



City of Kenora  
Planning Advisory Committee  
60 Fourteenth St. N., 2<sup>nd</sup> 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  
February 21, 2012  
7:00 P.M.**

**Present:**

James Tkachyk	Chair
Wayne Gauld	Vice Chair
Ted Couch	Member
Wendy Cuthbert	Member
Vince Cianci	Member
Ray Pearson	Member
Tara Rickaby	Secretary-Treasurer
Matt Meston	Planning Assistant
Patti McLaughlin	Minute Taker

**Regrets:** Terry Tresoor Member

**DELEGATION:** None

**(i) Call meeting to order**

James Tkachyk called the February 21, 2012 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 asked the Chair when he would like to run the election of the Chair and Vice-Chair. James commented that it would move to the end of the agenda. He added that New Business (xi) c) Z03/12 Neniska would be moved up in the Agenda as only one other application had representation present.

**(ii) Additions to the Agenda - None**

**(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:

- Ted Couch – Z03/12 Neniska
- Ray Pearson – Item (iv) Adoption of Minutes – Not member at the time of previous meetings' minutes that would be adopting

**(iv) Adoption of Minutes of previous meeting:**

Adoption of minutes of previous meeting: December 20, 2011  
Corrections:

Item: (xi) – Minutes adopted as presented this 21<sup>st</sup> day of February, 2011  
Correction: - Minutes adopted as presented this 21<sup>st</sup> day of February, 2012

Business arising from the December 20, 2011 meeting: None

**Moved by: Ted Couch                      Seconded by: Wayne Gauld**

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

**CARRIED**

**Adoption of Minutes of Previous Meeting:**

Adoption of minutes of Special meeting: January 31, 2012  
Corrections –

Item attendees – Present: Matt Meston, Planning Assistant missing  
Correction: Add Matt Meston, Planning Assistant

Item: (iii) Adjourn: Moved by: WG seconded by TT  
Correction: Moved by Wayne Gauld seconded by Terry Tresoor

James Tkachyk asked that Committee member’s names be spelled out in full.

Business arising from the January 31, 2012 meeting: None

**Moved by: Wayne Gauld                      Seconded by: Wendy Cuthbert**

That the minutes of the January 31, 2012 meeting of the Kenora Planning Advisory and Committee of Adjustment be approved as amended.

**CARRIED**

**(v) Correspondence relating to applications before the Committee :** None

**(vi) Other correspondence**

The Secretary-Treasurer circulated a magazine article entitled “Council to Council” to the committee members.

**(vii) Consideration of Applications for Minor Variance**

**1. A01/12 Bowman et al**

**Front Yard Set Back**

Present for the meeting:

Randall Seller, Agent for Constance Bowman, Thomas Bowman, Mary Mazzei and Catherine Pokotylo

Randy Seller, agent for Bowman presented the application for the minor variance and the consent and commented that this was a re-application of a consent that was approved in 2010 to create 3 rural residential lots between Devil’s Gap Marina area and Devil’s Gap, on Lake of the Woods. The applicant had to reapply because the conditional approval lapsed. The shore allowance has been purchased from the City and consolidated for all the lots. Mr. Seller commented that he had reviewed the City’s planning report and had no issues with it.

The Secretary-Treasurer stated that when the new consent application came forward, the land survey indicated that the seasonal cottage was encroaching into the 20m shoreline buffer by 1.02 m and therefore a minor variance providing relief from section 4.5.3 of the zoning by-law would be required as part of the application.

The subject land is approximately 4.14 ha in size, and has water access only. This application was originally submitted in 2010 and was given draft approval.

Comments from External Agencies (some of which were provided during circulation of the original application):

-The Northwestern Health Unit Re: - B07/10 - That the existing septic field has been upgraded and that this be made a condition of approval.

-Hydro One and Bell Canada – B01/12 – That written confirmation be provided by Hydro One and Bell Canada that there are adequate easements.

