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City of Kenora
Planning Advisory Committee
60 Fourteenth St. N., 2nd Floor
Kenora, Ontario P9N 4M9
807-467-2292

Minutes
City of Kenora Planning Advisory Committee
Regular Meeting held in the Operations Centre Building
60 Fourteenth St. N., 2nd Floor- Training Room
November 21, 2017
7:00 p.m.

Present:

Wayne Gauld	Chair
Vince Cianci	Member
Graham Chaze	Member
Ray Pearson	Member
Robert Kitowski	Member
Bev Richards	Member
Melissa Shaw	Secretary-Treasurer
Devon McCloskey	City Planner

Regrets:

Christopher Price	Member
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DELEGATION:

- (i)** Wayne Gauld, Chair called the November 21, 2017 meeting to order at 7:00 p.m. and reviewed the meeting protocol for those in attendance.
- (ii)** Additions to the Agenda- there were none.
- (iii)** Declaration of Interest by a member for this meeting or at a meeting at which a member was not present:
 - As a result of not being present at the original public meetings, Bev Richards acknowledged should would remove herself from files: D10-17-03 and D14-17-05
- (iv)** Adoption of Minutes of previous meeting (October 17, 2017)
 - Amended: October 17, 2017 minutes of the Kenora Planning Advisory Committee

Moved by: Ray Pearson

Seconded: Bev Richards

Carried.

- (v)** Correspondence relating to applications before the Committee
- Amended Sketch D10-17-09, Tresoor
 - Amended EIS D10-17-03, Degagne
 - MNRF Letter D10-17-03, Degagne

All of which were circulated to the committee in advance of the November 21, 2017 meeting

(vi) Other correspondence- there was none.

(vii) Consideration of Applications for Minor Variance

- D13-17-10

Consideration of Application of Consent

- D10-17-09

Terry Tresoor
terry@wealthwise.ca
David Tresoor
david.tresoor@kpdsb.on.ca

Terry and David Tresoor represented the concurrent applications for minor variance and consent in front of the Committee. David and Terry referred the Committee to the Planning Rationale (cover letter) that was provided as part of the completed application, as it summarized the goal to be to sever the large parcel of land off Anderson Road, which has been held by their family since 1960.

David and Terry Tresoor explained that the lands purchased from their Father, and the most expedient thing to do at that time was to register all four owners on title, David and Terry and their respective spouses. The application today is to sever property which has been owned by two families for many years. As time has gone by, David and his family have received approval for a secondary dwelling to be located on a portion of the subject lands, and will undertake existing renovations to the existing dwelling to home their father. Terry Tresoor and his family are not involved in the development of the Secondary dwelling; the intention of the application is divide the subject property into two pieces with similar value for.

Mr. David Tresoor explained that the sketch which was submitted as part of the complete application presented an issues with the proposed lot line. The original layout did not providing the appropriate amount of setback from the lot line for the approved septic field. In discussion with the Northwester Health Unit, the applicant suggested that the septic filed be installed first, and the lot line established thereafter to confirm the setbacks are in compliance. The applicant confirmed that the septic permit has been approved and paid for.

The City Planner reviewed her report the application being considered concurrently with the minor variance. Relief is being requested from Section 3.13.5 which restricts lot creation whereby the lot depth is more than five times the frontage (1:5 ratio). The effect of the approval for consent, would be to sever approximately 9.681 ha of land from 872 Anderson Road and merge with 236 Tresoor Point Road,

the retained lands will be approximately 2.404 ha in size, lot frontage and building setbacks will remain compliant to the provisions of the zoning by-law 101-2015. The Planner gave a detailed description of the subject property and noted that the property recently received approval for a minor variance to permit an interior secondary dwelling within the existing single detached dwelling on private services, in September, 2017.

The Planner reviewed consistency with legislated policy and city directives. Application for lot addition generally supports direction under Policy 1.1.1 which promotes managing and directing land use to achieve efficient development. The Planner reviewed the Official Plan designation as Rural, and spoke to the Official plan policies pertaining to Hazard Lands and site alteration and development on hazards lands. With respect to the zoning by-law, the lands are zoned RR- Rural Residential, single detached dwellings on lots of 1 ha in size and with shoreline frontage of 61 metres are permitted. The Planner acknowledged that the septic field must be located 30 m from the watercourse, and that no structures shall have windows or others openings *below 320.6 m Canadian Geodetic Vertical Datum of 1928(CGVD28)*.

The Planner reviewed comments received as a result of internal circulation and agency circulation, Northwestern Health Unit provided a lengthy comment, detailing the setback of the septic field. The Planner had hoped to speak with Doug Vergunst, Chief Building Official about the file; however he was unable to be reached.

In the evaluation, the Planner recommended that if approved, the lot addition proposed is that approximately 1.5 hectares of the shoreline area would become inaccessible if added to the adjacent property. Since the lands are hazard, they will be compromised in that legal access to them is not assured. If transferred, future owners and users of the abutting parcel will likely develop docks and other shoreline structures which would be located as much as 300 metres from the closest dwelling, on the north side of the bay. The Planner identified that the lands for lot addition will become over 23 hectares, and be eligible for subdivision. Without a clearer picture of the intended use of these hazard lands, which are contiguous with the retained lands, there is a high possibility for conflict between abutting land owners. The Planner recommended that the hazard land congruent with the retained lands is not severed, and approximately 350 metres of shoreline remains intact. This would result in no need to grant a minor variance.

