



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

Minutes
City of Kenora Virtual Planning Advisory Committee
Regular meeting held by way of Zoom Meeting
December 15, 2020
6:00 p.m. (CST)

Present:

Wayne Gauld	Chair
Bev Richards	Member
John Barr	Member
John McDougall	Member
Robert Kitowski	Member
Ray Pearson	Member
Melissa Shaw	Secretary-Treasurer
Kevan Sumner	City Planner
Adam Smith	Manager Development Services

Regrets:

Tanis McIntosh	Member
-----------------------	---------------

DELEGATION:

- i. The Chair, Mr. Wayne Gauld, called the meeting to order at 6:00 p.m. and went through the meeting protocol.
- ii. The Secretary-Treasurer announced an amendment to the Agenda, the hearing for File No. D10-20-07 would be deferred to the end of the Agenda and would follow the Recommendation to Council on File No. D14-20-03.
- iii. Declaration of Interest by a member for this meeting or at a meeting at which a member was not present:
Member, John Barr for File No. D10-20-07
- iv. Adoption of Minutes of previous meeting
 - The meeting minutes of November 17, 2020 are approved as amended.
 - Recorded meeting:
- v. Correspondence relating to applications before the Committee, there we none.

- vi. Consideration of an Application for Minor Variance
 - D13-20-05
- vii. Consideration of an Application for Validation Order
 - D10-20-06

Phedra Olynik, Agent
Hook, Seller & Lundin LLP
polynik@hsslaw.ca

The Agent thanked the Committee and provided history of the property, back in 1982 there was a Planning Act violation when the transferor obtained the abutting lands without the necessary consent. Legal Counsel at the time made the Planning Act statement that there were no abutting lands being retained. Application File No. D13-20-05, for Validation Order is essentially a remedial application. The Agent explained that her client is simply looking to have done, what should have been done in 1982. As a result of the Planning Act violation, no legal interest in the land was ever conveyed to the people whom believed they owned the lands since 1982.

Application for minor variance File No. D13-20-05 pertains to the northerly piece, being Part 1 23R-5191, which was not transferred. The parcel does not meet the minimum lot requirements for the RR- Zone, nor the required minimum lot frontage. The effect of the validation order will inadvertently create one lot, with one retained. The minor variance is required for Part 1 to seek legal non-conforming status. The Agent confirmed that there was no alteration to Part 1 being proposed, nor any development.

The City Planner, Kevan Sumner, presented the Planning Report, an application for a Validation Order has been received for 361 Coker Road (PIN 43134-0185). Section 57(1) of the *Planning Act* allows a committee authorized to grant consents the ability to issue a certificate of validation. These certificates state that a prior contravention of the subdivision control provisions of the Act are deemed to have never had the effect of preventing the past conveyance of a property. This provides a method to fix an inadvertent breach of the Act in order to avoid the requirement of a consent application.

The northerly lot does not conform to the minimum required lot area of a property in the "RR" Rural Residential Zone of the City of Kenora Zoning By-law No. 101-2015, and therefore the application is being considered concurrently with an application for a Minor Variance reducing the minimum required lot area for a lot in the "RR" Rural Zone from 1 hectare to 0.23 hectares.

Parts 1, 2, 3, and 4 of Part of the West Half of Broken Lot 6, Concession 2; Township of Mellick; District of Kenora were previously owned by a single individual In 1981, that individual conveyed Part 3, obtaining the necessary consent, as he had retained Part 2 for himself. Four days later, he conveyed Part 4 and no consent was required as he had already conveyed Part 3. In 1982, the owner conveyed Part 2, while he retained Part 1 for himself. He did not obtain the necessary consent and

the Planning Act statement was made that he did not retain any abutting lands – while he did retain Part 1.

The properties are is designated as Rural within the City of Kenora Official Plan, and are zoned “RR” Rural Residential Zone within the City of Kenora Zoning By-law. Neighboring uses are a mixture of smaller rural residential lots and larger rural lots. The southern property (361 Coker) has been developed with a single-detached dwelling and related accessory structures. The northern property remains undeveloped and partially tree-covered.

The Planner reviewed consistency with legislated policy and City directives, the applicatin is consistent with the PPS (2020), The City of Kenora Official Plan and the Zoinng By-law.

As a result of interdepartmental and agency circulation there were no concerns identified.

The Planner evaluated the applications and made recommendation that the Kenora Planning Advisory Committee takes into consideration, those comments that may yet to be received, and; that the application, D13-20-05 to seek relief from the City of Kenora Zoning By-law 101-2015, Section 4.5.3 (b) which requires a minimum lot area of 1 hectare for properties zone “RR” Rural Residential Zone meets the Four (4) Tests and should be approved. That application D10-20-03 for a validation order for properties located at 361 and an Unassigned Address Coker Road and legally

The Chair asked the Agent is there was anything further to add, the Agent reiterated that no proposed development or alternations we being proposed.

