



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 &
ADVISORY COMMITTEE
SPECIAL MEETING HELD IN THE OPERATIONS CENTRE
FOURTEENTH ST. N., KENORA
May 24, 2012
4:00 P.M.

PLANNING
60

Present:

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

Regrets: Vince Cianci Member

DELEGATION: None requested

(i) Call meeting to order

James Tkachyk called the May 24, 2012 special Planning Advisory Committee meeting to order at 4:00pm.

James 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: None.

(iv) Adoption of Minutes of previous meeting: N/A

Business arising from minutes: None.

(v) Correspondence relating to application before the Committee –

The Secretary-Treasurer read a letter to the Committee from Tim DePorto that was received on May 22, 2012. She also read a letter from the MNR, that was received on April 17, 2012. Another site plan was received on May 24, 2012 from Mr. Bell with an updated docking site plan, to which Rob Halverson explained with another email later the same day. There was no further correspondence.

(vi) Other Correspondence – None.

(vii) Consideration for Application for Plan of Subdivision**1. S01/12 Bell****Proposed Draft Plan of Subdivision**

Present for the meeting:

Robert Bell & Lisa Bell, Owner / Developer
Jeffrey Port, Agent

James Tkachyk requested Jeffrey Port to present first and that the Committee would then ask questions after.

Jeffrey Port, Agent representing Robert and Lisa Bell began by stating that the concerns outlined in the letter from the Ministry of Natural Resources on May 15, 2012 have all been addressed and are no longer a concern. The draft conditions of approval have been agreed to after discussing them with City Staff, as well that some additional conditions have been added to the application.

Mr. Port then stated that the common docking issue is the one problem that he would be addressing specifically tonight. There will be six boat slips on the property that would be for use by owners of the backshore lots and that the proposed strip of land for the six parking spaces would be held by a tenants in common agreement. Site plan control would apply.

Mr. Port also added that the Roads Supervisor has been on site and has no concerns regarding the communal docking arrangement.

Mr. Port then commented that he could now answer any questions related to the communal docking configuration or any other technical questions regarding the application.

The Secretary-Treasurer reviewed the updated the staff planning report and read out the new information that was added for everyone in attendance. In regard to species at risk, there will be an MNR study conducted in June regarding species at risk on site for the Bell Subdivision as well as other locations in the City of Kenora. The MNR will use this information to evaluate the information provided by proponents of developments.

The Secretary-Treasurer also asked what would be done if the communal docking layout does not fit or is incompatible as she has not had a chance to study it in detail.

David Byers asked if this issue was open for public debate as there have been some safety issues with the road layout.

The Secretary-Treasurer explained that the May 15, 2012 Planning Advisory Committee meeting was the statutory public meeting and that the decision was tabled to the meeting tonight. There is opportunity for public comments up until the date of decision in which the Committee considers all comments from external agencies and members of the public. The meeting tonight is not open public comments, however that any member of the public may file an appeal to the Ontario Municipal Board in regards to the decision of the Committee or any of the conditions of approval.

James Tkachyk asked Mr. Port if he had any further comments, to which he replied that he would answer any questions the Committee had for him.

James Tkachyk asked the members of the Committee for comment.

Wayne Gauld expressed concern over the proposed docking and parking configuration with regards to space and traffic. He would like to see the final layout before making a decision.

Mr. Port responded by stating that it is the responsibility of the applicant to satisfy all conditions of approval in order for the subdivision to be registered. If six vehicles cannot be accommodated properly then the subdivision will not be given final approval. Mr. Port also commented that a secondary location for backshore resident docking had not been an issue early in the process and that the concern has happened recently. The reconfiguring the docking would require additional time and thinking.

Wayne Gauld stated that the docking was not really discussed amongst the Committee and was just brought up at the end of the previous meeting on May 15, 2012.

Mr. Port replied that layout issues relating to docks, parking spaces etc. are handled through site plan control and that draft plan of subdivision approval is not necessarily a tool to handle site specific items.

The Secretary-Treasurer responded that the Committee may act through section 51(24) of the Planning Act and judge whether or not the application meets all requirements to proceed with approval and to red flag any issues they feel are outstanding or detrimental.

The Secretary-Treasurer stated that if there is insufficient information to make a proper decision, then more information can be requested. She reminded the applicant of the Official Plan policy which requires access be provided for backshore lots.

Mr. Port also added that there comes a certain level of detail where these decisions are taken away from the Committee and handled by staff through site plan control.

Wayne Gauld asked if there are any alternatives for another communal docking location.

