



PROCEEDINGS

Of a Public Meeting to discuss an
Amendment to Zoning By-law #160-2010
(Re: Housekeeping Amendments)
Thursday, January 26, 2012 - City Council Chambers
At 10:00 a.m.

PRESENT: Councillor L. Roussin
Councillor C. Drinkwalter
Councillor R. McMillan
Karen Brown, CAO
Rick Perchuk, Operations Manager
Matt Meston, Planning Assistant
Heather Kasprick, Deputy Clerk
Nadia De Santi, FoTenn Consultants

REGRETS: Mayor D. Canfield
Councillor R. Lunny
Councillor R. McKay
Councillor S. Smith
Tara Rickaby, Planning Administrator
James Tkachyk, Planning Advisory Chair

Chairman of Property and Planning Committee, Louis Roussin opened the meeting. This public meeting is being held by the City of Kenora Property and Planning Committee in accordance with Section 34 of the Planning Act to consider an amendment to the City of Kenora Comprehensive Zoning By-law No. 160-2010. The Property and Planning Committee will make a recommendation to Council with respect to whether or not the application should be approved. The Council of the City of Kenora will make the decision at a meeting of Council.

The Chair asked the Clerk to confirm the date of notice given by publishing a notice the Kenora Daily Miner and News, being a newspaper that, in the opinion of the Clerk of the City of Kenora, is of sufficiently general circulation in the area to which the proposed by-law would apply that it would give the public reasonable notice of the public meeting. Ms. Kasprick, Deputy Clerk, advised the Notice pertaining to this public meeting appeared in Kenora Daily Miner & News on December 22, 2011 as well as January 4, 2012.

The Chair indicated that if anyone wishes to receive written notice of the adoption of the By-law is to leave their name and address with the Clerk.

The Chair explained that an appeal may be made to Ontario Municipal Board not later than 20 days after the day that the giving of notice as required by section 34(18) is completed by either the applicant or person or public body who, before the by-law is passed makes oral submissions at a public meeting or written submissions to the Council by filing a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee prescribed under the Ontario Municipal Board Act, with the City Clerk.

The Chair stated that the Applicant/Agent will provide the background information for their application and then the Planning Administrator provide information from the planning report, after which anyone who wishes to speak either for or against the application will be given the opportunity to do so, and a record will be kept of all comments.

Nadia De Santi, Senior Planner with FoTenn Consultants Inc. (via teleconference) then reviewed the details of the Planning Report:

BACKGROUND

The City of Kenora Zoning By-law 160-2010 was adopted by Council in August 2010. The report includes a draft Amending By-law as Appendix A. The proposed Amendment applies to the entire City of Kenora.

The Zoning By-law Amendment proposes twenty-seven (27) changes to the Zoning By-law. The purpose and effect of the amendment is to revise and add some new definitions and illustrations in Section 2-Definitions, as well as to correct some inconsistencies, clarifications, as well as some changes to the performance standards in Section 3 – General Provisions, and to refer to maximum density, park area, and landscaping requirements in Section 4.4 – Residential – Mobile Home Zone, as well as the correction of a provision in Section 4.5.3 – Rural Residential Zone and the deletion of an incorrect reference to the rear yard setback requirement in Section 4.15 – Institutional Zone. No Schedule changes are proposed with the amendment.

DISCUSSION OF CHANGES TO THE ZONING BY-LAW:

The following applies to Section 2 - Definitions of Zoning By-law 160-2010.

1. THAT the term "Balcony" in Section 2 - Definitions shall be deleted and replaced with the following definition: "Balcony"
"A horizontal structure that projects from the exterior of a building and can only be accessed from within the building."

Purpose and Rationale: The above change proposes to add wording to specify that a balcony can only be accessed from within the building.

2. **THAT** the following definition shall be added: "Breezeway"

"A roofed enclosed passage connecting two or more buildings or the main wall and a deck, where the deck is part of the main building."

