

MANITOULIN PLANNING BOARD

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February 26, 2020

MINUTES OF PLANNING BOARD MEETING - February 25, 2020

At a Meeting of the Manitoulin Planning Board, held in the Board Room at the Planning Board Office, Gore Bay, Ontario, on February 25, 2020, the following Members of Planning Board were present:

- | | | | |
|----|-------------|----|-------------|
| 1. | R. Stephens | 4. | D. McDowell |
| 2. | D. Osborne | 5. | K. Noland |
| 3. | L. Hayden | 6. | R. Brown |

Regrets: I. Anderson and E. Russell and D. Head
Absent: L. Addison

Also in attendance was:
T. Sasvari, reporter, Manitoulin West Recorder.

There were no other interested parties or members of the general public or press in attendance.

The Meeting was called to Order at 7:04 P.M. by Chair R. Stephens, who welcomed all present.

The Chair asked if there were any Board Members who wished to declare a conflict of interest with any of the items listed on the agenda or having to do with the previous Board Meeting of January 28, 2020. There were no conflicts declared.

1. ORDER OF BUSINESS

The Chair requested the adoption of the order of business.

MOTION

It was moved by L. Hayden and seconded by K. Noland that the Order of Business be adopted
- Carried.

2. MINUTES OF PREVIOUS BOARD MEETING - January 28, 2020

The Chair announced that the Minutes of the Board Meeting held January 28, 2020 had been circulated to the Board Members and requested that any errors or omissions be stated.

A MOTION was moved by D. McDowell and seconded by R. Brown that the Minutes be adopted, as circulated - Carried.

BUSINESS ARISING FROM THE MINUTES OF THE PREVIOUS BOARD MEETING - January 28, 2020

There was none.

3. VARIABLE EXPENDITURES

There were no other questions of the variable expenditures as circulated.

MOTION

It was moved by K. Noland and seconded by D. Osborne that the variable expenditures be accepted as presented - Carried.

4. PRESENTATION OF APPLICATION FOR AMENDMENT TO ZONING BY-LAW NO: 96-01

File No.:	96ZBL-20-001
Owner:	Daniel Ryan
Agent:	SELF
Property Location:	Part Lot 8, Conc. I Being Part 71, Plan R.R. 39, (Little Lake Huron Estates) Township of Robinson, District of Manitoulin

A Zoning Amendment Application has been made by Daniel Ryan to rezone land described as Part Lot 8, Conc. I, being Part 71, Plan R.R. 39 from Rural (R) Zone to Shoreline Residential (SR) Zone to permit seasonal residential uses.

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Seasonal residential uses are not a permitted use in the Rural (R) Zone by Zoning By-law No. 96-01, Part XI. Therefore, Zoning By-law No. 96-01 must be amended to permit the uses proposed.

This vacant shoreline lot, which was created by checkerboarding prior to subdivision control, has been owned by the applicant since July 2007.

The application was circulated on October 22, 2019 to the United Chiefs and Councils of Mniidoo Mnising (UCCMM), and to the Wiikwemkoong Unceded Territory as per Official Plan Policy F.5 - Consultation and Engagement.

Saul Bomberry, UCCMM, advised via email on November 04, 2019 that the UCCMM have no concerns or comments at this time.

The Wiikwemkoong Unceded Territory have not provided any comments or concerns regarding the application, or requested additional time to do so.

This application to amend Zoning By-law No. 96-01 was circulated on February 05, 2020 to the Township of Robinson Local Roads Board, Ontario Power Generation, Metis Nation of Ontario, the Rainbow and District School Board, Bell Canada, and to all property owners within 120 metres as required by Ontario Regulation 545/06.

Lori Mastelko, Secretary-Treasurer for the Township of Robinson Local Roads Board (LRB), advised via email on February 15th, 2020 that they have no concerns with the amendment application.

There have been no inquiries or concerns received from the agencies or the property owners circulated, or from the posting of the signs on the property.

