



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
September 17, 2013
7:00 P.M.**

Present:	Wayne Gauld	Chair
	Wendy Cuthbert	Member
	Ted Couch	Member
	Terry Tresoor	Member
	Vince Cianci	Member
	Ray Pearson	Member
	Tara Rickaby	Secretary-Treasurer
	Charlotte Caron	Property & Planning Manager
	Patti McLaughlin	Minute Taker
Regrets:	James Tkachyk	Member

DELEGATION: None requested.

(i) Call meeting to order

Wayne Gauld called the September 17, 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 - 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 – S02/11 Lougheed – Employee of surveying company

Ray Pearson – S02/11 Lougheed – Not present at August meeting

(iv) Adoption of Minutes of previous meeting:

Adoption of minutes of previous meeting: (August 20, 2013)

Business arising from minutes: None.

Moved by: Ted Couch

Seconded by: Wendy Cuthbert

That the minutes of the August 20, 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 - E. Rody – August 30, 2013 re: Dixon B07/12
- Moved to Item (x) New Business (a)

(vii) Consideration of Applications for Minor Variance**1. A11/13 Ruff****Reduce Setback**

Present for the meeting:

Greg Kirby, Agent for Keith and JoAnn Ruff, Owners

Greg Kirby, Site 1, P.O. Box 88, RR#1, Keewatin Ontario P0X 1C0, Agent for Keith and JoAnn Ruff, 428 Coney Island, presented the application indicating the Ruffs purchased the property in 2006 and the property did not have a dock, but the Heimbecker's were family so they had the use of their dock. The property is only accessed by water. The Ruffs are having trouble selling the lot due to lack of a dock. He agreed that they have a very unusual shaped piece of property that cannot be accessed unless they are allowed to put a dock in. He noted that there was about equal distance between the proposed dock location and the neighbouring docks to the north and south.

The Secretary-Treasurer presented the staff report and agreed that the lot is only accessible by water. The lot is a legal lot of record, legally non-complying as it is undersized with approximately 6.096 metres of frontage on Lake of the Woods and is approximately .078 ha in size. The applicant is seeking relief to 2.048 metres (on each side), for a variance of 2.45 m. There is a boulder in the area proposed for the dock and requires consideration in the dock design. The lot layout severely restricts waterfront development/use. There would be approximately a 20 m distance between the dock to the south and the proposed location of the dock and approximately 18 m to the dock to the north. Most boat sizes come close or exceed the 2.048 width and the size of boat cannot be controlled which could result in issues between neighbours. She had Committee consider the view of the property from the south west for clarity. They are considering a 2 m width dock. The Staff opinion is that this application fails one of the four tests as the Zoning By-Law cannot control boat size. There were no objections received from internal departments or comment from external agencies.

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

Greg Kirby commented that it would be punitive if they could not have a dock as it would impact the value of the property.

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

Don Pernsky, P.O. Box 10030, Harbour, Kenora, Ontario, P9N 4T1 commented that he was not against his neighbours, whom are good neighbours, having a dock. He explained that his concern is with future impacts ie. if the new owner of the property parks a 40 foot boat at the dock it will impact the front of his property or if they want to build a shed they will just ask for another variance. He reiterated that he was not against his neighbour building a dock but worried about what could come in the future.

Greg Kirby commented that he hoped the PAC would not approve building on someone else's property. Don Pernsky clarified that due to the shape of the property if the future neighbours chose to build another shed on their property it could impact the Pernsky's view.

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

Ray Pearson requested clarification as to how the dock configuration blocks the view. The Secretary Treasurer explained that the proposed dock would extend off the boulder and if an 18' bow rider were parked it would be over the projected lot line. Ray Pearson questioned whether there was a way of running it straight through rather than the dog leg.

Don Pernsky commented that the problem is not the dog leg it is the part that is in the water. It's the impact of the dock going straight out and a large boat or sailboat parking at it.

Greg Kirby added that he stood on Heimbecker's dock and their view is affected in similar way because of the alignment of the lots. The Secretary Treasurer added that viewing the Ruff property from the south west point of view provides more clarity as to impact on views.

Wendy Cuthbert requested clarification regarding the measurements from the property lines and the width of frontage. The Secretary Treasurer provided the measurements.

Terry Tresoor expressed concern that the wrong decision could keep this piece of property landlocked. Without a dock it is a useless piece of property and would take away from the value of property.

Pulling a boat onto the beach would be the only option. Ted Couch agreed indicating there has to be a solution.

Vince Cianci asked Mr. Pernsky what he thought would work. Mr. Pernsky indicated that restricting the size of boat would work and asked Vince if the dog leg is necessary as they would be happy to have a dock that went straight out. Vince indicated that the dog leg was not necessary and added that it is important for the neighbour to have input because he controls the shoreline and his view looks over the Ruff property.

