



REPORT FOR: CROWE VALLEY CONSERVATION AUTHORITY WATERSHED ADVISORY BOARD

REGARDING: ONTARIO REGULATION 159/06, PERMIT APPLICATION NO. 028/21 FOR PERMISSION TO RECONSTRUCT AN IN-WATER BOATHOUSE.

DATE: JUNE 1ST, 2023

**LOCATION: PART OF LOTS 14 & 15, CONCESSIONS 6 & 7
528 FIRE ROUTE 82, TOWNSHIP OF HAVELOCK-BELMONT-METHUEN
(KASSHABOG LAKE)**

An application for development has been submitted by Ms. Ophira Sutton with regard to Ontario Regulation 159/06: Crowe Valley Conservation Authority: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses. Ontario Regulation 159/06 is made pursuant to Section 28 of the Conservation Authorities Act, R.S.O 1990.

Executive Summary

An application to rebuild an in-water boathouse along the shoreline and over the lakebed of Kasshabog Lake is recommended for denial. The proposal does not conform to the Crowe Valley Conservation Authority's (CVCA) Watershed Planning and Regulations Policies. The proposal is to reconstruct and expand a collapsed in-water boathouse that is located entirely within the flood hazard of Kasshabog Lake. CVCA policies permit the re-construction of in-water boathouses under specific conditions being that the reconstruction does not result in a change in size and that the structure is not in a condition considered to be derelict.

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

1. CVCA policies do not permit derelict structures within the 1:100-year floodplain to be rebuilt
2. Repairs to an existing in-water boathouse that result in a change in size are not permitted

Background and Subject Lands

The property is located at 527 Fire Route 82 in the Township of Havelock-Belmont-Methuen and has approximately 171 metres (561 feet) of frontage on Kasshabog Lake. The subject property is approximately 1.77 acres (0.72 hectares). The property is developed with a dwelling and Bunkie in addition to the in-water boathouse. The dwelling and Bunkie are not within the flood hazard of Kasshabog Lake as confirmed by an elevation survey completed by a certified Ontario Land Surveyor (see Appendix A). The property is within the CVCA's regulated area due to the flood hazard associated



with Kasshabog Lake. A permit application for the reconstruction and expansion of a collapsed in-water boathouse and the expansion of the Bunkie was submitted to the CVCA on February 23rd, 2021. A new permit application for the expansion of the Bunkie (Sleeping Cabin) was submitted to the CVCA on April 17th, 2023 and a permit was issued on April 23rd, 2023. The hearing is in regards to the boathouse only.

In April 2021 the applicants submitted an application to the township of Havelock-Belmont-Methuen to request planning relief for the proposed reconstruction and expansion of the in-water boathouse and expansion of the Bunkie (Sleeping Cabin). The CVCA provided planning comments on April 19th, 2021 with regards to Section 3.1 of the Provincial Policy Statement and the CVCA’s Board Approved Watershed Planning and Regulations Policies (see Appendix B). The planning application was denied by the Township of Havelock-Belmont-Methuen. The applicants and their agents appealed to the Ontario Land Tribunal (OLT). At the OLT hearing it was determined that the applicants did not forfeit the use of the boat house at any time and that the applicant is required to complete the necessary approvals with the Crowe Valley Conservation Authority.

Timeline

February 23 rd , 2021	Permit application submitted to the CVCA for the reconstruction and expansion of a collapsed in-water boathouse and expansion of a Bunkie (Appendix B).
April 08 th , 2021	CVCA was circulated for planning comments (Appendix B) as they relate to Section 3.1 (Natural Hazards) of the Provincial Policy Statement (PPS) and the CVCA’s Board Approved Watershed Planning and Regulations Policies.
April 19 th , 2021	<p>CVCA submitted planning comments to the Township of Havelock-Belmont-Methuen (CVCA File no. ZBA 009/21). The letter stated that the CVCA had concerns:</p> <p><i>The proposed Bunkie does appear to be above the flood plain but is within the standard of error as per the LiDAR flights over Peterborough County. Due to the error the application may not be consistent with Section 3.1 Natural Hazards of the PPS as the sleeping cabin could be within the flooding hazard of Kasshabog Lake. Therefore, we recommend the council either:</i></p> <ul style="list-style-type: none"> - <i>Defer the application until an elevation survey can be provided demonstrating that the Bunkie is outside of the flood hazard; or,</i> - <i>The application be approved with the condition requiring a supporting elevation survey be provided prior to a building permit being issued.</i> - <i>Additionally, the expansion of the boathouse does not meet CVCA policies (see Appendix C).</i>
August 24 th , 2021	The CVCA received an email from the applicant’s agent to arrange a site visit. Site visit was arranged for September 02, 2021.
September 2 nd , 2021	CVCA staff completed a site visit with the applicant’s agent in attendance. While on site, photographs of the collapsed



	in-water boathouse were taken (see Appendix D).
September 04 th , 2021	CVCA emailed the applicant's agent requesting more recent photos showing the boathouse standing (5 years or less) and provided the 1:100-year flood elevation of Kassarabog Lake.
September 22 nd , 2021	The applicant's agent emailed the CVCA asking if the in-water boathouse could be rebuilt and expanded. The CVCA responded that the in-water boathouse could be rebuilt and expanded to accommodate a slightly larger boat (pontoon boat).
March 18 th , 2022	CVCA staff received an email from Kinch Litigation requesting a phone call to discuss CVCA staff being a witness for the landowner for the Ontario Land Tribunal Hearing.
March 24 th , 2022	Entire CVCA Regulations staff and General Manager met to review the proposed reconstruction of the in-water boathouse.
April 06 th , 2022	CVCA staff and General Manager spoke with Kinch Litigation and communicate that upon further review the collapsed in-water boathouse cannot be rebuilt as redevelopment of derelict and abandoned buildings within the 1:100-year floodplain shall not be permitted. Additionally, in-water boathouses can only be replaced if there is no change in size.
June 15 th – 17 th , 2022	A hearing before the Ontario Land Tribunal was held, CVCA staff attend a portion but did not participate.
January 19 th , 2023	Ontario Land Tribunal issued a decision (see Appendix E) conditional to CVCA approval.
March 17 th , 2023	A Hearing before the CVCA's Watershed Advisory Board was requested for the reconstruction and expansion of the collapsed in-water boathouse.

Proposal Description

As per the information provided in the application on February 23rd, 2021, the proposal is to reconstruct an existing 246 square foot (12-feet by 20'6") in-water boathouse with a new 315 square foot (14-feet by 22'6") in-water boathouse in the same location as the existing in-water boathouse. Being an in-water structure, the boathouse is considered to be development within the flood hazard associated with Kassarabog Lake.

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 is attached as Appendix F.

The proposed development is within an area regulated by the CVCA due to the flood hazard associated with Kassarabog Lake. All lakes within the CVCA watershed are considered watercourses and have a river or stream valley associated with them.



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.

Alterations prohibited

5. Subject to section 6, no person shall straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse or change or interfere with a wetland.

Permission to alter

6. (1) The Authority may grant permission to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse or to change or interfere with a wetland.

Section 3, above, refers to what are known as the “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 is located entirely within the 1:100-year floodplain of Kashiabog Lake.
2. The in-water boat house is collapsed and considered to be derelict, CVCA polices do not permit the redevelopment of derelict and abandoned buildings within the 1:100-year floodplain.
3. The proposed in-water boathouse is proposed to be larger than the existing in- water boathouse.
 - New in-water boathouses are not permitted. Replacement of existing in-water boathouses are permitted provided that they are on the same footprint and do not result in a change in size.

The subject site is located in a regulated area as described in Ontario Regulation 159/06. The redevelopment of a collapsed structure of the proposed size will not be permitted in accordance with Section 2. (1) (b) which states:

*Section 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,
(b) hazardous lands;*

The *Conservation Authorities Act* and the Crowe Valley Conservation Authority Watershed Planning and Regulations Policy Manual (2017) defines *hazardous lands* as “land that could be unsafe for development because of naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock.” In this case, processes associated with flooding are of concern.

The Board Approved Watershed Panning 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 as defined in Section 3(1) of Ontario Regulation 159/06. CVCA Policies are generally permissive and attempt to identify the threshold where development would impact the control of flooding, erosion, pollution or the conservation of land. For example, new development is not outright prohibited within the floodplain but restrictions, such as replacement of in-water structures on the same footprint and same square footage, apply to ensure that impacts are minor



The individual policies that apply to this decision are listed below and are specific to Administrative Policies and Policies for Flooding Hazards. Sections that are not relevant to this application have been omitted.

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)

Hazardous Lands

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.

Hazardous Lands Policies

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 except in accordance with the policies contained below. Policies that do not apply to this case have not been included.

The following policies apply to the development proposed:

General Flood Hazard Policies

5.2.6 Redevelopment of derelict and abandoned buildings within the 100-year floodplain shall not be permitted.

The existing boathouse has collapsed and CVCA staff consider the in- water boathouse to be derelict.

Existing In-Water Boathouses, Structures, and Permanent Docks

6.4.1.9 Repairs to existing in- water boathouses, structures and permanent docks may be permitted provided that the repairs:

- do not impede the flow of water;
- do not provide an opportunity for conversion into habitable space in the future (to ensure no habitable component, the boathouse shall contain no services other than electricity);
- the repairs do not result in a change in use, including new decks and rooftop patios;
- do not alter the natural contour of the shoreline; and,
- **do not result in a change in size** or create a navigational hazard.

The existing in-water boathouse is 12-feet by 20'6" (246 square feet) while the proposed is 14-feet by 22'6" (315 square feet).



Summary

Hazard land management was delegated by the Province to the CVCA through the Conservation Authorities Act and the establishment of Ontario Regulation 159/06. The CVCA's Watershed Planning and Regulations Policies have been developed to assist CVCA staff with the administration of this Regulation. CVCA staff review development proposals in an effort to protect people and their property in areas susceptible to natural hazards, while also while also minimizing or reducing the impact of development in ecologically sensitive areas – such as the riparian zone at the edges of lakes and rivers.

CVCA staff recommend that the application for the reconstruction of an in-water boathouse be denied, as it does not conform with the CVCA's Watershed Planning and Regulations Policies for development within the flood hazard. The Conservation Authority should not allow development in areas that are regulated specifically to minimize hazards to life and property that do not meet our Board approved policies. Replacing in-water boathouse which results in a change in size in the floodplain should not be approved. When making a decision the CVCA Watershed Advisory Board should have consideration of the cumulative impacts of development in the flood hazard, especially as it relates to potential upstream and downstream effects. Deviations from policies should not be granted unless it has effectively been demonstrated that the development will not negatively impact the control of flooding.

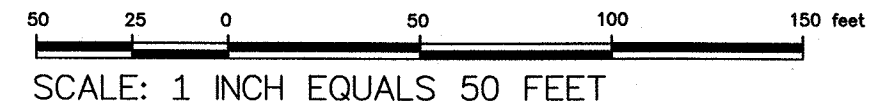


Appendix A – Elevation Survey

SURVEYOR'S REAL PROPERTY REPORT

PLAN OF SURVEY OF
PART OF LOTS 14 AND 15, CONCESSION 6
PART OF LOT 14, CONCESSION 7
AND PART OF ROAD ALLOWANCE
BETWEEN CONCESSIONS 6 AND 7 (CLOSED BY BY-LAW 2006-35)
GEOGRAPHIC TOWNSHIP OF METHUEN
TOWNSHIP OF HAVELOCK-BELMONT-METHUEN
COUNTY OF PETERBOROUGH

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IMPERIAL : DISTANCES SHOWN ON THIS PLAN ARE IN FEET AND CAN BE CONVERTED TO METRES BY MULTIPLYING BY 0.3048.

PART 2: REPORT SUMMARY

DESCRIPTION OF LAND:
PART OF LOTS 14 AND 15, CONCESSION 6, PART OF LOT 14, CONCESSION 7 AND PART OF ROAD ALLOWANCE BETWEEN CONCESSIONS 6 AND 7 (closed)
REGISTERED EASEMENTS and/or RIGHTS-OF-WAY:
* SUBJECT TO EASEMENT UNDER INST. N° R725743 * * SUBJECT TO EASEMENT UNDER INST. N° R730898 *
ENCROACHMENTS:
* NONE *
COMPLIANCE WITH MUNICIPAL ZONING BY-LAWS:
* NOT CERTIFIED BY THIS REPORT *
ADDITIONAL REMARKS:
* TIES SHOWN HEREON ARE MEASURED TO FACE OF FRAME SIDING *

ASSOCIATION OF ONTARIO
 LAND SURVEYORS
 PLAN SUBMISSION FORM
 2157511



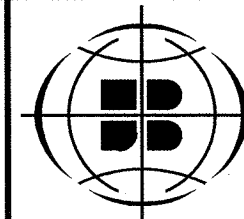
THIS PLAN IS NOT VALID UNLESS IT IS AN EMBOSSED ORIGINAL COPY ISSUED BY THE SURVEYOR in accordance with Regulation 1026, Section 29(3).