Purpose and Rationale: The above change proposes to add a definition for "Breezeway" to the Zoning By-law to address commonly asked questions of the City as to whether or not a breezeway can connect two or more buildings.

3. **THAT** the term "Deck" shall be deleted and replaced with the following definition: "Deck"

"A structure without a roof, having a foundation to hold it erect, the floor which at any point of the perimeter is more than 600 mm above adjacent grade, is either accessible from within the building or from outside when at grade, and is attached to or abutting one or more walls of a building or constructed separate from a building, with or without direct access to the ground, but shall not include a landing or a step."

Purpose and Rationale: The existing definition is not clear and could include floors directly on the average grade. Floors directly on the average grade are not typically considered as decks. The above change proposes to amend the existing definition of "Deck" to further refine the measurement of the floor above grade. In the new definition, the floor of the deck will be more than 600 mm above the adjacent grade at any point of its perimeter whereas in the current definition, the floor of the deck is above finished grade.

4. **THAT** Schedule "A" attached to the draft By-law shall be added to the "Floor Area Ratio" definition.

Purpose and Rationale: The illustration will provide clarification to the definition of "Floor Area Ratio" and to how it is calculated.

5. **THAT** Schedule "B" attached to the draft By-law shall be added to the "Lot" definition.

Purpose and Rationale: The illustration will provide clarification to the types of lots defined under the term "Lot".

6. **THAT** the "Lot Frontage" definition, Subsection b) shall be deleted and replaced with the following:

The horizontal distance between the side lot lines of a lot, measured parallel to the front lot line at a point that is equal to the front yard setback requirement for the zone. For a waterfront lot as defined in this By-law, the frontage shall be measured as shown in the Illustration of Waterfront Lot Abutting a Street.

Purpose and Rationale: The frontage measurement in the current definition does not reflect the frontage measurement in the illustration for waterfront lots abutting a street.

7. **THAT** the "Lot Line" definition, Subsection b) shall be deleted and replaced with the following:

"b) rear lot line, which means the lot line farthest from or opposite to the front lot line. If the lot has less than four (4) lot lines there shall be deemed to be no rear lot line."

Purpose and Rationale: The proposed change will provide consistency with the "Lot Frontage" definition in the Zoning By-law. The "Lot Frontage" definition includes an illustration for waterfront lots abutting a street which shows that the waterfront is considered as the front lot line. Waterfront lots generally do not have two front lot lines and therefore the wording in the existing Zoning By-law is incorrect.

8. **THAT** the following definition shall be added: "Patio"

"A platform or surfaced area, without a roof that is accessory to a dwelling or commercial use which at any point of the walking surface perimeter is 600 mm or less in height from adjacent grade."

Purpose and Rationale: The proposed definition would enable the City of Kenora to differentiate between a patio and a deck.

9. **THAT the** following definition shall be added: "Shipping Container"

"An article of transportation equipment, including one that is carried on a chassis, that is strong enough to be suitable for repeated use and is designed to facilitate the transportation of goods by one or more means of transportation and includes, but is not limited to, intermodal shipping containers, body of transport trailer or straight truck box but does not include a motor vehicle. Shipping containers include containers originally used as an article of transportation equipment."

Purpose and Rationale: The above change proposes to add a definition of "Shipping Container" to the Zoning By-law. A new Subsection 3.11.1 (g) is proposed to regulate the use of shipping containers to ensure that these containers are used for the sole purpose of storage.

10. **THAT the** following definition shall be added: "Wind turbine"

"A machine or device for converting the kinetic energy in wind into electrical energy that is suitable for use. A wind turbine includes a tower, housing, blades, and related appurtenances."

Purpose and Rationale: The Zoning By-law refers to wind turbines in Subsection 3.25 (o), however, no definition of "Wind turbine" is provided.

11. **THAT the** following definition shall be added: "Wind turbine, height"

"The vertical distance between the average finished grade and the highest point of the structure measured as the aggregate total of the base, tower and blade, when the blade is in a vertical position."

