



## QUISPAMIS PLANNING ADVISORY COMMITTEE

MEETING MINUTES – December 12, 2017

**Present:**

Darin Lamont  
Darren Bishop  
Brent Preston  
Carolyn LeBlanc  
Jean Place  
Kendall Mason  
Marc Gosselin  
S. Dwight Colbourne, P.Tech, Municipal Planning Officer  
Violet Brown, PAC Secretary

**Absent:**

**1. Call to Order**

Darin Lamont called the meeting to order at 7:02 p.m.

**2. Approval of Agenda**

**Moved By** Marc Gosselin

**Seconded By** Brent Preston

That the agenda be approved as written and posted.

**Motion Carried**

**3. Disclosures of Interest**

Marc Gosselin declared a conflict of interest on item 7.b).

**4. Approval of Previous Minutes**

**Moved By** Carolyn LeBlanc

**Seconded By** Jean Place

That the previous PAC Meeting Minutes be approved and filed.

**Motion Carried**

**5. Business Arising from Minutes - Notice of Decisions**

Oversize and Over Height Detached Garage - 14 Kluane Court

Preschool as Discretionary Use - 26 Pettingill Road

Fence Setback - 147-151 Queensbury Drive

**Moved By** Marc Gosselin

**Seconded By** Kendall Mason

That the Notices of Decision from the previous meeting be received and filed.

**Motion Carried**

**6. Unfinished Business**

None

**7. New Business**

**7.1 Sea Can used as Accessory Building - 14 Rafferty Court, PID 96289**

Michael & Margaret Scott attended seeking approval for permission to place a Sea Can, to be used as an Accessory Building, on a lot that is not designated as a building lot. The structure itself is two decimal six (2.6) metres by fourteen decimal zero (14.0) metres (36.4sqm) and as such requires a size variance of thirteen decimal four (13.4) square metres from By-law 038, Section 8.(G)(2)(c). As well, with the lot size at two hundred and seven (207) square metres, a variance of seven (7) percent, or fifteen decimal seven (15.7) square metres, is required for the occupancy of structures as per Section 8.(G)(3).

Mr. Colbourne noted that an accessory building is not permitted to be placed on a lot prior to the main dwelling, as per the Zoning By-law 038 Section 8.(G)(3), but the Town recognizes that this lot, with its size of 207 square metres, is not a building lot and shall never have a main dwelling placed on it.

Sea Cans are not addressed in the current Zoning By-law; however, they could be considered to have a similar use to an accessory building given that they are generally used for storage. Mr. Colbourne stated that sea cans may be looked at after the new Municipal Plan is in effect and the Zoning By-law is amended. Once regulations are in place, anything approved by the PAC will be considered grandfathered in. Research by staff found that Sea Cans have been approved in other jurisdictions. However, some of the requirements are: lots must be rural or commercial zoned, in a residential zone they must be located in the rear yard, maximum one (1) per property, must comply with the setbacks for each zone, and must be completely screened from view of adjacent properties and roadways. Mr. Scott stated that he could try and move the sea can back from the road a little bit farther.

The Sea Can was installed as a means to clean up the property; however, there are still piles of scrap metal located on the property. Mr. Scott noted that he stopped

the cleanup work in progress until he found out if he could keep the sea can; otherwise, putting things in there would have been a waste of time. He stated the use was that of storage and for his personal tractor and that once the property is cleaned up and the weather is warm enough, he intends on painting it with an epoxy paint. The door also requires work and that will be done shortly.

Notification was sent to property owners within a 100 metres of the subject property. No concerns were received.

**Moved By** Kendall Mason

**Seconded By** Brent Preston

That the PAC approve the placement of a Sea Can to be used as a Similar or Compatible Use to an accessory building at 14 Rafferty Court, PID 96289, with the following variances granted:

1. A size variance of thirteen decimal four (13.4) square metres from By-law 038, Section 8.(G)(2)(c);
2. An occupancy variance of seven (7) percent, or fifteen decimal seven (15.7) square metres from Section 8.(G)(3); and
3. And while this lot can never be considered a building lot, a variance from Zoning By-law 038 Section 8.(G)(3) for the placement of the structure prior to the main building.

Subject to the following terms and conditions:

1. The accessory structure is to be finished with either an epoxy paint or a cladding recognized by the National Building Code of Canada, current adopted edition, or to the satisfaction of the Town staff, and by June 30, 2018;
2. The accessory structure is not to be used for commercial or business purposes, for the keeping of livestock or as a dwelling unit; and
3. The remainder of the property to be cleaned up (free of debris) prior to June 30, 2018.

