



City of Kenora
Planning Advisory Committee
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**Minutes
City of Kenora Virtual Planning Advisory Committee
Regular meeting held by way of Zoom Meeting
Tuesday April 18, 2023
6:00 p.m. (CST)
Video Recording:**

DELEGATION:

Present:

Robert Kitowski	Chair
Tara Rickaby	Vice Chair
Robert Bulman	Member
Andrea Campbell	Member
Keric Funk	Member
Jay Whetter	Member
Kevan Sumner	City Planner
Heather Pihulak	Manager Development Services
Melissa Shaw	Secretary-Treasurer
Alberic Marginet	Minute Taker

Members of Public:

Ernest Cholakis	Applicant for D13-23-04
Kim Beam	Representing 684 Coney Island, matt@myaccess.ca
Laura Wheatly	Agent for D10-23-02
Lisa Thompson	190 Beryl Winder Road
Bobbi Freeman	180 Pelican Road

i. Call meeting to order

The meeting was called to Order by the Chair, Robert Kitowski, at 6:00 PM Central Standard, and a Land Acknowledgement was provided recognizing the traditional territories of Treaty Three First Nations and Metis people. The Chair identified the meeting being recorded and that all participants agree to be recorded by choosing to attend. The Chair described the expected protocols and processes to be followed during the meeting.

ii. Additions to the Agenda

The Chair asked the Secretary-Treasurer, Ms. Melissa Shaw, if there were any additions to the agenda. The Secretary-Treasurer identified there were no additions.

iii. Declaration of Interest by a member for this meeting or at a meeting at which a member was not present.

The Chair asked the members of the Committee for any declarations of interest for the meeting, or any meeting at which a member was not present. The Secretary-Treasurer indicated that none had been received.

iv. Approval of Minutes for a meeting held:

• **Planning Advisory Committee Meeting, February 21, 2023**

The Chair reported one error in the March 21st, 2023 minute, which had been corrected in advance of the meeting. The Chair declared the minutes as amended.

v. Correspondence relating to applications before the Committee

The Chair asked if there was any new correspondence related to the applications before the Committee. The Secretary-Treasurer informed the public that additional comments had been received in connection with File Number D10-23-02 (LA Winder P&H Co Ltd) and were redacted and circulated to PAC in advance of the hearing.

vi. Adjournment Requests

The Chair asked if there were any Adjournment Requests. The Secretary-Treasurer reported an adjournment request for File No. D13-23-03 (McGarry) had been received so it could be heard concurrently with a forthcoming Application for Consent.

Motion: Member Rickaby

Second: Member Campbell

Motion was unanimously carried.

vii. Consideration of Applications for Minor Variance

i) D13-23-04 (Cholakis)

The Chair asked who would be presenting the application for D13-23-04, and the Secretary-Treasurer reported that Ernest Cholakis would be presenting. Mr. Cholakis made his presentation for an application to approve the addition of 16.5 square metres of dock space. This dock space is required to harbour Mr. Cholakis' boat and protect it from wind. Mr. Cholakis is unaware of environmental impacts, and does not believe it will impact the recreational activity of neighbouring properties.

The City Planner provided the Planning Report for the minor variance application at 668 Coney Island. The City Planner highlighted an error in the application for Minor Variance D13-23-04, and reported that only 280 square metres of docks would be required. The Planning Report identified consistency with existing municipal and provincial policies. The City Planner relayed all interdepartmental and agency comments provided for D13-23-04. One letter of opposition was received by members of the public. The City planner explained how the application meets the Four Tests of a minor variance. The City Planners evaluation indicates that the application would allow for the required dock space identified by the Applicant and some existing dock space would be removed to only create a net increase of 16.25

square metres, and is consistent with other large docks on Coney Island. While concerns were raised by a neighbouring property owner, it is difficult to see how the net increase in dock space will cause more impact than the already existing large dock space existing on this property. The recommendation of the planning report is that the Kenora Planning Advisory Committee takes into regard all written and oral submissions received from the public, including those comments that may yet to be received; and that the application, D13-23-04 to seek relief from the City of Kenora Zoning By-law 101-2015, Section 3.34.1(c)vii. to allow for a dock of up to 280 m²; meets the Four (4) Tests and should be approved.

