



City of Kenora  
Planning Advisory Committee  
60 Fourteenth Street N., 2<sup>nd</sup> Floor  
Kenora, Ontario P9N 4M9  
807-467-2292

**Minutes  
City of Kenora Virtual Planning Advisory Committee  
Regular meeting held by way of Zoom Meeting  
Tuesday March 21, 2023  
6:00 p.m. (CST)  
Video Recording:**

**DELEGATION:**

**Present:**

<b>Robert Kitowski</b>	<b>Chair</b>
<b>Tara Rickaby</b>	<b>Member</b>
<b>Keric Funk</b>	<b>Member</b>
<b>Renee Robert</b>	<b>Member</b>
<b>Jay Whetter</b>	<b>Member</b>
<b>Andrea Campbell</b>	<b>Member</b>
<b>Kevan Sumner</b>	<b>City Planner</b>
<b>Heather Pihulak</b>	<b>Manager Development Services</b>
<b>Melissa Shaw</b>	<b>Secretary Treasurer</b>
<b>Alberic Marginet</b>	<b>Minute Taker</b>

**Members of Public:**

<b>Dave Johnson</b>	<b>Applicant for D13-23-02</b>
<b>Patrick Townes</b>	<b>Agent for D14-23-03</b>
<b>Susan Burns Cone</b>	<b>410 Williams Road</b>
<b>Richard Cone</b>	<b>410 Williams Road</b>
<b>John Saunders</b>	<b>Box 345, Kenora, Ontario</b>

***i. Call meeting to order***

The meeting was called to Order by the Chair, Robert Kitowski, at 6:00 PM Central Standard. A Land Acknowledgement was made recognizing the traditional territories of Treaty Three First Nations and Metis people. The Chair stated the meeting was being recorded and that all participants agree to be recorded by choosing to attend. The Chair described the expected protocols to be followed during the meeting.

***ii. Additions to the Agenda***

The Chair asked the Secretary-Treasurer, Ms. Melissa Shaw, if there were any additions to the agenda. The Secretary-Treasurer identified a minor amendment made to the PAC agenda, that D09-23-01 and D14-23-03 would heard co-currently.

**iii. Declaration of Interest by a member for this meeting or at a meeting at which a member was not present.**

The Chair asked the members of the Committee for any declarations of interest for the meeting, or any meeting at which a member was not present. The Secretary-Treasurer stated that none had been received.

**iv. Approval of Minutes for a meeting held:**

- Planning Advisory Committee Meeting, February 21, 2023

The Chair asked the Committee if there were any errors, omissions, or discussion over minutes for February 21<sup>st</sup>, 2023. None were raised. The Chair declared the minutes as circulated.

**v. Correspondence relating to applications before the Committee**

The Chair asked if there was any new correspondence related to the applications before the Committee. No additional correspondence was reported.

**vi. Adjournment Requests**

The Chair asked if there were any Adjournment Requests. The Secretary-Treasurer indicated there were none.

**vii. Consideration of Applications for Minor Variance**

- i) D13-23-02 (Johnson)

Chair asked if the applicant would present their application. Mr. Dave Johnson introduced his application and his contact information, but chose not to present.

The City Planner Mr. Sumner presented the Planning report, reporting the proposal meets the four tests of a Minor Variance. The City Planner's recommendation is that the Planning Advisory Committee (PAC) takes into consideration any comments that are yet to be received, and that Application File No. D13-23-02 should be approved.

The Chair asked if the applicant had any additional details. The applicant had none.

The Chair asked if members of the public wished to speak in favour or opposition of the application. No members of the public provided comment.

The Chair asked for comments and questions from the PAC. Member Whetter asked for the circumstances why no application for a building permit was made. The City Planner answered that unpermitted structures do occur, and in the case of an unpermitted structures, finding a solution is the goal of Planning and Development. The City Planner reported that some municipalities choose to use punitive measures, but the City of Kenora does not.

