



PROCEEDINGS
for a Public Meeting
to discuss a Proposed Zoning By-law Amendment
(Re: D14-16-06 1 Seventh Street South)
Tuesday, January 10, 2017
12:07 p.m.

PRESENT: Mayor D. Canfield
Councillor M. Goss
Councillor R. McMillan
Councillor L. Roussin
Councillor S. Smith

Regrets: Councillor D. Reynard
Councillor C. Wasacase

Staff: Karen Brown, CAO
Heather Kasprick, City Clerk
Melissa Shaw, Planning Assistant
Devon McCloskey, City Planner
Jeff Hawley, Manager of Operations & Infrastructure

Mayor Canfield opened the meeting and stated that the public meeting is being held by the Council of the City of Kenora in accordance with Section 34 of the Planning Act to consider an amendment to the City of Kenora Comprehensive Zoning By-law No. 101-2015, as amended.

Notice was given by publishing in the Daily Miner and News which in the opinion of the Clerk of the City of Kenora, is of sufficiently general circulation in the area to which the proposed by-law amendment would apply, and that it would give the public reasonable notice of the public meeting. Notice was also provided by mail to every owner of property within 120 metres of the subject property, prescribed persons and public bodies, and posted online on the City of Kenora portal.

If anyone wishes to receive the Notice of the Decision of Council, please leave your name and address with the Clerk.

An appeal may be made to Ontario Municipal Board not later than 20 days after the day that the giving of notice as required by section 34(18) is completed by either the applicant or person or public body who, before the by-law is passed makes oral submissions at a public meeting or written submissions to the Council by filing a notice of appeal setting out

the objection to the by-law and the reasons in support of the objection, accompanied by the fee prescribed under the Ontario Municipal Board Act, with the City Clerk.

The Council of the City of Kenora will have the opportunity to consider a decision at a future meeting of Council.

Herein the applicant will have the opportunity to speak on behalf of their application, and then the City Planner will provide a summation of her report and recommendation, after which anyone who wishes to speak either for or against the application, will be given the opportunity to do so, and a record will be kept of all comments.

If anyone has a cell phone please either turn it off or use the vibrate option only. Thank you.

Devon McCloskey, City Planner presented the planning report for the zoning amendment application:

Introduction

An application for zoning by-law amendment is proposed to except a property from the provisions of the zoning by-law that are applicable to the Residential – First Density Zone ('R1'). The property is located at 1 Seventh Street South, described as PLAN 3 BLK 3 LOT 52 TO 55.

Description of Proposal

To enable property specifically indicated on the key map, to accommodate professional office space not operated by an occupant, and in excess of the floor area Home Occupations and Home Industries (Section 3.15.1).

Whereas not more than 25% or 41.8 m² of the total floor area of a dwelling is permitted to be dedicated to a home occupation, if approved, the total floor area would be 310 m² which is 69% of the building. In addition, the application is seeking approval to allow for seven (7) employees, and limited provision for parking.

Existing Conditions

The property is fronting on Lake of the Woods and accessible by Seventh Street South. The property was designated by the city to be of cultural heritage value under the Ontario Heritage Act in 2008. The building is referred to as the "Cameron House". The designation states specific architectural features on the exterior and interior of the building are to be conserved. This application does not propose to remove or alter any of the features to be conserved. Refer to the Designation By-law is attached to this report.

The property is developed with a large building containing three floors above grade, and was originally designed for residential use. It was previously modeled for apartment dwellings, and later the lower level was redeveloped inside for a home occupation for office use.

The space that is currently used for professional offices, is located within space accessible at street level, this proposal is requesting to expand the professional office space to include the second floor.

The property is serviced by municipal water and waste water. Several easements over the property were established in the mid - 1960's to secure routes of access for abutting lots as well as sewer and water services. These easements are still in effect and raise some questions as to the agreement with property owners for the existing use of parking. An illustration of the easements is shown in Figure 2 of page 2.

