

Battle over Bowstring goes to Court

BY REID KENNEDY
NORTH HALTON COMPASS

The old Eden Mills Bowstring may be on death row, but the bridge will have its day in court before Eramosa Township can have it demolished on June 15th.

Although the bridge ranks sixth on Ontario's heritage bridge list, Eramosa Council recently chose to ignore a Conservation Review Board's recommendation that it be rehabilitated. The 85 year-old bridge received its death warrant on April 20 when Council voted unanimously to rescind a Township by-law that has protected it since 1991 under The Ontario Heritage Act.

The Friends of Eden Mills, a ratepayers group that has fought for the bridge's preservation since 1995 after the Police Village of Eden Mills was disbanded, are seeking to have Township's decision overturned.

Eramosa Reeve David Adsett is on record as promising a public meeting to discuss the CRV's Findings and Recommendations, but the scheduled meeting was cancelled. Council also passed a motion on April 20 to proceed with tendering for demolition and replacement.

The Friends of Eden Mills took the issue to court and received a stay on April 24. In Milton Court on May 8, Eramosa Township did not contest the stay and now an application for a judicial review will be heard before a three-judge panel of the Divisional Court during the second week of June, 1998. The Friends of Eden Mills, represented by the law firm Weir and Foulds, are asking for a court order requiring the Township of Eramosa to repair and immediately re-open the Bowstring Bridge.

The Friends of Eden Mills are also asking the court for (a) an order staying all of Eramosa Township Council's resolutions to replace, demolish and de-designate the Bowstring Bridge and staying as well the April 22, 1998 vote of the Transition Board; (b) an order declaring these resolutions to be contrary to the Ontario Planning Act; (c) an order declaring them to be null and void on account of Council's failure to satisfy the requirements of the Ontario Heritage Act; (d) an order declaring that the demolition and replacement of the Bowstring with a two-lane bridge is subject to a full environmental assessment; (e) an

order enjoining the Township from demolishing and replacing the bridge until the provincial requirements for a full environmental assessment have been satisfied; (f) a declaration that demolition of the bridge would be a contravention of Eramosa Township's Official Plan, and therefore also of the Ontario Planning Act.

In a prepared press release, Friends of Eden Mills spokesperson Michael Keefer outlined the group's position:

"We regret that Council has chosen, without public consultation, to ignore the findings and the recommendations of the Conservation Review Board. A large part of the evidence that will be heard by the court has already been heard and assessed by the Conservation Review Board. The Conservation Review Board dismissed in its entirety the evidence presented by Eramosa Township Council supporting its view that the bridge should be replaced, and accepted in its entirety the evidence on these subjects presented by the expert witnesses who testified on behalf of the Friends of Eden Mills.

The Board found Eramosa Council to be in contravention of the Ontario Heritage Act, and stated that the de-designation and subsequent demolition of the bridge would contravene Council's commitment to the Grand Strategy (the management plan for the Grand River as a Canadian Heritage River), and would also contravene the Official Plan of Eramosa Township. The Ontario Planning Act restricts a council from passing any by-law that is in contradiction of its Official Plan.

Moreover, in sworn testimony before the Board on December 19, 1997, Councillor Gordon Tosh admitted that Council had threatened Eden Mills ratepayers with a \$400,000 Area Tax Levy under the Local Improvement Act if they continued to support rehabilitation of the Bridge. Tosh admitted that this threat was based upon misleading information, and that Council did not actually intend to impose the tax levy. Area levies are normally used by municipalities for sidewalk or lighting improvements that benefit the adjacent property owner. They are not intended to be used to finance a capital work like a bridge which will be

used by people within the Township at large.

Since 1994, Council has repeatedly provided the public with misleading information on the subject of the Bowstring Bridge. We believe that many members of the public may be unaware of the facts.

(a) Members of Council have repeatedly claimed that rehabilitation of the bridge would cost more than replacing the bridge with a new structure. This claim is incorrect. The McCormick Rankin Report of 1990 indicated that rehabilitation would cost from \$150,000 to \$200,000 less than a new bridge. In 1994, Mr. Ranjit Reel, Head of MTO's Structural Office, estimated that rehabilitation would be \$200,000 cheaper. In 1995, he stated that rehabilitation would cost about 60% of the cost of a new bridge. Council has no more recent information on the subject, because in spite of repeated requests from the Friends of Eden Mills, they have refused to seek out this information.

(b) Members of Council have claimed that during the period when MTO funding was available for bridge projects, MTO officials stated that funding would not be available for rehabilitating the bridge. This claim is contradicted by letters from MTO officials which are held in Eramosa Township Council's own files.

(c) Members of Council have repeatedly claimed that the bridge cannot be rehabilitated. This claim is contradicted by the partial Condition Survey commissioned by Council itself in 1997, and carried out by the engineering firm Totten Sims Hubicki. It has also been contradicted by MTO officials and by the bridge engineering expert retained by the Friends of Eden Mills.

