



February 6, 2018

Ms. Robyn Mulcahy  
c/o Mr. Craig Halpenny  
31 Foster Street  
Perth ON K7H 1R8

Dear Mr. Halpenny:

**Re: 17638 Highway 7, Tay Valley Township**

As requested this letter is in response to your e-mail dated January 19, 2018, and further to the meeting between your clients and Tay Valley Township staff on January 16, 2018.

**Zoning**

At the meeting of January 16, the owners were advised that the subject lands are zoned General Commercial (C) in the Township's Comprehensive Zoning By-law No. 02-121. A school is not listed among the permitted uses listed under Section 6.1.1 of the Township's Zoning By-law, and therefore a zoning by-law amendment would be required to permit this use.

If an application for a zoning by-law amendment is submitted to permit a school on the subject lands, the application would need to address the relevant policies of the Provincial Policy Statement (PPS), County of Lanark Sustainable Communities Official Plan, Tay Valley Township Official Plan and Rideau Valley Conservation Authority (RVCA) Floodplain Policies. Specifically, the application would need to demonstrate how the amendment addresses the public health and safety policies of the PPS as they relate to natural hazards, as well as the policies of both Official Plans that deal with development in the floodplain. Among other matters, it would be necessary to address how the proposed use will be consistent with Policy 3.1.5(a) of the PPS, as follows:

*Development shall not be permitted to locate hazardous lands and hazardous sites where the use is:*

*(a) An institutional use including hospital, long term care homes, retirement homes, pre-schools, school nurseries, day cares and schools.*

If an owner decides to pursue a zoning amendment to add a school to the permitted uses on the subject property, the relevant policies contained in the above noted planning documents need to be addressed through the preparation of a planning rationale prepared by a qualified professional to accompany the application.

### **Building Code**

With respect to the Building Code related issues please be advised as follows:

A Building Permit Application was received by the Township on September 8, 2017. The current use of the building was described as "former antique store". The proposed use of the building was described as a "Studio". The description of the proposed work was, "antique store beside house was left unheated/vacant for past 10 years. Full of mold and decay, with animal access. Plan to use the exact footprint to rebuild and use salvageable material."

A Building Permit was issued on September 25, 2017 for a one story accessory building with covered deck.

On November 14, 2017, Tay Valley staff as well as staff from the Rideau Valley Conservation Authority conducted a site visit and observed that the building being constructed had Post and Beam elements and a loft that was not shown on the drawings that were submitted with the application for Building Permit. While on site the CBO advised the contractor that a Stop Work Order and Order to Comply would be issued and the Orders would require stamped drawings to be submitted.

At a meeting on November 15, 2017, between the property owners and Township staff it was determined that the house was being used as a school. Part 10, Section 10.2.1.1(1) of the Ontario Building Code requires all buildings be classified according to its major occupancy in accordance with the requirements of Subsection 3.1.2. Section 3.1.2.1(1) requires every building, or part of it, shall be classified according to one of the Groups or Divisions described in Table 3.1.2.1. Group C is Residential Occupancy and Group A Division 2 is a School. Therefore a Change of Use permit for the Residential Building is required. The Accessory Building would be accessory to the Assembly Occupancy.

Section 8 of the *Ontario Building Code Act*, states that the CBO shall issue a permit unless,

- (a) *The proposed building, construction or demolition will contravene this Act, the Building Code or any other applicable law.*

The definition of "applicable law" includes the *Conservation Authorities Act* and the *Planning Act*. Therefore, until this project has complied with applicable law, the Building Permit for the Change of Use and the further construction of the accessory building cannot be approved and the Stop Work Order and Order to Comply will remain in effect.

**Rideau Valley Conservation Authority**

Regarding Section 3 of the Planning Act (Natural Hazards), I refer you to RVCA Floodplain Policies for your reference (most particularly section 1.1 and 1.2) concerning the redevelopment (originally a renovation) of the building to be used as a school. It is noted that the submission for the permit to reconstruct the vacant accessory structure on site was originally to be a studio as presented in the building permit application. Further to the meeting with Township staff, RVCA staff and your clients on November 15, 2017, it was clarified that the new building is part of the school, though raised, in the same location, within the floodplain of Blueberry Creek.

The RVCA would not be able to support the rezoning of a school at this location given the policies, particularly section 1.2(2) which states:

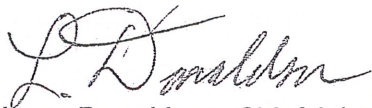
“...development shall be prohibited within the 1:100 year floodplain...where the use is:

- (a) An institutional use associated with hospitals, nursing homes, preschool, school nurseries, day care and schools where there is a threat to the safe evacuation of the sick, elderly, persons with disabilities or the young during an emergency as a result of flooding and/or failure of floodproofing and/or the failure of floodproofing measures and/or protection works.”

**Conclusion**

I hope this serves to outline the relevant issues and provide sufficient detail to understand the status of the situation. Should you have further questions or require further information, please contact Mr. Reid Shepherd, Acting Planner for any of the land-use planning information and process, or Mr. Bob Demerath, Acting CBO for any of the Building Code related information or Martha Bradburn, Environmental Planner with the Rideau Valley Conservation Authority for questions relating to the floodplain.

Yours truly,



Larry Donaldson, Chief Administrative Officer

c.c. Reid Shepherd, Acting Planner  
Bob Demerath, Acting Chief Building Official  
Martha Bradburn, Environmental Planner, RVCA