KASSHABOG LAKE IS ARTIFICIALLY CONTROLLED BY THE CROWE VALLEY CONSERVATION AUTHORITY BY A DAM AT THE OUTLET OF KASSHABOG LAKE INTO THE NORTH RIVER IN LOT 9, CONCESSION 8 TOWNSHIP OF METHUEN

ELEVATIONS AND ARE REFERRED TO THE TOP OF THE DECK OF THE DAM AT THE OUTLET OF KASSHABOG LAKE HAVING AN ELEVATION OF 864.93' (GEODETIC) (CROWE VALLEY CONSERVATION AUTHORITY DATUM)

KASSHABOG LAKE IS REGULATED TO ELEVATION 860.10' (GEODETIC).

THIS REPORT WAS PREPARED FOR THE EXCLUSIVE USE OF OPHIRA SUTTON.



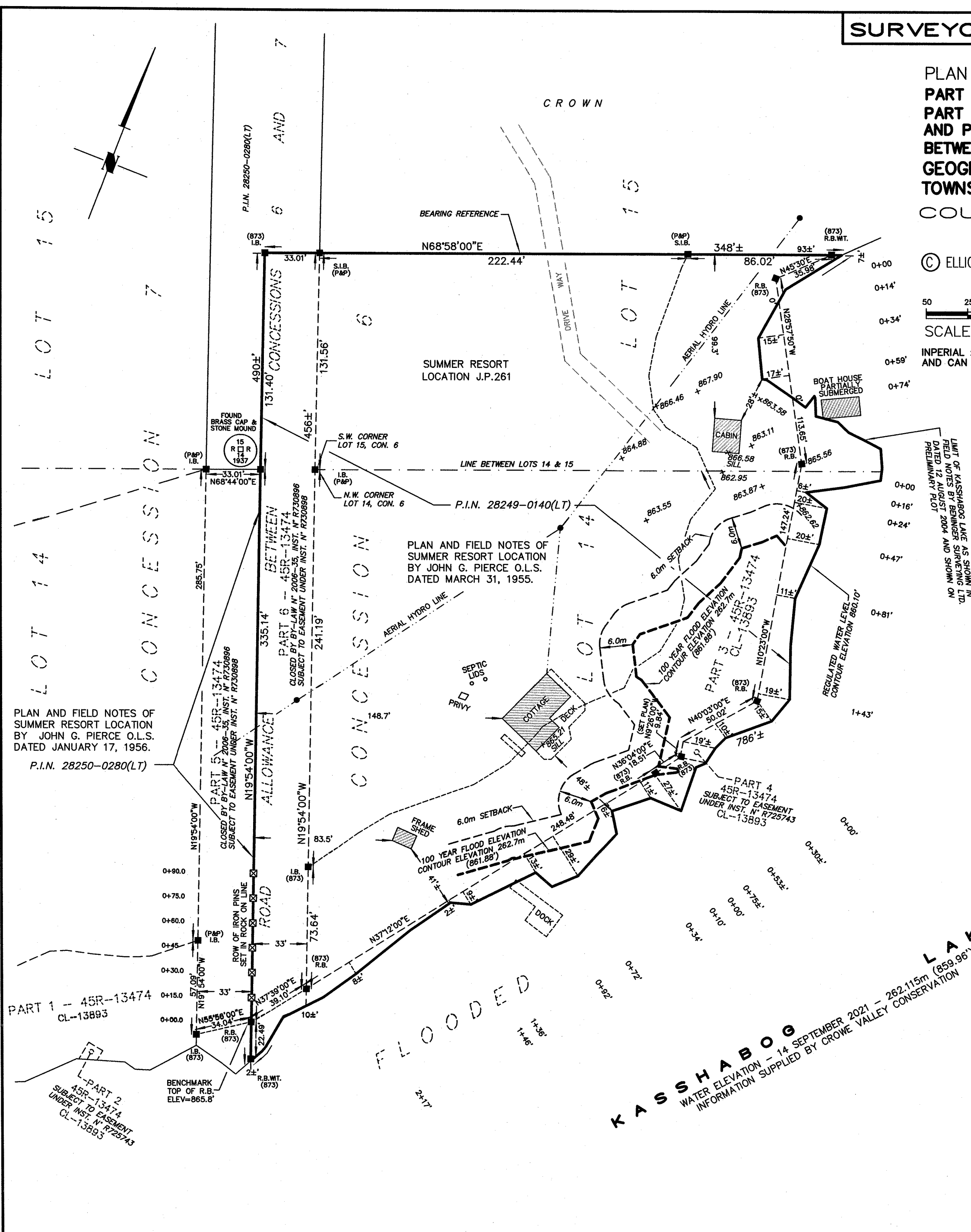
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 T: (705) 745-8444 F: (705) 745-5314 www.jdbarnes.com

DRAWN BY:	CHECKED BY:	REFERENCE NO.:
AR	SMO	17-19-459-01
FILE: ME'N RP 10	DATED: 09/15/2021	

PLOTTED: 15 SEPTEMBER 2021



BEARING NOTE:

BEARINGS ARE ASTROMOMIC, DERIVED FROM THE NORTH LIMIT OF SUMMER RESORT LOCATION J.P.261, SHOWN ON PLAN OF SURVEY BY J.G. PIERCE O.L.S. DATED 04 MARCH 1960 AS HAVING A BEARING OF N68°58'00"E

LEGEND:

- DENOTES SURVEY MONUMENT FOUND
- DENOTES SURVEY MONUMENT SET
- S.I.B. DENOTES STANDARD IRON BAR
- I.B. DENOTES IRON BAR
- 873 DENOTES BENINGER SURVEYING LTD.
- P&P DENOTES PIERCE & PIERCE O.L.S.
- WIT. DENOTES WITNESS
- +863.11 DENOTES SPOT ELEVATION

SURVEYOR'S CERTIFICATE:

I CERTIFY THAT:
 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
 2. THE SURVEY WAS COMPLETED ON NOVEMBER 27th, 2017

01 DECEMBER 2017
 REVISED-22 APRIL 2021
 RE: BOAT-HOUSE SHORELINE
 REVISED-15 SEPTEMBER 2021
 RE: 100 YEAR FLOOD CONTOUR

SHAWN M. O'CONNOR
 Ontario Land Surveyor

Appendix B – 2021 Permit Application



028/21
Feb 23/21

Date Received

PERMIT APPLICATION FORM

FOR A DEVELOPMENT, INTERFERENCE WITH WETLANDS AND ALTERATIONS TO SHORELINES AND WATERCOURSES PERMIT
(CONSERVATION AUTHORITIES ACT - ONTARIO REG. 159/06)

Contact Information (please print clearly)		
Property Owner's Name(s): Ophira sutton		
Mailing Address (Street, P.O. Box) 22 kendal ave	City Apsley	Postal Code m5r157
Telephone: Home 416 927 9096	Work	Mobile
Email ophira@ophirasutton.com		
Agent's Name(s): Jeremy Wilson <i>*property owner's letter of authorization or signature to be attached</i>		
Mailing Address (Street, P.O. Box) 460 Jack Lake Rd	City Apsley	Postal Code KOL1A0
Telephone: Home 705 931 5995	Work	Mobile
Email morningwoodfirewood@hotmail.com		

Is the Owner aware of this application? Yes No - Please explain: _____

Is a Planning Act application (minor variance, zoning by-law amendment) required for this development? Yes No

Location of Proposed Works (please ensure a map and driving directions are attached)		
Lot 14, 15	Concession 6	Municipality Havelock Belmont Methung
Municipal Street Address 527 FR 82		
Assessment Roll Number 1531-010-005-37100	Watercourse/Waterbody Koshabog Lake <i>KASSHABOG LAKE</i>	
Existing Land Use (vacant, residential, etc.) seasonal recreation	Proposed Land Use seasonal recreation	

This application must be accompanied by TWO COPIES of a detailed site plan and payment of a processing fee as determined by the Conservation Authority. The site plan MUST include the following information:

1. General location of property in relation to roads, etc.
2. Location and dimensions of all existing structures on property and a survey plan with lot dimensions.
3. Location of any waterway, open water, wetland, steep slope on or near the property and any drainage features (ditches/culverts).
4. Intended location and dimensions of fill, construction, or waterway alteration proposed.
5. Cross-section of proposal showing existing and final grade with elevations from the current water level of any nearby waterway, and elevations of the lowest structure opening if applicable.


*BUILDING IN FLOOD PLAIN - NON-HABITABLE (BOATHOUSE \$500)
" in 6m setback - Bunkie \$900?*

Description of Works (please check all that apply)	
Construction of a Structure <input type="checkbox"/>	Interference with a Wetland <input type="checkbox"/>
Alter, Add to or Renovate a Structure <input checked="" type="checkbox"/>	Pond Construction, cleanout or repair <input type="checkbox"/>
Install a Septic System <i>(please indicate type and volume of fill below)</i> <input type="checkbox"/>	Watercourse Crossing (culvert, bridge) <input type="checkbox"/>
Place or Remove Fill Material <i>(please indicate type and volume of fill below)</i> <input type="checkbox"/>	Shoreline Protection <i>(please indicate length of shoreline affected below)</i> <input type="checkbox"/>
Type and Volume of Fill (m ³)	Length of Shoreline Affected (m)
Other	
What is the purpose of the work? add a 16'x12' (192 sq') and 1 1'x12' (12 sq') addition to the existing 16'x20' bunkie (320 sq') for a total of square footage of 524 sq' Rebuild the existing collapsed 12'x20'6" (246 sq') in water boathouse to a size of 14'x22'6" (315 sq') to allow storage for a more modern style boat.	
Proposed Start Date: spring 2021	Completion Date: Fall 2021

I/We the undersigned hereby certify to the best of my/our knowledge and belief that all of the above-noted, attached and/or supporting documentation and information is correct and true. I/we further solemnly declare that I/we have read and fully understand the contents of this application and specifically the terms and conditions on the following page, and the declaration written below.

By signing this application, consent is given to the Crowe Valley Conservation Authority, its employees and authorized representatives to access the property for the purposes of obtaining information and monitoring any approved works pursuant to Section 28(20) of the Conservation Authorities Act.

I, *(please print name)* Jeremy Wilson declare that the above information is correct to the best of my knowledge and I agree to abide by Ontario Regulation 159/06.