Mr. Port replied that he had considered the matter before the meeting and that there would not likely be an alternate location due to the tight frontages of the lots and that a large scale creative reconfiguration would be necessary to accommodate an alternative communal docking location.

Ted Couch said that he has the same concerns as Mr. Gauld. Staff could be left to deal with this issue through site plan control, but that it may be better if the Committee saw the new location first and could discuss it. More information is required.

James Tkachyk asked about the hatched area on the reference plan, to which he was informed by the Secretary-Treasurer that it would be transferred to the City for right of way allowance. Mr. Tkachyk also questioned the number of boats permitted on the communal docks. The Municipal Engineer has calculated a capacity for 16 boats.

Terry Tresoor had the same question as James Tkachyk regarding the number of boat slips. The Roads Supervisor's judgment would be trusted for this situation. Mr. Tresoor commented that he would be satisfied if the Roads Supervisor was.

Wendy Cuthbert asked about the docking layout and indicated that she is not happy about the proposed Block 3 design. After the road allowance and drive aisles are implemented space may be an issue and that vegetation may also be destroyed. As well that the parking lot should not be located in such close proximity to the water as per the Black Sturgeon Lake policies. A lot should be used for the communal docking instead, perhaps lot 2. Docks and a parking lot should not be located in Block 3 at all and fishery values should be protected. Block 3 is not really a suitable piece of land to do anything with and that turning it over to the City for parkland is a good idea and that the current proposed communal docking and parking lot location may be a flood concern. She then asked what is to become of Block 1, to which Mr. Port responded that it could be turned over to the City or folded into a road allowance.

Wendy Cuthbert also asked about the quarry location and for supporting documents verifying that proper site remediation took place.

Mr. Port responded to this by stating that the Ministry of Environment has inspected the site and that therefore no documentation is required.

The Secretary-Treasurer interjected that she has received an email from the MOE, which indicated that MOE has closed their files on the matter.

Mr. Port stated that an additional testing well is a condition of approval.

Wendy Cuthbert proposed that a new condition be added or confirmation be received that the quarry has been correctly closed.

Ray Pearson stated that he has similar concerns to the rest of the Committee. There should be consideration given for an alternate communal docking location, as well that eight slips is too many slips and a more detailed site plan drawing is required in order to make a proper decision. Ray also asked about the lot access and was informed that the backshore lots will be accessed by the internal road only.

Ray Pearson then asked about the area of Lot 10, with regards to a discrepancy between the draft plan drawing and the report. The report stated 2.83 hectares in size and the drawing stated that it was 2.81 hectares. The lot size is 2.81 ha.

Mr. Pearson asked about the commercial well, and was told that it is located on lot 15.

Wayne Gauld asked about boat launching on Black Sturgeon Lake.

The Secretary-Treasurer indicated that Thatcher landing is a public boat launch on Black Sturgeon operated by the MNR and that there are also some commercial ones, but that there will be no more additional commercial boat launches added to Black Sturgeon Lake, in accordance with the Official Plan.

James Tkachyk commented that Block 3 seems to be the main road block for this approval.

Mr. Port informed the Committee that there is presently not a drawing that shows the dimensions and site plan specifics of Block 3. He suggested a condition could be added that a specific site plan for Block 3 be drafted and given to the Committee for discussion.

James Tkachyk stated that using site plan control for Block 3 would turn the issue over to City staff and would no longer be an issue for the Committee. The Official Plan states that backshore lots must have docking and water access and that there cannot be more backshore lots than waterfront lots. The general principles have been satisfied and the current issues moving forward seem to be site specific items.

Wendy Cuthbert questioned a parking lot being permitted in the Black Sturgeon Lake Restricted Development Area and about infilling of land. She also questioned if it was legally possible for docking and parking to be located in Block 3.

Jeffrey Port responded by saying that the answer is maybe.

Wendy Cuthbert then replied that she does not think it is allowed with regards to the 20m shoreline reserve.

Wayne Gauld state that he cannot envision how things are going to look and more information is required for a decision. A rationale and detailed site plan is required to

make a proper decision. As well how will the parking and docking layout comply with the Black Sturgeon guidelines.

The Secretary-Treasurer commented that the Municipal Engineer and Roads Supervisor both have suggested that access for docking and parking be provided from within the subdivision proper.

James Tkachyk asked about an additional condition being added regarding the quarry.

Wendy Cuthbert interjected that water testing should be undertaken to ensure that the situation is safe.

A new condition for the quarry was then added by the Secretary-Treasurer.

