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Executive Committee Meeting

Thursday, September 9, 2021
7:00 pm

Monterey Boardroom
RVC Centre, 3889 Rideau Valley Drive, Manotick ON

AGENDA

Meeting 6/21	Page
1) Roll Call	
2) Executive Committee to sit as Hearing Board	
• Hearing to be held under Section 28 of the <i>Conservation Authorities Act</i> - Application in the City of Ottawa, (formerly Township of Rideau)	
3) Declarations of Interest	
4) Chair's Opening Remarks	
5) Presentations by RVCA Staff	1
• Questions from Applicant and/or Applicant's Agent	
• Questions from Hearing Board	
6) Presentation by Applicant/Agent	
• Questions from Staff and/or Counsel	
• Questions from Hearing Board	
7) Hearing Board to move In Camera	
8) Hearing Board to move out of Camera	
9) Chair to advise of Hearing Board decision	
10) Hearing Board to sit as Executive Committee	
11) Approval of Previous Executive Committee Meeting Minutes Executive Committee Meeting – June 24, 2021	
12) Adjournment	

Proudly working in partnership
with our 18 watershed municipalities

Athens, Augusta, Beckwith, Central Frontenac, Clarence-Rockland,
Drummond/North Elmsley, Elizabethtown-Kitley, Merrickville-Wolford, Montague,
North Dundas, North Grenville, Ottawa, Perth, Rideau Lakes, Smiths Falls, South Frontenac, Tay Valley, Westport

STAFF REPORT

To: RVCA Executive Committee – Application Hearing
From: Eric Lalande, MCIP, RPP, Planner, Planning and Watershed Science
Subject: Hearing of Application for Development – Ontario Regulation 174/06
Date: September 09, 2021

Application: RV6-4504

Applicant: Morris and Anita Kertzer
2294 Wildlife Way
Kemptville, ON K0G 1J0

Description of Property:

Part of Lot 41, Concession 3, Lot 10 and Part of Lot 9, Registered Plan 766 formerly in the Township of Rideau, now the City of Ottawa, known as 2295 Wildlife Way.

Roll #: 06141828401240000000

Application for Development:

The proposed development subject to this application and being considered as part of this executive hearing committee include the following:

- The Construction of a single detached dwelling, on a wet flood proofed crawl space foundation and private sewage system
- Placement of fill to accommodate the dwelling, and private sewage system.

The application was previously heard by the executive committee at its meeting held on November 10, 2004. The application was adjourned at the applicant's request. The reason for adjournment was to provide more time to research and prepare evidence. The applicant has indicated by correspondence dated July 22, 2021, that the applicant has obtained the evidence required and wishes to resume the hearing. It is noted that the application was brought to its original hearing as the application could not be approved by Staff based on the governing policies of the day.

Site Description

The subject lands are located along Wildlife Way, a cluster of lots located approximately 800 metres south of Hwy 416 crossing of the Rideau River. The lot is located adjacent to a mix of residential and vacant lots. The lot has an irregular shape and is approximate 48.79 metres in width and 66.45 metres in depth. The subject lands have an approximate grade of 86.7 m

The regulated floodplain was set at 87.72 metres above sea level geodetic at the time of application in 2004. The RVCA undertook a review of the floodplain associated with the Rideau River in 2017 and based on the updated information collected, the regulated floodplain was adjusted to 87.3 metres above sea level geodetic. It should be noted that while the levels have lowered, the entirety of the lot remains entirely within the regulated 1:100 year floodplain.



Site Photos: taken August 31, 2021 by Eric Lalande, Planner, RVCA – facing the lot from Wildlife Way



Site Photos: taken August 31, 2021 by Eric Lalande, Planner, RVCA – Looking south along Wildlife Way

Considerations:

The application submitted on September 13, 2004 along with supporting documents including site plan, grading plans, building plans, septic design and photographs. The application granted the opportunity for a hearing, which on the request of the applicant was granted an adjournment at its November 10, 2004 Executive Committee Hearing.

Given that the application was submitted during the Transitional Period of Ontario Regulation 174/06, the following considerations are provided:

Transitional Procedures Guidelines for permission pursuant to Section 28 of the Conservation Authorities Act. (April 18, 2006)

1.2.1. Applications Submitted under the CA Act before May 1st, 2006

“Applications for permission that are submitted to the Authority prior to May 1st, 2006 (or the date of approval by the Minister) will be subject to the procedures for the administration of the existing “Fill, Construction and Alteration to Watercourses” Regulation provided that the application is complete, and all fees are paid to the satisfaction of the Authority.

