



**QUISPAMISIS PLANNING ADVISORY COMMITTEE**  
**MEETING MINUTES – January 25, 2022**

**Present:**       Darin Lamont                               Marc Gosselin  
                  Darren Bishop                           Chrissy Scott, GIS Technologist  
                  Brenda Fowlie                           Jennifer Jarvis, Planning Technologist  
                  Brent Preston                            Violet Brown, PAC Secretary  
                  Kendall Mason                           S. Dwight Colbourne, Municipal Planning Officer

**Absent:**        John Groden

**1.     Call to Order**

Darin Lamont called the virtual meeting to order at 7:03 p.m.

**2.     Approval of Agenda**

**Moved By**     Brent Preston  
**Seconded By** Brenda Fowlie

That the Agenda be approved as written.

**Motion Carried**

**3.     Disclosures of Interest**

No disclosures were declared.

**4.     Approval of Previous Minutes**

**Moved By**     Brenda Fowlie  
**Seconded By** Kendall Mason

That the minutes of the January 11, 2022 PAC meeting be received and filed.

**Motion Carried**

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

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

That the Notices of Decision be received and filed.

**Motion Carried**

**6. Unfinished Business - none**

**7. New Business**

**7.1 31 Old Neck Road - Subdivision of Lot requiring Variances**

Mr. Chad Long attended the virtual meeting seeking approval to construct a dwelling on a Lot that is 8,198 square metres (just over 2 acres), being divided off 21 Old Neck Road.

Mr. Colbourne introduced the Kevin Darling Subdivision tentative plan for one Lot (Lot 22-1) from PID 00230805 and the required variances. As per his staff report, there is a conditional purchase and sale agreement for development of the proposed Lot 22-1 for a Single Residential Dwelling, provided the Town approves the subdivision application and plan. Mr. Colbourne stated there is a six (6) metre lot width variance required from Zoning By-law 038 Section 25.(J)(1)(a) since Lot 22-1 proposes a Lot Width of forty-eight (48) metres, which is six (6) metres less than the minimum lot width of fifty-four (54) metres. Since the largest side yard setback proposed is sixteen (16) metres, a variance of fourteen (14) metres is required from the Zoning By-law 038 Section 25.(E)(3) whereas it requires a side yard setback of thirty (30) metres from at least one side. He noted that the proposed lot width and building design do not allow for compliance with this provision. Also, the proposed finished main floor elevation of the dwelling will be approximately five decimal three (5.3) metres below the centerline elevation of the Old Neck Road. Since the Zoning By-law 038 Section 6.(F)(1) states that all new structures shall be placed or erected on a foundation such that the finished floor elevation of the first story is at least one (1) meter above the final centerline grade of the street, a six decimal three (6.3) metre Foundation Elevation Variance will be required. And finally, whereas this lot is a Waterfront Property, the Zoning By-law 038, Section 6.(BB) Restrictions for Waterfront Properties must be reviewed by the PAC.

Notices of this application were sent to residents within 50 metres of the subject property; no concerns were received, and no one attended to speak for or against.

**Moved By** Kendall Mason

**Seconded By** Brenda Fowlie

That the Planning Advisory Committee support the approval of the Tentative Subdivision Plan and proposed residential development of Lot 22-1 subject to the following terms and conditions:

1. Granting a six (6) metre lot width variance for Lot 22-1;
2. Granting a variance from the 30-metre side yard setback requirement as per the *Zoning By-law 038 Sec. 25.(E)(3)*;
3. The property owner of Lot 22-1 submits to provincial Department of Environment a copy of the proposed residential development and obtain any

necessary permits prior to commencing any work associated with the proposed residential construction and the issuing of a Building Permit;

4. The submission of a copy of the approval for onsite sewage disposal system to the Town prior to the issuing of a Building Permit; and
5. The property owner of Lot 22-1 enters into a standard Hold Harmless Agreement with the Town regarding residential developments situated below the roadway and the responsibilities of the property owner to maintain unobstructed and reasonable access to the property for emergency services.

### **Motion Carried**

#### 7.2 23 Autumn Ave - Coach Home

Ms. Lori Atkinson attended virtually seeking approval for a Garden Suite as a secondary dwelling unit for her parents at 23 Autumn Avenue, PID 00253500.