The Chair asked if members of the Committee wanted to make a motion for File No. D13-23-02. The Secretary-Treasurer identified an amendment to the motion was

required for a minor error, and confirmed this amendment with the Committee and the City Planner. The draft decision shall read:

That the application, D13-23-02 to seek relief from the City of Kenora Zoning By-law 101-2015, Section 4.5.3(c) to reduce the front yard setback in the Rural Residential Zone from 15.0 metres to 10.0 metres to accommodate an existing unpermitted dwelling on the property meets the Four (4) Tests and shall be approved.

Moved: Member Rickaby

Seconded: Member Bulman

Unanimous Approval

The Secretary-Treasurer indicated that the applicant received approval from the Committee, and identified the appeal period and stipulations to be followed prior to the applicant applying for a building permit.

**ix. Consideration of Applications for Land Division**

<none>

**x. Recommendations to Council for Zoning By-law Amendment**

- i) D14-23-03 (Hyundai)

The applicant made their presentation to the committee. The agent from MHBC Barrie, Patrick Townes, identified the owners of 1439 Railway Street as Pinnacle Kenora Holding Corp. The agent provided the location of the property and the purpose of the application. An Environmental Impact Statement (EIS) was performed to ensure that the proposed development could be made without negative impact on adjacent wetlands. The agent stated that the proposal conforms to relevant land use planning policies and represents good land-use planning.

The City Planner presented his Staff Report. The planner reported that much of the property is below Lake of the Woods flood elevations of 424.6 metres, but the proposed amendment and site grading would elevate the location of the proposed development above this height. The City Planner's evaluation is the Hazard Land Zone severely restricts development of the property, and a new automobile dealership would not be permitted under current zoning, and placement of fill can only occur when appropriate studies have been completed. The EIS and lot grading plan provide assurance for re-grading with minimal negative impact. As significant portions of the site will remain below the flood elevation of Lake of the Woods, the HL Zone should not be removed from the entire site, and only removed from specific areas demonstrated in Figure 7 of the report. This allows for development, while maintaining HL Zoning to limit land-use below the flood elevation. The remaining property in the HL Zone will still permit for parking and non-habitable accessory structures not used for chemical storage. Accessory structures will remain prohibited in the EP Zone of the property. Site Plan Control will be required prior to issue of building permits, and EIS recommendations will be considered Site

Plan Control approval. The City Planner recommends that the Application for Zoning By-law Amendment, File No. D14-23-03, to remove the "HL" Hazard Land Zone from the subject property should be approved in part, and that the remaining "HL" Hazard Land Zone should be amended to "HL[56]" Hazard Land, Exception Zone with permitted site-specific use of non-habitable accessory storage buildings, in which no chemical storage is to be permitted.

The Chair asked the agent if he would like to add anything to the City Planner's report. The agent made no additions.

The Chair asked if members of the public wished to speak in favour or opposition of the application. No member of the public provided comments.

The Chair asked if Committee Members had any questions or comments. Member Bulman asked how much fill would be required to bring the proposal up to the required elevation. The agent believed about two or three metres of fill was needed.

Member Rickaby indicated two concerns: i) no elevations identified on the application, and ii) if drainage onto property to the North would be handled by Site Plan Control. The agent confirmed that drainage on property would be managed through the building permit and Site Plan Control. The City Planner added that the current elevation of the property was approximately 324 meters, and approximately 2/3 of a metre of fill would be required.

The Chair asked if the neighbouring property had been informed of the application. The Secretary-Treasurer and Assistant Planner confirmed that the neighbouring property was informed. The Chair asked the City Planner if issues over access and property frontage of the subject property had been cleared up with the City of Kenora. The City Planner responded that these issues had been addressed and there were no issues regarding access or frontage on the subject property or the neighbouring property. The Secretary-Treasurer further confirmed that as of August, 2021, the City of Kenora had taken ownership of lands separating 1439 Railway Street and 1439A Street from frontage onto Railway Street.

The Chair asked the Secretary-Treasurer to read the recommendation to Council. The Secretary-Treasurer that having made amendments to draft recommendation provided to the Committee, with the new resolution would read:

Resolved that the Planning Advisory Committee recommends that the Council of the Corporation of the City of Kenora approve Application for Zoning By-law Amendment, File No. D14-23-03, for subject property located at 1439 Railway Street, and identified in Schedule A.