-Fish and Wildlife Resources and Environmental Protection - That an Environmental Impact Statement be prepared that demonstrates no negative impacts to an existing nesting area, and included mitigation measures and if required Fisheries Assessment in conjunction with the EIS respecting the nesting sites.

-Wauzhushk Onigum First Nation – re: B07/10 - The notice of this application was circulated according to the *Planning Act*. The proponent's agent sent a description of the proposed development to Chief Skead, of Wauzhushk Onigum in July of 2008 and seven other occasions after that. There has been no response, to date.

-Ministry of Culture – Re: B07/10 received January 8, 2008 - The Applicant provided a Stage 1 & 2 Archaeological Heritage Impact Assessment, prepared by Mike McLeod of Boreal Heritage Consulting. The recommendation of the assessment is that the proposed land division be cleared of any archaeological concerns and be allowed to proceed and that the following notes be added to the decision:

- a. "Should human remains, or other cultural heritage values be identified during operations, all work in the vicinity of the discovery will be suspended immediately. Notification will be made to the Ontario Provincial Police, or local police, who will conduct a site investigation and contact the district coroner. Notification must also be made to this office and the Registrar of Cemeteries, Ministry of Government Services.
- b. Should any other cultural heritage values (archaeological or historical materials or features) be identified during operations, all activity in the vicinity of the recovery will be suspended and the Ministry of Tourism, Culture and Sport be contacted. This condition provides for the potential for deeply buried or enigmatic local site areas not typically identified in evaluation of potential."

The Secretary-Treasurer added that the Northwestern Health Unit still requires an inspection of the existing septic field to ensure that it is suitable and that the Ministry of Natural Resources has not provided comments back and that this should be made a condition. Also, that a letter of clearance from the Coast Guard be received to ensure that there are no conflicts with dock location and the main channel. She also stated that site plan control should be used to ensure that fish habitat identified in part 4 of the coloured survey plan, from the report prepared by Ryan Haines. This is

also to protect the shoreline itself from erosion. Finally that written confirmation be received from Hydro One and Bell Canada regarding private line service to lots 1,3 and 4.

Discussion regarding the method of surveying took place. The Secretary-Treasurer suggested that Mr. Cianci discuss his concerns to the Operations Manager.

James Tkachyk asked Randy Seller if there were issues with any of the conditions. Randy replied that all of the conditions can be met in time and that since June of 2010 some of the conditions have been satisfied. He will provide the comments from the MNR as he understood they had been previously provided.

Comments from City Departments – None relating to A01/12 or B01/12 Bowman

The Secretary-Treasurer stated that the minor variance and consent would be recommended for approval, with one additional condition, which would be that a clearance letter be received from the Ministry of Natural Resources.

James Tkachyk asked the Committee for comment.

Vince Cianci questioned why the encroachment would not be considered legal non-conforming since the cottage is an old existing structure.

The Secretary-Treasurer responded that a condition of the original decision (B07/10) was that a letter be provided from an OLS indicating that the existing structures comply with the Zoning By-law. Randy Seller confirmed that with the creation of new lots, existing conditions need to be legalized.

Ray Pearson commented that hydro servicing is available and would have to cross private property. Randy Seller added that this would be up to the owners to decide.

James Tkachyk asked if there was anyone else present, who wished to speak for or against the application. There were no further comments and James then asked for a motion to approve.

The Secretary-Treasurer commented that the minor variance would result in desirable and appropriate development or use of the land, building or structure and recommends that it be approved as it maintains the general intent and purpose of the City's Official Plan and City's Zoning By-law and is minor in nature.

James Tkachyk asked the Committee for 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.