The easement that speaks to parking and access is being reviewed by the applicant and their solicitor to determine if the Cameron House's current use of parking spaces over the easement is permitted by the owner.

In addition it appears that these angle parking spaces located along the east side of the lot may also be encroaching on the City's property. There are block heater plug-ins and a garbage container holding structure also located along the lot line. The applicant is investigating further to determine if the uses are encroaching.

An aerial image on below displays the location and approximate boundary of the subject property relative to other lots in the area.

Site Visit

A site was conducted on December 9th, 2016. Photos captured of the southside lot line and building exterior are shown on page 3.

Public Comments

A public meeting is scheduled to be held by Council on January 10th, 2017. Notice of the application was given in accordance with Section 34 of the Planning Act, whereby it was circulated on December 8th to property owners within 120 metres, published in the Municipal Memo of the Newspaper on December 8th, and circulated to persons and public bodies as legislated. Together with staff, Council will have the opportunity to evaluate the proposal in lieu of public comments.

The notice also stated that the Planning Advisory Committee ('PAC') would have the opportunity to consider recommendation of the application to Council at their regular meeting on December 20th, 2016. The PAC resolved to recommend that Council approve the application, the resolution, copy of the report to PAC as well as draft meeting minutes are available for review and attached to this report.

No public comments have been received as of the date of this report.

Evaluation

The agent for the applicant has explained that the building is leased to legal professionals for office use, who require more space and want to remain at their existing location.

Commercial space is limited within the City, as are suitable occupational uses for the Cameron House, with its Heritage Designation. It was further explained that the use is beneficial towards preservation of the building and its exceptional features.

Uses such as restaurants, light equipment sales and rental establishments, or convenience stores permitted within the Local Commercial Zone ('LC'), could pose negative impacts to the heritage building, the neighbourhood, and lakefront property. Therefore it was recommended that an exception to the residential zone would be a more suitable proposal than amendment to the LC zone.

Whereas the property is currently zoned R1, approval of an application for zoning by-law amendment for exception, processed in accordance with the Planning Act, the Official Plan and Zoning By-Law, would enable the property to continue to be used for occupational use.

Whereas the Zoning By-law is explicit in listing the provisions for which Home Occupations or uses of a commercial nature are permitted within residential zones, the use as proposed would allow for existing use to continue in addition to permitted residential use.

The Zoning By-law defines "Home Occupation" as follows:

Home Occupation

Home occupations shall include occupations or professions which are conducted entirely within a dwelling unit. Home occupations shall not be permitted in accessory buildings.

Office

A building or part thereof designed, intended or used for the practice of a profession, the transaction and/or management of a business, or the conduct of public services and administration, but shall not include a clinic or a financial establishment.

Law Offices are a permitted use in accordance with Section 3.15.1 a)

3.15.1 Home Occupations

a) Permitted uses as a Home Occupation may include:

i. Business and professional offices such as professions in the field of engineering, accounting, planning, architecture/landscape architecture, lawyer, family and personal counselling;

Section 3.15.1 of the By-law further directs that where home occupations are permitted subject to the individual zones, another set of provisions shall apply. The proposal does not currently comply with a number of the provisions including the following:

b) The home occupation shall be operated by an occupant of the dwelling unit;

c) Not more than one assistant who is not a resident in the dwelling unit may operate in and from the dwelling;

d) Not more than 25% or 41.8 m² of the total floor area of the dwelling unit, whichever is the lesser, is devoted to the home occupation;

Table 4 of Section 3.23.1 of the By-law states that the minimum number of parking spaces required for home occupations is *1 per home occupation in addition to residential type requirement*. The required number of parking spaces would therefore be 1.5 for apartment dwellings and 1 for office, so 4.

