

City of Kenora Planning Advisory Committee 60 Fourteenth St. N., 2nd Floor Kenora, Ontario P9N 4M9 807-467-2059

Minutes

City of Kenora Planning Advisory Committee Regular Meeting to be held in the Operations Centre Building 60 Fourteenth St. N., 2nd Floor August 20, 2013 7:00 P.M.

Present: Wayne Gauld Chair

Wendy Cuthbert Member
Ted Couch Member
James Tkachyk Member
Terry Tresoor Member
Vince Cianci Member

Tara Rickaby Secretary-Treasurer

Patti McLaughlin Minute Taker

Guest: Charlotte Caron Property & Planning Manager

Regrets: Ray Pearson Member

DELEGATION: None requested.

(i) Call meeting to order

Wayne Gauld called the August 20, 2013 meeting of the Kenora Planning Advisory Committee to order at 7:00 p.m.

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

(ii) Additions to the Agenda – New Business: How to determine a flood datum line. (Vince)

(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:

Wayne Gauld – B07/13 Ervick – Realtor /Agent Vince Cianci – S02/11 Lougheed and Z04/13 Lougheed – as Surveyor

(iv) Adoption of Minutes of previous meeting:

Adoption of minutes of previous meeting: (July 16, 2013)

Business arising from minutes: None.

Moved by: James Tkachyk Seconded by: Ted Couch

That the minutes of the July 16, 2013 meeting of the Kenora Planning Advisory Committee and Committee of Adjustment be approved as distributed.

CARRIED

- (v) Correspondence relating to applications before the Committee None
- (vi) Other correspondence None.

(vii) Consideration of Applications for Minor Variance - None

(viii) Considerations of Applications for Land Division

1. B11/13 Moncrief

Creation of three new lots

Present for the meeting:

Wendy Perrier, Agent, Hal Moncrief, Property Owner

Wendy Perrrier, P.O. Box 201, Kenora, Ontario P9N 3X3, presented the application for consent for the creation of three (3) lots at 179 Worona Road situated on Black Sturgeon Lake. The legal description is Con 4 M S PT Lot 11 PCL 21559. The land is 47 acres in size with 3700 feet of frontage. The property has two zones: Rural Residential and BSL. The size of the smallest lot exceeds the requirements of the BSL zone. There is an existing septic system and well on the retained lot and the NWHU has provided a letter of approval for the existing system as well as future systems on the additional lots. She feels that the size of the proposed lots allow enough space for residential use and development of the lands without adversely affecting the neighbouring properties. Both a Fish Habitat Assessment as well as a Species at Risk General Site Assessment were conducted and determined no concerns. There will be no access road building required as an entrance permit for access to the property off Worona Road has been issued. The driveway will be shared and have a reciprocal easement for each property owner. The existing hydro/bell infrastructure will be within the municipal road allowance if the city takes 10 m from the centre line.

The Secretary-Treasurer presented the staff report confirming the property does have two zone designations. The required frontage has been exceeded on all counts. The retained is the piece of property on north with structures on site. The applicants propose to access with reciprocal easements of which entrance permit approval has been granted by the Roads A/Supervisor off Worona Road. No whippoorwills or species at risk were found and no need for mitigation as none identified. No issues requiring comment were received from internal departments except for the Roads Department who indicated that any portion of the Worona Road not already owned by the City will be required to be surveyed and conveyed to the City for municipal purposes. Permits will be required for future shoreline development. Comment from external agencies was received from the NWHU regarding septic systems. There was no comment from the public received. It is recommended that the application be approved with conditions that were read out. The Black Sturgeon Environmental Sustainability fee required by the developer will be made a condition of approval versus tariff of fee charge.

The Chair asked the Owner if they anything further to add regarding the application.

Wendy Perrier commented that she had no questions or concerns regarding the conditions.

The Chair asked if anyone from the public had anything to add.

Dan Olscamp, 709 D Peterson Road, Kenora, Ontario, P9N 0E3 expressed his thanks on behalf of the Black Sturgeon Property Owners Association for consideration given by this applicant regarding the social crowding concerns of the residents. He added that he was able to support an application which he was happy to do.

The Chair asked the Committee members whether they had questions regarding the application.

James Tkachyk requested clarification as to whose name the original property was in. Wendy answered that it was in all four. The Secretary-Treasurer explained that all four are on title of the original property. Discussion took place regarding registration of new lots.