Applications that are deemed by the Authority to be incomplete, and are within an area regulated under the new “Development, Interference with Wetlands and Alterations to

Shorelines and Watercourses” regulation, as of May 1st, 2006 (or the date of approval by the Minister) will be subject to the procedures under the new regulation, and the proponent must re-submit a new application under the new regulation. The appeal provisions of Section 28(12) of the act me be invoked by the applicant.”

The approved April 18, 2006 regulations accompanying the procedure guidelines noted that: *“Until such time as the review and approval process is complete, the adopted Transition Provisions dated April 18, 2006 remain in effect.”* The review and approval process of the Minister was completed May 4, 2006, and the RVCA approved amendments the regulation policies on February 18, 2010, November 25, 2010 and February 22, 2018 (wetland policies). Staff considers that that the transition policies no longer apply in this instance and the application, as submitted, along with new information provided by the applicant in 2021 with regard to their application be considered under current legislation and regulations as follows:

Legislation and Regulation 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, in the event of a natural hazard, might jeopardize the health or safety of 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 June 10, 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, 5.

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 structure and the potential depths of water over access routes will be 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 dwelling 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.

Further, Section 2.0 provides for policies on the “Minor removal or placement of fill / minor site grading in the floodplain.” This applicant has not submitted originally, or through the additional information provided, engineering details to address the regulation policies contained by Section 2.0 of the RVCA Development Policies.

The applicant is seeking the permanent placement of fill based on the premise that the area should be considered flood fringe. Under regulation, the floodplain on the applicant’s property is considered a one-zone floodplain whereby the entirety of the flood hazard is considered the floodway. There is no provision for consideration of flood fringe under regulations to this regard.

Correspondence was received by the applicant by way of letter dated November 5, 2014, detailing personal knowledge, and citing City of Ottawa Official Plan policies applying to areas which are classified within the RVCA regulation policies as Areas of Reduced Flood Risk. It should be noted that the polices for Areas of Reduced Flood Risk do not apply to the subject lands or any of the adjacent existing developed and vacant lands.

Wildlife Way along the centre line is identified above the regulated flood elevation of 87.3 masl. While the proposed grading plan does not indicate or include an access route or relevant proposed grades as prepared by Paterson Groups 2004, the grading plan indicates a driveway grade of 3.5%, and a finished floor of the garage to be above the flood elevation at 88.1 masl. While the grading plan provides insufficient information to adequately review the proposed fill, it appears to be reliant of the placement of fill up to approximately 1.5 metres higher than existing based on limited proposed and existing grades provided on the plan.

Previous Development Policies

It is noted that the application originally was originally submitted in 2004. The original application precedes the current in force and effect regulatory policies directing the review of development applications. The policies available at the time of the application were titled: “Policies regarding development including the construction / reconstruction of buildings and structures and placing of fill and alterations to waterways under Section 28 of the Conservation Authorities Act of Ontario as adopted by Executive Committee dated October 21, 1993 and amended February 21, 2002.

While this policy document has been replaced by its contemporary, it is noted that the relevant policies of the previous document also noted that residential development on vacant lots of record are not permitted, and this application would not meet criteria for exception. It was for those reasons the application was not able to be approved by Staff and was brought to an Executive Committee hearing on November 10, 2004. Staff also note that previous policies were reviewed based on the previous 87.72 masl, which in effect is a more restrictive than current policies.

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

Summary:

In summary, a staff approval cannot be issued for the application for development of residential building for the following reasons:

1. The Rideau River is administered as a one zone floodplain, wherein the floodway is considered to be the entire limits of the mapped regulated floodplain.
2. The entirety of the subject land is within the limits of floodplain.
3. The subject land is considered a vacant lot of record.
4. New development is prohibited on vacant lots of record.
5. The granting of permission will set a precedent.
6. The granting of permission may jeopardize the health or safety of persons or result in the damage or destruction of property.

