



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
AUGUST 21, 2012
7:00 P.M.**

Present:	James Tkachyk	Chair
	Terry Tresoor	Member
	Vince Cianci	Member
	Wayne Gauld	Member
	Ted Couch	Member
	Wendy Cuthbert	Member
	Ray Pearson	Member
	Tara Rickaby	Secretary - Treasurer
	Matt Meston	Planning Assistant & Minute Taker

Regrets: None.

DELEGATION: None

(i) Call meeting to order

James Tkachyk called the August 21, 2012 meeting of the Kenora Planning Advisory Committee to order at 7:00p.m.

Mr. Tkachyk reviewed the meeting protocol for those in attendance.

(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:

Wayne Gauld declared a conflict on application B09/12 Derouard because he was involved as a realtor for the subject property.

James Tkachyk declared that he would not vote on the B04/12 Boucha application because he was absent from the original meeting when the application was discussed.

(iv) Adoption of Minutes of previous meeting:

Adoption of minutes of previous meeting: July 17, 2012.

Business arising from minutes:

The Secretary-Treasurer informed the Committee that a member of the public requested that a section of the minutes be changed to better reflect the comments that they had made. The individual was asked to make a written request and supply

the suggested wording, however nothing was submitted for the Committee's consideration.

Moved by: Terry Tresoor

Seconded by: Wayne Gauld

That the minutes of the July 17, 2012 meeting of the Kenora Planning Advisory and Committee of Adjustment be approved as distributed.

CARRIED

(v) Correspondence relating to applications before the Committee

The Secretary-Treasurer informed the Committee that the Ontario Municipal Board has tentatively scheduled a hearing date of October 23, 2012 for application Z04/12 Aamikkowiish and October 24th and 25th, 2012 for application S01/12 Bell. The logistics of the hearings are still being determined.

(vi) Other correspondence – OACA Newsletter.

The Secretary-Treasurer distributed an Ontario Municipal Board decision to the Committee members from the July 2012 OACA magazine.

(vii) Consideration of Applications for Minor Variance

1. A13/12 Hamlyn

Accessory Garage Height

Present for the meeting:

David Hamlyn, Applicant

The applicant, David Hamlyn presented his application stating that he desires to construct an accessory detached garage on his property, located at 181 Villeneuve Road that will exceed the required 4.5m height limit by 1.08m.

The Planning Assistant presented the staff report and indicated that the recommendation is for approval.

James Tkachyk asked the Committee members for comments and received none.

James Tkachyk asked if there was anyone in attendance who wished to speak for or against the application and received no response.

Moved by: Ray Pearson

Seconded by: Ted Couch

That the proposed application for Minor Variance A13/12 Hamlyn, to provide relief from section 3.11.1 (b) (viii) of Zoning By-law No. 160-2010 as amended to increase the maximum height restriction of 4.5m by 1.08m to allow for an accessory detached garage, 5.58m in height to be constructed on the property described as CON 7J S PT LOT 3 PCL4605, 181 Villeneuve Road, be approved by the Planning Advisory Committee of Kenora as the proposed minor variance is consistent with the Provincial Policy Statement (2005), meets the purpose and intent of both the City of Kenora Official Plan (2010) and Zoning By-law No. 160-2010 as amended, is appropriate for the land and is minor in nature, for the reasons cited in the planning report.

CARRIED

2. A15/12 Laffin

Required Side Yard Setback

Present for the meeting:

Blayne Laffin, Applicant

The applicant, Blayne Laffin presented his application for minor variance, stating that his existing house on the subject property, located at 513 Third Street south is presently one and a half storeys in height and is also legal non-conforming with regards to the required side yard setback, as the house is setback 0.57m from the west side property line. The intention is to add height to the existing house, bringing the structure to a height of 6.4m from the current 6.1m, as well as replacing the existing roof with a steeper pitched roof. A variance is needed to permit the proposed height increase as the west side property line setback is not in compliance with the zoning by-law.

The Planning Assistant presented the staff report and indicated that the recommendation is for refusal, as the side yard setback of 2.5m exists to provide residential properties with relief from site specific issues such as noise, privacy, fire separation, drainage, shadowing etc. Also, the eaves of the house currently encroach 0.12m into the west side neighbours property. An increase in height to a house in a residential neighbourhood that is already not in compliance with the required side yard setback would only exacerbate these site specific issues further.

