



Corporation of the Municipality of Temagami

Memorandum to Council

Memo No.
2019-M-017

Staff
 Committee

Subject: Home Occupation

Agenda Date: January 10, 2019

Attachments:

- Decisions of Council
- Clarification from the Chief Building Official
- Correspondence received from Ministry of Municipal Affairs
- Correspondence received from neighbouring properties
- Previous Memo's provided to Council
- Direction from Council to the Planning Consultant MHBC

RECOMMENDATION

This memorandum is:

To be received for information.

INFORMATION

In the summer of 2017 a complaint was received regarding UDT Diving Inc. and that the diving facility had violated the zoning by-law with regards to creating a public nuisance, particularly in regards to noise, & increased traffic at 7416 Highway 11 North (subject Property). The Chief Building Official, is the Municipality of Temagami's By-law Enforcement Officer, who reviewed the complaint, confirmed with the Planning Department and the Clerk of the zoning of the property.

The zoning of the subject property is (R2) Remote Residential. The current access to the subject property is through a private road.

The process of notifying the property owner of a complaint was as followed:

1. Complaint received;
2. Conversations with the Municipality of Temagami's contracted planning services: MHBC Planning, Urban Design & Landscape Architecture, regarding proper process.
3. Two discussions with the individual listed on the property to act on the owner's behalf; (provided copies of the permitted uses within the R2 Zone, and s.6.23 Home Occupation)
4. Letter (October 12, 2017 **Attached**) drafted and hand delivered to the property owner. Within the body of the letter it included excerpts of the s.7.5 Permitted Uses R2 Zone, s.6.23 Home Occupation, and penalties under the *Planning Act*. The letter informed the property owner of the non-compliance and what measures can be taken to correct it.

In 2011 the process as noted above was taken, as a house was not zoned to permit the use of renting out units as an apartment. Step one was a discussion with the property owner notifying them of non-compliance and how to correct it, followed by a follow up letter. It is the duty of the Planning Department, having been apprised of such duties, to inform any owner of the policies in place; options

to remedy the situation; and the penalties that can be levied if the owner continues with the non-conforming use. The property owner completed a zoning by-law amendment in 2014.

February 12, 2018 (**attached**) received correspondence from a neighbour expressing concerns regarding the increased traffic and noise onto the property. The concern was also for their privacy. **This correspondence was received pending a zoning by-law amendment, as a comment submission for when and if an amendment is to take place.**

At the March 13, 2018 Planning Advisory Committee (PAC) meeting, the agenda was revised to include correspondence from the property owner regarding his business. The Committee discussed the importance of economic prosperity and passed the following motion:

18-22

MOVED BY: J. Kenrick

SECONDED BY: B. Leudke

BE IT RESOLVED THAT *the Committee recommends to Council to proceed with a Zoning By-Law amendment in response to the correspondence from Mr. Simpson's inquiry dated March 5, 2018 and encourages a broader range of the definition in the zoning by-law of home occupation/home industry; AND FURTHER THAT the definition of home occupation/home industry include home teaching and small learning facility in section 6.23 (g).*

CARRIED

March 15, 2018 (**attached**) received correspondence from the property owner addressed and sent to all of Council, Chair, of the Planning Advisory Committee (PAC), Chair of the Committee of Adjustment (COA), Chair of the Economic Development Committee, Clerk, Bylaw Enforcement and Planning expressing concerns with interpretation of the zoning by-law, and to request that the Council, PAC and COA to make the necessary changes to the permitted uses in the R1 and R2 to allow for economic growth for the SCUBA diving operations.

March 19, 2018 (**attached**) another piece of correspondence was received regarding the same concerns as noted above and adding the increased traffic due to deliveries of goods.

At the March 22, 2018 Regular Council Meeting, Council received the correspondence from the property owner dated March 5, 2018, and Memo from PAC and passed the following motion:

18-103

MOVED BY:

SECONDED BY:

BE IT RESOLVED THAT *Council receive correspondence from Stephen Simpson UDT Diving regarding R1R2 Zoning List Interpretation; AND FURTHER THAT Council direct staff to send the relevant documentation to our planner for a planning report.*

CARRIED

April 6, 2018, the Chief Building Official provided PAC with clarification regarding the use of the subject property for instructing purposes. (**Attached**)

April 16, 2018 correspondence received from the property owner via email regarding interpretation concerns and incorrect reference being given to the name of the diving facility and request the change to the definition be completed.

