



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

Meeting Minutes
City of Kenora Planning Advisory Committee
Regular Meeting held in the Operations Centre Building
60 Fourteenth St. N., 2nd Floor – Training Room
August 20, 2019
6:00pm

Present:

Wayne Gauld	Chair
Ray Pearson	Member
Bev Richards	Member
John Barr	Member
Robert Kitowski	Member
Devon McCloskey	City Planner
Kylie Hissa	Secretary Treasurer

Regrets:

Tanis McIntosh	Member
Andrew Koch	Member
John McDougall	Member

DELEGATION:

- (i)** Wayne Gauld, Chair, called the meeting to order at 6:00 pm and reviewed the meeting protocol for those in attendance.
- (ii)** Additions to 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 – there was none.
- (iv)** Adoption of minutes of previous meeting
The Chair asked the Committee if there were any questions or corrections to the minutes as circulated.
 - Approved as circulated: July 16, 2019
- (v)** Correspondence relating to the application before the Committee.
 - Relating to file D10-19-09, the Secretary Treasurer indicated that the Ministry of Natural Resources and Forestry (MNRF) had issued a letter for the file, indicating no concerns. There had also been correspondence

with the Ministry of Tourism, Culture and Sport, which the Planner would speak to that once the application is considered on the agenda.

- (vi)** Consideration of applications for minor variance
- D13-19-13, Yanchishyn

Kent Yanchishyn, Applicant
1 Treadway Drive, Kenora ON

The Planner read the planning report for the file. She explained that although the property does have access into the rear yard, the Applicant is wanting the garage located in the front yard. The property also has municipal services, despite being zoned RR-Rural Residential. She explained that the City may consider having the property zoned as R1-Residential First Density when the Zoning By-law is updated, which would provide some relief for future development.

It was the Planner's professional opinion that the application be approved.

The Applicant had nothing to add further.

The Chair asked if there was anyone in the public whom wished to speak in favour of or against the application. There was no one in attendance from the public.

The Chair asked the Committee for questions.

Robert Kitowski asked if the fence was erected on the lot line or if it was well onto the Applicant's property. He noted that based on where the proposed location is mapped out on the aerial view, the garage seems to be proposed to be built where a tree was currently growing. Robert expressed concern about the depth of the garage, as it looked close to the fence.

The Applicant explained that there was a dead tree that will be cut down; however, that the living tree on the property would stay. He stated that the fence is on his side of the lot line for the most part and that when he had measured the dimensions and setbacks, there was more than the minimum 3m side yard setback. He also stated that the other property beside him would always be vacant, so it is similar to a yard for him.

John Barr asked how large the lot was. The Applicant explained that he believes it to be 80m by 30m. John indicated that the property is zoned RR but does not meet the 1 ha minimum requirement for lot size. The Planner confirmed that the site is on municipal services and that she was not sure why it was not zoned R1. However, that it would probably be adjusted.

Ray Pearson asked out of curiosity what the purple mapping layer was on the notice of application. The Planner explained that it is an easement layer and in this case, it showed that it is an easement for services. The Chair provided input, and stated that the area had been laid out that way for services about 10 years ago. The easement

layer shown was for the subject property as well as the neighbouring vacant lot; the services come from airport road and not from Treadway Drive. Bev Richards noted that based on the survey for the easements, it was registered in 2005.

There were no other questions.

The Chair asked the Committee for discussion. There was none.

Moved by: John Barr

Seconded by: Robert Kitowski

That the Kenora Planning Advisory Committee approves application for minor variance file No. D13-19-13 to seek relief from the City of Kenora Zoning By-law 101-2015, which requires that accessory buildings shall not be built closer to the front lot line than the minimum distance required by the By-law for the main building on the lot, and to allow approval of a 7.3m by 7.3m accessory building (garage) to be built approximately 8m from the front lot line.

Carried.

(vii) Consideration of applications for consent

- D10-19-09, Bell

Jeffrey Port, Agent
JCP Planning & Development
Rob Bell, Owner
746 East Melick Road

The Agent for the file explained that the application would simply transfer some land from one lot where the Applicants currently reside and add it to the abutting lot, which they plan on moving to. Approval would result in the one lot being a bit larger than what it previously had been surveyed out as.