**Moved by: Wayne Gauld**

**Seconded by: Ted Couch**

That Application for Minor Variance A01/12 Bowman et al, to provide relief from section 4.5 of Zoning By-law No. 160-2010 on property described as JAFFRAY PT MC I8 PLAN KR 1055 PART 2 RP 23R2992 PARTS 1 AND 2 PCL 29148 DKF and CON 1J WPT ML 18 RP KR1055 PART 1 PCL25566, located between the Devil's Gap Marina and Devil's Gap, on Lake of the Woods, to satisfy an encroachment into the 20m shoreline reserve (from 20m into 18.98m for a variance of 1.02m) located on Part 9 of Reference Plan 23R11972 be approved by the Planning Advisory Committee of Kenora as the proposed minor variance is consistent with 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.

**CARRIED**

**(viii) Considerations of Applications for Land Division****1. B01/12 Bowman et al****3 Lots (Concurrent with A01/12 and per lapsed B07/10)**

The Secretary-Treasurer commented that the applicant proposes to sever three rural lots from property described as JAFFRAY PT MC I8 PLAN KR 1055 PART 2 RP 23R2992 PARTS 1 AND 2 PCL 29148 DKF and CON 1J WPT ML 18 RP KR1055 PART 1 PCL25566. The property would be accessed by water only. She added that the lands to the east of the subject property are in unorganized territory (Treaty Island) and those to the south and east are First Nations Territory.

The Secretary-Treasurer also added that the details of the consent application were discussed as part of the minor variance application, presented by Randy Seller, agent for Bowman et al.

There are three new lots to be created;

- Lot 1 is proposed to be 0.836 ha in size, with approximately 171.3 metres of frontage on Lake of the Woods
- Lot 2 is proposed to be .973 ha in size, with approximately 121.6 metres of frontage on the Lake of the Woods. This lot is the site of the existing cottage and boathouse.
- Lot 3 is proposed to be 1.002 ha in size, with approximately 134 metres of frontage on Lake of the Woods
- The retained lot would be 1.329 ha, with 254.3 metres of frontage on the Lake of the Woods.

Comments from External Agencies are per those indicated as part of minor variance application.

**Moved by: Wendy Cuthbert**

**Seconded by: Vince Cianci**

That the proposed Application for Consent No. B01/12 Bowman et al, to create three new rural residential lots from property described as JAFFRAY PT MC I8 PLAN KR 1055 PART 2 RP 23R2992 PARTS 1 AND 2 PCL 29148 DKF and CON 1J WPT ML 18 RP KR1055 PART 1 PCL25566, located between the Devil's Gap Marina and Devil's Gap, on Lake of the Woods be approved by the Planning Advisory Committee of Kenora as the severance of the property into three new lots and the proposed minor variance are consistent with 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, for the reasons indicated in this planning report, with the following conditions:

- 1) The original executed Transfer/Deed of Land form, a duplicate original and one photocopy for our records be provided.
- 2) A Schedule to the Transfer/Deed of Land form on which is set out the entire legal description of the parcel(s) in question and containing the names of the parties indicated on page 1 of the Transfer/Deed of Land form be provided.
- 3) Three original copies (not photocopies) of the reference plan of survey, bearing the Land Registry Office registration number and signatures as evidence of deposit therein, and illustrating the parcel(s) to which the consent approval relates and which must show in general the same area and dimensions as the sketch forming part of the application be provided.

- 4) The transferor and the transferee not be the name of the same person on the Transfer/Deed of Land Form.
- 5) That written confirmation be provided by Hydro One and Bell Canada that there are adequate easements for private service lines to service lots 1, 3 and 4.
- 6) That a site plan agreement be registered on title, to protect the area of proposed Lot 4 identified in 'Bowman's Property Devils Gap Fish Habitat Assessment Summer 2010" (Ryan Haines) as required to ensure that no shoreline development be permitted in Part A of the site as indicated in the Fish Habitat requirements.
- 7) That a letter be received from Transport Canada/Canada Coastguard that they have no objections to the proposed dock locations associated with lot 1.
- 8) That the existing septic system is upgraded through the approval process as per the Northwestern Health Unit's requirements.
- 9) That a clearance letter be received from the Ministry of Natural Resources.