The applicant accesses his property from Highway 540 over the Little Lake Huron Road/Pebble Road, crossing Lot 2, Conc. IV; Lots 1 and 2, Conc. III; Lots 2 and 3, Conc. II; and Lots 2, 3, 4 and 5, Conc. I, surveyed as Part 1, Plan R.R. 47; and Lots 6 and 7, Conc. I, surveyed as Part 25, Plan R.R. 33 and Part 89, Plan R.R.39. This right-of-way is not maintained by the Local Roads Board. The existing right-of-way known as Little Lake Huron Road and Pebble Road is travelable by emergency vehicles, confirmed by a site visit in October 2019.

Servicing will consist of water from Lake Huron or private well, and sewage disposal is proposed to be by private individual septic system.

The Sudbury and District Health Unit have advised they have no objections as the property appears to be capable of development for the installation of a septic tank and leaching bed system and there are good soil depths and sandy soils on the vacant wooded lot.

Fire Protection is available via the Robinson Township Volunteers.

Garbage collection is available via the Local Services Board for Robinson Township.

The subject land will remain designated as being within a Shoreline Area and all Official Plan (OP) Policies applicable thereto will continue to apply. Recreational camps/seasonal dwellings are permitted by Section B.2.3. of the OP.

The subject land is within a Rural (R) Zone. This area was zoned Rural to control development in an area where lots were created prior to subdivision control. The proposal is a continuation of the established precedents common to this area. If approved, this proposal will amend Zoning By-law No. 96-01 to rezone from Rural (R) Zone to Shoreline Residential (SR) Zone to permit a seasonal dwelling and accessory structures.

Section 3 of the Planning Act requires that decisions affecting planning matters 'shall be consistent with' policy statements issued under the Act. Planning decisions for the Manitoulin Planning Area must be consistent with Policies of the Provincial Policy Statement (PPS) 2014.

The Provincial Policy Statement (PPS) 2014 under Section 1.1.6.1 states:

'On rural lands located in territory without municipal organization, the focus of development activity shall be related to the sustainable management or use of resources and resource-based recreational activities (including recreational dwellings).'

The PPS 2014 under Section 2.1.7 states:

'Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements.'

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There is a deer wintering area identified within the subject land. It is recommended that the loss of deer feeding opportunities and shelter habitat can be mitigated by minimizing the amount of conifer cover removed during the construction of the proposed seasonal dwelling.

There is a fish habitat identified along the shore of Lake Huron and a dune system along the shore and in the front yard of the subject land.

A setback from the south lot line of the subject land of fifty-three (53) metres is considered to be outside the dune system. From 2016 satellite imagery available and pictures obtained during a site visit on October 9th, 2019, a front yard setback of fifty-three (53) metres would provide for a building envelope for the location of any structures outside the area of influence.

Mr. Ryan was contacted and he advised Planning Board via email on January 22, 2020 that he is in agreement with the location of a seasonal dwelling having the minimum front yard setback requirement increased from 7.5 metres to 53 metres in order to address the potential concerns.

As part of the preliminary review, the application was circulated to the Ministry of Oceans and Fisheries (DFO) on December 23rd, 2019 for comments. They advised that a review under the Fisheries Act and the Species at Risk Act is not required for projects that are proposed to take place above the high water mark. Therefore, as long as the proposed works take place above the Lake Huron 180m elevation contour, they will not be required to go to DFO for a review.

As part of the preliminary review, the application was circulated to The Ministry of Natural Resources and Forestry (MNR) on October 22nd, 2019. MNR advised that as long as development is consistent with policies of the Provincial Policy Statement (PPS) 2014 they have no concerns regarding the fish habitat or wildlife habitat (SAR).

The application was circulated to the Ministry of Environment, Conservation and Parks (MECP), the Ministry in charge of the administration of the "Endangered Species Act" on October 22nd, 2019 for comments. Michelle Karam, Management Biologist, MECP, supported an increased setback to be outside the area of Species at Risk (SAR) and replied by email on February 21st, 2020, as follows:

'...it looks like you have managed to give some good advice. Also, the point when there is actual an activity/works planned on the site that is when the proponent should check if these works may impact a Species at Risk and is welcome to reach out to MECP (sarontario@ontario.ca) and check if there are any ESA concerns.'

