

Location:	Tom Davies Square
Commencement:	5:30 PM
Adjournment:	6:16 PM

Minutes

Planning Committee Minutes of 6/11/18

Councillor McIntosh, In the Chair

Present	Councillors Lapierre, Jakubo, Sizer, McIntosh
City Officials	Jason Ferrigan, Director of Planning Services; Robert Webb, Supervisor of Development Engineering; Alex Singbush, Senior Planner; Mauro Manzon, Senior Planner; Adam Kosnick, Manager of Regulated Services/Deputy City Clerk; Franca Bortolussi, Acting Administrative Assistant to the City Solicitor and Clerk; Renée Stewart, Clerk's Services Assistant

Declarations of Pecuniary Interest and the general nature thereof

None declared

Rules of Procedure

Councillor Jakubo moved that the order of the agenda be altered to deal with Public Hearing 2 followed by Public Hearing 1.

CARRIED BY TWO-THIRDS MAJORITY

Public Hearings

- 2 Lucien & Ida Monette - Application for a temporary use by-law in order to permit a garden suite for a maximum of ten years, 844 Suez Drive, Hanmer.

Report dated May 16, 2018 from the General Manager of Growth and Infrastructure regarding Lucien & Ida Monette - Application for a temporary use by-law in order to permit a garden suite for a maximum of ten years, 844 Suez Drive, Hanmer.

The Planning Committee meeting was adjourned and the Public Hearing was opened to deal with the following application:

Report dated May 16, 2018 from the General Manager of Growth and Infrastructure regarding

Lucien & Ida Monette - Application for a temporary use by-law in order to permit a garden suite for a maximum of ten years, 844 Suez Drive, Hanmer.

Phil Landry, agent for the applicant, was present.

Alex Singbush, Senior Planner, outlined the report.

The Chair asked whether there was anyone in the audience who wished to speak in favour or against this application and seeing none:

The Public Hearing concerning this matter was closed and the Planning Committee resumed in order to discuss and vote on the application.

The following resolution was presented:

PL2018-102 Lapierre/Jakubo: THAT the City of Greater Sudbury approves the application by Lucien & Ida Monette to amend the Zoning By-law 2010-100Z to change the zoning classification from "RU", Rural to "RU(T)", Rural Temporary on those lands described as PIN 73507-1247, Parcel 31565, Part 2, Plan SR-793, Lot 9, Concession 4, Township of Capreol, as outlined in the report entitled "Lucien & Ida Monette" from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting of June 11, 2018, subject to the following condition:

1. That a second dwelling in the form of a garden suite be permitted for a temporary period of 10 years.

YEAS: Councillor Lapierre, Jakubo, Sizer and McIntosh
CARRIED

As no public comment, written or oral, was received, there was no effect on the Planning Committee's decision.

1 Vaino Latvala - Applications for Official Plan Amendment and rezoning in order to create a waterfront lot without public water access and to permit a seasonal dwelling on a non-waterfront lot with no frontage on an open public road, Niemi Drive, Sudbury

The Planning Committee meeting was adjourned and the Public Hearing was opened to deal with the following application:

Report dated April 25, 2018 from the General Manager of Growth and Infrastructure regarding Vaino Latvala - Applications for Official Plan Amendment and rezoning in order to create a waterfront lot without public water access and to permit a seasonal dwelling on a non-waterfront lot with no frontage on an open public road, Niemi Drive, Sudbury.

Kevin Jarus, Tulloch Engineering, agent for the applicant, and Vaino Latvala, the applicant, were present.

Jason Ferrigan, Director of Planning Services, outlined the report.

Mr. Latvala stated he purchased the waterfront lot in 2005 and the neighbouring property in 2008. He stated he has enjoyed the properties and he has had a small camper trailer there since 2005. The properties have been a part of the province's forest management program for the past five (5). He stated money is tight and he would like to sell one of the lots to supplement his pension income. However, when he approached the City he found out he would have to sell all of his land because it had merged into one large lot and cannot be

separated due to the Official Plan. He was unaware of the consequences of buying the later portion of the property and he did not want them to be merged. He has spent the last eight (8) years trying to find an economical solution to the problem. He has spoken to various individuals and no one has been able to help, therefore he is turning to the Committee for help. He has followed the process outlined by the City and has made appropriate applications. He stated that the whole processes has been very expensive and he has used his retirement money. If someone else's name had been on the property, the properties would not have merged and they would still be the way he is asking to have them returned. The Provincial Planning Act is an extremely complicated document and the average citizen should not be expected to know all of its ramifications before purchasing property. In this case, there are shortcomings that should be taken into consideration. There is no mention of merging titles in his real estate purchase agreement or in his lawyer's legal paperwork. He has always received a separate tax statement for the two (2) properties to which there is no mention of merging titles in either. Had there been any indication, he would have been alerted to take action sooner. He believes that the landowner should have more formal say in the matter. He has had no communication from the provincial Land Registry Office or the municipal Planning Department that these titles would be or are merged. Considering all the documentation attached to this decision, he wonders why the policy has to be so binding that the land owner who does not want to have the properties merged has no say. Niemi Drive around Crooked Lake is owned by the City and goes to his waterfront lot. The community around the lake maintains this portion of the road in the summer and winter. There will be no extra cost to the City by putting the lot back to the way it was. Since he has been in the community he has noticed new construction in the subdivision, all of which have required heavy machinery but none of them have been required to go through the process he has been subject to. MPAC, the City Tax Department and his lawyer have informed him that the two (2) properties are not technically joined. He asked that the lots be put back to the way they were so that he is able to have a seasonal dwelling on the waterfront lot, and a hunt camp on the non-seasonal lot.