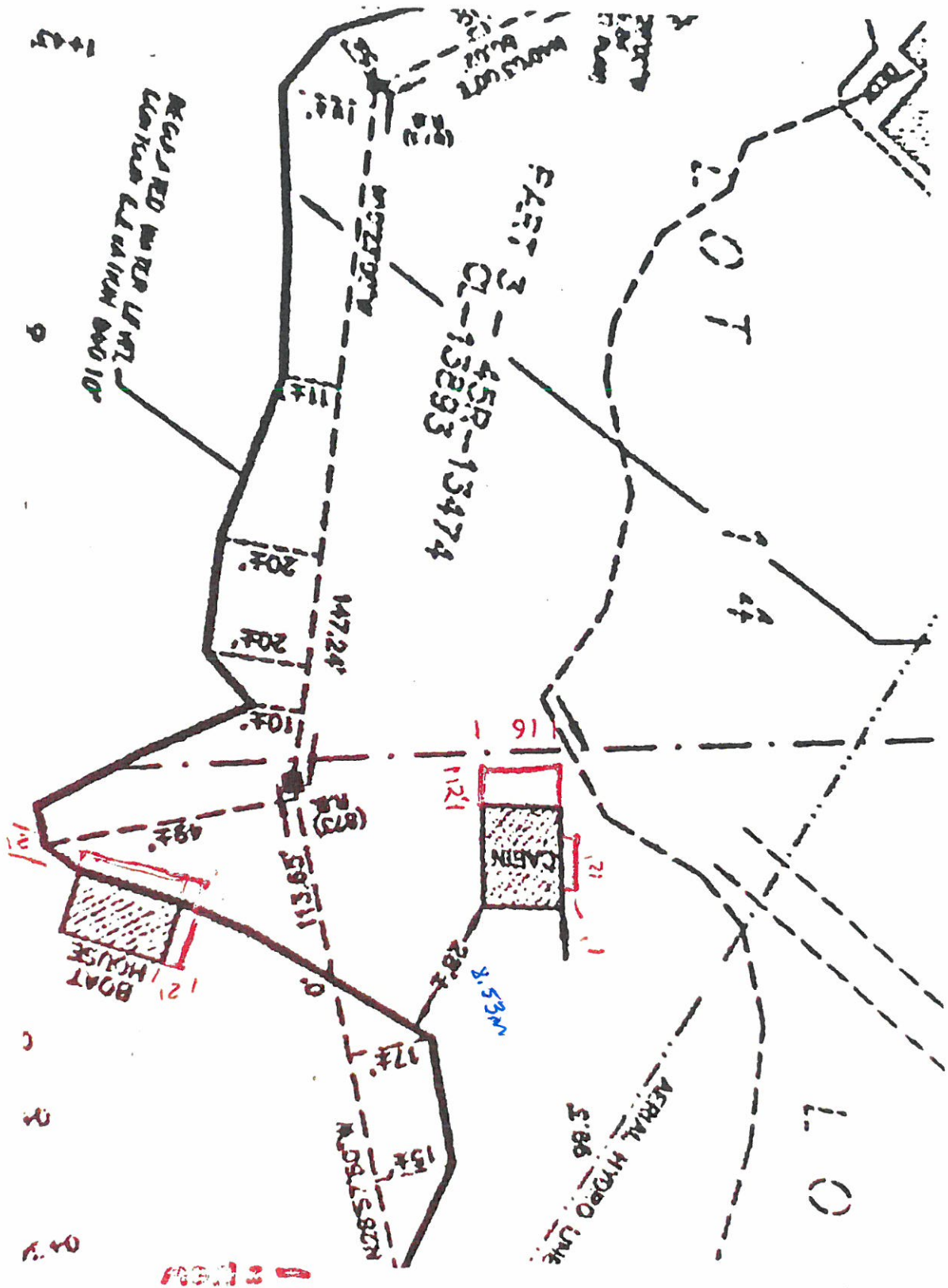
Signature:  Date: February 23 2021

NOTE: Signature or Written Authorization of Landowner is Mandatory. Landowner authorization form follows this page.

I am the: Owner Agent Contractor Other: _____

The information on this form is being collected, and will be used, for the purposes of administering a Regulation made pursuant to Section 28 of the Conservation Authorities Act, R.S.O. 1990 C27.

NOTE: Further information and studies may be required by the Crowe Valley Conservation Authority (CVCA) in order to process this file, the cost of which will be borne by the applicant or their agent. This information may include details related to wetlands, floodplains, hydraulics, slope stability or stream systems. Once completed, all studies become the property of the CVCA and the information may be used by the CVCA, its member municipalities and partners. In order for members of the public to view any studies, plans and reports related to your permit, a formal request under the **Municipal Freedom of Information Protection and Privacy Act**, RSO 1990, c.M.56, is required. Access is subject to statutory exemptions. The same is true should you wish to access any studies, plans and reports pertaining to other's permits. Insufficient information may delay the processing of your application. This application does not relieve the applicant of the obligation to secure any other necessary approvals. Fees are subject to change without notice.



SURVEYOR'S REAL PROPERTY REPORT

PLAN OF SURVEY OF
 PART OF LOTS 14 AND 15, CONCESSION 6
 AND PART OF LOT 14, CONCESSION 7
 AND PART OF ROAD ALLOWANCE
 BETWEEN CONCESSIONS 6 AND 7 (CREATED BY BY-LAW 2008-20)
 GEOGRAPHIC TOWNSHIP OF BELMONT-BELMONT
 TOWNSHIP OF HAVELOCK-BELMONT-BELMONT
 COUNTY OF PETERBOROUGH

SCALE: 1 INCH EQUALS 50 FEET
 METERS: DISTANCES SHOWN ON THIS PLAN ARE IN FEET
 AND CAN BE CONVERTED TO METERS BY MULTIPLYING BY 0.3048

PART 2 REPORT SUMMARY

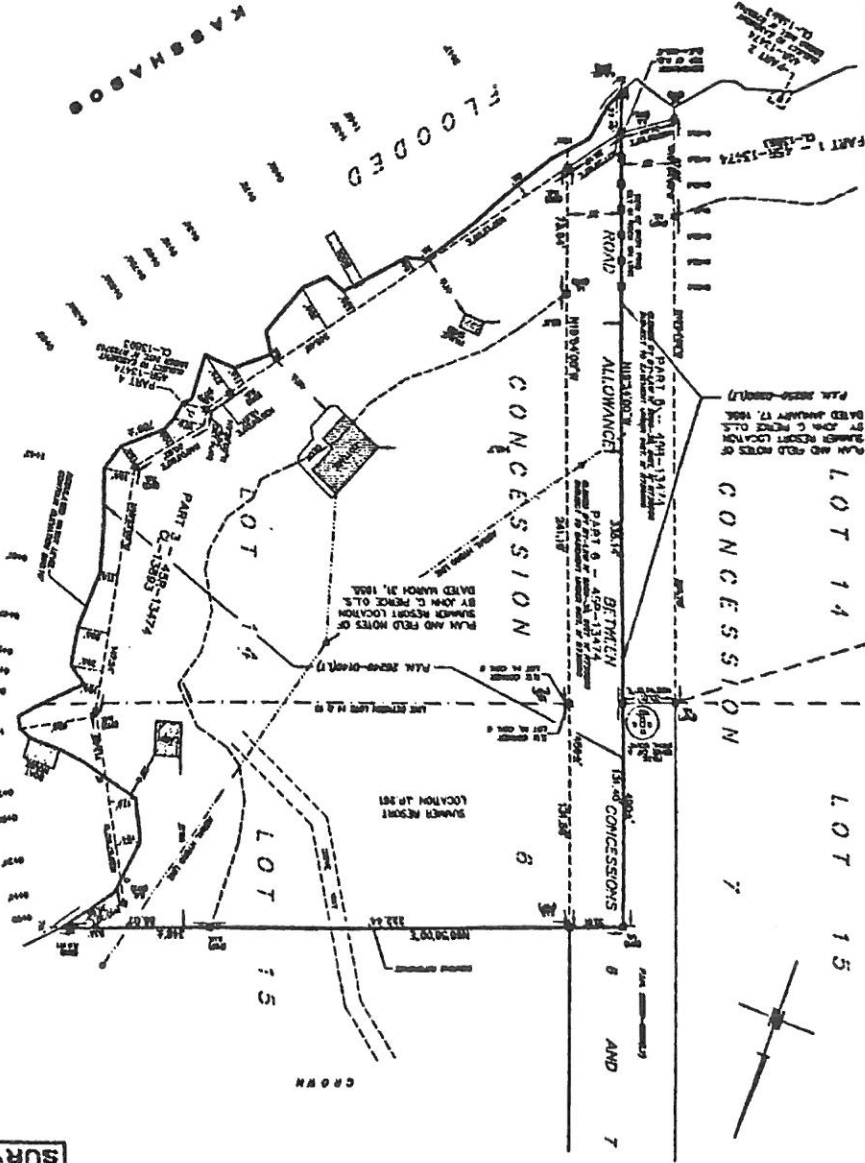
DESCRIPTION OF LAND	PART OF LOTS 14 AND 15, CONCESSION 6 AND PART OF LOT 14, CONCESSION 7 AND PART OF ROAD ALLOWANCE BETWEEN CONCESSIONS 6 AND 7 (CREATED BY BY-LAW 2008-20)
RESTRICTED EASEMENTS AND RIGHTS OF WAY	SUBJECT TO EASEMENT UNDER REG. # 272343
ENCUMBRANCES	NONE
CONTAINMENT WITH NEIGHBORLY ZONES OR LINES	NOT CONTROLLED BY THIS REPORT
ADDITIONAL REMARKS	SEE SHOW HEREIN ARE REFERRED TO PAGE OF PLAIN STATE



KASHAGOG LAKE IS A NATURALLY CONTROLLED BY THE
 DUNE VALLEY CONSERVATION AUTHORITY BY A DAM AT THE OUTLET OF
 KASHAGOG LAKE AND THE NORTH BRANCH IN LOT 4, CONCESSION 8 TOWNSHIP
 OF BELMONT AND ARE REFERRED TO THE TOP OF THE DECEDENT
 AN ELEVATION OF 240.0 METERS (787.4 FEET) AT THE OUTLET OF KASHAGOG
 LAKE (ELEVATION) (ELEVATION) KASHAGOG LAKE IS REFERRED TO ELEVATION 240.0

THIS REPORT WAS PREPARED FOR THE EXCLUSIVE USE OF
 ELLIOTT AND PARR (PETERBOROUGH) LTD.

DATE: 12/20/17
 PROJECT NO: 17-16-008-00



SURVEYOR'S CERTIFICATE

I, ROBERT BARRY BOURGENT FORD
 1. HAS SURVEYED AND PLANNED THE CORRECT AND IN ACCORDANCE
 WITH THE STATUTE ACT, THE SURVEYORS ACT AND THE
 REGULATIONS MADE UNDER THEM
 2. THE SURVEY WAS COMPLETED ON NOVEMBER 17th, 2017

LEGEND

1. ROAD'S BERRY BOURGENT FORD
 2. ROAD'S BERRY BOURGENT FORD
 3. ROAD'S BERRY BOURGENT FORD
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 9. ROAD'S BERRY BOURGENT FORD
 10. ROAD'S BERRY BOURGENT FORD

BEARING NOTE:
 BEARINGS AND DISTANCES WERE OBTAINED FROM THE
 PLAN OF SURVEY BY J.C. PENCE O.L.S. DATED
 IN WHICH WERE AS HAVING A BEARING OF N 89° 00' 00" W
 171.00 METERS

October 22, 2020

Letter of Authorization

To: Township of Havelock-Belmont-Methuen

RE: Building Permit for 527 FR 82, Havelock-Belmont-Methuen, KOL 2H0

I, Ophira Sutton of Balabutton Holdings Inc., hereby authorize Jeremy Wilson to apply for a building permit on my behalf for the premises described above

Please do not hesitate to contact me if you have any questions.

I would like to thank you for your cooperation!

Signed Sincerely,

Ophira Sutton

Ophira Sutton
Balabutton Holdings Inc.
ophita@ophirasutton.com



82

LOT 15

LOT 14

CON 1

LOT 15

LOT 14

CON 6

Kasshabog Lake

LOT 14

Appendix C – Planning Circulation



See Permit 028/21

**NOTICE OF COMPLETE APPLICATION AND A PUBLIC MEETING
CONCERNING A ZONING BY-LAW AMENDMENT**

TAKE NOTICE that the Council of the Corporation of the Township of Havelock-Belmont-Methuen will hold a public meeting on **April 20, 2021** at **9:30 a.m.** to consider a proposed Zoning By-law Amendment under Section 34 of the *Planning Act*, R.S.O., 1990, as amended. **During the COVID-19 pandemic, meetings are being held electronically.**

The Township of Havelock-Belmont-Methuen is in receipt of an application for a Zoning By-law Amendment for certain lands located in Part Lots 14 and 15, Concession 6, Roll No. 1531-010-005-37100, 527 Fire Route 82 in the Methuen Ward (Sutton).

As required under subsection 34 (10.4), Council of the Township of Havelock-Belmont-Methuen has deemed this application to be "Complete".

The subject lands are currently zoned 'Seasonal Residential'. The proposed zoning by-law amendment will change the zone category from 'Seasonal Residential' to 'Special District 241 (S.D.241)' to permit the rebuild and expansion of an existing in-water boathouse, as well as to put two additions to an existing sleeping cabin.

A KEY MAP showing the lands to which this Amendment applies is provided on reverse side.

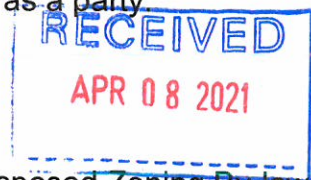
ANY PERSON may attend the public meeting and/or make verbal or written representation either in support of or in opposition to the proposed Amendment. Written submissions in respect of the proposed Amendments should be directed to the Clerk of the Township of Havelock-Belmont-Methuen.

If a person or public body would otherwise have an ability to appeal the decision of the Council of the Corporation of the Township of Havelock-Belmont-Methuen to the Local Planning Appeal Tribunal but the person or public body does not make oral submissions at a public meeting or make written submissions to the Township of Havelock-Belmont-Methuen before the by-law is passed, the person or public body is not entitled to appeal the decision.

If a person or public body does not make an oral submission at the public meeting, or make written submissions to the Township of Havelock-Belmont-Methuen before the proposed zoning by-law amendment is passed, the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to add the person or public body as a party.