Section 3 of the Planning Act requires that decisions affecting planning matters 'shall be consistent with' policy statements issued under the Act. Planning decisions for the Manitoulin Planning Area must be consistent with Policies of the Provincial Policy Statement (PPS) 2014. With approval of this proposed amendment, there does not appear to be any conflict or adverse impacts to policies expressed by the PPS and the proposal is considered consistent with the PPS 2014.

The required Public Meeting was held on Tuesday, February 25th, 2020 at 7:00 p.m. in the Board Room of the Manitoulin Planning Board. There was no one in attendance at the Public Meeting to speak on behalf of or opposition to the application. There were no written submissions received.

it is recommended the subject Application for Zoning By-law Amendment be approved to rezone from Rural (R) Zone to Shoreline Residential (SR) Zone and to restrict the front yard setback for any structures to be a minimum of fifty-three (53) metres.

The Secretary-Treasurer read the following By-law:

BY-LAW NO. 2020-01

Being a By-law of the Manitoulin Planning Board to amend By-law 96-01, the comprehensive Zoning By-law for the Townships of Dawson, Robinson, and Mills.

Whereas the Manitoulin Planning Board has been granted the authority by Ontario Regulation 159/96 deeming Ontario Regulation 672/81, a Minister's Zoning Order, to be and to always have been a By-law of the Manitoulin Planning Board under Section 34 of the Planning Act.

And Whereas the Manitoulin Planning Board has ensured that adequate information has been made available to the public and has held at least one (1) public meeting after due notice for the purpose of informing the public of this By-law.

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And Whereas the Manitoulin Planning Board deems it desirable to amend Zoning By-law No. 96-01, as amended.

Now Therefore, the Manitoulin Planning Board enacts the following:

- (1) To rezone from Rural (R) Zone to Shoreline Residential (SR) Zone;
- (2) Despite Sections 24.(1) and 5.(5) the minimum front yard setback for a seasonal dwelling and all accessory structures thereto, shall be fifty-three (53) metres;
- (3) Subsections (1) and (2) apply to that parcel of land in the geographic Township of Robinson, in the District of Manitoulin, described as Part Lot 8, Conc. I, being Part 71, Plan R.R. 39, (Little Lake Huron Estates), registered in the Land Registry Office for the Registry Division of Manitoulin (31).
- (4) That it is hereby certified that this amending By-law is in conformity with the Official Plan for the District of Manitoulin.
- (5) Schedule "A" hereto attached shall be considered to be part of this By-law.
- (6) This By-law shall come into force and take effect on the date of its final reading subject to the expiration of the 20 day appeal period, provided in Section 34(19) of the Planning Act and subject to the approval of the Ontario Municipal Board where objections to this by-law are filed with the Secretary-Treasurer of Planning Board.

Discussion regarding the proposed amendment resulted in the following motion:

MOTION

It was moved by L. Hayden and seconded by R. Brown that By-law No. 2020-01 be approved.
- Carried

5. PRESENTATION OF APPLICATION FOR VALIDATION OF TITLE

File No.: V01-2020
Applicants/Owner: Jonathan and Christina Balfe/Adeline Moore Cosby
Agent: David Thompson
Location: Lot 1, Conc. V, (#5 Newby's Side Road)
Township of Billings, District of Manitoulin

An Application for Validation of Title has been made to correct a contravention/breach to the Planning Act. A transfer of land in 2009 to Christina and Jonathan Balfe is invalid as it did not include all of the land that was owned by Ethel Moore and Adeline Moore Cosby and therefore does not provide clear title.

A Validation Order is required to correct a title issue and release interest in Lot 1, Conc. V, Township of Billings. According to the information provided CitiFinancial Canada Inc. was in violation of the Planning Act when they registered a mortgage on Lot 1, Conc. V while the land owners also owned (had an interest in) Lot 2, Conc. V. The Planning Act does not permit a mortgage on only part of a parcel of land. Citifinancial Canada Inc. then transferred by power of sale, Lot 1, Conc. V to Mr. and Mrs. Balfe on March 17, 2009. Mr. and Mrs. Balfe have obtained building permits for Lot 1, Conc. V and have been paying the taxes since 2009. They wish to obtain a Validation Order in order to obtain clear title to this land.

In 1993, Consent File No. B02-93 provided for the creation of a new lot, surveyed as Part 1, Plan 31R-2475, being Part of Lot 5, Conc. V, Township of Billings.

