

Title: Marc & Julie Bodson

Date: May 30, 2019

STAFF REPORT

Applicant:

Marc & Julie Bodson

Location:

PINs 73505-0907 & 73505-1023, Parcels 1031 & 1032 S.E.S., in Lot 7, Concession 1, Township of Hanmer (1830 Yorkshire Drive, Val Caron)

Official Plan and Zoning By-law:

Official Plan

The subject lands have three (3) land use designations. The southerly portion is designated as Living Area 1, which includes the existing single detached dwelling on Yorkshire Drive. A northwesterly portion of the property is designated as Parks and Open Space, which aligns with the designated flood plain. The remainder of the land is designated as Rural.

a. Living Area 1

Low density housing is permitted in all Living Area designations to a maximum net density of 36 units per hectare. In reviewing rezoning applications, the following criteria under Section 3.2.1 of the Official Plan shall be considered:

- suitability of the site to accommodate the proposed density and building form;
- physical compatibility with the surrounding neighbourhood in terms of scale, massing, height, siting, setbacks, and the location of parking and amenity areas;
- adequate on-site parking, lighting, landscaping and amenity areas; and,
- traffic impact on local streets.

b. Residential Uses in Rural Areas

Rural residential development consistent with the character of surrounding existing uses is permitted, provided no additional public services would be required.

One single detached dwelling is permitted on any existing lot, provided that it fronts onto a public road that is maintained year-round. The lot must also have the capability to provide an individual on-site sewage disposal system and water supply with both quantity and quality suitable for domestic uses.

c. Flood Plain

The Parks and Open Space designation encompasses a flood plain associated with Tributary VIII of the Whitson River. Flood plain boundaries are illustrated on Schedule 4, Hazard Lands, and are also delineated on the location map. Private lands with natural hazards are generally not suitable for development. The policies of Section 10.2, Flooding Hazards are applied as follows:

1. Because flooding and related hazards may cause loss of life and may result in damage to property, development in Flood Plains is generally restricted. In addition, no development is permitted within 15 metres of the Flood Plain boundaries illustrated on Schedule 4, Hazard Lands. Only uses that *by their nature must locate within the Flood Plain including flood and/or erosion control works or minor additions or passive non-structural uses which do not affect flood flows* are permitted (2007 MMAH Mod #15b).
2. Severances, subdivisions, *changes in land use*, permanent new buildings and structures and private sewage disposal systems will not be permitted within the Flood Plain, except those severances *for passive non-structural uses associated with* roads, drainage, erosion control, utilities, flood protection, agriculture, forestry and outdoor recreation (2007 MMAH Mod #15c, d & e).
3. Any alterations to the terrain within the Flood Plain which may have an effect on drainage and the erection of any structures must first receive the approval of the Nickel District Conservation Authority and, where applicable, from the Ministry of Natural Resources.

d. Servicing for New Development

Section 12.2.2 of the Official Plan addresses the servicing of new development as follows:

Development in urban areas is permitted provided that existing and planned public sewage and water services have confirmed capacity to accommodate the demands of the proposed development. Alternatively, the proponent of the development will upgrade, at their own expense, the existing sewage and water systems to ensure adequate delivery and treatment facilities consistent with City standards, including the adequacy of fire flows.

Zoning By-law

The subject lands are zoned Rural, which permits the following uses: single detached dwelling, mobile home dwelling, bed and breakfast establishment, group home type 1, private home daycare, agricultural use, animal shelter, forestry use, hunting or fishing camp that is a legal existing use, garden nursery, kennel, public utility and veterinary clinic.

Site Description & Surrounding Land Uses:

The subject property is located on the north side of Yorkshire Drive in Val Caron. The area is serviced by municipal water and sanitary sewer. Yorkshire Drive is designated as a Local Road and is constructed to a rural standard. The closest transit stop is located south on MR 80 at Cecile Street, an approximate 900-metre walking distance.

Total area of the parcel is 29.5 ha, with 80.7 metres of frontage on Yorkshire Drive. The land is occupied by a one-storey, 342 m² single detached dwelling and a 141 m² detached garage. The larger rural portion to the north is vacant.

Whitson River Tributary VIII and original Tributary VIII-A traverse the property, portions of which fall within a designated flood plain (see attached Conservation Sudbury mapping). The Whitson tributary also forms part of the Hope Municipal Drain.