Taking the view that the use is an office, Table 4 of Section 3.23.1 of the By-law states that the minimum number of parking spaces required is 2.3 per 100 m² of gross leaseable floor area. The sum of required spaces using this figure to calculate the requirement, would be 10 spaces for 447 m² + 3 for apartment dwellings, for a total of 13.

The property does provide 13 spaces, however, while 5.5 of these are on the subject location, 3 are upon an easement established for access and parking, and another 4 to 5 are over an easement for access (property permissions for parking in question), and City property.

Provisions for the encroachments and parking can be dealt with in a subsequent application for Site Plan Approval, whereby the user may redefine the easement agreement with the owner and a letter of comfort with the City. Conditions of approval cannot be established within the process for Zoning By-law amendment.

By limiting the number of workers, floor area, and so forth, the Zoning By-law is enables the City to limit the scale of commercial activity upon residential lots, so that it does not become a nuisance to the residential neighbourhood.

It also supports commercial uses to be located in commercial zones and for those districts to thrive; whereas the occupation of law offices would not necessarily contribute to the vitality of a commercial zone, given that it does not provide wares or merchandize for the public. It is a use that is generally located in the periphery of commercial districts, or within mixed use buildings.

Existing uses in the neighbourhood include the City's water treatment plant, which abuts the east side lot line, single detached residential to the south, Lake of the Woods to the west, single detached residential to the north, and the Coney Island foot bridge further on.

The water treatment plant is a seemingly large massed brick building with dark plain walls, and abuts the subject property's parking lot, where patrons of the business and residents park, providing a buffer to any possible nuisance to sensitive uses from the parking lot's view.

Given that the building is very large at 447 m² (4811 ft²) and still able to accommodate two (2) residential dwelling units, provides parking, etc. the use is suitable for the property and location.

Planner Recommendation

As the Planner for the City of Kenora, it is her recommendation that following a Public Meeting to hear submissions and public comments in regard to the Application for Zoning By-Law Amendment, File No. D14-16-06;

That Council accepts the recommendation of the Kenora Planning Advisory Committee, and further;

That Council in lieu of public comments, gives three readings to a by-law to authorize approval of a Zoning By-Law Amendment to except the subject property from the Home Occupation provisions of the Zoning By-law, to accommodate professional office space not operated by an occupant, having a total floor area of 310 m² being 69% of the building, as well as seven (7) employees upon property located at 1 Seventh Street South

Yana Sobiski, applicant to present the zoning amendment application:

The owner of the property was not able to attend the meeting, however, Yana Sobiski, law partner in the firm presented insight into what they want to do with the building. Will Major has been operating his law firm out of the location since 2006. There have been additional lawyers hired since the opening of the law firm along with an admin assistant and an articling student. They operate from the first floor, with an apartment on the second floor and the basement has laundry.

The original blueprints are available for the building and when they looked at a redesign for the Cameron house, it allowed for the opportunity to restore the building to what it originally was and expand the office to the second level. They want to restore the floor plan closer to the original layout. What are now bedrooms would return it to office spaces. The law firm is different in that they specialize in aboriginal law and typically represent chief and council of aboriginal communities. They are more often than not on the road or in the community and clients rarely visit their office. They do have some client office visits, but typically rent another space to hold meetings, they are not often.

They love old buildings and restoring this building to the original is the intent. The application is limited as to what they can do with the application. There are two strips of land owned by neighbours for easements. The parking issue is something we can overcome as there are at least two options.

Ms. Sabiski noted that she also lives in the area and preserving the neighbourhood as it is, is important to her as well. The intent is not to increase traffic or change the neighbourhood in any way. They are not changing how they operate and don't suspect this will change at all. They are more than willing to work with the neighbourhood to address any concerns.

Mayor Canfield noted that any person may express his or her views of the amendment and a record will be kept of all comments.

Mayor Canfield asked if there was anyone who wishes to speak in favour of the amendment. There were no additional persons to speak in favour of the amendment other than the applicant representative, Yana Sobiski.