The Secretary Treasurer reminded the Committee that when evaluating the application before them they need to look at the four (4) tests, which she read out.

Wayne Gauld, using the sketch he provided, explained that the dog leg is the applicant's way to get to the boulder. The distance from dock to dock is about the same distance. He indicated that his concern is that it be built exactly the way it is drawn. He added that he understands the impact of a huge boat parking at the dock, but he had a 20' boat in there and it wasn't bad. Extending the dock from the boulder prevents docking on the Pernsky side. The boulder is sitting in 3 feet of water.

Greg Kirby clarified that the dog leg is actually a boardwalk to the dock.

Don Pernsky noted that a long enough dock would allow docking along both sides. A shorter dock would restrict usage to one side.

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

Greg Kirby commented that you couldn't get a 30' boat in there due to the water depth, which Don Pernsky added would be determined by the length of the dock.

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 explained that the extension (dog leg) does not come into play as it is a foot path to the dock. The dock (proposed) is half way between each of the neighbouring docks. Terry Tresoor, Ted Couch and Ray Pearson agreed with Vince.

Wendy Cuthbert requested clarification re: property lines. It appears that the dock configuration is right in front of the neighbour's property. The Secretary Treasurer positioned the drawing so it was viewed from the south west and Wendy was satisfied with the proposed dock position.

Wayne Gauld reiterated his concern that the dock be positioned exactly like in his drawing and wants to make sure something completely different doesn't show up.

Ray Pearson requested clarification as to where the 60' started ie. at the boardwalk or at the boulder? The Secretary Treasurer confirmed it would be from the boardwalk. If measured from the boulder it will be in front of Don's property and if go 60' out it will be in front of other docks. She reminded that it is just the side yardage that requires a decision.

The Secretary Treasurer clarified that it was the recommendation on the table that needed to be voted on as it was the only one on the table.

Vince Cianci brought a motion forward to accept the recommendation stating that the configuration in Wayne's drawing looks like desirable development as it is half way between the docks to the north and south. It makes sense.

The Chair asked if any of the Committee members had anything further to add with regards to the motion.

Wendy Cuthbert commented that it meets the intent of Official Plan and the Zoning By-law.

Wayne Gauld commented that it is characteristic of the neighbourhood. He added that it is imperative that it be built exactly to the dimensions depicted in the drawing he provided. Wendy Cuthbert questioned whether conditions were required? The Committee discussed that adherence to the

drawing would be addressed through the building permit process to ensure compliance with the dimensions set forth in the drawing that was approved by the Committee.

The Secretary Treasurer advised Mr. Kirby that if there is no appeal a building permit could be applied for.

Moved by: Vince Cianci

Seconded by: Terry Tresoor

That the Kenora Planning Advisory Committee approves Application for Minor Variance A11/13 Ruff, for property described as 428 Coney Island and described as PT LOC 329P DES RP 23R8829; TS 5,6 PCL 40049 & REM PCL 16775. for relief from section 3.11.1 1c)(ii) minimum side yard setback for accessory structure for a lot abutting a navigable waterway from 4.5 m to 2.048 m, for a variance of 2.452 (each side) was approved by the Planning Advisory Committee of Kenora, as the proposed minor is appropriate and desirable development for the land and is minor in nature.

Note: The building permit application must be issued only if the applicant's sketch is based on the sketch/drawing used for approval of the minor variance.

Carried

(viii) Considerations of Applications for Land Division

1. B12/13 6292470 Canada Inc.

Lease to The Boathouse

Present for the meeting:

Randall Seller, Agent for 6292470 Canada

Mr. Seller, Agent for 6292470 Canada Inc., presented the application for consent for a lease for property currently housing "The Boathouse" restaurant and 4 parking stalls in a separate parking lot for a period of time exceeding 21 years (eighteen years + option of renew twice, for 5 years each). The lease is for a total of 28 years which exceeds the provision set out in the Planning Act. The Applicant is asking for consent for an extension so it can be registered and it is crucial the lease gets registered to protect the owner.

The Secretary-Treasurer presented the staff report indicating that this is simply an agreement between two parties. It is a housekeeping issue for two people who have reached an agreement. The recommendation is to approve the application as restaurants and associated parking are permitted in lands zoned GC-General Commercial and designated as "Harbourtown Centre Area" under the Official Plan. The Planning Department had no objections. There were no objections from internal departments or external agencies.

The Chair asked the Owner if they anything further to add regarding the application – No comment.

The Chair asked if anyone from the public had anything to add – No comment.