Ward Councillor McIntosh asked why do properties merge when one person buys two parcels?

Jason Ferrigan, Director of Planning Services, stated that lots are created through a Plan of Subdivision or a consent process. In areas where there is a parcel fabric that exists that was not created through a Plan of Subdivision or a consent process, when the parcels are transferred and put into single ownership they automatically become merged on title only for the purposes of the Planning Act. Therefore there is a difference in what the municipality would say in terms of planning perspective versus a tax bill. In order to unmerge the properties, they would have to follow the process defined for this application, requiring an amendment to the Official Plan and a Zoning by-law. The risk is that two (2) new lots are being created in an area of the community that does not have any municipal services and an assumed public road. Notwithstanding the unmerging of the properties, there is also the question of what uses should be permitted on the properties. The policy states that because the requirements cannot be met, building permits will not be issued for any structures on the properties. Colleagues in Building Services have issued permits to allow for the renovation of legal existing seasonal dwellings along Crooked Lake. The distinction is that those properties have legal existing dwellings on them today for the purposes of the zoning by-law, but this property does not. Because the buildings are legal existing and predate the planning framework, property owners are provided with flexibility in order to allow reconstruction.

Mr. Jarus stated that the zoning by-law says that if you have access on a private road which has eventual access to a municipal road you would be able to get a building permit. On this

property, the schedule in the Official Plan shows that Niemi Drive, up to and including the frontage of the two (2) lots, is a private road. By this interpretation, a building permit would be issued. They have learned very recently from Planning and Building Services staff that because the City does not own the exact geographic extent of this private road and the road does not go exactly over the lands that the City owns entirely, is the reason they cannot meet the access provision for a seasonal dwelling on a private road that has an eventual access to a private road. Because the private road does not follow the City's ownership strip Mr. Latvala would not be able to get a building permit. What is on the ground is reflective of what would normally be permitted except for the small eccentricity being described. This reasoning explains why the ask for the seasonal dwelling on the waterfront property is being included within the applications. Otherwise, if the private road did follow the strip of land owned by the City this application would only be for the severance of the properties to put them back as they were before prior to the merging.

Jason Ferrigan, Director of Planning Services, stated that in order for a building permit to be issued for a seasonal dwelling unit, it has to meet one (1) of three (3) criteria. One is that the property would have to have water access. There would need to be a public boat launch facility somewhere on Crooked Lake with public access and adequate off-site parking, which does not exist. The second criteria would be that it would need to be a seasonal road, a road that is owned by the City but maintained on a seasonal basis. The third possible criteria would be a private access road, which would be a road that would eventually provide access to an assumed public road. Niemi Drive is under public ownership but the City does not maintain it. Therefore, it was determined by Building Services that the properties do not meet one (1) of the three (3) criteria. If there is a dispute regarding a decision made by the Chief Building Official, an individual can apply to the courts to have the interpretation tested. The outcome of the process will dictate the way the file moves forward.

Mauro Manzon, Senior Planner, stated that if the application is approved, the site specific zoning would include a provision that would provide relief to the access provisions of the zoning by-law, therefore allowing Building Services to issue a permit for a seasonal dwelling or a hunting/fishing camp. For example, if there is an existing property that is zoned rural, merged on title, because it is a legal existing waterfront lot it would be allowed a seasonal dwelling provided it meets the access provisions. If one came in and asked for a building permit they would need to seek a minor variance for zero (0) public road frontage. Other permits issued did not have to seek the variance as they were legal existing dwellings which would allow them to rebuild or expand under the zoning by-law. The properties do not have to seek a variance to the access as they are considered legal non-conforming. This is an unusual situation as this is an unassumed road that people have been using since the 1950's with no agreement in place with the City to maintain the road and some part of the travelled portion of the road veer off the road allowance. From a zoning perspective, it would be defined as an unassumed road, not a private access road. There has been confusion historically on this unopened portion of Niemi Drive. A building permit could be issued on the waterfront lot for a seasonal dwelling provided they get a variance for the access. The applicant wants to create a waterfront lot to have two (2) separate parcels and also want the right to build on the northerly remainder where it did not exist previously as there is no water access and no public road frontage. Staff does not see any alternatives to satisfy the applicant.