Mr. Cholakis indicated he appreciated the professionalism provided by the City of Kenora and the Planning Advisory Committee. He also commented that he did not believe that his application was out of place with other existing dock development on Coney Island.

The Chair asked if members of the public wished to speak in favour or opposition of the application. No members of the public identified comments.

The Chair asked if any members for questions from the committee members. Member Whetter requested explanation on the need for additional dock space when the Applicant could achieve their goals while remaining within the existing dock area by constructing a slightly smaller dock. The Chair requested for the City Planner and Mr. Cholakis to provide answer. The City Planner stated that the existing docks were a grandfathered used, but any change or alteration would require a minor variance application. Mr. Cholakis responded that the dock addition was only 24 x 20 feet, and provided a needed function to shelter his boat and recreational space. He further added that if the committee would prefer to not approve his minor variance, he would remove a historical dock to gain the docking space he needed.

Member Rickaby stated that the two docks existed on the property both appear to exceed Zoning By-law requirements. Member Rickaby agreed with Member Whetter; she would prefer to see no additional dock square footage created. Mr. Cholakis responded that the Planning Report stated the excess dock existed prior to the Zoning By-law, and he wished to maintain the grandness of the property's character. He believed adding 16.25 square metres was not a significant request, and that any alternative would be at an increased cost which was a financially unfair demand. He further indicated that from a social standpoint, he wished to have two docks so that there was an opportunity for a peaceful location should one dock be used for socialization.

The Chair explained to Mr. Cholakis that, while Mr. Cholakis may have honest intentions, the Planning Advisory Committee must consider the impact of approval should the property be sold into new ownership. The questions and concerns being raised and asked are for the sake address these issues.

Member Bulman supports with the City Planner's recommendations. He stated that an older boathouse may not accommodate the size of a modern boat. Member

Bulman feels the requested size and location of the proposed dock provides advantage to the property and is not unreasonable.

The Chair addressed the committee about conversations had with the City Planner over this application. The purpose of this application is to provide for a set amount of dock for building permit purposes; should additional docks be created in the future it will be in violation of these provisions. The City Planner agree, and if additional dock space was developed appropriate measure would be pursued by the City of Kenora.

Kim Beam spoke in opposition of the application on behalf of his Mother-in-law Dawn Clark. Mr. Beam argued that his mother-in-law could be negatively affected by the social noise and disruption the Applicant identified as one of the reasons for constructing additional dock space. Mr. Beam reports that his mother-in-law's only wish is to maintain the quiet and natural quality of her property. Mr. Cholakis felt compelled to respond in defence of his plans though no questions were raised.

The Chair asked if members of PAC had any additional comments or questions. None were raised. The Chair asked the Secretary-Treasurer if a draft decision was prepared. The Secretary-Treasurer responded in the affirmative but reported that an amendment would be made to use the City Planners measurements of 280 metres square. The decision shall read:

That the Planning Advisory Committee approve application, D13-23-04 to seek relief from the City of Kenora Zoning By-law 101-2015, Section 3.34.1(c)vii to allow for the construction of an additional 44.59 m² in dock, and that the total area of docks shall not exceed 280.0 m²; as the meets the Four (4) Tests.

Moved: Member Campbell

Second: Member Bulman

Favour: 5

opposed: 1

Motion is carried.

The Secretary-Treasurer thanked the Applicant and identified that while approved, the Applicant would have to wait until after the 20-day appeal period before making application for a building permit. This date is May 8th, 2023.

viii. Consideration of Applications for Land Division

- i) D10-23-02 (LA Winder P&H Co Ltd.)