The Applicant also explained that initially, the archaeological site had been planned to be wholly located on their current property, so that future owners would not have to deal with the matter and any possible limitations. Now that they want to sell, they would like more land for privacy. The Applicant noted that after 10 years of the subdivision being approved, nothing has happened with the archaeological study site. They also plan on moving and downsizing with their new build. They would be well over the minimum provisions in the BSL-Black Sturgeon Lake Restricted Development Area zone in terms of water frontage and lot size.

The Agent stated that there had been one condition that they disagreed with (number 4). The Planner explained that the condition had been withdrawn after correspondence with the Ministry of Tourism, Culture and Sport (MTCS) and would explain shortly.

The Planner presented the planning report and further explained that the condition (#4) had been included in the report because it had been a recommendation of the archaeological report that was done and it was acknowledged in a letter received by

the MTCS. Since reviewing those documents, the Planner had spoken with the Review Officer at the Ministry and they indicated that they actually disagreed with that recommendation as it was impractical and was going above and beyond for a residential property (which does not have public access like a commercial property). The Review Officer had explained that the area should be avoided especially from ATVs and quads, and that there shouldn't be construction or gardens. If someone was to walk over it, that would be okay.

The Agent also clarified that while it was a recommendation, it was not a requirement and had not been included with the notice of decision during the Subdivision approval. The conditions were to have site plan control or to rezone the area. The Agent stated that both had been done – the site plan control approval and environmental protection zone layer.

The Planner referenced the last photo in the planning report, and noted that it looked as though the area was growing back. She asked if it was ever fully dug up. The Agent explained that it was never fully excavated; however, that holes had been dug.

The Agent also informed the Committee that the Applicants had offered to survey the archaeological site and turn that land over to the City or the MTCS; however, no one wanted it. An offer by the Applicants to deed the found artifacts of the site to the MTCS and/or the City was turned down as well.

The Planner noted that the zoning on the property was interesting, as it was designated the BSL zone with EP and site specific provisions. Her understanding was that the site specific provisions were overlaid before the Subdivision had been given final approval and that some of the site specific wording could be lifted as it did not apply to all lots as it does on Lot 19.

The Planner stated that a couple of phone calls and a visit had been received from the public; however, that no written comments were submitted. Concerns had been over a sand pit, which may have been on the property. The individual believed that there was some removal of sand and an increase in traffic. Since that person was not in attendance at the meeting, the concerns could not be elaborated upon further.

The Planner also explained that there was an existing easement on the property to provide hydro and access. The small portion of the easement on the subject property would be transferred to the lot with added lands. One of the conditions was that the PINS are consolidated and a merger agreement is entered into. It was the Planner's professional opinion that the application for lot addition should be granted provisional approval.

There was no one from the public to speak in favour of or against the application.

The Chair asked for clarification on the easement for services. The Secretary Treasurer showed the Chair the survey for the easement and explained that the small area of Part 5 would be wholly located on Lot 16 if the application was approved.

Ray Pearson noted that in the archaeological report, the lot numbers differed from the lot numbers of the legal description today. He asked if that would be an issue. The Planner stated that it would not be.

Ray Pearson also asked for clarification on the size of the archaeological site, noting that he did not find the size in the report and that the photos make it appear to be quite substantial. The Applicant explained that it is about half the size of the Training Room of the Operations Building. The Planner also stated that the site is 20m by 60m, which was laid out on the site plan.

Ray Pearson asked how the site would be identified in the future. The Planner explained that the site has been mapped "Environmental Protection". The Agent also stated that site plan control is permanent and registered on Title.

There was no further discussion.

Moved by: Robert Kitowski

Seconded by: Ray Pearson

That the Kenora Planning Advisory Committee grants provisional consent to allow approximately 6.28 ha of land, being approximately 81.32m of frontage, to be added from Lot 15 of Plan M-966 to Lot 16 of Plan M-966, subject to the conditions as outlined in the planning report as amended; being property Lot 15 of Plan 23M966 as in KN59374; together with an easement over Part Lots 16, 17, 18 of Plan 23M966 Parts 1, 2, 3, & 4 of Plan 23R-12268 as in KN 59374 City of Kenora; being PIN 42134-0566.

Carried.