Mr. Colbourne reviewed the application for the secondary dwelling starting with referencing the Municipal Plan, Section 4.4 Garden Suites whereas *“it is a proposal of Council to permit Garden Suites within areas designated as “Residential” as a secondary use provided it meets all the zoning provisions for the particular residential zone and is approved by the Planning Advisory Committee”*. He noted that the PAC will review the application for a second detached dwelling unit on the property as a Similar or Compatible Use, as per the *Zoning By-law 038 Section 3.(D)(1)*, as it being similar to an in-law suite in the main dwelling, which is a permitted use within the zone. As well, a fifteen decimal two (15.2) square metre variance to *Section 8.(D)(1)* is required to allow a minimum gross floor area of fifty-nine decimal eight (59.8) square metres, whereas the Zoning By-law requires a minimum of seventy-five (75) square metres for a single storey dwelling unit. Mr. Colbourne added that the Planning Advisory Committee has approved several of these units previously.

Notice was sent to residents within 100 metres, no concerns were received, and no one attended virtually to speak for or against.

**Moved By** Brent Preston

**Seconded By** Marc Gosselin

That the Planning Advisory Committee approve the application for a Garden Suite to be located at 23 Autumn Avenue, PID 00253500, as a Similar or Compatible Use, similar to an in-law suite in the main dwelling, and approval of a fifteen decimal two (15.2) square metre variance to Section 8.(D)(1) to allow the Garden Suite minimum gross floor area of fifty-nine decimal eight (59.8) square metres, subject to the following terms and conditions:

1. The Main Dwelling Unit must connect directly to the water main in accordance with the provisions in the Water Utility By-law, Section 4.A, and all costs

associated with the connection are the responsibility of the property owner. Connection of the main building to the Town's potable water system must be completed prior to the issuance of a Building Permit for the proposed Garden Suite;

2. A Water Utility Permit is issued prior to the connection of the main dwelling unit to Municipal Water services, as per Water Utility By-law No. 024;
3. Municipal Potable water services will be provided to the Garden Suite direct from the main dwelling unit. The connection must be completed by a plumbing professional licensed with the Province of New Brunswick prior to occupancy of the Garden Suite;
4. The Second Dwelling Unit must be connected to the Municipal Sewer System as part of the Building Permit Process and all costs associated with the connection are the responsibility of the property owner. The Second Dwelling Unit, once connected to the Municipal Sewer System, will receive a second sewer account billing as per the Town Sewerage By-law 005;
5. Current buffering of the Garden Suite must be maintained at all times to protect adjacent properties;
6. The building containing the Garden Suite must be constructed to the National Building Code of Canada, current edition;
7. The exterior finish of the garage is to be a cladding recognized by the National Building Code of Canada, current adopted edition;
8. A Demolition Permit must be issued by the Town for the removal of the accessory structure to make way for the siting of the Garden Suite;
9. A Building Permit must be issued prior to any work being commenced;
10. The property owner must reside on the property with one of the dwelling units being their primary place of residency; and
11. If the property is transferred to a different owner, the same PAC conditions apply to the Garden Suite and the property unless amended by the Planning Advisory Committee.

#### **Motion Carried**

#### **7.3 184 Hampton Road - Take Out Restaurant (Discretionary Use)**

No one attended to represent the application for a Take-out Restaurant at Unit 109, 184 Hampton Road, PID 00249797.

**Moved By** Marc Gosselin

**Seconded By** Darren Bishop

That the Planning Advisory Committee defer this application to the next PAC meeting to allow time for the applicant to attend the meeting.

### **Motion Carried**

#### 7.4 355 Hampton Rd - Developer's Agreement Amendment

Ms. Jennifer Jarvis attended virtually to introduce the application that came through Council as an amendment to a Section 59 Agreement with Ascension Elevating Devices Ltd. at 355 Hampton Road, PID 30220644 and PID 00250787. She stated that the property was originally zoned as R1, Single or Two-Family Dwelling Zone and was rezoned to Neighborhood Commercial (NC) in 2008 with a Developer's Agreement in place. As such, any changes made to the Development must be approved through Council and during this process, the Council seeks the written comments of the Planning Advisory Committee. Ms. Jarvis explained that the applicant wishes to have the Development Agreement amended to increase storage capability on site to include large elevator parts in addition to the permitted switches and relays. This request was noted as being due to supply chain disruptions caused by the impacts of the global pandemic and an increase in productivity. The applicant also indicated that they wish to increase the permitted number of administrative staff from the one (1) position to six (6), and to increase the number of service repair persons to four (4).

