

RIDEAU VALLEY CONSERVATION AUTHORITY
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Meeting Held Electronically due to COVID-19 State of Emergency

APPROVED MINUTES

Executive Committee Meeting March 11, 2021 7:00 pm #1/21

Present:	Judy Brown Pieter Leenhouts	Brian Dowdall Melissa Sullivan
Staff:	Terry Davidson Michelle Paton	Eric Lalande

Pieter Leenhouts, Chair, called the meeting to order at 7:02 and conducted a roll call.

1. Hearing of Applicant:

File Number: RV6-0321

Name: Ronald and Lynda Williams

Purpose of Development Application:

1. The construction of a structure to be used as a residential building 108.9 m² (1,172 sq. ft.).
2. The proposed structure would be supported by private services.

Legal Description of Property:

Part Lot 24, Concession 1, geographic township of Rideau, now the City of Ottawa, known as 6793 Rideau Valley Drive South.
Roll #: 0614828251930700000

Motion 1-210311	Moved by:	Brian Dowdall
	Seconded by:	Melissa Sullivan

That the RVCA Executive Committee sit as a Hearing Board.

Motion Carried

Pieter Leenhouts, Chair, outlined the purpose of a hearing under Section 28 (12) of the *Conservation Authorities Act*, R.S.O.1990 as amended to the applicants, Lynda and Ronald Williams.

Lynda and Ronald Williams were affirmed. Eric Lalande and Terry Davidson, representing the Rideau Valley Conservation Authority, were also affirmed.

The following exhibits, slides, and information were presented by Eric Lalande.

- Exhibit 1 - Application. RV6-0321, received January 21, 2021
- Slide 1 - Site Description: 6793 Rideau Valley Drive South
 - Lot is currently vacant
 - Rideau Valley Drive South provides frontage to the west
 - a vacant lot is adjacent to the north,
 - an existing residential lot is adjacent to the south
 - the Rideau River runs along the easterly bounds of the land
- Exhibit 2 - Location Plan. GoogleMap showing location of 6793 Rideau Valley Road South.
- Exhibit 3 - Regulation Map. RVCA GeoPortal showing location of 6793 Rideau Valley Road South
- Slide 2 - Site Description: 6793 Rideau Valley Drive South
 - the lot slopes west to east, towards the Rideau River with a frontage of 30.48 metres, and an approximate depth of 83.53 metres and a total lot area of 0.26 ha.
 - The regulated flood level across the subject lands is 87.62 metres above sea level.
 - No points of the subject lands are identified as being at or above the 1:100 year flood elevation and the approximate elevations in the location of the proposed dwelling are 86.67 metres above sea level.
- Exhibit 4(a) - Site Photo taken February 10, 2021 looking west to east
- Exhibit 4(b) - Site Photo
- Slide 3 - Application Summary
 - Proposed development to permit the construction of a structure a to be used as a residential building (cottage) measuring 108.9 m² (1172 sq. ft.).
 - The proposed structure would be supported by private services.
- Exhibit 5 - Proposed Site Plan
- Slide 4 - Project Considerations:

The application submitted with supporting documents related to specific design criteria to address and mitigate potential hazards. The submitted information includes architectural drawings showing the internal layout of the structure and elevations which show the proposed structure raised to be a finished floor at 88.53 metres above sea level (geodetic) and between 2-3 metres above the top of existing grade. The raised structure is predicated on a foundation design which is intended to allow and withstand flooding within the structure.
- Exhibit 6 - Kars Secondary Plan
- Exhibit 7 - Proposed Foundation Structure
- Exhibit 8 - Foundation Structure Details
- Exhibit 9 - Proposed Cottage Building Plans
- Exhibit 9(b) - Proposed Cottage Building Plans