Vince Cianci commented that the entrance to be used by all owners and guests actually represents a road. The Secretary-Treasurer said if it was designated a road then snow plow operations would require turnaround provisions. This way the owners will remain responsible for their own road.

The Chair asked the Owner if they anything further to add.

Wendy Perrier commented that she was in agreement and that she had nothing further to say.

The Chair asked whether there was anyone present who wished to speak either for or against the application. As there were no other comments from the public, the Chair indicated that the Committee would discuss the application and make a decision.

Vince Cianci requested, with regard to the easement, that it be a required minimum 10 m in width, and be a condition of approval.

Moved by: Ted Couch Seconded by: Terry Tresoor

That application B11/13 Moncrief and Perrier, Concession 4 of Melick, S PT Lot 11 PCL 21559 179 Worona Road, for consent for the creation of three new lots be approved with the following conditions:

- 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.
- That the transferor and the transferee not be the name of the same person on the Transfer/Deed of Land Form.
- 5) That a clearance letter be received from Bell Canada and/or Hydro One Networks indicating that there are adequate easements or that none are necessary.
- 6) That if the City does not own the lands currently used and known as Worona Road the applicant transfer lands to the City sufficient that the City would assume ownership of lands measured 10m from the centerline of the traveled portion of the road, where possible. The applicant would assume all related surveying and transfer costs.
- 7) That the alignment of the lot line between Lot 2 and 3 be amended in order to accommodate comments provided by the Northwestern Health Unit: lot line angles more perpendicular from the lake to take in more of the meadow before the lot line trajects back to the common entry area at the Worona Road.
- 8) That the Developer will be responsible to pay a Black Sturgeon Environmental Sustainability fee of \$275.00 per lot;
- That reciprocal easements, a minimum of 10 metres in width, be approved in accordance with the sketch provided, in order to provide access/egress from and to Worona Road for all four lots; and that a fee of \$100 per easement agreement be paid by the applicant per the City of Kenora Tariff of Fees By-law.
- 10) That the payment of any outstanding taxes, including penalties and interest (and any local improvement charges if applicable) shall be paid to the City of Kenora.
- 11) That prior to endorsement of the deeds, the Secretary-Treasurer shall receive a letter, from the owner or owner's Agent/Solicitor, confirming that conditions #1 through 10 have been fulfilled. Clearance letters from the City of Kenora and external agencies are to be included.

Carried

Wayne Gauld left meeting at 7:21 p.m.

(ix) Old Business

1. B07/13 Ervick

Change of Conditions

Present for the meeting:

Randall Seller, Agent for Jillian Ervick

Mr. Seller explained that he asked for this to be back on agenda to address the condition requiring the drilling of a well. It is common consensus from well drillers that asking them to drill prior to location of structures is not in the best interest of the owner. The Secretary-Treasurer added that in the original planning report her suggestion was that it not be included.

The Secretary-Treasurer indicated that this application was approved in May of 2013 and was for the creation of three new Rural lots. The Agent, on behalf of the client, is requesting that Condition No. 8 be removed as drilling a well prior to the determination of building and septic locations would be premature and possibly of no value to the new owner as indicated by an accredited well driller. Servicing will be addressed through the building permit system. The recommendation is to remove the condition (8)

Moved by: Ted Couch Seconded by: Terry Tresoor

That the Kenora Planning Advisory Committee approves the Application for Change of Conditions re: Consent B07/13 Ervick, for lands described as CON 3 M MAJOR PT LOT 12 PCL 4684, to remove the following condition(s):

(8) That a report, from a qualified well driller be received indicating that a well has been drilled on 1 lot and quantity/quality of water meets MOE standards.

As the property will be required to be serviced if and when a building permit is issued, and based upon comments received from an accredited well driller, that it is difficult to pre-drill wells in advance of the permanent location of the residential structure and septic field being known.

Carried

Wayne Gauld returned to meeting 7:25 p.m.

Vince Cianci left meeting at 7:25 p.m.

2. Z04/13 Lougheed

Application to Amend Zoning By-law

Present for the meeting:

Randall Seller, Agent for Wm Lougheed Trucking Ltd., William Lougheed

Mr. Seller explained that he wanted to discuss 2 things: 1) change of conditions regarding future development on hazard lands above flood easement levels and, 2) a zoning amendment to deal with ownership of hazard lands and open space on proposed lots. Item 2 was discussed first.