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

Vince Cianci requested clarification as to whether provisions would be for the entire parking lot as depicted by the purple line on the drawing. Mr. Seller explained that it would be for four (4) spaces that are non exclusive spaces.

The Chair asked the Owner if they had anything further to add – no comment.

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 – no further comment.

Moved by: Wendy Cuthbert

Seconded by: Ray Pearson

That the Kenora Planning Advisory Committee approves application no. B12/13 6292470 Canada lease on properties described as PLAN 3 BLK 2 LOT 24 and PLAN 3 BLK 2 LOTS 17 18 19, 20 21 22 208 23R5416 PTS 1 2;4 5 6 7 8 9 PCLS 6038 10912, the following conditions of approval might also be considered:

- 1) The original executed Transfer/Deed of Land form, a duplicate original and one photocopy for our records be provided.

- 2) A Schedule to the Transfer/Deed of land form on which is set out the entire legal description of the parcel(s) in question and containing the names of the parties indicated on page 1 of the Transfer/Deed of Land form be provided.

Carried

(ix) Old Business

1. B07/12 Dixon

Request for change of conditions

Present for the meeting:

Mr. Hook, Agent for Gordon Dixon

Mr. Hook, Agent for Mr. Dixon, presented the request for a change of conditions as Mr. Dixon had not found a buyer and wanted to get a transfer completed. He explained that he had asked for a copy of the plan before us and believes there was a breakdown in communication between surveyor, owner and City. Providing the Secretary Treasurer with a copy was overlooked. Mr. Rody was surveying all over the north last year and probably forgot this detail. Had Mr. Dixon realized PAC was expecting to review a copy of the variation he would have seen that it was provided, but he did not see the significance of it. The Applicant is seeking change of the consent of the PAC for the severance of this piece as described in Plan 23R12148 to use the registered plan as the new sketch. Mr. Hook noted that although there was a breakdown in communication that hopefully the deposited plan could be brought back on track so it could be stamped.

The Secretary Treasurer commented that she is recommending approval to accept and use the amended sketch (23R-12148) as the basis for the approval with conditions. In 2005 it was approved, but at .8 ha. If the Committee requires a minimum lot size of .8 ha there would be a further encroachment behind the retained lot.

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

Vince Cianci asked The Secretary Treasurer if she advised Mr. Rody to use the dog leg configuration. The Secretary Treasurer read out the email to Mr. Rody which provided two (2) options of which neither one was followed through on until she received the plan. She added that she can't apply the consent stamp the way it was deposited because it was not the sketch which formed part of the original application. She further reminded Committee that they are being asked to decide whether the .06 ha sketch meets the four (4) tests, and if so, can change the conditions based on the new sketch (deposited plan).

Committee members discussed the inability to rescind the miner variance. The Secretary Treasurer indicated that the Planning Act does not provide a mechanism to do so.

Mr. Hook commented that we need to keep in mind this is an application by an individual, a private application without assistance and don't want the events leading up to detract from desirability of the approval.

Terry Tresoor was in agreement with the recommendation before them.

Ray Pearson commented that Committee approved this in September of 2012.

Wendy Cuthbert agreed that it met the four (4) tests and the lot is still larger than some in the neighbourhood. She added that she preferred the straight line configuration, but this was acceptable.

Wayne Gauld expressed his concern over the surveyor not following protocol as the only people getting hurt are the Dixons. He added that his opinion is the Committee fix it by accepting the deposited sketch.

The Chair asked for a motion:

Moved by: Terry Tresoor

Seconded by: Ted Couch

Recommendation:

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

That the re-designed lot meets the intent of the City of Kenora Official Plan and Zoning By-law, and Provincial Policy Statement (2005) as it can support both a private sewage system and well, is characteristic of the neighbourhood, and in fact exceeds the lot sizes of most of the lots to the south of the property, has access to a publically maintained road, and all other conditions of approval of the original application have been met, which indicates that there are no outstanding issues or issues which cannot be met because of the lot configuration.

Carried

Ray Pearson and Vince Cianci left meeting at 8:12 p.m.

2. S02/11 Lougheed

Change of Conditions

Present for the meeting:

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

Mr. Seller explained that this matter is carrying on from the August 20th, 2013 meeting where there was discussion regarding the common elements condominium description. The Applicant is looking for a change of conditions to describe inundated lands using a common elements condominium in order that each lot fronting it would be tied to the inundated lands.

The Secretary-Treasurer presented the Staff Report indicating that the recommendation is that the application be approved. The draft plan to include an adjusted redline to include the area considered as the common elements condominium, the lands labeled as OS to be the lands identified as the common elements condominium; indicating the parcels of tied land (POTLs), that there be one dock per POTL, not greater than 20 feet in length and that the owner provide a copy of the final plan in digital format, including road centerlines. She reminded the Applicant that the conditions of draft approval must be fulfilled on or before October 27th, 2014 or shall be deemed to have lapsed pursuant to the Planning Act, R.S.O. 1990, as amended. The conditions will be renumbered and sent out with packages.