The application would then be consistent with objectives of the official plan and the zoning by-law; and the development would be appropriate and desirable development of the land, as per the four tests. The Planner recommended that the application as proposed be refused until a lot layout is provided.

The chair asked the applicant if they had anything to add. David Tresoor spoke to the Planners comments about subdividing the lands, stating that it was not their intention, and any future owner, if they so choose to subdivide, would have to make an application to the Committee, City concerns can be identified at that time.

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

Terry Tresoor Sr.
872 Anderson Road
Kenora, ON P9N 0C4

Mr. Tresoor wished to express support for the application.

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

Wayne Gauld wished to clarify when the septic field was to be installed. Mr. David Tresoor said that Joe Neniska will install in the spring of 2018 as soon as the ground thaws.

Vince Cianci requested that the Committee consider addition a condition to the decision, that the new lot line be 3 m from the septic field to suffice the NWHU requirements. Mr. Cianci also suggested addition a distance from the house, i.e. a minimum of 15 m. lastly; Mr. Cianci requested that a 20 m width across the driveway be shown on the survey, even though it is recorded as 21.6 m along the road, and 61 m minimum measured for the shoreline frontage at the 20 m setback so that there is no confusion.

Wayne Gauld, asked the Planner for clarification on the recommendation for refusal, based on the notion of hazard lands. The Planner explained that she was trying to convey, that because so much of the shoreline is hazard, from her perspective it would be more appropriately left with the retained piece, because use of that land could become a real issue, due to the distance from the shore to the nearest point that a building can be erected on the hazard lands. Furthermore, as hazards lands, a dock would not be supported.

David Tresoor confirmed their plan is not to subdivide or develop the land. A dock would be developed off the rock point, where there is existing shoreline development for the retained land, and any development would be consistent with the zoning by-law. Mr. David Tresoor noted that a dock was once located in the back of the bay, which is now deemed hazard lands, that was when water levels were stable.

Ray Pearson; given the information about the hazard lands, asked the applicant where they may build one day?

David Tresoor, if someone were to build it would be closer to Anderson Road, and not the Winnipeg River. Terry Tresoor maintained that it is not his intention to build, however, identified a beautiful site high up on the ridge and Anderson Road with views across the field to the lake. One day in the very far future, maybe he would explore the option of building a new home closer to the main road.

Wayne Gauld questioned the Planner, if an application for a plan of subdivision was submitted to the Planning Department for consideration, would the hazard lands be considered at that time. The Planner maintained concern for development and the lot addition which were predominantly hazard lands. The Planner suggested that the proposed lot line be relocated so that the entire peninsula including the hazard lands are part of the retained portion.

Vince Cianci suggested that the split of the land at the peninsula is the best way to ensure prime waterfront is divided evenly between the two families.

Chair asked the Committee for discussion prior to making a decision.

The Committee discussed the lot line in relation to the septic field, concern regarding a proposed future plan of subdivision, and reviewed the conditions as recommended by Mr. Vince Cianci.

Committee discussed the minor variance; there were no questions or comments.

Application for Minor Variance D13-17-10, Tresoor

Moved: Vince Cianci

Seconded: Ray Pearson

That the Kenora Planning Advisory Committee approves Application for Minor Variance File No. D13-17-10, and that the proposal to grant relief of Section 3.13.5- which restricts lot creation whereby the lot depth is more than five times the frontage, the decision will allow for the retained lot that will exceed the 1:5 ratio for lot depth to frontage in Application for Consent file: D10-17-09 under Section 53 of the *Planning Act*.

Carried.

Application for Consent: D10-17-09, Tresoor

Moved: Ray Pearson

Seconded: Graham Chaze

That application D10-17-09 for consent, lot addition for property legally described as Concession 1M, Major part of North of South Part LT; 17, Part Parcel 10539 Including KR1802; Part 1 Part KR442, Less Part 23R8026, KR1241, KR1322, Part1, locally known as 872 Anderson Road be approved and provisional consent granted subject to conditions.

(viii) New Business- there was none.

(ix) Old Business

- D13-17-03, Degagne

Tyler Johnson, Agent
Shewchuck, Ormiston, Richardt & Johnson, LLP
tjohnson@kenoralaw.com

Mr. Johnson introduced himself, taking over the file from a colleague. Mr. Johnson apologized for not being at the last meeting in February, 2017 however welcomed any questions the Committee had with respect to the new information which was brought forward on the file including comments from the Ministry of Natural Resources and the amended EIS.

The Planner reviewed the planning report as prepared in February, 2017, whereby the Committee deferred application for consent file D10-17-03, until a scoped EIS could be provided to the City of Kenora and the Ministry of Natural Resources and Forestry for review. In February, 2017 the Committee also requested the applicant explore the acquisition of privately owned property which lay between the subject property lot line and Railway Street. The Planner also noted the conditions of approval which were outlined in the Planning Report from February, 2017 and the comments made by City of Kenora sewer and water department and Kenora Hydro with the request for easements.