- Slide 5 - RVCA Policy Considerations
 Section 1.1, General Principles, indicates the following:
a) New development must result in no significant impact on expected flood levels or velocities, taking into consideration the direct and cumulative effects of the development on flood plain conveyance capacity and storage capacity.
c) New development must not increase the risks to public safety which are expected to be present during the regulatory flood (or more frequent floods); in this regard the availability of access to and egress from the structure and the potential depths of water over access routes will be the primary consideration.
- Slide 6 - RVCA Policy Considerations Cont'd
 Section 1.2 vii) states that development shall be prohibited within the 1:100 year floodplain including within areas of reduced flood risk (flood fringe) where the use is:
Development within the 1:100 year regulatory floodplain shall not be permitted except as allowed by specific policies elsewhere in this document. This includes:
 ...
*vii) **new development on vacant lots of record;***
 ...”
 It should be noted that no other policies provide for an exception to this subsection. It is noted that exceptions are outlined in section 1.3 relate to reconstruction, relocation, repairs and renovations which construction of a new residential building does not qualify. The proposed development is expressly prohibited by policy therefore cannot be supported for approval.
- Slide 7 - RVCA Policy Considerations Cont'd
 Section 1.4.4 policy states:
 For vehicular and pedestrian access routes (municipal roadways and private rights-of-way) safe access will be considered to be available if the depth of flooding at regulatory (1:100 year) flood level along the full length of the travelled surface of the access roadway or right-of-way is no greater than 0.3 metres. Rideau Valley Drive South along the centre line is above the regulated flood elevation of 87.26 masl. The depth of flooding increases to greater than 0.3 metres as the grade drops towards the river and the driveway approach to the proposed dwelling when evaluating existing grades.
- Slide 8 - Other Policy Considerations
Provincial Policy Statement, 2020
 • *3.1.2 Development and site alteration shall not be permitted within:*
 • *d) a floodway regardless of whether the area of inundation contains high points of land not subject to flooding*
- Exhibit 10 - Historic Site Photo 08/04/2017
 Exhibit 11 - Letter of Notification dated February 18, 2021

- Slide 9 - Conservation Authorities Act
Right to hearing
- (12) Permission required under a regulation made under clause (1) (b) or (c) shall not be refused or granted subject to conditions unless the person requesting the permission has been given the opportunity to require a hearing before the authority or, if the authority so directs, before the authority's executive committee. 1998, c. 18, Sched. I, s. 12.
- Slide 10 - Summary
Approval at a staff level cannot be made for the following reason:
1. Section 1.2 vii) of RVCA Policies Regarding the Construction of Buildings and Structures, Placing of Fill and Alterations to Waterways explicitly prohibits new development on vacant lots of record.
- Slide 11 - Ontario Regulation 174/06
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. 174/06, s. 3 (1).
- Slide 12 - Next Steps
- Approve the application
 - Approve the application with conditions
 - Deny the application
- Slide 13 - Any decision to approve the proposal should consider the following conditions as part of their direction to staff for administration of permission issuance:
1. That private services be designed and approved in accordance with the Ontario Building Code, to the satisfaction of the Ottawa Septic System Office.
 2. That a notice on title be registered with a warning clause advising of the dwelling being located within the floodplain hazard limits associated with the Rideau River floodplain, and that safe access may not be available in an emergency.
 3. That a professional engineer certify the designed structure shall meet or exceed the floodproofing designed standards of the RVCA's Policies Regarding the Construction of Buildings and Structures, Placing of Fill and Alterations to Waterways.
 4. That standard permit conditions related to access, inspection and fill placement be implemented.
 5. That a permit be approved for up to 2 years from the date of permit issuance.

Issues Specific to the Development Proposal:

- The proposed development is to permit the construction of a structure a to be used as a residential building 108.9 m² (1172 sq. ft.). The proposed structure would be supported by private services. The development application was submitted with the following information:

- Lot Survey dated December 3, 2020 with geodetic elevations
- Lot Survey with proposed building
- Lot Survey dated May 27, 1991
- Information on Triodetic residential tubular foundations
- Information on Bonneville Homes, Natur-Eco model.
- Village of Kars, Secondary Plan Schedule I, Designation Plan.

It is noted that required private sewage system information was not required at the time of application based on the nature of the proposal.