The surrounding area has a rural residential character, with single detached dwellings on large lots. A hydro sub-station is located opposite the subject property. The Valley East Wastewater Treatment Plant is located further to the west at the end of Yorkshire Drive.

Title: Marc & Julie Bodson

Date: May 30, 2019

Application:

To amend By-law 2010-100Z being the City of Greater Sudbury Zoning By-law from "RU", Rural to "R1-1", Low Density Residential One and "RU(S)", Rural Special.

Proposal:

Application for rezoning in order to sever a residential lot containing an existing single detached dwelling and to permit a reduced lot frontage for the rural remainder.

The preliminary survey plan shows the proposed severance of the existing dwelling located at 1830 Yorkshire from the parent parcel. Driveway access for the rural remainder is proposed over Parts 3 and 4.

The second sketch illustrates the approximate location of a new dwelling on the remaining rural lands, which will retain Rural zoning.

Departmental/Agency Circulation:

Development Engineering advised that there is insufficient fire flow on Yorkshire Drive.

Building Services indicated that a soils report will be required at the building permit stage.

Conservation Sudbury confirmed that the proposed driveway encroaches into a designated flood plain. A permit application including a cut and fill analysis is required as a condition of approval. Conservation Sudbury further advised that the owner has conducted site alteration within the flood plain without benefit of a permit and that this matter needs to be rectified. In regards to the new dwelling, any proposed buildings, structures and septic systems must be located outside the regulated area.

Neighbourhood Consultation:

The statutory notice of the public hearing was provided by newspaper along with a courtesy mail-out to property owners and tenants within a minimum of 240 metres of the property.

The applicant was advised of the City's policy recommending that applicants consult with their neighbours, ward councillor and key stakeholders to inform area residents on the application prior to the public hearing.

The owner advised that area residents would be canvassed prior to the public hearing.

As of the date of this report, three (3) written submissions have been received.

Background:

In 1998, an application to rezone the subject lands was submitted in order to create up to 16 residential lots along the Yorkshire Drive road frontage. As a condition of approval, the owner was required to enter into an agreement with the Region to upgrade water services due to the inadequacy of fire flows. The application was subsequently abandoned in favour of the consent process.

In 1998, consent approval was granted to create one lot (B70/98). Two additional lots were approved in 1999 (B25/1999 and B26/1999). Since the applications proceeded by way of consent, there was no requirement to upgrade services.

Title: Marc & Julie Bodson

Date: May 30, 2019

In September 1999, consent applications were submitted to create two (2) additional lots (B51/1999 and B52/1999). Given the three (3) previous consents, Planning and Development Committee approved the applications conditional upon upgrading the 100 mm (4") watermain. In May 2000, the condition to upgrade water services was rescinded, and the consents proceeded.

In 2011, the current owner submitted an application for rezoning in order to create one (1) residential lot along the easterly limit of the property (File 751-7/11-10). The lot required R1-4 zoning in order to reflect the reduced lot area and frontage. The application was not supported by Staff but approved by Planning Committee (Recommendation 2011-251). The owner subsequently filed applications for consent and minor variance in 2012 (Files B27/2012 & A17/2012).

In total, six (6) lots have been created from the parent parcel since 1998.

Planning Considerations:

There are two main issues to consider related to this proposal:

- Inadequate fire flow to support additional lot creation on Yorkshire Drive; and,
- Encroachment into the flood plain in order to provide driveway access to the rural remainder.

Land use compatibility

There are no issues related to land use compatibility. The proposed residential use is consistent with adjacent uses, being single detached dwellings on large estate lots. The remainder of the parent parcel will retain Rural zoning and associated permitted uses, including a residential use in the form of a single detached dwelling or a mobile home on a permanent foundation.

There are no concerns related to the proximity to the Valley East Wastewater Treatment Plant. Both existing and proposed dwellings are more than 150 metres from the noise/odour-producing source, which is the minimum separation distance recommended under MOECP's Guideline D-2: Compatibility between Sewage Treatment and Sensitive Land Use.