Mr. Seller explained, in reference to lots 5,6,9 & 10 which have a fair amount of property under water, that the Official Plan requirement of buildable lands is 2 metres above the flooding easement datum line of 318.4 m and therefore restricts usage of buildable lands. There is ample property above water for septic field and building construction and owners should be have restricted use of lands that are underwater. Mr. Clark has identified, on the peninsula lot #10, that a minor variance may be required to ensure setbacks comply with the zoning bylaw. The NWHU reviewed all areas and has no concerns regarding available lands for septic systems and construction. Also, the applicant is requesting that the zoning areas marked as hazard lands include a special designation for water front usage ie. gazebos,decks etc. They have retained Scott Schelske, P.Eng., F.E.C. who will be addressing this in writing and it will be forthcoming in time for the September Property and Planning Committee meeting /Statutory public hearing.

The Secretary-Treasurer indicated that she did not have the additional information, that she received today, in her planning report. She confirmed receipt of the information this afternoon. She clarified, the setback for structures is at least 20 metres, from the front lot line. With regards to Lot #10 and possible minor variance requirement the Committee has struggled with this in the past ie. approving one application that will create the need for another. She read from the Planning Report and reminded Committee that the request for amendment is for the development of 10 lots. When the decision was made Committee accepted MNR's restrictions for development in flood plain. No comments were received internally except for the Planning Department's requirement of an Engineer's Report permitting development of lands that are (or are to be) designated as HL-Hazard Lands, as per the Official Plan. The only external agency to comment was the NWHU re: septic systems. The recommendation is for approval to rezone from RU-Rural, OS-Open Space and HL-Hazard Lands to RR-Rural Residential (only in areas not subject to flooding), OS-Open Space (restricted to accessory structures without foundations and access driveways and (HL) restricted to docks only.

The Chair asked the Committee members whether they had questions regarding the application.

Discussion took place respecting LOWCB's right to flood. The Secretary-Treasurer added that the provision was a carryover from the previous Official Plan, whereby the control board was offered an opportunity to submit changes and didn't. The matter is on the list for review under the next Official Plan review. Mr. Seller said this is posing a problem for this application with respect to Lot #10 as the setback is only to protect against flooding. He added that we do know what the elevations, which were surveyed, are so there is no worry about flooding and there should not be a need for the setbacks to be the distance they are. It is the intent of Mr. Lougheed to create the best properties with what he has.

Wayne Gauld noted that there is a huge impact to Lot #6 and #7, which was agreed by Mr. Seller in that those lots will have big front yards.

Ted Couch referred to the HL designation for Lot #10. We know what the elevations are but we still have to follow the Official Plan requiring owner to come back for a miner variance even if the building is only 1500 sq. ft. Mr. Seller commented that whoever purchases Lot #10 may have to come back to Committee for a variance, depending on building size.

Terry Tresoor agreed that Committee would be creating something that may need a minor variance, but other than that he was okay with the request. Mr. Seller added that the applicant could try to fill in more of the hazard lands. This course of action was not recommended by the Planning Advisory Committee or Secretary-Treasurer.

James Tkachyk requested clarification of the building locations. The Secretary-Treasurer explained. She asked Mr. Seller if there was any natural land left there or was it all filled in? Mr. Seller answered that anything behind the purple line, on the sketch, was existing and that only Lots #5 and #6 were impacted.

Wendy Cuthbert wondered if #Lot 10 was all rock, as it appears to be rock. William Lougheed commented that it was comprised of sand and stones. She added that she was concerned with the miner variance requirement. Mr. Seller commented that there will be a side yard issue ie. 2 metre potential for side yard, but rear and front meet standard.

Wayne Gauld commented that he struggles with the Official Plan requirement ie. putting another 2 metres on flood plain development as the risk of flooding that land is slim. The Secretary-Treasurer commented that the Official Plan could change during the review. Wayne added we are assuming someone may ask for a minor variance, which could be dealt with at another time not tonight.

The Chair asked whether there was anyone present who wished to speak either for or against the application. As there were no other comments from the public, the Chair indicated that the Committee would discuss the application and make a decision.

The Secretary-Treasurer read exception [29] and suggested taking out Engineers report reference. The Engineers Report will state buildings can be built without foundations and roads can be constructed on hazard lands.

Ted Couch suggested making concerns part of site plan control ie. if the engineer's report says you can do this we want to ensure it is done properly. The Secretary-Treasurer commented that control will be through zoning.