Mayor Canfield questioned if there was anyone who wished to speak in opposition of the amendment.

Craig Debbo read a letter provided to him by Nancy Wagenaar and it was read into the record.

I am a resident of Kenora at 8 Seventh St S which is within the area of concern regarding the zoning application change for 1 Seventh St S. I have 4 children under the age of 14 that spend much of each day outside enjoying the neighbourhood, along with the other children in the area. I oppose any changes as it will compromise their safety with the increase in traffic to an already busy block. The parking is extremely limited already as the Coney Island permanent residents use the block as their parking space and access to their homes. There are also seasonal residents, both summer and winter, that use this block. Please consider these residents and their presence as part of our block. I also want to remind council that when the initial request was made for the building to be used as a law office a few years ago, it was done so under the pretense that it would only be a home based office and not a place where clients would be accessing so there would not be an increase in traffic. I distinctly remember that point being made very clear so that we would accept their presence in our neighbourhood. They hosted open houses and were part of the Open Doors historical initiative. I have complete disrespect for any one or any group that changes their plan and consider the fact that our neighbourhood graciously accepted the law office in the past under their initial plan but will oppose any changes at this point as I feel we were deceived at that time and we will not be deceived at this time. There should not be any commercial zoning changes to our residential neighbourhood, especially one with such historical significance.

Nancy Wagenaar, Kenora

Craig Debbo – Kenora

Craig and Diane Debbo - residents at 14th St S. Kenora - respectfully submit the following comments on the proposed by-law adjustment. We oppose the proposed adjustment to the zoning by-law.

Concern 1: Per the city's by-laws (Sec 3.14} "The home-based business shall be accessory to the main residential use of the property and shall not generate adverse impacts or otherwise change the character of the existing area". With this adjustment, the residential use would essentially become accessory to the commercial operation of the home-based business. And, furthermore, we believe that the current property owners don't occupy the property. The remaining residential area of this property is operating as a rental apartment. This further violates section 3.14 in that this commercial activity is in fact not a home-based business.

Concern 2: Per the city's by-laws (Sec 3.15.5 Compatibility Criteria) "Adequate onsite parking must be provided with minimal impact on adjacent uses." As is clearly visible during any visit to this site, parking on the street during spring, summer, fall and winter (before the ice-road) is at a premium. The demand for 7 permanent parking spots and then the additional temporary parking required by the business' customers will place a burden on an already busy street. Will a handicap spot be provided, will the new business provide dedicated road clearing in winter, will the city supply additional enforcement on our street to ensure that commercial visitors are parking in legal parking spots? In winter, before the ice road is in, snow banks along the north side with parking on the north side

can reduce this section of 7th St. S. to almost a one-lane road.

Concern 3: Lastly the new traffic that this business will create further endangers the safety of the more than 18 (yes 18!) children that live on just this small section of SeventhSt. S. alone. It is documented that cul-de-sac streets encourage more outdoor play. Cul-de-sac streets are perceived to be safer because there is less traffic and streets with less traffic show an increase in social interaction between residents in the area. Our children use this street for road-hockey, cycling, tag, and kick-the-can.

Related Notes: We advise the Council that we are aware of the Kenora Water Treatment Plant operating on the south-west corner of this area. The plant provides adequate parking for the staff, does not induce additional 'commercial' traffic and the plant's presence (while out of character for a residential neighborhood) is not under consideration here.

In summary, we oppose this proposed adjustment. We believe that it violates Sec 3.14 of the city code, that it cannot adequately meet Sec 3.15.5 of the city code and that, in general, it is out of character with the otherwise purely residential nature of this area of Lakeside.

A copy of Mr. Debbo's presentation was left with the Clerk.

Diane Debbo – Kenora

Ms. Debbo opened by asking that if this has not been asked, are there any relationships or conflicts of interest between Mr. Major and the members of council or city planner? Further, how would this affect you (Ms Sobiski) personally and in your business if this expansion of your business doesn't go thru/ if you have to alter your path?

