



LONG POINT REGION CONSERVATION AUTHORITY
Hearing Board Meeting Minutes of November 6, 2024
Approved December 5, 2024

Members in attendance:

Robert Chambers, Chair	County of Brant
Dave Beres, Vice-Chair	Town of Tillsonburg
Shelley Ann Bentley	Haldimand County
Doug Brunton	Norfolk County
Michael Columbus	Norfolk County
Tom Masschaele	Norfolk County
Jim Palmer	Township of Norwich
Stewart Patterson	Haldimand County
Chris Van Paassen	Norfolk County
Peter Ypma	Township of South-West Oxford

Regrets:

Rainey Weisler Municipality of Bayham/Township of Malahide

Staff in attendance:

Judy Maxwell, General Manager
Leigh-Anne Mauthe, Manager of Watershed Services
Saifur Rahman, Manager of Engineering and Infrastructure
Jessica King, Social Media and Marketing Associate
Dana McLachlan, Executive Assistant
Nicole Sullivan, HR Associate/Receptionist

1. Roll Call and Call to Order

The Chair called the Hearing to order at 6:31 p.m., Wednesday, November 6, 2024.

The roll was called to conduct the following Hearing under Section 28 of the *Conservation Authorities Act*.

A-121/24

Moved by M. Columbus
Seconded by T. Masschaele

THAT the LPRCA Board of Directors does now sit as a Hearing Board.

Carried

2. Declaration of Conflicts of Interest

Peter Ypma declared a conflict with Hearing LPRCA-168/ 24 and left the room.

3. Hearing: LPRCA-168/24 – Tillsonburg Development Inc and LPRCA 187/24 Mark Lefler.

The Chair vacated his seat for the Hearing Board and did not participate in the proceedings. The Vice-Chair, Dave Beres, chaired the Hearings.

FULL AUTHORITY COMMITTEE MEMBERS

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Tom Masschaele, Jim Palmer, Stewart Patterson, Rainey Weisler, Chris Van Paassen, Peter Ypma

A-122/24

Moved by J. Palmer

Seconded by D. Brunton

THAT the Vice Chair, Dave Beres, is appointed Acting Chair for the Hearing Board.

Carried

4. Chair's Opening Remarks for Hearing LPRCA- 168/24

The Chair's opening remarks for LPRCA-168/24 Tillsonburg Inc. were read and the guidelines and process to be followed for the hearing were reviewed.

5. Presentation by Long Point Region Conservation Authority Staff

Leigh-Anne Mauthe introduced the Agent, David Roe, and CJDLC Project Engineer, Alex Muirhead, and then proceeded to present the staff report and presentation.

Staff recommended refusal to grant a permit for this application for the following reasons:

1. The construction of the proposed structure within the unstable slope is contrary to Long Point Region Conservation Authority policies for development in the Riverine Erosion hazard. These policies have been implemented to reduce or eliminate preventable risk to life and property damage from erosion and unstable slopes,
2. The control of erosion is affected by the development in that it increases the potential for damage from slope instability and erosion.

6. Presentation by the Applicant

David Roe, Agent, and Alex Muirhead, Engineer, addressed the Board on behalf of the Applicant requesting approval of the application.

Alex Muirhead addressed Agenda Page # 46 on the Areas of Concern on the North Side. Alex spoke of the safety of the stable slope. Any building founded beneath the stable slope would be on stable soils as the deck footings are below this line and was confirmed with a Geotechnical engineer. The north side build is within the 6m setback from the stable slope limit and the slope is 4.5m and gets smaller heading towards Baldwin St.

Alex Muirhead addressed Agenda Page # 45 on the Areas of Concern of the South Side. The South Side stable slope line is steeper than the actual grade, which means that the slope is actually flatter than the stable slope. The Engineer proposes to add fill from mid-way down the slope to carry the grade flatter than the stable slope limit up to the top to create a new top of bank that would be at least 6m from the setback.