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

The Chair wished to clarify that the frontage on Lot 1 was okay and that there was sufficient space for development. The City Planner confirmed the frontage on Lot 1 and suggested similar sized lots have been fully developed within the neighbourhood, there was no reason to suspect this property would be undevelopable.

The Chair asked for discussion, there was none.

Robert Kitowski reviewed the notice and questioned the requirement for relief from the provision of Section 4.5.3 (a) for lot frontage. The Secretary Treasurer confirmed the Agent made application for relief of 34 m from Section 4.5.3. (a) to allow for a lot frontage of 27.0 m, and from Section 4.5.3 (b) to allow for a lot 0.236 ha in size within the “RR” Rural Residential Zone. The Agent agreed.

The Secretary-Treasurer amended the recommendation to include relief of 34 m from Section 4.5.3. (a) to allow for a lot frontage of 27.0.

Member, Ray Pearson asked the Planner if the Roads Department approved access off Coker Road with the reduced frontage. The Planner noted that at such time that a driveway is installed, an application for entrance permit shall be required, and the Roads Department identified no concern within interdepartmental circulation.

Decision: D13-20-05

Moved by: Robert Kitowski

Seconded by: Bev Richards

That application for minor variance File No. D13-20-05; seeking relief of 34 m from Section 4.5.3. (a) to allow for a lot frontage of 27.0 m, and relief of 0.76 ha from Section 4.5.3 (b) to allow for a lot 0.236 ha in size within the "RR" Rural Residential Zone meets the Four (4) Tests and should be approved.

Carried.

Decision: D10-20-06

Moved by: Robert Kitowski

Seconded by: Ray Pearson

That application D10-20-06 for a validation order for properties located at 361 and an Unassigned Address Coker Road and legally described as PIN 42134-0185 & PIN 42134-0184, be approved.

Carried.

- viii. Consideration of Recommendation to Council, Application for an Amendment to the Zoning By-law 101-2015
- D14-20-04

Ryan Hines, Agent
Kenora Resource Consultants
ryan.haines@kenoraconsultants.com
Bruce Krawicki, Applicant
Bestway.bruce@gmail.com

Background information Mr. Krawicki purchased this property in the fall of 2020 with the intent of using a portion for a parking space for an expansion of the marina operation on the property locally known as 'Change of Latitude Marina'. The first step in a marina expansion is to consider additional parking. The acquisition will allow for parking, however a change to the zone designation is required from R3- Residential Third Density to HC- Highway Commercial.

The City Planner reviewed the application, being a change to the zoning of the subject property from R3- Residential Third Density zone to HC- Highway Commercial Zone to allow for development of a parking lot on the southern portion of the property, to support the future expansion of the nearby Change of Latitude Marina.

The property currently contains a residential dwelling and accessory garage, which the property owner intends to retain. These will be considered legal non-conforming uses under the proposed HC zone. Surrounding properties contain a mix of residential and commercial uses on the south side of Lakeview Drive, and a mix of commercial and undeveloped lands on the north side of Lakeview Drive. The bay to the southwest contains extensive marina docking, including that of the property owner.

In review of the application to the consistency with legislated policy, the re-zone is consistent with the PPS (2020), the City of Kenora Official Plan and the proposed "HC" Highway Commercial Zone allows for the development of a wide range of uses and services to meet the needs of residents, businesses and tourists. The redeveloped portion of the property will need to comply with all applicable zoning regulations and will be subject to site plan control. The design of the proposed parking lot appears to meet Zoning By-law requirements for dimensions of parking spaces and adjacent aisles.

As a result of interdepartmental and agency circulation, Synergy North shall require a utility easement, and CP Rail does not oppose the commercial development but such development should meet the recommendations based on site specific conditions and intended use.

There were no public comments received to date.

In an evaluation, it was the opinion of the City Planner that the proposed new parking lot will relieve existing pressure for parking in the area and may support future expansion of the owner's nearby marina. If approved, the proposed rezoning will match that of adjacent properties on the south side of Lakeview Drive, and is suitable to the mix of uses and zones in the immediate vicinity of the property.

It was the recommendation of the Planner that Application for Zoning By-law Amendment, File No. D14-20-04, to change the zoning the subject property from "R3" Residential – Third Density Zone to "HC" Highway Commercial Zone; should be approved, in lieu of public comments that may yet to be received.

The chair asked the Agent if there was anything to add.

Ryan Haines highlighted that the addition of dock slips will help the City meet its goals of becoming Northwestern Ontario's boating destination to support tourism and economic development.

The chair saw no one in the audience to speak in favour of or against the application.

The Chair asked the Committee for questions.

