

(vi) Other correspondence- none.

(vii) Consideration of Applications for Minor Variance

- D13-17-06

Randy Seller, Hook, Seller & Lundin LLP
Agent

On behalf of William Loughheed Trucking, the Agent asked the Committee to consider granting relief of 5.0 m from Section 3.30 (b) of the zoning by-law to permit a building envelope 15.0 m from the high water mark on Lot 7 Plan 23M967. The agent gave a brief description of the subject property, with zoning designation RR- Rural Residential and HL- Hazard Lands. The Agent reviewed a report as prepared by Alex Clark, AM Clark Natural Resources, which established topographical factors that would protect the purpose of the setback from the high-water mark, and indicated drainage or erosion is not a foreseen issue. The Agent informed the Committee that a condition of approval of the subdivision was a 5.0 m natural vegetation buffer that must be maintained along the shoreline.

The City Planner briefly reviewed the planning report; The application is seeking relief from Section 3.30 (b) the City of Kenora Zoning By-law 101-2015, which prohibits buildings or structures to be located closer than 20.0 m to the normal water mark of any watercourse or water body. The effect of approval would grant relief of 5.0 m to permit a building envelope for future development located 15.0 m from the high water mark.

The planner described the site visit August 1st, 2017, and reviewed the applications consistency with legislated policy and City directives, indicating that the along the Winnipeg River do have special policy because of the flooding datum and the dam nearby; the Official Plan policy also identifies limited shoreline development along with Winnipeg River System.

As a result of internal and agency circulation as outlined within the Planning Report Kenora Fire and Emergency supported the reduced setback , although the Engineering Department was concerns over access being cut off during high water levels.

It was the opinion of the Planner that the proposal was consistent with the four tests and approval shall be granted, with the condition of some minor clearing for docks, and pathway to shoreline structures, no disturbance of the shoreline within 5 metres is permitted.

The Chair asked if there was anything additional that the applicant would like to add.

Alex Clark, AM Clark Natural Resources prepared the verification of elevation and building site study on Lot 7, he wished to comment on the concerns identified by the Engineering Department pertaining to access during high water levels. Mr. Clark

confirmed that when the Winnipeg River was at its flood stage, the area of access to Lot 7 was sufficient in elevation and did not foresee future flooding concerns. Mr. Clark identified that unless the dam capacity was increased, it would not be possible to flood the land on Lot 7.

The Chair asked if there was anyone in the audience who wished to speak in favour or against the application, there were none.

The Chair asked the Committee If there were any questions pertaining to the application.

Vince Cianci was satisfied with the map as provided.

Mr. Chris Price asked for the size of the building area without the variance, and asked if the foot print or the area that would be available at a 20 m setback. The Agent informed that it would be approximately 25% less than the proposed area. The Planner informed the Committee that the hardship with the 20.0 m setback would be the width of the building envelope as the parcel is a peninsula.

Mr. Price questioned the 15.0 m setback and how they calculated this setback. The Agent informed it was best practice to setback to a maximum of 15.0 m.

The Chair asked the Committee members if there was discussion surrounding the application prior to making a decision.

Mr. Price was concerned that the application may not be considered minor; the Agent responded citing case law, and defining a minor as not a percentage or a number.

Ray Pearson is satisfied with the application as presented.

Mr. Cianci commented that the proposed distances across the north to south part is 17.76 m, if 5.0 m was removed from each side, in an effort to comply with the 20.0m setback, there would only be a 7.5 m envelope. Mr. Cianci commented that this was a unique case as the applicant is restricted on two sides. It was the opinion of Mr. Cianci that with good building practices there shall be no concern for erosion or disturbance of natural heritage

There was discussion around servicing; the Planner confirmed the septic field will be on the main land.

Moved By: Ray Pearson

Seconded by: Robert Kitowski

That the Kenora Planning Advisory Committee approves Application for Minor Variance File No. D13-17-06, and that the proposal to allow for a reduction of the Setback regulation from 20 metres to 15 metres, is consistent with all four of the Tests and that approval of the application should be granted with the incorporation Of conditions, specifically, that:

- With the exception of some minor clearing for docks, and pathway to shoreline structures, no disturbance of the shoreline within 5 metres is permitted. A natural vegetation buffer must be maintained along the entire shoreline. This buffer includes naturally occurring trees, shrubs, mosses and herbs.

Carried.

(viii) Consideration of Application for Consent- None.