7. Questions

There were no questions from Staff or the applicant.

Staff and the proponent responded to questions from the Board.

Mike Columbus asked how far the unstable slope is from Stoney Creek. Alex Muirhead responded that the creek was 50 to 100 meters away from the development on the Borden Crescent side.

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Doug Brunton asked if there were any records of a high-water mark for Stoney Creek. Alex Muirhead was unsure of the high-water mark but noted that the slope is higher. Leigh-Anne Mauthe said there are no high-water marks for this area, as they are usually only used for shorelines of the Great Lakes. There is floodplain mapping at this location and there are no flooding concerns as the property is well above the 100-year flood elevation. Leigh-Anne Mauthe noted it is the slope which is the concern, it is not a flooding concern.

Jim Palmer asked what kind of soil is at the development. Alex Muirhead let the Board know it was silty clay.

The members entered the closed session of the Hearing Board at 6:50 p.m.

A-123/24

Moved by S. Bentley

Seconded by C. Van Paassen

THAT the LPRCA Hearing Board does now enter into a closed session to discuss:

- Litigation or potential litigation, including matters before administrative tribunals (e.g. Local Planning Appeal Tribunal), affecting the Authority.

Carried

8. Reconvene in Public Forum

The LPRCA Hearing Board reconvened in open session at 7:01 p.m. Peter Ypma rejoined the meeting.

9. Hearing Board Decision for LPRCA-168/24

The Chair advised Tillsonburg Development Inc. that the permit has been approved. The Notice of Decision will be forwarded by staff.

10. Chair's Opening Remarks for Hearing LPRCA-187/24

The Chair's opening remarks for LPRCA-187/24 Mark Lefler were read and the guidelines and process to be followed for the hearing were reviewed.

11. Presentation by Long Point Region Conservation Authority Staff

Leigh-Anne Mauthe introduced the Agent, Justin Massecar, and proceeded to present the staff report and presentation.

Leigh-Anne clarified that the datums used by Justin Massecar in his presentation package and the ones used by LPRCA are different. Justin Massecar admitted to using the wrong datum in his package.

Staff recommended refusal to grant a permit for this application for the following reasons:

1. The construction of the proposed structure within the unstable slope and the floodplain is contrary to Long Point Region Conservation Authority policies for development in the Riverine erosion hazard and flood hazard. These policies have been implemented to reduce or eliminate preventable risk to life and property damage from erosion, unstable slopes and flooding,

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2. The control of flooding is affected by the development in that it increases the potential for damages and negative cumulative effects by filling in a portion of the Black Creek floodplain,
3. The control of erosion is affected by the development in that it increases the potential for damage from slope instability and erosion.

12. Presentation by the Applicant

Justin Massecar addressed the Board on behalf of the Applicant requesting approval of the application. A presentation was submitted by the applicant in advance of the hearing and included in the agenda package.

Justin Massecar presented the submitted documents. Mr. Massecar elaborated on Leigh-Anne Mauthe's earlier clarification on the floodplain datums that were used reiterating the discrepancies. Justin Massecar noted that this was a mistake on his part. Justin mentioned that a surveyor could plot the floodline where the development is in the floodplain based on LPRCA's flood elevation.

13. Questions

There were no questions from Staff.

Justin Massecar asked staff if the Authority would ever allow any minor elements to be permitted in a floodplain. Leigh-Anne Mauthe responded that all permits are looked at on a case by case basis. On existing units and development, they can allow minor elements to be changed in the floodplain, but not new units.

Staff and the proponent responded to questions from the Board.

Mike Columbus asked staff how much fill was proposed to go in. Leigh-Anne Mauthe was unsure of the exact square area of fill, but the development includes a retaining wall that will provide a flat area for the structure and stairs.

Peter Ypma asked staff if the structure was moved from the floodplain, could staff support the request. Leigh-Anne Mauthe informed the Board that staff cannot approve new units built on the slope.

