

**Planning Report
City of Kenora Property and Planning Committee
December 11, 2012**

Application for Zoning By-law Amendment Z08/12 Bilton

Purpose of the Application: The applicant, Jonathan Bilton, proposes to add a professional office use to the existing R2 – Residential, Second Density use of the property. The rezoning of the property would permit the property to be used as a law office, and bring it into compliance with Zoning By-law No. 160-2010, as amended. Jeffrey Port acts as agent for the property owner.

Description of subject lands:

- The property is described as Plan M11, Lot 41 and north part of 40, 322 First Avenue South;
- The subject property is located in an older neighbourhood, in the Harbourtown Centre area.
- This is a neighbourhood of mixed use
- The property is the site of a residence, constructed in 1913 and a garage, for which a building permit was issued in 1950 ;
- The property has vehicular access via the rear lane, from Fourth Street South;
- The property owner uses the existing residential structure as office space for a law practice.

Adjacent land uses:

North: Residential and one home-based occupation (personal service)

East: Residential, open space and Canada Safeway across Fourth Avenue South

South: Commercial, office use and associated parking, open space

West: Residential, and commercial, multi-family residential

Description of proposed development:

The application indicates that the existing residential structure and accessory garage will remain and not be expanded. The use of the residential structure will be as an office, to house a law practice. The application is to add this use the residential use permitted in the zoning by-law.

Provincial Policy Statement (2005):

The property is located in an area which can accommodate a range and mix of residential and commercial uses along First Avenue South and is an efficient use of land and resources as no expansion of municipal services is required and there is no change to the settlement area. The proposed use provides another opportunity for intensification and provision of employment lands (Sections 1.1.1.1 (b), 1.1.3.2, 1.1.3.7, 1.31.2 PPS 2005).

City of Kenora Official Plan (2010)

The guiding principles and objectives, set out in Section 2 of the Official Plan, support infill and intensification in the Harbourtown Centre, where services exist, identifies the need to support existing business in order to encourage a diversified economy, The support of a mixed-use neighbourhood and promotion of desirable built form are two of objectives identified in the Official Plan which support this application, the approval of which considers the intent of the Official Plan policies of the Harbourtown Centre area.

The subject property is designated in the City of Kenora Official Plan 2010 as Harbourtown Centre Area. Section 4.3. 1 states that:

Commercial, entertainment, recreation and residential uses shall be permitted.

Section 4.3.2 – Objectives in the Harbourtown Centre include: to promote the continued development and growth of the Harbourtown Centre as the primary office, business, cultural, entertainment, tourism and administrative area for the City of Kenora;

e) to reinforce the Harbourtown Centre as a vibrant and vigorous commercial area offering a full, balanced and diversified commercial land use mix.

Section 4.3.4 (c) indicates that the change of use of existing structures from any use to any permitted use other than residential shall not require the provision of additional parking. Conversions to residential uses, new construction or additions to existing structures shall require the provision of additional parking, in accordance with the implementing Zoning By-law.

Compatibility of new developments shall be assessed based on the following criteria:

- a) **Height and massing:** No new buildings are being considered as part of this application.
- b) **Pattern of surrounding community:** The proposed development will not alter the character of the surrounding buildings, including scale and rhythm, massing, and architectural design;
- c) **Outdoor amenity areas:** The privacy of outdoor amenity areas of adjacent residential units must be respected. The City has not received any comments/complaints from the residential neighbours.
- d) **Shadowing:** No changes proposed to existing structures as part of this application.
- e) **Lighting:** the potential for light spill over or glare onto adjacent light-sensitive areas must be minimized;
- f) **Noise and Air Quality:** There are no changes proposed to the existing structures as part of this application.
- g) **Parking:** On-site parking is provided.
- h) **Loading and service areas:** There are no loading/service areas proposed as part of this application.
- i) **Vehicular access:** The location and orientation of vehicular access will not change as a result of this application.

Zoning By-law No. 160-2010

The subject property is zoned R2 – Residential, Second Density in the City of Kenora Zoning By-law 160-2010. Residential uses are permitted in the R2 zone, as are home occupations, including professional offices, with a maximum of one employee other than the resident.