- The subject lands are located in the Village of Kars, bounded by Rideau Valley Drive South providing frontage to the west, a vacant lot adjacent to the north, an existing residential lot adjacent to the south, and the Rideau River along the easterly bounds of the land. The lot slopes west to east, towards the Rideau River with a frontage of 30.48 metres, and an approximate depth of 83.53 metres and a total lot area of 0.26 ha.
- The regulated flood level across the subject lands is 87.62 meters above sea level. No points of the subject lands are identified as being at or above the elevation and the approximate elevations in the location of the proposed dwelling are 86.67 meters above sea level.
- The application submitted on January 21, 2021 along with supporting documents related to specific design criteria to address and mitigate potential hazards. The submitted information includes architectural drawings showing the internal layout of the structure and elevations which show the proposed structure raised to be a finished floor at 88.53 metres above sea level (geodetic) and between 2-3 metres above the top of existing grade. The raised structure is predicated on a foundation design which is intended to allow and withstand flooding within the structure.

Legislation and Policy Considerations

Conservation Authorities Act – Section 28

28 (1) Subject to subsections (2), (3) and (4) and section 28.1, no person shall carry on the following activities, or permit another person to carry on the following activities, in the area of jurisdiction of an authority:

2. Development activities in areas that are within the authority's area of jurisdiction and are,
 - i. hazardous lands,

28.1 (1) An authority may issue a permit to a person to engage in an activity specified in the permit that would otherwise be prohibited by section 28, if, in the opinion of the authority,

- (a) the activity is not likely to affect the control of flooding, erosion, dynamic beaches or pollution or the conservation of land;
- (b) the activity is not likely to create conditions or circumstances that, the event of a natural hazard, might jeopardize the health or safety persons or result in the damage or destruction of property; and
- (c) any other requirements that may be prescribed by the regulations are met. 2017, c. 23, Sched. 4, s. 25.

Hearing

28.1 (5) An authority shall not refuse an application for a permit or attach conditions to a permit unless the applicant for the permit has been given an opportunity to be heard by the authority. 2017, c. 23, Sched. 4, s. 25.

The applicant was advised prior to the application being made and by formal letter, dated February 18, 2021 that staff would not be in a position to support the application and thus the application has been brought forward to a hearing with the Executive Committee.

Ontario Regulation 174/06, Development Prohibited – Section 2, 3

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,

- (c) hazardous lands;

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. 174/06, s. 3 (1).

Policy Considerations

The RVCA Policies regarding the Construction of Buildings and Structures, Placing of Fill and Alterations to Waterways outline specific policies that apply to the proposed development:

Section 1.1, General Principles, indicates the following:

- a) New development must result in no significant impact on expected flood levels or velocities, taking into consideration the direct and cumulative effects of the development on flood plain conveyance capacity and storage capacity.*
- c) New development must not increase the risks to public safety which are expected to be present during the regulatory flood (or more frequent floods); in this regard the availability of access to and egress from the primary consideration.*

Section 1.2 vii) states that development shall be prohibited within the 1:100 year floodplain including within areas of reduced flood risk (flood fringe) where the use is:

Development within the 1:100 year regulatory floodplain shall not be permitted except as allowed by specific policies elsewhere in this document. This includes:

...
vii) *new development on vacant lots of record;*
..."

It should be noted that no other policies provide for an exception to this subsection. It is noted that exceptions are outlined in section 1.3 relate to reconstruction, relocation, repairs and renovations which construction of a new residential building does not qualify. The proposed development is expressly prohibited by policy therefore cannot be supported for approval.

Section 1.4.4 policy states:

For vehicular and pedestrian access routes (municipal roadways and private rights-of-way) safe access will be considered to be available if the depth of flooding at regulatory (1:100 year) flood level along the full length of the travelled surface of the access roadway or right-of-way is no greater than 0.3 metres.

Rideau Valley Drive South along the centre line is above the regulated flood elevation of 87.26 masl. The depth of flooding increases to greater than 0.3 metres as the grade drops towards the river and the driveway approach to the proposed dwelling when evaluating existing grades.

Provincial Policy Statement, 2020

3.1.2 Development and site alteration shall not be permitted within:

- d) a floodway regardless of whether the area of inundation contains high points of land not subject to flooding

Eric Lalande reiterated that no points of the subject lands are identified as being at or above the 1:100 year flood elevation.

A staff approval cannot be made for the following reasons:

1. Section 1.2 vii) of RVCA Policies Regarding the Construction of Buildings and Structures, Placing of Fill and Alterations to Waterways explicitly prohibits new development on vacant lots of record.