(ix) New Business

- Application for Zoning By-law Amendment, File No. D14-17-05

Alex Clark, AM Clark Natural Resources
Agent

Alex Clark, Agent for Thiessen family the registered owners of Scott Island whom are proposing a severance of the 4.64 hectare island located in Norman Bay. The proposal is to create four (4) new lots, with one (1) retained, each lot varying in size, some are below the standard of 1.0 ha as per the City directives.

Mr. Clark reviewed the supplementary documentation, including the proposed lot layout, the draft Site Plan Application, and the Environmental Impact Study including potential species at risk assessment, Fisheries assessment report and archaeology report for Scott Island. Mr. Clark suggested there were no surface or groundwater features on the island. He said there is typically very little wildlife on the Island, and confirmed that a walk about with Mike McLeod, Registered Archaeologist there were no significant artifacts identified.

Elaborating on the Island there are no surface or groundwater features, it is relatively Small Island you typically find very little wide life. A walk and assessment with Mike McLeod a Registered Archeologist, we did not find any artifacts significant or otherwise.

Mr. Clark presented his planning rationale and his interpretation of the applications consistency with Provincial Policy, and the City of Kenora Official Plan and Zoning By-law. Mr. Clark also spoke to the MNRFC comments with the identified high potential spawning sites along the south shore and commented that the additional area between the spawning sites are not spawning area, it was in his opinion that development shall not be limited. Mr. Clark suggested that spawning on Scott Island is for species which are common to Lake of the Woods, white fish, walleye and white-tailed suckers. Every Island on lake of the woods has some spawning area them, literally thousands of spawning opportunities, Mr. Clark said he understands the significant of the potential spawning site, however do not agree with the need for additional lands to be preserved for natural heritage.

The Agent specifically spoke to shoreline development triggering a work permit from MNRFC once a structure is in physical contact with more than 15 square meters of shore lands, Mr. Clark suggested that a floating dock or a cantilever dock on

those lands along the south shore, outside the identified fish spawning site would not trigger a work permit through MNRF.

Mr. Clark spoke to the Official Plan directive for the creation of lot sizes to be at minimum 1.0 ha in size, and that nutrient loading in term of nitrogen as the main concern. Most nitrogen is absorbed within the tank itself, but not the field. The potential nitrogen loading was 6.97 mg per Million which was 60% of the provincial standard. (Provincial standard is 10 mg per Million litres) Scott Island shape is that of a dome, the Agent has reviewed the elevations to mitigate ponding and drainage concerns.

The agent Identified that the application has identified high potential spawning areas, MNRF had identified goldeneye Lichen which is a species of concern, it was the opinion of the Agent that Federally and Provincially this species is not identified at threatened, and would not receive any particular level of protection.

Lastly, the Agent informed the Committee that within the City of Kenora Zoning By-law 101-2015, there is no definition for a through lot, water to water, as such the definition of frontage is of concern. Mr. Clark suggested that legally frontage is the most dominant feature, for addressing and the application of a community's by-law; a frontage will define setbacks and frontage. Mr. Clark provided examples of through lot definitions within other Municipalities throughout within the Province of Ontario. Mr. Clark advised that the dominant feature of the proposed lots on Scott Island, is Lake of the Woods, he was using Lake of the Woods as the front lot line, and an Norman Bay as the back lot.

The City Planner reviewed the application for zoning by-law amendment is proposed to exempt the subject property from the provision to require minimum lot size and frontage requirements as per Section 4.5 of the Zoning By-law. If approved, the change would enable the creation of through lots with a minimum frontage of 22 metres, and lot area of 0.82 hectares. At the outset of the proposal, an application for severance was submitted, however the city advised that approval of an application for zoning by-law amendment would be required first in order to reduce the frontage requirement for the secondary frontage of through lots, and reduce the regulated lot size for proposed lots.

As provided within the Planning Report- the City planner reviews consistency with Legislated Policy and City directives making specific note to sections within the Official Plan regarding docks and shoreline development and private sewage disposal and water systems and commenting that New lots shall generally be a minimum of 1.0 hectare, unless a smaller lot size can otherwise be supported by technical information pertaining to the physical characteristics and hydrogeology of the site in accordance with Ministry of the Environment and Climate Change D-Series guidelines or their successor documents. The Planner identified that internal City departments were satisfied with the reports as per the septic suitability report.