A copy of the scoped EIS was provided by Kenora Resource Consultants Inc. and circulated to the Ministry for Comments. MNR noted the application was consistent with the PPS, they agreed with the recommendations contained within in the EIS, and confirmed that the application would pose a low risk and that no concerns were identified.

The Planner asked the Agent to speak to the acquisition of private lands abutting the subject property and what is locally known as Railway Street.

Tyler Johnson, Agent, identified that CP Rail owns a small bit of land between Railway Street and the Degagne properties. At some point, the City took over Railway Street, and suggested the ownership may be considered adverse possession as it is a municipally maintained street. The problem, as the Agent explained, is that this small tract of land between the Degagne property and Railway Street is part of a large PIN, if the City were to request that the Degagne`s explore the acquisition of said lands to comply with frontage requirements, the piece would have to be severed from the large PIN, at an unknown price. As Mr. Johnson explained, what is more important, is that the while piece is still within the Registry System, after 10-years the Degagnes may have a claim for adverse possession over the driveways. The Degagnes have owned this land for more than 10 years to support the viewpoint of adverse possession. Mr. Johnson referenced the proposed easement, which he agreed would satisfy the access requirement on a municipally maintained road, however he noted that the proposed easement is not a place where someone wants to access the lot created.

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

Wayne Gauld clarified with the Agent that the Committee was not concerned about access so much as they were concerned about whether there was a possibility to gain title of the land which lies between the Degagne property and Railway Street.

Wayne Gauld asked the applicant to confirm that they understood the conditions of for registering easements as per the comments from the Kenova Sewer and Water Department, and Kenora Hydro. The application confirmed.

Vince Cianci, questioned the Agent on legal access. Mr. Cianci understood that the Agent was opposing that the driveways may be protected in adverse possession, however he identified that the lot created does not have legal access onto a municipally maintained road, nor would it meet the frontage requirements.

The Planner addressed the comment and suggested that is where the access onto Gould Road came in as a condition. However, Mr. Cianci argued that the 6 m wide easement does not ensure the required frontage. Mr. Cianci agreed that the application provides for access, however does not meet the requirement for frontage. The Planner referenced the Official Plan 8.11.4 (h), which speaks to permanent frontage and reasonable access. The point there is that it should be an existing public road that is currently maintained. At this point we have a legal opinion stating adverse possession on the driveways. The Planner maintained the importance of the easement, as it protects the lot created by ensuring access.

The Committee discussed the easement access and frontage on a municipal road for the creation of a lot.

Ray Pearson supported the easement, and referenced the EIS report, the consultant uses the easement to delineate the boundary of the wetland area, it was the opinion of the Committee member that the- easement also helps to reference the natural heritage area.

Vince Cianci again raised the issue about legal access and frontage and questioned how the Committee would create a lot which did not meet these requirements. Tyler Johnson suggested that it was a historical anomaly, this small triangle of land in front of their property. Mr. Gauld asked the Agent to approach CP Rail to purchase the lands; The Agent responded that it was a problem with figuring out who to ask and how to ask. Not a fear in asking, rather the idea of trying to figure out who would have knowledge or desire to engage in this sale of land.

Robert Kitowski supported the comments made by Vince Cianci and quoted the Official Plan, Section 8.11.4, the creation of new lots which outlines that the newly created lot, as well as the lot to be retained, has permanent frontage, with reasonable access, to an existing public road which is currently maintained for year-round traffic.

The Planner agreed that the retained parcel has frontage on Gould road, the lot created would require frontage of 18m on Gould Road as per the provisions of the light industrial zone.

Committee discussed designing an L-shaped lot for the lot created with an 18 m frontage along Gould road.

Tyler Johnson, Agent agreed with the recommendation and suggested that if frontage is the only concern, it seems like a reasonable option. The Applicant agreed.

The committee discussed the requirement of the easement and maintained it is required.

The Chair asked the Committee for discussion prior to making a decision, there was none.

Moved By: Robert Kitowski

Seconded By: Graham Chaze

That application D10-17-03 for consent, to sever property located at 1439 Railway Street and 1439A Railway Street, described as Plan M149 Lot R, Part Parcel 28903; M 149 E 140' Lot Q & all of Lot P, Parcel 11674, 3087 be approved and provisional consent be granted subject to conditions.


Carried.

- D14-17-05, Scott Island
 - The Planner gave a very brief status update; there has been correspondence back and forth between the Agent, MNRF, and the Consultant on file. As of today`s date, the Planner has not heard from the applicant, however, MNRF made it very clear that there would need to be surveying of Golden-eye Lichen . At this point however, there is no further information to move forward on the application.


(x) Moved By: Robert Kitowski

That the November 21, 2017 Planning Advisory Committee meeting be adjourned at 8:50 p.m.

Minutes of Kenora Planning Advisory Committee meeting, Tuesday November 21, 2017 are approved this 19th day of December, 2017



Wayne Gauld, Chair



Melissa Shaw, Secretary-Treasurer