Ms. Jarvis reviewed Section 6.(J) of the Zoning By-law 038 regarding a Commercial Zone abutting an R Zone, whereas no main building or structure may be placed or erected thereon unless the yard adjoining the R Zone has a depth or width equal to twice (2X) the height of the main building. She also reviewed the Development Agreement that states a three (3) metre wide buffer is required to screen buildings and parking areas of the development from adjacent low-density residential and that no construction shall be permitted in this buffer zone. Furthermore, the original agreement and plan showed the buffer zone, PID 30220644 was previously labeled as 'reserved for road' and this will need legal advice on the current zoning and permitted uses. Ms. Jarvis then noted the accessory buildings that were erected on the property, that of two shipping containers, each with a gross floor of thirty-one decimal six (31.6) square metres, with a corrugated steel arched style roof, spanning seven decimal three (7.3) metres and connecting the two shipping containers. The accessory buildings sit on a cement pad that measures thirteen decimal four (13.4) metres by ten decimal seven (10.7) metres, and as per the plans submitted, as part of the overall application, a corner of the accessory structure and concrete pad encroach into PID 30220644. As such, a setback variance of three (3) metres would be required to sufficiently buffer the Commercial property to the Residential property. Also, the maximum height for accessory buildings in the Neighborhood Commercial (NC) zone is five (5) metres and the height of the building is five decimal eighteen (5.18), therefore, a height variance of zero decimal eighteen (0.18) metres is required. Ms. Jarvis

explained that on or about August 18, 2021, the Town was informed that the construction of the building had commenced prior to the submission of an Accessory Building Permit Application so an Order to Comply was issued on August 24, 2021. The order indicated that a violation to the Town's Building By-law No 055, Section (5)(A)(i) was occurring and the required action was to apply for and receive a building permit for the new structure. A building permit application for the structure was received by the Town on September 21, 2021. Ms. Jarvis stated that the applicants indicated they will be using the accessory building for storage for Ascension Elevation Devices only and that no electricity, water, or sewerage services will be supplied to the accessory building.

Mr. Dave MacKenzie of Ascension Elevators attended virtually. He apologized for missing the previous PAC meeting and then apologized for building without a permit, stating he was unaware that he needed a permit. He explained that the construction started with one container brought to the property several years ago, then another one and then a roof to connect, and then the roof became closed in to protect the supplies from the weather. When the Town staff visited the property to inform him of an infraction of building without a permit, Mr. MacKenzie said that the Framers, the tradesman doing the work, stated that they were not told to stop work so Mr. MacKenzie told them to proceed while he worked on the permit. He added that the containers cannot be seen from the neighbor who complained and there is no noise, no smoke or disturbing on the property so he isn't sure why there is a concern. The neighbors on both sides support the business and consider them good neighbors. Mr. MacKenzie added that there is no power and no work going on inside the containers, they are just for storage. The business is in the main dwelling on the lot and consists of four full time administrative staff, two field supervisors that sit in the office as well as four elevator maintenance staff that are on the road. Mr. MacKenzie added that the business is under a letter of intent and non disclosure agreement of sale that is proposed to be completed in the next ninety (90) days. He added that he will continue to work at the business, and it will stay at this location for nine (9) months until they relocate. When asked about keeping the sea containers and building after the business is sold, Mr. MacKenzie stated that he would like to keep it but will move it if necessary. He said that he will likely use the containers for his own storage, his own trailer and snowmobile and perhaps other friends' snowmobiles, etc, but has no plans to use it for commercial uses after the company is sold. He also mentioned plans to put a multiple (nine unit) building on the lot after the business is sold or rent the existing building to a dentist office or some other investment. He acknowledged that he would have to go to the Town for approval for any other change in use, other than personal use.

During a question period, Mr. MacKenzie was asked about the disregard for the permit application. He stated that they continued to work on the building because he had several hundred thousand dollars in equipment on the way and snow coming; they had to protect the equipment, plus he stated he has a responsibility to his staff and did not want to let anyone go because he had to send the equipment back due

to not having a storage place to put it. He said he didn't think he was doing anything wrong when he continued construction while he began the application process. He added that the sea containers can be moved so he did not consider them a permanent structure and the concrete was put there as a hard surface to drive trucks onto to load and unload and that he did the construction himself. When asked about electricity in the building, since lights can be seen from the road, Mr. MacKenzie stated there is a string of lights, off a 15 amp circuit from the main building and only in the sea containers. When Mr. MacKenzie stated he employed twenty (20) staff, the PAC Secretary asked for clarification since the minutes reflected four administrative staff plus two project managers in the building, and four maintenance crews who work off site. Mr. MacKenzie confirmed the four full time staff in the house, the two project managers/team lead crew in the building off and on, and the rest are off site maintenance crews with confirmation that he has twenty staff in total. He added that Monday mornings there are a bunch of crews on site getting equipment and paperwork but not everyday. He stated that they have outgrown the space and are moving out.