Mayor Canfield responded to her questions..

I feel for your immediate neighbours as I believe that they will be highly impacted by the increase in local traffic and parking; however I feel that there will be a noticeable increase in overall cars on this small dead end street. My main concern is traffic congestion, a small street which is just chock full of cars, and safety.

My husband and I have 5 children ourselves and sit between families of 4 children on each side of us and 2 more active boys across the street from us. Then there are all of their friends that filter over from neighbouring streets to play. Since the children are only just aging out of school age and into junior high age, us parents have spent many hours out on the street and sidewalks supervising them.

My observations include that, for the most part, the neighbours that live on the street drive safely and at a slow speed, observant of the hazards such as children, pedestrians, other cars, parked cars, dogs, potential hazards; that are around them. The cars that typically "speed" down the street and even have a sense of hostility at times to our kids, are those that stop at the end of the street to make pickups at the dock, turn left at the end of the street, or go to the mailbox at the end of the street-people who don't typically have sense of obligation, connection or responsibility to the rest of the neighbours on the street. I am afraid that the employees or customers at the law firm may fall into this category.

There is often not enough parking on our street. Often visitors to my home comment on this. This is a seasonal and time of day problem to be sure. As well, the parking on our side of the street (the north side) which is allowed right up to our driveway, causes a tunnel-like problem for backing out where often we cannot see what is coming down the street until we are well out into the street. This could be alleviated somewhat by moving the parking further away from the driveways (but this is a discussion for another day). Adding overflow parking from a law office onto the street would only add more congested parking to compete with neighbours, visitors, Coney Island residents, Coney Island walkers, LOTW users, etc. The law office needs to be able to provide for its own parking. From the City Council Staff Report, there were some lovely pictures of the parking areas with nicely cleared snow. I took a couple of pictures today. There is the pile of snow at the end of the street by the Cameron House and water treatment plant, which is there usually for a good part of each winter. There are snow banks down the street, which, when cars are parked next to it, reduce the street to one lane.

In conclusion, after reading the City Council Staff Report, if this application is passed, I would only hope that the city is as flexible with my husband and I in allowing us to bend all the bylaws with regards to our next parking ticket or when we apply to do extensive renovations to our house.

If this application passes, I expect good behaviour from these employees as they drive down our street each day at a modest speed, I expect this to be reinforced as part of this law firm's culture, and I wish you well in your endeavour.

A copy of Mrs. Debbo's presentation was left with the Clerk.

Mayor Canfield asked if there were any questions?

Councillor Roussin addressed the City Planner with the existing zoning and home occupancy and questioned if the use of that building today is not meeting the bylaws as it stands today. The City Planner has given her recommendation and some of the other neighbours in the area would be happy to see a law office in the neighbourhood rather than additional apartments.

Yana clarified that they are not violating the square footage usage now, there are people working now in the building.

Councillor Smith questioned if all of the parking will be on street or off street parking. It was answered that all of the parking will be off street parking and they currently have 13 parking spaces on the property. There is capacity now.

City Planner Devon McCloskey addressed the square footage area of the building and it is a maximum floor area allowed with home based business and this building is exceptional as it is very large.

Councillor McMillan added brief comments as there is an opportunity here for building relationships with the neighbours and accommodating that. Preference that those issues be addressed and concerns of neighbours addressed.

Mayor Canfield expressed that he felt this was a good use and the concerns probably wouldn't come to fruition.

Councillor Smith noted that she would be more comfortable if this come forward later once easements and enforcement matters are addressed on that street.

Councillor Roussin noted that there are many other areas in the City that are not in compliance with City bylaws. Proactive planning is good planning not based on what has happened in the City over the years.

As there are no further questions, Mayor Canfield declared this public meeting CLOSED at 1:00 p.m.