The purpose of the Zoning By-law Amendment is to change the zoning of the subject property from "ML" Light Industrial Zone, "EP" Environmental Protection Zone overlay, and "HL" Hazard Land Zone overlay, to "ML" Light Industrial Zone and, "EP" Environmental Protection Zone overlay, by removing the "HL" Hazard Land Zone overlay from a portion of the property.

The effect of the Zoning By-law Amendment is to rezone lands to permit redevelopment of the property with a new, larger commercial structure (car dealership) by removing the "HL"- Hazard Land zoning from a portion of the property containing the proposed building as illustrated in Schedule B.

The Committee has made an evaluation of the application upon its merits against the Official Plan (2015), the Zoning By-law (101-2015), and the Provincial Policy Statement (PPS), 2020, and provides a recommendation to Council purely based on these matters; whereas the Committee may not have had the opportunity to hear internal department, stakeholder or public comments in full.

Moved: Member Campbell

Seconded: Member Rickaby

Unanimous Approval

The Secretary-Treasurer indicate that Application D14-23-03 is still subject to a statutory public meeting held on April 12, 2023, and the PAC has made recommendation to Council for approval.

- ii) Zoning By-law Amendment D14-23-02 and concurrent Official Plan Amendment D09-23-01 (Additional Residential Units)

The applications D14-23-02 and D09-23-01 by the City of Kenora was presented by the City Planner Kevan Sumner to amend City of Kenora Official Plan and Zoning By-Law to allow for additional residential units (ARUs) as regulated by the Province of Ontario in *Bill 23 More Home Build Faster Act*. These amendments remove restrictive policies and loopholes for ARUs. The Official Plan Amendment and Zoning By-law Amendment will bring City policy into compliance with Bill 23. The amendments will also allow one additional residential unit to be developed in rural residential zones.

Laneway housing policies are being removed as they prohibit development of detached ARUs. Policies (a) through (c) reflect the changes made to the Planning Act by Bill 23, and policies (d) and (e) carry forward existing policies supporting ARUs in rural areas. References to "Secondary Dwellings" will be updated to "Additional Residential Units" throughout the Official Plan.

Member Bulman requested a definition for "residential unit". The City Planner replied that a residential unit is defined as a self-contained residence, but not necessarily an independent building or structure. Member Campbell asked for a definition of laneway housing. The City Planner provided the definition in existing policy. Member Campbell asked if regulations and zoning for laneway housing would be removed along with the term "laneway housing". The Planner explained that regulations and requirements would remain, and the only change would be that laneway housing would be called an "Additional Residential Unit".

The City Planner continued with his report and details on how ARUs would be implemented through changes in the Zoning By-law.

Member Rickaby asked multiple questions. 1) If the intent of the Black Sturgeon Lake policies for water quality, social crowding, and short term rentals, had been considered in the Additional Residential Unit Amendments. The City Planner identified having considered these policies, but in the spirit of fairness ARUs are not different than the redevelopment of a cabin or property on Black Sturgeon Lake which the City does not discriminate against, and that appropriate septic system approvals will be required for ARU development. Further, it's presumptive to cast ARUs as short term rentals and discriminatory to limit ARU development based on that presumption. 2) Member Rickaby asked if the proposed amendments would create two principle dwellings on a residential lot, and how a principle dwellings would be defined. The City Planner responded by citing the proposed definition for a detached ARU. 3) Member Rickaby asked if the existing zoning regulations would remain the same for ARU development. The City Planner answered that they would, and all current zoning requirements would apply to ARUs. 4) Member Rickaby asked if ARUs would be considered an ancillary structure. The City Planning confirmed that detached ARUs would be considered ancillary.

The City Planner continued with his report. He identified that ARUs in rural areas must be connected to an approved private sewer and water system. General provisions related to ARUs and Bill 23 requirements were explained.

Member Campbell asked about the general provisions; specifically about importance of density requirements, and if these calculations are arbitrary. The City Planner responded that density calculations are arbitrary and based on aspects of tradition rather than capacity.

In review of legislative and municipal policy, the City Planner explained how proposed amendments satisfy and uphold the requirements of the PPS, Bill 23 - *More Houses Build Faster*, the City of Kenora Official Plan, and City of Kenora Zoning By-law 101-2015.