Ray Pearson sought clarification from the Agent, if the intention of the application for re-zone was to alleviate the parking pressures on the existing docking or if the application to re-zone was to provide additional parking for 24 new boat slips? Ryan Haines informed the Committee that the number of docks slips was yet to be determined and will depend on the water lot lease agreement with the Ministry of Natural Resources and with the Federal Government; and to determine how many dock slips can go onto the water without effecting adjacent property owners and navigable waters.

Ray Pearson asked if the proposed expansion is to extend off the existing docks or if there is space for new docks. Mr. Krawicki confirmed there would be no expansion along the shoreline.

There was discussion about the process for permitting parking stalls off-site. Within Section 3.23. 8 of the Zoning By-law, any commercial zone, that requires parking may provide parking off-site within 90m of the main pedestrian access of the building, structure or use for which the parking spaces are required, provides that Site Plan Agreement is registered on title of the lands used for parking, which commits the parking spaces to the related commercial site.

The Planner explained that in the future, the Marina will be required to make application for a minor variance to permit parking greater than 90 m from the main pedestrian entrance. The Planner suggested that perhaps a legal agreement would be a condition of the minor variance.

John Barr questioned the Agent if there was boat storage being proposed on the parking area. Mr. Krawicki confirmed that at this time it would only be parking of vehicles.

John Barr asked the Planner to confirm if there was a restriction on storage.

The Secretary-Treasurer confirmed that 'Open Storage' and 'Storage Yard' were not permitted use within the HC Zone.

Bev Richards, requested a Merger Agreement be considered to merge the two properties (63 Nash Street and 557 Lakeview Drive) in title and become one parcel for the purposes of the Planning Act. She also wished that the minutes reflect and acknowledge discussions that were had during application D14-19-02, Grace Ann Cottage Club for a 33 resort unit off Nash Drive. The application proposed a land swap with the City of Kenora to ensure that Nash Drive become a 20 m road right of way and traffic concerns and ingress and egress off Lakeview Drive that were identified by the local residents.

The City Planner gave a brief update on File:D14-29-02, still awaiting a scheduled hearing with the LPAT.

The City Planner ensured that Site Plan Control would be a mechanism used in future application once the dock expansion is contemplated to review traffic concerns with the Municipal Engineer and the Roads Department.

There was discussion with the Agent on the approval process for an expansion to the water lot lease with the Province of Ontario. The Agent indicated that the Province would not approve a water lot lease expansion unless there is associated parking. In addition application is also required under the Navigable Waters Protection Act, application is being made through the Federal Government as well.

The Chair asked the Committee for discussion. There was concern from the Members for assurance of a Merger Agreement on title, and the application for an amendment to the zoning by-law as pre-mature without knowledge on the amount of docks being proposed for expansion, and without approval from the Province and the Federal Government.

The Planner reminded the Committee that the application being heard was one for an amendment to the zoning by-law from R3 Residential Third Density to HC Highway Commercial to support a parking lot. The Planner was confident that a future application for Minor Variance a conditional legal agreement registered on title to merge the parcels and a future application for site plan control to consider a Maria expansion would mitigate the Committees concerns.

The Agent, Ryan Haines summarized that the water lot lease expansion with the Province of Ontario would not be approved unless the City approved the marina expansion. In an effort to expand a marina, there shall be enough parking. Mr. Haines explained that the application for an amendment to the zoning by-law was the first step of many to a possible expansion, and also one of the many requirements that the Province will review in an expansion. Mr. Krawicki has an interest in expediting this process, the concurrency of all these applications has some risk in terms of cost and some confusion in steps. Once the re-zoning were to be approved there is still no guarantee that the Province will approve a water lot lease, but rather, is a condition for the Province to even consider it.

The Chair asked for further discussion, there was none.

Moved by: John McDougall

Seconded by: Robert Kitowski

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. D14-20-04, civic address 63 Nash Street, Kenora, ON, to change the zoning of the subject property from R3" Residential – Third Density Zone to "HC" Highway Commercial Zone. The Committee has made an evaluation of the application upon its merits against the Official Plan, Zoning By-law, and the Provincial Policy Statement, 2020, and provides a recommendation to Council purely based on these matters; whereas the Committee may not have had the opportunity to hear public comments in full.

Carried.

Mr. John Barr wished everyone a Happy Holidays and exited the meeting at 7:27 p.m.

Tara Rickaby, Agent
TMER Consulting

TMERConsultingKenora@outlook.com

Mrs. Rickaby thanked the Committee and wished to clarify for the Members that both the properties considered within the application have sold since she was hired as Agent to represent the lot addition. Mr. Carvahlo sold to Red Lion Enterprises and Nancy Reynolds sold to Devon Robertson and Carson Reynolds. The parcel registers may not contain the most up-to-date information.

