

BOARD OF DIRECTORS MEETING

Thursday, July 18, 2024

Ausable Bayfield Conservation Authority Boardroom
Morrison Dam Conservation Area

HEARING

Pursuant to Ontario Regulation 41/24
(Prohibited Activities, Exemptions and Permits)

DIRECTORS PRESENT

Ray Chartrand, Adrian Cornelissen, Joey Groot, Steve Herold, Jaden Hodgins, Dave Jewitt, Wayne Shipley

DIRECTORS ABSENT

Dave Marsh, Marissa Vaughan

STAFF PRESENT

Andrew Bicknell, Geoff Cade, Aaron Clarke, Tina Crown, Abbie Gutteridge, Davin Heinbuck, Brian Horner, Daniel King, Erik Strahl, Ellen Westelaken

OTHERS PRESENT

Mr. Jacob Damstra – *Learners LLP*

CALL TO ORDER

Ausable Bayfield Conservation Authority (ABCA) Acting Chair Ray Chartrand called the Hearing pursuant to Ontario Regulation 41/24 to order at 10:00 a.m. for the consideration of Permit Application #2023-40 to order. The Acting Chair welcomed the applicant representative, Board members and staff.

Acting Chair Chartrand stated the procedures for conducting the Hearing and asked Geoff Cade, Manager of Water and Planning, to provide details on the application.

Mr. Cade introduced Mr. Jacob Damstra to the Board of Directors, and noted that he was acting as agent for the applicant, Ms. Laura Aaron. He advised that the application in question was for the construction of a new deck and storage structure in Lakeshore Area 1 of the dynamic beach hazard, at 10034 Huron Drive in the Municipality of Lambton Shores. The proposed deck has been designed by a structural engineer, and the storage structure is proposed to be under the deck. The construction location is lakeward of the foredune (cantilevered over the dune) and is lakeward of

the 15 m uprush. As per ABCA policies, new decks and storage are not permitted in this zone; however, the policies do allow like-for-like structures. The proposed deck does not fall within a definition of like-for-like. All new decks must be constructed landward of the foredune. There is an existing small deck at the beach, and ABCA staff have not been able to find evidence of a permit for its construction.

The applicant has also applied for a minor variance from the Municipality of Lambton Shores, which was denied. Additionally, a Coastal Memo was included in the permit application, which staff have looked at briefly. However, as the application does not satisfy the tests under in the *Conservation Authorities Act*, it is staff's opinion that a permit cannot be issued.

Directors had questions for Mr. Cade, including asking if the current deck and crib structure were permitted structures. Mr. Cade indicated that staff could not find record of a permit for deck, and indicated that the crib structure was likely an older structure that was installed prior to the conservation authority issuing permits for shoreline protection. Mr. Damstra also noted that the applicant had not received any comments from staff on the Coastal Memo. Mr. Cade replied that a Coastal Memo would typically go to a coastal engineer for review, but as the application does not meet policies, it would not have been prudent to proceed with a peer review of the document.

Acting Chair Chartrand asked Mr. Damstra to present on behalf of the applicant. Mr. Damstra began by noting that the applicant realizes that this application is not a replacement of like-for-like. He told the Directors that the current deck has become inaccessible to the property owner, Sheldon Aaron, and his family wants to make it more accessible. In the case of this application, an older structure would be removed and a safe, engineered structure would be rebuilt.

He noted that the existing crib structure had been covered by sand for many years and has been doing its job to protect the shoreline. The proposed deck and storage area would be built behind and above this structure. He took the opportunity to review the Coastal Memo and noted that, in the coastal engineer's opinion, coastal processes have been addressed in the design and that there would be no new hazards created, and minimal impact on neighbouring properties.

Directors had several questions for Mr. Damstra regarding high water levels, as well the interpretation of some of the language in the Coastal Memo. Directors asked if there was a possibility of the deck being constructed outside of Lakeshore Area 1, rather than have a cantilevered deck over the dune. Mr. Damstra noted that this may not be possible considering the location of the house. Mr. Cade noted that the Coastal Memo had limited mention of existing shoreline protection. He also noted that to construct the deck, there would need to be excavation of the site. This would qualify as site alteration, which would also require a permit.

Directors decided to go into Committee of the Whole to discuss the application and evidence.

COMMITTEE OF THE WHOLE

MOTION #BD 59/24

Moved by Dave Jewitt

Seconded by Wayne Shipley

“RESOLVED, THAT the Board of Directors go into Committee of the Whole at 11:20 a.m. to discuss the application with Davin Heinbuck and Abbie Gutteridge remaining in attendance.”

Carried.

MOTION #60/24

**Moved by Steve Herold
Seconded by Jaden Hodgins**

“RESOLVED, THAT the Committee of the Whole rise and report at 11:28 a.m.

Carried.

MOTION #61/24

**Moved by Joey Groot
Seconded by Adrian Cornelissen**

“RESOLVED, THAT the Ausable Bayfield Conservation Authority denies application #2023-40 as, in the opinion of the Authority, the proposed activity fails to meet Sections 28.1 (1) (a) and 28.1 (1) (b) of the Conservation Authorities Act, RS. 1990, c. C.27.”

Carried.

Acting Chair Chartrand outlined options for the applicant to request that the Minister of Natural Resources review the decision, or appeal the decision to the Ontario Land Tribunal if they so desire.

