



City of Kenora
Planning Advisory Committee
60 Fourteenth St. N., 2nd Floor
Kenora, Ontario P9N 4M9
807-467-2059

**MINUTES
CITY OF KENORA COMMITTEE OF ADJUSTMENT &
PLANNING ADVISORY COMMITTEE
REGULAR MEETING HELD IN THE OPERATIONS CENTRE
60 FOURTEENTH ST. N., KENORA
October 25, 2011
7:00 P.M.**

Present:

James Tkachyk	Chair
Wayne Gauld	Vice Chair
Terry Tresoor	Member
Ted Couch	Member
Vince Cianci	Member
Wendy Cuthbert	Member
Tara Rickaby	Secretary-Treasurer
Nadia DeSanti	FoTenn Consulting Inc. (by telephone)
Patti McLaughlin	Minute Taker

DELEGATION: None

(i) Call meeting to order

James Tkachyk called the October 25, 2011 meeting of the Kenora Planning Advisory Committee to order at 7:00 p.m.

James Tkachyk reviewed meeting protocol for those in attendance. The Secretary-Treasurer announced that Nadia DeSanti, FoTenn Consulting, would be joining the meeting via conference call as she had prepared the meeting Planning Reports.

(ii) Additions to the Agenda

- **New Business**
Change meeting date for November PAC Meeting.

(iii) Declaration of Interest

James Tkachyk called for declarations of conflict of interest – at this meeting or a meeting at which a member was not present:

- Vince Cianci S02 11 Loughheed

(iv) Adoption of Minutes of previous meeting:

Adoption of minutes of previous meeting: September 20, 2011

Correction

6. Page 11 – S03/11 Lafreniere

Comments from other Departments and Agencies

- The Roads Department commented that the road is to be built to City of Kenora standard with a max 8% and that the intersection of the new roads be constructed to allow for a safe stopping distance ~~where the~~

~~new road meets Sunnyside Road.~~ Currently it appears that the access to the shoreline is over proposed Lot 5 and not within Block 16.

To Read

- The Roads Department commented that the road is to be built to City of Kenora standard with a max 8% and that the intersection of the new roads be constructed to allow for a safe stopping distance. Currently it appears that the access to the shoreline is over proposed Lot 5 and not within Block 16.

Business arising from September 20, 2011 Meeting: None

Moved by: Wayne Gauld Seconded by: Ted Couch

That the minutes of the September 20, 2011 meeting of the Kenora Planning Advisory and Committee of Adjustment be approved as amended.

CARRIED

(v) Correspondence relating to applications before the Committee

- MNR letter dated Oct. 5, 2011 - Re: S02/11 Lougheed-will be discussed as part of agenda item.
- MNR letter dated Oct. 5, 2011 -Re: S03/11 Lafreniere – The Secretary-Treasurer read the correspondence into the Minutes.
- Kenora Health Care Centre Corporation – To be discussed as part of agenda item.

(vi) Other correspondence None

(vii) Consideration of Applications for Minor Variance

1. A09/11 Nelson Application to decrease required front and side yard, increase permissible building area & relief from height restriction

Present for the meeting: David Nelson, 205 Lakeview Drive

David Nelson presented the application for two (2) minor variances and is seeking relief from sections 3.11.1 (b.iv) and 3.11.1 (b.viii), of Zoning By-law 160-2010, as amended, to permit an accessory building to be constructed closer to the street than the main building and to increase the maximum height limit from 4.5 m to 6.1 m. The extra height is needed to accommodate access required by the sailboat. The building will sit 12' lower than Lakeview Drive. There is a significant tree buffer along Lakeview Drive and Ocean Avenue. He added that the request conforms with other buildings in the area, maintains the intent of the Zoning By-law and is minor.

Nadia DeSanti, FoTenn Consulting, reviewed the planning report and noted the subject site is zoned R3 – Residential Third Density in the City of Kenora Zoning By-law No. 160-2010. Although commercial uses are not permitted in the R3 Zone, the commercial use has existed on the site for many years and is therefore a non-conforming use. The addition of accessory buildings is permitted on lots that are non-conforming as per Section 3.4 (1.a) of the Zoning By-law. With regards to the Official Plan the subject site is designated as Commercial Development Area, however, is designated Established Area as per Schedule A of the Official Plan. The addition of the attached garage does not affect the amenity space, is generally characteristic of an R1 neighbourhood and in keeping with the development in the neighbourhood and other waterfront neighbourhoods within the City. There were no objections received and she recommended that PAC approve the application.

