



HEARING BOARD
Wednesday, June 4, 2025 @ 6:30pm
Tillsonburg Headoffice

AGENDA

Agenda Page

1. Roll Call and Call to Order
2. Declaration of Conflicts of Interest
3. Notice of Hearings: LPRCA-89/25 – Kyle and Isabel Cronk
 - a) Hearing Procedures Policy 1-20
4. Chair's Opening Remarks: LPRCA-89/25 – Kyle & Isabel Cronk
5. Presentation by Long Point Region Conservation Authority Staff
 - a) Staff Report (L. Mauthe) 21-39
 - b) Staff Presentation 40-51
6. Presentation by the Applicant
 - a) Submission for Hearing 52-65
 - b) Applicant Presentation
7. Closed Session
8. Reconvene in Public Forum
9. Chair to advise of Hearing Board decision
10. Chair to advise of Hearing Board decision
11. Hearing Adjournment



Long Point Region Conservation Authority
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Policy Title: Hearing Procedures Policy Conservation Authorities Act, Section 28	Policy Number: 014-24	Pages 20
Date: June 5, 2024	Supersedes: Hearing Procedures Policy Conservation Authorities Act, Section 28	
Cross Reference:	Issuing Authority: Board of Directors by Resolution A-79/24	

Approved July 5, 2017 by Res. A-171/17

Amendments

Amended July 3, 2019 by Res. A-100/19 re. MLT

Amended January 13, 2021 by Res. A-12/21 re. Electronic Hearings

Amended April 6, 2022 by Res. A-44/22 re OLT and hearings under Section 28.0.1

Amended June 5, 2024 by Res.A-79/24 re New Regulation O. Reg 41/24

**Long Point Region Conservation Authority
Hearing Procedures Policy,
Conservation Authorities Act, Section 28**

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Hearing Procedures Policy

Ontario Regulation 41/24

1.0 INTRODUCTION AND PURPOSE

The purpose of the Hearing Procedures Policy is to guide the Long Point Region Conservation Authority (LPRCA) Hearing Board in conducting hearings under Section 28 of the *Conservation Authorities Act*.

The *Conservation Authorities Act* under section 28.1 (1) allows the Long Point Region Conservation Authority to permit development in regulated areas where, in the opinion of the Authority,

- (a) The activity is not likely to affect the control of flooding, erosion, dynamic beaches or unstable soil or bedrock;
- (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.

For an application for a permit to be refused or approved with contentious conditions, the *Conservation Authorities Act* requires that the applicant be provided with an opportunity for a hearing by the local Conservation Authority Board. Further, where staff is recommending that a permit be cancelled under *Ontario Regulation 41/24*, a hearing will be held to provide the applicant with the opportunity to show cause why the permit should not be cancelled. In the case of hearings related to applications submitted pursuant to s. 28.1.2 of the *Conservation Authorities Act*, where a Minister's Zoning Order has been approved, the Authority must grant permission to the applicant and a hearing will only be held to determine conditions which will be attached to a permission.

The Hearing Board, which is comprised of the members of the Long Point Region Conservation Authority Board of Directors, is empowered by law to make a decision, governed by the *Statutory Powers Procedures Act*. It is the purpose of the Hearing Board to evaluate the information presented at the hearing by both the Conservation Authority staff and the applicant and to decide whether the application will be approved with or without conditions, or refused. In the case of hearings related to applications submitted pursuant to Section 28.1.2, the Hearing Board shall determine what conditions, if any, will be attached to the permission.

These procedures are intended to provide a step-by-step process to conducting hearings required under Sections 28.1 (5), 28.3 (3) or 28.1.2 (7) of the *Conservation Authorities Act*. The procedures ensure that hearings meet the legal requirements of the *Statutory Powers Procedures Act* without being unduly legalistic or intimidating to the participants.

2.0 PREHEARING PROCEDURES

2.1 Apprehension of Bias

In considering the application, the Hearing Board is acting as a decision-making tribunal. The tribunal is to act fairly. Under general principles of administrative law relating to the duty of fairness, the tribunal is obliged not only to avoid any bias but also to avoid the appearance or reasonable apprehension of bias. The following are three examples of steps to be taken to avoid apprehension of bias where it is likely to arise:

- (a) No member of the Authority taking part in the hearing should have prior involvement with the application that could lead to a reasonable apprehension of bias on the part of the member. Where a member has a personal interest, the test is whether a reasonably well-informed person would consider that the interest might have an influence on the exercise of the official's public duty. Where a member is a municipal councilor, the *Municipal Conflict of Interest Act* applies. In the case of a previously expressed opinion, the test is that of an open mind, i.e. is the member capable of persuasion in participating in the decision making.
- (b) If material relating to the merits of an application that is the subject of a hearing is distributed to Board members before the hearing, the material shall be distributed to the applicant at the same time. The applicant may be afforded an opportunity to distribute similar pre-hearing material. These materials can be distributed electronically.
- (c) The applicant will be given an opportunity to attend the hearing before a decision is made; however, the applicant does not have to be present for a decision to be made.
- (d) Where a hearing is required for applications submitted pursuant to s. 28.1.2 of the *Conservation Authorities Act* (e.g. to determine the conditions of the permission), final decisions on the conditions shall not be made until such time as the applicant has been given the opportunity to attend a hearing.

2.2 Application

The right to a hearing arises where staff is recommending refusal of an application or is recommending conditions to the approval of an application or has given notice of intent to cancel a permit.

Additionally, in the case of applications submitted pursuant to s.28.1.2 of the CA Act, the authority shall not attach conditions to a permission unless the applicant has been given an opportunity to be heard by the authority.

The applicant is entitled to reasonable notice of the hearing pursuant to the *Statutory Powers Procedures Act*.

2.3 Notice of Hearing

The Notice of Hearing shall be sent to the applicant within sufficient time to allow the applicant to prepare for the hearing. To ensure that reasonable notice is given, it is recommended that prior

to sending the Notice of Hearing, the applicant be consulted to determine an agreeable date and time based on the local Conservation Authority's regular meeting schedule.

The Notice of Hearing will contain or append the following:

(a) Reference to the applicable legislation under which the hearing is to be held (i.e., the *Conservation Authorities Act*).

(b) The time, place and the purpose of the hearing. For electronic hearings: The time, purpose of the hearing, and details about the manner in which the hearing will be held.

For electronic hearings: The applicant should notify the Authority if they believe holding the hearing electronically is likely to cause them significant prejudice. The Authority shall assume the applicant has no objection to the electronic hearing if no such notification is received.

(c) Particulars to identify the applicant, property and the nature of the application which are the subject of the hearing.

Note: If the applicant is not the property owner but the prospective owner, the applicant must have written authorization from the registered property owner.

(d) The reasons for the proposed refusal or conditions of approval shall be specifically stated. This should contain sufficient detail to enable the applicant to understand the issues so he or she can be adequately prepared for the hearing.

It is sufficient to reference in the Notice of Hearing that the recommendation for refusal or conditions of approval is based on the reasons outlined in a hearing report that is attached or will follow.

(e) A statement notifying the applicant that the hearing may proceed in the applicant's absence and that the applicant will not be entitled to any further notice of the proceedings.

Except in extreme circumstances, it is recommended that the hearing not proceed in the absence of the applicant.

(f) Reminder that the applicant is entitled to be represented at the hearing by a representative such as legal counsel, if desired. The conservation authority may be represented at the hearing by counsel or staff.

(g) A copy of LPRCA's Hearing Procedures Policy.

It is recommended that the Notice of Hearing be directed to the applicant and/or property owner by registered mail. An example Notice of Hearing is included in **Appendix A**. An example Notice of Hearing for hearings under Section 28.1.2 (7) of the CA Act is included in **Appendix B**. The Notice of Hearing is normally also sent to the applicant and the agent (if any) by email.

2.4 Pre-submission of Reports

It is LPRCA's practice to submit reports to the Board members in advance of the hearing as part of the Authority Board agenda; the applicant will be provided with the same opportunity. The applicant will be given two weeks to prepare a report once the reasons for the staff recommendations have been received.

The applicant's time to prepare a submission may affect the timing and scheduling of the staff hearing reports. The two weeks preparation time may be shortened at the applicant's request.

2.5 Hearing Information

Prior to the hearing, the applicant will be advised of the Conservation Authority's hearing procedures.

3.0 HEARING

3.1 Public Hearing

Pursuant to the *Statutory Powers Procedure Act*, hearings, including electronic hearings, are required to be held in public. For electronic hearings, public attendance should be synchronous with the hearing. The exception is in very rare cases where public interest in public hearings is outweighed by the fact that intimate financial, personal or other matters would be disclosed at hearings.

3.2 Hearing Participants

The *Conservation Authorities Act* does not provide for third party status at the local hearing. The hearing however is open to the public. Any information provided by third parties should be incorporated within the presentation of information by, or on behalf of, the applicant or Authority staff as appropriate.

3.3 Attendance of Hearing Board Members

In accordance with case law relating to the conduct of hearings, those members of the Authority who will decide whether to grant or refuse the application must be present during the full course of the hearing. If it is necessary for a member to leave, the remaining members can continue with the hearing and render a decision.

3.4 Adjournments

The Board may adjourn a hearing on its own motion or that of the applicant or Authority staff where it is satisfied that an adjournment is necessary for an adequate hearing to be held.

Any adjournments form part of the hearing record.

3.5 Orders and Directions

The Authority is entitled to make orders or directions to maintain order and prevent the abuse of its hearing processes. A hearing procedures example has been included as **Appendix C**.

3.6 Information Presented at Hearings

- (a) The *Statutory Powers Procedure Act* requires that a witness be informed of their right to object pursuant to the *Canada Evidence Act*. The *Canada Evidence Act* indicates that a witness shall be excused from answering questions on the basis that the answer may be incriminating. Further, answers provided during the hearing are not admissible against the

witness in any criminal trial or proceeding. This information should be provided to the applicant as part of the Notice of Hearing.

- (b) It is the decision of the hearing members as to whether information is presented under oath or affirmation. It is not a legal requirement. The applicant must be informed of the above, prior to or at the start of the hearing.
- (c) The Board may authorize receiving a copy rather than the original document. However, the Board can request certified copies of the document if required.
- (d) Privileged information, such as solicitor/client correspondence, cannot be heard. Information that is not directly within the knowledge of the speaker (hearsay), if relevant to the issues of the hearing, can be heard.
- (e) The Board may take into account matters of common knowledge such as geographic or historic facts, times, measures, weights, etc., or generally recognized scientific or technical facts, information or opinions within its specialized knowledge without hearing specific information to establish their truth.

3.7 Conduct of Hearing

3.7.1 Record of Attending Hearing Board Members

A record will be made of the members of the Hearing Board.

3.7.2 Opening Remarks

The Chair will convene the hearing with opening remarks which, generally, identify the applicant, the nature of the application, and the property location; outline the hearing procedures; and advise on requirements of the *Canada Evidence Act*. An example Opening Remarks is included in **Appendix D**. An example Opening Remarks for hearings under Section 28.1.2 (7) of the CA Act is included in **Appendix E**.

In an electronic hearing, all the parties and the members of the Hearing Board must be able to clearly hear one another and any witnesses throughout the hearing.

3.7.3 Presentation of Authority Staff Information

Staff of the Authority presents the reasons supporting the recommendation for the refusal or conditions of approval of the application. Any reports, documents or plans that form part of the presentation shall be properly indexed and received.

Staff of the Authority should not submit new technical information at the hearing as the applicant will not have had time to review and provide a professional opinion to the Hearing Board.

Consideration should be given to the designation of one staff member or legal counsel who coordinates the presentation of information on behalf of Authority staff and who asks questions on behalf of Authority staff.