Next Steps:

- Approve the application
- Approve the application with condition
- Deny the application

Recommended Conditions:

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

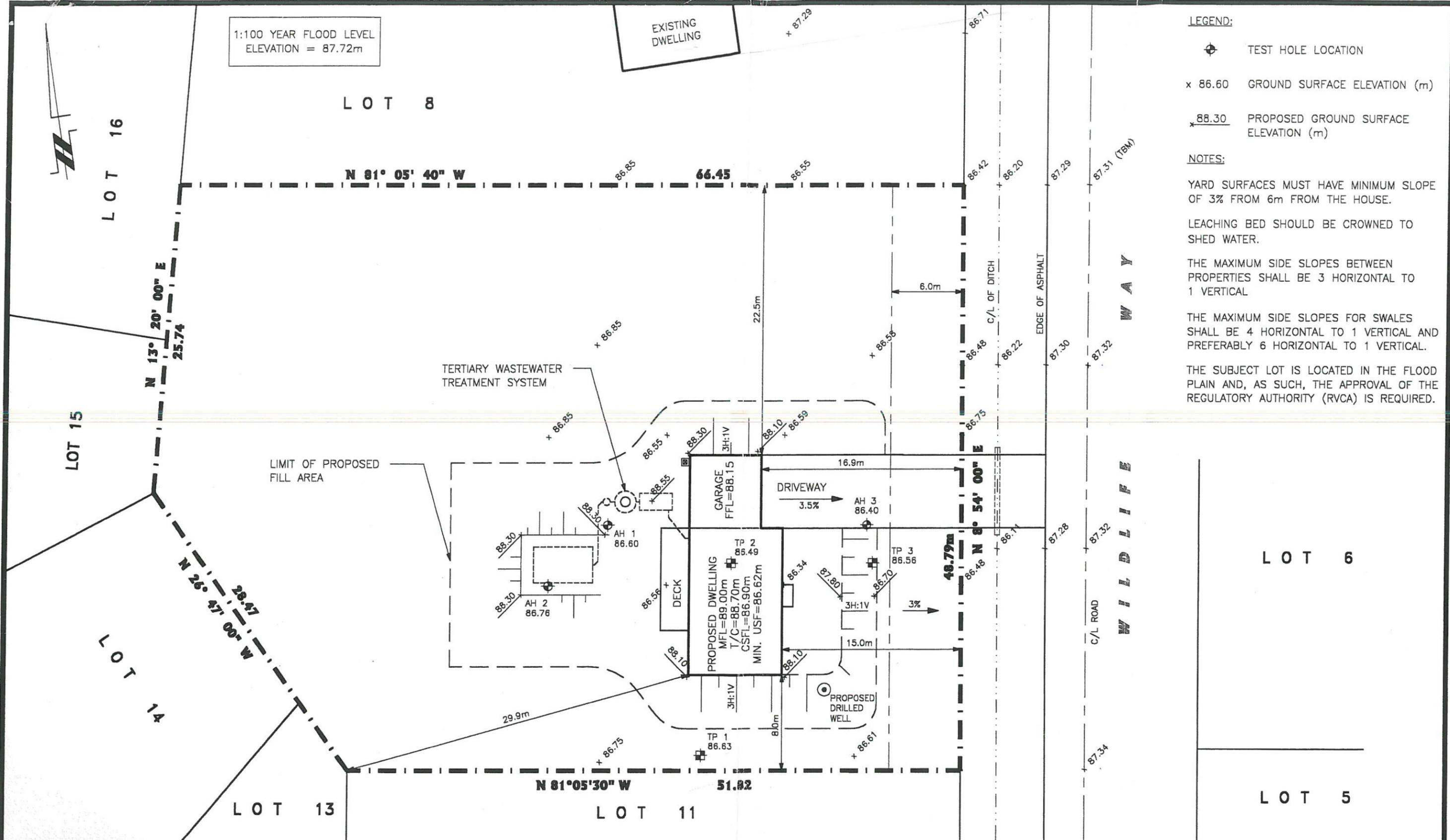
1. That private services be designed and approved in accordance with the Ontario Building Code, to the satisfaction of the Ottawa Septic System Office.
2. That a notice on title be registered with a warning clause advising of the dwelling being located within the floodplain hazard limits associated with 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.