The Planner reviewed comments from internal departments, as outlined in detail within the planning report. Outside agencies were circulated as per the provisions of

the *Planning Act*, Northwestern Health Unit completed a site inspection of the five lots was undertaken to determine the suitability of each lot for future septic systems. Each of the five lots is ok for future septic systems with imported fill, no objections to the proposed Planning Act application to create the new lots. The Ministry of Natural Resources

MNRF provided two written responses and the Planner reviewed the letter as received on August 15th, 2017 from Jessica Malone- Daniher, Kenora District Planner. The revised letter indicated that a no disturbance zone should be extended to the entire south shore; in addition an EIS should delineate the extent of the goldeneye lichen habitat and demonstrate there will be no negative impacts on this natural feature. MNRF indicated the importance of Site Plan Control, and promoted good planning to ensure that values are proactively protected.

The Planner informed the Committee that additional public comments have been received as of August 15, 2017; they were circulated to Members for review. The Planner summarized top concerns as raised by the public as being: increased boat traffic, vehicular traffic and increased density which in would not be favorable to the neighbourhood.

It was the opinion of the Planner that the Kenora Planning Advisory Committee hears any comments provided by the public, reviews the application for Zoning By-law amendment with exception in consideration of its merits evaluated against the Official Plan, Zoning By-Law, and the Provincial Policy Statement; that if the proposal to allow for a reduction in the frontage requirement for a secondary frontage of a through lot, and reduction of lot area can demonstrate through an acceptable site plan, that significant habitat and features along the front of south facing lots can be protected, while accommodating shoreline features and docks on the north side of the island, that the application for zoning by-law amendment be approved;

The Chair asked if there was anything additional that the applicant would like to add

Alex Clark, Agent comments on the location of docks as per the recommendation from MNRF for all shoreline development to be along the northern shoreline, Mr. Clark pointed out that public comments demonstrated concern for development along the north shore, residents within the neighbourhood preferred development along the south shore.

The Chair asked if there was anyone in the audience who wished to speak in favour or against the application:

Ernie Nordlund
1 Minnesota Street
efnordlund@gmail.com

Mr. Nordlund identified himself as a longtime resident, in his 64 years he has seen a steady decline of the fish population on the lake. Suggesting there may be a lot of

reasons why these things happen; however, recommended that the application would include City of Kenora sewer and water, and would be more comfortable with this application if the servicing was on Municipal Services. Secondly, Mr. Nordlund identified his concern with increased boat traffic, subsequent to the traffic as a result of the rental docking in the Harborview and Norman bay area. Mr. Nordlund agreed the four lots did not seem like a whole lot of development, however urged the Committee to consider no development on the north shore, as to not impose on the rights and privacy of those properties along Minnesota Street and Bay Road who would be looking at them.

Alex Clark, Agent raised the issue of sewer and water, informed the Committee and the Public that the costs to install Municipal Sewer and Water would have been approximately \$750,000 and that cost could not be recovered unless we pursued a plan of subdivision to get any kind of a payback. At the current development rates, we would then be looking at 40 homes that could technically go on the Island. Mr. Clark suggested that was not appropriate from a planning perspective, it was his opinion that minimal impact on the landscape was to consider the 4 lot creation.

Bruce Rutherford
Unit 104, 5 Bay Road
Kenora, ON P9N 393

Mr. Rutherford identified, in his opinion, a number of conflicting interested. A developer who wants to develop the island, The City of Kenora Official Plan and City of Kenora Zoning By-law, that determine frontage and lot size requirements, along with other regulations such as the Provincial Policy Statement; the main issue however, as Mr. Rutherford interpreted issues seem to be significant habitat around the island and THE issue of navigation in surrounding waters.

Mr. Rutherford described the navigable entrances to Norman bay as having a tremendous amount of boat traffic; Mr. Rutherford commented on the sites identified the fisheries report for dock development, and discouraged docks along the northwest shore- boat traffic and shoreline congestion were issues he urged the Committee to consider.

In conclusion, Mr. Rutherford requested that the shoreline frontage of the created lots meet the frontage requirements of City directives, and recommended a reduced development of the island to three lots

Alastar Nilson
18 Nash Street
Kenora, ON P9N 3V2

Mr. Nilson spoke to shoreline development, with fish habitat concern on the south shore, that may preclude any docking on the south side, Mr. Nilson contended that regardless of where the docking is developed the navigation issues on the north side and the west side would be hazardous. Mr. Nilson identified a rock on the west

side that shall prevent docking, it would be simply too dangerous. Mr. Nilson also supported reduced development to three lots.

Clive Paddock
3-35 Nash Street
Kenora, ON P9N 3V3

Mr. Paddock identified 354 boat slips within the Norman Bay area, of those slips, roughly 70% are occupied. Mr. Paddock identified 52 docks structures and 219 vessels in rentals; his statistics demonstrate there are a number of boats within the area, which are the root cause of navigation concern and boat traffic.