Purpose and Rationale: The proposed change will provide clarification on the measurement of the height of wind turbines.

The following applies to Section 3.10 – Regulation for Consolidated Lot Development of Zoning By-law 160-2010.

12. **THAT** Section 3.10 – Regulation for Consolidated Lot Development, Subsection b) shall be deleted and replaced with the following text:

"Where a comprehensive plan of condominium or plan of subdivision has received draft plan approval, as well as any required site plan approval, and where registration of the plan is intended to occur in phases and/or stages, the lands to which the draft approved plan of condominium or plan of subdivision is to be located, shall be deemed to be one lot for the purposes of applying the provisions of the By-law. Zoning provisions shall apply only to the external lot lines of the overall plan of condominium or plan of subdivision, not to internal lot lines resulting from the registration of any phase of a plan of condominium or plan of subdivision."

Purpose and Rationale: The above change corrects the term "condominium" to make reference to "plan of condominium". In addition, the change will add references to "plan of subdivision". As such, Subsection 3.10 (b) will apply to both the "plan of condominium" and the "plan of subdivision".

The following applies to 3.11.1 – Accessory buildings, uses or structures of Zoning By-law 160-2010.

13. **THAT** Subsection b-iv) shall be deleted and replaced with the following text:

iv. built closer to the street than the main building is to that street, except in the case of a waterfront property in the R1 – Residential First Density Zone, a waterfront property in the R2 – Residential Second Density Zone, of a property in the RR – Rural Residential or in the RU – Rural zones. In the case of a waterfront property in the R1 – Residential First Density Zone or R2 – Residential Second Density Zone, the accessory structure shall be located at least 3 m from the rear lot line.

Purpose and Rationale: The above change adds additional exceptions to the requirement that accessory buildings, uses or structures shall not be built closer to the street than the main building and a requirement for the R1 and the R2 zones.

14. That the introduction to Subsection c), Subsection c-i) and Subsection c-ii) shall be deleted and replaced with the following text:

"c) When a boathouse, boat port, sauna, gazebo / picnic shelter, storage building, pump house, dock, shoreline deck is erected on a lot that abuts a navigable waterway, the following provisions shall apply:

i. no minimum setback is required on the lot line that abuts the navigable waterway;
ii. a minimum side yard setback of 4.5 m is required for accessory uses located between the principle dwelling and the navigable waterway;"

Purpose and Rationale: The current wording is confusing and the proposed change is to provide clarity.

15. **THAT** the following new provisions shall be added to Subsection c):

"iv) a minimum rear yard setback of 3 m where access to the rear yard is from a lane or street; and

v) a minimum rear yard setback of 1 m in all other cases."

Purpose and Rationale: The above change adds setback requirements for accessory buildings, uses or structures located in the rear yard.

16. **THAT** the following subsection shall be added:

"f) When an accessory garage is permitted it may not be built in advance of the principal dwelling, except in the RR – Rural Residential Zone and RU – Rural Zone.

Purpose and Rationale: The City of Kenora wishes to ensure that developers/landowners do not construct an accessory garage and omit to construct a principal dwelling once this garage is constructed. The above change adds a requirement that the principal dwelling shall be constructed prior to the construction of the accessory garage, except for in the RR and the RU zones.

17. **THAT the** following subsection shall be added:

"g) When a shipping container is permitted, such shipping container shall:

i. be used exclusively for the storage of goods and materials and shall not be used as a garage, as human habitation, or to accommodate uses such as work areas, shops, or offices;

ii. only be permitted in the following zones: HC – Highway Commercial, ML – Light Industrial, MH – Heavy Industrial, MX – Extractive Industrial and RU – Rural, Open Space and I – Institutional;

iii. be located no closer to the road than the principle structure;

iv. not be located in any front yard where there is no other structure; and

v. Site Plan Control shall be used for exterior finishes."

Purpose and Rationale: The proposed change will regulate the use of shipping containers.