Suitability of site

a. Proposed R1-1 lot

The owner is proposing to sever the existing single detached dwelling and detached garage from the larger parent parcel and rezone the new lot as R1-1, similar to adjacent properties. Total lot area will be 0.62 ha with 55 metres of frontage, where a minimum 0.4 ha and 45 metres are required. The lot configuration is consistent with the existing lot fabric in the area.

b. Rural remainder

The main physical constraint on the rural remainder is the designated flood plain. The owner is proposing to construct a new single detached dwelling approximately 155 metres north of Yorkshire Drive. Driveway access would be provided across Parts 3 and 4 of the preliminary plan, portions of which encroach into the flood plain. The driveway location is constrained by the presence of a detached garage, which the owner would like to retain.

Title: Marc & Julie Bodson

Date: May 30, 2019

The owner had submitted a preliminary Section 28 application to Conservation Sudbury, which was deemed incomplete, however the owner proceeded with site alteration within the flood plain without securing a permit and an approved cut and fill analysis. A Notice of Violation was subsequently issued by Conservation Sudbury. This matter needs to be reconciled regardless of the outcome of this application.

Notwithstanding the above, Conservation Sudbury advised that based on their initial review of the proposal, the proposed driveway across Parts 3 and 4 may be possible subject to an approved cut and fill analysis, which would subsequently be verified in the field. The following condition of approval is therefore recommended:

- That prior to the adoption of the amending by-law, lands located within the designated flood plain have been removed from the flood plain to the satisfaction of Conservation Sudbury in order to provide driveway access to the rural remainder.

There is ample site area to accommodate a single detached dwelling on the northerly lands without encroaching into the regulated area of Conservation Sudbury. The owner is advised that a soils report will be required at the building permit stage. The following are recommended as site-specific provisions to be applied to the rural remainder:

- Relief for a lot frontage of 25 metres, which does not conflict with the Official Plan given that the southerly portion of the subject land is located within the Living Area designation; and,
- No buildings, structures or septic systems shall be located within the regulated area of Conservation Sudbury.

Servicing

Yorkshire Drive is underserviced in terms of fire flow, which is approximately 7 litres per second where a minimum 75 litres per second is required for low density residential uses. There are no fire hydrants on the street. In the event of a fire emergency, tanker trucks would have to be utilized to shuttle water to the site.

Lot creation in areas with inadequate services is not considered good land use planning. Planning Services have not supported previous applications on Yorkshire Drive on this basis, including the 2011 rezoning application for the R1-4 lot. The requirement to upgrade water services as a condition of approval has been tested before the Ontario Municipal Board, which ruled in favour of the City (OMB File # PL031208).

In this case, however, the proposed new lot is occupied by an existing dwelling that is already connected to municipal sewer and water services. Staff is of the opinion that this is a mitigating factor which may support an exception by Council, provided the owner can secure a permit from Conservation Sudbury to ensure safe access to the rural remainder.

Concerning future development on the rural remainder, the owner is advised that under By-laws 1987-340 and 1987-341, all owners of buildings of all classes shall connect said buildings to municipal sewer and water works where such services are available. If the owner or future owner is proposing to install private services on the rural remainder, exceptions to the above noted by-laws would have to be granted, subject to the approval of the General Manager of Growth and Infrastructure.

Title: Marc & Julie Bodson

Date: May 30, 2019

2014 Provincial Policy Statement (PPS)

The proposal to install one (1) single detached dwelling on the rural remainder is consistent with the interpretation of limited residential development in Rural Areas. Furthermore, the lands are not designated as Agricultural Reserve or for other resource-related uses that require protection under the PPS. The application is consistent with Provincial policies applied to Rural Lands in Municipalities under Section 1.1.5.

Concerning the proposed access that partially encroaches into the flood plain, site alteration may be permitted on hazardous lands under Section 3.1.7 of the PPS provided vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion and other emergencies; and further, that new hazards are not created and existing hazards are not aggravated. Staff are satisfied that the flooding risks can be mitigated provided the owner satisfies the requirements of Conservation Sudbury.

2011 Growth Plan for Northern Ontario (GPNO)

There is no conflict with the GPNO, as there are no specific policies applied to rural lands within municipalities.

Summary

Planning Services recommends that the application for rezoning be approved subject to the conditions outlined in the Resolution section of this report.

The owner is advised that a final plan of survey is required in order to enact the amending by-law.