Any decision to approve the proposal should consider the following conditions as part of their direction to staff for administration of permission issuance:

1. That private services be designed and approved in accordance with the Ontario Building Code, to the satisfaction of the Ottawa Septic System Office.
2. That a notice on title be registered with a warning clause advising of the dwelling being located within the floodplain hazard limits associated with the Rideau River floodplain, and that safe access may not be available in an emergency.
3. That a professional engineer certify the designed structure shall meet or exceed the floodproofing designed standards of the RVCA's Policies Regarding the Construction of Buildings and Structures, Placing of Fill and Alterations to Waterways.
4. That standard permit conditions related to access, inspection and fill placement be implemented.
5. That a permit be approved for up to 2 years from the date of permit issuance.

Discussion

Ron Williams stated that Exhibit 10 was an inaccurate representation. Mr. Williams explained that the photo had been taken at a time when two culverts had collapsed preventing the drainage of water. Since that time, the culvert in front of the subject property has been repaired. The neighbour's culvert is to be repaired this year.

In response to a question from Judy Brown, Ron Williams confirmed that parts of the property to the south had been backfilled.

In response to a question from Judy Brown about in-ground septic systems in a property identified as being below the 1:100 year flood elevation, Ron Williams explained that he had been conducting research into available environmentally-friendly septic systems. Eric Lalande clarified that RVCA staff had not asked for septic information to be submitted with the application due to the nature of the application. Any septic system would have to be designed and approved in accordance with the Ontario Building Code and to the satisfaction of the Ottawa Septic System Office.

In response to a request for clarification from Melissa Sullivan regarding vacant lots of record, Eric Lalande explained that Section 1.2 vii) of RVCA Policies Regarding the Construction of Buildings and Structures, Placing of Fill and Alterations to Waterways explicitly prohibits new development on vacant lots of record. The policy discourages new development within a hazard area.

In response to a question from Brian Dowdall, Eric Lalande confirmed that the foundation would use steel tubing which would meet the loading requirements. Ron Williams added that Triodetic multi-point foundations are designed for residential use in floodplains and that Triodetic staff endorse the application under these particular circumstances. Mr. Williams added that the foundations are manufactured in Arnprior, Ontario, and have been used by the military world-wide. Mr. Williams confirmed that there would be no need for fill to be added or removed.

In response to a question from Judy Brown regarding Exhibit 10 - Historic Site Photo 08/04/2017, Terry Davidson confirmed that the picture had been taken during what was classified as a 1:2 or 1:5 flood event.

In response to a question from Brian Dowdall about the official designation of the subject property, Eric Lalande noted that, while the Kars Secondary Plan allows for residential uses, it does not take include a natural hazard overlay or a zoning floodplain overlay.

In response to a question from Chair Leenhouts, Eric Lalande confirmed that private services would be required as no municipal services were available to the subject property.

Pieter Leenhouts, Chair, thanked Eric Lalande for his information.

Lynda Williams addressed the Executive Committee and presented the following information:

- Exhibit 12 - Correspondence from Ron and Lynda Williams to the Rideau Valley Conservation Executive Committee
- Exhibit 13 - Application
- Exhibit 14 - Plan of Survey prepared by Annis, O'Sullivan, Vollebakk Ltd. dated Dec. 3, 2020 with geodetic elevations
- Exhibit 15 - Lot Survey with placement of cottage
- Exhibit 16 - Lot Survey dated May 27, 1991
- Exhibit 17 - City of Ottawa Map of Proposed Flood Plain Overlay
- Exhibit 18 - Information on Goliathtech Helical Screw Piles
- Exhibit 19 - Photo of Chapman Mills showing application of Screw Piles
- Exhibit 20 - Information on Triodetic's Foundations for Modular Buildings, Unstable Soils & Floodplains
- Exhibit 21 - Information on Bonneville Homes
- Exhibit 22 - Section 28
- Exhibit 23 - City of Ottawa's Rural Residential Land Survey 2017-2018 Update
- Exhibit 24 - Email Correspondence from Councillor Scott Moffatt to Lynda Williams dated February 6, 2021 which included a forwarded email from Royce Fu, City of Ottawa Planner III to Councillor Scott Moffatt (undated).

