



QUISPAMISIS PLANNING ADVISORY COMMITTEE
MEETING MINUTES – May 14, 2019

Present: Darin Lamont Kendall Mason
 Darren Bishop S. Dwight Colbourne
 Brenda Fowlie Violet Brown
 Brent Preston
 John Groden

Absent: Marc Gosselin

1. Call to Order

Darin Lamont called the meeting to order at 7:00 p.m.

2. Approval of Agenda

Moved By Brent Preston
Seconded By John Groden

That the Agenda be approved as written.

Motion Carried

3. Disclosures of Interest

No disclosures were declared.

4. Approval of Previous Minutes

Moved By Darren Bishop
Seconded By Brenda Fowlie

That the minutes of the previous PAC meeting be received and filed.

Motion Carried

5. Business Arising from Minutes - Notice of Decisions

Moved By Brenda Fowlie

Seconded By Brent Preston

That the Notices of Decision be received and filed.

Motion Carried

6. Unfinished Business

6.1 Tentative Subdivision Plan - Fernwood Park Phase 2C

This application was carried over from April 23, 2019 PAC Meeting. Mr. Gerry Roberts of Kierstead Quigley and Roberts Ltd. attended on behalf of Bill Brooks Ltd. for approval on the tentative subdivision plan of Fernwood Park Phase 2-C Tentative Subdivision Plan – PID 30322051. The original plan covered the entire area prior to the developer separating the development into phases with this phase approval being expired. The connection of Nightingale Lane and Meadowlark Drive was reviewed as part of this development along with another developer (Mr. Pete Donovan) and the joining of the two streets.

No one attended to speak for or against.

Moved By Darren Bishop

Seconded By Kendall Mason

That the PAC approve the Fernwood Park Subdivision Phase 2-C Tentative Plan, proposing the creation of five (5) residential lots, an extension to Nightingale Lane, a portion of Meadowlark Drive, and the creation of a Local Government Services Easement subject to the following conditions:

1. Professionally engineered and stamped design drawings for the sanitary sewer system, stormwater management system and the public street are to be submitted to the Town’s Engineering Department for review and approval;
2. Submission of an Abbreviated Water Source Supply Assessment (AWSSA) Report to Town prior to final subdivision plan approval. The AWSSA must be completed by a qualified professional engineer licensed to practice in the Province of New Brunswick;
3. The Stormwater Management Plan and the general Lot Grading Plan must clearly demonstrate acceptable stormwater management and drainage control practices. The plan must provide acceptable solutions, as designed by a registered professional engineer, for any downstream impacts. The plan must be reviewed and approved by the Town prior to construction;
4. Land for Public Purposes have been fulfilled through the filing of Plan No. 37964401.

5. The Developer shall develop the trail access to the LPP area. The access is to be constructed to the Pedestrian Trail standard as established by the Community Services Department and detailed in a Schedule forming part of the Development Agreement;
6. The Local Government Services Easement required for stormwater management is to be incorporated into the final subdivision plan so rights and privileges can be vested to the Town;
7. That portion of Meadowlark Drive adjacent to Lot 39 must be constructed to the Municipal Standard in accordance with Subdivision By-law 035;
8. With the exception of tree clearing as it relates to permitted activities under a Building Permit, tree clearing shall be restricted to street right-of-ways and easements necessary for the installation of services;
9. Any development adjacent to a designated wetland and watercourse must be approved by the Department of Environment and Local Government (NBDLG), and a copy of the approval submitted to the Town;
10. A Developer's Agreement shall be entered into with the Town, and Security Bonding as established by the Town's Engineering Department deposited with the Town;
11. Subdivision filing fees in the amount of Two Hundred Fifty dollars (\$250) for the five (5) lot phase to be paid to the Town prior to release of the final subdivision plan for registration; and
12. Plans to be properly signed by the necessary Public Utilities and Property Owner(s); and All works related to the subdivision development must be completed in accordance applicable Federal and Provincial Acts, Municipal By-laws, and any associated regulations or policies thereto.

Motion Carried

7. New Business

7.1 Similar Use - Apartment Complex - 190 Millennium Drive

Mr. Andrew Dunn attended seeking approval for a Similar or Compatible Use for a 36 Unit Apartment Complex at 190 Millennium Drive, PID 30301964. Mr. Dunn noted that this development is a mirror image of the existing one with parking lot beside parking lot.

Mr. Colbourne commented on the current Millennium Scheme By-law that doesn't allow for residential on its own and added that Section 3.(D) of the Zoning By-law allows a Similar or Compatible Use to a use permitted in the zone, and in this case, Similar to a Hotel is the request. The lot does have Municipal water and sewer

connections available and is rental base, similar to hotel. He added that this development is near the end of Millennium and next to an existing apartment complex in Rothesay. This application is just to consider the land use, not the development as that has not been reviewed for variances, etc. The next phase, would be a development scheme, and as such, the development will be reviewed by many departments in the Town office, Police, etc. then return to PAC. Mr. Colbourne also noted that the applicant can proceed through Council for rezoning if PAC doesn't wish to approve this as a Similar Use.

