

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

APPROVED MINUTES

Executive Committee Meeting May 6, 2021 7:00 pm #4/21

Present:	Judy Brown Pieter Leenhouts	Brian Dowdall
Staff:	Jamie Batchelor Michelle Paton	Terry Davidson

Pieter Leenhouts, Chair, apologized for the technical difficulties that delayed the start of the virtual meeting. Chair Leenhouts called the meeting to order at 7:27 and conducted a visual roll call.

1. Hearing of Applicant:

File Number: RV3-1821

Name: William and Carolyn Boivin

Purpose of Development Application:

1. The construction of a new one-storey residence (4130 square footprint including an attached garage, two porches, and a three-season porch
2. The construction of a new one-storey detached garage (2090 square feet including porch) entirely within the regulation limit.
3. The installation of an Ecoflo STB-730 PR Class 14 private on-site sewage disposal system entirely within the regulation limit.
4. The placement of 110 cubic metres of fill within the 1:100 year floodplain of the Rideau River.
5. A compensating cut of 112 cubic metres of fill within the 1:100 year floodplain of the Rideau River.

Legal Description of Property:

2437 Pine Avenue, Part Lot 19, Con 1, formerly Osgoode, now the City of Ottawa, Registered Plan 4R-11681

Motion 1-210506

Moved by:

Brian Dowdall

Seconded by:

Judy Brown

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 applicant, Carolyn Boivin and her Agent, Craig Houle.

Carolyn Boivin and Craig Houle, representing the Applicant, were affirmed. Jamie Batchelor and Terry Davidson, representing the Rideau Valley Conservation Authority, were also affirmed.

The following exhibits, slides, and information were presented by Jamie Batchelor.

Exhibit 1 - Application. RV3-1821, received March 4, 2021

Slide 1 - Site Description:

- Lot is vacant
- Fronting Pine Avenue including access
- Surrounding adjacent properties are developed
- 1:100 year flood elevation is 87.15 geodetic

Exhibit 2 - Location Plan. GoogleMap showing location of 2437 Pine Avenue

Exhibit 3(a) - Regulation Map. RVCA GeoPortal showing location of 2437 Pine Avenue

Exhibit 3(b) - Regulation Map. Close Up. RVCA GeoPortal showing location of 2437 Pine Avenue

Exhibit 4 - Application Summary

- The construction of a new one-storey residence (4130 square footprint including an attached garage, two porches, and a three-season porch
- The construction of a new one-storey detached garage (2090 square feet including porch) entirely within the regulation limit.
- The installation of an Ecoflo STB-730 PR Class 14 private on-site sewage disposal system entirely within the regulation limit.
- The placement of 110 cubic metres of fill within the 1:100 year floodplain of the Rideau River.
- A compensating cut of 112 cubic metres of fill within the 1:100 year floodplain of the Rideau River.

Exhibit 5(a) - Site Photo taken May 5, 2021 looking west to east

Exhibit 5(b) - Site Photo taken August 6, 2020

Exhibit 6 - Proposed Site Plan / Grading Plan

Exhibit 7 - House Plans

Exhibit 7(a) - House Plans cont'd

- Exhibit 7(b) - House Plans cont'd
 - Exhibit 7(c) - House Plans cont'd
 - Exhibit 7(d) - House Plans cont'd
 - Exhibit 8 - Garage Plans
 - Exhibit 8(a) - Garage Plans cont'd
 - Exhibit 9 - Technical Memorandum from Evelyn Liu dated April 1st, 2021
 - Exhibit 10 - Response from Gemtec (Craig Houle) dated April 27, 2021 (email)
Ms Liu indicated acceptance of the response but asked for a written report.
- Slide 2 - Policy Considerations
- Section 1.1 General Principles
 - (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.
- The proposed fill for the driveway is to ensure safe access/egress is available to the property.
- Slide 3 - Policy Considerations cont'd
- Section 1.2
 - 1) Development within the 1:100 year regulatory floodplain shall not be permitted except as allowed by specific policies elsewhere in this document. This includes:
 - ix Development on high points of land outside the floodway but within the regulatory limits of the regulation where safe access is not available.
- The portion of the property where the development is proposed is a high point. Currently safe access to the high point does not have safe access/egress as defined in the Development Policies.
- Slide 4 - RVCA Policy Considerations
- Section 2.0, Subsection 2.1 of the RVCA Policies regarding Development indicates the following:
Minor removal or placement of fill / minor site grading in the floodplain
- 2.1 Exceptions may be considered for the minor removal or placement of fill/minor site grading/minor site alteration in the floodway where flood depths in the floodway are shallow, flow velocities are minimal and the proposed development or site alteration is considered to be minor in nature with no impact in terms of its effect on the control of flooding, pollution, erosion and the conservation of lands such that:
- (i) The site alteration (cut and fill operation) is confined to lands toward the edge of the flood plain with ground elevations that are at present no more than 0.3 metres lower than the estimated 1:100 year water-surface elevation of the river or stream (public safety risks associated with lands that are flooded to depths of 0.3 metres or less may be considered as “minor”).

