

**The Corporation of the Municipality of Temagami
COMMITTEE OF ADJUSTMENT
The Municipality of Temagami Theatre
December 14, 2017 at 1:00 pm**

An audio recording of this meeting has been made and is available through the Municipal Website.

Committee of Adjustment Members: (Chair) Ron Prefasi, Claire Rannie, Jim Hasler, Cathy Dwyer, Nicole Brooker, Barry Graham

Staff: Assistant Secretary-Treasurer: Tammy Lepage; Planner: Jamie Robinson (by phone).

Absent: Barret Leudke (With Notice), Bruce Rice (With Notice)

Members of the Public: 4

Telephone Delegation: Lanny Dennis (Agent), Marv Silver (Applicant)

Call to Order

The Chair called the meeting to order at 1:00 pm.

The Chair introduced the Committee members, and read the audio recording declaration of the meeting.

The Committee discussed the appointment of Secretary-Treasurer and passed the following motion:
17-55

MOVED BY: B. Graham

SECONDED BY: J. Hasler

WHEREAS Section 44(8) of the Planning Act requires that a Committee of Adjustment shall appoint a Secretary-Treasurer;

AND WHEREAS By-Law 11-1020 requires that the Secretary-Treasurer for Temagami's Committee of Adjustment shall be a member of municipal staff;

AND WHEREAS the Committee deems it desirable to appoint Tammy Lepage as Secretary-Treasurer;

AND WHEREAS the Committee of Adjustment deems it desirable to also appoint an Assistant Secretary-Treasurer, who may fulfill the duties of the Secretary-Treasurer in the absence of the Secretary-Treasurer;

NOW THEREFORE BE IT RESOLVED THAT the Committee of Adjustment appoint Elaine Gunnell as Assistant Secretary-Treasurer.

CARRIED

The Committee discussed that the Secretary-Treasurer for budget purposes should keep track of hours and provide the Committee, with a review of hours every 3 months.

The Secretary-Treasurer read out the meeting procedures.

Adoption of Agenda

17- 56

MOVED BY: C. Rannie

SECONDED BY: B. Graham

BE IT RESOLVED THAT the revised agenda dated December 14, 2017 be adopted as presented.

CARRIED

Revision is to include item 5.1 Applicant and Property location details.

Approval of Minutes

17-57

MOVED BY: C. Dwyer

SECONDED BY: J. Hasler

BE IT RESOLVED THAT the minutes of the Committee of Adjustment meeting held November 30, 2017 be adopted as presented.

CARRIED

Declarations of Conflict of Interest

None.

Deferred Applications

1) Application No. C-16-03

Applicant: Lanny Dennis of Wayne Simpson and Associates on behalf of Temagami Bays Development Corporation

Property Location: Kanichee and Net Lake Properties – Legally described Strathy PT Mining Location WD 257 PCL 1014; Strathy Location WD258 PCL 1014NIP Mining Claim; Strathy PCL 2497 PT Mining Location WD 259 Mining Claim; and Strathy Location WD260 PCL 1011 Mining Claim.

THE PURPOSE of the Application is: to create three new shoreline residential lots and to create an easement over the subject lands in favour of the public to enable access to the crown land to the west.

THE EFFECT of the Application is: to create three new shoreline residential lots and one retained shoreline residential lot, each capable of supporting a detached dwelling. A concurrent Zoning By-law Amendment Application has also been submitted to implement the proposed consent application.

Jamie joined the meeting by phone at 1:10 p.m., Lanny Dennis & Marv Silver by phone 1:10p.m.

The Chair gave some background information on the history of this application. Jamie provided clarification regarding the zoning by-law amendment public meeting not scheduled for the same date as the hearing.

Presentation of the Applications

The committee had received a copy of the application and the Planning Report from MHBC Planning dated December 7, 2017, with the meeting package. Jamie Robinson of MHBC attended by telephone and summarized the application with a power point presentation for the Committee. Jamie explained that based on the EIS being updated, and the issues with the road, and boat launch access being dealt with, staff is satisfied with the updated information. Jamie further explained that based on his review of the application, the application is consistent with the Provincial Policy Statement, and conforms to the Official Plan and informed the Committee that a concurrent Zoning By-Law Amendment public meeting will be scheduled in the New Year. He clarified further that the zoning by-law amendment in 2016 was provided to Council and that no decision was made as the consent application was deferred. Jamie further clarified that within the Site Plan Agreement the EIS recommendations will be implemented.

Jamie clarified that an Archaeological study was completed in 2006 and that is why in the Zoning By-law amendment that area will be protected and zoned as open space. Zoning it as open space will prevent buildings and structures to be constructed in that area. He further clarified on the Easement to establish a launch, and it would follow the limits of Kanichee. The easement would be granted in favour of the public.