The Chair asked the Applicant or Agent for Application for Consent File No. D10-23-02, LA Winder P&H Co Ltd., to present. Laura Wheatley presented on behalf of the Applicant as the Agent. The Agent described the land and the effect of the application for consent. The application has no intention of development and will market individual lots for sale as vacant property. In response to the public comments received, the Agent agrees with the Planning Report in respect to these public comments and chose to address any questions after the Planning Report was

presented and the public had the chance to make comment. The Agent appealed to the committee that the application is to the letter of Provincial and Municipal policy, and being adjacent to an already large subdivision, should be considered for approval.

The Chair asked the City Planner to present the Planning Report. The City Planner reported the description of the lands being created, and the surrounding properties. The application is consistent with the Provincial and Municipal policies, and the City Planner identified the uses and regulations that are acceptable for property in the Rural Zone. An impact statement would be required as the application is within the proximity of a species at risk. All inter-departmental and Agency comments regarding this application were identified. An overview of the public comments received were repeated to the committee. The City Planner's evaluation is that the application would allow for development of 2 new lots in the Rural Zone, the application is consistent with the Provincial Policy Statement and City of Kenora Official Plan and Zoning By-law regulations. Future requirements for development would be required, but do not impact this application for consent. Public comments were addressed to show minimal concern from the perspective of the City. The recommendation is:

That application D10-23-02 for consent for lot severance on property located at 38 Beryl Winder Road, legally described as Part of PIN 42180-2759; CITY OF KENORA be approved and provisional Consent be granted, subject to the following:

- 1) The original executed Transfer/Deed of Land form, a duplicate original and one photocopy for City records be provided for each parcel
- 2) A Schedule to the Transfer/Deed of Land form on which is set out the entire legal description of the PINs in question and containing the names of the parties indicated on page 1 of the Transfer/Deed of Land form to be provided for each parcel.
- 3) That approved permits are received from the Northwestern Health Unit for private servicing.
- 4) That flooding easements LT32746 and LT32285 remain on the titles to the newly created lots.
- 5) Three original copies and one .pdf copy of the reference plan of survey, bearing the Land Registry Office registration number and signatures as evidence of deposit therein, and illustrating the parts(s) to which the consent approval relates, which must show in general the same area and dimensions as the sketch forming part of the application be provided.
- 6) That the payment of any outstanding taxes, including penalties and interest (and any local improvement charges if applicable) shall be paid to the City of Kenora.
- 7) That an application for an entrance permit for each lot is received and approved by the City of Kenora.
- 8) That an Environmental Impact Statement (EIS) is completed with regards to the Bald Eagle nest that may be located 90m southwest of the property,

identifying whether the nest is still present and, if so, demonstrating that there will be no negative impacts on the habitat or on its ecological function as a result of future development.

- 9) That prior to endorsement of the deeds, the Secretary-Treasurer shall receive a letter, from the owner or owner's Agent/Solicitor, confirming that conditions #1 through #8 have been fulfilled. Clearance from the City of Kenora and external agencies as required are to be included.
- 10) That all costs associated with surveys, legal fees and matters related to the application are the responsibility of the developer/Applicant.

The Chair asked if the Agent had any additional questions or comments to add. The Agent identified none.

The Chair asked if any member of the public wished to speak in favour of the application. No members of the public identified.

The Chair asked if and members of the public present who wished to speak in opposition. Lisa Thompson, 190 Beryl Winder Road, made comment that the community was concerned with development, and wished to see no further development on Beryl Winder Road.

Bobbi Freeman, 180 Pelican Road, spoke in opposition of the development. Ms. Freeman indicates that many of her concerns were not related to the application for consent and were larger picture issues related to the impact of potential future development. Ms. Freeman stated her largest concern is with the twinning of the bypass and the impact caused by traffic noise. Ms. Freeman also reports concern over the cutting of the forest existing on this property. She also indicates concerns about impact on property values, and impact on the natural environment.

