



PROCEEDINGS
Of a Public Meeting to discuss an
Amendment to Zoning By-law #160-2010
(Re: Z01/13 Bell and Z02/13 City Initiated)

Tuesday, February 12, 2013
City Council Chambers
At 10:00 a.m.

PRESENT: Councillor L. Roussin, Property & Planning Lead
Mayor D. Canfield
Councillor R. Lunny
Councillor R. McMillan
Councillor S. Smith
Karen Brown, CAO
Tara Rickaby, Planning Administrator
Richard Perchuk, Operations Manager
Heather Kasprick, Deputy Clerk

REGRETS: Councillor C. Drinkwater
Councillor R. McKay

Lead of the 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 amendments 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 applications 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 dates of notice given by publishing notices in 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. H. Kasprick, Deputy Clerk, advised the Notices pertaining to these public meetings were provided in accordance with Planning Act requirements.

The Chair indicated that if anyone wishes to receive written notice of the adoption of the By-laws 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 each Applicant/Agent will provide the background information for their application and then the Planning Administrator will provide information from the planning report, after which anyone who wishes to speak either for or against the applications will be given the opportunity to do so, and a record will be kept of all comments.

Application for Zoning By-law Amendment Z01/13 Bell

Mr. Jeff Port is acting as Agent for 2193259 Ontario Inc. for this application and was present for the proceedings.

They received draft approval for a twenty three (23) lot plan of subdivision on property located off of the East Melick Road, and abutting Black Sturgeon Lake, in May of 2012. Included in the plan of subdivision are two local roads, two blocks and a private access point to Black Sturgeon Lake, in favour of owners of backshore lots.

The conditions of approval of for the subdivision include the requirements that

- the subject lands be rezoned to BSL – Black Sturgeon Lake (Restricted Development) and/or EP – Environmental Protection; and
- 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.

The Applicant is also proposing to rezone certain portions of the land to EP – Environmental Protection and to BSL – Black Sturgeon Lake (Restricted Development Area). The effect of approval would be to ensure that future uses and construction on the residential lots are in compliance with the BSL provisions, and to provide protection to fishery resources.

18 of the lots are on the waterfront and 5 are backshore lots with access to the water. Application has been fully processed by the Planning Advisory Committee and given draft approval in May 2012. This decision was appealed to the OMB and the hearing was heard in October of 2012. The appeal was found that the decision by the Planning Advisory Committee did comply with the various Acts and the appeal was dismissed. The applicant is now faced with the 23 conditions. This application is one of the conditions and another was the naming of the roads that was given preliminary approval of Council during today's

Property & Planning Committee meeting today. Lot 19 – backshore lots needs 90 meters of frontage and 2 hectares or 5 acres but because it is on a cul-de-sac it doesn't meet the 90 meters.

Tara Rickaby – Planning Administrator comments:

The Kenora Planning Advisory Committee did give provision and consent to this application and did discuss the matter at the January 2013 meeting again and support the application as well.

All planning matters have been satisfied through the subdivision process. The condition of approval to rezone will ensure that the areas which are potential or confirmed fishery habitat are protected by using the zoning by-law mechanism.

Recommendation to Council:

That the proposed zoning by-law amendment Z01/13 Bell, to amend the Zoning By-law 160-2010, as amended, for the property described as Part of Lot 5, Concessions 1, PIN 42134 -0451 & 42134 -032 , City of Kenora, District of Kenora from RU to BSL and EP and to reduce the required frontage on new Lot 19 from 90 metres to 46 metres 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 further

That all of the new lots are counted as part of new development under the Black Sturgeon Lake Restricted policies of the City of Kenora Official Plan, which is consistent with the intent of the City of Kenora Official Plan.

Councillor Roussin stated that any person may express his or her views. All comments will be kept recorded.

Councillor Roussin asked if anyone wished to speak in favour of the amendment, Mr. Port, agent for Rob and Lisa Bell stated he wished to do so for his clients.

Councillor Roussin asked if anyone wished to speak in opposition of the amendment.

Tim DePorto voiced his concerns with the subdivision and spoke against the development. Mr. DePorto has concerns with Black Sturgeon Lake getting overdeveloped, and the potential harm to the water and the taxes. He lives directly across from the proposed subdivision and has many concerns with the development. He requested that the application be re-advertised because of a transposition of numbers in the name of the property owner, in the planning report due to some clerical errors. There are inaccuracies in the application and he is asking that we reissue the notice. Tara clarified that 2193259 Ontario Inc is Rob and Lisa Bell. The Agent representing is Jeff Port and that this is simply a clerical error. The OMB did uphold the conditions of the approval.