1:100 YEAR FLOOD LEVEL
ELEVATION = 87.72m

EXISTING DWELLING

- LEGEND:**
- ⊕ TEST HOLE LOCATION
 - x 86.60 GROUND SURFACE ELEVATION (m)
 - x 88.30 PROPOSED GROUND SURFACE ELEVATION (m)

- NOTES:**
- YARD SURFACES MUST HAVE MINIMUM SLOPE OF 3% FROM 6m FROM THE HOUSE.
 - LEACHING BED SHOULD BE CROWNED TO SHED WATER.
 - THE MAXIMUM SIDE SLOPES BETWEEN PROPERTIES SHALL BE 3 HORIZONTAL TO 1 VERTICAL
 - THE MAXIMUM SIDE SLOPES FOR SWALES SHALL BE 4 HORIZONTAL TO 1 VERTICAL AND PREFERABLY 6 HORIZONTAL TO 1 VERTICAL.
 - THE SUBJECT LOT IS LOCATED IN THE FLOOD PLAIN AND, AS SUCH, THE APPROVAL OF THE REGULATORY AUTHORITY (RVCA) IS REQUIRED.



patersongroup
consulting engineers
28 Concourse Gate, Unit 1, Ottawa, Ontario K2E 7T7

Scale	1:300
Des.	AVS
Dwn.	MPG
Chkd.	AVS

MS. ANITA KERTZER
PROPOSED SINGLE FAMILY DWELLING
2294 WILDLIFE WAY
OTTAWA, ONTARIO

SITE GRADING PLAN

Dwg. No.	PG0354-3
Report No.	PG0354-01
Date	09/2004



**Conservation
ONTARIO**
Natural Champions

Application Form For Development Including Placing of Fill, Construction, and Alteration to Waterway

Rideau Valley Conservation Authority, Ontario Regulation 166
Box 599, 1127 Mill Street, Manotick, ON K4M 1A5

In accordance with the provisions of Section 28 of the *Conservation Authorities Act* (R.S.O. 1990 as amended) permission must be obtained prior to any site grading and the temporary or permanent placing, dumping or removal of any material whether originating on the site or elsewhere; construction, reconstruction, or additions to a building or structure of any kind; straightening, changing, diverting, or interfering in any way with the existing channel of a river, creek, stream or watercourse. Insufficient information will delay or prevent processing the application.

Landowner Name: MS. ANITA KERTZER Telephone No. 258-4571 Fax No. _____
 Mailing Address: BOX 432 Business No. _____
NORTH GAWER, ON e-mail _____
 Postal Code: K0A 2T0 Agent's Name: PATERSON GROUP INC.
ALVAN SCHIE Phone: 226-7381 Fax No. 226-6344

Application is hereby made to:

- Place or Remove Fill
- Construct New Building
- Add, Alter or Renovate Building
- Install Sewage Disposal System
- Alter a Watercourse

- Construct retaining wall, embankment or ~~excavation~~ **VALLEY**
- Construct Pond, Reservoir or Dam **CONSERVATION AUTHORITY**
- Road Crossing
- Other (Specify): _____

CONSERVATION PARTNERS
 DATE: Sept. 13/04.
525
PAID **THANK YOU!**

Purpose of work:
(or use covering letter)

CONSTRUCTION OF A SINGLE FAMILY HOME SERVICED BY A DRILLED WELL AND A PRIVATE SEWAGE DISPOSAL SYSTEM
WOOD-FRAMED BUNGALOW WITH AN ATTACHED GARAGE AND CRAWL SPACE.

Description of work:
(or use covering letter)

Location at which development or waterway alteration is proposed:

Lot: 40 Reg. Lot No.: 10 + PART OF 9 Current Municipality: OTTAWA
 Concession: 3 Reg. Plan No.: 766 Municipal Address (St./Rd./Ave./Cr. etc.): WILDLIFE WAY
 Former Municipality: RIDEAU

Existing Use of Land: (vacant, residential, etc.)

Proposed Use of Land:

Proposed Start Date: 09 / 30 / 04
 m d y

Proposed Finish Date: 09 / 30 / 05.
 m d y

[Signature]

Signature of Owner/Authorized Agent: X
(If agent, provide letter of authorization from owner)

09 / 10 / 04
 m d y

Attach Required Plans and Fee — including a copy of the property survey and/or deed

Personal information contained on this form is collected under the authority of regulations made under Section 28 of the *Conservation Authorities Act of Ontario* as amended and may be shared with departments or agencies of local, provincial or the federal government having an interest in the same. Questions about this collection should be directed to the Conservation Authority.