Moved by: Wendy Cuthbert Seconded by: Terry Tresoor Recommendation:

That Council approves the proposed zoning by-law amendment Z04/13 Lougheed for site specific rezoning from RU – Rural, OS – Open Space and HL – Hazard Lands to RR – Rural Residential, OS – Open Space and HL – Hazard Lands [29] Notwithstanding any other provisions of this By-law, on the lands noted by [29] on the Schedules to this By-law, and specifically described as Part of Lot 21 Plan M-135 and part of Location LK2, Geographic Township of Pellatt, City of Kenora, District of Kenora be zoned to RR – Rural Residential in areas not subject to flooding per the City of Kenora Official Plan, 2010, HL – Hazard Land to permit accessory structures in which human habitation will not be permitted, and access driveways, and OS – Open Space to permit only docks, as the application is consistent with the Provincial Policy Statement (2005), and meets the purpose and intent of both the City of Kenora Official Plan (2010) and Zoning By-law No. 160-2010, as amended for the reasons outlined in the planning report; and

That, unless the Engineer's Report and a site plan to indicate that there is developable area on certain lots, are submitted beforehand and are recommended for acceptance, by City Staff, two readings only

be given to any approving by-law, and the third reading be given upon receipt and acceptance of the Engineer's Report and site plan(s) per the City of Kenora Official Plan 2010.

Carried

3. S02/11 Lougheed

Change of Conditions

Present for the meeting:

Randall Seller, Agent for Wm Lougheed Trucking Ltd.

Randall Seller explained that the only other issue has to do with land under water. He referred to the diagram Open Space areas ie. the 2 parts that would form frontage for Lots 1 through 9. At one time it was thought that the Province of City would take ownership of these lands, but neither was interested. The proposal for ownership of these lands is by way of a common elements condominium. The lands could be described using a common elements condominium. A declaration would be filed as an attachment to deed of Lots 2- 9 and would be attached to each property to be maintained for water front access. Registration would show ownership of parcel and the type of utilization by owners. Each owner would be required to pay 1/9th of the cost and if didn't pay it would be added to their tax bill. He added that he felt that this is the best way of protecting the owners of Lots 2 – 9. The Secretary-Treasurer has done a good job with the explanation.

The Secretary-Treasurer presented the Staff Report indicating that most of the planning issues have been dealt with through the conditions of approval of the plan of subdivision. A site plan must be provided to indicate that there is sufficient developable area on Lots 5,6,9 and 10. This was received today.

The Chair asked the owner if they had anything further to add regarding the application - None.

The Chair asked the Committee members whether they had questions regarding the application.

Wayne Gauld wondered how the decision was arrived at for a common elements condominium.

The Secretary-Treasurer explained that this new condominium was discussed with FoTenn, representative Nadia DeSanti and it has been used successfully within the 1000 Island area in southern Ontario and that was why it was being recommended for this application. Wayne wondered what was wrong with doing nothing.

Mr. Seller explained that we would be asking owners to buy property that has frontage owned by someone else. It would be a protection for the lot owner and would create a rule for usage from the start.

Ted Couch agreed that it is the only way of doing it and we need to protect the lot owner. Terry agreed.

James Tkachyk clarified isn't it Lot #1 that is free and clear of the Open Space designation? If so then it would only include 2 to 10. William confirmed Lots 1 and 10 were not dredged and Lots 2- 9 were dredged. James added who will pay for dredging, which was answered by the Secretary-Treasurer as being the lot owners.

Mr. Seller commented that this is by far the best decision for the lands in question.

Wendy Cuthbert commented that the agreement would be specific to use and owners couldn't build whatever on the lands. She added that she doesn't want to see owners doing something totally different from the proposed usage. Mr. Seller commented that the agreement would be restrictive. The Secretary-Treasurer indicated that declaration can state how big a dock is permitted. Mr. Seller added that the common elements condominium agreement could respond to requests of this kind.

The Secretary-Treasurer questioned what the width of inundated land was and that we may want to consider a restriction on the length of dock. William Lougheed suggested 1 dock per lot with a 20 ft. maximum and that it be added to the declaration. Mr. Seller commented that we will work with the Planning Department as areas are narrow in some spots wider in others.