Councillor Roussin asked if there were any other questions. There were no other questions.

Z02/13 City initiated zoning amendments

Tara Rickaby, Planning Administrator described the Planning details of the City initiated zoning amendments.

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

The purpose and effect of the amendment is to replace Section 3.4 – Non-Conforming / Non-Complying Uses with new provisions, which clarify applicable development regulations. No Schedule changes are proposed with the amendment.

“Non-Complying” is defined as a permitted use which does not comply with one or more regulations of Zoning By-law 160-2010 for the Zone in which such building or structure is located on the date of passing of Zoning By-law 160-2010 or amendments thereto. (For example, a minimum lot area or lot frontage which was legal in the past but is no longer under By-law 160-2010).

“Non-Conforming” is a use of land that is not listed as a permitted use in the zone in which it is located but which is tolerated because Section 34(9) of the *Planning Act* (R.S.O. 1990) allows it to continue so long as the use is not changed or discontinued from the date when Zoning By-law 160-2010 was passed or amended. (For example, an industrial use that was legally permitted at one time, but is no longer a permitted use under By-law 160-2010).

The proposed amendment retains some existing elements of Section 3.4, while incorporating new provisions based on best practices from Zoning By-laws of other Ontario municipalities.

Recommendation:

That the Council of the Corporation of the City of Kenora approves the amendment to Zoning By-law No. 160-2010, as follows:

The following applies to Section 3.4 – Non-Conforming / Non-Complying Uses of Zoning By-law 160-2010.

1. THAT the provisions in Section 3.4 – Non-Conforming / Non-Complying Uses shall be deleted and replaced with the following provisions:

3.4.1 Non-Complying Building and Structures

1) Reconstruction, Enlargement and Extension

- (i) Where a legal non-complying building or structure is damaged, destroyed, or demolished, the building or structure may be reconstructed within its original location provided:
 - a. The situation of non-compliance is not further increased; and
 - b. All other provisions of the By-law are complied with.
 - (ii) A legal non-complying building or structure may be enlarged or extended provided the situation of non-compliance is not further increased and it complies with all other provisions of the By-law.
- 2) Development is permitted on any vacant lot existing as of the date of the passing of this By-law and which lot is legally non-complying with respect to lot width and lot area provided:
- (i) The proposed use is a use permitted in the zone in which the lot is located; and
 - (ii) The proposed use does not contravene any other zone provisions.

3.4.2 Non-Conforming Uses

1) Continuation of Existing Uses

The provisions of this By-law shall not apply to prevent the use of any existing lot or any existing building for any purpose prohibited by this By-law if such lot or building was legally used for such purpose on the date of the passing of this By-law and provided that the lot or building continues to be used for that purpose.

2) Restoration of Buildings to a Safe Condition

Nothing in this By-law shall prevent the strengthening or restoration to a safe condition of any building or part thereof, lawfully used on the date of the passing of this By-law, provided that such strengthening or restoration does not increase the building height, size, volume, or change the use of such building.

3) Reconstruction of Damaged Existing Building

Nothing in this By-law shall apply to prevent the reconstruction of any legal non-conforming building which existed on the date of the passing of this By-law, which is damaged by causes beyond the control of the owner, and such building may be reconstructed in accordance with the previously existing standards, even if such did not conform with one or more of the provisions of this By-law, provided that the building height, size, volume, or lot coverage is not increased.

Purpose and Rationale: Section 3.4 regulates development on lots where the legally-established lot standards, existing development, or existing uses do not meet the provisions of Zoning By-law 160-2010. The proposed change replaces the current provisions, which are considered to be confusing, ineffective, and redundant. The proposed Section 3.4.1.2 is retained from the existing By-law as a means to encourage infill

development within the urban boundary. The remaining proposed provisions clarify the development potential of a non-conforming or non-complying use or property.

Councillor Roussin asked if anyone wished to speak in favour of the amendment. There were no comments.

Councillor Roussin asked if anyone wished to speak in opposition of the amendment. There were no comments.

Councillor Roussin the declared the Public Meeting closed at 10:32 a.m.