Office Use Only

Date received: Sept. 13, 04 FHA File #: _____
 Circulation to: 1 / 1 / 1 Application #: R06-45/04
 ment Ag. required: _____
 Fee Paid: Sept. 13, 04
 Permit Issued: _____
 Hearing: _____
 Decision: _____
 Appeal: _____

Required Plans Include:

A signed application form permission to construct or reconstruct or modify or add to a building or structure shall include,

- (a) 4 copies of a plan of the property showing the proposed location of the building or structure, its elevation and the proposed final grade plan;
- (b) 4 copies of a complete description of the type of building or structure to be constructed, including drainage details;
- (c) 4 copies of a statement of the dates between which the construction will be carried out; and
- (d) 4 copies of a statement of the proposed use of the building or structure following completion of the construction.

A signed application for permission to undertake site grading or place or dump fill shall include,

- (a) 4 copies of a plan of the property on which the fill is to be placed, showing the proposed location of filling, the depth to which it is proposed to fill and the proposed final grade of the land when filling is completed;
- (b) 4 copies of a complete description of the type of fill proposed to be placed or dumped;
- (c) 4 copies of a statement of the dates between which the placing or dumping will be carried out; and
- (d) 4 copies of a statement of the proposed use of the land following completion of placing or dumping.

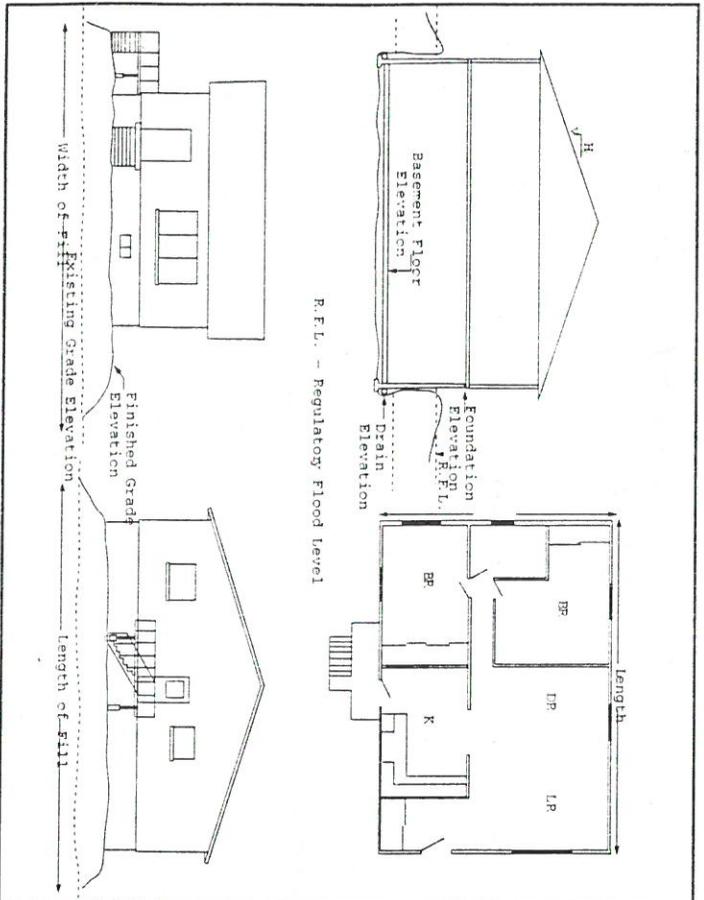
A signed application for permission to straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream or watercourse, shall include,

- (a) 4 copies of a plan on which shall be shown in plan view and cross section the details of such straightening, change, diversion or interference;
- (b) 4 copies of a description of the protective measures to be undertaken;
- (c) 4 copies of a statement of the dates between which the straightening, changing, diverting or interfering will be carried out; and
- (d) 4 copies of a statement of the proposed work.
- (e) all drawings shall be to scale.

