56% or 280ft<sup>2</sup> beyond the allowable limit.***
- 3) That placement of fill to create a building envelope for future / proposed development within the Regulatory floodplain shall not be permitted.
  - i) ***The proposed development includes 123.4m<sup>3</sup> of fill.***
- 4) That fill placement and or excavation for the purpose of changing the grade on a property within the flood hazard for the purpose of permitting development will not be permitted.



**CVCA Staff Recommendation:**

Understanding that there are other CVCA approvable options (i.e. dwelling within the allowable 500ft<sup>2</sup> size limitation and deck size within the allowable 500ft<sup>2</sup> size limitation), the landowner could choose other acceptable options that would conform to CVCA Policy. These are reasonable solutions that the CVCA has presented to the landowner which could realistically be carried out.

The CVCA Watershed Advisory Board must carefully consider the potential implications of granting exceptions to CVCA policy at any hearing, including the ability to set precedent. If this application is allowed to proceed as is, it will set precedent with implications and undermining the authority of CVCA across the watershed.

CVCA staff therefore recommend that the application be **denied**.