**CARRIED**

**(ix) Old Business:** None

**(x) New Business**

**a) Z01/12 Charles**

**Application for Zoning By-law  
Amendment – Recommendation**

Present at meeting:

No representation

The Secretary Treasurer informed the group that the applicant did not require representation as all the planning issues had been dealt with, as the zoning amendment was a condition of consent. As well that the encroachment onto Charles property would be dealt with privately between the property owners.

James Tkachyk asked the Committee for comment.

Wayne Gauld questioned whether the neighbour would have to deal with the encroachment onto the Charles property and that whether the City's awareness of an encroachment onto amenity space would need to be dealt with or not.

The Secretary-Treasurer responded that the encroachment onto Charles property will need to be dealt with privately and the she was waiting for official survey with regards to the encroachment onto city lands.

Ray Pearson indicated that he would not be voting in this application.

James Tkachyk asked whether there was anyone else present who wished to speak either for or against the application. There was no one who wished to speak.

**Moved by: Wendy Cuthbert**

**Seconded by: Wayne Gauld**

That the proposed zoning by-law amendment Z01/12 Charles, to amend the Zoning By-law for the property from OS-Open Space to RR-Rural Residential [22] to permit a reduced frontage of 10 metres on Kerr Drive, for proposed new lots 1,2 and 3 at property described as 192 Kerr Drive, PLAN M755 BLK 22 PCL 32914, City of Kenora, District of Kenora, be approved 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.

**CARRIED**

**b) Z02/12 Lafreniere**

**Application for Zoning By-law  
Amendment – Recommendation**

Present at meeting:

No representation.

The Secretary Treasurer commented that the application is being made to amend Zoning By-law No. 160-2010, as amended, as a condition of approval of draft plan of subdivision. The lands described as 2100 Coker Road Part of Lot 11, Concessions 5 and 6, Geographic Township of Melick, is application proposes to change the zoning from RU-Rural and I-Institutional to the following: The nine (9) waterfront lots to be zoned as "Black Sturgeon Lake" – BLS, the six (6) back shore lots to be zoned "Rural"-R, Block 16 to be zoned "Open Space"-OS and Shoreline areas abutting an identified fisheries value to be zoned "Environmental Protection"-EP.

The Secretary-Treasurer commented that from a Planning perspective the lot sizes and frontages meet the requirements of RU and BSL lots. Block 16 will be subject to site plan control per the condition 15 of approval of S03/11 Lafreniere. Areas of fishery value will be protected, through zoning, per condition 10 of approval of S03/11 Lafreniere.

The Secretary-Treasurer commented that there was no appeal of decision of conditional approval of S03/11 Lafreniere.

James Tkachyk asked the Committee for comment.

Ray Pearson indicated that he would not be voting on this.

Wendy and Vince also commented that they would not be voting on this because they were absent from the statutory meeting public hearing.

The Secretary-Treasurer clarified that Wendy Cuthbert and Vince Cianci would be able to vote, as this is a recommendation to council to approve the application, and is a separate application from the application from the applicant for subdivision.

James Tkachyk added that the Committee will be voting on the rezoning which was a condition of the subdivision application. He also stated that this is not related to the two buildings on one lot, which the Secretary-Treasurer confirmed that it was not.

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

**Moved by: Ted Couch**

**Seconded by: Wayne Gauld**

That the proposed zoning by-law amendment Z02/12 Lafreniere, to amend the Zoning By-law 160-2010, as amended, for the property described as 2100 Coker Road Part of Lot 11, Concessions 5 and 6, Geographic Township of Melick , City of Kenora, District of Kenora from RU/I to RU, BSL, OS and EP be approved 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.