**Motion Carried**

*At 7:22 p.m. Marc Gosselin stepped out of the room.*

## 7.2 Sign Variance – 8-10 Millennium Drive, PID 114595

Ms. Jennifer Daigle, on behalf of Irving Oil Limited, attended seeking approval for a free-standing sign on the properties of 8 – 10 Millennium Drive, PID 114595. In order to obtain a sign permit, a variance is required from the Sign By-law 036 Section 13.A.3 to allow for a second free-standing sign on a commercial lot since both lots are considered one parcel of land, a variance setback variance of zero decimal five (0.5) metres from Section 13.A.3.b. as the sign is not to project any closer than two (2) metres from the property line, and a clearance variance of zero decimal eight (0.8) metres from Section 13.A.3.d.i. as the sign is to have a minimum clearance of two (2) metres if the setback from the property line is less than six (6) metres.

Ms. Daigle noted that the reason for the extra signage was for patrons to the businesses in both units, in particular, for Second Cup. She stated that the businesses feel that people are not seeing the signs until they have driven past the entrances and due to the area, there is no easy turn-around so subsequently, they are losing business. She stated that if the sign was permitted to be erected at proposed, that any damage done to the Municipal property would be prepared by the property owners of 8 – 10 Millennium Drive and at their cost.

The staff memo noted that if the property were to be subdivided into two lots (8 and 10), they would each be permitted a free-standing sign. In this case tenants on the existing free-standing sign having a business located within the 10 Millennium Drive building would need to be removed and businesses located at 8 Millennium Drive would not be permitted to advertise on the sign proposed in front of 10 Millennium Drive as third-party signage is prohibited by the by-law. Additionally, staff members did point out that the property does already have a second free standing sign across the street that was permitted through a by-law amendment by Council, and designed high enough to be visible from the highway prior to exits from both directions. As well, there is a sign on the opposite corner, and each unit within the building has fascia signs that were approved by the Planning Advisory Committee for their over sized proportions.

The largest concern is that granting this type of variance without appropriate conditions would create a substantial precedence in the area. The town has many other properties with multiple buildings on one lot that could take advantage of such a ruling. Big Rock Plaza has plans for five (5) buildings and if a precedence is set, they may seek permission for five (5) free-standing signs as well.

Ms. Daigle stated that they would be willing to drop down to four (4) panels on the free-standing sign at 10 Millennium for the four (4) businesses in that unit but would prefer to continue to allow Second Cup to advertise on the free-standing sign at 8 Millennium Drive. When Ms. Daigle was asked if the tenants would be willing to give up the panels on the existing signs, she said she would need to confirm. The Chairperson asked if she wanted to table the decision until she had time to meet with the tenants. Once Ms. Daigle confirmed that the signs are permitted as is and no changes would be required unless they proceed further, she agreed to table this application. No one spoke for or against the application at this time.

**Moved By** Carolyn LeBlanc

**Seconded By** Darren Bishop

That the PAC table the decision until the next PAC meeting of January 9, 2018 to allow for Ms. Daigle to meet with each of the tenants to determine their signage preferences.

**Motion Carried**

*At 7:40 p.m. Marc Gosselin stepped back into the room.*

7.3 Thomas Johnson Architect Inc. Subdivision – A.E. McKay Builders Ltd (Owner/Developer) – 67 Old Neck Road (PID 231019)

Mr. Andrew McKay of A.E. McKay Builders Ltd attended seeking approval for a tentative subdivision plan of two (2) residential lots on the Old Neck Road, PID 231019. It was noted that a new plan was presented that outlined the elevations for buildings and had the correction of the remnant parcel identification number.

Mr. McKay responded to the concerns received noting that many of the residents were worried about the storm water management and that with consideration to the fact that the right-of-way will be constructed to the municipal standards, including proper ditching on both sides, the flow of water will likely be better managed than it is now in the land that is not maintained as a used road. He stated that during the construction of the road, they will cut down as few trees as necessary. While the initial design showed a six (6) metre wide access with a one (1) metre wide shoulder on either side, the final plan will be based on Crandall Engineering and approved by the Town and may be narrower. Mr. McKay was asked if the road was designed to encroach on any persons property or through any existing buildings as indicated by one of the resident's correspondence. Mr. Colbourne showed the map of the area on screen to indicate that the right-of-way was clearly marked and clear of any structures. Mr. Colbourne reviewed the Stop Up and Close By-laws done by the Town which consisted of a small strip of land in front of the dwelling at 60 Old Neck Road, so as to allow traffic to continue and the house to remain, and at the top of Old Neck Road where it meets the Neck Road so as to offer an easier access to the property owner at 79 Neck Road.