Mrs. Rickaby went on to describe the intent of the application, and described the lands as having a grade change of about 3 metres. There has been a layer of gravel put over it, and the agreement was made in July between Nancy and Robert Reynolds and Herman Carvahlo for the lot addition for use of additional outdoor storage for Red Lion Enterprises.

The Agent acknowledged the existing easements on title, the issue is that it is expensive and takes time to remove the easements. The Agent is hoping that the Committee will approve the lot addition, and simply allow the easements to stay in place.

The Agent also asked that the portion being considered for lot addition, which is currently zoned R1-Residential First Density, be changed within the City of Kenora Zoning By-law review process to LC- Local Commercial so that no further application is required to change the zoning on a portion of the property.

The City Planner thanked the Agent and addressed the request to change a portion of land being transferred from R1-Zone to LC-one ad felt that was something that could be cleaned up within the Zoning By-law review process.

The application for consent is proposed to sever a 0.001 ha parcel of land from 145 Rabbit Lake Road and add that parcel to 149 Rabbit Lake Road, in order to provide additional outdoor storage for a commercial business operating at 149 Rabbit Lake Road. No new lots will be created as a result of this severance.

The property being severed extends south to the Crown Reserve on the shoreline of Rabbit Lake. A single-detached dwelling is located on the north portion of the site and the south portion is tree-covered and undeveloped (see Figure 1). The portion being severed is naturally separated from the remainder of the property to the south by a large rock face and significant elevation change.

The lot being added to is currently occupied by a contractor service use.

Both of the subject properties are serviced with municipal sewer and water, electrical services, and gas, and have frontage on a public road.

Neighboring uses include two local businesses adjacent to the subject properties on the south side of Rabbit Lake Road, and single-detached dwellings on surrounding properties.

An existing easement is located on the parcel being severed, in favour of lands to the north of the retained lands and to the west of the lands to which the property will be added. The applicant has stated that they intend to leave the easement in place.

In review of consistency with legislated policy and City directives, the application is consistent with the PPS (2020) THE Kenora Official Plan and the Zoning By-law. No concerns were identified in interdepartmental and agency circulation.

In an evaluation, if approved, the proposed severance and lot addition will result in the realignment of lot boundaries to allow the contractor service use on the northern lot to make use of a small portion of the southern property that is not required by the current owner.

It was the recommendation of the Planner that application D10-20-07 be approved and subject to conditions as outlines within the planning report.

There Chair saw no none in the public to speak either in favour or or against the application.

The Chair asked Committee members for questions.

Bev Richards asked the Agent if there would be a consolidation of the two properties, the agent confirmed that there would be.

Ray Pearson questioned the intent of the easements, which were to remain on title. The Agent believed they has been registered as easements to access, as the previous owner also owned the property locally known as the log cabin tavern which is located directly east of 149 Rabbit Lake Road. The Agent conformed that neither of the current property owners have objection to maintaining the easement.

There was discussion on the easement, although the Committee preferred to see them removed, the owners of abutting lands had provided written correspondence of no concern keeping the easements.

Approved by: Robert Kitowski

Seconded by: Ray Pearson

That application D10-20-07 for consent for lot severance on property located at 145 Rabbit Lake Road and legally described as PIN 42172-0054; CITY OF KENORA and the addition of the severed parcel to the property located at 149 Rabbit Lake Road and legally described as PIN 42172-0056; CITY OF KENORA be approved and provisional Consent be granted, subject to the conditions outlined within the planning report.

Carried.

ix. New Business

- OP and ZBL Review

The City Planner provided a status update, the on-line background report Survey that ran for two weeks, wrapped up on December 3rd, 2020 and was in the process of being reviewed by the Consultant. The findings would form the final background report and guide changes to the Official Plan.

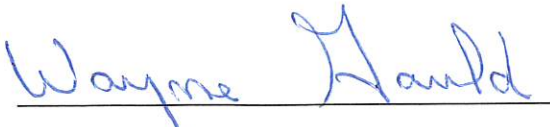
The next meeting of the Technical Advisory Committee would be on January 13th, 2021 at which time more information is expected from the consultant on the next phase which will provide opportunity for another round of public engagement.

x. Adjourn

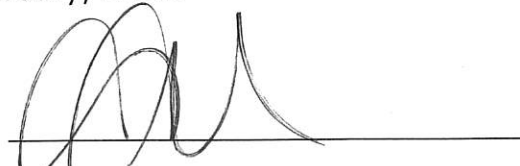
Moved by: Bev Richards

That the December 15, 2020 Planning Advisory Committee meeting be adjourned at 7:50 p.m.

Minutes of the Kenora Planning Advisory Committee meeting, Tuesday December 15th, 2020, are approved this 16th day of February, 2021.



Wayne Gauld, Chair



Melissa Shaw, Secretary-Treasurer