Mr. Laffin added that the height of the structure itself would only be approximately one foot taller as a result of this variance being approved. He would like more space on the second floor as he intends to rent the entire house as a single unit. Utilizing the house as a rental will contribute to the housing supply for the City.

James Tkachyk asked the Committee members for comments.

Wayne Gauld stated that if the eaves are encroaching into the neighbouring property then runoff and site drainage may be an issue.

Mr. Laffin replied that he intends to construct a new roof with a steeper pitch whether he receives the variance or not, which would remove the encroachment and that he also has eavestroughs which drain water down into Laurenson Creek, not the neighbours yard.

James Tkachyk asked if the variance was only for the side yard.

The Secretary-Treasurer replied that approval by the Committee would bring the legal non-conforming side yard setback into compliance and the new setback of 0.57m would be permanent, as well that the encroaching eaves are a civil issue between the two neighbours.

Terry Tresoor commented that nothing will change by allowing this variance, aside from the height of the roof increasing slightly, the application should be approved.

Mr. Laffin added that the subject structure is approximately six metres away from his west side neighbours' house.

Wendy Cuthbert asked that because the existing structure is already legal non-conforming, would it only be able to be approved if the non-complying situation was brought closer to compliance?

Wendy Cuthbert also asked Mr. Laffin if he had a letter from his neighbour stating that there were no objections.

Mr. Laffin replied that there is nothing in writing, however that the neighbour is in attendance tonight.

Vince Cianci commented that he has no objections to the proposed variance, however asked whether or not the variance would still apply if the house were to be demolished in the future.

The Secretary-Treasurer stated that if approved the variance would stay with the property in perpetuity.

Discussion took place regarding how this variance would permit future property owners to use the property.

Ray Pearson stated he does not see this application as a major change and asked if a condition could be made that would limit the variance to the house only, instead of the whole yard.

Mr. Laffin added that the first storey is forty feet long and the second storey is thirty feet long. The neighbours concern is not the added height but that the 10 foot un built portion of the second storey remain as is.

Jim McNulty, 509 Third Street south, stated that he is the neighbour to the west side and has no objections to the height increase so long as the footprint of the second storey remains the same, and does not extend south over the single storey portion of the structure.

Ray Pearson added that the proposed variance is an improvement to the community and that the Committee should find a way to make it work.

Katie McNulty, 509 Third Street south, stated that she is concerned that if this variance is passed that it would affect her own ability to modify their existing home.

The Secretary-Treasurer responded that the Committee cannot approve something that projects into another property.

Wayne Gauld stated that he feels the McNulty property is unaffected by this application.

James Tkachyk asked Mr. Laffin if he had considered buying a portion of the neighbour's property for a lot addition to bring the house into compliance?

Mr. Laffin replied that he had not pursued this.

Discussion took place regarding possible future development of the property.

Moved by: Terry Tresoor

Seconded by: Ray Pearson

That the proposed application for Minor Variance A15/12 Laffin, to provide relief from section 4.2.3 (d) of Zoning By-law No. 160-2010 as amended to decrease the minimum side yard setback requirement from 2.5m to 0.57m for a variance of 1.93m to allow for an increase in height to the existing single family dwelling on the property described as PLAN M11 W OF LOT 26, 513 Third Street South be approved by the Planning Advisory Committee of Kenora as the proposed minor variance is consistent with the Provincial Policy Statement(2005), meets the purpose and intent of both the City of Kenora Official Plan (2010) and Zoning By-law No. 160-2010 as amended, is appropriate development for the land and is minor in nature.

Conditions:

- 1) The new construction must reduce the encroachment of the eaves and eavestrough to a limit within the west side property line of the subject property.
- 2) That the requested variance be applied only to the lands measured 32 feet or 9.75m from the northwest angle of the lot/subject property.

CARRIED

(viii) Considerations of Applications for Land Division

1. B07/12 Dixon

Consent - Lot Creation

Present for the meeting:

Gordon Dixon, Applicant

Mr. Dixon presented his application for the creation of one rural residential lot from his property located at 22 Tetroe Road, explaining that he had received conditional approval from the Committee in 2005 for the creation of one lot, however did not agree with creating an irregular dog leg shaped lot. Creating a regular configured lot that is slightly smaller than the required size for rural residential zoning would be a more suitable option, hence the reason for the current application.