3.7.4 Presentation of Applicant Information

The applicant has the opportunity to present information at the conclusion of the Authority staff presentation. Any reports, documents or plans which form part of the submission should be properly indexed and received.

The applicant shall present information as it applies to the permit application in question. For instance, does the requested activity affect the control of flooding, erosion, dynamic beach or conservation of land or pollution? The hearing does not address the merits of the activity or appropriateness of such a use in terms of planning.

- The applicant may be represented by legal counsel or agent, if desired.
- The applicant may present information to the Board and/or have invited advisors to present information to the Board
- The applicant(s) presentation may include technical witnesses, such as an engineer, ecologist, hydrogeologist, etc.

The applicant should not submit new technical information at the hearing as the Authority staff will not have had time to review and provide a professional opinion to the Hearing Board.

3.7.5 Questions

Members of the Hearing Board may direct questions to each speaker as the information is being heard. The applicant and/or agent can make any comments or questions on the staff report.

Pursuant to the *Statutory Powers Procedure Act*, the Board can limit questioning where it is satisfied that there has been full and fair disclosure of the facts presented. Please note that the courts have been particularly sensitive to the issue of limiting questions and there is a tendency to allow limiting of questions only where it has clearly gone beyond reasonable or proper bounds.

3.7.6 Deliberation

After all the information is presented, the Board may adjourn the hearing and retire in private to confer. The Board may reconvene on the same date or at some later date to advise of the Board's decision. The Board members shall not discuss the hearing with others prior to the decision of the Board being finalized.

4.0 DECISION

The applicant must receive written notice of the decision. The applicant shall be informed of the right to ask for a Minister's review within 15 days of receiving the written decision, or appeal the decision within 90 days of receiving the written decision to the Ontario Land Tribunal.

It is important that the hearing participants have a clear understanding of why the application was refused or approved. The Board shall itemize and record information of particular significance which led to their decision.

4.1 Notice of Decision

The decision notice should include the following information:

- (a) The identification of the applicant, property and the nature of the application that was the subject of the hearing.
- (b) The decision to refuse or approve the application, and in the case of applications under s. 28.1 of the CA Act, the decision to approve the application with or without conditions. A copy of the Hearing Board resolution should be attached.

It is recommended that the written Notice of Decision be forwarded to the applicant by registered mail. A sample Notice of Decision and cover letter has been included as **Appendix F**. A sample Notice of Decision and cover letter for hearings under Section 28.1.2 (7) of the CA Act is included in **Appendix G**.

4.2 Adoption

A resolution advising of the Board's decision and particulars of the decision should be adopted.

5.0 RECORD

The Authority shall compile a record of the hearing. In the event of an appeal, a copy of the record should be forwarded to the Ontario Land Tribunal. The record must include the following:

- (a) The application for the permit.
- (b) The Notice of Hearing.
- (c) Any orders made by the Board (e.g., for adjournments).
- (d) All information received by the Board.
- (e) Attendance of Hearing Board members.
- (f) The decision and reasons for decision of the Board.
- (g) The Notice of Decision sent to the applicant

APPENDIX A

Notice of Hearing

IN THE MATTER OF

The Conservation Authorities Act,
R.S.O. 1990, Chapter 27

AND IN THE MATTER OF an application by

FOR THE PERMISSION OF THE CONSERVATION AUTHORITY

Pursuant to Regulations made under
Section 28, Subsection 5 of the said Act

TAKE NOTICE THAT a Hearing before the Hearing Board of the Long Point Region Conservation Authority (LPRCA) will be held under Section 28.1, Subsection 5 of the Conservation Authorities Act at the office of the LPRCA (4 Elm Street, Tillsonburg ON), at the hour of , **on the day of , 202x**, *[for electronic hearings: Details about the manner in which the hearing will be held are to be provided]* with respect to the application by (**NAME**) to permit development within an area regulated by the Authority in order to ensure no adverse effect on **(the control of flooding, erosion, dynamic beaches or unstable soil or bedrock / alter or interfere with a watercourse or wetland)** on Lot , Plan/Lot , Concession , (**Street**) in the **City of , Regional Municipality of , River Watershed**.

TAKE NOTICE THAT you are invited to make a delegation and submit supporting written material to the Hearing Board for the meeting of (**meeting number/date**). If you intend to appear [For electronic hearings: or if you believe that holding the hearing electronically is likely to cause significant prejudice], please contact (**name**). Written material will be required by (**date**), to enable the Hearing Board members to review the material prior to the meeting.

TAKE NOTICE THAT this hearing is governed by the provisions of the Statutory Powers Procedure Act. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the effect of any evidence that a witness may give.

AND FURTHER TAKE NOTICE that if you do not attend at this Hearing, the Hearing Board may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

DATED the ____ day of _____ 202X

APPENDIX B

NOTICE OF HEARING

(Subsection 28.1.2 (7) of the *Conservation Authorities Act*)

IN THE MATTER OF

The Conservation Authorities Act,
R.S.O. 1990, Chapter 27

AND IN THE MATTER OF an application by

FOR THE PERMISSION OF THE LONG POINT REGION CONSERVATION AUTHORITY

Pursuant to Regulations made under
Section 28.1.2, Subsection 7 of the said Act

TAKE NOTICE THAT a Hearing before the Hearing Board of the Long Point Region Conservation Authority will be held under Section 28.1.2, Subsection 7 of the *Conservation Authorities Act* at the offices of the LPRCA (4 Elm Street, Tillsonburg, ON), at the hour of , **on the day of , 2020**, *[for electronic hearings, include details about the manner in which the hearing will be held]* with respect to the application by (**NAME**) to permit development within an area regulated by the Authority **in association with a Minister's Zoning Order (REGULATION NUMBER)** on Lot , Plan/Lot , Concession , (**Street**) in the City of , Regional Municipality of , River Watershed.

TAKE NOTICE THAT you are invited to make a delegation and submit supporting written material to the Hearing Board for the meeting of (**meeting number**). If you intend to appear *[For electronic hearings: or if you believe that holding the hearing electronically is likely to cause significant prejudice]*, please contact (**name**). Written material will be required by (**date**), to enable the Committee members to review the material prior to the meeting.

TAKE NOTICE THAT pursuant to Section 28.1.2 of the *Conservation Authorities Act*, a conservation authority is required to grant the permission applied for and may only impose conditions to the permission. The Hearing will therefore focus on the conditions to be imposed to the granting of the permission.

TAKE NOTICE THAT this hearing is governed by the provisions of the *Statutory Powers Procedure Act*. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the *Ontario Evidence Act*. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the *Canada Evidence Act* that protection must be obtained in the usual manner.

The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the effect of any evidence that a witness may give.

DATED the ____ day of , _____ 202X

Long Point Region Conservation Authority

Per:

General Manager/Secretary Treasurer

APPENDIX C

HEARING PROCEDURES

1. **Motion** to sit as Hearing Board.
2. Roll Call
3. **Chair's opening remarks.** For electronic hearings, the Chair shall ensure that all parties and the Hearing Board are able to clearly hear one another and any witnesses throughout the hearing.

Presentations and Questions

4. **Staff** will:
 - a. introduce to the Hearing Board the applicant/owner, his/her agent and others wishing to speak;
 - b. indicate the nature and location of the subject application and the conclusions;
 - c. present the staff report included in the Authority agenda.
5. **The Applicant** and/or their agent will speak to the application.
6. Staff and/or the LPRCA's agent may question the applicant and/or their agent if reasonably required for a full and fair disclosure of matters presented at the Hearing.
7. The applicant and/or their agent may question the conservation authority staff and/or their agent if reasonably required for full and fair disclosure of matters presented at the Hearing.
8. The Hearing Board will question both the LPRCA staff/agent and the applicant/agent.

Deliberation and Decision

9. The Hearing Board **will move into deliberation.** For electronic meetings, the Hearing Board will separate from other participants for deliberation.
10. Reasons for the decision of the Board must be provided.
11. Members of the Hearing Board will move and second **a motion.**
12. A motion will be carried which will culminate in **the decision.**
13. The Hearing Board will move out of deliberation. For electronic meetings, the Hearing Board will reconvene with other participants.

Communicate Decision

14. The Chair will **advise the owner/applicant** of the Hearing Board **decision.**

15. **If decision is "to refuse" or "approve with conditions"**, the Chair or Acting Chair shall **notify the owner/applicant of his/her right to request a Minister's review within 15 days of receipt of the reasons for the decision or, alternatively, appeal the decision to the Ontario Land Tribunal within 90 days of receipt of the reasons for the decision.**

16. **Motion** to move out of Hearing Board.

APPENDIX D

CHAIR'S OPENING REMARKS

when dealing with Hearings (Section 7 of the *Conservation Authorities Act*)
with respect to Ontario Regulation 41/24

We are now going to conduct a Hearing under Section 28 of the *Conservation Authorities Act* in respect of an application by **(applicant)** for permission to **(nature of the application)** at **(location, address)**.

The Authority administers Ontario Regulation 41/24 under Section 28 of the *Conservation Authorities Act* which requires the permission of the Authority for development within an area regulated by the Authority in order to ensure no adverse effect on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock or to permit alteration to a watercourse or interference with a wetland.

The Staff has reviewed this proposed work and a copy of the staff report has been given to the applicant and the Board. The applicant was invited to file material in response to the staff report, a copy of which has also been provided to the Board.

The Conservation Authorities Act (Section 28 [5]) provides that:

"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."

In holding this hearing, the Authority Board is to determine whether or not a permit is to be issued, with or without conditions. In doing so, we can only consider the application in the form that is before us, the staff report, such evidence as may be given, and the submissions to be made on behalf of the applicant. Only information disclosed prior to the hearing is to be presented at the hearing.

The proceedings will be conducted according to the *Statutory Powers Procedure Act*.

Under Section 5 of the *Canada Evidence Act*, a witness may refuse to answer any question on the ground that the answer may tend to criminate the person, or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation.

As the Hearing proceeds, the procedures listed in the Hearing Procedure summary provided may be relaxed or abbreviated for efficiency.

The Authority may ask questions of witnesses for clarification at any time.

If the applicant has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chair of the Board.

APPENDIX E

CHAIR'S OPENING REMARKS

When dealing with Hearings (Section 28.1.2 (7) of the *Conservation Authorities Act*) with respect to Ontario Regulation 41/24

We are now going to conduct a hearing under section 28.1.2 of the *Conservation Authorities Act* in respect of an application by **(applicant)** for permission to **(nature of the application)** at **(location, address)**.

Under Section 28.1.2 of the *Conservation Authorities Act*, an Authority is required to grant permission for any application submitted under a regulation made under subsection 28(1) for permission to carry out all or part of a development project, in an area regulated by the Authority, associated with a Minister's Zoning Order, provided the criteria listed under subsection 28.1.2 (1) are met. A permission is subject to any conditions as may be prescribed by the Authority.

The Staff has reviewed this proposed work and prepared a staff report, including the proposed conditions of approval for the proposed work, which has been given to the applicant and the Board. The applicant was invited to file material in response to the staff report, a copy of which has also been provided to the Board.

Under Section 28.1.2 (7) of the *Conservation Authorities Act*, the person requesting permission has the right to a hearing before the Authority.

In holding this hearing, the Authority Board is to determine the prescribed conditions to be attached to the approved permission. In doing so, we can only consider the application in the form that is before us, the staff report, such evidence as may be given and the submissions to be made on behalf of the applicant. Only information disclosed prior to the hearing is to be presented at the hearing.

The proceedings will be conducted according to the *Statutory Powers Procedure Act*. Under Section 5 of the *Canada Evidence Act*, a witness may refuse to answer any question on the ground that the answer may tend to incriminate the person, or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the hearing members.