The following applies to Section 3 – General Provisions of Zoning By-law 160-2010.

18. THAT the following subsection shall be added to **Section 3.11.4 – Utility Installations:**

"h) Despite the yard and setback requirements of the By-law to the contrary, ground-mounted solar panels may be permitted in any zone provided that:

In residential zones:

- i. it is setback at least 0.3 metres from a lot line;*
- ii. it may be not located in a front yard, except within the RR – Rural Residential Zone; and*
- iii. it may not be located in an exterior side yard.*

In non-residential zones:

- i. in a yard abutting a residential zone, it is setback at least 0.3 metres from a lot line;*
- ii. it may not be located in a front yard, except within the RU – Rural Zone;*
- iii. despite provision (ii), solar panels shall not be permitted in the front yard of lots abutting a navigable waterway in the RU – Rural Zone; and*
- iv. in all other cases, there are no restrictions.*

Purpose and Rationale: The proposed change adds provisions relating to ground mounted solar panels. The Zoning By-law currently includes provisions for "solar panels" under Section 3.24 - Permitted Yard Encroachments. A distinction was required to differential between ground mounted and roof-top solar panels.

19. THAT Section 3.16.6 – Swimming Pools & Hot Tubs shall be deleted and replaced with the following text:

"The swimming pool and / or hot tub shall be enclosed by a fence in accordance with the City of Kenora Fence By-law as amended."

Purpose and Rationale: The proposed change will ensure consistency with the City of Kenora Fence By-law. The proposed change replaces the reference of a gated fence "with a minimum height of 1.75 m".

20. THAT Table 3 – Permitted Yard Encroachments, Section 3.24 - Permitted Yard Encroachments shall be amended to delete the existing reference to "solar panels" and to add the following row:

Roof-top solar panel	Any yard	1.0 m but no closer than 0.3 m to any lot line
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Purpose and Rationale: The current reference to "solar panels" includes both ground mounted solar panels and roof-top solar panels. The impact of these two types of solar panels is quite different. While the roof-top solar panel is structurally attached to a building, ground mounted solar panels are located on the ground and should be considered as a utility rather than as a permitted encroachment. The proposed change

deletes the general reference to "solar panels" and adds provisions relating to roof-top solar panels.

21. THAT Section 3.26 – Landscaped Open Space and Landscaped Buffer Strips, Subsection a) shall be deleted and replaced with the following text:

"a) Any part of a lot subject to Site Plan Control which is not occupied by buildings, structures, parking area, loading spaces, driveways, excavations or permitted outdoor storage areas shall be screened or buffered, except that this provision shall not apply to any agricultural use."

Purpose and Rationale: The proposed change adds wording to the effect that landscaping is only required on lots subject to Site Plan Control.

22. THAT Section 3.29.3 – Driveway Provisions for Residential Zones Subsection a) shall be deleted and replaced with the following text:

"a) Driveways shall be permitted subject to other provisions of the Zoning By-law and subject to the approval of an entrance permit application by the City's Road Supervisor."

Purpose and Rationale: The proposed change will ensure consistency with other provisions of the Zoning By-law and will enable the City's Road Supervisor to assess proposed driveways through the approval of an entrance permit application. The proposed change deletes the reference to yards and replaces this reference with a statement that driveways shall be "subject to other provisions of the Zoning By-law and subject to the approval of an entrance permit application by the City's Road Supervisor."

23. THAT the following text "and below-grade parking areas and spaces" shall be added directly after "All off street parking areas and spaces" in **Section 3.29.4 – Design of Parking Areas and Spaces.**

Purpose and Rationale: The proposed change will add requirements for the design of below-grade parking areas and spaces.

