



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  
JUNE 19, 2012  
7:00 P.M.**

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

**Regrets:** James Tkachyk Chair

**DELEGATION:** None

**(i) Call meeting to order**

Wayne Gauld called the June 19, 2012 meeting of the Kenora Planning Advisory Committee to order at 7:00p.m.

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

**(ii) Additions to the Agenda – None.**

**(iii) Declaration of Interest**

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

Vince Cianci – A11/12 Cianci. Mr. Cianci is the applicant for application A11/12.

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

Adoption of minutes of previous meeting: May 15 & 24 Special Meeting, 2012.

**Business arising from minutes:**

Terry Tresoor asked about the status of the Moncrief Consent application and the Secretary-Treasurer informed him that it would be heard at the July 19, 2012 Planning Advisory Committee Meeting.

**Moved by: Ray Pearson**

**Seconded by: Ted Couch**

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

**CARRIED**

**Moved By: Wendy Cuthbert**

**Seconded By: Terry Tresoor**

That the minutes of the May 24, 2012 special 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 stated that she would address correspondence during the discussion of application S01/11.
- (vi) **Other correspondence** - None.
- (vii) **Consideration of Applications for Minor Variance**

**1. A011/12 Cianci**

**Required Rear Yard Setback**

Present for the meeting:

Vincenzo Cianci, Applicant

Vince Cianci began by describing the history of the subject property which led to the requirement for him to submit the present application. He received a consent, in 2009, to form his current property configuration and had also applied for a minor variance in April of 2009. That application was later rescinded because the previous zoning by-law permitted new structures to be built on the same location of the current legal non-conforming footprint. Mr. Cianci also explained that he purchased municipal property to bring his property into compliance with lot coverage requirements. However, the current zoning by-law requires that new uses, on a legal non-conforming footprint, must move 50% towards compliance. Mr. Cianci explained that he cannot meet that requirement and that is the reason for his application today.

The Planning Assistant then explained Mr. Cianci's current application to reduce the rear yard setback from 8m to 0.61m for a variance of 7.39m. An existing sewer easement is a constraint for the applicant and is the reason for needing a 0.61m rear yard setback. Section 3.5(b) of Zoning By-law No. 160-2010 as amended stipulates that for reconstructed dwellings the setback may be, "not less than the average of the setbacks of the adjoining primary use buildings if that average is less than the required yard setback for that zone." However this cannot be applied to this situation because there is no house on the lot to the east of the subject property.

The proposed single family home removes existing encroachments off of municipal property, represents a decrease in the density of the land use and complies with all other zoning requirements. Staff recommendation is for approval.

Ray Pearson agreed with the application, commenting that this variance would remove parking from the street and conforms with other houses in the neighbourhood.

Terry Tresoor also agreed with the application, stating that removing encroachments from municipal property is a benefit of this application.

**Moved by: Ted Couch**

**Seconded by: Terry Tresoor**

That the application for Minor Variance A11/12, Cianci to provide relief from section 4.1.3(f) of Zoning By-law No. 160-2010 as amended to exceed the minimum rear yard setback requirement by 7.39m to authorize the construction of a single family dwelling that would have a rear yard setback of 0.61m to be constructed on the property described as 23R 11826, LOT 25 BLOCK 6, PARTS 2, 4, 6 and 8, 911 First 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 and desirable for the land and is minor in nature, for the reasons cited in the planning report.

**CARRIED**

**2. A10/12 Poole**

**Required Front Yard Setback**

Present for the meeting:

Leslie Sylvester

Leslie Sylvester presented the application on behalf of Edward Poole, stating that they had begun construction on a three season cabin under the impression that a building permit was not necessary because they assumed their property was in unorganized territory. She acknowledged that they did not consult the zoning by-law.

The Planning Assistant presented the staff report, indicating that the applicant is purchasing shoreline reserve land as a condition of the application and are required to provide a flooding easement in favour of Ontario Power Generation. The cabin is above the high water mark and flood datum line. An existing gazebo will also be brought into compliance as a result of approval of this application. Staff recommendation is for approval.

Ted Couch asked about a grey water system for the property, and that they are awaiting quotes from contractors.

Leslie Sylvester commented that they are still considering all options for the cabin.