The proposed fill for the driveway is occurring on existing ground elevations that are more than 0.3 metres in depth. Therefore, the fill proposed would not meet this policy. The cut is also from the floodplain which is typically not permitted.

Exhibit 11 - Fill for Driveway

Exhibit 12(a) – Letter of Notification dated April 26, 2021

Slide 5 - *Conservation Authorities Act* – Right to Hearing

Slide 6 - Ontario Regulation 174/06

Slide 7 - Next Steps

Slide 8 - Summary

Issues Specific to the Development Proposal:

- A portion of the property is within the 1:100 year floodplain of the Rideau River. The 1:100 year flood elevation at this location is 87.15 metres geodetic.
- The lot is vacant.
- The proposal is for the construction of a new residence, a detached garage and an on-site private sewage disposal system entirely outside of the 1:100 year floodplain.
- A total of 110 cubic metres of fill is proposed to raise the driveway above the floodplain to provide safe access/egress.
- A compensating cut of 111 cubic metres is proposed. The compensated cut is within the 1:100 year floodplain of the Rideau River.

Legislation and Policy Considerations

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.

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).

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.

RVCA Local Development Policies Last revised November 25, 2010

Section 1.1 of the RVCA Policies regarding Development indicates the following:

- 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 structures and potential depths of water over access routes will be the primary consideration.*

Section 1.2 of the RVCA Policies regarding Development indicates:

1. *Development within the 1:100 year regulatory floodplain shall not be permitted except as allowed by specific policies elsewhere in this document. This includes:*
2. *IX. Development on high points of land outside the floodway but within the regulatory limits of the regulation where safe access is not available.*

Section 2.0, Subsection 2.1 of the RVCA Policies regarding Development indicates the following:

Minor removal or placement of fill / minor site grading in the floodplain.

- 2.1 *Exceptions may be considered for the minor removal or placement of fill/minor site grading/minor site alteration in the floodway where flood depths in the floodway are shallow, flow velocities are minimal and the proposed development or site alteration is considered to be minor in nature with no impact in terms of its effect on the control of flooding, pollution, erosion and the conservation of lands such that:*
 - (i) *The site alteration (cut and fill operation) is confined to lands toward the edge of the flood plain with ground elevations that are at present no more than 0.3 metres lower than the estimated 1:100 year water-surface elevation of the river or stream (public safety risks associated with lands that are flooded to depths of 0.3 metres or less may be considered as "minor").*

Analysis

The proposed development of the residence, the detached garage and the on-site private sewage disposal system is entirely outside of the 1:100 year floodplain. In order to access the high point of land on the property, a driveway must be constructed in the 1:100 year floodplain. It is proposed to place 110 cubic metres of fill to bring the driveway above the 1:100 year floodplain and provide safe and dry access to the property. The depth of the fill required at the lowest point of the driveway is 86.718 metres geodetic (0.432 metres below the 1:100 year) and therefore would not meet Section 2, Subsection 2.1 (i) of the RVCA's Development Policies. A compensating cut

of 111 cubic metres is proposed within the floodplain. From a technical perspective, the balanced cut and fill proposal would not impact the control of flooding. The proposal addresses one of the main concerns from a public health and safety perspective by creating safe access/egress for emergency vehicles to the property. In staff's opinion, the issue of safe access/egress would outweigh the concerns of the placement of fill at a depth of greater than 0.3 metres. After careful consideration, it is staff's opinion that this proposal would meet the intent of the RVCA's Development Policies.