If the applicant has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chairperson of the board.

APPENDIX F

Notice of Decision

(Date)

BY COURIER

(name)

(address)

Dear:

RE: NOTICE OF DECISION

Hearing Pursuant to Section 28.1 (5) of the Conservation Authorities Act

To (Nature of application) at (location, address). (Application #LPRCA-###/###)

In accordance with the requirements of the *Conservation Authorities Act*, the Long Point Region Conservation Authority (LPRCA) provides the following Notice of Decision:

On **(meeting date)**, a Hearing pursuant to Section 28.1 (5) of the *Conservation Authorities Act* to permit development within an area regulated by LPRCA within **(location, address)** was conducted. Following presentations by LPRCA staff and yourself, questions and deliberation, the LPRCA's Board of Directors **(approved, approved with conditions, refused)** your application to (nature of application) (Resolution No. A-xx/xx)). The Resolution reads as follows:

On **(meeting date and number)**, the Hearing Board refused/approved your application/approved your application with conditions. A copy the resolution # has been attached for your records. Please note that this decision is based on the following reasons:

- a. *Example: The proposed development/alteration to a watercourse adversely affects the control of flooding, erosion, dynamic beaches or unstable soil or bedrock or interferes with a wetland.*
- b.
- c.

In accordance with Section 28.1 (8) of the *Conservation Authorities Act*, an applicant who has been refused permission or who objects to conditions imposed on a permit may, within 15 days of receiving the reasons for the Authority's decision under Section 28.1 (7), request a review by the Minister who may refuse the permission; or grant permission, with or without conditions.

Alternatively, in accordance with Section 28.1 (20) the applicant may, within 90 days of receiving the reasons for the Authority's decision under Section 28.1 (7), appeal the Authority's decision to the Ontario Land Tribunal.

For your information, should you wish to exercise your right to appeal the decision **to either the Minister or the Ontario Land Tribunal**, a letter by you or your agent/counsel setting out your appeal must be sent within 15 or 90 days respectively of receiving this decision addressed to:

Minister of Natural Resources and Forestry Whitney Block, 99 Wellesley St W, Toronto, ON M7A 1W3	Ontario Land Tribunal 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
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A carbon copy of this letter should also be sent to this conservation authority. Should you require any further information, please do not hesitate to contact **(staff contact)** or the undersigned.

Yours truly,

General Manager/Secretary Treasurer

APPENDIX G

NOTICE OF DECISION

(Subsection 28.1.2 (7) of the *Conservation Authorities Act*)

(Date)

BY COURIER

(name)

(address)

Dear:

RE: NOTICE OF DECISION

Hearing Pursuant to Section 28.1.2 (7) of the Conservation Authorities Act

Proposed Residential Development

Lot , Plan ; ?? Drive City of

(Application #)

In accordance with the requirements of the Conservation Authorities Act, the Long Point Region Conservation Authority provides the following Notice of Decision:

On (***meeting date and number***), the Hearing Board of the Long Point Region Conservation Authority approved your application/approved your application with conditions. A copy the Board's resolution # has been attached for your records. Please note that this decision is based on the following reasons: (conditions are required to mitigate the effects of the development project on the control of flooding, erosion, dynamic beaches or unstable soil or bedrock; or conditions or circumstances created by the development project 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).

In accordance with Section 28.1.2 (9) of the Conservation Authorities Act, an applicant who objects to conditions imposed on a permission may, within 15 days of receiving the reasons under subsection (8), submit a request to the Minister for the Minister to review the conditions. The Minister may confirm or vary the conditions as proposed by the authority. Alternatively, in accordance with Section 28.1.2 (15) of the Conservation Authorities Act, the holder of a permission who objects to the conditions proposed by an authority may, within 90 days of the reasons under subsection (8) being issued, appeal to the Ontario Land Tribunal to review the conditions.

For your information, should you wish to exercise your right to appeal the decision **to either the Minister or the Ontario Land Tribunal**, a letter by you or your agent/counsel setting out your appeal must be sent within 15 or 90 days respectively of receiving this decision addressed to:

Minister of Natural Resources and Forestry Whitney Block, 99 Wellesley St W, Toronto, ON M7A 1W3	Ontario Land Tribunal 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
--	---

A carbon copy of this letter should also be sent to this conservation authority. Should you require any further information, please do not hesitate to contact (***staff contact***) or the undersigned.

Yours truly,

General Manager/Secretary Treasurer

Enclosure



LONG POINT REGION CONSERVATION AUTHORITY STAFF REPORT

Date: May 15, 2025

File: 3.3.1

To: Chair and Members,
LPRCA Board of Directors

From: General Manager, LPRCA

Re: Long Point Region Conservation Authority Application LPRCA #89/25 (Kyle and Isabel Cronk) Pursuant to Ontario Regulation 41/24, Proposed accessory structure at 20 Old Mill Road, Lot 8, 9, Plan 28B, Houghton.

Recommendation:

THAT the LPRCA Board of Directors refuse to grant a “Prohibited Activities, Exemptions and Permits” Permit for Permit Application LPRCA #89/25 (Kyle and Isabel Cronk) for the following reasons:

1. The construction of the proposed structure adjacent to the shoreline is contrary to Long Point Region Conservation Authority policies for development in the Lake Erie Shoreline 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 construction of the proposed structure is proposed to occur within an area that is actively eroding and is unsafe for development, and
3. The development activities will likely create conditions or circumstance 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.

Background:

The subject land is located at 20 Old Mill Road in the former township of Houghton along Lake Erie in Norfolk County (Figure 1). The subject lands currently contain a single-family dwelling, a detached garage, and various other small sheds (Figure 2). The proposed development includes the construction of a 32ft x 40ft or 119 m² (1,280 ft²) pole barn where the existing barn is located. The existing barn is 24ft x 16 ft or 36 m² (384 ft²) and will be demolished if this proposal is approved.

In this location, the property and associated development are subject to erosion-related hazards and is entirely regulated under Long Point Region Conservation Authority's Ontario Regulation 41/24 (Figure 3).

In 2012, a previous landowner had constructed shoreline protection works for a portion of the property. The application was supported by a coastal assessment completed by a Coastal Engineer. In 2017, additional shoreline works were completed to the west along the road

allowance of Clear Creek, this work was also supported by a Coastal Engineer. Throughout the documentation, the engineer who completed the report outlined that the current and background erosion processes will continue to occur regardless of the proposed works.

In 2018, the Cronks contacted LPRCA staff regarding what type of development that would be allowed on the property. Staff at the time indicated that they could support the construction of a 30ft x 40ft garage at the site. No formal application was received and no permit was issued at that time for the work. Unfortunately, due to the existing site conditions, updated erosion rates and our policies that are in place today, staff are not able to recommend approval of the application.

The applicants have submitted an application for a new dwelling on the property, this application has been deemed incomplete at this time. In addition, information has been provided to our office that the applicants wish to extend the shoreline protection to the east, this application has been deemed incomplete as well.

On April 1, 2024, O. Reg. 41/24, *Prohibited Activities, Exemptions, and Permits*, came into effect. Through this regulation, LPRCA may permit, restrict, or refuse development and development activities in or adjacent to river or stream valleys, Great Lakes shorelines, watercourses, hazardous lands and wetlands.

More specifically, as it relates to this application, the *Conservation Authorities Act* states that:

Prohibited activities re watercourses, wetlands, etc.

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

iv. areas that are adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to an inland lake that may be affected by flooding, erosion or dynamic beach hazards, such areas to be further determined or specified in accordance with the regulations,

As they relate to this application, LPRCA's objectives in administering the Regulation are to:

- ❖ Prevent loss of life
- ❖ Minimize property damage and social disruption
- ❖ Reduce public and private expenditure for emergency operations, evacuation, restoration and protection measures
- ❖ Minimize the hazardous and unnecessary development of flood and erosion-susceptible shoreline areas which in future years may require expensive protection measures.

The Application:

An application has been deemed complete for the construction of a 32ft x 40ft or 119 m² (1,280 ft²) pole barn. LPRCA staff received the site plan and construction details which are

attached as Figure 4.

Site Description

The property is located on Old Mill Road in the former township of Houghton. The entire property is regulated under Ontario Regulation 41/24 as the site is adjacent to Lake Erie to the south. The property is surrounded by other dwellings to the west, and north.

The shoreline between Port Burwell to Long Point is approximately 30km long and erosion rates within this area range between 1.0 metre per year to 4.5 metres per year (Philpott and Associates, 1989). The erosion rates in this area were re-assessed in 2020 by Baird Associates, for this area of shoreline and the average annual recession rate (AARR) for this location is 3.09 metres per year. These erosion rates have been determined based on 60 years of data.

The shoreline also contains a bluff that is approximately 6 metres in height.

A shoreline protection wall was constructed in 2012, as a result the erosion on the downdrift side of the wall has been occurring at what appears to be an accelerated rate.

Site Aerial Photography

The aerial photos below show how the area has changed since 1964.



Above: Aerial Photography 1964 (source: Norfolk County Interactive Mapping)



Above: Aerial Photography 2002 (source: Norfolk County Interactive Mapping)



Above: Aerial Photography 2006 SWOOP



Above: Aerial Photography 2010 SWOOP



Above: Aerial Photography 2015 SWOOP



Above: Aerial Photography 2020 SWOOP



Above: Aerial Photography 2024 from Google Earth



Above: Aerial Photography 2020, the yellow line represents the top of bank in 2010, the orange line represents the top of bank in 2015 and the green line represents the top of bank in 2020.

Throughout the years there has been significant erosion along the shoreline in the vicinity of 20 Old Mill Road. The area along the downdrift side (east) of the erosion protection structure has shown signs of accelerated erosion due to the presence of the wall. Between 2010 and 2020, the downdrift side of the property has eroded approximately 45 metres.

Applicable Policy and Analysis

The LPRCA's Policies for the Administration of the Prohibited Activities, Exemptions and Permits Regulation currently stand as the LPRCA's guide for decision-making related to applications for permission.

LPRCA Policies for the Prohibited Activities, Exemption and Permits Regulation

Applicable policies for development associated with lands subject to the Lake Erie Shoreline Erosion Hazard are as follows:

The MNR Technical Guide for the Great Lakes provides guidance on existing development within hazardous lands. Based on the type and size of the development the guide provides development setbacks.

Applicable LPRCA policy	Planning Comments
8.5.2 Development activities associated with existing uses located within <i>Lake Erie Shoreline Flooding or Erosion Hazards</i> may be permitted in accordance with the policies in <i>Sections 7.1.2-7.1.3 – General Policies</i> , and where there is no feasible alternative site outside the <i>flooding or</i>	As it relates to criteria a: The proposed development is not in an area of least or acceptable risk. The shoreline is actively erosion immediately adjacent to the proposed site for the new garage.