**CARRIED**

**Ted Couch left the meeting at 7:24pm**

**c) Z03/12 Neniska****Application for Zoning By-law  
Amendment – Recommendation**

Present at the meeting:

Diane and Stuart Neniska, Neniska the owners of lands described as PLAN M8 W PT LOT 57 PCL 15340 and PLAN M8 E PT LOT 57 PCL 17378 City of Kenora, District of Kenora (1726799 ONTARIO INC.- Lakeside Minimart) explained that she would like to develop a four-plex with associated parking on the lands currently operated as a convenience store.

Diane Neniska presented the application to amend Zoning By-law No. 160-2010, as amended in order to convert the convenience store and two (2) apartments above to a four-plex. The existing dwelling units would remain and two additional units would be developed on the lower floor.

The Secretary-Treasurer commented that the Application cover letter indicated that the two lots are merged on title. Garbage pickup will be residential pick up and not commercial. Jeff Port will be representing the applicant at the March 13 statutory public meeting. The Secretary-Treasurer discussed that the proposed development fits in with other developments in the area ie. Day Care and KACL. The amendment to the zoning by-law shows the front of the property to be Third Avenue South but because of the orientation of the existing structure she suggested using Sixth Street South as the front of the lot for calculating the frontage.

The Planning Department comments:

- In accordance with Zoning By-law No. 160-2010, the front yard frontage is on Third Avenue South – (the shorter lot line abutting a street shall be the front lot line).
- Existing structure uses Sixth St. S. as front.
- Lots will not be required to be deemed as they have merged on title.
- Reduction in rear yard and exterior side yard not required; recommend permitting existing structure to remain as legal non-complying use of property.
- 3.16.2 Through Lots (b) Where through lot is also a corner lot in a Residential Zone, the exterior side yard and rear yard provisions apply.
- No amenity area required, by by-law as proposal is for four units.
- Reduced lot size accommodates existing structure and required parking.
- Residential use has less impact on traffic/noise etc. than a local commercial use.
- Property/project is subject to site plan control.
- This proposal does not constitute a major change; no Official Plan Amendment is required.
- Minimum parking requirements for residents and visitors are met (1 per residential unit + 1 visitor parking).
- Updated 21 Feb 12 – Review of square footage indicates that 3 units are reduced from required 65 m<sup>2</sup> per unit – exception for size. As per CBO comments, applicant will have to develop the individual suites in accordance with the Ontario Building Code requirements.

Comments from City Departments Re: Z03/12 Neniska

- Building Department – In regards to the square footage of the suites, I offer the following comment;

Although at first glance the proposed square footage for the units will satisfy the Ontario Building Code requirements for the Design of Areas and Spaces;



It must be noted that a favorable decision doesn't in itself guarantee the issuance of a building permit. The plans submitted for the purpose of a building permit must indicate compliance with the building code, which includes but is not limited to appropriate room dimensions.

The Secretary-Treasurer indicated that there is an existing encroachment of the stairway at the entrance which will be satisfied with a letter of comfort. She recommended that the application be approved and forwarded to the Property and Planning Committee along with the additional comments from the applicant.

Diane Neniska commented that with regards to the size of the apartments she designed them herself but has hired a designer for the construction.

Comments from External Agencies Re: Z03/12 Neniska - None

James Tkachyk asked the Committee for comment.

The Secretary-Treasurer explained that there is an encroachment of the ramp and existing stairs at the entrance to the building. Also and if the applicant can design two bedrooms, it will be up to the designer to interpret the Ontario Building Code to determine how many bedrooms the suites can have. Also one unit has to be barrier free or accessible, which the designer can determine.

James Tkachyk confirmed that there will be one parking space per unit and one visitor parking space for a total of five (5) spaces and that the present empty lot would be the location.

Discussion ensued regarding the availability of additional parking and renting out spaces for revenue, which the Secretary-Treasurer commented that renting out parking spaces is not permitted in a residential zone.