Jeffrey Port informed the Committee that the docking proposal be removed and that it could be provided using an easement from lot 3, and the Block 3 could be transferred to the City for parkland.

James Tkachyk stated that the Committee should determine what happens to Block 1. Wendy Cuthbert also asked about what is to become of Block 1.

Jeffrey Port stated that a condition could be that Block 1 be transferred to the City or to the abutting neighbor.

James Tkachyk stated that this should be tabled until the location of the easement is known.

Mr. Port said this should be a condition instead.

Wayne Gauld also said this could be a condition.

Wendy Cuthbert questioned the nature of making it a condition because then the public participation would be discontinued from the process if approval was given tonight.

James Tkachyk stated that a docking location, using an easement is somewhat limited due to fishery values and topography.

The Secretary-Treasurer commented that a block is usually set aside for communal docking as a tenant in common agreement. This easement solution is not a common proposal.

Ray Pearson commented that the easement could be made a condition and then the applicant would be required to satisfy it and docking would still be subject to site plan control.

The Secretary-Treasurer informed the Committee that if made a condition then the site plan approval would be made by City staff. Decisions regarding whether or not a condition is satisfied is also made by the Secretary-Treasurer and the Committee would have no further involvement in the decision making process.

Wendy Cuthbert stated that she is not against the subdivision but wants to express concern about the public and the Committee being shut out of the decision making process if approval is given tonight with the proposed conditions.

Mr. Port replied that the applicant has been very accommodating to the public's concerns and that by abandoning the docking location in Block 3 and locating it on one of the lots, the problem would be taken care of. Also that it is known where the MNR values are located and finding a suitable location for the docking would not be an issue, therefore the Committee should vote for approval tonight.

James Tkachyk asked where the Committee stood on this.

Wayne Gauld commented that the public do not really have anything to say about the layout of the site, in terms of the easement and docking location. The only concern is about the docking, the public do not really get to provide input on the location of the easement and that the public would not likely be concerned about the location of the easement. They may have issue about the docking location, but that there are enough agencies provide comments that it will be done right and that if the condition is not properly satisfied then the docking will not take place.

Wendy Cuthbert remained indicated that this methodology that would remove the public from any further discussion, which is not a good way of operating. As well the Committee after voting for approval is also shut out from the process.

The Secretary-Treasurer responded that although the use of an easement has not been commented on internally, with the fisheries studies in place it is known where the docking and easements cannot be located and that a condition could still limit the applicant to six slips total. Parking could be part of the condition as well with provisions that do not allow any structures to be constructed and boat launching would be prohibited.

James Tkachyk asked how Block 3 would be transferred.

Jeffrey Port responded that this could be transferred to the City for road allowance.

The Secretary-Treasurer indicated that that it may not be taken as parkland dedication.

The Secretary-Treasurer reviewed all of the new draft conditions.

Moved by: Ted Couch

Seconded by: Terry Tresoor

That this draft approval applies to the Plan of Subdivision File No. S01/12 Bell –
Part of Lot 5 Concession 1 Geographic Township of Melick, City of
Kenora, District of Kenora.

The proposed development meets the criteria as set out in Section 51(24) of the *Planning Act* which establishes the criteria in considering Draft Plan of Subdivision applications in consideration of the following draft conditions, as well as any others deemed necessary by the City of Kenora shall apply:

That this draft approval applies to the Plan of Subdivision File No. S01/12 Bell – Proposed Plan of Subdivision of Part of Lot 5 Concession 1 Geographic Township of Melick, City of Kenora, District of Kenora, prepared by exp. Geomatics Inc., dated March 29, 2012 and amended May 15, 2012 shows a total of:

- twenty three (23) new residential lots,
- 2 blocks
- two new Local Roads

1. That a Subdivision Agreement be signed and executed between the owner or Developer and the City of Kenora.

2. That the Subdivision Agreement between the owner or Developer and the City of Kenora be registered against the lands to which it applies along with the final Plan of Subdivision, prior to any other registrations.

3. That all costs associated with development, technical/legal review and registration of the subdivision agreement shall be borne by the Developer.