The Planning Assistant presented the staff report and explained that the applicant had received conditional approval in 2005 for consent on the subject property and the consent had lapsed. The Northwestern Health Unit has approved well and septic field suitability for the proposed created lot, recommendation is for approval. The created lot would require a variance for lot size as a condition of approval.

Mr. Dixon questioned why he would be required to pay for the potential transfer of Tetroe Road to the City.

The Secretary-Treasurer replied that whenever applications for land division are received, the transfer of roads to the City is potentially a condition. Lots generally cannot be created that do not have frontage on a public road. If Land Titles indicates that the City already owns sufficient lands on Tetroe Road, then this would not be a condition of approval.

Discussion took place regarding the ownership of Tetroe Road, based on a survey provided by the applicant.

James Tkachyk asked the Committee for comments.

Wayne Gauld questioned the access over the southeast corner of the created lot, which appears to belong to the neighbour abutting the south boundary of the lot.

Vince Cianci expressed opposition to the creation of a new lot that is 0.609 hectares in size and suggested that the current well used by the Dixon's could be added to the proposed lot and that a new well could be created for the retained lot, in order to maximize the size of the proposed lot.

Mr. Cianci also questioned if there are defined setbacks for wells and septic fields.

Discussion took place regarding setbacks and proximity from property lines for well and septic field locations.

Wendy Cuthbert asked if altering the proposed lot line would create any problems with the TransCanada pipeline easement?

The Secretary-Treasurer replied that it would not, as the applicants' existing home is situated between the pipeline and the proposed lot. The development conditions will form part of the conditions of approval.

James Tkachyk asked if there was anyone in attendance who wished to speak for or against the application and received no response.

Vince Cianci suggested that the proposed lot line could be configured/pivoted diagonally to maximize the size of the created lot and that the decision be tabled until more information is received from the Northwestern regarding well and septic fields setbacks.

Wayne Gauld stated that he agrees with Vince.

Wendy Cuthbert commented that she has no objections and that tabling the decision is not really necessary; this application can be approved tonight.

The Secretary-Treasurer asked Mr. Dixon where the eight metre setback from the existing well to the proposed lot line came from and explained the time lines of approval for consent and minor variances.

Mr. Dixon replied that he is unsure where the eight metre distance came from.

Wayne Gauld commented that adjusting/pivoting the proposed lot line would bring the proposed lot to the required size or at least move it closer to compliance.

Mr. Dixon replied that if it is not possible to relocate the proposed lot line, then he would pursue a variance regardless.

Mr. Dixon also commented that in considering the context of the surrounding neighbourhood, a lot size of 0.609 hectares would still be larger than several existing lots in the area.

Vince Cianci replied that existing lot sizes are irrelevant, new development must meet current standards.

Wendy Cuthbert stated that she does not agree with creating a diagonal shaped lot line and would prefer that the proposed lot have a 90 degree lot line.

James Tkachyk stated that the Committee would need to make a decision tonight or table the application.

Moved by: Vince Cianci

Seconded by: Wayne Gauld

That application B07/12 Dixon, consent for the creation of one lot be tabled until sufficient information is provided from the Northwestern Health Unit regarding minimum distance setbacks for well and septic field locations, in order for the Committee to be able to render a proper decision.

CARRIED

Noted that Wendy Cuthbert and Ted Couch did not vote to support the motion.

2. B08/12 Cromwell

Consent – Lot Creation

Present for the meeting:

Jim Hook, Agent

Jim Hook presented the application for consent for the creation of three new lots, for the subject property located at CON 7J S PT LOT 3 RP KR 126 PARTS 3-5 PCL 22741, 31 Villeneuve Road. The Official Plan and Zoning By-law seem to be inconsistent, as the northeast corner of the subject property is designated in the Official Plan as commercial development area, yet the entire subject property is zoned rural. The Hydro One easement should be of no concern as there is ample building space on the lots affected by the easement and that a study regarding endangered species has been conducted as well as a minimum distance separation analysis.

The Planning Assistant presented the staff report indicating that the Ministry of Natural Resources was satisfied with the EIS submitted by Lakeland Consulting and that recommendation is for approval. The Northwestern Health Unit has approved all three proposed lots for well and septic field suitability.