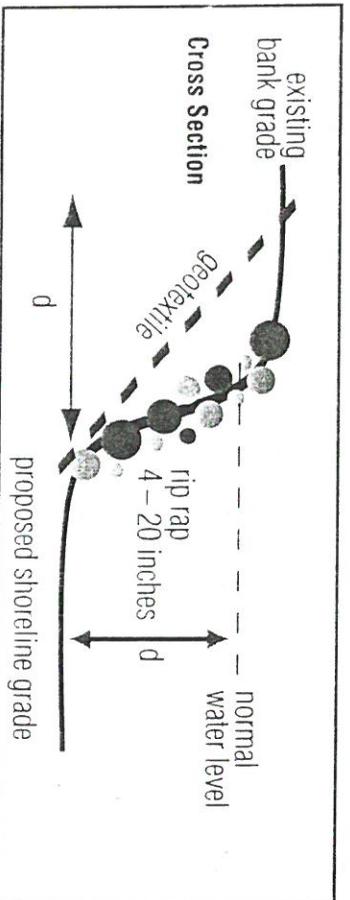
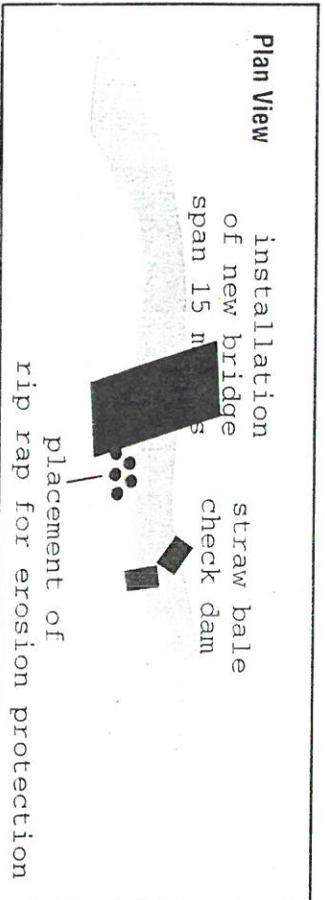
Note: The Authority may, at any time, withdraw any permission given under this Regulation, if, in the opinion of the Authority, the conditions of the permit are not complied with.

The Conservation Authority is also authorized to include in our review consideration for whether any harmful alteration, destruction or disturbance of fish habitat will occur which would contravene the provisions of Section 35 of the *Canada Fisheries Act*. It should be noted that, where impacts can not be mitigated, only the Minister of Fisheries and Oceans Canada may authorize such alteration, destruction or disturbance.

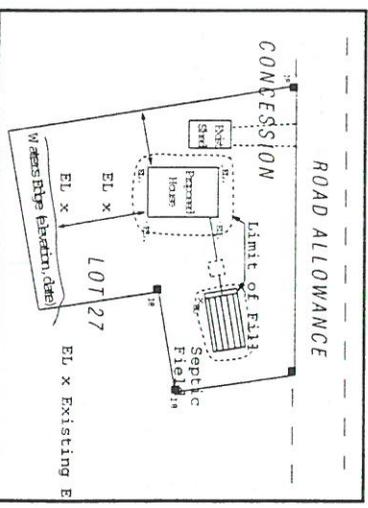
Construction Drawings



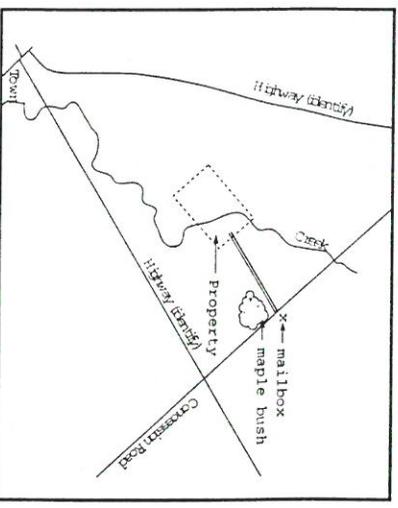
Channelization, Bank Stabilization, Erosion Control



Site Plan (draw to scale or give accurate distance measurements)



Location Plan (draw to scale or give accurate distance measurements)



These drawings are not for design purposes. They are examples to illustrate the minimum level of detail required to enable Conservation Authority staff to process the application. Please ensure that your application is complete (as per Ontario Regulation 166 — copies available) so that there will be no delay in the review process.

It is an offense to contravene any regulation made under Section 28 of the *Conservation Authorities Act* (R.S.O. 1990) and on summary conviction the perpetrator is liable to a fine of not more than \$10,000.00 or to a term of imprisonment of not more than three months (S.28 (16)). An order may also be issued for removal of the offending structure or material (S. 28 (17) (18) (19)).

KERTZER WILDLIFE WAY