4. That the road allowance shown on the Plan of Subdivision shall be dedicated on the final plan as public highways for municipal purposes to the City of Kenora.
5. That a driveway access be provided, to City specifications, to accommodate the existing driveway /access to lands described as CON 1 M5 N PT LOT 5 LESS PT 6 23R5620 PCL 35195 & RP 23R7282 PARTS 2 & PCL 37689 PT 1 23R3759.
6. That the City of Kenora may acquire lands for rights-of-way or the widening of rights-of-way, if deemed necessary. Any road widening, as required by the City of Kenora, will be specified in the Subdivision Agreement between the City and the Developer.
7. That the street(s) shall be named to the satisfaction of the City of Kenora Council through the Property and Planning Committee and the name be endorsed through a City By-law.
8. That the Developer shall receive approval from the Northwestern Health Unit, for the proposed lot configurations with respect to the location of private sewage systems.
9. That the Developer shall provide acknowledgment from the Northwestern Health Unit that the area designated as Block 2 on the draft plan is sufficient to accommodate the existing private septic field.
10. That the Developer provides a well record for Lot 10 indicating that the quantity and quality of water meets the standards of the Ministry of Environment Technical Guidelines D-5-5.
11. That the Developer shall provide documentation that Block 2 has been consolidated with, or tied to, lands described as CON 1M N PT LOT 4 PCL19444.
12. That all roads be constructed to the standards of the City of Kenora and as agreed to in the Subdivision Agreement.
13. That the subject lands be rezoned to BSL – Black Sturgeon Lake (Restricted Development) and/or EP – Environmental Protection.
14. That a clearance letter be received from the Ministry of Ministry of Tourism and Culture indicating no objection to the use of site plan control and zoning – to EP – Environmental Protection - to ensure no disturbance of two sites confirmed to be of archaeological significance.
15. That the areas indicated on the draft plan and described in the archaeological assessment by Northern Lights Heritage Services Inc., over portions of proposed Lots 1, 2, 15 and 16 be rezoned to EP – Environmental Protection and be subject to site plan control agreements to ensure no disturbance of the sites.
16. That the application to rezone includes exceptions for lot frontage for proposed lots 19, 20, 22 and 23 in order to meet the intent of the Zoning By-law to have frontage on the road which will provide access to lots.
17. That an application for a lot addition from lands described as Part 1 on Plan 23R-11962 be approved.
18. That applications for reciprocal easements, in favour of lands indicated on the draft plan as parts 16, 17 and 18 be approved.

19. That the Developer agrees to grant such easements as may be required for utility purposes to Bell Canada and Hydro One. These easements shall be shown on the reference plan.

20. That the Developer makes satisfactory arrangements with Hydro One for the provision of electrical services for this Plan of Subdivision.

21. That the Developer, prior to final approval, provides written indication from the Ministry of Natural Resources that they are satisfied that the Species at Risk Values have been identified, and if necessary, mitigated.

22. That the lands described as proposed Lots 3 and 4 (Section 8 Figure 2 Bell Property Black Sturgeon Lakes Fish Habitat Assessment – Fall 2010, by Ryan Haines Consulting) including no development or removal of riparian vegetation for 20 metres from the high water mark, Lots 5 and 6 (Sections 10-12 Figure 2 Bell Property Black Sturgeon Lakes Fish Habitat Assessment – Fall 2010, by Ryan Haines Consulting) including no development or removal of riparian vegetation for 20 metres from the high water mark, Lots 9 and 11 (Sections 18-20 Figure 2 Bell Property Black Sturgeon Lakes Fish Habitat Assessment – Fall 2010, by Ryan Haines Consulting) including no development or removal of riparian vegetation for 20 metres from the high water mark, Lots 13 and 14 (Section 21-22 Figure 2 Bell Property Black Sturgeon Lakes Fish Habitat Assessment – Fall 2010, by Ryan Haines Consulting), including no development or removal of riparian vegetation for 20 metres from the high water mark. A portion of Lot 15 (eastern 30 metres of Section 24) including no development or removal of riparian vegetation for 20 metres from the high water mark and Lot 18 (Section 28 Figure 2 Bell Property Black Sturgeon Lakes Fish Habitat Assessment – Fall 2010, by Ryan Haines Consulting), including no development or removal of riparian vegetation for 20 metres from the high water mark, and shown on the Draft Plan of Subdivision be subject to Site Plan Control as per Section 8.4 of the City of Kenora Official Plan, 2010, and that said Site Plan Agreement will be signed and an undertaking provided indicating that it will be registered on title of each individual new lot, as it applies. The Developer will be responsible for submitting a Site Plan Control application and supporting information to the satisfaction of the City of Kenora.

23. That the subdivision agreement shall include a clause indicating that the Developer shall agree that, if the drainage is to be allowed to flow via the natural low lying land of the private lots, the City will not be responsible for those portions of drainage courses that traverse through private lands.