NOTIFICATION:

ANYONE wishing to be notified of Council's decision in respect of the proposed Zoning By-law Amendment must file a written request with the Clerk of the Township of Havelock-Belmont-Methuen.



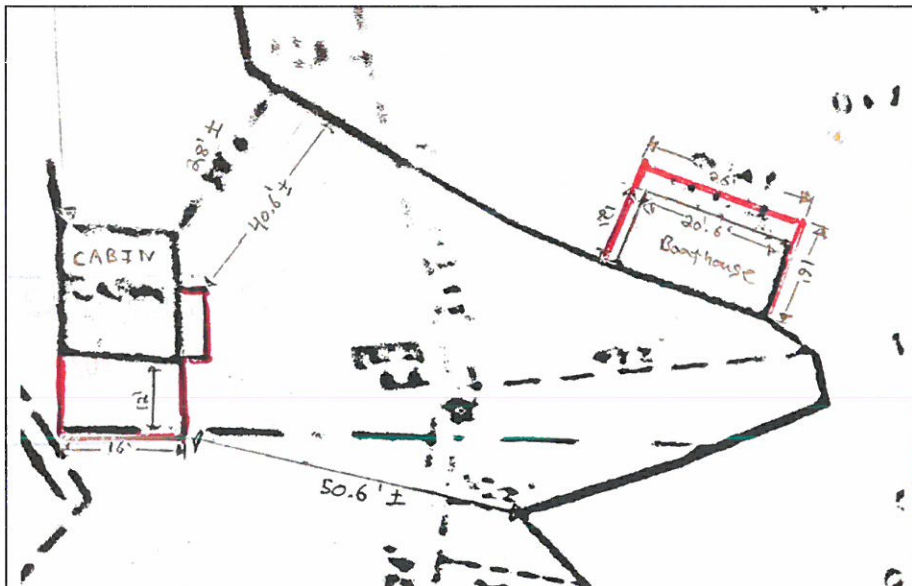
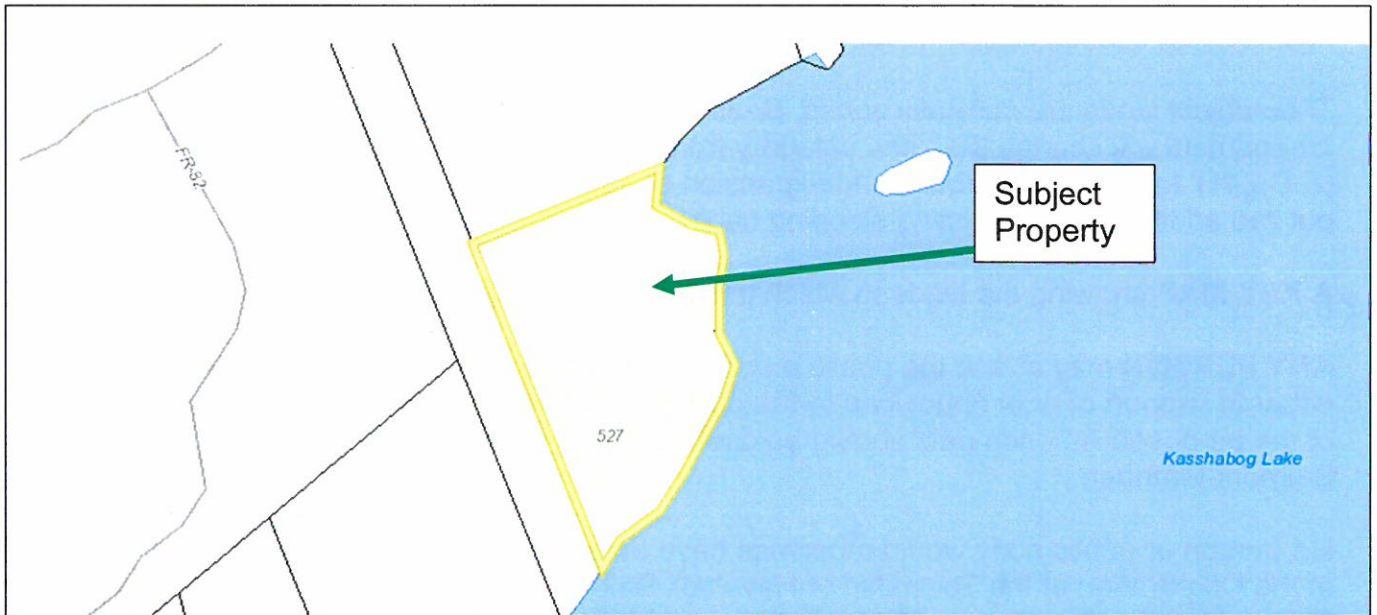
Ophelia Sutton 22 Kendal (over) Ave, Apsley M5R 1S7

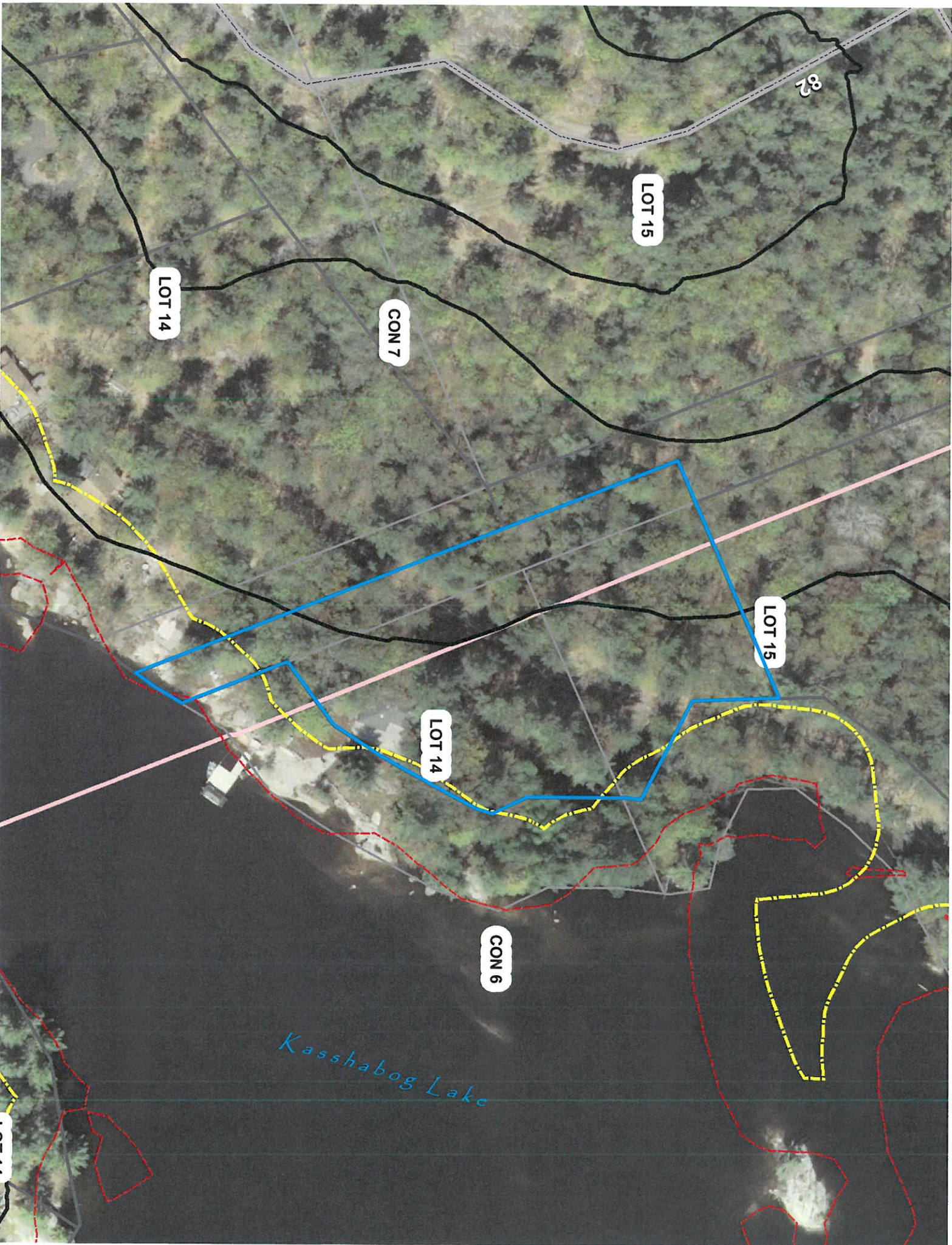
ADDITIONAL INFORMATION:

Complete copies of the proposed Zoning By-law Amendment are available for inspection by the public as of the date of this notice at either the municipal offices during regular business hours (8:30 a.m. to 4:30 p.m.); or by going to the Township's website at www.hbmtwp.ca. Please be aware that due to COVID-19, an appointment to view a copy of the Zoning By-law Amendment is required. Contact the Township office to arrange a viewing or to receive documents digitally.

DATED at the Township of Havelock-Belmont-Methuen this 30th day of March, 2021.

Mr. Robert Angione, M.P.A., B. Admin,
Municipal Clerk
Township of Havelock-Belmont-Methuen
P.O. Box 10, 1 Ottawa Street East
Havelock, ON K0L 1Z0
(705) 778-2308 (705) 778-5248 (fax)





82

LOT 15

LOT 14

CON 7

LOT 15

LOT 14

CON 6

Kasshabog Lake

LOT 14

19 April 2021

Bob Angione – Clerk
Township of Havelock-Belmont-Methuen
P.O. Box 10, 1 Ottawa Street East
Havelock, ON K0L 1Z0



Dear Mr. Angione,

RE:

**Application for a Zoning Bylaw Amendment (Our File # ZBA 09/21)
Part Lots 14 & 15, Concession 6
527 Fire Route 82
Township of Havelock-Belmont-Methuen
ARN: 1531-010-005-37100**

Sent via email

The above application for a zoning by-law amendment has been reviewed with regards to the applicability of the Crowe Valley Conservation Authority's Regulation of Development, Interference with Wetlands & Alterations to Shorelines & Watercourses (O. Reg. 159/06) and the Provincial Policy Statement (PPS). Through a memorandum of understanding between Conservation Ontario, the Ministry of Natural Resources and the Ministry of Municipal Affairs and Housing, Conservation Authorities are responsible for representing Provincial interest in planning matters as they relate to natural hazards (Section 3.1 Natural Hazards, PPS).

Please be advised that this recommendation is based on the best available data, including aerial imagery, GIS data and LiDAR elevation data in addition to the information submitted with the application for zoning by-law amendment with the Township of Havelock-Belmont-Methuen. A site visit has not been conducted to verify or refute this information.

Our understanding that the proposed zoning by-law amendment will change the zone category from 'Seasonal Residential' to 'Special District 241 (S.D 241)' to permit the rebuild and expansion of an existing in-water boathouse, as well as to put two additions to an existing sleeping cabin (bunkie).

RECOMMENDATION

In summary, the Crowe Valley Conservation Authority **has concerns** with this application for a zoning by-law amendment. The proposed Bunkie does appear to be above the flood plain but is within the standard of error as per the LiDAR flights over Peterborough County. Due to the error the application may not be consistent with Section 3.1 Natural Hazards of the PPS as the sleeping cabin could be within the flooding hazard of Kasshabog Lake. Therefore, we recommend the council either:

- Defer the application until an elevation survey can be provided demonstrating that the Bunkie is outside of the flood hazard; or,
- The application be approved with the condition requiring a supporting elevation survey be provided prior to a building permit being issued.

Additionally, the expansion of the boathouse does not meet CVCA policies.

SECTION 3.1 NATURAL HAZARDS, PROVINCIAL POLICY STATEMENT

Concerning Section 3.1 Natural Hazards of the PPS, the CVCA has reviewed the application with respect to flooding, erosion, and hazards associated with unstable soil and bedrock.

Flooding Hazard

A flooding hazard means the inundation of areas adjacent to a shoreline of a river or stream system and not ordinarily covered by water. The flood hazard limit is based on a regulatory flood event standard and is represented by an elevation to which water would rise under the conditions of a 100-year flood event. That is, conditions that have a 1% chance in taking place any given year. The 1:100-year flood elevation for Kassarabog Lake is 262.70 metres above sea level.

The sleeping cabin appears to be within the error reported with the Peterborough County LiDAR, therefore a supporting elevation survey will be required prior to CVCA issuing a permit. As per CVCA policy 5.3.1.3 “Additions (including ground floor second storey or an attached garage) to an 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 meters (~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 meters (~500 square feet), whichever is less;
- The number of dwelling units is the same or fewer.”

In water boat houses by their nature are in the flood hazard.