Lynda Williams expressed confusion with the various policies that property owners had to navigate: the *Conservation Authorities Act, Ontario Regulation 174/06*, Provincial Policy Statements 2020, the City of Ottawa's Official Plan and RVCA's Development Policies. Ms. Williams stated that she found that the language used also varied from policy to policy.

Lynda Williams stated that she had contacted Councillor Scott Moffatt to ask for assistance. Councillor Moffatt directed them to the City of Ottawa's Planning, Infrastructure and Economic Development Department. Lynda Williams noted that under the City of Ottawa's Official Plan and the Kars Secondary Plan, single family homes were permitted. Ms. Williams directed Members to Exhibit 24. In this Exhibit, Royce Fu, Planner III with the City of Ottawa, states that when

reviewing a vacant parcel, and in the absence of applications, the Rural Residential Land Survey relies on zoning and Official Plan policies. The vacant parcel in question was identified as KA7 and regulated as the DR1 Zone which permits one detached dwelling. Ms. Williams confirmed that she had researched Mr. Fu's reference to a 2017 reduction in vacant lands at the Vars Business Park Highway 417 and Rockland Road due to changes in floodplain mapping. She determined that this change to available vacant land had come about through Official Plan Amendment #150. Ms. Williams could not find any amendments to the Official plan that would impact the Kars area.

Lynda Williams stated that safe access is available to the property according to the Provincial Policy Statements 2020. Ron Williams suggested that a walkway similar to the one used at Chapman Mills Conservation could be installed to address access issues from the proposed building to the road. Mr. Williams noted that the proposed cottage foundation uses the same materials as the pedestrian bridge at Chapman Mills Conservation Area.

Lynda Williams noted that Sections 2.1 and 3.1 Ontario Regulation 174/06 seemed somewhat contradictory but stated that their proposal would meet floodproofing requirements under Section 3.1:

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. 174/06, s. 3 (1).

Ron Williams agreed adding that their proposal would not harm or have any impact on the building, property or people.

Lynda Williams concluded her presentation by saying that they had tried very hard to consider the environment by using a small footprint which is only 4 percent of the lot size. Ms. Williams expressed confidence that the proposal met all requirements. Ron Williams concluded by saying that there were no safety or environmental issues outstanding.

Discussion

In response to a question from Brian Dowdall, Eric Lalande confirmed that the lot slopes from west to east, towards the Rideau River with a frontage of 30.48 metres, and an approximate depth of 83.53 metres and a total lot area of 0.26 hectares

Pieter Leenhouts, Chair, thanked Lynda and Ron Williams for their information.

Motion 2-210311

Moved by:

Judy Brown

Seconded by:

Melissa Sullivan

That the RVCA Executive move in camera.

Motion Carried

Decision

Motion 3-210311 **Moved by:** Brian Dowdall
Seconded by: Judy Brown

That Application RV6-0321 be denied with the following reasons:

1. The entirety of the subject land is within the limits of the floodplain.
2. The subject land is considered a vacant lot of record.
3. New development is prohibited on vacant lots of record.
4. The granting of permission will set a precedent.

Motion Carried

Motion 4-210311 **Moved by:** Brian Dowdall
Seconded by: Melissa Sullivan

That the RVCA Executive Committee members move out of camera.

Motion Carried

Formal written notice will be provided once the hearing minutes have been prepared. The decision may be appealed directly to the Minister of Natural Resources for Ontario within 30 days of receipt of the written reasons.

Motion 5-210311 **Moved by:** Judy Brown
Seconded by: Brian Dowdall

That the RVCA Executive Committee move out of Hearing Board and sit as an Executive Committee.

Motion Carried

Pieter Leenhouts excused staff and the applicants.

2. Approval of Minutes

August 13, 2020

Motion 6-210311 **Moved by:** Judy Brown
Seconded by: Brian Dowdall

That the Executive Committee Meeting minutes of August 13, 2020 be approved as circulated.

Motion Carried

March 4, 2021

Motion 7-210311

Moved by:

Judy Brown

Seconded by:

Melissa Sullivan

That the Executive Committee Meeting minutes of March 4, 2020 be approved as circulated.

Motion Carried

3. Adjournment

The meeting adjourned at 8:06 p.m. on a motion by Melissa Sullivan that was seconded by Brian Dowdall.

Pieter Leenhouts
Chair

Michelle Paton
Recording Secretary