<p><i>erosion hazard</i>, provided that it can be demonstrated that:</p> <p>a) the proposed development is located in an area of least (and acceptable) risk;</p> <p>c) the setback from the <i>top of stable slope</i> includes an erosion hazard component that recognizes the effectiveness, integrity, residual design life and maintainability of any existing erosion protection works; <i>and</i></p> <p>d) a maintenance access of at least 5 metres (16 feet) is retained to and along existing shoreline protection works.</p>	<p>As it relates to criteria c: The garage is not setback from the stable slope or the shoreline adequately. Based on the most recent aerial photography there appears to be approximately 30 meters between the shoreline and the proposed building site. With the average annual recession rate (AARR) being 3.09m/year, the garage has a life expectancy of approximately 10 years.</p> <p>As it relates to criteria d: A maintenance access is being retained, however, this will diminish as the shoreline continues to erode.</p>
<p>8.5.4 Non-Habitable Accessory Buildings or Structures associated with <i>existing uses</i> such as detached garages, tool sheds, gazebos and other similar structures within lands subject to the <i>Lake Erie Shoreline Flooding or Erosion Hazard</i> may be permitted in accordance with the policies in <i>Sections 8.5.2 - Policies for Lake Erie Shoreline Erosion Hazard</i>, and where it can be demonstrated that:</p> <p>a) there is no feasible alternative site outside the <i>Lake Erie Shoreline Erosion Hazard</i>,</p> <p>b) the building or structure is no closer to the lake than the existing building or structure and is set back a minimum of 6 metres from the <i>top of stable slope</i>,</p> <p>c) the floor area of the building or structure is less than or equal to 100 m² (1,076 ft²), and</p> <p>d) a maintenance access of at least 5 metres (16 feet) is retained to and along existing shoreline protection works.</p>	<p>As it relates to criteria a: There is no feasible alternative outside of the Lake Erie Shoreline erosion hazard as the entire lot is within the erosion hazard associated with Lake Erie.</p> <p>As it relates to criteria b: The setback for a non-accessory building within the Lake Erie erosion hazard is no closer than 15 metres from the stable top of bank or not at risk of erosion for 50 years. The garage is proposed to be approximately 11 metres setback from the stable top of bank, nor does it meet the 50 year life expectancy as the AARR at this location is 3.09m/year and the garage is to be setback approximately 30 metres from the physical top of bank. The proposed structure is proposed to be located closer to the lake based on the site plan submitted.</p> <p>As it relates to criteria c: The floor area is greater than the maximum size allowed. The proposed garage is 119m².</p> <p>As it relates to criteria d: The maintenance access of 5 metres is maintained.</p>

Staff Recommendation:

The proposed development does not conform to the LPRCA's policies for development within the erosion hazard of Lake Erie and is contrary to LPRCA's objectives for the

administration of Ontario Regulation 41/24. In LPRCA staff's opinion, the control of erosion will be affected by the proposed development and, therefore, staff recommend that the application be refused for the following reasons:

1. **The construction of the proposed structure adjacent to the shoreline is contrary to Long Point Region Conservation Authority policies for development in the Lake Erie Shoreline 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 construction of the proposed structure is proposed to occur within an area that is actively eroding and is unsafe for development, and**
3. **The development activities will likely create conditions or circumstance 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.**

Prepared by:

Leigh-Anne Mauthe

Leigh-Anne Mauthe, BES, MCIP, RPP
Manager of Watershed Services

Approved and submitted by:

Judy Maxwell

Judy Maxwell, CGA, CPA
General Manager

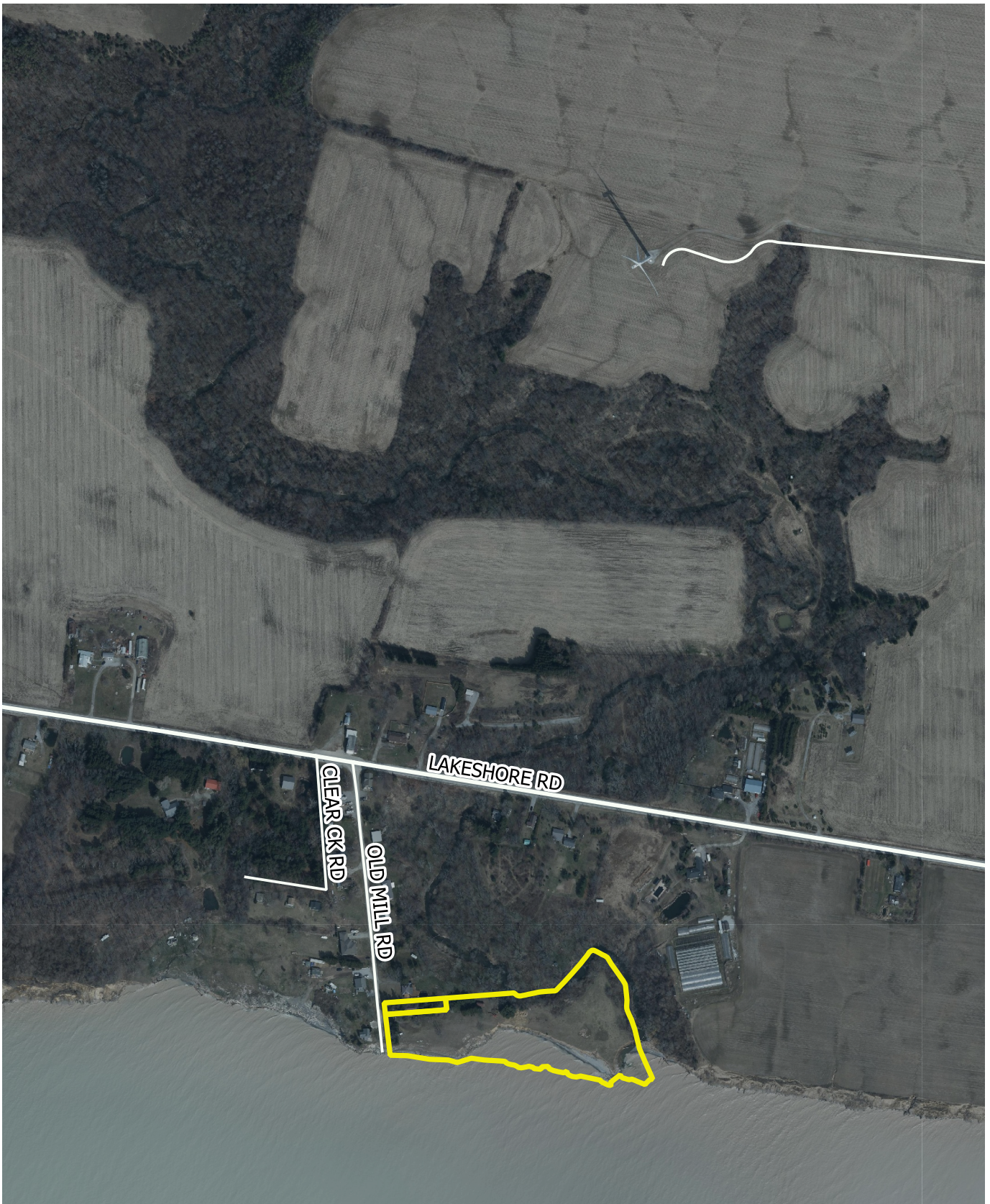


Figure 1

20 Old Mill Road
Houghton, Norfolk County



Legend

 Subject Property

The Long Point Region Conservation Authority (LPRCA) assumes no responsibility for the correctness of the information contained in this map nor liability to any user of such information, regardless of the purpose. (2024)

0 100 200 300 400 m





Figure 2

20 Old Mill Road
Houghton, Norfolk County



Legend

 Subject Property

0 25 50 75 100 125 m



The Long Point Region Conservation Authority (LPRCA) assumes no responsibility for the correctness of the information contained in this map nor liability to any user of such information, regardless of the purpose. (2024)





Figure 3


20 Old Mill Road
Houghton, Norfolk County



Legend

-  Subject Property
-  LPRCA Regulation Limit

0 25 50 75 100 125 m



The Long Point Region Conservation Authority (LPRCA) assumes no responsibility for the correctness of the information contained in this map nor liability to any user of such information, regardless of the purpose. (2024)