Wayne Gauld explained that the tough part is this is brand new and expert advice on the negatives and positives of common element condominiums would be helpful in making a decision as the

Committee doesn't really have any experience with this. He added that the Committee is being asked to make a decision on this without experience. Mr. Seller explained that this type of condominium is designed for management of this type of area. Wayne added we need someone with experience to confirm this is the right decision, maybe sent to it to the City Solicitor for review. The Secretary-Treasurer suggested sending it to other planners within the Province who have a lot of experience.

Wayne Gauld commented that he wished the Committee had their own opinion and would feel more comfortable if there was more information from an independent. The Secretary-Treasurer will ask an expert in the field as to what their opinion was pertaining this method of land division.

Mr. Seller summarized by stating that the biggest thing is getting the zoning changed. There is no objection to getting another opinion in time for the next meeting. William Lougheed wanted confirmation that this would be dealt with at the September meeting. Wayne Gauld reiterated that the Committee was not prepared to decide on something that they were not prepared for.

The Chair asked whether there was anyone present who wished to speak either for or against the application. As there were no other comments from the public, the Chair indicated that the Committee would discuss the application and make a decision.

Moved by: Ted Couch Seconded by: Terry Tresoor Recommendation:

That the request to change conditions, to use a common elements condominium description to deal with ownership of the inundated lands be tabled until September 17th, 2013 pending more information regarding common element condominiums.

Carried

Vince Cianci returned to meeting at 8:30 p.m.

(x) New Business

1. B07/12 Dixon

Change of Conditions

Present for the meeting:

The Secretary-Treasurer indicated that she could not stamp the deed the way the reference plan was deposited because it did not match what was approved by the Committee (although the configuration was approved in 2005). The change being considered is only to the lot configuration. The new lot layout needs approval in order to meet the conditions of approval for consent no. B07/12. It is recommended that Committee change the description of the property and use the deposited reference plan as the basis for the conditions.

Wayne Gauld suggested sending it back to the surveyor to be corrected.

Vince Cianci commented that the surveyor did not act as per the decision of the Committee and should submit another plan.

The Secretary- Treasurer reminded Committee that they as a whole voted to approve the Minor Variance (dog leg configuration). She added that her recommendation is to take the reference plan (that was deposited) and use the sketch for approval and change the description of the property for the stamped deed.

Wayne Gauld commented that the mistake only hurt the owner and the issue is between owner and surveyor. He added that the Applicant should be requested to fix it. James Tkachyk added that the intention of the Committee was to give him what he was requesting.

Discussion ensued as to whether Mr. Dixon knew about the problem, what the additional cost would be to resubmit another survey etc.

Moved by: Wendy Cuthbert Seconded by: Terry Tresoor

That the Kenora Planning Advisory Committee approves the Application for Change of Conditions re: Consent B07/12 Dixon, for lands designated as Part 1 of 23R-12148, to accept and use the amended sketch.

Committee discussed whether or not reduced lot size was really necessary with new configuration.

Amended Motion

Moved by: Vince Cianci Seconded by: James Tkachyk

That reference plan 23R 12148, submitted for acceptance by the Kenora Planning Advisory Committee for the creation of one new lot (B07/12 Dixon), be amended to ensure that there is a minimum of .8 ha of land included in the part to be given consent; and

That the Secretary Treasurer is directed to remind the surveyor that preliminary plans are to be reviewed before final plans are deposited at Land Titles.

All other conditions still apply.

Carried

2. October Planning Advisory Committee Meeting - Reschedule

The Secretary-Treasurer is requesting that the October Planning Advisory Committee meeting be rescheduled to either the Wednesday, Oct. 16th or Thursday, Oct. 17th as both she and the note taker would be returning from vacation and need additional days to prepare for the meeting.

The Committee agreed to move the meeting to Thursday, October 17th, 2013.

3. How to determine flood datum line (Vince)

Vince Cianci commented that he wanted to talk about this because the Official Plan is too restrictive when it comes to where one can and can't build with regards to the flood datum line. There is a lot of good land to be built on at or below the flood datum line if the owner builds appropriately. The purchaser of the land should be made aware that at this contour the land may flood and then take the responsibility to protect themselves. The Secretary-Treasurer commented that the five year mark for review of the Official Plan is approaching and that this item is on the list for review.

(xi)	Adjourn Moved by:	Terry Tresoor
	THAT the August 20 th , 2013 Planning Advisory Committee meeting be adjourned at 9:00 pm.	
	MINUTES ADOPTED AS PRESENTED THIS 17 th DAY OF SEPTEMBER, 2013	
	CHAIR	SECRETARY-TREASURER