Peter Ypma asked the agent why they did not originally design the new build outside of the floodplain. Justin Massecar let the Board know the design was done on the instruction of the Applicant. The Agent believed the structure itself to be outside of the floodplain, and only the retaining wall and stairs would remain in the floodplain.

Peter Ypma asked if there was a boat well in the lower level. Justin Massecar confirmed there was no boat well, only an empty concrete room at the bottom of the new build facing Black Creek.

Peter Ypma asked if it was possible to square up the new build with the existing structure on the lot or with Douglas Street. Justin Massecar explained the design was done to address access issues at the street.

FULL AUTHORITY COMMITTEE MEMBERS

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Tom Masschaele, Jim Palmer, Stewart Patterson, Rainey Weisler, Chris Van Paassen, Peter Ypma

Peter Ypma asked about the potential for a secondary driveway. Justin Massecar responded that there was no space on the lot.

Chris Van Paassen asked where Douglas Street ends in relation to this property. Justin Massecar informed the board that the Applicant purchased the end of the street, but was unaware of access and rights. Chris Van Paassen confirmed that Norfolk County sold Mark Lefler the end of the street and it is now part of the lot.

Doug Brunton asked for more clarification on the datum discrepancy noted by both staff and the Agent. Leigh-Anne Mauthe informed the Board that there were two datums, 176.26m CGVD1928 and the 175.81m CGVD2013, with a difference of approximately 45cm. There is no discrepancy in the floodplain lines, only in which datum had been used. LPRCA gives applicants both datums and the engineer or surveyor retained by applicants can use either one. LPRCA used the correct datum based on the topographic survey given and the Agent was using the CGVD2013 datum.

Stewart Patterson asked if there was an existing structure on the lot. Justin Massecar confirmed there was an existing house which is the residence of the applicant.

Shelly Ann Bentley asked if this build was a secondary dwelling and the lot size of the whole property was. Justin Massecar confirmed that it was a secondary dwelling and he was unaware of the lot size. A minor variance will be brought forward for the second dwelling; however, from preliminary discussions with the County, the minor variance would be approved.

The members entered the closed session of the Hearing Board at 7:28 p.m.

A-124/24

Moved by S. Patterson

Seconded by P. Ypma

THAT the LPRCA Hearing Board does now enter into a closed session to discuss:

- Litigation or potential litigation, including matters before administrative tribunals (e.g. Local Planning Appeal Tribunal), affecting the Authority.

Carried

14. Reconvene in Public Forum

The LPRCA Hearing Board reconvened in open session at 7:50 p.m.

15. Hearing Board Decision for LPRCA 187/24

The Chair advised Mark Lefler's Agent, Justin Massecar, that the permit has been approved with conditions. The conditions of the permit are below:

1. Engineered slope stability assessment report
2. A geodetic survey to confirm floodline

for the following reasons:

FULL AUTHORITY COMMITTEE MEMBERS

Shelley Ann Bentley, Dave Beres, Doug Brunton, Robert Chambers, Michael Columbus, Tom Masschaele, Jim Palmer, Stewart Patterson, Rainey Weisler, Chris Van Paassen, Peter Ypma

1. There needs to be confirmation from a geotechnical engineer that the current design and placement of the building will be constructed as to not negatively affect the slope and the neighbouring properties
2. To accurately plot the floodline

The Notice of Decision will be forwarded by staff.

16. Adjournment

A-125/24

Moved by M. Columbus
Seconded by S. Bentley

That the LPRCA Board of Directors does now adjourn from sitting as a Hearing Board.

Carried

The Chair adjourned the Hearing at 7:52 p.m.

Robert Chambers
Chair

Judy Maxwell
General Manager/Secretary-Treasurer

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FULL AUTHORITY COMMITTEE MEMBERS

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Tom Masschaele, Jim Palmer, Stewart Patterson, Rainey Weisler, Chris Van Paassen, Peter Ypma