The Secretary-Treasurer read a letter received from the Kenora Health Care Centre Corporation (Letter dated Oct. 24, 2011 submitted by Warren Spencer, KHCC Building Manager). She indicated that Mr. Spencer's concern was that the application for variance does not negatively impact the future road improvement by the City nor the entrance realignment proposed for the Paterson Medical Centre by the Kenora Health Care Centre Corporation. In a follow up meeting with the Operation's Manager Mr. Spencer reviewed the site plan provided by Mr. Nelson putting to rest any concerns he had.

The Secretary-Treasurer noted that the building plan contained a loft with washroom/ utility room and indicated that FoTenn did not receive the drawings so was unable to provide comment. She asked Mr. Nelson to explain the intent of the use of the building.

David Nelson explained that the intent of the building is not for residential or commercial purposes and that the provision was for boat storage facilities for convenience only, and the loft as a work space. He has no plans to connect to sewer or water at this time.

Comments from other Departments and Agencies

- The Building & Engineering Departments and Kenora Fire & Emergency Services have no objection.
- The Roads and Water & Sewer Departments had no comment.
- Hydro One and Heritage Kenora had no comment.
- The MNR has no objection (Letter submitted by Brenda Skene, Kenora District Planner, Ministry of Natural Resources to City, Oct. 12, 2011).

Comments from the Public

- Kenora Health Care Centre Corporation (Letter dated Oct. 24, 2011 submitted by Warren Spencer, KHCC Building Manager).

James Tkachyk asked the Committee for comment.

Discussion ensued regarding the height of the building and if there was a need for an increased side yard and the washroom/utility room provision and the possibility of for future use as living quarters.

James Tkachyk asked whether or not there was anyone else present who wished to speak either for or against the application. There were no other comments.

Secretary-Treasurer suggested Committee require, as a condition, an undertaking by the Applicant indicating that the garage will not be used for residential purposes. The Applicant agreed and this information will be placed on file with the Building Department for future reference.

Moved by: Wendy Cuthbert

Seconded by: Wayne Gauld

THAT Application for Minor Variance A09/11 Nelson, 205 Lakeview Drive, PLAN M18, LOTS 8/18, PARTS 28, 29, 30, 23R 3276, to permit an accessory building to be constructed closer to the street than the main building and to increase the maximum height limit from 4.5 m to 6.1 m., be approved subject to the following condition:

- 1) That the Applicant sign an undertaking indicating that the garage will not be used for residential purposes as the proposed minor variances meet the four (4) tests of the Planning Act. The variances are minor in nature, the general intent and purpose of the Zoning By-law and of the Official Plan are maintained and the proposed use is desirable.

CARRIED

(viii) Considerations of Applications for Land Division

1. B17/11 Moncrief

Creation of one new lot

Present for the meeting:

No representation by Applicant or Agent
Dan Olscamp, BSPOA, President

James Tkachyk asked the Committee if they would like to proceed even though the Applicant/Agent was not present. They agreed to proceed.

Nadia DeSanti presented the planning report, which was prepared by FoTenn Consulting Inc. The application is for consent for the severance of a 0.85 hectare piece of property from a 62 hectare piece of property owned by Moncrief Construction in order to create one new lot for the construction of a single-detached dwelling unit. The subject property has frontage along Peterson Road. The subject property is located 250 m from an inactive aggregate area and if, in future, it becomes active the proponent will have to provide a buffer. The subject site is zoned Rural Residential-RR and the retained and severed lots meet the minimum lot area and lot frontage requirement in RR Zone and the land is suitable for the purpose that it is intended and the opinion of FoTenn is for the PAC to approve the application.

The Secretary-Treasurer commented that she would check but thinks this is the third consent on this property and requested the Committee add the conditions that any further development on this property could only be through subdivision and that the transferor and transferee not be same person and.

Comments from other Departments and Agencies

- The Roads Department commented that there are good entrance way possibilities with good grades, site lines and no obstructions. Drainage is good along the road way. Future access to the main lot will not be affected by the creation of a new lot.
- The Building and Water & Sewer Departments, Hydro One and Heritage Kenora have no comment.
- Kenora Fire & Emergency Services has no objections.

Comments from the Public - None

James Tkachyk asked the Committee for comment.

James Tkachyk requested that an entrance permit not be approved at the 90° turn on Peterson Road.

Vince Cianci suggested the side lot lines on the plan be regular as it is easier for both the owner and professional surveyor to work with straight lines rather than lines with bends and that he will only approve the application with straight lines.