Discussion ensued regarding the rear yard minimum which the Secretary-Treasurer clarified is not required as existing structure will remain legal nonconforming.

James Tkachyk commented that in the past fire separation was an issue with others.

The Secretary-Treasurer indicated that the Building Inspector would deal with that and the Committee could make it a condition or make recommendation.

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

**Moved by: Ray Pearson      Seconded by: Wendy Cuthbert**

That the proposed zoning by-law amendment Z03/12 Neniska, to amend the Zoning By-law for the property from LC-Local Commercial to R3-Residential, Third Density (four attached/stacked dwellings) to permit the development of a four-plex and associated parking on the subject lands at property described as PLAN M8 W PT LOT 57 PCL 15340 and PLAN M8 E PT LOT 57 PCL 17378 City of Kenora, District of Kenora, be approved 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. The Committee recommends that the fire separations between the existing uses meet the requirements of the Ontario Building Code or that the new development and existing use meets the requirements of the Ontario Building Code.

**CARRIED**

## **Ted couch returned to the meeting at 7:43pm**

### **d) Lot Frontage Measurement**

### **Discussion & Recommendation**

The Secretary-Treasurer commented that she had thought that the diagrams of options for measuring lot frontage on water front lots had been circulated to the Committee.

James asked that the Committee spend some time right now to talk about this.

The Secretary-Treasurer explained that Jeffrey Port came to public meeting and discussed his issue regarding how frontage on pie-shaped property was measured, indicating that in the Zoning By-law there was a discrepancy with the definition and diagram. He thinks the 20 m setback is too difficult to achieve or takes out too much land. The Secretary-Treasurer added that she would like frontage defined.

Wayne Gauld asked where the Committee would run into this issue.

The Secretary-Treasurer responded saying that using the Tutura application was an example. Committee member were asked to look at Section 2 of the Zoning By-law regarding water front lot frontage calculations.

Discussion took place and the matter will be placed on the next meeting agenda.

Ray Pearson asked that diagrams with options be sent out.

- The Secretary-Treasurer commented that March 8, 2012 is last day for appeal for the Zoning By-law proposed amendments (housekeeping items) and that there will be new consolidated documents circulated.

### **(e) Election of Chair and Vice-Chair**

James Tkachyk turned the meeting over to the Secretary-Treasurer to run the election.

The Secretary Treasurer called for nominations for Chair.

Ted Couch nominated James Tkachyk, which was seconded by Wendy Cuthbert.

Second call for nominations for Chair. Third call for nominations for Chair.

The Secretary Treasurer declared nominations closed and asked Mr. Tkachyk if he would accept the nomination. James Tkachyk accepted the nomination.

The Secretary Treasurer called for nominations for Vice-Chair.

Ted Couch nominated Wayne Gauld, which was seconded by Vince Cianci.

Second call for nominations for Vice-Chair. Third call for nominations for Vice-Chair.

The Secretary Treasurer asked Wayne Gauld if he would accept the nomination. Wayne Gauld accepted the nomination.

Ted Couch moved that nominations be closed.

Mr. Tkachyk resumed the Chair.

**(f) Request that the March 20<sup>th</sup>, 2012 PAC meeting be rescheduled.**

The Secretary-Treasurer indicated that she and the Planning Assistant would not be attending the Conference and that the March 20<sup>th</sup>, 2012 Planning Advisory Committee meeting did not need to be re-scheduled.

The Secretary-Treasurer added that the OACA Training Session will be held June 3, 4, 5 in Burlington and that 2 staff members or 2 committee members and 1 staff member would be attending.

**(xi) Adjourn  
Moved by: Ted Couch**

**THAT** the February 21, 2012, Planning Advisory Committee meeting be adjourned at 8:07p.m.

**MINUTES ADOPTED AS PRESENTED THIS 20<sup>th</sup> DAY OF MARCH, 2012**

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**CHAIR**

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**SECRETARY-TREASURER**