When asked about this intersection of the Neck Road and Old Neck Road area, Mr. McKay stated that the engineers will determine what feathering or other conditions will be met to ensure a good match in grades.

The PAC was asked to review this proposal with consideration to the Zoning By-law 038, Section 6.(N)(1) whereas no person shall erect or use a building or structure or use any lot of land regulated by this by-law unless the lot of land to be used or the lot of land upon which the building or structure is situated or to be situated abuts or fronts on a public street or otherwise achieves access to a public street satisfactory to the Planning Advisory Committee.

The Thomas Johnson Architect Inc. property (PID 231019) was granted access to the upper Neck Road (a public street) more than 50 years ago by way of a private right-of-way over what has been historical known as and remains known as the Old Neck Road. The Deed and plan No. 1123, as registered with the province of New Brunswick, refer to and describe this private right-of-way and indicate both the private right-of-way and the Old Neck Road on the registered plan.

While this Section of the road, where the right-of-way passes, has not been maintained or developed to any great extent for some time by the Town, not maintaining or developing a road within the right-of-way does not remove the Town's interest or jurisdiction over the right-of-way. Mr. McKay has agreed to improve the right-of-way over the Old Neck Road as a condition of the approval process and will enter into a Subdivision Development Agreement for that purpose.

Once the roadway access to the subject property is brought up to required safety standards, it will be maintained by the Town and the Owner will release their right-of-way to the Town as part of the Development Agreement and to the benefit of the adjacent property owners.

As per the PAC policy, notice was sent to property owners within 100 metres of subject property and the private right-of-way (i.e. property owners within 100 metres of the intersection of the Old Neck Road right-of-way with the Neck Road). Furthermore, those residents who contacted Council by way of the Town Clerk regarding this potential subdivision were also notified.

Concerns were received from the residents and several attended to speak on the application. Mr. Todd Seely of 75 Old Neck Road talked about how this proposal negatively affects him and his property. He stated that the Town walked away from the road years ago and cottages were built, some on the road with their potable well within the road, and that he would not have invested in this property had he known his taxes would be increased. He noted the shortest route to this property of 67 Old Neck Road was from the bottom, next to 65 Old Neck Road and asked why the developer could not develop that end. He also noted that there is a property for sale off the Neck Road that could be purchased by Mr. McKay and used as access to this proposed lot. He noted that he spoke to many residents who all have huge issues with water and stated that he is skeptical of the engineers making it work. He asked who would be responsible for damage from water, from plowed roads and damage to his well. He calculated power lines would have to be moved and that the fields there would be eroded if engineering was not precise. He said the area was like a mountain and not fit for homes. He added that the large road is a huge issue for him and asked if the developer would be required to put up a bond for him to get financial compensation if anything happened on his property. He asked when was the last time the Town did any work on the road and stated that he has been paying for the maintenance and that it was never intended to be six metres wide plus shouldering. He asked if there were reports for the engineering design or water displacement and asked if Mr. McKay would consider the alternate routes as access for his million-dollar homes. He stated that he enjoyed the privacy of his property and did not want a bunch of neighbors and that he would have built down by the Fitzpatricks (at 69 Old Neck Road) if he knew this of this proposal. Mr. Seely was asked if he knew who created the three to three and a half metre right-of-way access that was constructed from the top of the Old Neck Road down to his property. He stated that he moved a few trees that were laying over and cut a few dead trees but never cut any in good trees while clearing the area.

Mr. Glenn Fitzpatrick of 69 and 71 Old Neck Road spoke to the PAC Members regarding the water issues and the ownership of the road once it is constructed, wondering if the Town or residents would be responsible. Mr. Colbourne noted that as per the presentation, Mr. McKay would construct the road and the Town would take over responsibility once completed, similar to all streets in the town. Mr. Colbourne reiterated that while the plan sent out stated six metres, the engineers will review the area topography and if six metres is challenging, staff will review the possibility of five metres and consult with emergency services on what their

minimum requirements would be with consideration to the road grades and population density. Mr. Fitzpatrick noted that there is a private right-of-way that goes over 79 Neck Road to grant access to 71 and 75 Old Neck Road and noted it can be a difficult road during winter months due to the incline. He asked if a yield sign can be put at the end of this private driveway. Mr. Fitzpatrick also asked if the water, which now flows down from the Neck Road across the sloped property across from his land and then over his property to the river, was to continue in this natural path. He offered pictures of the culverts on Old Neck Road and the existing storm water flow. Mr. Colbourne stated that the storm water management report will likely suggest that a swale or ditch be created between the two new lots at 67 Old Neck Road to allow the water to flow directly to the river. Mr. Fitzpatrick asked if the proposed road would be marked with pegs to show residents exactly where it will be.