No one attended to speak for or against the application and no concerns were received as part of the notice sent out to property owners within 100 metres.

Moved By Brenda Fowlie

Seconded By Kendall Mason

That the Planning Department consider the proposed 36-unit apartment complex as being similar to the permitted land use of a hotel, and the development is permitted to move forward for approval through the Development Scheme By-law 017 for Millennium Drive.

Motion Carried

7.2 Foundation Elevation - 41 Corduroy Road

Mr. Ivan Brown, on behalf of Rugged Residential Inc., attended seeking a Foundation Elevation Variance at 41 Corduroy Road, Lot 13 of Maple Ridge Estates Subdivision Phase 1B. There was a question on the drainage easement that Mr. Viger's Engineering Consultant proposed between lot 12 and 13 that was to be used for storm water management. With the way the lots were designed for buildings, this is now a high point, not a low point for proper drainage. It was questioned if this is still being used as an easement as it was not marked on the registered plan. Mr. Brown stated that it was designed as a swale between the properties for drainage from each lot down to the ditch along the road. He was not aware this was proposed as an easement.

Mr. Colbourne reviewed the subdivision plan and Storm Water Management Plan and showed this on screen. The drainage easement was suggested to drain water onto land that belongs to the developer so this can be looked at during a future phase to ensure the water is draining to the municipal drainage system. However, if it is to be a Municipal Governance Easement, PAC needs to determine if this should go forward or wait until Engineering confirms the necessity of an easement. If this review becomes part of recommendations, the application would not need to come back to PAC. A question to the Engineering Consultant can confirm whether an easement is required or just a drainage path.

Moved By Darren Bishop
Seconded By Kendall Mason

That the PAC approve the five decimal three (5.3) metre Foundation Elevation Variance on Lot 13 of the Maple Ridge Estates Subdivision Phase 1B from Section 6.(F) of the Zoning By-law 038, the following terms and conditions must be considered:

1. A “Hold Harmless” agreement is executed by the property owner absolving the Town from any liability associated with water run-off, with a registered copy to be filed with the Town;
2. A site drainage plan showing that water will not be directed to adjacent properties must be submitted and approved by the Building Inspection Department prior to the issuance of a building permit; and
3. The easement between lots 12 and 13 be addressed prior to the issuance of building permits. An amending subdivision plan will be required if the easement is to be a Municipal Governance Easement and the amended plan must be registered with SNB.

Motion Carried

7.3 Oversized Detached Garage - 101 Allan-a-Dale Lane

Dana McKay attended seeking approval for a size variance of twenty-three decimal one (23.1) metres from By-law 038 Section 8.(G)(1)(c) for the construction of seven decimal nine (7.9) metre by ten decimal nine (10.9) metre detached garage on the property of 101 Allan-A-Dale Lane, PID 00445098.

Mr. McKay confirmed that the need for the larger garage is for his antique truck, three vehicles, a motorcycle, etc. It was noted that all other setbacks are compliant and the existing storage shed used for seasonal tires and such is to be relocated to the rear of the detached garage.

No one attended to speak for or against this application.

Moved By Brent Preston
Seconded By Brenda Fowlie

That the PAC approve the size variance of twenty-three decimal one (23.1) metres from By-law 038 Section 8.(G)(1)(c) for the construction of a seven decimal nine (7.9) metre by ten decimal nine (10.9) metre detached garage on the property of 101 Allan-A-Dale Lane, PID 00445098, subject to the following terms and conditions:

1. The exterior finish of the garage is to be a cladding recognized by the National Building Code of Canada, current adopted edition; and

2. The building is not to be used for business purposes, for the keeping of livestock or as a dwelling.

Motion Carried

7.4 Home Business - 73 Cedar Grove Drive

Ms. Charlene Pierce attended seeking approval for a Home Occupation, that of Massage, Acupuncture and Osteopathy Services, at the property of 73 Cedar Grove Drive, PID 30194138.