The Planning Assistant interjected, stating that a condition of approval is that the Northwestern Health Unit would need to issue a certificate of approval before any building permit would be issued.

Wendy Cuthbert stated that there should be a new condition added that a building permit not be issued until applicant has assumed ownership of land and the easement in favour of Ontario Power Generation has been registered.

The Secretary-Treasurer replied that those are conditions of sale.

Vince Cianci asked what stage the construction of the cabin was at and if it could be moved, to bring into compliance.

Leslie Sylvester informed him that it was basically built with the structure being closed in and that it would not be possible to physically relocate the structure because the foundation is tied to bedrock.

Vince Cianci suggested that the variance should be changed to being the northeastern tip of the structure only that receives the variance, therefore any future development on the property would be required to meet the 20m setback of Zoning By-law No. 160-2010. The variance would be for the cottage only, the entire setback for the property shall not be 20m.

**Moved by: Terry Tresoor**

**Seconded by: Vince Cianci**

That the application for Minor Variance A10/12, Poole to provide relief from section 4.5.3(k) of Zoning By-law No. 160-2010 as amended to exceed the minimum front yard setback requirement by 4.54m to bring the use of a three season cottage into compliance, that would have a front yard setback of 15.46m for a variance of 4.54m

on the property described as 23M 832 LOT 1 PARCEL, 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 160-2010, is appropriate and desirable for the land and is minor in nature, for the reasons cited in the planning report. The variance for required front yard setback, applies to the northeast cabin deck only, any further development on site would be required to meet the 20m setback requirement.

**Conditions:**

1) That a building permit not be issued until the Northwestern Health Unit has issued a certificate of approval.

2) That a building permit not be issued until after the shore allowance has been transferred to Edward Poole.

**CARRIED**

**(viii) Considerations of Applications for Land Division**

**1. B04/12 Boucha**

**Consent – Easement**

Present for the meeting:

James E. Hook, Agent

Mr. James Hook, Agent representing Margaret Boucha, began by stating that the application is for an easement in favour of Bell Canada regarding the relocation of telephone lines and wires. Ontario Hydro had relocated its transmission lines last winter and the Bell lines were moved concurrently with them. Hydro One does not require consent to relocate their equipment. Bell currently has an easement agreement, with Mrs. Boucha, for 21 years, less a day.

The Secretary-Treasurer stated that there are existing easements on the subject property in favour of Bell Canada and other utilities. It also appears that the City of Kenora does not own the section of Ritchie Road abutting the property of the applicant.

A consent is not required for an easement that is to be used for a term of 21 years minus 1 day or less. Bell Canada desires to have a permanent easement, in perpetuity, hence the reason for this application.

The Secretary-Treasurer explained the staff report. Recommendation is for approval, with a condition that the applicant be required to transfer sufficient land to the City, so that the City would own 10m on both sides of the centerline of the travelled portion of the Ritchie Road. The City will assume all survey and transfer costs.

James Hook had not discussed the transfer of land to the City with Mrs. Boucha but doubted that it would be a problem. He could not comment on whether or not she would accept the condition.

Donald Harbour, owner of the property adjacent to Boucha, had an issue with this application. He believes that the easement is incorrect and that some of the poles are on his property and not on the property of the applicant. Easements must be given to the proper property owner. He would like Bell Canada to attend a site visit to correct the situation.

James Hook responded that he cannot comment to that because pole locations are not indicated on the survey, but would expect that Bell would want their poles to be in the correct place.

Donald Harbour replied that he has a survey of his property from 1952 indicating pole locations.

The Secretary-Treasurer recommended tabling the decision until there is sufficient information available for the Committee to make a proper decision.

James Hook commented that a survey would be required to determine whether a pole is on the subject property or not, and that a 1952 survey is not a reliable source of information; a current up to date survey is required.

The Secretary-Treasurer stated that confirmation is needed for the guy wires and pole locations.

Mr. Harbour said that all the poles are owned by Bell Canada, but that some are shared between Hydro One and Bell.

Wendy Cuthbert asked why the City is assuming all costs for the transfer of road allowance to the City.

The Secretary-Treasurer replied that because this application is being made in favour of Bell Canada and is not new development, that the City would assume all costs because the City desires the road. Since this is not for development, the applicant is not benefitting from the application. It is reasonable to ask for the road allowance to be transferred to this City, since the City is asking for it, but not for the applicant to pay for it.