Nadia DeSanti recommended that the reference plan be revised and the entrance location be a condition of approval.

Wayne Gauld made a motion to table the decision until November 22nd, 2011, to provide the Applicant with an opportunity to comment.

James Tkachyk asked whether or not there was anyone else present who wished to speak either for or against the application. There were no other comments.

Dan Olscamp requested clarification regarding the aggregate extraction. The Secretary-Treasurer explained that if a future owner wanted to start up an aggregate extraction company there would be a buffering component. He requested a copy of the Plan, as the Black Sturgeon Property Owners Association would be interested in seeing it, and questioned whether Riedigers received notice, which was confirmed that they did by the Secretary-Treasurer.

Moved by: Wayne Gauld Seconded by: Terry Tresoor

That Application for Consent B17/11 Moncrief, for the creation of one new rural lot from property described as, MELLICK CON 2 AND 3 PT LOT 11 RP KR453 PARTS 2 AND 9 AND PT PARTS 1 AND 2 PCL 41806, be tabled subject to the following:

- That the reference plan be re-submitted with the side lines realigned per the suggestion of the Planning Advisory Committee (attached); and
- That an entrance permit be approved, other than in the area of the 90 degree corner, and provided to the Kenora Planning Advisory Committee, through the Secretary Treasurer.

Carried

(ix) Old Business

7:50 p.m. Vince Cianci left the meeting

a) S02/11 Lougheed Application for Plan of Subdivision

The Secretary-Treasurer read the MNR letter of October 5, 2011, which was in follow up to MNR letter of September, 23, 2011.

Alex Clark, acting Agent for Wm. Lougheed Trucking Ltd., provided the Committee with a power point presentation to recap information to-date. Alex noted that there were common themes in both Nadia and Tara's review of the Application. His presentation concentrated on the following seven (7) outstanding items as noted by FoTenn:

- 1) MNR and DFO concerns require follow up to recommendations- docking , maintenance of fish habitat, demonstrated site stabilization.
- 2) The elevations of the previous Hazard Lands be established once final dredging activity is complete
- 3) The lots requiring consideration of site plan control ie. will require specific application to ensure compliance – is part of the Report now.
- 4) The developer will pay 5% in lieu of parkland dedication for phase one
- 5) Revisiting access to Lot 10
- 6) Revisiting larger picture of subdivision proposal and consideration for quality of life ie. not evident in phase 1 but part of phase 2 but also have included it in phase 1 now ie. parks, trails, pathways, public access to water.
- 7) Land under water, recently dredged, MNR not interested in taking it back – consideration of easement has issues – would rather dedicate wet land complex to city (environmentally sensitive area) The city could ensure no future development.

The Secretary-Treasurer questioned the functionality of the navigable waterway at the pinch point. Alex confirmed that it was passable and the shallow area will be receiving further dredging to increase the depth and improve safety. The Secretary-Treasurer will be consulting with the City Solicitor with regards to liability.

James Tkachyk called a recess at 8:13 p.m.

8:13 p.m. Wayne Gauld left the meeting.

8:18 p.m. Wayne Gauld returned to the meeting.

Alex Clark discussed the reciprocal easement and access to roadway. The irregular shape is to accommodate docking and the septic system.

The Secretary-Treasurer noted that Lots 2 through 9, per the Ministry of Natural Resources correspondence of October 5, 2011, and shown on the draft plan of subdivision will be subject to Site Plan Control.

Nadia DeSanti drew Committees attention to an edit at bottom of page 3 of the Planning Report, prepared by FoTenn Consulting, the date should read October 14, 2011, rather than September 29, 2011. She thanked Alex Clark for the thorough information and helping them go through the file and acknowledged that the numerous details to work out are typical of subdivision agreements.

Nadia DeSanti requested an addition to condition #24 regarding the control of the location of the septic field on Lot 10 as per correspondence from the Northwestern Health Union dated September 15, 2011.

Randall Seller, legal counsel for Applicant, commented that the whole block is to be retained by Developer and easement is reciprocal for use when Phase 2 is approved.

Wendy Cuthbert abstained from discussion and vote as she missed the September 20, 2011, meeting.

Discussion ensued regarding the proposal to transfer land under the water, which has been dredged, to the City and whether it should be a condition of approval. The Secretary-Treasurer indicated that it should be part of the subdivision agreement.