24. THAT Subsection c) shall be added to **Section 3.34.1– Minimum Distance Separation Formulae**

c) No person shall use any land, building or structure for a sensitive land use (e.g. residential use, daycare centre, educational and health facility) or for a use that would impact a sensitive land use or other use as identified unless in complies with the following minimum separation distances:

Separation distances shall meet the following requirements:

- i. No development shall be permitted within 30 m of the perimeter of the licensed fill are of a Solid Waste Disposal Facility or Waste Processing and Transfer Facility.
- ii. No Solid Waste Disposal Facility or Waste Processing and Transfer Facility shall be located within 30 m of the high water mark of any water body. The distance separation shall be measured from the property boundary of the Solid Waste Disposal Facility or Waste Processing and Transfer Facility.
- iii. No Solid Waste Disposal Facility or Waste Processing and Transfer Facility shall be permitted on land covered by water or in any area subject to flooding.

Purpose and Rationale: The proposed change will add minimum distance separation requirements to uses located close to solid waste disposal facilities or waste processing and transfer facilities. Ministry of Environment Guideline D-4 requires a minimum distance separation of 30 m between fill areas and other uses. The proposed change will also add a provision will be added to ensure that solid waste disposal facilities or waste processing and transfer facilities are not located on land covered by water or in any area subject to flooding.

The following applies to Section 4 - Zones of Zoning By-law 160-2010.

25. THAT the following subsections shall be added to **Section 4.4 – Residential – Mobile Home Zone (RM), Subsection 3 – Zone Regulations:**

- "j. The maximum density shall be fifteen (15) lots per gross hectare.*
- k. At least seven (7) percent of the mobile home park area shall be provided for the park.*
- l. A buffer strip of at least 7.5 m in depth adjoining all boundaries and free from any buildings or structures shall be provided. Such strip shall be utilized for landscaping in accordance with Section 3.26 of the By-law."*

Purpose and Rationale: The proposed change adds additional subsections to Section 4.4 – Residential – Mobile Home Zone (RM), Subsection 3 – Zone Regulations. The additional subsections regulate the maximum density, add a park land requirement and include a requirement for landscaped buffer strips.

26. THAT Subsection 4.5.3 (I) – Rural Residential Zone (RR) shall be deleted and replaced with the following.

"For those permitted uses fronting on both a navigable waterway and a municipal street, the minimum lot frontage requirement along the street shall be 11 m and for the waterfront side shall be 61 m."

Purpose and Rationale: The proposed change will correct an error in the Zoning By-law.

27. THAT Subsection 4.15 – Institutional Zone (I) –, Subsection 3 (f) – Rear Yard shall be deleted and the subsections thereafter shall be renumbered.

Purpose and Rationale: Subsection (f) and Subsection (h) both include a zoning mechanism for rear yards. Subsection (f) is an incorrect reference to the rear yard setback of 8 m. Subsection h) is the correct reference to the rear yard setback of 10 m. The proposed change deletes Subsection f) and renumbers Subsections g) and h) shall be renumbered as f) and g) accordingly.

Councillor Roussin stated that any person may express his or her views of the amendment and a record will be kept of all comments.

Councillor Roussin asked if there was anyone who wishes to speak in favour of the amendment.

Jeff Port was present and had two comments regarding Item #16 - Accessory Garage – by suggesting we add Black Sturgeon Lake to it. He explained that an example would be when an applicant comes to the City and wants to build a garage first within a waterfront lot.

Jeff further explained that he is concerned with the wording in Item #6 – Lot frontage calculations for waterfront lots. There is a conflict in the bylaw between the definition and the illustrations and the challenge is in the wording when it comes to pie shape or irregular shaped lots.

Nadia suggested that we take this item out for this passing and hold for a future amendment. It is in the City's best interest to remove this item and have additional discussions and research on the item. It is a significant issue that needs to be amended correctly and there are different scenarios that need to be considered before moving this amendment forward.

Councillor Roussin asked if there was anyone who wishes to speak in opposition of the amendment.

- There were none

Councillor Roussin asked if there were any questions.

- There were no questions.

Councillor Roussin the declared the Public Meeting closed at 10:28 a.m.