The Chair asked the owner if they had anything further to add regarding the application – no comment.

The Chair asked the Committee members whether they had questions regarding the application – no comment.

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 – no further comment.

Moved by: Ted Couch Seconded by: Wendy Cuthbert

That the Kenora Planning Advisory Committee approves the Application for Change of Conditions re. S02/11 Lougheed, for lands described as 24 Sunnyside Road, Part of Lot 21 Plan M135 and Part of Location LK2900 to add the following condition(s):

That an application for a common elements condominium description for inundated lands be approved; and

That conditions be amended to:

This approval for a Common Elements Condominium Description applies to the approval of Plan of Subdivision, File No. S02/11 Lougheed, prepared by Ross M. Johnson Surveying Ltd., and redlined., dated September 26, 2011 and a sketch, prepared by the City of Kenora, August 2013, which shows the proposed subdivision of 10 lots and 1 Block, and associated road, and the proposed zoning, respectively.

1. The draft plan, redlined on September 26, 2011 be redlined to add the area to be considered for the common elements condominium,
2. That a draft plan indicating be prepared indicating the inundated lands shown on the sketch prepared by the City of Kenora, August 2013, and labeled OS shall be the lands be identified as the common elements condominium, and indicating the parcels of tied land (POTLs);

3. That the condominium declaration shall prohibit the utilization of the inundated lands to one dock per POTL, not greater than 20 feet in length, in order to not restrict navigation.
4. Prior to final approval being granted, the Secretary Treasurer of the Kenora Planning Advisory Committee shall be satisfied that the owner has provided a copy of the final plan in digital format, including road centerlines .
5. Prior to final approval, the Owner shall provide to the satisfaction of the Municipal Solicitor:
 - i) a copy of the registrable description of the parcels of tied land (POTLs) necessary for the registration of the common element condominium corporation; and
 - ii) an undertaking which ensures that this common element condominium subject to this approval will be registered against each of the POTLs identified in Condition 2 above).
6. Prior to final approval being granted, the owner shall ensure inclusion of the details of the common elements condominium within the subdivision agreement, required as a condition of approval for the plan of subdivision, in accordance with Section 51(26) of The Planning Act, R.S.O. 1990, as amended, with the City of Kenora. The agreement shall be registered on title and shall include provisions obliging the owner to satisfy all the requirements, financial and otherwise, of the City of Kenora as it applies to the lands subject to this condominium description, and associated plan of subdivision.
7. The owner shall pay cash-lieu in the amount of 5% of the parkland dedication included in the condominium description to the City of Kenora for park or other recreational purposes pursuant to the Planning Act, R.S.O. 1990, as amended. .
8. The final plan for registration must be in registrable form together with all necessary instruments or plans describing an interest in the land.
9. Prior to final approval being granted, the Secretary Treasurer of the Kenora Planning Advisory Committee shall be satisfied that the conditions of approval have been satisfied and the final plan is in conformity with the draft plan.

Ray Pearson and Vince Cianci returned to meeting at 8:16 p.m.

(x) New Business

a) E. Rody – August 30, 2013 re: Dixon B07/12

The Secretary Treasurer read out Mr. Rody's, letter, dated August 24, 2013 which was addressed to the Wayne Gauld concerning the Dixon Consent Application and specifically the survey and reference plan 23R-12148. There were also various emails that Committee received along with the circulation of the letter. A reference plan was registered in January of 2013, however the Secretary Treasurer was not aware of this until August of 2013, at which time the matter was brought forward to the PAC at the August 20, 2013 meeting. She advised that she did not receive a preliminary survey to review prior to the final plan being deposited at Land Titles. She added that the PAC is aware that the Planning Administrator does not approve drawings that have not received approval at the Committee level.

Discussion ensued over this occurrence not being the first survey the Committee had an issue with and whether a follow up letter should be sent to Mr. Rody. Committee agreed that if the PAC went against the recommendation brought forth at the August 20, 2013 meeting that the only one hurt would be Mr. Dixon. Also discussed was the applicant's clarity of the process.

b) Christmas Dinner – December 17th, 2013 – The Boathouse

(xi) **Adjourn**
Moved by: Terry Tresoor

THAT the September 17, 2013 Planning Advisory Committee meeting be adjourned at 8:28 pm.

MINUTES ADOPTED AS PRESENTED THIS 17th DAY OF OCTOBER, 2013

CHAIR

SECRETARY-TREASURER