Correspondence Included in the Packages

- Correspondence from the Timiskaming Health Unit dated January 5, 2017 – no objections to the application provided that the test pits are done, and that the septic systems have to be a minimum of 300 metres from the lake due to the lake being at capacity.

- Correspondence from the Ministry of Natural Resources and Forestry dated January 10, 2017 – recommends to: confirm that each lot can house an individual sewage system; confirm all new tile fields would be located to drain into a drainage basin; all fields require a set back at least 300 metres from the shoreline of lakes; lands adjacent to fish habitat be evaluated as 300 metres from the normal high-water mark; and a minimum 30 metre vegetated cover.
- Correspondence received from Judy Evans dated January 3, 2017 , & December 6, 2017 – concerns with regards to access to their cottage located on Net Lake safely at all times of the year.
- Correspondence from Rhonda & Darren Etmanski received January 10, 2017 - concerns with access to the cottages on Kanichee and Net Lake and concerns regarding the road maintenance and privatisation.
- Correspondence from MHBC on Behalf of TransCanada Pipeline dated January 11, 2017 – concerns with development occurring within 200 metres of pipeline right-of-way (ROW), an agreement in relation to “Lands” outlining conditions be registered, and concerns with construction activities, paving and landscaping.

The Chair informed the Committee that Bill 139 has received Royal Assent on December 12, 2017.

Correspondence Received After Packages Were Compiled

The Secretary-Treasurer read out the following correspondence after the package was compiled:

- Correspondence received from Temagami First Nations dated December 11, 2017 – archaeological assessment required
 - The Committee had reservations, with regards to the request of TFN/TAA requiring an archaeological assessment to be completed and if this is going to become the norm on all applications.
 - Staff provided clarification to the Committee that the information outlined in the correspondence as not being provided was faxed on November 30, 2017, with a follow up email sent on December 12, 2017.
- Correspondence received from TFN/TAA dated December 13, 2017 – the Stage 2 Archaeological Assessment completed in 2006 satisfies the requirement for the study.

Presentation of the Application by the Applicant/Agent:

The applicant Lanny Dennis spoke to the application and agrees with Jamie’s assessment. Mr. Dennis expressed concerns with conditions 3 & 4 and the 1 year fulfillment. Jamie clarified that the Site plan agreement will be required for each lot to identify building envelopes that meets the setback and on all four lots. Jamie further clarified that the TransCanada pipeline agreement applies to all four lots and that the agreement prevents any development without the pipeline being notified.

Questions/Comments by other Property Owners:

- Question posed by B. Lowery regarding concerns with future consents on these proposed lot creation. He further questioned are these three lots able to be subdivided again. Jamie clarified that there is a policy in place in the Official Plan, which limits 3 lots to be created on private roads and that the proposed lots cannot be severed as long as the policy in the official plan remains the same.
- Question posed by B. Lowery wouldn’t that condition be in place through Site Plan Control? Jamie if that’s a concern that this issue be dealt with in the site specific zoning amendment to limit further lot creation.

Questions/Comments by Committee of Adjustment Members:

The Committee of Adjustment Members had the following questions/comments:

- Questions regarding why the Site Plan Agreement is being required, as the development on the property is uncertain? Jamie clarified that this is in place to ensure the protection of the shoreline area, and identify the docks and features of the EIS envelopes. BG – saying that 12 years after the first submission curious Jamie why the development has to do the site plan – JR S. Poirier ensure the

protection shoreline area, identify the docks and identify the features of the EIS envelopes that have been identified in the EIS.