James asked the Committee for comments.

Ray Pearson questioned the zoning for the northeast corner of the subject property.

Jim Hook responded that it is zoned rural, but on Official Plan amendment is still required.

Ray Pearson asked if comments were received from Hydro One about the application.

The Secretary-Treasurer replied that comments have yet to be received from Hydro One, but that the Committee can still give approval tonight with a condition that Hydro One provide comments regarding the suitability of the development.

Discussion took place regarding the transfer of Villeneuve Road and Greenwood Drive to the City.

James Tkachyk asked about the part of the retained lot that lies south of Villeneuve Road and if it would constitute a natural severance.

The Secretary-Treasurer replied that the part of the retained lot that lies south of Villeneuve Road could be tied on title and that it could not be used for future development anyway as the 3 + 1 rule has already been met for the subject property. As well, after Villeneuve Road has been acquired by the City and the 10m creek buffer has been established, the portion of the retained lot south of Villeneuve Road would be limited in terms of development.

James Tkachyk asked if anyone from the public wished to speak in favour or against the application.

Nicholas Kubisewsky, 74 Greenwood Drive expressed concern over the potential of increased traffic that could result from the proposed application.

Further discussion took place regarding the acquisition of Villeneuve Road and Greenwood Drive by the City.

David Hamlyn commented that he resides to the west of the subject property and asked if the created lots could be further subdivided.

The Secretary-Treasurer replied that, further development could only take place via plan of subdivision and that even then lot size would be an issue.

Helen Kubisewsky, 74 Greenwood Drive asked if single detached dwellings are the only permitted type of homes permitted on the proposed created lots. The Planning

Assistant replied that single family dwellings only are permitted in the RR zone.

Moved By: Ted Couch

Seconded By: Wendy Cuthbert

That application B08/12 Cromwell, for consent for creation of three rural residential lots, has regard for the Provincial Policy Statement (2005), will comply with the intent of the City of Kenora Official Plan (2010) and Zoning By-law No. 160 – 2010 as amended, per the reasons indicated in the planning report.

It is recommended that the Committee approve the application, with the following conditions:

That Application for Consent B08/12 Cromwell, 31 Villeneuve Road, CON 7J S PT LOT 3;RP KR 126 PARTS 3-5 PCL 22741, be approved 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 an which must show in general the same area and dimensions as the sketch forming part of the application be provided.
- 4) That a concurrent zoning by-law amendment and official plan amendment be approved that would rezone the subject property from RU-Rural to RR-Rural Residential and re-designate the subject lands in the Official Plan to be Rural Area.
- 5) That the stream in the southeast corner of the property be subject to a 10m no-development buffer by rezoning to EP – Environmental Protection zone.
- 6) If the City does not own the lands currently used and known as Villeneuve Road and Greenwood Drive, that the applicant transfer lands to the City sufficient that the City would assume ownership of lands measured 10m from the centerline of the travelled portion of the road, where possible. The applicant would assume all related surveying and transfer costs.
- 7) That comments be received from Hydro One regarding the suitability of the proposed application and whether or not there are easements required for private service lines.
- 8) That comments be received from Bell Canada regarding the suitability of the proposed application and whether or not there are easements required for private service lines.
- 9) That a site plan detailing development conditions be submitted to indicate building location on proposed lot 1, if comments from Hydro One indicate further constraints on the lands.

10) That the transferor and the transferee not be the name of the same person on the Transfer/Deed of Land Form

11) That the land south of the travelled portion of the Villeneuve Road be tied on title to the retained lands under Section 118 of the Land Titles Act.

NOTE: TransCanada Pipeline conditions will apply.

NOTE: The following section(s) of the Planning Act apply:

Conditions not fulfilled

53(41) If conditions have been imposed and the applicant has not, within a period of one year after notice was given under subsection (17) or (24), whichever is later, fulfilled the conditions, the application for consent shall be deemed to be refused but, if there is an appeal under subsection (14), (19) or (27), the application for consent shall not be deemed to be refused for failure to fulfil the conditions until the expiry of one year from the date of the order of the Municipal Board issued in respect of the appeal or from the date of a notice issued by the Board under subsection (29) or (33). 1994, c. 23, s. 32.