Erosion Hazard

An erosion hazard means the loss of land, due to human or natural processes, that poses a threat to life and property. The erosion hazard limit is determined using considerations that include the 100-year erosion rate (the average annual rate of recession extended over a 100-year time span), an allowance for slope stability, and an erosion/erosion access allowance.

Based on the photographs submitted with the zoning by-law amendment application to the municipality, the proposed development is not within the erosion hazard as per the MNR & Stream Systems Erosion Hazard Limit Technical Guide. As per table 3 of the MNR & Stream Systems Erosion Hazard Limit Technical Guide a setback of 5 meters would be acceptable as there does not appear to be active erosion and the type of material is boulders and cobble. The sleeping cabin is approximately 10 meters from the shoreline of Kassarabog Lake.

Other Hazards

No unstable soils or bedrock (such as karst topography) have been identified.

O. REG 159/06: CROWE VALLEY CONSERVATION AUTHORITY: REGULATION OF DEVELOPMENT, INTERFERENCE WITH WETLANDS AND ALTERATIONS TO SHORELINES AND WATERCOURSES

The proposed works are located within the CVCA’s regulated area, permission from the CVCA is required prior to any development taking place. A permit application has been submitted for this development (permit #028/21, submitted 23 February 2021).

CVCA regulations officers cannot approve a boathouse as indicated, therefore a hearing before the CVCA board will be required. The CVCA permits the repairs of in-water boathouses. New in-water boathouses are not permitted. In-water boat house repairs must meet the following criteria:

- The structure does not impede the flow of water or create a navigational hazard
- The structure does not alter the natural contour of the shoreline
- There is no habitable floor space and no opportunity for conversion to habitable floor space in the future
- The boathouse contains no services other than electricity
- The repairs do not result in a change in use, including new decks and rooftop patios
- There is no change in size (same size or smaller)
- Repairs to the foundation of an existing boathouse will be required to be designed by a qualified professional (engineer)

Should any of the details of this proposal change please notify our office and we will amend our comments as necessary. We respectfully request a copy of the decision made on this application. Should you have any questions please do not hesitate to contact me.

Best regards,



Beth Lowe
Regulations Officer – Provincial Offences Officer
Crowe Valley Conservation Authority
Tel: 613-472-3137 Email: Beth.Lowe@CroweValley.com

Appendix D - Photographs





Appendix E – Ontario Land Tribunal Decision

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: January 19, 2023

CASE NO(S): OLT-22-002350
(Formally PL210337)

PROCEEDING COMMENCED UNDER section 34(11) of the *Planning Act, R.S.O. 1990, c. P. 13, as amended.*

Appellant: BalaButton Holdings
Subject: Application to amend the Zoning By-law – Refusal of application
ZBA to permit the redevelopment of the lot in the form
Description: reconstructed in-water boathouse and additions to the sleeping
cabin
Reference Number: 1995-42
Property Address: (Part Lots 14 15 Concession 6)
Municipality/UT: Havelock-Belmont-Methuen/
OLT Case No: OLT-22-002350
Legacy Case No: PL210337
OLT Case Name: BalaButton Holdings v. Havelock-Belmont-Methuen (Twp.)

Heard: June 15-17, 2022, by Video Hearing

APPEARANCES:

Parties

Counsel

BalaButton Holdings

Kathleen Kinch
J. Khoury-Hanna

Township of Havelock-Belmont-
Methuen

John Ewart
Natalie Geysens (summer-student)

DECISION DELIVERED BY JATINDER BHULLAR AND ORDER OF THE TRIBUNAL

[1] This matter involves an appeal by BalaButton Holdings (the “Applicant”) from the refusal of the Council of the Township of Havelock-Belmont-Methuen (the “Township”)

of an application for an amendment to Zoning By-law No. 1995-42 (“ZBA”) for the lands described as Part Lots 14 and 15, Concession 6, in the Methuen Ward (the “Subject Property”).

[2] The Subject Property are located on Kasshabog Lake and are currently zoned as a Seasonal Residential (SR) Zone. The purpose and effect of the proposed ZBA is to change the zone category of the Subject Property to Special District 241 (S.D. 241) Zone to permit the reconstruction and expansion of an existing in-water boathouse and allow an addition to an existing sleeping cabin.

WITNESSES

[3] The Applicant called three witnesses. The Township called one witness. These were affirmed or sworn per their choice. The acknowledgement of expert’s duty obligations was confirmed with all expert witnesses, and they were qualified by the Tribunal as noted below. The witnesses were as follows:

APPLICANT

- i. Robert Clarke was qualified to provide expert opinion evidence in the area of land use planning;
- ii. Laura Stone was qualified to provide expert opinion evidence in the area of land use planning; and,
- iii. Henry Balaban a lay witness with knowledge of the property and its operations.

TOWNSHIP

- i. Darryl Tighe was qualified to provide expert opinion evidence in the area of land use planning.

- ii. Beth Lowe was presented under summons to review information regarding Crowe Valley Conservation Authority (“CVCA”) processes for receiving permits for constructing structures in shoreline areas under their jurisdiction. Ms. Crowe was not qualified as the matter for CVCA permits was not before the Tribunal. With consent of both parties, factual information was noted for reference purposes only.

EVIDENCE

[4] Mr. Clark provided the site context for the Subject Property which was not disputed by other witnesses:

- The address for the site is 527 Fire Route 82 in the Township and County of Peterborough (“County”);
- The Subject Property is not accessible during the winter seasons and is otherwise accessed via County Road 46, which leads to North Shore Road. North Shore Road subsequently turns into Fire Route 82;
- The site has 173 m (569 ft) measured as straight-line frontage on the lake and is 8,635 sq.m. in area. The buildings on the site include a cottage, a sleeping cabin, and a boathouse. The cottage is a single storey and has a gross floor area of 940 sq. ft.;
- The Boathouse is accessory to the cottage and the sleeping cabin (“bunki”) is accessory use;
- It is serviced by an existing private well and septic system.
- The structures on the site pre-date the applicable Official Plans (“OP”) as well as the Zoning By-law No. 1995-42 (ZBL) and are legal non-conforming in the planning context.

[5] The neighbourhood context is as follows:



[6] Mr. Clark described that for the Subject Property the current owners purchased the adjacent road allowance and the shoreline road allowance. The site has 173 m (569 ft) measured as straight-line frontage on the lake and is 8,635 sq. m. in area. The buildings on the site include a cottage, a sleeping cabin and a boathouse. The cottage is a single storey and has a gross floor area of 940 sq. ft. The lot is wooded with rock outcrops. It slopes gently to the shoreline. The shoreline is wooded with rock outcrops.

[7] During a hearing event held on October 5, 2021, the parties indicated they had reached a tentative settlement, but that Council had not yet had an opportunity to

review the terms of the proposed settlement. The settlement proposal was expected to be put before Council at the regular scheduled meeting on October 4, 2021, and it was. However, Council did not endorse the settlement proposal and the parties are now requesting that the Tribunal schedule a three-day hearing on the merits.

NON-EXPERT EVIDENCE OF Mr. Balaban

[8] Mr. Balaban stated that he has owned the Subject Property with his wife since around 2003. He added that during the season(s) of heavy ice and snow the boathouse started to be become damaged. He testified that he tried to repair it himself, but it did not prevent further weather damage. He stated that he has kept material for a sailboat as well as a smaller boat that he has been planning to rebuild. He explained that he contacted contractors to help with repairing or rebuilding the boathouse. He had the boathouse roof shingles removed so that these would not fall in the water and cause any pollution or other damage.

[9] Mr. Balaban testified that as a result of a rebuild of the boathouse, he also considered to renovate and upgrade other structures including the Bunkie. He maintained that the uses on the Subject Property never changed since the acquisition in 2003. These included boating and the boathouse, inviting family and friends to use the Bunkie and the use of the cottage.

[10] Mr. Balaban testified that he did not receive any notice of violations or for any direction on remedial actions from the Township. He added that when he sought the approval for upgrades to the boathouse and the Bunkie, he worked with the Township staff and reached a tentative term of settlement. He added that the council however did not adopt the tentative agreement and as a result his appeal is before the Tribunal.

PLANNING EVIDENCE

PLANNING ACT s.2: PROVINCIAL INTEREST

[11] Ms. Stone reviewed s.2 of the Act. She reviewed subsections (a, c, d, e, g, l, m, n, p and r) of s. 2 of the Act.

[12] Ms. Stone noted that in considering the proposed ZBA as a whole, there is relatively little change to existing structures with minimal incremental impacts; it will support continuing cultural and recreational uses and enhance safety for the same with improved structures; there are no new municipal or community costs. She also opined those due efforts were made in consultation and efforts expended to resolve any issues with neighbours and/or municipal concerns.

[13] Ms. Stone opined that as a result the ZBA has due regard for the provincial interest as required under s.2 of the Act.

PROVINCIL POLICY STATEMENT 2020

[14] Mr. Clark testified that the lands are considered rural per policy 1.1.5.2. This policy permits uses in rural areas inclusive of resource based recreational uses including recreational dwellings.

[15] Mr. Clark further testified that policy 1.1.5.3, and 1.1.5.4 direct that tourism, economic opportunities, and development that is compatible with the rural landscape and consistent with rural service levels are to be promoted.

[16] Mr. Clark contested that as suggested by Mr. Tighe, there is very minor expansion of a nearly 60-year-old boathouse. He testified that this does not rise to the level of carrying out Environmental Impact Assessment ("EIS") to determine fish habitat or surface water features.

[17] Mr. Clark concluded that the proposal is consistent with PPS 2020 when the applicable policies are considered.

[18] Ms. Stone concurred with the opinions and conclusion of Mr. Clark.

[19] Mr. Tighe stated that an EIS has not been performed and in its absence consistency with the PPS 2020 policy 2.2.1 cannot be established. In answers to questions, he confirmed that the application for ZBA was established as complete and no EIS was identified or required of the Applicant.

GROWTH PLAN FOR THE GREATER GOLDEN HORSHOE 2019, as amended (the Growth Plan)

[20] Mr. Clark testified that policy 2.2.9 permits resource based recreational uses and that subsection 4 limits these resource-based recreational uses, to recreational uses that are compatible with the scale, character, and capacity of the resource and surrounding rural landscape. Mr. Clark opined that the proposal being very limited and minor does not change the scale, character or negatively impacts surrounding landscape. He contested that Mr. Tighe's assertions and opined that the proposed changes or upgrades do not represent infill development, redevelopment or resort development, and therefore are not subject to these criteria.

[21] Mr. Clark concluded that the proposal conforms with the Growth Plan.

[22] Ms. Stone concurred with the opinions and conclusion of Mr. Clark.

[23] Mr. Tighe referred to policy 4.2.3 of the Growth Plan and stated that it provides specific direction for redevelopment and expansion of legally existing uses. He opined that the replacement and expansion of the boathouse does not qualify, and the proposal does not conform with the Growth Plan.

COUNTY OF PETERBOROUGH OFFICIAL PLAN (COP)

[24] Mr. Clark opined that the COP allows TOP to provide land designations. The guiding policies are Section 4.4.

[25] Mr. Clark specifically also highlighted Section 6.2.5.3 (h) and excerpted the policy on “permitted exceptions” impacting policies on existing structures as of October 22, 2008:

“Structures legally existing as of the date Official Plan Amendment No. 3 comes into effect (October 22, 2008) that do not comply with the required setback provision that require replacement due to structural defects or destruction by fire or other natural causes or by permission of the Township will be permitted to be replaced on the same footprint and may only be enlarged in accordance with the provisions of the Zoning By-law, and where the enlargement does not further encroach into the 30 metre setback.”

[26] Mr. Clark concluded and opined that the requested expansions to the boathouse and sleeping cabin conform with the COP considering applicable policies of the COP for rebuilding and possible expansion consideration through ZBL amendment(s).

[27] Ms. Stone concurred with the opinions and testimony of Mr. Clark.

[28] Mr. Tighe referred to Section 4.4.1 of the COP:

4.4.1 Goal

to improve and protect the waterfront areas in Peterborough County as a significant cultural, recreational, economic and natural environment resource and enhance land areas adjacent to the shore.

[29] Mr. Tighe opined that the replacement/expansion of the boathouse and expansion of the sleeping cabin further into the water yard would not serve to improve and protect the waterfront. He also opined that the expansions were not minor for either the boathouse or the sleeping cabin.