(viii) New Business – there was none.

(ix) Old Business

- CPR Warning Clause Follow-Up

The Planner informed the Committee that she had contacted CP Rail and spoke to a person who was a Specialist in Real Estate Acquisitions. She was told that they would continue to provide the exact warning clause. The Planner read the email submitted by her contact at CP Rail.

The Planner explained that warning clause is also added within noise reports for proposed development within 300m of a rail line and that she was told that CP Rail would not accept changes to the warning clauses. The Planner did not get any further information but may be able to provide another update at a later time.

John Barr explained that his problem was not with the warning clause, it was the addendum to the clause. He explained that if he were the owner of a lot close by and saw that CP claimed to not be responsible, the Ministry of Environment, Conservation and Parks (MOECP) would have a difficult time agreeing with that. He believed CP was responsible for how it affects people outside of their boundaries. He noted that he was involved in a matter in 1988 and it went to the Supreme Court (file no. 23721). CP rail was prosecuted and the Court was in favour of the province (MOECP)

and found that federal facilities are responsible for how their operations affect areas off of their property. He noted that the email, which the Planner presented to the Committee, did not say anything about CP Rail not being responsible.

The Planner stated that she will follow up and ask for clarification on the responsibility part if that's the issue.

John Barr noted that they could say that they are not responsible; however, it would be proven otherwise in court. He also explained that normally, most noise problems are caused by activities next door such as traffic, dogs, etc. He stated that CP lines are just like traffic, and for them to add that they are not responsible in the warning clause was something that he did not agree with. He wished that the warning clause would no longer be used and to use the NOEPCC guidelines instead.

Bev Richards asked for an update on the Habitat for Humanity build, noting that they received provisional approval at last month's meeting. They were going to remedy the drainage situation and Bev asked if they've resolved the issue.

The Secretary Treasurer gave an update, explaining that she had been in contact with the neighbour who had the concerns, as well as the Building Department. A building permit had been issued for the new retaining walls and the neighbour had been in contact with the Habitat for Humanity representatives.

The Secretary Treasurer explained that the neighbour still had concerns with the new retaining wall and wanted confirmation that it met Building Code and had been built to the plans that had been submitted by the Engineer. The Secretary Treasurer informed her that the Building Department may be able to help answer their questions and clarify what was approved. It was also explained to the neighbour that there may be some aspects of the retaining wall that may not be aesthetically pleasing, but that it does meet Building Code. The Building Department also said that they would be able to conduct a site visit within the week or so. The Secretary Treasurer also explained that there will likely be more landscaping work that will be done in the Spring, so patience would be needed during the process.

Bev Richards also wished to have an update on the Anchor Inn property.

The Planner explained that the file was still with the Local Planning Appeal Tribunal (LPAT), as an appeal had been submitted regarding the Zoning By-law Amendment. The LPAT was taking a lot of time and the board member that was working on the file may have been on vacation for a month. She noted that the file has been on-going since January.

The Chair expressed that residents nearby have concerns with the grass not being cut. He explained that he had advised them to phone the City and complain.

Bev Richards also noted that the motel sign is half gone and there are old boat cushions. The Planner confirmed that if there are property standards issues, they could be addressed through the By-law Enforcement Department.

The Planner indicated that she was hopeful that there will be a decision on the motion soon, as the LPAT determined that the appeal was not valid. She explained that there had been a motion to argue that, which was submitted by the Appellants. The board member will have to address that. Either there will be a case management conference with the City and parties, or the board member will decide again that the appeal is not eligible. The Planner noted that there could be potentially another appeal to the Courts.

Bev Richards asked if there was an update on the file by the Ministry of Natural Resources and Forestry (MNR). The Planner indicated that there was no application to the Ministry for docking and so she would have no update. Bev noted that she has seen some stakes on the property but that she was not sure if a survey had been registered.

There was no further discussion.

(x) Adjourn

Moved by: John Barr

That the August 20th, 2019 Planning Advisory Committee meeting be adjourned at 6:57 p.m.

Minutes of the Kenora Planning Advisory Committee meeting, Tuesday August 20th, 2019, are approved this 17th day of September, 2019.


Wayne Gauld, Chair


Kylie Hissa, Secretary-Treasurer