24. That the Developer, prior to final approval, shall submit to the City of Kenora, a digital file of the plan to be registered in a format approved by the City of Kenora, and in "pdf" format.

25. That the subdivision agreement shall include a caution indicating that shoreline development is permitted along sections 15, 17, 21, 23, 27 as indicated in the Bell Property Black Sturgeon Lakes Fish Habitat Assessment – Fall 2010, by Ryan Haines Consulting, but that there be no dredging of the bottom and no removal of aquatic plants along these sections in order to protect potential spawning habitats.

26. That the Developer will be responsible to pay the cash-in-lieu of the required 5% parkland dedication to the City of Kenora.

27. That the Developer will be responsible to pay a Black Sturgeon Environmental Sustainability fee of \$275.00 per lot which will form part of the Subdivision Agreement.

28. That the Developer provides comments from Transport Canada regarding permitted length of docks to be permitted in channel adjacent to proposed Lots 5 through 7 and that if in order to maintain a navigable waterway, there are certain restrictions to the size/length/construction of docks the Developer provides an undertaking indicating that

said restrictions will form part of agreements of purchase/sale associated with the affected lots.

29. That the Developer provides a letter from Transport Canada indicating that there is no designated airspace in the channel adjacent to proposed Lots 5 through 7.

30. That the Developer, prior to final approval, provides a letter from the Ministry of Natural Resources indicating that the quarry located on Lot 10 was closed in accordance with Provincial regulations.

31. That Block 1 in conveyed either to the owner of property described as CON 1 M5 N PT LOT 5 LESS PT 6 23R5620 PCL 35195 & RP 23R7282 PARTS 2 & 4 PCL 37689 PT 1 23R3759 and consolidated or, as good road allowance to the City of Kenora.

32. That the lands described on the draft plan as Block 3, and all additional land along the east shore of Black Sturgeon Lake and abutting the East Nekick Road be conveyed to the City of Kenora as part of the cash in lieu or as road allowance.

33. That an easement for the purposes of parking and docking be provided in favour of the owners of Lots 10, 19, 20, 21, 22 and 23 with the following requirements (not to be located on Lots 4-7) and that the proposed works associated with a communal docking and parking area are subject to Site Plan Control per section 8.4 of the City of Kenora Official Plan and that said Site Plan Agreement will be signed and an undertaking provided that it will be registered on title of and included in each agreement of purchase and sale with the following parameters:

- Docking location for six(6) slips only
- No Launching facility
- Parking for six (6) vehicles only
- No other structures
- Minimum 10 metres in width

34. That prior to the granting of Final Approval, the Kenora Planning Advisory Committee is to be advised by the Developer that Conditions 1 through 33 have been carried out to its satisfaction. Clearance letters from the City of Kenora and external agencies are to be included.

Notes to Draft Approval:

- a) No assessment has been made for quality nor quantity of groundwater. The waters of the Black Sturgeon Lake should not be used for human consumption unless they have been treated to the standards of the Ministry of the Environment or Ministry of Health and Long-Term Care before use.
- b) Should human remains be identified during operations, all work in the vicinity or 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 should also be made to the Ministry of Tourism and Culture office and the Registrar of Cemeteries, Ministry of Consumer and Commercial Relations. Other government staff may be contacted as appropriate however media contact should not be made in regard to the discovery.
- c) Should 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 and Culture Archaeologist contacted at (807) 475-1632. This condition provides for the potential of deeply buried or enigmatic local site areas not typically identified in evaluations of potential.

- d) It is the applicant/owner' responsibility to fulfill the conditions of draft approval and to ensure that the required clearance letters are forward by the appropriate agencies to the Planning Administrator, City of Kenora, 60 Fourteenth Street North, Kenora, ON P9N 4M9, quoting the City of Kenora file number (S01/12 Bell).
- e) All measurements on the final Plan of Subdivision must be shown in metric units.
- f) Access from the lots, with the exception of Lots 15, 16, 17 and 18 shall be from the internal roads as indicated on the draft plan.
- g) That draft approval for this development is for a period of three (3) years. The owner may apply for any extension at least sixty (60) days prior to the lapsing date.
- h) That plan must be registered within 30 days following final approval be by the City of Kenora or approval may be withdrawn under Subsection 51(59) of the *Planning Act*.

CARRIED

(viii) Adjourn

Moved by:

THAT the May 24, 2012 Planning Advisory Committee meeting be adjourned at 5:45 p.m.

MINUTES ADOPTED AS PRESENTED THIS 19st DAY OF JUNE, 2012

CHAIR

SECRETARY-TREASURER