SITE PLAN LOT 2. 3 JAN 2025



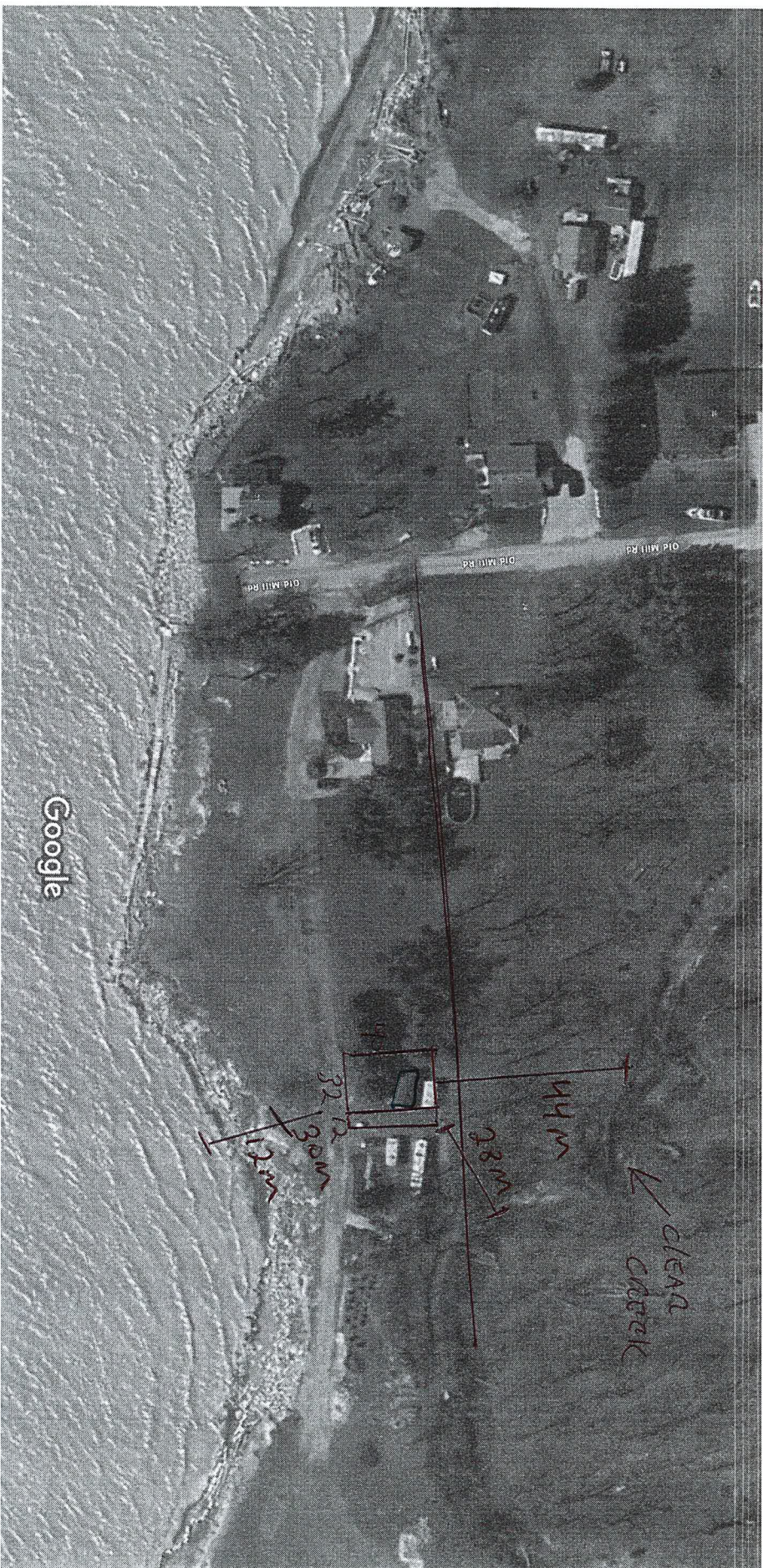
Google Maps

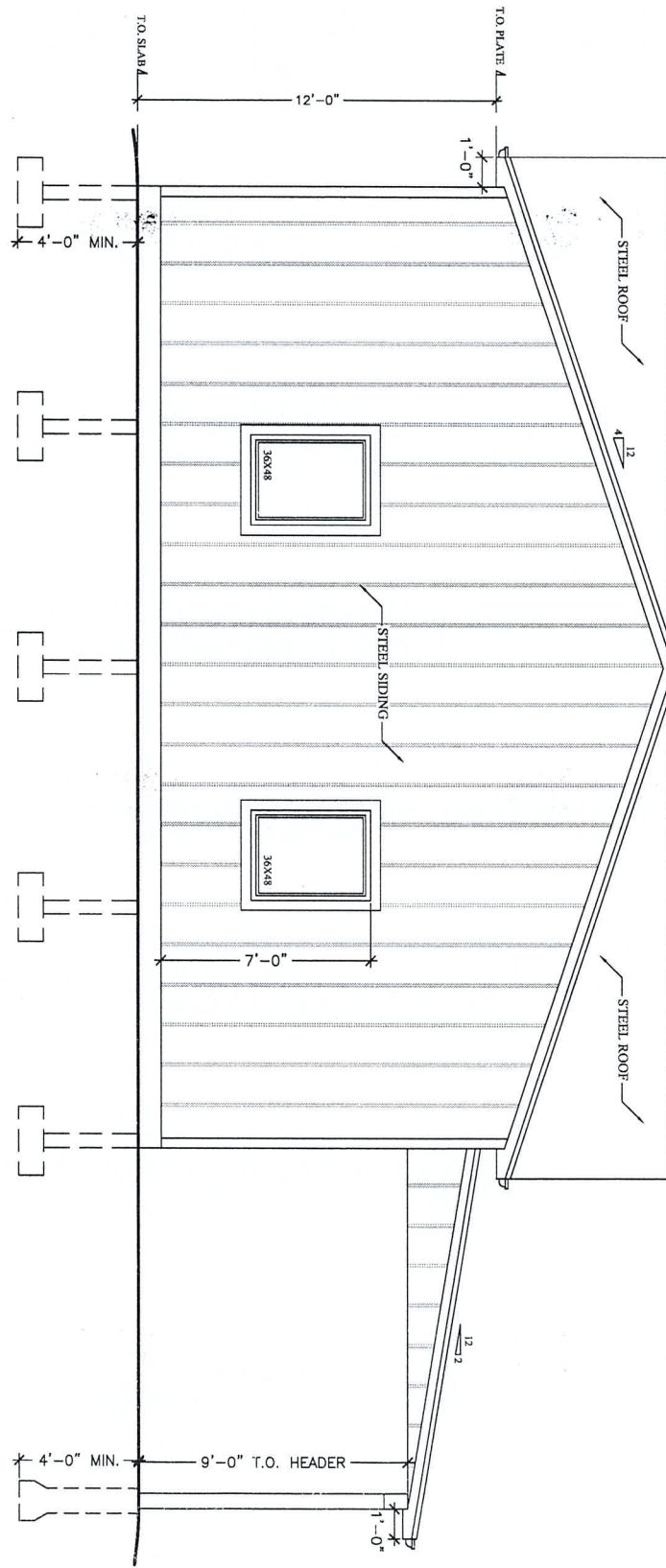
Site Plan 2022 3 Jan 2025

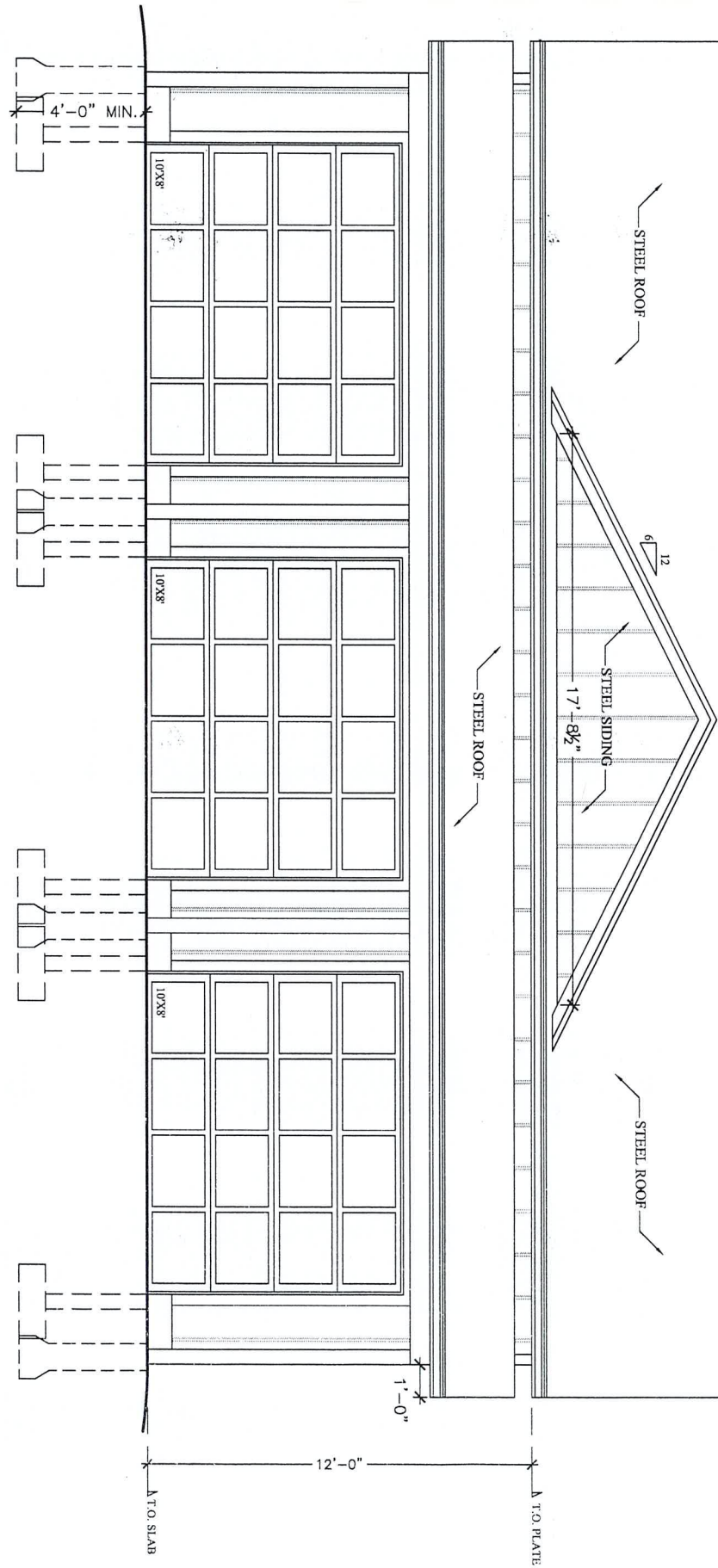


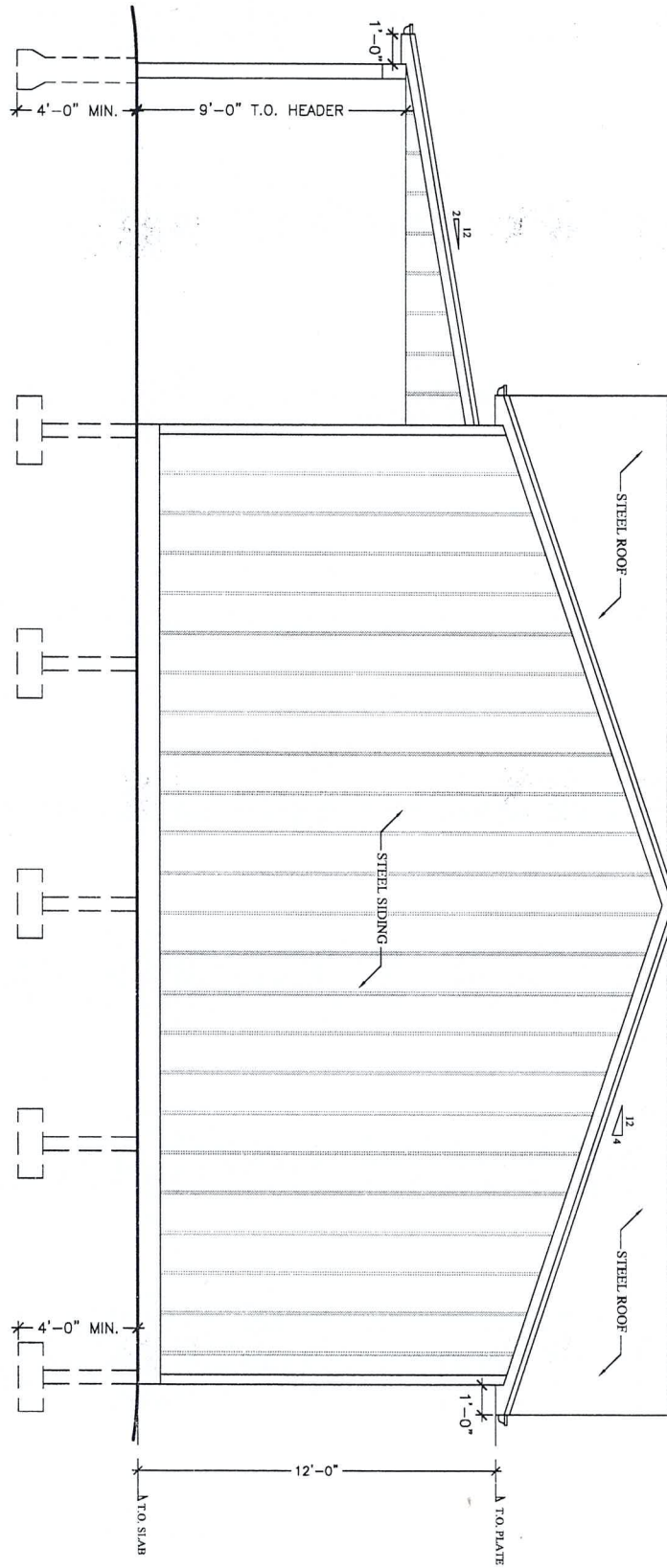
Imagery ©2025 Airbus, Maxar Technologies, Map data ©2025 Google 10 m