Don Harbour asked if the transfer to the City was for the entire road.

The Secretary-Treasurer informed him that it was for only for the part of the road that abuts the property of the applicant.

**Moved by: Ted Couch**

**Seconded by: Terry Tresoor**

That application B04/12 Boucha, consent for easement, be tabled until sufficient information is provided for the Committee to be able to render a proper decision.

**CARRIED**

**2. S01/11 Wright**

**Plan of Subdivision**

Present for the meeting:

Alex Clark  
William Wright

Alex Clark, Agent representing the applicant, William Wright, began by stating that an Environmental Impact Statement (EIS) was submitted with the original application along with a plan view, drainage plan and plan of access, which have been approved by the Municipal Engineer but that the final roads layout plan still needs to be reviewed.

Mr. Clark gave an overview of the EIS results, lot configuration and features, emphasizing that the EIS indicates that there is natural water course from south of the subject lands flowing north which require 10m buffering on either side for water quality protection, a quarry site also exists.

The rezoning of lands is proposed to be to Black Sturgeon Restricted Development with Environmental Protection designation. Block A, a large area that is peat land that protects water quality, spawning and wildlife habitat is being designated as

green space and will be transferred to the City and designated as environmental protection area.

Mr. Clark then spoke to the docking location. Lot 22 was one possible location, but from a practical point of view fish spawning would be affected. The proposed docking location is at the north end of the subdivision, between lots 9 and 10, which would be accessed by an easement.

There are 3 wells currently drilled on lots 2,3 and 4.

He also indicated that research into concerns about the nearby quarry, indicate that a quarry qualifies as a Class 3 industrial use. Therefore the Minimum Distance Separation is 300m and 1000m potentially. Lot 1 is 500m from the industrial lot line for a house. The operational area is located in the south portion of the quarry; the practical distance for a sensitive use is over 800m. There has not been concern raised by any other residents and therefore does not appear to be a major issue. He questioned how the original Ritchie Road subdivision was created.

The Secretary-Treasurer stated that the Provincial Policy Statement has changed over the past 30 years and that the Ministry of Municipal Affairs and Housing might have permitted this development in the past but now there are different standards. She proposed a new condition that site plan control be used to define the building envelope of any buildings on lot 1 for separation distance.

The Secretary-Treasurer recommended that a decision not be made tonight, but that is at the Committee's discretion. A new draft plan was received but only 1 block is indicated and the plan needs to show the parking and docking area illustrated as a block redline change. The location of the parking and docking area is proposed to be located at the north end of the subdivision, between Lots 9 and 10, and accessed by reciprocal easement.

Block A will be designated to the City and zoned EP. The application meets the intent of the Official Plan and Zoning By-law. The City of Kenora's Engineering Department is in receipt of a drainage plan and has reviewed it to ensure that that off-site surface water quality and quantity is not adversely affected by the development. Site plan control will ensure docking is constructed in a suitable manner. An EIS was submitted and revised in March 2012 demonstrating that there will be no negative impacts on the habitat of endangered and threatened species or its ecological function.

The Secretary-Treasurer discussed previous comments from the public.

Alex Clark stated that an existing cottage would remain for the time being. William Wright added that it could be demolished at any time, but that it would be left as is and that if an individual desires to demolish it and build a new structure in the future they could and would then have to meet the current zoning by-law standards.

The Secretary-Treasurer read out the conditions of approval. A new condition would be added to indicate that site plan control be applied on lot 1 regarding residential construction in order to ensure proper minimum distance separation from quarry operations.

Ray Pearson requested clarification on condition 23, regarding the 30m buffer on either side of the stream for lots 1,2,3,4 22 and 23.

Alex Clark stated that according to the EIS, MNR and DFO there is no fish habitat present along the stream but that the lands and stream are being protected for water quality purposes. A 10m buffer on either side of the centreline is proposed for

a total width of 20m. There will be no development for 2m on either side, further down, closer to the lake.

Alex Clark stated that he was unclear how the 30 m buffer distance was determined.

The Secretary-Treasurer responded that the Northwestern Health Unit will not be able to permit septic fields to be located within 30m of the shoreline.

Ray Pearson asked about sharing a road or common easement over the centreline for lots 10 and 11. Mr. Pearson also asked about where the new road will be joined.