Mr. Dan Thompson, President of 2405131 Ontario Inc., and owner of the second lot at 79 Neck Road plus 81 Neck Road, spoke about the right-of-way that travels across his property for access to Mr. Seely's and Mr. Fitzpatrick's properties and its twenty-year existence. Mr. Thompson stated that he has plans to return to the area someday and feels the road will change the rural neighborhood to suburban and that the Town should not service the road for just two homes. He stated that maintaining the road could cost millions and is not economically sound. Mr. Thompson felt the area should be preserved as it is yet stated it is like a ski slope and has torrential flows of water. He noted concerns for an environmental impact, stated that feathering the new road to the existing road and the driveways off the road is not acceptable and that he did not want any drainage directed to his fields for fear of contamination and subsequent inability to use as farm land. He further stated he is not opposed to the lots being developed but is opposed to the development of the road and any potential encroachment on his properties.

Ms. Lois Thompson of 79 Neck Road stated concerns for the loss of trees and grass caused by the construction of the road, for erosion and water run-off once trees are removed, and the potential concern for access to her property as the existing high embankment may be worse. Mr. Colbourne stated that final plans will ensure no one loses access to their property. Ms. Thompson noted her potable well was in her front yard close to the road and her concerns for contamination. She suggested the development come from the bottom of Old Neck Road, that the road keep the existing foot print, and that the terrain is not suitable for a road. Ms. Thompson felt there is a legal precedence that says the Town does not own rights to the road due to abandonment and due to the residents maintaining it. Mr. Colbourne asked Ms. Thompson if anyone ever asked the Town to maintain the road or to do any work to make it an open access to which she answered no and stated the residents like it the way it is now. Mr. Colbourne reiterated that the Old Neck Road belongs to the Town and has since the Province handed over roads in the 1970s. He stated that if anyone owned a piece of land, built on it, but left for a long period of time, that this does not mean they abandoned their rights or ownership to that land. As for the location of potable wells, Mr. Colbourne suggested a review of the regulations on Service New Brunswick that state a well must be no closer than two (2) metres to a home and no closer than ten (10) metres to the property line. He also noted that

as per the province, the Kennebecasis River requirements for permits are for construction that may be within thirty (30) metres of the river, not seventy-five (75) as residents suggested.

Mr. Mark Magee of 57 Neck Road spoke on his concerns for the remnant parcel of land, that of a triangular shaped lot on the upper side of Old Neck Road that is currently not being looked at as a building lot but is the lot where the proposed temporary turn-around is located. While this remnant lot is not directly below Mr. Magee's property, he stated it was a steep lot and cutting into this for the road without benching it will cause major erosion and slope issues. He noted that NB Power had cut some trees and this caused flooding since the trees used to absorb the water. He stated a lane would be better than a full road.

Darrellene MacGillivray of 65 Neck Road and Margot Clark of 67 Neck Road spoke together on their concerns for the remnant lot below them (more below 65 than 67) and the future plans of how and when it will be developed. Ms. MacGillivray stated that there is a ditch between their properties where the water flows from the subdivision above on Reynar Drive and her concerns for erosion should this remnant lot be developed. She proposed that the development, including the temporary turn-around which cuts into the remnant lot, be tabled until such time as a full slope analysis is complete. Ms. Clark agreed stating that the development of this lot could make her back yard erode. Mr. Colbourne noted that this remnant lot is not being developed at this time but may in the future and confirmed that the owner may not be required to return to PAC as there may not be any variances required; therefore, there may not be public notice for any future work on this lot. He explained the requirements of a temporary turn-around as normal practices of a subdivision with potential for further road construction and stated that the engineer review will include this turn-around and make recommendations.

Mr. McKay returned to the podium and noted that he is only creating two building lots at this time and has agreed to pay for most of the construction of a municipal road and will do what he can to address all the concerns from residents. He reiterated that the proposed road and ditch development will create a better storm water management than the little to non-existing plan that is current. He noted that this road will also offer a Town maintained access to several properties which will be better than the private right-of-way that was noted as being difficult, especially in winter months. Mr. McKay stated that an initial review did not indicate any power poles requiring relocation. When asked if he would consider purchasing the land that is for sale near 65 Neck Road, he stated that he already purchased the parcel of land that is creating two and potentially a third lot and is already paying for most of the development of a road, and calculated these costs as more than enough for him.