Nadia DeSanti noted that other conditions can be applied at a later date, if required, as a result of any other discussions. She further commented that it is FoTenn's opinion that the proposed plan of subdivision: Part of Lot 21 Plan M-135 and part of Location LK2, Geographic Township of Pellatt, City of Kenora, District of Kenora, prepared by Ross M. Johnson Surveying Ltd, Red line version dated September 26, 2011 illustrating a total of:

- 10 Lots
- Block 11 as a reciprocal easement
- Road A as a municipal public roadway
- Retained Land PIN 42152-0239

The following draft conditions, as well as any others deemed necessary by the City of Kenora shall apply:

Moved by: Wayne Gauld

Seconded by: Ted Couch

That this draft approval applies to Plan of Subdivision File No. S02/11 Lougheed - Proposed Plan of Subdivision of Part of Lot 21 Plan M-135 and part of Location LK2, Geographic Township of Pellatt, City of Kenora, District of Kenora, prepared by Ross M. Johnson Surveying Ltd, Red line version dated September 26, 2011 illustrating a total of:

- 10 Lots
- Block 11 as a reciprocal easement
- Road A as a municipal public roadway
- Retained Land PIN 42152-0239

1. That a Subdivision Agreement be signed and executed between the owner or Developer and the City of Kenora.
2. That the Subdivision Agreement between the owner or Developer and the City of Kenora be registered against the lands to which it applies along with the final plan of subdivision, prior to any other registrations.
3. That the road allowance shown on the plan of subdivision shall be dedicated on the final plan as public highways for municipal purposes to the City of Kenora.
4. That the City of Kenora may acquire lands for rights-of-way or the widening of rights-of-way, if deemed necessary. Any road widening, as required by the City of Kenora, will be specified in the Subdivision Agreement between the City and the Developer.
5. That the street(s) shall be named to the satisfaction of the City of Kenora Council through the Property and Planning Committee and the name be endorsed through a City By-law.
6. That any dead ends and/or open sides of road allowances shall be terminated in a 0.3 metre reserve to be conveyed to the City of Kenora and at no cost to the City.
7. That the Developer shall receive approval from the Northwestern Health Unit, for the proposed lot configurations with respect to the location of private sewage systems.
8. That all roads be constructed to the standards of the City of Kenora and as agreed to in the subdivision agreement.
9. That an entrance permit be issued by the City of Kenora.
10. That a clearance letter be received from the Ministry of Transportation indicating that any required conditions to development have been satisfied.
11. That the Developer agrees to grant such easements as may be required for utility purposes to Bell Canada and Hydro One. These easements shall be shown on the reference plan.
12. That the Developer makes satisfactory arrangements with Hydro One for the provision of electrical services for this plan of subdivision.
13. That drainage ditch lines will need to be resolved to the City's satisfaction and specifically dealt with in the Subdivision Agreement.
14. That the Department of Fisheries and Oceans' concerns have been dealt with and it has no objection.
15. That the Developer, prior to final approval, provides written notification from the Ministry of Natural Resources that mitigation measures proposed in the Environmental Impact Statement are satisfactory and that there is no objection to the plan of subdivision.
16. That the Developer provides written notification from the Department of Fisheries and Oceans and/or the Ministry of Natural Resources that there is no objection to an Erosion and Sediment Control Plan that identifies potential impacts to the shoreline and stream and provides mitigation measures.