TOWNSHIP OF HAVELOCK-BELMONT-METHUEN OFFICIAL PLAN (TOP)

[30] Mr. Clark stated that per Schedule A2 of the TOP, the Subject Property is designated Shoreline. In consideration of the TOP applicable policies, Mr. Clark referred to the following sections as excerpted below along with his opinion evidence:

Section 1.2.4.5 states In order to improve and protect waterfront areas as a significant recreational and natural environment resource and enhance land areas adjacent to the shore; it is the intent of this Plan to:

- a) Minimize the intensity of shoreline development to prevent:
 - i. Significant detracting from the natural landscape;
 - ii. Significant environmental degradation; or a hazard to navigation;
 - iii. Preserve and enhance fish and wildlife habitat areas within and along waterbodies;
 - iv. Maintain shorelines in their natural state and promote property stewardship in developed or developing areas.

This section acknowledges that there is existing shoreline development. The proposed reconstruction and enlargement of the boathouse does not increase the intensity of shoreline development or reduce the natural state of the shoreline.

The Development Policies of the Shoreline Designation found in Section 3.3.4, specifically allow expansion of a structurally permanent nature for existing structure and/or septic systems, provided they do not further reduce any applicable minimum water setback. The proposed expansions have been designed to avoid reducing the existing water setbacks.

Section 3.3.4.2 addresses Marine Facilities, such as the existing boathouse. This section exempts marinas from the 30-metre shoreline setback and directs that these facilities should be of a type and scale that minimizes their environmental, navigational, and visual impacts. According to the consolidation used for this review, this Section is under appeal.

Section 3.3.4.9 addresses existing land uses in the Shoreline designation. Subsection c) allows the continuation, expansion or enlargement of existing non-complying uses provided the following tests are met:

- i) the general intent and purpose of the Official Plan and Zoning By-law are maintained;
- ii) the variance is desirable for the appropriate development of the lands;

- iii) the variance is minor in nature;
- iv) a proposal for a minor variance to reduce the shoreline setback will be strongly discouraged.

[31] Mr. Clark concluded that whereas the TOP policies in Section 3.3.4.9 relate to a possible minor variance scenario, the proposal for expansions of the boathouse and the sleeping cabin are akin to such a situation except for the fact that from a ZBL perspective the subject structures are legal and non-conforming and as such a ZBA application is necessary to achieve the same end objective.

[32] Ms. Stone concurred with the testimony and concluding opinion of Mr. Clark.

[33] Mr. Tighe reviewed Section 1.2.4.5 in terms of uses in shoreline areas. He opined that the boathouse has forfeited prior legal non-conforming status; he opined that the Guiding Principle in Section 1.2.4 is not maintained. He claimed that the Applicant has failed to establish continuing legal non-conforming use of the boathouse. During his testimony he indicated that he felt unsafe to approach the inside of the boathouse during his visit. He further stated that the boat in the boathouse could not be safely taken in and out for stated possible use of a boathouse. He also referred to Section 4.10(a) and emphasize that the TOP requires as follows but the boathouse use has not continued:

4.10. A Legal Non-Conforming Buildings, Structures and Uses

- (a) The provisions of this By-law shall not apply to prevent the use of any lot, building, structure or part thereof, for any purpose prohibited by this By-law, if such use was lawfully existing on the date of the passing of this By-law so long as it continues to be used for that purpose.

[34] Mr. Tighe stated that under Section 4.10(d), reconstruction is permitted but it was not duly availed of, and the use did not continue.

[35] Mr. Tighe during testimony and in answers to questions stated that he has no qualification as a safety expert; he stated that the Township has no standards for boathouse maintenance; he also stated that there no By-laws which enable the

Township to inspect or require maintenance of boathouses to specific standards. Beyond stating that a boathouse shall have the capability to allow for a boat to be brought in or taken out, he could not qualify what type or size of boats such boats need to be and how often such activities must take place to maintain a legal non-conforming use for a boathouse.

[36] Mr. Tighe in conclusion opined that the proposed ZBA does not conform with the TOP.

Township of Havelock-Belmont-Methuen Zoning By-law Number 1995-42 (ZBL)

[37] Mr. Clark stated that the Subject Property is zoned Seasonal Residential (SR). He provided a comparison of the required regulated parameters under this designation and compared these against the proposal as follows:

REGULATION	REQUIRED/MINIMUM	ACTUAL	NOTES
Minimum Lot Area	3,000 sq. m.	8,638 sq. m.	
Minimum Lot Frontage	46 m	173 m	This is a straight line distance between side lot lines. The lot fronts on the lake.
Minimum Front Yard	21.3 m	48 ft (14.6 m)	Legal non-conforming.
Minimum Side Yard	6 m	148.7 ft (45.3 m)	Closest side yard.
Minimum Rear Yard	7.5 m	n/a	There is no rear yard.
Maximum Height	9 m	4.8 to peak	
Maximum Lot Coverage	15% (1,295.7 sq. m.)	1.35% (117 sq. m.)	Cottage and Sleeping Cabin only.
Minimum Floor Area	74 sq. m. (797 sq. ft.)	87 sq. m. (940 sq. ft.)	Cottage only.
Maximum Number of Dwellings Units Per Lot	1	1	

[38] Mr. Clark highlighted and commented as well as provided his opinions as follows for some of the key sections in the ZBL:

Section 4.1 (d) (ii) requires that an accessory structure, such as the sleeping cabin, is to be located in a side yard or rear yard. Subsection (e) requires that an accessory structure is to be located to the rear of any required front yard.

Section 4.10 B (a) permits "A building or structure or part thereof, which at the date of passing of this By-law, was used for a purpose permissible within the land use zone in which it is located, may be enlarged, extended, reconstructed, or restored provided that:

(i) the enlargement or alteration to the building or structure does not reduce the existing yards except where such yards are greater in size than the minimum required in this By-law, such yards may be reduced to the minimum yards required by this By-law;

(ii) the enlargement or alteration does not create another deficiency or increase the degree of an existing deficiency with respect to any requirement of this By-law; and

(iii) all other applicable provisions of this By-law are complied with as they relate to the enlargement, reconstruction, repair and/or renovation."

[39] Mr. Clark also noting the Surveyor's Real Property Report and notes therein established that the original plan for the Subject Property was established on March 31, 1955. He concluded that as a result the Subject Property is to be regarded as legal non-conforming under the ZBL.

[40] Mr. Clark showed that the Subject Property far exceeds the minimum lot area requirement and that the maximum lot coverage is very little (1.35%) as compared to the 15% allowed in the ZBL.

[41] Mr. Clark and Ms. Stone stated that the ZBL No. 2017-050 section 4.22.1 (a) does not allow boathouses except that ZBL under appeal allows it as follows:

Section 4.10.A (a) allows a legal non-conforming building or structure which is non-conforming to continue to be used for the purpose and subsection (d) states: "nothing in the By-law applies to prevent the reconstruction of any lawful non-conforming building or structure which is damaged by causes beyond the control of the owner".

CROWE VALLEY CONSERVATION AUTHORITY (CVCA)

[42] Mr. Clark stated that for completing the proposed changes, CVCA permit would be needed and that CVCA has provided some initial comments. He stated that CVCA matter, or aspects are not part of the requested relief from the Tribunal in approving the ZBA.

OVERALL PLANNING SUMMARY

[43] Mr. Clark concluded and opined that:

- a) Boathouse reconstruction is allowed in the ZBL under the legal non-conforming status and the expansion can be allowed through the requested ZBA; and,
- b) The expansion of the sleeping cabin, although it exceeds the zoning provision for maximum gross floor area and is located within the 30 m setback from the highwater mark, can be allowed as an amendment to the Zoning By-law, subject to the granting of a permit from the Conservation Authority in accordance with their regulations.

[44] Ms. Stone supported the approval of the proposed ZBA application and concurred with opinions and conclusions made by Mr. Clark.

[45] Mr. Tighe based on his planning opinion concluded that the ZBA does not meet the statutory tests and emphasized that the boathouse has forfeited its continuous use based on the event over the time the Subject Property was in the possession of the Applicant.

ANALYSIS AND FINDINGS

[46] The Tribunal notes that a fundamental divide and contrast of opinion evidence is based on the following question:

Does the boathouse on the Subject Property represent a use that has continued under the legal non-conforming status of the Subject Property?

[47] The Tribunal notes that had the boathouse been in undamaged form and that the sleeping cabin required no changes, the Subject Property could continue to exist under the provision of legal non-conforming status as allowed under the OP as well as the ZBL. This matter is before the Tribunal only because the Applicant wanted to reconstruct/expand the boathouse and the sleeping cabin for which the Township denied the request.

[48] The boathouse is defined as follows in the applicable planning instruments:

“BOATHOUSE” means a single storey detached accessory building or structure intended to house, shelter or protect a boat or other form of water transportation and may contain equipment incidental to the repair and maintenance of such transportation but shall not contain sleeping, cooking, plumbing or sanitary facilities and in which human habitation is prohibited. This definition is intended to include both on-land boathouses found above the high-water mark as well as on-water boathouses; and includes boat ports both above the high-water mark and on-water.

[49] Mr. Balaban was the only witness who could vouch for the uses of the boathouse from the period the Subject Property was acquired by him and his spouse around 2003, approximately 19 years ago. Mr. Tighe presented planning opinion based on his visits to the Subject Property as part of his planning work for the Township.

[50] Mr. Balaban showed that he took self-help remedial actions to stabilize the boathouse. He explained that his efforts included trying to jack up the front of the boathouse in the water. He explained how he borrowed tools and moved stones, etc., to achieve such remedial actions.

[51] Mr. Balaban kept an older boat in the boathouse which he planned to repair, refinish, and preserve. He added that sailing boat related accessories were stored in the boathouse as well.

[52] Mr. Balaban employed contractors to estimate reconstruction of the boathouse and the sleeping cabin with a view to have these permanently repaired and upgraded noting that the structures appear to be from the form these were constructed around the 1950s-1960s.

[53] Mr. Balaban concluded that he maintained boathouse uses to levels commensurate with his advancing age but never abandoned the boathouse usage.

[54] Mr. Tighe provided anecdotal evidence based on his visits. He claimed that he felt unsafe entering the boathouse during one of his visits. He admitted he is not a qualified expert on the safety protocol for a boathouse. He testified that the boat in the boathouse was lodged into the boathouse structure and could not see how it could possibly be removed for use. He noted that with a missing roof he could not vouch for the utility of the boathouse for boating related storage material. This aspect was replied to by Mr. Balaban in his testimony that all boating related accessories that he has relate to water-oriented activities and the boathouse still provided spatial protection in spite of the roof needing repair.

[55] Mr. Tighe acknowledged that there are no Township or other By-laws that carry out or specify any of the following:

- a) Define the level of activity required for maintaining use of a boathouse in the context of how often the boat(s) be taken in or out, what level of boating accessories need to be stored to maintain such usage, and so on;
- b) Reporting requirements that boathouse owners need to report to maintain continuity of usage and so on; and,
- c) Annual or other boathouse inspection by-law(s) that the Township uses to establish usage or abandoning of usage.

[56] The Tribunal notes that Mr. Balaban's testimony was unshaken and stood unchanged with testing by the Township.

[57] The Township cited case law as to what constitutes continuation of usage or lack thereof. In the case before the Tribunal, the evidentiary balance is overwhelming. This balance favours the Applicant's position that the boathouse usage was maintained and continued in various forms over the years and that the boathouse was under the Applicant's control.

[58] Considering the totality of evidence and the submissions of the parties, the Tribunal finds that the boathouse usage was not forfeited any time by the Applicant and has continued at the Subject Property.

STATUTORY TESTS AND FINDINGS

[59] It is noted by the Tribunal that a large part of the planning evidence of Mr. Tighe in opposition to the Applicant's witnesses was anchored on two salient points as follows:

- a) The Applicant has forfeited the continuous use of the boathouse; and,
- b) The expansions sought for the boathouse and sleeping cabin reconstruction are not minor.

[60] Whereas Mr. Tighe made summary comments, the Tribunal finds based on the comprehensive evidence of Ms. Stone that the ZBA has due regard for the provincial interest per Section 2 of the Act.

[61] Mr. Tighe suggested that since an EIS was not conducted, and the disturbance caused by possible reconstruction and expansion cannot be established to duly establish consistency with PPS 2020. However, it was established during the testimony of Mr. Tighe that given the scope of the changes to existing structures and other reasons, an EIS was neither required nor requested by the Township when the

application was deemed complete. Mr. Clark and Ms. Stone referred to other PPS 2020 policies they considered which encourage the suitable development and use of natural resources in Ontario for recreational plus other purposes.

[62] The Tribunal prefers the evidence of Mr. Clark and Ms. Stone as it provides a wholesome review of the applicable PPS 2020 policies; provides reasons why an EIS was neither required nor appropriate for the proposed reconstruction of the sleeping cabin and the boathouse. Consequently, the Tribunal finds that the ZBA is consistent with PPS 2020.