The Secretary-Treasurer stated that the Municipal Engineer has reviewed the preliminary drawings but has not yet received the final access plans.

Vince Cianci asked about the testing well requirements.

Alex Clark replied, that the Ministry of Environment requires them to be drilled. There are no aquifers present, only ground water. The average well depth for this area is 65m. There is insufficient soil depth for aquifers. MOE has approved the well locations.

Vince Cianci then asked about cul-de-sac. How is a snow plow or emergency vehicle supposed to maneuver in the small space provided?

The Secretary-Treasurer indicated that this will be brought to the attention of the Municipal Engineer. An easement for lots 10 and 11 would be registered as well. Two extra blocks need to be created as well.

The Chair asked if lot 23 was considered a backshore or waterfront lot?

Alex Clark responded that given the known fishery values, it prudent to ensure that there be no possible docking from lot 23, and that the future owner would be required to dock at the communal docking location. Lot 23 is not deemed a backshore lot on the draft plan of subdivision, but for docking purposes it is considered to be backshore.

The Chair asked the members if there were any other questions; seeing none he opened up the meeting to the floor for comments from the public.

Ray Forzely - 139 Lawton Drive

Mr. Forzely read from a prepared statement and began by stating that he questions the docking layout in terms of overcrowding, lot 23 and the cliff property owners.

Alex Clark responded that there would be 1 docking space per property provided and the docking stalls could accommodate up to a 20 foot boat. The docking layout would be a floating dock system. There is no provision for other docking; people will have to determine how to accommodate larger boats if they purchase a lot at this location.

Mr. Wright suggested that there could be assigned docks for each lot.

Ray Pearson commented that site plan control could be used in this situation.

The Secretary-Treasurer stated that a site plan agreement is a legal and binding agreement that is registered on title. In order to make change to site plan agreement the applicant must apply to the City. Staff can approve site plan

agreements or recommend that they go to a public hearing before changes are made.

The Secretary-Treasurer explained that site plan control will define what dimensions are required for the parking, docks etc.

Mr. Forzely commented that the only real boat launch is at Thatcher Drive, which has deteriorated and cannot be accessed properly and has led to a problem of people simply launching boats off of the shoreline.

The Secretary-Treasurer suggested that he could write a letter to Council to inform them of the situation.

Mr. Forzely finished by stating that the City does not put as much money into this lake as they take out; back lot docking systems should not exist. It seems to be a cash grab for the City.

Lois Forzely - 139 Lawton Drive

Mrs. Forzely read from a prepared statement on behalf of Steve Garret, raising concerns over who would administer compliance with development regarding environmentally sensitive areas, and the docking arrangement for the back lot residents. How will the City control things? Boat crowding may become an issue, how can the Committee approve things that it cannot control? Who will monitor what happens?

Anastasia Wojtyniak - 343B James Road

Ms. Wojtyniak began by asking who would build and maintain the communal docking system. Mr. Clark responded that the docking would be a tenants in common agreement built by the developer and maintained by the owners.

She then read from a prepared letter stating that she does not oppose this subdivision but that drainage of surface water and tributary flooding of tillable land is an issue. There may be noise emitted from the farm and that Wright, and future potential property owners, should be aware of that. Ms. Wojtyniak requested that a barrier fence be constructed by the developer to act as a buffer from the farm operation.

She also questioned how boats larger than 20 feet could be accommodated.

Doreen Houston – 132 Lawton Drive

Mrs. Houston stated that she was upset with the general layout of the subdivision and that strings of cottages along the lakefront is undesirable development. As well, adequate green space is required between lots. She questions whether or not Mr. Wright had read and understood the Black Sturgeon Lake policies.

Lot 23 should be transferred to the City as green space. This proposal does not reflect the overall goals of the Black Sturgeon Lake guidelines.

Dan Olscamp 709D - Peterson Road

Mr. Olscamp, President of the Black Sturgeon Lake Property Owners Association had several points regarding this application:

That lots 1 through 4 and lots 22 and 23 should not be developed due to the uncertainty regarding runoff, from septic and development consequences, into the existing stream flowing through these properties directly into Black Sturgeon Lake.