Kelly Allen, 198 Beryl Winder Road, spoke on behalf of the Allen family. She spoke in opposition, wishing to see no additional development. She asked the City Planner about the four access points to waterfront identified in the planning report. The City Planner used the City GIS map to show the water access points. Ms. Allen reported that a trail had been created along one of these access points and wondered if this was in preparation of lot sale. The City Planner responded that the City was unaware of any activity. Ms. Allen followed with a second question into whether more restrictive zoning could be applied to the property to offer additional protection. The City planner answered that purchase of the property, and a Zoning Amendment would be required. Ms. Allen inquired into if properties would be notified if any permitted uses were proposed for development, such as intensive farm uses. The City Planner responded that permitted uses would be allowed within the zone, but intensive farm uses would be difficult to develop. The Associate Planner added that the Province of Ontario Minimum Distance Separations create extremely restrictive policies for intensive farm uses that create odour nuisances.

The Agent commented that the members of public in opposition have all benefited from previous subdivision, and it is unfair to desire no further development and creation of lots when only three lots are being proposed. Additionally, there are further mechanisms in place to provide neighbouring properties with actions if a land use change is proposed for any of these properties.

The Chair asked for any questions or comments from PAC members. Member Bulman asked about the differences between a Rural Zone in the Zoning By-law and the Rural Area identified in the Official Plan. The City Planner explained the relationship. Member Bulman asked if the rural zone would permit commercial or industrial activities. The City Planner indicated some limited commercial and industrial uses are identified for use in the Rural Zone, and listed these uses.

Member Funk asked the City Planner what could change the zoning from RU Zone to an RR Zone, and how this was done in the past on these properties. The City Planner reported that a Zoning Amendment would be required for this change, but such an amendment could only double the number of permissible lots. The City Planner indicated that he was not aware of the mechanism that changed the zoning on these properties in the past.

Member Rickaby asked the City Planner if the flood easements would be amended as per the Roads Department comments. The City Planner responded that this work would take place on the right-of-way, and the comment was made for future reference of the Applicant or any potential purchaser. The Agent, Ms. Wheatly, added that she believed the easements were for flood heights set by the Ministry of Natural Resources and Forestry. Member Rickaby asked if no easement for storm water existed in that case. The City Planner responded that no new easement requirements had been identified. Member Rickaby questioned boat and vehicle storage on the property, but this storage was occurring on an unrelated lot. Member Rickaby reported that during site inspection she noticed a lot of highway traffic noise, and she requested that a noise warning clause be required for any future sale of the lots being created.

No further comments were raised by PAC members, and the Chair asked the secretary treasurer to read the decision. The Secretary Treasurer stated that Member Rickaby had provided a clause for noise warning which would be included in the reading of the decision:

That application D10-23-02 for consent for the creation of two lots with one retained zoned RU- Rural on subject property located at 38 Beryl Winder Road, legally described as Part of PIN 42180-2759; CITY OF KENORA be approved and provisional Consent be granted, subject to the conditions of the planning report, and that the addition of condition number nine (9) be included as:

That a noise warning clause shall be used to warn of potential annoyances due to an existing source of noise, and/or to warn of excess above the sound level limit. The warning clause shall be included in the agreements of offers of purchase and sale, lease/rental agreements, and/or condominium declarations. The purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the sound level limits of the municipality and the ministry of the environment.

Moved: Member Rickaby

Seconded: Member Campbell

Unanimous Approval

The Secretary-Treasurer reported that the application had received approval, that the Applicant had two years to complete the conditions of the approval, and notice of decision would be sent via regular correspondence.

ix. Old Business

i) OACA Conference

Use of air carriers and transportation logistics were discussed among members. It was decided to use WestJet or Air Canada, and to allow for adequate buffer time between arrivals and departures. Member Kitowski identified requiring special travel accommodations. Member Rickaby requested information of the conference schedule, and the Associate Planner responded that the information would be forwarded.

ii) Conflict of Interest Training

The Chair reminded that Conflict of Interest training would be held on April 20th, and Member Campbell reported that she would not be able to attend.

iii) PAC Special Meeting

A Special Meeting of PAC has been scheduled for May 2nd at noon. Member Funk reported that he would not be able to attend.

xi. Adjournment

The Chair asked for a motion for adjournment.

Moved: Member Whetter