

**CHAIR'S REMARKS WHEN DEALING WITH HEARINGS WITH RESPECT TO ONTARIO  
REGULATION 159/06.**

**Date:** 17 November 2022  
**O.Reg. 159/06:** Permit Application # 124/22  
**Applicant:** David & Judy Messervey

We are now going to conduct a hearing under Section 28 of the Conservation Authorities Act in respect of an application by David & Judy Messervey, for permission to construct a permanent dock within the flood hazard of Paudash Lake.

The Authority has adopted regulations under Section 28 of the Conservation Authorities Act which requires the permission of the Authority for development within an area regulated by the Authority in order to ensure no adverse effect on the control of flooding, erosion, dynamic beaches, pollution or conservation of land, or to permit alteration to a shoreline or watercourse or interference with a wetland.

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

The Staff has reviewed this proposed work and a copy of the staff report has been given to the applicant.

***The Conservation Authorities Act*** (Section 28 [12]) provides that:

*"Permission required under a regulation made under clause (1) (b) or (c) shall not be refused or granted subject to conditions unless the person requesting permission has been given the opportunity to require a hearing before the authority or, if the authority so directs, before the authority's executive committee."*

In holding this hearing, the Hearing Board is to determine whether or not a permit is to be issued, with or without conditions. In doing so, we can only consider the application in the form that is before us, the staff report, such 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 our place to suggest alternative development methods.

It is to be noted that if the Hearing Board decision is "to refuse" or not support the proposed work within the permit submission, 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 hearing members.

If the applicant has any questions to ask of the Hearing 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 Board members, 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 immediately contacted by Andrew McIntyre (Regulations Officer, General Manager or the Chair?).

Thank you.