Ms. Pierce addressed the concerns that were received by the Town following the notification to property owners within 100 metres of the subject property, as per the PAC Policy. First was the concern for traffic and the resident who noted 300 cars per month. The application stated that the expected traffic would be 8 to 10 cars per day, Monday to Friday from 8:30 am to 5:30 pm putting the numbers of her and colleague at an average 160 to 200 a month total as they can never do more than 20 to 25 appointments per week. She added that both employees will be gone one week per month for the next four years for training so that lowers the numbers again. As for the concern for property value, Ms. Pierce stated that both employees have a full clientele list so there will be no signs other than a small plaque on the building to direct clients to the back door. She stated that this is an in-home clinic so there will be professional yard work so as to not lower the value. As for the privacy concern of the neighbor, Ms. Pierce stated that this business proposal is for in house only, not outside, so there will not be any people lurking about and no noise outside. This is a quiet calm practice and is a non-disruptive type business. As for parking, she noted that the property has a large driveway plus extra spots in front of garage and confirmed there will be no parking on the street. Ms. Pierce noted that most of the concerns were from property owners beyond the house she is proposing for the business and there should not be people driving past the house to drive in front of these homes. She stated that there will be no receptionist, only her and one other staff as per the by-law, and only two cars every 90 minutes at best. Ms. Pierce also added that they have two small children and does not want any traffic concerns herself.

During questions from the PAC Members, Ms. Pierce confirmed the business will run three weeks of month for four years and only during day time hours, no evenings or weekends. She confirmed that they are in the process of purchasing the house with full cooperation from the property owner. Currently her Massage Practice is in a clinic where the rent is high when you don't use the office full time.

One of the PAC Members, Ms. Fowlie, noted that she resides across the lake and has been watching the traffic as part of the review for this application. Ms. Fowlie stated that she doesn't feel the increase will be noticed unless she is staring at the

window watching. Cars driving through the subdivision might be different but stopping for 90 minutes is like someone visiting.

Mr. Lee Bell-Smith of 90 Cedar Grove spoke against the application stating that he felt there were fundamental concerns with the application. Firstly, he stated that he felt the by-law was for home occupations for existing home owners as a secondary use and noted that he did not see anything in the by-law for potential owners to be. Mr. Bell-Smith felt the house should be purchased first, then the property owner should address the PAC. The second fundamental concern was for the size of the area being used for the proposed business and how the staff report, which stated the floor area of the dwelling unit which is devoted to the business shall not exceed the lesser of the 32 square metres or 25% and that the floor area proposed was 56.2 sqm which equated to 7%, was misleading. Mr. Bell-Smith offered a lesson on mathematical measurements to demonstrate the difference between the "lesser" number used in the by-law and reiterated that this was a fundamental error in the application which could not be fixed on the fly. Mr. Bell-Smith commented on the number of cars per day at 8-10 per day equaling the 300 per month and stated that this is a quiet subdivision with a walk at the end so foot traffic to the trail is making the area busier, added to that the children on the street playing. He stated that this application isn't a home business where someone sits in their office, this is a business that depends on client visits and 200 to 300 cars going to a commercial appointment is not what this subdivision needs. Mr. Bell-Smith then reviewed the temporary turn-around at the end of the road, which he stated was completely on his property, being granted approval by him to be used for snow plow operators and normal residential traffic, not for 300 cars going to a commercial business, and if this is to proceed, the turn-around needs to be reassessed because he would never have granted approval for it in the beginning had a business like this be introduced.

The Chairperson asked Mr. Bell-Smith if his real issue is traffic, if the square footage is addressed. Mr. Bell-Smith stated that traffic was the primary concern but he also had concerns for the value of property as this is proposing a commercial business in the subdivision. The Chairperson asked Mr. Colbourne to address the classification of commercial versus a home business. Mr. Bell-Smith stated that any business for profit means it is commercial.

Mr. Greg Deering of 91 Cedar Grove Drive spoke against the application stating similar concerns as Mr. Bell-Smith, that of a quiet cul-de-sac that only sees the occasional car, other than neighbors. Mr. Deering stated that permitting a home business would open the door to others and then two or three would be in the area, a slippery slope he conferred. He talked of the St. Stephen community where he came from and how home businesses were proposed for a Tea Operation, or similar, and a home for battered women in a subdivision area and how the resident opposed those types of businesses stating that these businesses do change the fabric neighborhood. Mr. Deering stated that businesses for profit should be in commercial areas and stated that if Ms. Fowlie had one beside her she would be

upset as well. Ms. Fowlie stated that she would not be opposed to a home business in her community and the Chairperson, Mr. Lamont, stated that he has one on the property next to him and has no issues. Mr. Deering ended by saying that they came to the area for the quiet dead-end cul-de-sac.

No one else spoke against the application.

Mr. Colbourne noted that there is a note of 'lesser than' in the by-law that was referenced in the staff report, along with all of the proposed business information that is reviewed as a package, and that the PAC has the authority to grant a variance, stating that there is no maximum variance in the by-law says. Mr. Colbourne stated there is nothing in the by-law that states the property must be purchased prior to an application for the property and noted that, as PAC is aware, many potential property owners have come before the PAC prior to a purchase, to request a variance and get a feel for the allowance. Mr. Colbourne reviewed the PAC process noting it is a public procedure, that notification goes to residents in the area and is a fair hearing with public input and added that the PAC considers all aspects including the concerns. An application is reviewed for all items that require a variance as part of the entire review for the home business, confirming there does not have to be a separate application if any variances are required. The Town of Quispamsis Zoning By-law does allow for home businesses and the zoning by-law is adopted by Council.