The City Planner's evaluation states local need for rental and affordable housing, and that proposed amendments address this need. Unpermitted ARUs exist in the City in part over homeowner concern about the requirements and regulations; these amendments address this problem. The amendments clarify and reduce confusion over the right to develop ARUs identified by the Province of Ontario. Regulations will require an approved septic system to ensure water quality, and are consistent with the redevelopment requirements on rural property. Prohibition of Laneway Housing conflicts with Bill 23 and has been removed. During consideration for amendments, policies benefitting ARUs were maintained, but policies with no impact or that were unnecessarily restrictive were removed. Based on these features, the City Planner recommends Official Plan Amendment D09-23-01 and Zoning By-law Amendment D14-23-03 be approved.

The Chair asked members of the Public if they wished to ask questions. Susan Cone asked for the amendment to more strongly online upgrades to septic systems. The planner indicated that upgraded septic fields would be necessary for most ARU

developments, but this request required broader discussion at the municipal level during the Official Plan and Zoning By-law review. Susan Cone next addressed the addition of BSL restricted zones to the ARU amendments, stating the reason for the restricted zones was to reduce density; Susan Cone added that undeveloped lots on Black Sturgeon Lake remain undeveloped and indicate minimal interest in residential development. Susan Cone then expressed confusion over the size restrictions for ARUs, and asked questions about whether ARUs could be severed from a property. The City Planner indicated that an ARU did not provide a right to sever, and that ARUs were intended for use as rental units. Susan Cone responded she could see ARUs creating desirable rural rental units, but wanted ARU restrictions on the Black Sturgeon Lake waterfront.

The Chair asked any other members of public wished to provide question or comment. Richard Cone identified that the NWHU doesn't adequately perform its duties, and he is concerned about the ability to protect water quality by relying on the NWHU to approve septic fields.

John Saunders identified concerns over these amendments being subject to a new and upcoming PPS. The City Planner responded that Bill 23 received Royal Assent, giving multiple as-of-right powers for ARU development that revoke regulations currently in place in the City of Kenora; these amendments are to align the City policy with the as-of-rights granted by the Province. John Saunders indicated that the City of Kenora, being a rural location, may be allowed an exception from these as-of-rights through the upcoming policy statement, and such exceptions should be understood prior to any Zoning By-law and Official Plan amendments. The Chair responded that the City of Kenora cannot supersede Provincial Legislation, and these amendments are an attempt to align municipal policy with Provincial legislation. The City Planner identified the significant need for housing in the City of Kenora, and that aligning municipal policy with Bill 23 provides opportunities to address this need.

The Chair asked if any other members of the public wished to speak. No additional members of public identified.

The Chair asked if any members of the PAC wished to ask further questions or make comment. Member Campbell identified concerns about ARUs being used for short term rentals, that policy may be required by the City of Kenora, but this was not the purpose of the By-law and Official Plan amendments before the committee. The Planner responded that the City of Kenora does not permit Short Term Rentals, but the topic is being explored by the City.

Member Funk identified sharing the concerns named by Susan Cone about lake and water quality, that the City should be cautious about amendments in rural areas, but that he is in favour of proposed amendments in urban areas. Member Rickaby echoed Members Funk, and that she supports these amendments in urban areas but wishes to wait before applying these amendments to rural areas. The City Planner responded that issues of use and fairness should also be considered, and that redevelopment and expansion of rural properties is regularly permitted, which should ask the

question and require consideration as to why and what makes ARUs different in rural areas.

Member Bulman identified understanding the concerns over the Northwest Health Unit, stating that all parties need to act in good faith, and that some mechanism for due diligence might be needed. The Chair responded that this would be difficult as jurisdiction for this due diligence fell outside the abilities provided to the municipality. The City Planner added that his concerns were not on newly constructed fields, but were instead on older fields that may be poorly maintained, and that broader discussion on this topic needs to be made in a more appropriate context.

Member Funk asked if there was any way that the City could request additional measures for septic field inspections from the Northwestern Health Unit. The City Planner indicated that dialog could be made with the Northwestern Health Unit, but that members of the public need to identify these concerns to City Council so that dialog can be properly organized. The City Planner indicated that some provisions are in place for septic fields, which allows for Kenora specific regulations, but without public emphasis it is difficult to address concerns in an official capacity.