The zoning amendment was questioned with regards to the staff report condition of painting or cladding the building and sea container with a PAC Member noting that it is not the desire to keep the structures on site so there would be no need to have them finished with a cladding recognized by the National Building Code. Ms. Jarvis noted that the property is currently zoned Neighborhood Commercial, so the business is a permitted use, and this application is an amendment to the agreement because the business has changed since the original agreement. When asked if an approval could be considered as a Temporary Use, Mr. Colbourne explained that the PAC can authorize, for a temporary period not exceeding one year, a development otherwise prohibited by this By-law. In this case, since the business is a permitted use on this property, there is no reason for a Temporary Approval. However, he stated that since we heard that the company might sell and relocate, and there is a time frame, the agreement can be structured with conditions such that the sea containers can be limited to the existing company on-site and must be moved with the business. The conditions put in the staff report are only recommendations and it is the PAC Members who determine appropriate conditions, and it is ultimately up to Council to amend the agreement.

No one attended to speak for or against the application.

**Moved By** Brenda Fowlie

That the Planning Advisory Committee does not support the amendment of the agreement and there is a nine (9) month time frame for the structures to be removed due to the sale of the business.

**Motion Defeated**

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

Whereas the applicant, Mr. David MacKenzie for Ascension Elevator Devices Ltd., has indicated that the Quonset Hut structure (accessory structure), that being the two sea containers and connecting building, is for the sole purpose of equipment storage for Ascension Elevator Devices Ltd., the Planning Advisory Committee approves a zero decimal eighteen (0.18) metre height variance to Section 12.(F)(1)(a); and a three (3) metre variance to allow for an encroachment of the accessory structure into PID 30220644 for the period of twelve (12) months, subject to the following terms and conditions:

1. A Stormwater Management Plan is submitted to the Engineering Department to ensure that, with the addition of impervious materials to the lot, surface water is managed on site without negative impacts to neighbouring properties, prior to the issuance of a Building Permit;
2. No further encroachment is permitted into PID 30220644 without first obtaining the direct approval from Council;
3. The accessory building is to be used as a storage facility only for Ascension Elevator Devices Ltd. with all work performed offsite;
4. That the applicant is responsible for paying the appropriate penalties, in accordance with the Zoning By-law 038, Section 26.(A), and any additional penalties as determined by the Town's Solicitor, for engaging in a development without a building permit and for the continued development on the accessory structure after a Notice to Comply had been issued by the Town and these penalties must be paid prior to the execution of the proposed amendment to the Development Agreement, if approved by Council. If the amendment is not approved, the accessory structures are to be removed within sixty (60)-days of the decision of Council.

AND

Whereas the applicant, Mr. David MacKenzie for Ascension Elevator Devices Ltd., has indicated there is a pending sale of the business currently operating as Ascension Elevator Devices Ltd. which is to occur within the next three (3) months and which will include the said company relocating from the property of 355 Hampton Road within nine (9) months of the sale, the Planning Advisory Committee supports Council in the request to Amend the Developers Agreement between the Town of Quispamsis and Ascension Elevator Devices Ltd. of 355 Hampton Road, for not more than twelve (12) months subject to the following conditions:

1. The Amendment of this Agreement, to increase the number of administrative staff from the one (1) position to six (6) positions, and to increase the number



of service repair persons to four (4), is valid for twelve (12) months only due to the pending sale of the company;

2. Once the company, currently operating as Ascension Elevator Devices Ltd., is sold, and the business is removed from the property of 355 Hampton Road, the Quonset hut structure (accessory structure), that being the two sea containers and connecting building, is to be removed from the property;
3. If the company does not sell, Mr. MacKenzie, or current property owner, must return to Council to seek further approval for the Use of the property at the twelve (12) month term ending the Developers Agreement Amendment.

**Motion Carried**

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

Council Meeting Minutes - December 7 & 21, 2021.

**Moved By** Marc Gosselin

**Seconded By** Darren Bishop

That the Information Items be received and filed.

**9. Adjournment**

**Moved By** Darren Bishop

**Seconded By** Brenda Fowle

That the PAC Meeting adjourn at 8:50 p.m.

**Respectfully Submitted,**



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CHAIRMAN



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SECRETARY