Charlene Pierce returned to the podium to speak again. She stated that it is odd to expect nothing to change in a neighborhood especially with things such as the carbon tax that would entice people to want things within a walkable community. And as per the by-law restrictions, the proposal is for her and one other person, not 13 staff, just two treatment rooms and never any more as this is going to be her home. Ms. Pierce reviewed the square footage stating that they could revise the size of waiting area and make it a smaller area for two chairs and offered to redraw the house plan sketch. She added that renovations are required so changing sizes is not going to be difficult. It is now a finished basement with two spare rooms and a washroom with plans for a wall to divide the basement part of the house from main portion. Ms. Pierce stated that they do not even require a waiting room, so the plan can eliminate that space. Mr. Colbourne noted that if the PAC restricts the size, that is what the applicant is stuck with and she would have to return to PAC again if the size was over that limit.

The traffic in the Cedar Grove Drive area, connecting to Hampton Road, was questioned. The traffic counters noted in the staff report were that of an average of 32 cars per day in the 2017 study with the counters placed right at 73 Cedar Grove Drive, noting that most traffic would not go beyond that address unless they lived there. Ms. Fowlie noted that she has travelled on that road and has been passed by cars driving in excess of the speed limit. It was asked if the Engineering Department had further details on the traffic study done on the side streets leading

into Cedar Grove Drive. Mr. Colbourne noted that local streets are designed for 500 to 1000 vehicles per day. However, the PAC can ask for more information to compare the increase and level of service noting that not all traffic would go through the same path, some would travel through Ruth or Christa, or through Pettingill.

There were other businesses noted on that street, one accountant, one photography studio and the PAC asked for further information on the number of businesses in the area.

Moved By Brent Preston

Seconded By Kendall Mason

That the PAC table the application until the next meeting of May 28, 2019 for the applicant to revise the floor plan with accurate measurement, for the town staff to ask the engineering department for further information on the traffic flow in the area, and for the PAC Secretary to report on other home businesses in the community.

7.5 Front Yard and Frontage Setbacks - 37 Melanie Drive

Ms. Natalie Thompson attended seeking approval to construct a ten decimal seven (10.7) metre by eight decimal five (8.5) metre addition onto an existing dwelling at 37 Melanie Drive, PID 30167688. Ms. Thompson confirmed this was an addition to her parent's house, with its own separate entrance for herself and her child. She added that they may put in a door joining the two units in the basement or upstairs, similar to in-law suite, but will have insulation between the two units.

Mr. Colbourne noted the definition of an in-law suite as per the Town's Zoning By-law, being a temporary set up that could be put back into main dwelling when no longer required. He noted that the Town looks at the future use of the property, the accommodations of sleeping, kitchen, bathroom, etc. that are within the units, and the potential rental at a later time. These pieces create a separate apartment, or duplex, and he confirmed that they are permitted in the area.

No one attended to speak for or against the application.

Moved By Kendall Mason

Seconded By Brenda Fowlie

That the PAC approve the three (3) metre front yard setback from Section 8.(E)(1)(a) and the frontage variance of five (5) metres Section 8.(C)(1) of the Town's Zoning By-law 038 for the construction of a ten decimal seven (10.7) metre by eight decimal five (8.5) metre addition onto the existing dwelling at 37 Melanie Drive, PID 30167688, subject to the following terms and conditions:

1. All attempts must be made to keep the existing hedge as a buffer; and

2. The variance stays with the property provided the final inspection is completed within one year from the date the building permit is issued.

Motion Carried

8. Information Items and/or Discussion

Flood issues and stories in other Municipalities such as the Grand Bay property that went to PAC for an elevation variance, was denied and then appealed and won approval. The property subsequently flooded. Mr. Colbourne acknowledge that the ruling noted there was no minimum elevation or flood maps in place for that Municipality. The Town of Quispamsis has a minimum elevation but no flood planes yet and he added that part of our process is that the applicant must get approval from the Department of Environment.

Moved By Darren Bishop

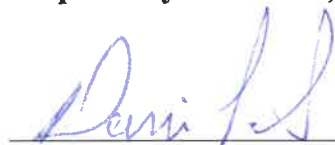
That the Information Items be received and filed.

9. Adjournment

Moved By Darren Bishop

Meeting adjourned at 8:30 p.m.

Respectfully Submitted,



CHAIRMAN



SECRETARY