The Chair asked the Secretary-Treasurer to read the motion that had been drafted. The Secretary-Treasurer asked the Chair if he would like her to read the motion before the committee that had been drafted by the City Planner, or if the Chair would like any committee member to make a motion if they have an alternative they would like to bring forward. The Chair then asked if any member of the committee would like to make an amendment or adjustment to the resolution before the committee.

Member Rickaby identified concern over perceived issues with the Northwestern Health Unit. She recommended keeping ARUs to settlement areas, which would provide a good basis that can be expanded in upcoming Zoning By-law and Official Plan reviews, where conversations about additional needs from the Northwestern Health Unit can be identified and discussed. Following the Official Plan and Zoning By-law review, if rural development of ARUs is desirable, this step-by-step process creates a strong foundation that builds on preceding decisions. The City Planner suggested that the PAC may wish to separate out the amendments on the Official Plan from the amendments to the Zoning By-law if Members Rickaby's suggestion was desired.

The Chair asked the City Planner if the septic field and Northwestern Health Unit issues could be addressed through Building Permit and Site Plan Control. The City Planner responded that the Building Permit was the only broadly applicable method in place in rural areas, but that Site Plan Control is requirement of Black Sturgeon Lake specifically which is an extra layer of protection in that specific area.

Member Funk asked for clarification on rural ARU Unit policies, to know if existing polices supported ARUs in rural areas. The City Planner responded secondary dwellings are permitted in rural areas, but require a Zoning By-law Amendment or a Minor Variance. The City Planner indicated this is technically an improper use of a



minor variance, and permitting through a minor variance will discontinue regardless of PACs decision. Waterfront properties always require a Zoning Amendment as secondary units are not permitted under the Zoning By-law. The proposed amendments would make the need for permitting ARUs unnecessary, and they are supported under current regulation. Member Rickaby responded that Minor Variance and Zoning Amendments were used for secondary dwellings on rural properties to allow individual proposals to be judged on individual merit. Member Ricky indicated that she could support the City Planners recommendation to separate the Official Plan and Zoning Bylaw amendments for individual approval, and that she would like to see rural and Black Sturgeon Lake areas removed from the Zoning Bylaw resolution. Member Campbell commented that excluding rural and other special areas from the amendment for ARUs would not be in the spirit of Bill 23.

The Chair asked Member Rickaby to draft a motion with her identified changes, and asked the Secretary Treasurer to read the original motion prepared for PAC. The Secretary-Treasurer read the motion provided by the Planning Department.

The Chair asked the City Planner to confirm that these amendments would permit one more unit per property than is currently allowed. The City Planner stated that this would allow one more unit than is currently allowed in urban areas, and would allow the permitted one additional unit on rural properties identified in policy without requiring an amendment or variance.

Member Rickaby read her alternative motion:

Resolved that the Planning Advisory Committee recommends to the Council of the Corporation of the City of Kenora approve Application for Official Plan Amendment, File No. D09-23-01 and Application for Zoning By-law Amendment, File No. D14-23-02 in lieu of public comments that may yet be received. The purpose of the Official Plan Amendment and Zoning By-law Amendment to bring the policies and regulations of the City of Kenora into compliance with the Planning Act amendments made under Bull 23, the More Homes Built Faster Act. The effect of the Official Plan Amendment, File No. D09-23-01 and the Zoning By-law Amendment, File No. D14-23-02 is to remove or replace regulations that unnecessarily restrict development of ARUs within the settlement area allowing up to two ARUs on parcels of urban residential land, and remove the restriction on laneway housing.

The City Planner asked member Rickaby if this still supported the Official Plan Amendment, or if by removing the rural portions of resolution that similar rural portions of the Official Plan amendment also needed to be removed. Member Rickaby responded that she wished to see these amendments focused in the Established Areas of the Official Plan. The City Planner followed up by asking if Member Rickaby's concerns were for all developments using a septic fields in rural areas, or if it was singling out ARU development only. Member Rickaby identified that during the Official Plan Review an assessment of everything in existence would be a good idea, but for now to restrict ARU policies to urban areas.