A staff approval cannot be made for the following reasons:

1. The compensating cut is proposed within the 1:100 year floodplain of the Rideau River.
2. The proposed grade changes exceed 0.3 metres. Therefore, the approval of this application would be inconsistent with Section 2.0, subsection 2.1 (i) of the RVCA's Development policies amended and approved February 18th and revised November 25th, 2010.

However, RVCA staff are comfortable with an exception be granted subject to the following conditions:

1. That the application is subject to all RVCA standard conditions.
2. A finished grading plan will be submitted as soon as the work is complete to confirm the grades on the property as well as the elevations of the floodproofing measures have been completed in compliance with the approved drawings. A refundable deposit of \$1650.00 is required to be submitted prior to commencement of the work. Satisfactory review of the finished grading plan and compliance with other conditions of approval will result in the return of the deposit (less 10% administrative fee).

Discussion

In response to a question from Judy Brown, Pieter Leenhouts confirmed that .132 metres was equivalent to 5 and one-quarter inches.

Craig Houle, Agent for the Applicant notes that any overland flow on the property is expected to be passive in nature and very infrequent and, therefore, water velocity and any associated erosion are not considered to be an issue. Mr. Houle added that the proposed residence would not be on the river side of Pine Avenue. The land is the last vacant lot of record in the development and would eliminate the possibility of precedence setting. Mr. Houle added that existing drainage would be maintained, and the applicants hoped to retain as many mature trees as possible.

In response to a question from Brian Dowdall, Jamie Batchelor confirmed that the proposed septic system would be located outside of the floodplain.

Jamie Batchelor reiterated that the minor conflict associated with the proposed grade changes exceed 0.3 metres should not offset the desired safe access and egress.

Pieter Leenhouts, Chair, thanked Jamie Batchelor for his information.

Carolyn Boivin advised that Craig Houle would be presenting on her behalf. Craig Houle addressed the Executive Committee and presented the following information:

Exhibit 13 - Summary of Application dated May 6, 2021.

- The applicants (the Boivins) purchased this lot in June 2013, with the intent of building their retirement home on it.
- This is the last lot of record in this subdivision. Therefore, no precedent with respect to policy will be set by the development of this lot.
- The lot on question does not front onto the Rideau River and is separated from the river by an elevated street (Pine Avenue) and existing residential development.
- Any overland flow on this property is expected to be passive in nature and very infrequent and therefore water velocity and associated erosion are not considered to be an issue at this site. Maintaining as many of the existing trees on the site will help in this regard.
- The existing drainage on the site is to be maintained and not altered by the proposed residential development.
- The proposed house and garage design are of slab on grade construction and complies with all flood proofing policy in that regard.

Discussion

There was no discussion.

Pieter Leenhouts, Chair, thanked Craig Houle, Agent for the Applicant for his information.

Motion 2-210506

Moved by:

Judy Brown

Seconded by:

Brian Dowdall

That the RVCA Executive move in camera.

Motion Carried

Decision

Motion 3-210506 **Moved by:** Brian Dowdall
Seconded by: Judy Brown

That Application RV6-0321 be approved with the following conditions:

1. That the application is subject to all RVCA standard conditions.
2. A finished grading plan will be submitted as soon as the work is complete to confirm the grades on the property as well as the elevations of the floodproofing measures have been completed in compliance with the approved drawings. A refundable deposit of \$1650.00 is required to be submitted prior to commencement of the work. Satisfactory review of the finished grading plan and compliance with other conditions of approval will result in the return of the deposit (less 10% administrative fee).

Motion Carried

Motion 4-210506 **Moved by:** Judy Brown
Seconded by: Brian Dowdall

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 5-210506 **Moved by:** Brian Dowdall
Seconded by: Judy Brown

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

Motion 6-210506 **Moved by:** Judy Brown
Seconded by: Brian Dowdall

That the Executive Committee Meeting minutes of March 25, 2021 be approved as circulated.

Motion Carried

3. Adjournment

The meeting adjourned at 8:07 p.m. on a motion by Brian Dowdall that was seconded by Judy Brown.

Pieter Leenhouts
Chair

Michelle Paton
Recording Secretary