As several comments continued on the potential access from the bottom of Old Neck Road, Mr. Colbourne stated that residents at the bottom and the top were opposed as no one wanted the development in their back yard. With consideration to the deeded access from the top, the developer agreed to take this route. Mr. Colbourne stated that a private lane only creates further issues as the Town has



previously experienced. Without something like a condominium act agreement signed by all residents on a private lane, with recognition to all heirs and successors, and complete knowledge of each owners' responsibilities and associated costs, a private lane goes from being access to family and friends to a group of property owners petitioning the Town to repair and maintain. Mr. Colbourne stated, as did Mr. McKay, that several property owners will now have a new access to their properties and subsequently the potential to subdivide and sell a portion of their property. Mr. Thompson stated that he will never sell any of his land even with the new convenient Town maintained access. Mr. Colbourne continued with comments that the road can be created to look like a country road and many issues can be resolved. He noted that the cost of infrastructure, for any width road, is not a money maker but done for the convenience of residents and is a losing battle financially due to continued maintenance.

Ms. Jane Whitters of 69 Neck Road asked when the final plans would be available for review by the residents and how will they know when it is completed. Mr. McKay volunteered to answer any calls with questions as the development commences and continues.

After asking if there was anyone else wishing to speak for or against the item three (3) times, the Chairperson asked if anyone wanted to make a motion.

**Moved By** Brent Preston  
**Seconded By** Kendall Mason

That the PAC grant approval for the Thomas Johnson Architect Inc. Subdivision Tentative Plan with approval for access to the lots from Zoning By-law 038, Section 6.(N)(1) whereas no person shall erect or use a building or structure or use any lot of land regulated by this by-law unless the lot of land to be used or the lot of land upon which the building or structure is situated or to be situated abuts or fronts on a public street or otherwise achieves access to a public street satisfactory to the Planning Advisory Committee, subject to the following terms and conditions:

- 1) The Developer must submit to the Town a professionally engineered design for the access to the subject property for review and approval to construct;
- 2) The Developer must submit to the Town a professionally engineered design of Storm Water Management System for review and approval to construct;
- 3) The Developer is to submit a review or analysis of the slope on the south side of the road;
- 4) The Developer must retain as many trees and as much vegetation as reasonably possible in the design of the access and Storm Water Management system;
- 5) The Developer must enter into a Development Agreement with the Town that will incorporate the terms and conditions for the Development of the access to a standard acceptable to the Town and the Developer's obligations for the development of the subject property;
- 6) The Developer must submit the proposed development, including the professionally engineered designs for the access and Storm Water Management System and the Site Plans for the proposed residential dwellings, to the DOELG for review and applicable approvals prior to any construction;

- 7) A grade profile of the access to the subject property is to be submitted to the Town for approval prior to engineered designs being finalized and approved by the Town for construction;
- 8) Approvals for the installation of on-site sanitary sewerage septic systems must be submitted to the Town prior to the issuing of Building Permits;
- 9) The lots are to be serviced by onsite private drilled wells;
- 10) Fulfillment of the Land for Public Purposes requirements are to be approved by Council prior to Final Plan approvals and execution of the Development Agreement;
- 11) In accordance with Zoning By-law 038, Section 6.(I)(1) for a Development that is Adjacent to a Stream or Watercourse, the Development is reviewed and approved by the Provincial Department of Environment;
- 12) The Developer must deposit with the Town Security Bonding in an amount as determined by the Engineering Department;
- 13) The payment of filing fees in the amount of One Hundred Dollars (\$100.00) for a two-lot subdivision; and
- 14) The Final Plans must be signed by the applicable Public Utilities and Property Owners.

Furthermore, PAC grants variances in accordance with Section 6.(F)(1) for Foundation Elevation Variances of approximately twelve (12) metres and approximately fourteen (14) metres for lots 17-1 and 17-2 respectively provided the property owners enter into a Hold Harmless Agreement with the Town.

**Motion Carried**

**8. Information Items and/or Discussion**

Council Minutes – November 7, 2017

**Moved By** Darren Bishop

**Seconded By** Marc Gosselin

That the information be received and filed.

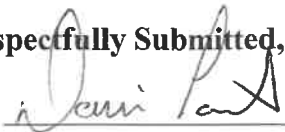
**Motion Carried**

**9. Adjournment**

**Moved By** Jean Place

That the meeting adjourn at 9:30 p.m.

Respectfully Submitted,



CHAIRMAN



SECRETARY