[63] Mr. Tighe testified that the proposal does not conform with the direction in policy 4.2.3 of the Growth Plan relating to expansion of existing structures in areas like the Subject Property. Mr. Clark referring to 2.2.9 testified that the Growth Plan permits resource based recreational uses and such uses on the property have existed for a long period of time almost leading up to 1955. Mr. Clark added that the expansion is limited with respect to uses that have evolved since the boathouse and the sleeping cabin were initially built. Ms. Stone concurred with and supported the opinion evidence of Mr. Clark.

[64] Having reviewed the testimony of the witnesses the Tribunal finds that the proposal conforms with the Growth Plan with history of longstanding conformity with resource based recreational uses, and, that the extent of the proposed changes for reconstruction do not negate such conformity with the Growth Plan.

[65] In their testimonies regarding conformity with the COP, the experts disagreed as to reconstruction and expansion that may be carried out for legal non-conforming structures. However, it was noted in testimony of Mr. Clark and Mr. Tighe that Section 4.4.1 in the COP defers such to the ZBL. Mr. Tighe based on his assertion that the Applicant has forfeited the continuous use of the boathouse, deduces that the ZBL no longer allows the application of Section to assist with the ZBA approval submitted by the Applicant. Mr. Tighe's assertion is contrary to Tribunal's finding on continuous use. The Tribunal has previously found that Applicant maintained continuous use of the boathouse and the sleeping cabin.

[66] Taking into consideration all the evidence and concurrently with a Tribunal finding of continuing use of the structures on the Subject Property, the Tribunal prefers the evidence of Mr. Clark which recognizes continuous use of the structures on the Subject Property. As a result, the Tribunal finds that the proposal conforms with the COP as reconstruction/expansion of structures considered as legal non-conforming.

[67] In consideration of TOP policies, Mr. Tighe anchored his opinions on the basis of the Applicant having forfeited usage of the boathouse as required to be considered for reconstruction/expansion. Mr. Clark reviewed the applicable policies regarding reconstruction and expansion as allowed under the TOP as long as suitable tests in Section 3.3.4.9 are met which he opined are met by the proposal.

[68] The Tribunal having found that the boathouse use has continued finds and prefers the evidence of Mr. Clark. The Tribunal finds that the proposal conforms with the TOP.

[69] In reviewing the ZBL for reconstruction and proposed expansion, Mr. Clark identified that the Subject Property covers an area around 8638 sq m whereas the ZBL requires a minimum lot area of 3000 sq m. Mr. Clark also showed that the maximum lot coverage of the cottage and the sleeping cabin is approximately 1.35% of the lot area whereas up to 15% is permitted in the ZBL. He established that the Subject Property represents a relatively very large lot with a very low lot coverage. He stated that the sought expansion is minimally impacting in this context. However, Mr. Tighe contested that in absolute terms, the sleeping cabin is seeking an expansion of about 71% from existing size.

[70] The Tribunal recognizes the relative increase in size sought by the Applicant for the sleeping cabin and the boathouse. The Tribunal notes that evidence shows the structures date back almost 60 plus years. In order to utilize the Subject Property fully or better in accordance with the provincial direction, the OP the reconstruction and expansion sought for the sleeping cabin and the boathouse represents a modest and appropriate approach.

[71] The Tribunal finds that the ZBA request for reconstruction/expansion are appropriate in the context of the ZBL for a legal non-conforming property as is before the Tribunal in this matter.

[72] The Tribunal makes no findings regarding the appropriate consideration of the proposal by the CVCA as such approvals or denials are not before the Tribunal at this time.

ORDER

[73] **THE TRIBUNAL ORDERS THAT** the appeal is allowed in part, on an interim basis, contingent upon confirmation, satisfaction or receipt of those pre-requisite matters identified in paragraph 74 below, and the Zoning By-law Amendment set out in Attachment 1 to this Interim Order, is hereby approved in principle.

[74] The Tribunal will withhold the issuance of its Final Order contingent upon confirmation of the following pre-requisite matters:

- a) The Applicant to complete the necessary approvals with Crowe Valley Conservation Authority and a Completion Certificate has been issued to the Parties confirming the following have been completed;
 - i. A site plan illustrating the proposed expansion has been prepared and reviewed by the Municipality and the Conservation Authority; and,
 - ii. The Conservation Authority advises that the proposed Sleeping Cabin is not located within the regulated floodline of the Kasshabog Lake.

[75] The Panel Member will remain seized for the purposes of reviewing and approving the final draft of the Zoning By-Law Amendment and the issuance of the Final Order.

[76] If the Parties do not submit the final drafts of the Zoning By-law Amendment, and provide confirmation that all other contingent pre-requisites to the issuance of the Final Order set out in paragraph 74 above have been satisfied, and do not request the issuance of the Final Order, by Friday, **March 31st, 2023**, the Applicant and the Township shall provide a written status report to the Tribunal by that date, as to the timing of the expected confirmation and submission of the final form of the draft Zoning By-law Amendment and issuance of the Final Order by the Tribunal. In the event the Tribunal fails to receive the required status report, and/or in the event the contingent pre-requisites are not satisfied by the date indicated above, or by such other deadline as the Tribunal may impose, the Tribunal may then dismiss the Appeal.

[77] The Tribunal may, as necessary, arrange the further attendance of the Parties by Telephone Conference Call to determine the additional timelines and deadline for the submission of the final form of the instrument(s), the satisfaction of the contingent pre-requisites and the issuance of the Final Order.

“Jatinder Bhullar”

JATINDER BHULLAR
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ATTACHMENT 1

Amendment to By-law No. 1995-42 of the Township of Havelock-Belmont-Methuen
THE CORPORATION OF THE TOWNSHIP OF HAVELOCK-BELMONT-METHUEN

**BY-LAW NO.
2021-.....**

BEING A BY-LAW TO AMEND BY-LAW NO. 1995-42, AS AMENDED, OTHERWISE KNOWN AS THE "THE TOWNSHIP OF HAVELOCK-BELMONT-METHUEN COMPREHENSIVE ZONING BY-LAW".

WHEREAS the Corporation of the Township of Havelock-Belmont-Methuen received of an application to amend By-law No. 1995-42, as amended.

AND WHEREAS the Council of the Corporation of the Township of Havelock-Belmont-Methuen reviewed the rezoning application passed an amendment to By-law No. 1995-42, as amended.

NOW THEREFORE, this By-law has been prepared to address the concerns raised in the appeal:

1. That Schedule 'A2' of By-law. No. 1995-42, as amended, is hereby further amended by changing the zone category of certain lands located in Part Lot 10, Concession 9, in the Methuen Ward in the Township of Havelock-Belmont-Methuen from 'Seasonal Residential (SR) Zone' to 'Special District 241 (S.D. 241) Zone' as illustrated on Schedule 'A1' attached hereto and forming part of this by-law.
2. That Section 4.46 (Special Districts) of By-law No. 1995-42, as amended, is hereby further amended with the addition of a new sub-section, namely 4.46.241, which shall read as follows:

4.46.241 Special District 241 {S.D. 241}

No person shall within any Special District 241 (S.D. 241) Zone use any land, or erect, alter or use any building or structure except in accordance with the following provisions:

Permitted Uses

- a) single detached vacation dwelling;
- b) in-water marine facility (boathouse); and
- c) sleeping cabin

Regulations for Uses Permitted in Section 4.46.241.1(b)

All provisions and regulations of Section 11 of By-law No. 1995-42, as amended, as they apply to the 'Seasonal Residential (SR) Zone', shall also apply to any 'Special District 241 (S.D. 241) Zone'; save and except as the provisions for the existing in-water marine facility (boathouse) are outlined below:

The reconstruction of the in-water marine facility (boathouse) shall be allowed to extend the original structure by 0.6 m. (2. ft.) in length and width in order that the structure complies with the following provisions:

- a) Maximum Ground Floor Area 30.5 m²
- b) Maximum Height 3.4 m

Regulations for Uses Permitted in Section 4.46.241.1(c)

All provisions and regulations of Section 11 of By-law No. 1995-42, as amended, as they apply to the 'Seasonal Residential (SR) Zone', shall also apply to any 'Special District 241 (S.D. 241) Zone'; save and except that the proposed expansion of the existing sleeping cabin.

The Expanded Sleeping Cabin shall be subject to the following regulations:

- a) Maximum Ground Floor Area 51 m²
- b) Maximum Height 4.8 m

Special Water Setback Provisions

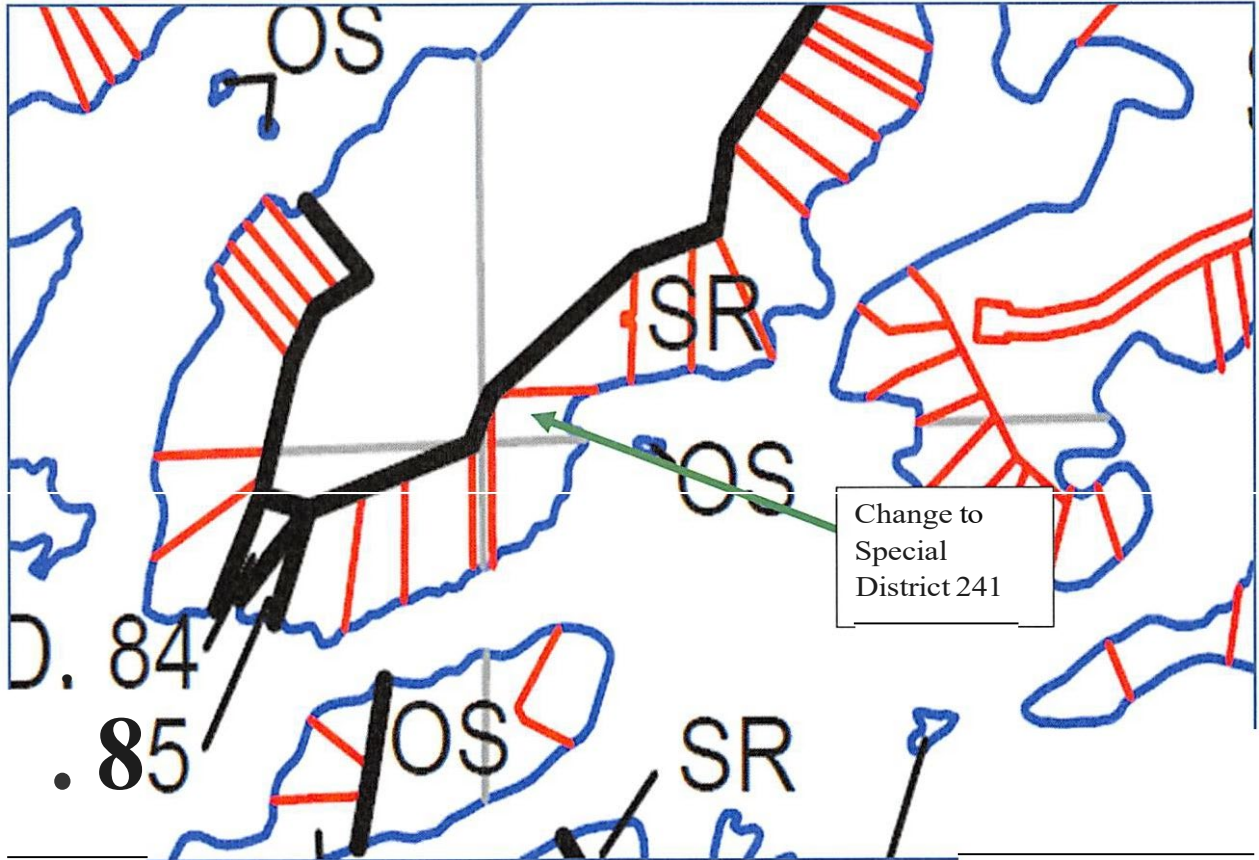
Notwithstanding any provisions of Section 4.36 of By-law No. 1995-42 as amended to the contrary, the minimum water yard setback in the 'Special District 241 (S.D. 241) Zone' shall comply with the following:

- a) Sleeping cabin 6.8 m

All other provisions of By-law No 1995-42, as amended, as they apply to the 'Seasonal Residential (SR) Zone' shall also apply to any 'Special District 241 (S.D. 241) Zone'."

This By-law shall become effective on the date of approval by the Ontario Land Tribunal.

Schedule A1



Appendix F – Ontario Regulation 159/06

Conservation Authorities Act
Loi sur les offices de protection de la nature

ONTARIO REGULATION 159/06

**CROWE VALLEY CONSERVATION AUTHORITY: REGULATION OF DEVELOPMENT,
INTERFERENCE WITH WETLANDS AND ALTERATIONS TO SHORELINES AND
WATERCOURSES**

Consolidation Period: From February 8, 2013 to the [e-Laws currency date](#).