- Question regarding the Zoning By-law regulates shoreline protection. Jamie clarified that the zoning by-law is not the tool as under s.34 of the *Planning Act* does not regulate vegetation removal only s. 41 of the *Planning Act – Site Plan Control* does.
- Question regarding fish habitat, and development envelopes? Jamie clarified that through Site Plan Control, development envelopes are identified to allow development at a future date, on the property within these specified areas and that this option also provides for flexibility of where building can be located.
- Question regarding the shoreline vegetation protection and how this will be dealt with. Jamie confirmed that as per the EIS study a 20 metre vegetative buffer is sufficient and he further added that the FRI report EIS study feels that 20 metre setback is appropriate protection for the fisheries and water habitation. Jamie further clarified that where there is no study completed the 30 metres standard would be the recommendation; however as the study was completed the 20 metres satisfies this condition.
- Question regarding how the archaeological area will be protected if it is zoned open space. Jamie clarified that the Zone Open Space does not permit any buildings, structures to be developed.
- Comment regarding the 30 metre setback as noted in the Ministry of Environment (MOE) correspondence.
- Comment that Mr. Dennis agrees with Jamie in his review of the FRI Report (EIS Study).
- Question regarding on Page 4 of the Planning report it mentions 66 foot Easement and on the application it mentions 10 metres. Jamie clarified that the Easement will be 10 metres in width.
- Question is there a by-law in place regarding road standards? Jamie clarified that the Municipality does not have such a by-law in place. However, the Official Plan limits the development on private roads and that the road is to be maintained by the people who own the lots. The Municipality is not liable for development on private roads and that the emergency services may be limited, which is why this is clarified within a private road agreement.
- Question regarding confirmation of the how the road is being maintained now? Jamie clarified that at the moment the road is maintained by the property owners.
- Question regarding the 300 metres septic requirement from the shoreline, as per the Timiskaming Health Unit (THU) and if the beds would cross the road. Jamie clarified that within the designs of the septic's this has been dealt with as part of the subdivision application and that there are standards in place and that those standards would need to be met prior to occupancy being granted. Jamie clarified that Lot 3 can be considered a grandfathered clause and it would allow today a building permit to be applied for. Jamie further clarified the comments received by TransCanada pipeline and that the language provided in the comment will be placed in the agreement.
- Question regarding the 2006 Archaeological Assessment being valid. The Secretary-Treasurer informed the Committee that as per her discussion with Mr. Pollock she has reached out to the Ministry of Tourism Culture and Sport to ensure validity of the study. Jamie further clarified that in his professional opinion the study is still valid and he is unaware of any changes.
- Comment that the Official Plan today prevents and limits the development within the Community.

Discussion/Decision by Committee Members:

The Committee members discussed the application and the impact of the creation of these lots, and discussed further the Environmental Impact Study.

The following resolutions were passed:

Application: C-16-03

17-58

MOVED BY: B. Graham

SECONDED BY: C. Dwyer

BE IT RESOLVED THAT IT RESOLVED THAT

The Committee of Adjustment: Grants

Minor Variance Application: C-16-03

Applicant: Lanny Dennis of Wayne Simpson and Associates on behalf of Temagami Bays Development Corporation

Subject to the attached Notice of Decision.

CARRIED

The notice of decision included the following conditions:

- 1) The preparation of a Reference Plan for the proposed lots, the road easement and the lands to be dedicated to the Municipality. The Reference Plan must also recognize the area of archaeological significance to be zoned as a Part of the Reference Plan and the Reference Plan must be substantially in compliance with the application sketch and to prepared to the satisfaction of the Municipality;
- 2) The preparation of an Easement Plan and the easement to be registered against the proposed lots for the use of the road by the public;
- 3) The entering into a Site Plan Control Agreement for each lot. The Agreement shall recognize the location of driveways, building envelopes, dock locations and vegetation protections area adjacent to the shoreline where a tree removal is only permitted for a path to access the water and for hazardous trees;
- 4) The recognition for the development envelopes in accordance with the EIS;
- 5) The entering into a private road agreement to be registered on title of each lot;
- 6) The Conformation of the Health Unit that an individual sewage system can be accommodated on each lot;
- 7) The completion of a Zoning By-law Amendment to Zone the subject lands to permit residential development, to restrict development in proximity of the shoreline in accordance with FRI EIS recommendation, and to permit a municipal access point to Net Lake.
- 8) The dedication of lands as outlined in the application sketch to the Municipality of Temagami for the purposes of an access point to Net Lake, at no cost to the Municipality.
- 9) The payment of all professional fees incurred by the Municipality, related to the fulfilment of these conditions.
- 10) The applicant provides the Municipality a registerable description or a deed conveying the severed land, for the issuance of the certificate.
- 11) The applicant provides two white prints of deposited plan of reference of the entire land, which conforms substantially to the application as submitted.
- 12) That the conditions shall be fulfilled to the satisfaction of the Municipality.
- 13) As recommended by TransCanada Pipelines the entering into of an agreement which shall be registered on title. The agreement set out should contain the following:
 - a. The conditions restriction or covenants specified by TransCanada PipeLines Limited (TransCanada) shall be registered against title (by agreement) in relation to the "Lands" by way of application to register conditions, restrictions or covenants as applicable, pursuant to the Land Titles Act, or any amendments thereto.

The reason cited for this decision was that the application satisfies the four test for a minor variance established in Section 45 of the *Planning Act*. The committee considered the comments made in coming to their decision.

CARRIED

J. Robinson, L. Dennis & M. Silver was excused from the meeting at 2:22 p.m.

Adjourned Applications

None.

New Application

None.

Other Business

None.

Adjournment

17-59

MOVED BY: B. Graham

SECONDED BY: J. Hasler

BE IT RESOLVED THAT the December 14, 2017 Committee of Adjustment meeting be adjourned at 2:25 p.m.

CARRIED

Prepared by Tammy Lepage
Secretary-Treasurer Committee of Adjustment