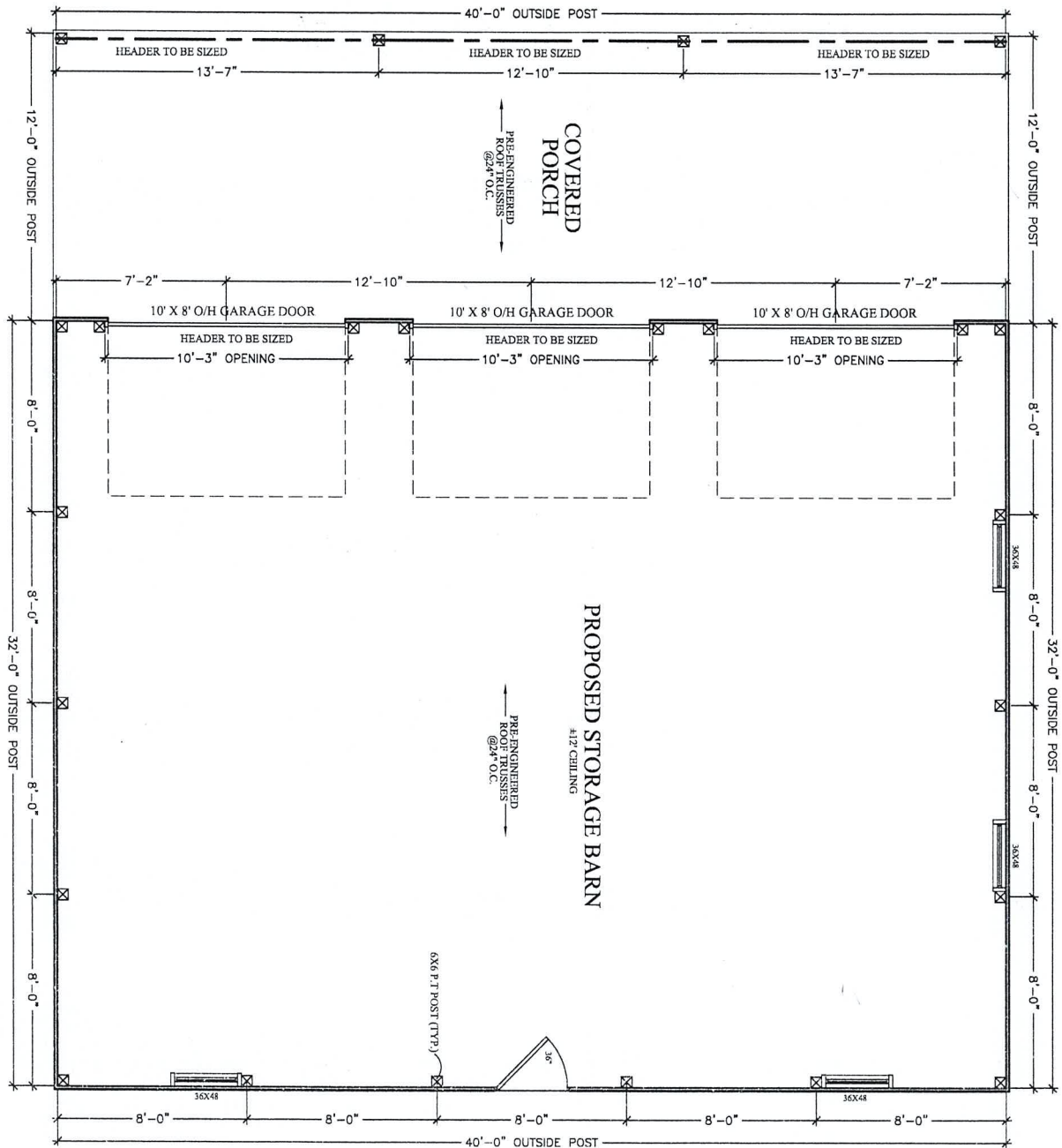
Site Plan 20 Feb 3 Jan 2025













Board Hearing For Application LPRCA-89/25 (Cronk)

Pursuant to Ontario Regulation 41/24 under Section 28
of the Conservation Authorities Act

Wednesday, June 4, 2025



The Application

Scope of proposed work:

- To construct a 119m² (1,280ft²) pole barn/garage

LPRCA staff are unable to recommend approval of this application.



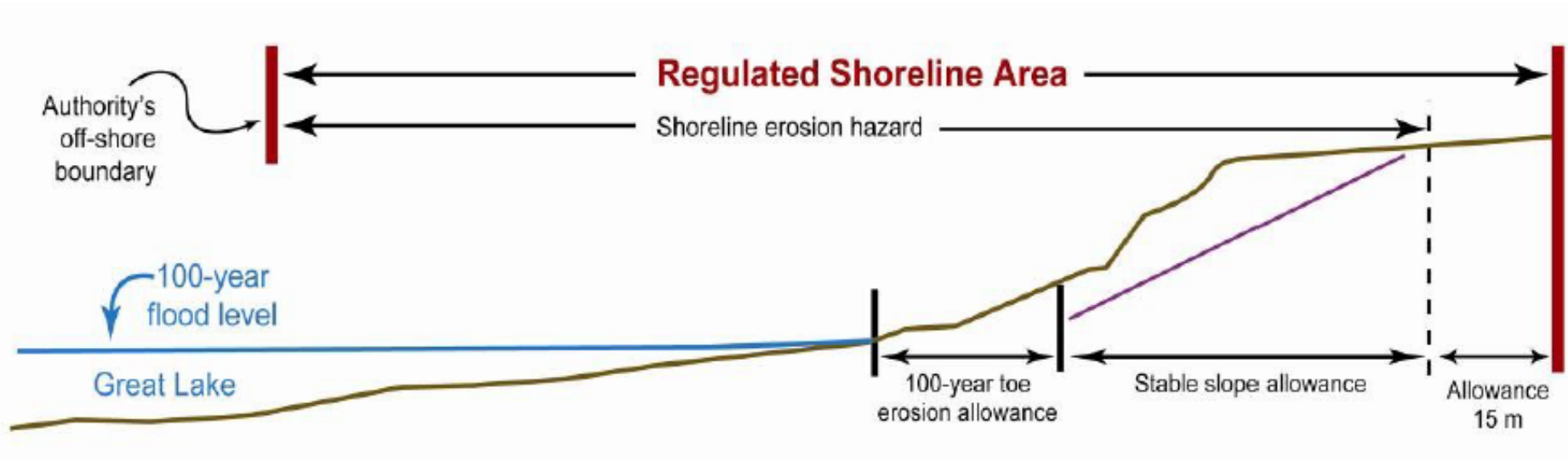
Subject Lands



O.Reg 41/24 Regulated Area



Lake Erie Erosion Hazard



Site Plan

SITE PLAN 1 OF 2. 3 JAN 2025



Site Plan

Google Maps

SITE PLAN

20F2

3 JAN 2025

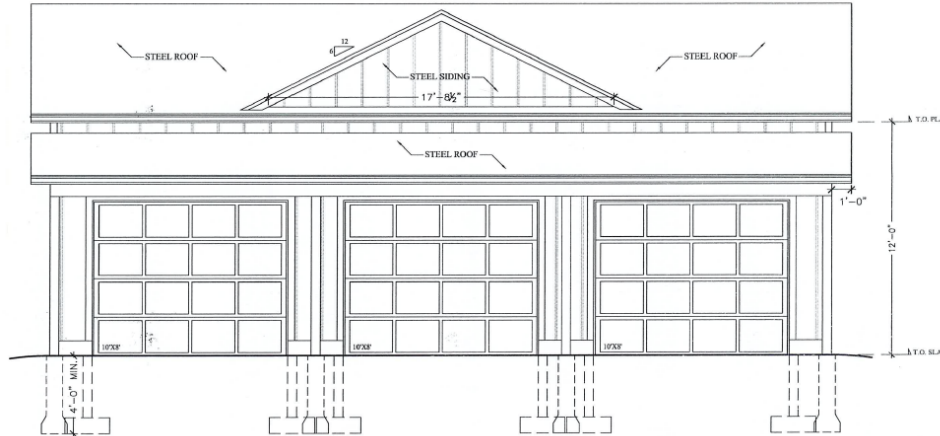


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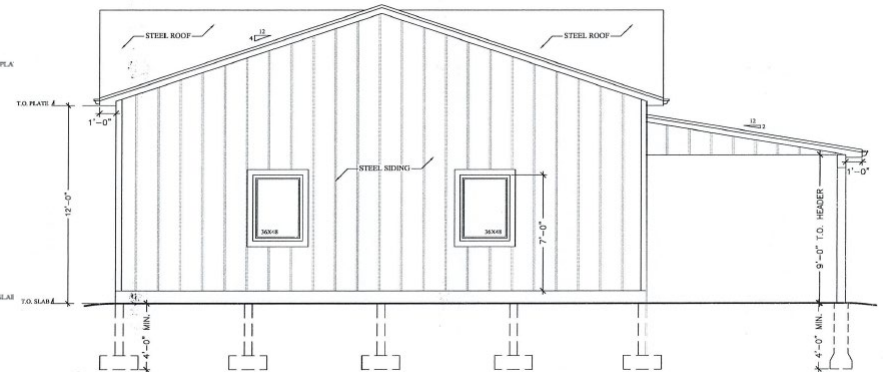