17. That the Developer provide a survey plan prepared by an Ontario Land Surveyor in order to establish the elevations for property title to ensure that future development will be located above the flooding easement of 318.5 m and the above the seasonal flooding levels of 320.4 m.
18. That the Developer provide and maintain a temporary 10 m no disturbance riparian buffer above the high water level of the Winnipeg River until such time that the Ministry of Natural Resources has determined the full site re-vegetation to native shrub and grass species has occurred at which time the buffer will be reduced to a permanent 5 m no disturbance buffer. On individual properties, up to 10% disturbance of this riparian zone buffer will be allowed for the purposes of locating waterlines and docks. The details of this riparian buffer will be documented and implemented in the Subdivision Agreement and as part of the Site Plan Control measures (of all lots that front the dredged shorelines) for this Plan of Subdivision.
19. That authorization from the Department of Fisheries and Oceans and the Ministry of Natural Resources will be required prior to building docks of any kind within the dredged areas created for fish habitat. This requirement will be documented and implemented in the Subdivision Agreement and as part of the Site Plan Control measures (of all lots that front the dredged shorelines) for this Plan of Subdivision.
20. That the Developer submit a Zoning By-law Amendment application and any supporting studies to the satisfaction of the City of Kenora. The land to be rezoned from Rural (RU) and Hazard Land (HL) to Rural Residential and Environmental Protection (EP) Zones or any zone that is appropriate in order to comply with the City of Kenora Zoning By-law No. 160-2010. A decision on the Zoning By-law Amendment application shall be made by the City of Kenora's Property and Planning Committee prior to final plan of subdivision approval. *Responsibility – Developer*
21. That the lands described as Lots 2 through 9, per the Ministry of Natural Resources correspondence of October 5, 2011, and shown on the draft plan of subdivision be subject to Site Plan Control as per Section 8.4 of the City of Kenora Official Plan, 2010, and that said Site Plan Agreement will be signed and an undertaking provided indicating that it will be registered on title of each individual new lot, as it applies. The Developer will be responsible for submitting a Site Plan Control application and supporting information to the satisfaction of the City of Kenora. *Responsibility – Developer*
22. That prior to any grading or construction on the site, and prior to final approval of the plan of subdivision, the Developer shall obtain approval from the City of Kenora of a stormwater management or drainage plan. In the event that any works are recommended within the report, the subdivision agreement between the City of Kenora and the Developer shall contain a provision whereby the City of Kenora will assume ownership, operation and maintenance responsibility of same in perpetuity.
23. That the Developer, prior to final approval, shall submit to the City of Kenora, a digital file of the plan to be registered in a format approved by the City of Kenora, and in "pdf" format.
24. That communication and information through Site Plan Control are conveyed by the Developer to the future owner of Lot 10 that the driveway onto the island cannot be through the south east corner of the Lot which will be the location of the required septic field area which will service the lot.

25. That in order to control the location of the septic field, per correspondence from the Northwestern Health Unit on September 15, 2011, Lot 10 is subject to site plan control and an agreement will be signed and an undertaking provided indicating that it will be registered on title of each individual new lot, as it applies. The Developer will be responsible for submitting a Site Plan Control application and supporting information to the satisfaction of the City of Kenora. *Responsibility – Developer*
26. That the Developer will be responsible to pay the cash-in-lieu of the required 5% parkland dedication to the City of Kenora, as well as any lot levies.
27. That prior to the granting of Final Approval, the Kenora Planning Advisory Committee is to be advised by the Developer that conditions 1 through 26 have been carried out to its satisfaction. Clearance letters from the City of Kenora and external agencies are to be included.

Carried

8: 50 p.m. Vince Cianci returned to the meeting

b) B12/11 Henley

Application for Consent for one new lot

Based on a comment from the PAC meeting held on September 20, 2011, FoTenn Consultants Inc. were asked to review the matter relating to land division on a Lot of Record. The following is their review.

It is our understanding that the parent land had been divided in 1994 through the severance process which resulted in 1 retained lot and 3 severed lots for a total of 4 lots. It is also our understanding that the landowner of Part 4 Plan 23R-9227 has filed a Consent application to sever this Part into another lot (i.e. 1 retained and 1 severed for a total of 2 lots). This proposed Consent application exceeds the allowable number of new lots that can be created through the Consent process as per Policy 8.10.2 of the Official Plan.

We have also researched Official Plan policies from other municipalities, and have found similar policies to the Kenora Official Plan Policy 8.10.2 limiting the number of lots created through a Consent process.

If the parent land could not be severed further then there may be a rationale for allowing the proposed Consent application. However, given the lot areas and lot frontages of Parts 1, 2, 3 on Plan 23R-9227, the land could technically be divided further, the Official Plan provides direction that the appropriate mechanism for this to occur would be through a plan of subdivision.

Therefore, the proposed Consent application is not the appropriate tool for creating another lot since it exceeds the number of new lots that can be created and contravenes OP Policy 8.10.2. The landowner has 2 options: 1. Apply for a plan of subdivision or 2. Apply for an Official Plan Amendment providing justification for amending Policy 8.10.2.

Based on a recent conversation with the City's municipal lawyer, the lawyer concurred with this analysis and we both recommend that a Plan of Subdivision would be the preferred approach for creating the new lot rather than a spot Official Plan Amendment. The City and the applicant are in a technical matter given the policy direction for Lot of Records.

(xi) Adjourn

Moved by: Terry Tresoor

THAT the October 25th, 2011 Planning Advisory Committee meeting be adjourned at 9:30 p.m.

MINUTES ADOPTED AS PRESENTED THIS 22nd DAY OF NOVEMBER, 2011

CHAIR

SECRETARY-TREASURER