Mark Norton
683 Lakeview Drive
Kenora, ON P9N 3P6

Mr. Norton asked the Planner is there are any restrictions on the lots as to what can be built. The Planner indicated that the zoning would be RR- Rural Residential, and the provisions of that zone will guide development. Mr. Robert Kitowski read aloud the zone provisions.

Marg Zimmer
15 Minnesota Street
Kenora, ON P9N 3P1

Addressed the Agent Mr. Cark regarding his statement about wildlife on the island, she confirmed there once were eagles, which are not gone. She supported the concern regarding boat traffic and requested that the coastguard to slow down the speed within the bay.

Mr. Clark, Agent suggested there are no records to acknowledge eagle nests on Scott Island within the last 30 years.

The Chair asked the Committee If there were any questions pertaining to the application.

Vince Cianci, sought clarification that the island has no shore reservation. The Agent confirmed that is correct. The Agent informed that a surveyor has mapped out the Island- Eric Rody surveyed to the high water mark.

Mr. Cianci suggested cottages on the south side and docking on the north side, my concern is how will the owner get from the Northside to the Southside? It might not be desirable separating the cottages and the docks. Mr. Cianci suggested the owner consider bringing the two side lots to meet at the top, dissolving the through lot issue. Mr. Cianci also commented on resident concern regarding boat traffic and recommended that it not be an issue to limit development but rather be addressed to the bodies that regulate and control speed on Lake of the Woods.

Mr. Clark responded to the concern for quad trails and described methods for development that would not erode and would have no effect on run off to the lake.

Robert Kitowski questioned the buffer zone labeled on the site plan over Lot 2, and asked if it was for power. The Agent indicated that it is an unregistered hydro easement, from a practical point you need a certain distance to work on the line, which has been applied as a buffer.

Ray Pearson; also lives in Norman Bay, on the Committee appointed by Council to make a fair decision. I see the developer wanting to expand his property, by the shape of the lots presented, development is defaulting to the south side. Who is to say that someone might not develop on the north side, if given the opportunity? Highlighted the dilemma with additional information as received by MNRF, which has identified the entire southern portion of the island as fish spawning. Agreed that less lots may be the answer, which meet the Cities 1.0 ha provision; suggested the possibility of a common dock on the north shore with quad trails to development. Addressed the recommendation of a 9 km/hr speed limit zone within the bay, west of Norman Beach to the lighted marker in Safety Bay to the red and green reef markers on the south side of Scott Island, and suggested they contact the coast guard as to not limit development.

The Committee, the Planner and the Agent discussed the recommendations from MNRF as contained within the letter received by August 15, 2017 and the difference of opinion between the researches as provided by the Biologist hire by the Agent. Committee agreed that more information was required to make a recommendation to Council.

Moved by: Robert Kitowski

Seconded: Graham Chaze

Resolved that the Planning Advisory Committee defer a recommendation to Council of the Corporation of the City of Kenora on file D14-17-05 until the next regular meeting of the Planning Advisory Committee on September 19, 2017, or such a time that the Planner receives a current survey of Scott Island, is provided the opportunity to consult with the Biologist from Kenora Consulting Group and the Kenora District Planner from the Ministry of Natural Resources and Forestry (MNRF) regarding differences of opinion pertaining to shoreline disturbance on the south shore and S-ranked species, the Goldeneye Lichen, and the approval of a Site Plan Agreement, which shall include the location of the docks, dwelling units, trail development and proposed shoreline disturbance.

Carried.

- Secondary Dwelling Units- privately serviced zone
 - i. The Planner wanted a broad discussion for development for secondary dwelling in RR- Rural Residential area.
 - ii. Proposing zoning by-law amendment

(x) Old Business

- D14-17-03, Temporary Use By-law
 - i. Approved, appeal deadline August 16, 2017
- Appeal to the Property Standards Committee
 - i. Council will be making a decision on August 22nd, 2017

(xi) Adjourn

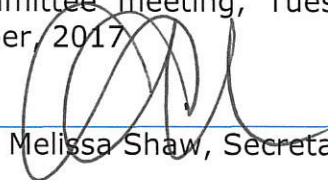
Moved by: Chris Price

That the August 15, 2017 Planning Advisory Committee meeting be adjourned at 9:45 p.m.

Minutes of Kenora Planning Advisory Committee meeting, Tuesday August 15, 2017, are approved this 19th day of September, 2017



(i) Wayne Gauld, Chair



Melissa Shaw, Secretary-Treasurer