Mr. Jarus stated that the intent is to bring the lots back to how they were before they merged. The application does not allow for both lots to be built on. The waterfront lot would have permission for the seasonal dwelling. They are combining the required minor variance and making it a part of the zoning by-law amendment being a variance for the frontage and access

provisions. At the last meeting they were asking for seasonal dwelling on both lots as their understanding was that because it was a private road, both lots could have obtained building permits for seasonal dwelling units which is no longer the case. They have amended the applications since the last Committee meeting to take into consideration concerns that were raised in terms of increasing the development ability of the lot. From what could have been developed prior to the merge, they have reduced the intensity of the ask from two seasonal dwellings to one seasonal dwelling on the waterfront lot and the remaining lot would only have a hunting/fishing camp.

Ward Councillor McIntosh asked what the difference is between the hunting/fishing camp and a seasonal dwelling.

Jason Ferrigan, Director of Planning Services, stated that it depends what is being proposed in terms of a hunting/fishing camp. Any structure that is larger than ten (10) by ten (10) would require a building permit. Often seasonal dwellings are used interchangeably with hunting and fish camps. Therefore, it depends what is being proposed by the camp itself as some can be modest and others robust.

The Chair asked whether there was anyone in the audience who wished to speak in favour or against this application and seeing none:

The Public Hearing concerning this matter was closed and the Planning Committee resumed in order to discuss and vote on the application.

The following resolutions were presented:

Resolution regarding Official Plan Amendment:

PL2018-103 Jakubo/Lapierre: THAT the City of Greater Sudbury denies the application by Vaino Latvala to amend the City of Greater Sudbury Official Plan to provide site-specific exceptions from Section 5.2.1 in order to permit a seasonal dwelling on a non-waterfront lot with no frontage on an open public road and from Section 5.2.2 in order to create a waterfront lot for seasonal residential use without benefit of a public water access with adequate off-street parking and boat docking facilities on lands described as PIN 73473-0013 and Part of PIN 73474-0162, Parcel 51713 S.E.S., and Part of Parcel 9897 S.E.S., Part 1, Plan 53R-16335 in Lot 9, Concessions 4 and 5, Township of Broder, as outlined in the report entitled "Vaino Latvala", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting of June 11, 2018.

YEAS: Councillor Lapierre, Jakubo, Sizer and McIntosh
CARRIED

Resolution regarding the Rezoning Application:

PL2018-104 Lapierre/Jakubo: THAT the City of Greater Sudbury denies the application by Vaino Latvala to amend Zoning By law 2010 100Z by changing the zoning classification from "RU", Rural to "RU(S)", Rural Special on lands described as PIN 73473-0013 and Part of PIN 73474-0162, Parcel 51713 S.E.S., and Part of Parcel 9897 S.E.S., Part 1, Plan 53R-16335 in Lot 9, Concessions 4 and 5, Township of Broder, as outlined in the report entitled "Vaino Latvala", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting of June 11, 2018.

YEAS: Councillor Lapierre, Jakubo, Sizer and McIntosh
CARRIED

As no public comment, written or oral, was received, there was no effect on the Planning Committee's decision.

The Planning Committee denied the applications for Official Plan Amendment and Rezoning for the following reasons:

The applications do not represent good planing.

Adopting, Approving or Receiving Items in the Consent Agenda

The following resolution was presented:

PL2018-105 Jakubo/Lapierre: THAT the City of Greater Sudbury approves Consent Agenda Items C-1.

CARRIED

The following is the Consent Agenda item:

Routine Management Reports

C-1 Blaine and Julie Weaver – Consent Referral Request for Consent Application B0026/2018, 6090 Tilton Lake Road, Sudbury

Report dated May 17, 2018 from the General Manager of Growth and Infrastructure regarding Blaine and Julie Weaver – Consent Referral Request for Consent Application B0026/2018, 6090 Tilton Lake Road, Sudbury.

PL2018-106 Sizer/Jakubo: THAT the City of Greater Sudbury approves the request by Blaine and Julie Weaver to allow Consent Application B0026/2018 on those lands described PIN 73472-0054, Part 3, Plan 53R-8144 in Lot 9, Concession 2, Township of Broder, to proceed by way of the consent process, as outlined in the report entitled "Blaine and Julie Weaver" from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting of June 11, 2018.

CARRIED

Addendum

No Addendum was was presented.

Civic Petitions

No Civic Petitions were submitted.

Question Period and Announcements

Kingsway Entertainment District Appeals

Councillor Jakubo asked for an update on the appeals in relation to the Kingsway Entertainment District.

Jason Ferrigan, Director of Planning Services, stated that the appeals have been received by the Local Planning Appeal Tribunal (LPAT) and they communicated with the City and the appellants last week saying they had received the appeals. The next step according to the

procedure guide for the LPAT will be determining the validity of the appeals and from that decision the process will unfold. Part of that process includes the exchange of information up until the hearing itself.

Councillor Jakubo asked when the City would hear the first word in regards to the validity of the appeals.

Jason Ferrigan, Director of Planning Services, stated that the LPAT's guide indicates that they will provide the preliminary information within 10 calendar days of acknowledging receipt of the appeals.

Notices of Motion

No Notices of Motion were presented.

Adjournment

Jakubo/Sizer: THAT this meeting does now adjourn. Time: 6:16 p.m.

CARRIED

Adam Kosnick, Deputy City Clerk