Member Whetter identified that the alternative resolution would only provide the City of Kenora with half-measures. The purpose of the amendments is to bring the City into compliance with Bill 23, and he wonders about the point of only providing the City with half measures. Member Whetter indicated that the issues about septic fields does not fit the objectives of the amendments, and that there may be many people in rural areas who wish to see these amendments allowing for ARU development. The City Planner followed this by indicating that the focus of Bill 23 was on urban areas. The inclusion of rural areas into these amendments in was to recognize that the City of Kenora doesn't have suburban neighbourhoods, and that the suburban areas of Kenora are its rural areas. Bill 23 supports development of ARUs in all areas by making decisions un-appealable with the Ontario Municipal Board, but the as-of-right for ARUs is an urban focus only.

Member Bulman commented that, based on the City Planners explanation Bill 23, the Official Plan and Zoning By-law amendments need to be separated in the resolution and recommendation to council. Member Bulman also indicated that removing the amendments for rural areas seemed discriminatory and unjust as it impacts all rural properties for the sake of benefitting very select communities.

Member Campbell agreed with Member Whetter and Member Bulman that removing rural areas from the amendment is discriminatory. Member Campbell recognized that issues with the Northwestern Health Unit exist, but these amendments are not the appropriate venue to address a problem created by the provincial government and the organizations under their jurisdiction.

The Chair identified a similar opinion, stating a lack of fairness from restricting ARU development based on the shortcomings of an organization that is not under the jurisdiction or direction of the municipality.

Member Funk asked for verification that the current Official Plan does permit the development of one additional residential unit on rural properties. The City Planner quoted the existing policy on secondary units to indicate that there was not a restriction on secondary dwellings in rural areas.

Member Rickaby indicated that she was willing to remove her resolution; the Chair recommended Member Rickaby wait until the outcome of the Planning Department recommendation was known, and that her recommendation could be used in the case that an amendment was required.

Secretary Treasurer asked the Chair if the Committee would like for the Official Plan and Zoning By-law amendments be read separately or together. The Chair indicated that the Committee would proceed with the original recommendation. The Secretary-Treasurer read the resolution again:

Resolved that the Planning Advisory Committee recommends to the Council of the Corporation of the City of Kenora approve Application for Official Plan Amendment, File No. D09-23-01 and Application for Amendment to the Zoning By-law, File No. D14-23-02 in lieu of public comments that may yet be received. The purpose of the

Official Plan Amendment and Zoning By-law Amendment to bring the policies and regulations of the City of Kenora into compliance with the Planning Act amendments made under Bull 23, the More Homes Built Faster Act. The effect of the Official Plan Amendment, File No. D09-23-01 and the Zoning By-law Amendment, File No. D14-23-02 is to remove or replace regulations that unnecessarily restrict development of ARUs within the settlement area allowing up to two ARUs on parcels of urban residential land, remove the restriction on laneway housing, and to permit one additional residential unit on rural residential parcels of land outside of the urban area that are privately serviced.

Moved: Member Campbell

Seconded: Member Whetter

Favour: 6

Abstain

Opposed: 1

The Secretary-Treasurer indicated that the PAC recommended in favour of the Official Plan and Zoning By-law Amendments, and this recommendation will be taken to council on April 12, 2023 at noon, which will also act as a Statutory Public Meeting.

***xi. Old Business***

i) Property Standards Training

The Secretary-Treasurer provided information about the Property Standards Training that members of PAC needed to attend. The Chair asked if Member Rickaby would we willing to Chair the Property Standards Board Hearing on March 28, which Member Rickaby agreed to.

ii) OACA Conference

The Associated Planner asked for members of PAC to indicate their interest in attending the OACA Conference. Member Rickaby, Member Robert and Member Kitowski all indicated interest in attending.

iii) Additional Information

The Secretary-Treasurer indicated that they had been in contact with Heather Pihulak over badges and conflict of interest training.

***xii. Old Business***

The Chair asked if there were any additional items for New Business, or comments. None were identified.

***xiii. Adjournment***

The Chair asked for a motion for adjournment.

Moved: Member Bulman