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**Planning Opinion -
Appeal of a Denial of a Building Permit
Crow Valley Conservation Authority
328 Trotter-Oitment Road, Township of North Kawartha
CVCA Files ZBA 021/22 and Permit 273/22
Township File ZA-17-22**

Introduction

This Planning Opinion has been prepared at the request of the owners of the seasonal residential property known municipally as 328 Trotter-Oitment Road (Chandos Lake), Township of North Kawartha.

The Property



(Source: City of Kawartha GIS Website, April 2023)

Background

At issue is the denial of a building permit application filed with the Authority serving to allow the property owners to proceed with a pending redevelopment of the concerned seasonal residential property.

The Authority issued a letter dated February 13, 2023 to the property owners (Grieve and Verduyn) indicating the denial of the filed permit application. Authority Staff referenced various policies of the Authority's Watershed Planning and Regulations (O.Reg 159/06) Policy Manual.

See Attachment 'A'

The proposed property redevelopment is highlighted by the following:

- a) Replacement cottage – 147 square metres, 1583 square feet; and
- b) Now septic service, to be located outside of 30 metres water-yard (Chandos Lake).

The proposed replacement dwelling is subject of a Zoning By-law Amendment (ZBLA) Application granted by the Council of the Township of North Kawartha (June 2022).

It is noted that the Authority's response letter to the Notice of ZBLA Application and its formal consideration at the required June 7, 2022 Statutory Public Meeting was received by the Township after the Public Meeting. Thus, the Township's decision to approval of the ZBLA Application was conducted without a formal response from the Authority. My review of the Township's standard ZBLA Application process confirms that appropriate and adequate notice was issued by the Township to all concerns/obligated stakeholder agencies and the public. In other words, no Authority response was the equivalent of no concern.

See Attachment 'B'

The property owners, following the ZBLA Application approval, proceeded to finalize their building plans, suitable for building permit purposes. Permit applications were in turn filed with both the Township's Building Department and the Authority.

The Township is in a position to issue the building permit (OBC), but same cannot be formally issued in the absence of the Authority's permit.

Building Setbacks – Chandos Lake Shoreline (High-water Mark)

The proposed building setbacks are summarized as follows:

Deck 5.87 metres;

Dwelling 9.54 metres.

The existing cottage having a gross floor area of 77 square metres (840 square feet) features:

Gross Floor Area 77 square metres

Open Deck Area 58.5 square metres

Total Area 135.5 square metres

The existing building setbacks are summarized as follows:

Dwelling - Approximately 8.2 metres

Deck - Approximately 0.5 metres

The proposed new building has a greater setback from the Chandos Lake Shoreline than of the existing cottage.

The proposed new building has the following gross floor areas:

Component	Area (Square Metres)
Dwelling	97.8 (main floor) 49 (upper floor) 146.8 Total
Covered Deck	19.5
Deck	33
Total Dwelling	146.8
Total Decks	52.5

The Issue

The primary issue is the application of the CVCA Chandos Lake flood elevation of 314.30 masl. The Authority requires that a development is to be kept a minimum of 6 metres from lands that are at or below the 314.30 masl measure.

The existing building/configuration and long-established property development would appear to not meet the forgoing requirement. The proposed redevelopment program improves upon property conditions in terms of the following:

- i. Building setback/s from Chandos Lake Shoreline; and
- ii. New septic facility being outside the 30 metre water-yard.

Additionally, it is my understanding that the CVCA Policy Manual compels the Authority to ensure timely responses regarding land use approval Applications (in this instance a ZBLA Application).

I have had opportunity to thoroughly review the 314.30 masl matter. This measure is commonly applied along the shoreline of Chandos Lake.

1. **Mapping**, there is no public mapping program available through the Authority, illustrating said measurement for Chandos Lake;
2. **Flooding**, the review of the 314.40 measurement and how “flooding” could theoretically occur in Chandos Lake, is just that; a theoretical model, which is not ground truthed nor supported by any proper current engineering work – studies;
3. **Update**, the Authority has recently sought financial support from both the Township and Chandos Lake Cottage Association to facilitate the update of Chandos Lake flood mapping; and
4. **Flood Risk**, the Authority has identified that proposed building program does not meet Authority policies as well as Section 3.1 of the 2020 Provincial Policy Statement.

My review of all available material as provided by CVCA and through the Township of North Kawartha indicates that the property can be developed to ensure:

- Safe Access, this could encompass minor modifications to the existing driveway to ensure safe access; and
- Property Grading, a program of minor grading alterations could be considered to address flood risk. The measured elevation difference between the 314.30 measurement and existing property grades/elevations is minor in nature.

The potential “flooding” of the property could only occur in extreme circumstances and encompassing the complete failure of control culverts at County Road 620 and Deer Creek, respectively. But the “volume” of water required to raise the Chandos Lake water level to flood risk, is frankly unprecedented. The difficulty for this writer being the lack of reliable public information to offer a definitive volume calculation.

Summary

1. The Authority should have provided their response in a more timely manner, thus ensuring the Township Planning Staff and Municipal Council could incorporate said response in their evaluation of the ZBLA Application;

2. The Township should also ensure that the Authority is appropriately engaged in the Land Use Approval Application Pre-Consultation process. This would allow for critical information at the preparation stage of such Applications;
3. The Authority should also ensure that their responses to Notice of Land Use Approval Applications speak to Environmental/Natural Features (where applicable) Land Use/Planning Regulations (Flooding – Permits); and
4. The approved Zoning By-law Amendment Application represents good planning. The Authority in this instance should issue the required permit.

Respectfully submitted,



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