Lapse of consent

53 (43) A consent given under this section lapses at the expiration of two years from the date of the certificate given under subsection (42) if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister in giving the consent may provide for an earlier lapsing of the consent. 1994, c. 23, s. 32

CARRIED

3. B09/12 Derouard

Consent – Lot Line Adjustment

Present for the meeting:

Keith Loucks, Agent

Wayne Gauld left the meeting at 9:17pm

Keith Loucks presented the application, for property located at 411 Hilly Lake Road stating that the intention is to adjust an existing property line to allow both of the subject lots to have water front access on Hilly Lake. No new development will be created.

The Planning Assistant presented the staff report and explained that a zoning by-law amendment would be a required condition of approval because both of the subject lots would have dual zoning after the lot line adjustment is complete and that approval from the Northwester Health Unit will be required. The recommendation is for approval.

James Tkachyk asked the Committee for comments.

Vince Cianci commented that this application appears to be creating more lots on Hilly Lake.

The Secretary-Treasurer replied that existing septic fields within 300 feet of the lake are not considered new development. The proposed consent would not create any additional septic fields within that radius and therefore meets the intent of the policy.

James Tkachyk asked if there were any members of the public who wished to speak for or against the application and received no response.

Moved by: Ted Couch

Seconded by: Terry Tresoor

That application B09/12 Derouard, consent for lot addition which will realign existing lot lines, has regard for Section 51(24) of the Planning Act, the Provincial Policy Statement (2005), and complies with the intent of the City of Kenora Official Plan (2010) and Zoning By-law No. 160 – 2010 as amended, per the reasons indicated in the planning report.

It is recommended that the Committee approve the application, with the following conditions:

That Application for Consent B09/12 Derouard, 411 Hilly Lake Road, PT CON 3J ML 284P PT 1 23R5977 PCL 35080 & 431 P PARCEL 16336 & EASEMT; OVER PTS 3&6 KR 476; LESS 23R 9713 PT 1 THRU 5, be approved 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 an which must show in general the same area and dimensions as the sketch forming part of the application be provided.
- 4) That a zoning by-law amendment be approved to rezone both of the lots to solely RR – Rural Residential zoning.
- 5) That the Northwestern Health Unit issue a certificate of approval for well and septic service for both lots.
- 6) That residence 2 as indicated on the drawing/site plan provided with the application be relocated or removed from Lot 1.

NOTE: The following section(s) of the Planning Act apply:

Conditions not fulfilled

53(41) If conditions have been imposed and the applicant has not, within a period of one year after notice was given under subsection (17) or (24), whichever is later, fulfilled the conditions, the application for consent shall be deemed to be refused but, if there is an appeal under subsection (14), (19) or (27), the application for consent shall not be deemed to be refused for failure to fulfil the conditions until the expiry of one year from the date of the order of the Municipal Board issued in respect of the appeal or from the date of a notice issued by the Board under subsection (29) or (33). 1994, c. 23, s. 32.

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CARRIED

a) B04/12 Boucha

Change of Conditions

Wayne Gauld returned to the meeting at 9:36pm.

James Tkachyk left the meeting at 9:36pm

The Secretary-Treasurer went over the history of the application and stated the condition of a right-of-way transfer to Bell Canada is recommended for removal as the City and the property owner have an agreement.

All other conditions will still apply.

Moved by: Ted Couch

Seconded by: Terry Tresoor

CARRIED

(x) New Business

James Tkachyk returned to the meeting at 9:38pm

a) OACA Report

The Planning Assistant stated that in the interest of time, the OACA report would be emailed to the PAC members instead of presented.

(xi) Adjournment

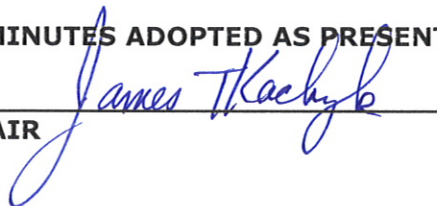
Adjourn

Moved by: Terry Tresoor

THAT the August 21, 2012 Planning Advisory Committee meeting be adjourned at 9:39 pm.

MINUTES ADOPTED AS PRESENTED THIS 18th DAY OF SEPTEMBER, 2012

CHAIR



SECRETARY-TREASURER