MHBC's report went to the Committee of the Whole meeting held on April 17, 2018, and direction was for his report to be placed on the consent agenda for the regular council meeting, with a proposed

motion directing staff to provide the Planner with Mr. Simpson contact information, to review and look at definitions of home occupation/home industry in other municipalities, and provide an updated report for the next council meeting.

At the regular Council meeting held on May 24, 2018 Council passed the following motions regarding Jamie's report:

18-175

MOVED BY: B. Koski

SECONDED BY: J. Harding

BE IT RESOLVED THAT *Council receive MHBC Planning Report – R1 R2 Planning Analysis related to Home occupations – Simpson Property*; AND FURTHER THAT *Council direct that the Planner be provided with Mr. Simpson's contact information and that he be directed to contact Mr. Simpson to discuss the matter.*

CARRIED

As directed by Council the planner was provided with the Mr. Simpson's contact information.

18-175

MOVED BY: B. Koski

SECONDED BY: J. Harding

BE IT RESOLVED THAT *Council direct the Planner to look at home occupation and home industry definitions from other municipalities to compare with Temagami's definitions and provide an updated report for the next meeting*

CARRIED

MHBC Planning was provided with the above decision of Council. Jamie provided his professional opinion on this matter to Council at the May 24, 2018 meeting (**Report one dated April 11, 2018**).

Report prepared by MHBC dated June 12, 2018 (**Report 2**) was also provided to Council outlining the difference between Home occupation provisions and Home Industry provisions. Within this report Jamie reviewed the definitions of Home Occupation and Home Industry from the Township of Nipissing, Township of Machar, Township of Georgian Bay, and Town of Gravenhurst as directed by Council.

November 9, 2018 correspondence received from a neighbouring property addressing their concerns regarding maintenance cost of the road (grading, snowplowing etc.) while diving instructions are taking place the width of the channel is a concern for the divers safety. (**Attached**)

At the Committee of the Whole meeting held on November 13, 2018 Report 2018-027 – Home Occupation Matters was to be brought back as an independent item on the regular council meeting scheduled for November 22, 2018. This is the latest in information received from MHBC and included options/recommendations that were presented to Council's for consideration.

At the regular Council meeting held on November 22, 2018 Report 2018-027 (**Attached**) was received by Council and Council defeated the following motion by recorded vote:

18-431

MOVED BY: L. Hunter

SECONDED BY: C. Lowery

BE IT RESOLVED THAT *Council receive Report 2018-027*; AND FURTHER THAT *Council choose Option 2 and direct Staff to act accordingly*; AND FURTHER THAT *Council direct Staff to defer starting the process to change wording in the Comprehensive Zoning By-Law until the earlier of either the Official Plan update has been completed and approved or an Ad-Hoc Committee is formed to work with our Planning Consultant to review the Comprehensive Zoning By-Law in its entirety.*

MEMBERS OF COUNCIL	YEAS	NAYS
D. Burrows		✓
J. Harding		✓
C. Lowery	✓	
D. O'Mara	✓	
R. Prefasi		✓
L. Hunter	✓	

DEFEATED

I've attached each direction from Council to the Planning consultant.

The cost of the zoning by-law amendment is \$1, 200. Past practices have been that if a property was incorrectly zoned (for example during the creation of the zoning by-law), or the municipality has been notified of non-compliant use of any property, the onus has always been on the property owner to pay the fee for a zoning by-law amendment.

MHBC Planning Cost to date payable by the Municipality of Temagami:

Invoice dated November 2018:	\$562.18
Invoice dated October 2018:	\$2,362.83
Invoice dated June 2018:	\$1,377.47
Invoice dated April 2018:	\$990.45
Total:	<u>\$5,292.93</u>

Prepared by:

Reviewed by:

Tammy Lepage, Planning Clerk/Deputy Clerk
Name, Position

Craig Davidson, Treasurer/Administrator
Name, Position