That the property encompassing lots 12 through 19 be re-configured to have 400 ft. frontages as the said property should be under the umbrella of the Black Sturgeon Lake Restricted Area of the Official Plan mapping regarding frontages in embayments.

He suggested that it be confirmed that the two new roads in the subdivision do not touch the shorelines thereby eliminating any access to launch boats.

Roy Houston - 132 Lawton Drive

Mr. Houston had three main concerns regarding this development:

Lot 23 should be dedicated as green space.

Docking needs to be limited to backshore residents and lot 23 or 1 for each of lots 10 and 11; overcrowding is a concern.

The embayment area is still an embayment area, even if not designated in the Official Plan mapping. Resident concerns regarding this were not considered.

Ed Bohonos - 171 Lawton Drive:

Mr. Bohonos stated that his only concern was how 23 new lots will be accommodated on the Ritchie Road. Existing traffic can barely be supported as it is.

Wayne Gauld asked if there were public for any other comments and received none.

The Secretary-Treasurer asked the Committee for any further ideas they may have and again recommended that a decision on this application be tabled. A site specific plan for the docking will be required, as will a site plan for lot 1, in addition to the labelling of one more block, on the plan.

Wendy Cuthbert said that she felt lot 23 better suited as green space and need more details regarding stream buffering.

Alex Clark responded that considerable effort was made to consider the designation of green space and that there is 12 hectare parcel being dedicated to the City. The 12 hectare dedication is best left as green space due to species and individuals.

Wayne Gauld expressed concern that lot 23 cannot be monitored and that undesirable development cannot be controlled.

William Wright said there has been ample consideration made for green space and environmental protection and that he has abided by all of the City's requirements for development.

The Secretary-Treasurer commented that a site plan for the docking layout will be required as well as more detail regarding the stream buffering. She will take into consideration the comments made tonight and further comments from the Committee members to formulate an updated planning report.

The Secretary-Treasurer stated that the Committee members will have until June 26, 2012 to submit further comments and suggested conditions to her and ideas on when a suitable meeting date could be to vote on this application. The next scheduled PAC meeting is July 17, 2012. All individuals who submitted written request for information will be notified of the next PAC meeting regarding the Wright application. She explained that there will not be an opportunity to comment at that

meeting, unless someone has a new point to make. They would request to be on the agenda as a deputation.

Vince Cianci asked if the boundaries of lot 23 stretched all the way to the lake and commented that the City could assume a portion of the land abutting the lake.

**Moved By: Wendy Cuthbert**

**Seconded By: Terry Tresoor**

That decision for application S01/11 Wright be tabled until there is sufficient information for the Committee to make a proper decision for draft approval.

**CARRIED**

**(ix) Old Business (None)**

**(x) New Business**

- a) OACA – Reports will be given at next meeting
- b) B10/11 Baker – Request for change of conditions

The Secretary-Treasurer stated that condition 9 of approval of Application B10/11 Baker cannot be fulfilled by the applicant because the Land Registrar will not accept an undertaking to be registered on title. The City will use the Zoning By-law for enforcement and by making a minor change in condition, no notification will be required. Recommendation is that the condition be changed to the applicant providing an undertaking to the City of Kenora. This was not the fault of the applicant.

**Moved by: Vince Cianci**

**Seconded by:**

**Ted Couch**

THAT because the Land Registrar will not register an undertaking on title, the Kenora Planning Advisory Committee hereby approves the request for a change to condition 9 of a decision made on July 19, 2011, to the following: That the Applicant provides an undertaking to the City of Kenora, which is also to be registered on title of the "Lot 1" shown on the sketch, indicating that the "old house" currently used as a garage/shop is not currently and is not permitted to be used for a residential or sleep cabin use; and THAT all of the conditions of approval given previously continue to apply.

**CARRIED**

- c) The Secretary-Treasurer informed the Committee of the two Ontario Municipal Board appeals received for the Aamikkowiish and Bell applications, and as well that no decision has been rendered by the OMB regarding the Tutura hearing.

**(xi) Adjournment**

**Adjourn**

**Moved by: Terry Tresoor**

**THAT** the June 19, 2012 Planning Advisory Committee meeting be adjourned at 9:52pm.

**MINUTES ADOPTED AS PRESENTED THIS 17<sup>th</sup> DAY OF JULY, 2012**

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**CHAIR**

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**SECRETARY-TREASURER**