An office is defined in the Zoning By-law as 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.

Per Section 3.29.7 additional parking is not required beyond that already supplied as the building's gross floor area is not being increased.

Description of Proposed Development

The Applicant proposes to maintain the property's residential zoning, and the permitted uses, and add a professional office as a use in order to permit the property and structure to be used as a law office.

Interdepartmental comments:

Departments and Agencies Circulated	Comments Received
Planning Department	<p>The property was transferred to J. Bilton in 2007. The City's records indicate that a business license was approved, with an office as a home occupation, in 2009. The Applicant's agent indicates that the property was, in fact, used as a law office from the date of purchase. There is currently no residential use of the property.</p> <p>Floor area is not proposed to be increased and therefore Section 3.29. 7 of the Zoning By-law applies; no additional parking is required. Notwithstanding any requirements of the Ontario Building Code, this section applies also to barrier free parking.</p> <p>The use of the existing structure as a law office should not have an impact on the neighbourhood with respect to noise. The City has not received complaints regarding the use of the property as an office. Maintenance of the structure's residential character is in keeping with the character of the residential uses in the area. The Official Plan designation of Harbourtown Centre promotes mixed uses in the area.</p>
Building Department	<p>Dec 3, 2012 - Based on the floor plan and photographs submitted (attached) by Jeff Port, December 3, 2012, the building department is satisfied that the building in question will be a single major occupancy with no reduction in performance level and has no objection to a zoning change to permit an office use. Change of use permit required.</p> <p>Section 10 of the Building Code Act indicates</p>

	<p>that even though no construction is proposed, no person shall change the use of a building or part of a building if the change would result in an increase in hazard as determined in accordance with the building code, unless a permit has been issued by the chief building official. Change from a C use (residential) to a D use (business and personal services) requires a permit. If any alterations are required to comply with Part 10 (Change of Use) other parts of the code may apply.</p> <p>As the building is located in Harbourtown Centre, Site plan control may apply.</p>
Roads Department	No objections
Sewer & Water Department	No objections
Kenora Hydro	No objections
Kenora Fire & Emergency Services	The file remains incomplete. A combined office and residential occupancy requires egress and fire separations etc. A floor plan and building components between the two occupancies would be useful.
Heritage Kenora	No objections. This house was originally moved from Sultana Island.
Kenora Planning Advisory Committee	No objections based on notice and request for comments circulated 17 Oct 2012

Comments from the Public: None, to date (December 4, 2012, including no comment at the statutory public hearing held November 14, 2012).

Other information:

The property was purchased in 2009 and a business license, for law office as a home occupation issued. According to the Applicant's agent, the structure was only ever used by the property owner as a law office. There has not been a residential use of the property since purchase.

Planning Recommendation:

That the zoning by-law amendment Z09/12 Bilton, to amend the Zoning By-law 160-2010, for the property described as Plan M11, Lot 41 and north part of 40, 322 First Avenue South , City of Kenora, District of Kenora to add office as a use to the R2-Residential, Second Density zone as the application is consistent with the Provincial Policy Statement (2005), and meets the purpose and intent of both the City of Kenora Official Plan (2010) and Zoning By-law No. 160-2010, as amended for the reasons outlined in the planning report; and further that the Zoning By-law No. 160-2010 be amended as follows:

That notwithstanding other provisions as set out in Comprehensive Zoning By-law 160-2010, at the property described on Schedule "A" and specifically described as

Plan M11, Lot 41 and north part of 40, 322 First Avenue South be rezoned to R2[28]
“Notwithstanding any other provisions of this By-law, on the property described as
Plan M11, Lot 41 and north part of 40, 322 First Avenue South the property may
include an office use as an additional permitted use in the R2 – Residential,
Second Density zoning of the property.”

Note to approval: Approval by Council of the amendment of Zoning By-law Number
160-2010, as amended, does not preclude the property owner from obtaining the
required change of use permit or any other permit required by municipal by-law or
Provincial or Federal legislation.