Last amendment: 54/13.

Legislative History: 54/13, CTR 12 FE 13 - 1.

This Regulation is made in English only.

Definition

1. In this Regulation,

“Authority” means the Crowe Valley Conservation Authority. O. Reg. 159/06, s. 1.

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. O. Reg. 159/06, s. 2 (1); O. Reg. 54/13, s. 1 (1).

(2) All areas within the jurisdiction of the Authority that are described in subsection (1) are delineated as the “Regulation Limit” shown on a series of maps filed at the head office of the Authority under the map title “Ontario Regulation 97/04: Regulation for Development, Interference with Wetlands and Alterations to Shorelines and Watercourses”. O. Reg. 54/13, s. 1 (2).

(3) If there is a conflict between the description of areas in subsection (1) and the areas as shown on the series of maps referred to in subsection (2), the description of areas in subsection (1) prevails. O. Reg. 54/13, s. 1 (2).

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. O. Reg. 159/06, s. 3 (1).

(2) The permission of the Authority shall be given in writing, with or without conditions. O. Reg. 159/06, s. 3 (2).

(3) Subject to subsection (4), the Authority's executive committee, or one or more employees of the Authority that have been designated by the Authority for the purposes of this section, may exercise the powers and duties of the Authority under subsections (1) and (2) with respect to the granting of permissions for development in or on the areas described in subsection 2 (1). O. Reg. 54/13, s. 2.

(4) A designate under subsection (3) shall not grant a permission for development with a maximum period of validity of more than 24 months. O. Reg. 54/13, s. 2.

Application for permission

4. A signed application for permission to undertake development shall be filed with the Authority and shall contain the following information:

1. Four copies of a plan of the area showing the type and location of the proposed development.
2. The proposed use of the buildings and structures following completion of the development.
3. The start and completion dates of the development.
4. The elevations of existing buildings, if any, and grades and the proposed elevations of buildings and grades after the development.
5. Drainage details before and after the development.
6. A complete description of the type of fill proposed to be placed or dumped.
7. Such other technical studies or plans as the Authority may request. O. Reg. 159/06, s. 4; O. Reg. 54/13, s. 3.

Alterations prohibited

5. Subject to section 6, no person shall straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream or watercourse or change or interfere in any way with a wetland. O. Reg. 159/06, s. 5.

Permission to alter

6. (1) The Authority may grant permission to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse or to change or interfere with a wetland. O. Reg. 159/06, s. 6 (1); O. Reg. 54/13, s. 4 (1).

(2) The permission of the Authority shall be given in writing, with or without conditions. O. Reg. 159/06, s. 6 (2).

(3) Subject to subsection (4), the Authority's executive committee, or one or more employees of the Authority that have been designated by the Authority for the purposes of this section, may exercise the powers and duties of the Authority under subsections (1) and (2) with respect to the granting of permissions for alteration. O. Reg. 54/13, s. 4 (2).

(4) A designate under subsection (3) shall not grant a permission for alteration with a maximum period of validity of more than 24 months. O. Reg. 54/13, s. 4 (2).

Application for permission

7. A signed application for permission to straighten, change, divert or interfere with the existing channel of a river, creek, stream or watercourse or change or interfere with a wetland shall be filed with the Authority and shall contain the following information:

1. Four copies of a plan of the area showing plan view and cross-section details of the proposed alteration.
2. A description of the methods to be used in carrying out the alteration.
3. The start and completion dates of the alteration.
4. A statement of the purpose of the alteration.
5. Such other technical studies or plans as the Authority may request. O. Reg. 159/06, s. 7; O. Reg. 54/13, s. 5.

Cancellation of permission

8. (1) The Authority may cancel a permission granted under section 3 or 6 if it is of the opinion that the conditions of the permission have not been met. O. Reg. 159/06, s. 8 (1); O. Reg. 54/13, s. 6 (1).

(2) Before cancelling a permission, the Authority shall give a notice of intent to cancel to the holder of the permission indicating that the permission will be cancelled unless the holder shows cause at a hearing why the permission should not be cancelled. O. Reg. 159/06, s. 8 (2).

(3) Following the giving of the notice under subsection (2), the Authority shall give the holder at least five days notice of the date of the hearing. O. Reg. 159/06, s. 8 (3); O. Reg. 54/13, s. 6 (2).

Period of validity of permissions and extensions

9. (1) The maximum period, including an extension, for which a permission granted under section 3 or 6 may be valid is,

- (a) 24 months, in the case of a permission granted for projects other than projects described in clause (b); and
- (b) 60 months, in the case of a permission granted for,
 - (i) projects that, in the opinion of the Authority or its executive committee, cannot reasonably be completed within 24 months from the day the permission is granted, or
 - (ii) projects that require permits or approvals from other regulatory bodies that, in the opinion of the Authority or its executive committee, cannot reasonably be obtained within 24 months from the day permission is granted. O. Reg. 54/13, s. 7.

(2) The Authority or its executive committee may grant a permission for an initial period that is less than the applicable maximum period specified in subsection (1) if, in the opinion of the Authority or its executive committee, the project can be completed in a period that is less than the maximum period. O. Reg. 54/13, s. 7.

(3) If the Authority or its executive committee grants a permission under subsection (2) for an initial period that is less than the applicable maximum period of validity specified in subsection (1), the Authority or its executive committee may grant an extension of the permission if,

- (a) the holder of the permission submits a written application for an extension to the Authority at least 60 days before the expiry of the permission;
- (b) no extension of the permission has previously been granted; and
- (c) the application sets out the reasons for which an extension is required and, in the opinion of the Authority or its executive committee, demonstrates that circumstances beyond the control of the holder of the permission will prevent completion of the project before the expiry of the permission. O. Reg. 54/13, s. 7.

(4) When granting an extension of a permission under subsection (3), the Authority or its executive committee may grant the extension for the period of time requested by the holder in the application or for such period of time as the Authority or its executive committee deems appropriate, as long as the total period of validity of the permission does not exceed the applicable maximum period specified in subsection (1). O. Reg. 54/13, s. 7.

(5) For the purposes of this section, the granting of an extension for a different period of time than the period of time requested does not constitute a refusal of an extension. O. Reg. 54/13, s. 7.

(6) The Authority or its executive committee may refuse an extension of a permission if it is of the opinion that the requirements of subsection (3) have not been met. O. Reg. 54/13, s. 7.

(7) Before refusing an extension of a permission, the Authority or its executive committee shall give notice of intent to refuse to the holder of the permission, indicating that the extension will be refused unless,

- (a) the holder requires a hearing, which may be before the Authority or its executive committee, as the Authority directs; and
- (b) at the hearing, the holder satisfies the Authority, or the Authority's executive committee, as the case may be,
 - (i) that the requirements of clauses (3) (a) and (b) have been met, and
 - (ii) that circumstances beyond the control of the holder will prevent completion of the project before the expiry of the permission. O. Reg. 54/13, s. 7.

(8) If the holder of the permission requires a hearing under subsection (7), the Authority or its executive committee shall give the holder at least five days notice of the date of the hearing. O. Reg. 54/13, s. 7.

(9) After holding a hearing under subsection (7), the Authority or its executive committee shall,

- (a) refuse the extension; or
- (b) grant an extension for such period of time as it deems appropriate, as long as the total period of validity of the permission does not exceed the applicable maximum period specified in subsection (1). O. Reg. 54/13, s. 7.

(10) Subject to subsection (11), one or more employees of the Authority that have been designated by the Authority for the purposes of this section may exercise the powers and duties of the Authority under subsections (2), (3) and (4), but not those under subsections (6), (7), (8) and (9). O. Reg. 54/13, s. 7.

(11) A designate under subsection (10) shall not grant an extension of a permission for any period that would result in the permission having a period of validity greater than 24 months. O. Reg. 54/13, s. 7.

Appointment of officers

10. The Authority may appoint officers to enforce this Regulation. O. Reg. 159/06, s. 10.

Flood event standards

11. The applicable flood event standards used to determine the maximum susceptibility to flooding of lands or areas within the watersheds in the area of jurisdiction of the Authority are the Hurricane Hazel Flood Event Standard, the 100 year flood level and the Timmins Flood Event Standard described in Schedule 1. O. Reg. 159/06, s. 11.

12. REVOKED: O. Reg. 54/13, s. 8.

SCHEDULE 1

1. The Hurricane Hazel Flood Event Standard means a storm that produces over a 48-hour period,
 - (a) in a drainage area of 25 square kilometres or less, rainfall that has the distribution set out in Table 1; or
 - (b) in a drainage area of more than 25 square kilometres, rainfall such that the number of millimetres of rain referred to in each case in Table 1 shall be modified by the percentage amount shown in Column 2 of Table 2 opposite the size of the drainage area set out opposite thereto in Column 1 of Table 2.

TABLE 1

73 millimetres of rain in the first 36 hours
6 millimetres of rain in the 37th hour
4 millimetres of rain in the 38th hour
6 millimetres of rain in the 39th hour
13 millimetres of rain in the 40th hour
17 millimetres of rain in the 41st hour
13 millimetres of rain in the 42nd hour
23 millimetres of rain in the 43rd hour
13 millimetres of rain in the 44th hour
13 millimetres of rain in the 45th hour
53 millimetres of rain in the 46th hour
38 millimetres of rain in the 47th hour
13 millimetres of rain in the 48th hour

TABLE 2

Column 1	Column 2
Drainage Area (square kilometres)	Percentage
26 to 45 both inclusive	99.2
46 to 65 both inclusive	98.2
66 to 90 both inclusive	97.1
91 to 115 both inclusive	96.3
116 to 140 both inclusive	95.4
141 to 165 both inclusive	94.8
166 to 195 both inclusive	94.2
196 to 220 both inclusive	93.5
221 to 245 both inclusive	92.7
246 to 270 both inclusive	92.0
271 to 450 both inclusive	89.4
451 to 575 both inclusive	86.7
576 to 700 both inclusive	84.0
701 to 850 both inclusive	82.4
851 to 1000 both inclusive	80.8
1001 to 1200 both inclusive	79.3
1201 to 1500 both inclusive	76.6
1501 to 1700 both inclusive	74.4
1701 to 2000 both inclusive	73.3
2001 to 2200 both inclusive	71.7
2201 to 2500 both inclusive	70.2
2501 to 2700 both inclusive	69.0
2701 to 4500 both inclusive	64.4
4501 to 6000 both inclusive	61.4
6001 to 7000 both inclusive	58.9
7001 to 8000 both inclusive	57.4

2. The 100 year flood level means the peak instantaneous still water level plus an allowance for wave uprush and other water-related hazards for Lake Ontario that has a probability of occurrence of one per cent during any given year.

3. The Timmins Flood Event Standard means a storm that produces over a 12-hour period,
- (a) in a drainage area of 25 square kilometres or less, rainfall that has the distribution set out in Table 3; or
 - (b) in a drainage area of more than 25 square kilometres, rainfall such that the number of millimetres of rain referred to in each case in Table 3 shall be modified by the percentage amount shown in Column 2 of Table 4 opposite the size of the drainage area set out opposite thereto in Column 1 of Table 4.

TABLE 3

15 millimetres of rain in the first hour
20 millimetres of rain in the second hour
10 millimetres of rain in the third hour
3 millimetres of rain in the fourth hour
5 millimetres of rain in the fifth hour
20 millimetres of rain in the sixth hour
43 millimetres of rain in the seventh hour
20 millimetres of rain in the eighth hour
23 millimetres of rain in the ninth hour
13 millimetres of rain in the tenth hour
13 millimetres of rain in the eleventh hour
8 millimetres of rain in the twelfth hour

TABLE 4

Column 1	Column 2
Drainage Area (Square Kilometres)	Percentage
26 to 50 both inclusive	97
51 to 75 both inclusive	94
76 to 100 both inclusive	90
101 to 150 both inclusive	87
151 to 200 both inclusive	84
201 to 250 both inclusive	82
251 to 375 both inclusive	79
376 to 500 both inclusive	76
501 to 750 both inclusive	74
751 to 1000 both inclusive	70
1001 to 1250 both inclusive	68
1251 to 1500 both inclusive	66
1501 to 1800 both inclusive	65
1801 to 2100 both inclusive	64
2101 to 2300 both inclusive	63
2301 to 2600 both inclusive	62
2601 to 3900 both inclusive	58
3901 to 5200 both inclusive	56
5201 to 6500 both inclusive	53
6501 to 8000 both inclusive	50

O. Reg. 159/06, Sched. 1.

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