Proposed Structure

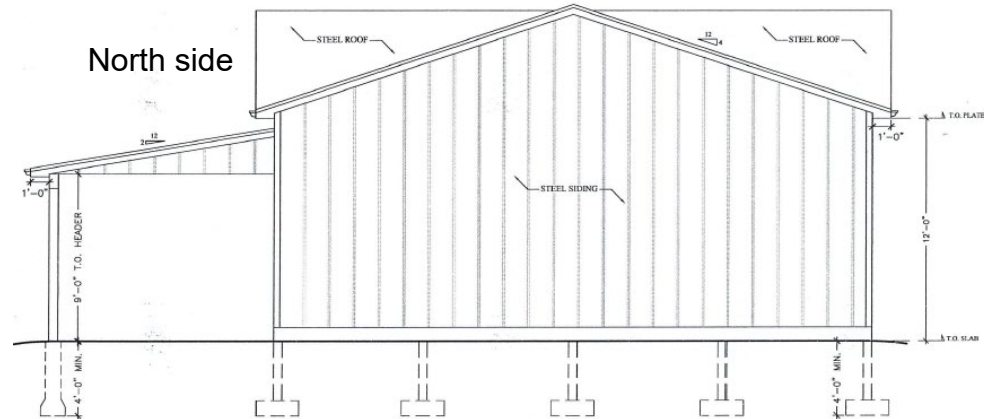
East side



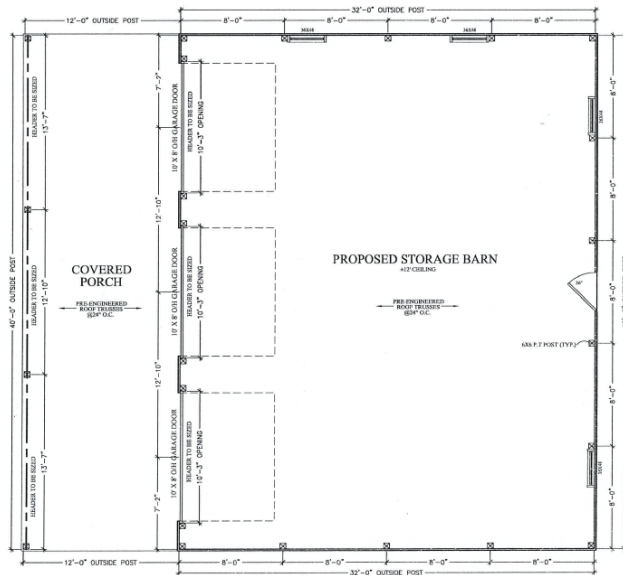
South side



North side



Floor Plan

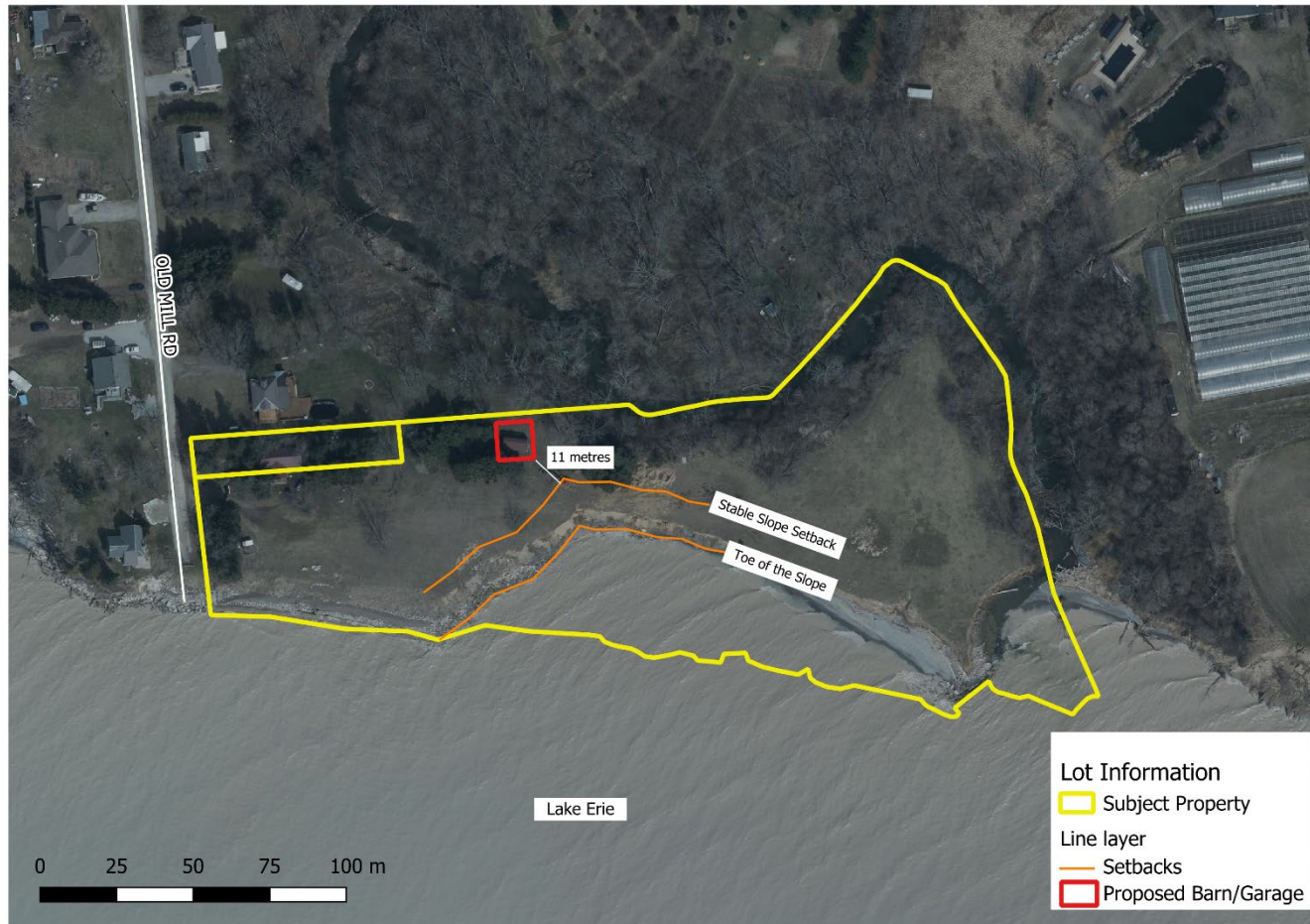


Aerial Photography



Shoreline changes from 2010 - 2020

Setbacks



Summary

- Staff cannot support the construction of the proposed pole barn/garage,
- Staff cannot support development of the garage due to on-going erosion and proximity of the development to the shoreline,
- The overall guidance and intent of our policies are to minimize potential risk to life and property during natural hazard events.



Recommendation

THAT the LPRCA Board of Directors refuse to grant a “Prohibited Activities, Exemptions and Permits” Permit for Permit Application LPRCA #89/25 (Kyle and Isabel Cronk) for the following reasons:

- The construction of the proposed structure adjacent to the shoreline is contrary to Long Point Region Conservation Authority policies for development in the Lake Erie Shoreline Erosion hazard. These policies have been implemented to reduce or eliminate preventable risk to life and property damage from erosion and unstable slopes,
- The construction of the proposed structure is proposed to occur within an area that is actively eroding and is unsafe for development, and
- The development activities will likely create conditions or circumstance 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.



Presentation to the LPRCA Board

4th June 2025

Kyle and Isabel Cronk

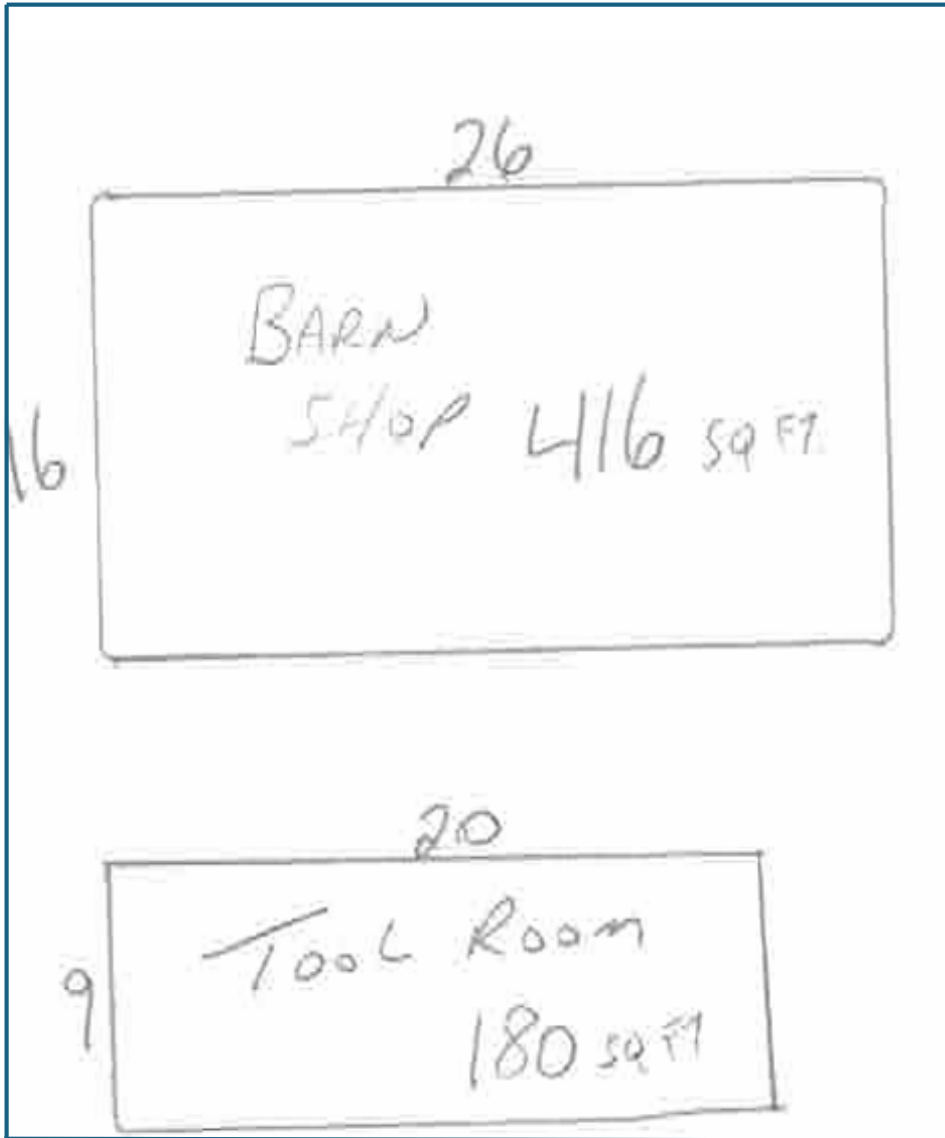
**20 Old Mill Clear Creek
Replacement Shop**

Kyle Cronk, I am 63 years old and have lived on Lake Erie for 50 years, either in Haldimand, Elgin, or now in Norfolk. My wife Isabel has been on Lake Erie with me for the Last 30 years.

- We are not strangers to this Lake. We are not naive to the weather or erosion.**
- The Engineered Wall at 20 Old Mill was installed in 2012 and was professionally engineered, under a LPRCA Permit.**
- It was reinspected as part of Norfolk County's addition to the revetment put at the end of Old Mill in 2016.**
- The New Shop is behind the Wall and the Westward Wave Action by 80m.**
- We have proposed further Flanking Protection, and we are working with both the LPRCA and Pat Prodanovic of TRUE Engineering to do some further Flanking Protection.**
- This is a non-habitable building.**

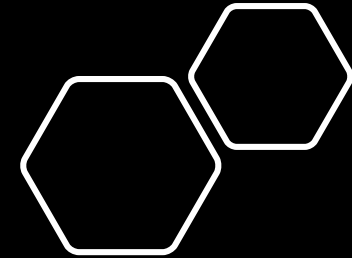


Replacement of 2 Shops, 16 X 26 and 9 X 20 total of 600 sq/ft



40 ft

Location of
Replacement
Shop



32 ft

Sector A – Port Burwell to Long Point

Three reaches of distinct character have been identified within this sector. The reaches are referred to as High Bluffs which includes bluffs east of Port Burwell as well as a small section west of the beach, Port Burwell Village and Port Burwell Beach.

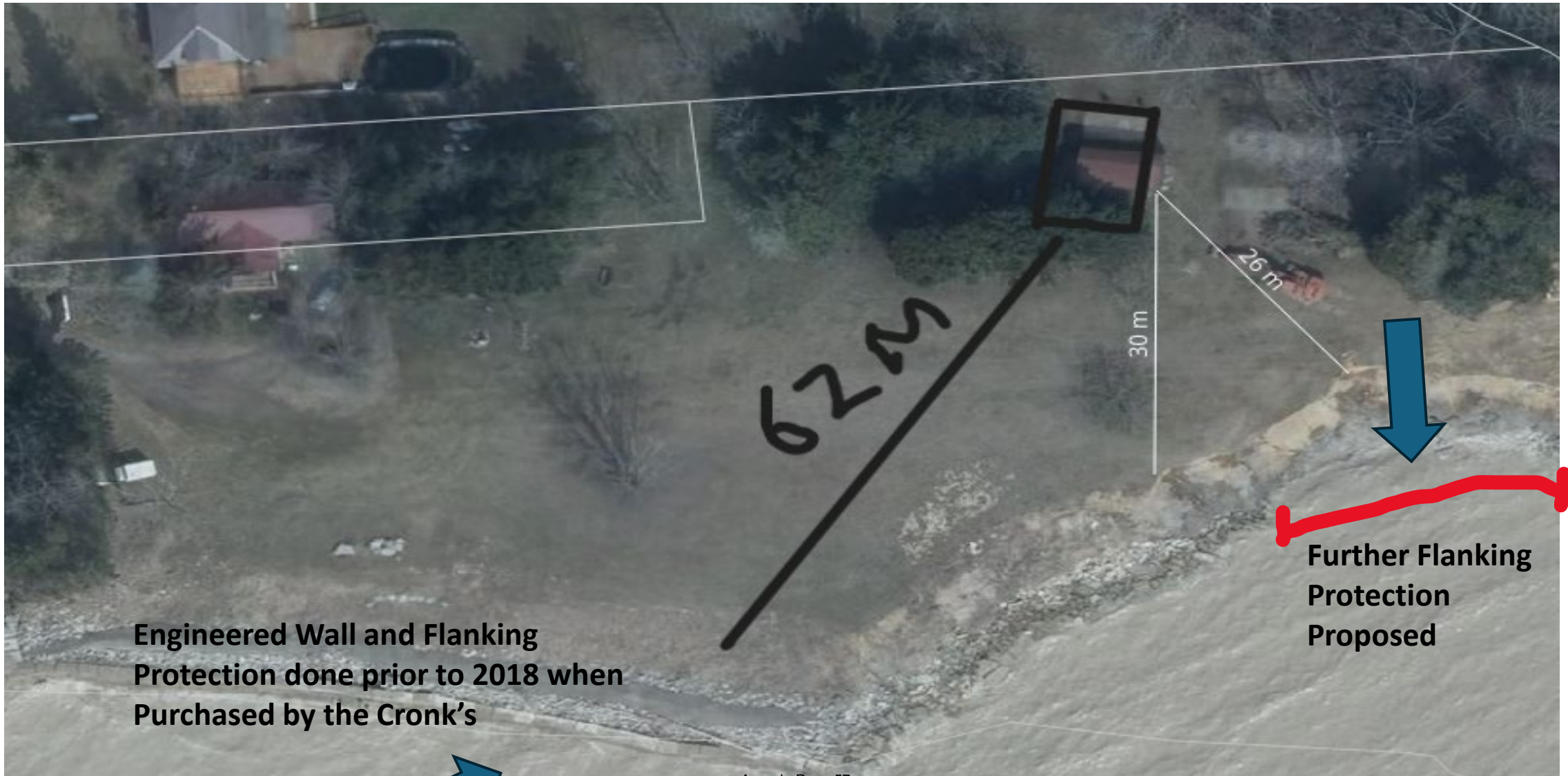
Specific recommendations of the plan are as follows:

High Bluff Areas

- (1) No development be allowed within the regulatory shoreland zone unless all erosion hazards are eliminated.
- (2) Where protection structures are used to overcome erosion hazards, the structures must provide full protection during a storm event of 1:100 year occurrence. Protection structures must have a design life of 100 years with reasonable maintenance. A permanent land base access must be provided. The protected area must extend not less than 2.5 times the height of bluff on both sides of the property to be protected, or tie in with adjacent protection of adequate levels.