(d) Members of Council, and Council's consulting engineers, Triton Engineering Services, have claimed that the life-cycle costs of a rehabilitated bridge would be higher than for a new bridge. Council and Triton have no evidence to support this claim. In 1995, Triton recommended replacement of the bridge on the grounds that life-cycle costs would be higher for a rehabilitated bridge than for a new structure. A confidential report prepared by Township staff several

months later reveals that Triton had no information on life-cycle costing:

When in 1997 Council employed the engineering firm Totten Sims Hubicki to conduct a condition survey on the bridge, the terms of reference instructed the engineers to provide costing information on the alternative of rehabilitation.

(e) Council has claimed that provincial bridge code standards prevent rehabilitation of the bridge, that a pedestrian walkway could not be installed, and that a rehabilitated bridge could not be insured. These claims are all refuted by evidence that was presented to the Conservation Review Board.

(f) Reeve David Adsett claimed in a letter published in *The Toronto Star* on May 11, 1998 that Council's decisions on the bridge have been investigated by the Ministry of Municipal Affairs and found to be legal. This statement is incorrect. The MMA official who was in contact with Eramosa Council in April, 1995 has stated categorically that no allegations of illegalities had been made to the MMA, and that no examination of the legality of Council's actions was made. On June 29, 1995, Mr. Adsett (then Deputy Reeve of Eramosa Township) met with MMA officials, and himself requested an investigation of Eramosa Council. In a letter dated July 20, 1995, an official of MMA's Regional Operations Branch informed the Deputy Reeve that "This office will not be conducting an investigation into the practices of the municipality."

(g) Reeve Adsett claimed in *The Guelph Mercury* (May 8, 1998) that 'a handful of people (are) holding a democratically elected municipal council hostage.' But despite Council's attempts to coerce and to mislead Eden Mills residents, the Friends of Eden Mills are supported by a strong majority of village residents. A recently circulated petition requesting implementation of the Conservation Review Board's recommenda-

tions has been signed by 204 Eden Mills ratepayers, from 102 households. A petition asking for a new bridge was signed by 122 residents, from 66 households. The Friends believe that some residents who signed the petition supporting Council were not shown its cover page, which threatens legal action against those of their neighbours who are members of the Friends of Eden Mills."

The Friends of Eden Mills believe that the Conservation Review Board was correct in its findings and in its recommendations. Our engineering consultant has advised that the Bowstring Bridge could easily be repaired and re-opened to a 10-tonne or higher capacity. This could be done within four to six weeks, and without affecting the Eramosa River. These repairs would be the preliminary part of bridge rehabilitation; the money spent on repairs would therefore not be wasted.

We believe that Council's intentions were not fully disclosed to the Conservation Review Board, and that most members of the public are also unaware of the extent of Council's intentions. Members of Council have suggested that one of the reasons they are pushing for a new bridge is to accommodate 'haulers', i.e. gravel trucks and transports. According to Councillor Tosh, Council wants to 'open Eden Mills up to the trucking industry.' Reeve Adsett has stated that he regards the road through Eden Mills as a traffic 'artery.'

There are many reasonable alternative routes for gravel trucks and transports. The noise and vibration produced by heavy trucks passing through our narrow main street could lead to property damage, and would certainly affect property values in Eden Mills. Most importantly, heavy trucks would put the safety of our children, of our seniors, and indeed of all village residents at risk."

The application for a judicial review is scheduled in Milton Divisional Court (491 Steeles Ave. East) on June 11.

Blue Springs Soapbox - Compass Correspondence

Congratulations and best wishes on the publication of "The North Halton Compass".

As a genealogist with ties to the area through my ancestors, Robert L. Campbell, Morgan Crewson, Richard Sherlock and James B. Watson, the format of the first issue was particularly appealing.

In addition, as I am currently the Coordinator of the

(pre 1900) "Places of Worship Project" for the Halton-Peel Branch of the Ontario Genealogical Society, I am always on the lookout for any information about, or pictures of, the early churches.

Please add my name to your circulation list. I have enclosed a cheque for a one year subscription.

Is there any possibility of my getting a copy of issue 1

and 2, so that I will have a complete run of the paper?

If you have a brochure about the paper which you could send me, I would be pleased to publicize it at the next Halton-Peel Branch Meeting.

Yours Truly,

Mr. Alvin M. Fisher

PIONEER DAY 1998

SATURDAY, JUNE 13TH

ROCKWOOD, ONTARIO

• Rubber Duck Race - 10:00 a.m. - Eramosa River

• Pioneer Parade forms at 11:30 a.m. - leaves at noon

• Crafts, food vendors, artisans and floats

• Slapshot game of skill

• Ba'hai - kid games

• Dance groups, bands



Lloyd Dyer Park

Ballgame at 4:00 p.m.

Outdoor Evening Dance

All Day Fun & Games for the Whole Family