ADJOURNMENT

The Hearing was adjourned at 11:31 a.m.

BOARD OF DIRECTORS MEETING

DIRECTORS PRESENT

Ray Chartrand, Adrian Cornelissen, Joey Groot, Steve Herold, Jaden Hodgins, Dave Jewitt, Wayne Shipley

DIRECTORS ABSENT

Dave Marsh, Marissa Vaughan

STAFF PRESENT

Andrew Bicknell, Geoff Cade, Aaron Clarke, Tina Crown, Abbie Gutteridge, Davin Heinbuck, Brian Horner, Daniel King, Erik Strahl, Ellen Westelaken

CALL TO ORDER

Acting Chair Ray Chartrand called the meeting to order at 11:35 a.m., welcomed everyone in attendance, and read the Land Acknowledgement Statement.

ADOPTION OF AGENDA

MOTION #BD 62/24

**Moved Dave Jewitt
Seconded by Wayne Shipley**

“RESOLVED, THAT the agenda for the July 18, 2024 Board of Directors Meeting be approved.”

Carried.

DISCLOSURE OF PECUNIARY INTEREST

There were no disclosures of pecuniary interest at this meeting or from the previous meeting.

DISCLOSURE OF INTENTION TO RECORD

None

ADOPTION OF MINUTES

MOTION #BD 63/24

**Moved by Steve Herold
Seconded by Joey Groot**

“RESOLVED, THAT the minutes of the Board of Directors meeting held on June 20, 2024 and the motions therein be approved as circulated.”

Carried.

BUSINESS OUT OF THE MINUTES

Watershed-Based Resource Management Strategy (WBRMS)

Davin Heinbuck, General Manager/Secretary-Treasurer, reported that the WBRMS, a requirement of the *Conservation Authorities Act*, has been before the Board of Directors several times in draft form, most recently prior to distribution to the Chippewas of Kettle and Stoney Point First Nation (CKSPFN) for comment in February 2024. The engagement with CKSPFN resulted in several additions to the document including the recognition of the diverse First Nation and Metis peoples, and includes the Long Woods Treaty (No. 25), as well as recognition of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

A final draft of the WBRMS has incorporated these suggestions and is ready for approval by the Board. It is proposed that the WBRMS be in effect for the period of 2024-2044, and will be reviewed and updated in conjunction with the renewal of the Cost Apportioning Agreements.

MOTION # BD 64/24

**Moved by Wayne Shipley
Seconded by Jaden Hodgins**

“RESOLVED, THAT the Ausable Bayfield Conservation Authority Board of Directors approves the Watershed-Based Resource Management Strategy as presented.”

Carried.

PROGRAM REPORTS

1. (a) Development Review

Andrew Bicknell, Senior Regulations Coordinator, presented the Development Review report pursuant to Ontario Regulation Ontario Regulation 41/24 *Prohibited Activities, Exemptions and Permits*. Through the application process, proposed developments within regulated areas are protected from flooding and erosion hazards. Staff granted permission for 4 *Application for Permission* and 7 *Minor Works Applications*.

(b) Violation/Appeals Update

Geoff Cade, Water and Planning Manager, notified the Board that a potential violation that has come to staff's attention along Parkhill Creek, with respect to using fill to berm along the creek to prevent flooding. Staff are beginning to investigate this potential violation.

MOTION #BD 65/24

**Moved by Dave Jewitt
Seconded by Joey Groot**

“RESOLVED, THAT the Board of Directors affirm the approval of applications as presented in Program Report # 1 – a) Development Review and receive the verbal Violations and Appeals update as presented.”

Carried.

2. Profit and Loss Statement

Tina Crown, Financial Services Coordinator, provided the profit and loss statement to June 30, 2024, including a projection for the remaining six months of the year.

MOTION #BD 66/24

**Moved by Adrian Cornelissen
Seconded by Jaden Hodgins**

“RESOLVED, THAT the 2nd Quarter Profit and Loss Statement for the period ending June 30, 2024 be received as presented.”

Carried.

COMMITTEE REPORTS

None.

CORRESPONDANCE

None.

NEW BUSINESS

1. Abbie Gutteridge introduced Jackson Janmaat, who began as Corporate Services Assistant on July 8, 2024, as Sharon Pavkeje will be retiring from that roll on August 15, 2024.
2. Davin Heinbuck provided a brief update on the recent flooding event in the southern part of the watershed. As there was rain in the prior week, ground conditions were already saturated when rain fell both Monday, July 15 and Tuesday, July 16 of this week. There were several intense storms over a short period of time, and Nairn Creek and Parkhill Creek received the most rainfall. Most of the flooding was due to overland flow, rather than high river levels. ABCA sent out a flood warning to four southern municipalities toward the end of the day on the July 16 prior to the rivers peaking. As it was a Flood Warning, staff required municipal staff to confirm they received the message.

This storm identified one of the gaps in the stream gauge network, as there is no gauge in the Nairn Creek subwatershed, and staff did not know the extent of rainfall received until flows began to rise downstream at the Springbank gauge. Staff will be looking for ways to fill this gap in the future.

COMMITTEE OF THE WHOLE

None.

ADJOURNMENT

The meeting was adjourned at 12:15 p.m.

Ray Chartrand
Acting Chair

Abigail Gutteridge
Secretary

*Copies of program reports are available upon request.
Contact Abigail Gutteridge, Corporate Services Coordinator*