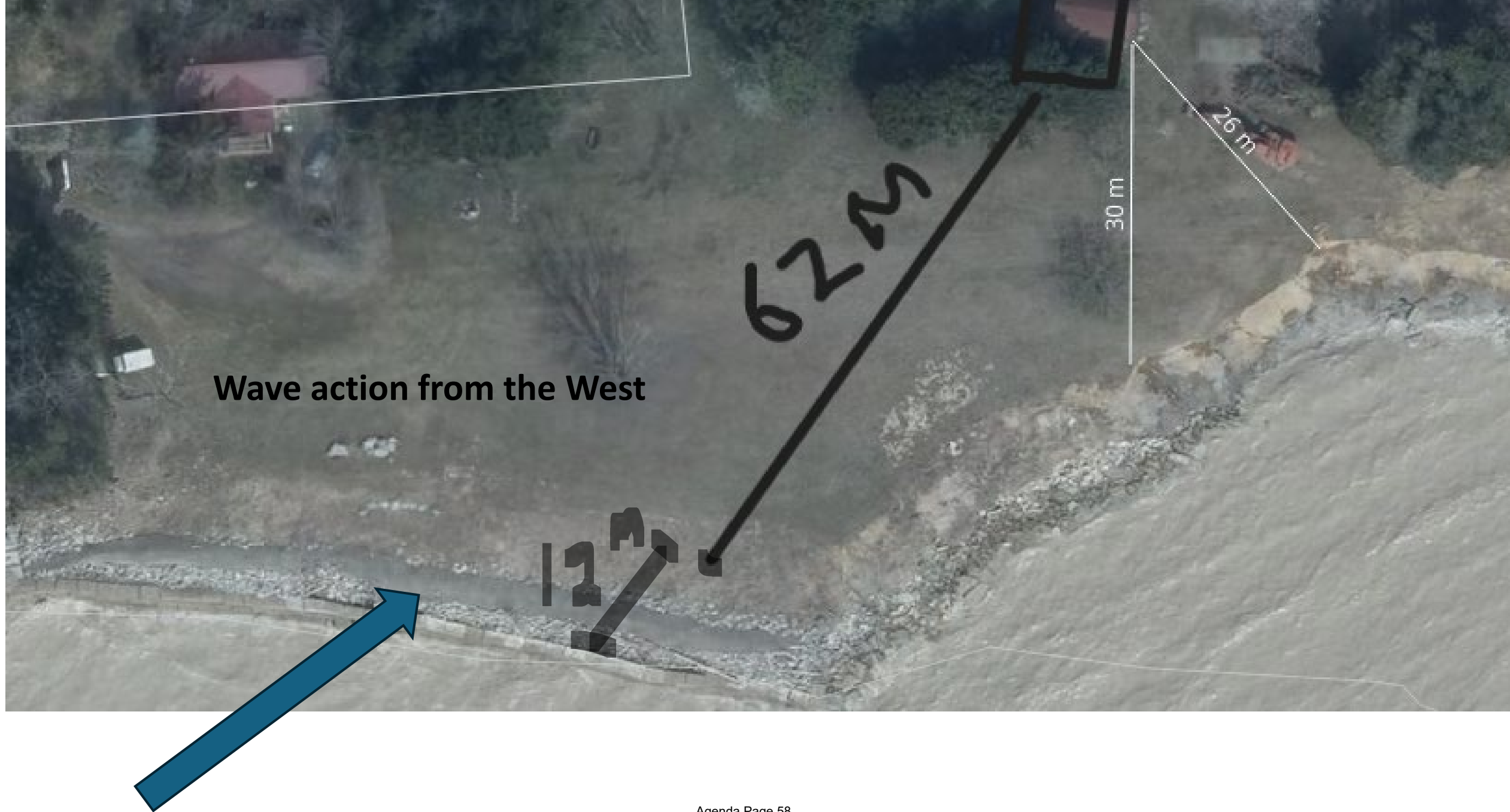
Unfortunately,
there is no reach
of the Clear
Creek area.

2025 Pic



**Engineered Wall and Flanking
Protection done prior to 2018 when
Purchased by the Cronk's**

**Further Flanking
Protection
Proposed**





2025 Pic

**Flanking Protection
Completed Before
2018 Purchase**

From: Pat Prodanovic <PProdanovic@true.ca>
Date: May 20, 2025 at 10:37:37 AM EDT
To: Kyle Cronk <kyle@cropdusters.ca>
Subject: RE: Flanking Protection

Hello Kyle,

I look forward to working together with you and LPRCA staff to develop a scope of work for erosion and flank protection at 20 Old Mill Road, Clear Creek.

Best,

Pat



PO Box 21, Ilderton
ON N0M 2A0

www.true.ca

ENGINEERING URBAN
DESIGN

PLANNING LAND
SURVEYING

The Cronks are presently in talks with the LPRCA staff to protect further shoreline to the East. An application has been filed and will continue to get this work completed. A possible further study may be required.

2018 Letter from LPRCA staff authorized by Lorrie Minshall before we purchased the property

We did our due diligence before purchasing. We came to the LPRCA and asked to have in writing what we could do and what we could not do.

We are a little stunned to find ourselves here today.

Hi Kyle,

Following up on your phone conversation with Lorrie Minshall regarding your proposal for 20 Old Mill Road in Clear Creek.

Staff can support the following development:

- A minor addition not larger than 50m²(540ft²)
- The addition can be located lakeward at grade, above the garage or as a second story but cannot total more than 50m²;
- An attached garage as proposed;
- An additional accessory building (shop) as proposed;
- A swimming pool located in close proximity to the existing house.

At the time we asked for a shop 30X40 Now we want 32 X 40 which is a better use of materials.

Staff cannot support: · ·

- Relocating the existing house lakeward; An addition greater than 50m²; More than one addition totalling more than 50m².

I have also attached a map displaying the erosion rate over the past 3 years.

The imagery was taken in 2015 and the contours are from earlier this year.

It shows roughly 10-15m of erosion immediately east of the shoreline protection.

Please let me know if you have any other questions.

Thanks, Chris Chris Boothe, MEPP Resource Planning
Technician Long Point Region Conservation Authority 4 Elm
Street, Tillsonburg, ON N4G 0C4 Office: 519-842-4242 or 1-
888-231-5408 ext.235 Email: cboothe@lprca.on.ca

Sent for Lorrie Minshall, who was away at the time.

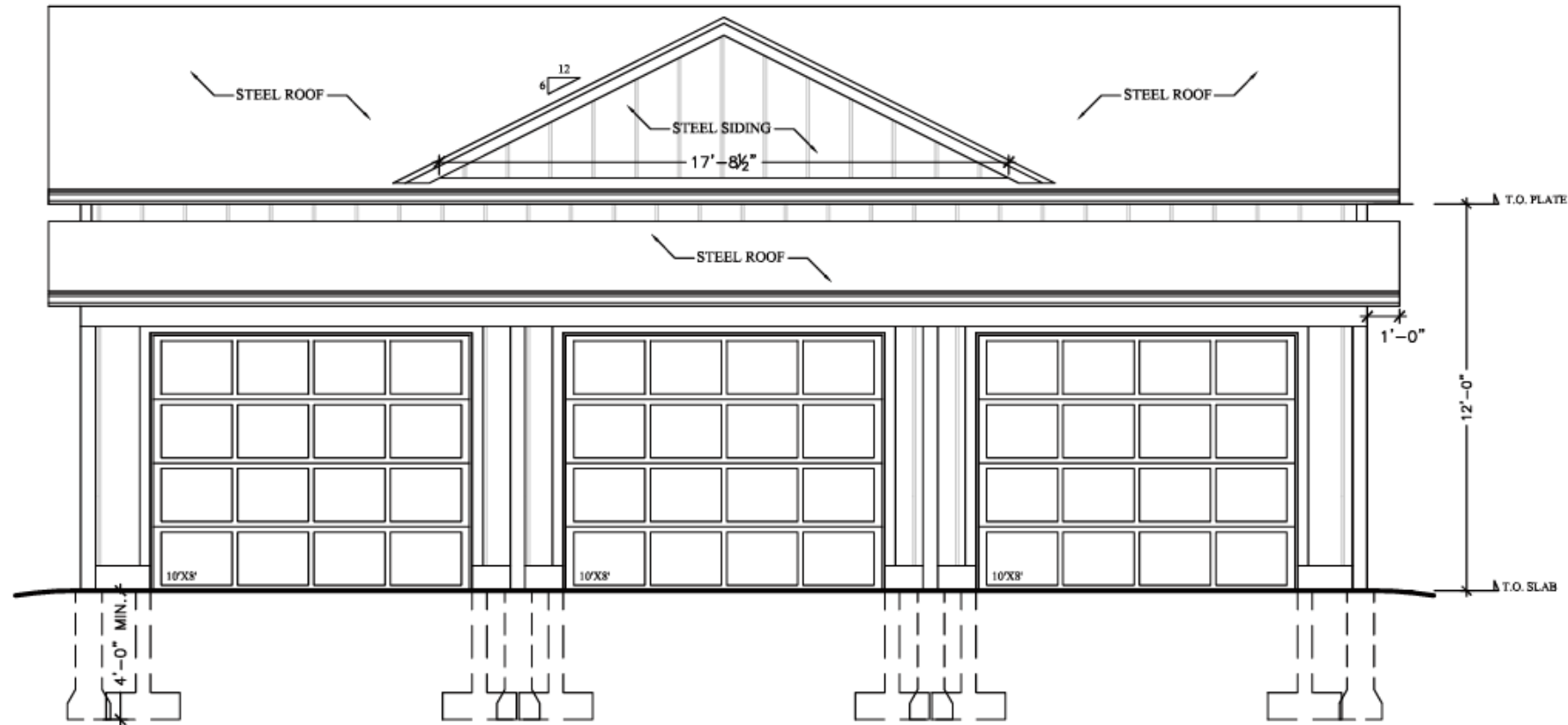


**I need a place
to keep my
Baby**

Thank you for your time and consideration.

EAST ELEVATION

Scale 3/16"-1'-0"



Summary:

- **Replacement Building, replacing two buildings with one, a little bit larger.**
- **Non-Habitable Workshop**
- **Erosion has been eliminated by the Wall.**
- **Was Preauthorized by the LPRCA in 2018**
- **Any Questions?**
- **We hope you will consider approving our application based on this information.**

Thank You
Kyle and Isabel