In 2002, Consent File No. B11-02 provided for a lot addition of Part 1, Plan 31R-3165 which was added to Parts 1 & 2, Plan 31R-1809, together with right-of-way over Part 4, Plan 31R-2474, being Part of Lots 3 & 4, Conc. V, Township of Billings.

In 2002, Consent File No. B12-02 provided for the creation of a new lot, surveyed as Part 2, Plan 31R-3165, being Part of Lot 4, Conc. V.

The retained land resulting from File No's. B11-02 and B12-02 consisted of all of Lots 1 and 2, Conc. V and Part of Lots 3 & 4, Conc. V.

In 2007, Consent File No. B57-07 further divided Part 2, Plan 31R-3165 (previously created by File B12-02), surveyed as Part 1, Plan 31R-3696 together with Right-of-Way over Part 3, Plan 31R-3696. On May 18, 2004, by Transfer RM72292, a Planning Act contravention occurred when consent to sever had not been granted and CitiFinancial Canada Inc. registered a mortgage on Lot 1, Conc. V and did not include Lot 2, Conc. V.

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On March 17, 2009, by Transfer RM81807 (power of sale document), Lot 1, Conc. V was conveyed to Mr. and Mrs. Balfe without consent to sever approval.

On June 16, 2009, by Transfer RM82309, (a tax sale document), The Municipality of Billings transferred to Mr. and Mrs. Gervais Part of Lots 3 & 4, Conc. V, surveyed as Parts 1 to 5, Plan 31R-3713, subject to right-of-way right-of-way over Parts 2, 4 & 5, Plan 31R-3713. The remaining parcel of land consisted of all of Lots 1 & 2, Conc. V. Transactions by a Municipality do not require an application for Consent to Sever under the Planning Act.

In 2009, according to the information provided, Ethel Moore deceased and Adeline Moore Cosby became the owner of Lot 2, Conc. V. Due to the Planning Act contravention in 2004 she also became the owner of Lot 1, Conc. V. She transferred Lot 2, Conc. V to her sister, Marion McMillan, by Transfer RM83374, in 2010, without Consent to Sever approval.

In 2018, by Consent File No's. B09-18 and B10-18, the Planning Board attempted to correct the contravention to the Planning Act, by granting consent to sever of two new lots being Lot 1, Conc. V and Lot 2, Conc. V, Township of Billings. File No. B09-18 was completed and by Transfer No. RM83957, Lot 2, Conc. V was transferred to Mr. and Mrs. Foerster. File No. B10-18 was not completed. Although Lot 1, Conc. V became a separate parcel of land, due to the contravention to the Planning Act (in 2004) Mr. and Mrs. Balfe do not have clear title to Lot 1, Conc. V, Township of Billings.

Despite the title issue, in 2019, by transfer RM83978, Investors Group Trust Co. Ltd. registered a mortgage on Lot 1, Conc. V, Township of Billings on behalf of Mr. and Mrs. Balfe.

According to David Thompson, agent for the Application, attempts were made to try and locate Adeline Moore Cosby without success. Therefore the contravention to the Planning Act that occurred for Lot 1, Conc. V cannot be corrected by the Consent to Sever process. Section 57 of the Planning Act does not specify who may apply for the Certification of Validation. Therefore, anyone with sufficient interest in a property can apply as applicant/agent.

Mr. and Mrs. Balfe wish to remove the 'cloud on title' resulting from the contravention in Transfer RM72292 in 2004, by validating the title of Lot 1, Conc. V, also described by PIN 47117-0217(R), located at #5 Newby's Road, Township of Billings. Therefore, this Application for Validation of Title is being made.

The subject land has a frontage of ±1,005 M. on Newby's Sideroad, a non-maintained municipal allowance, and a depth of ±402 M., thereby containing ±40 Hec. There is a dwelling, garage, tractor shed, and lean to located on this land.

Access is via Newby's Sideroad, a non-maintained municipal road allowance.

Services consist of private well and private individual septic system.

Fire Protection is provided by the Municipal volunteer fire department.

Garbage Disposal is available at Municipal Waste Disposal Site.

The Subject land has been designated as Rural Area and zoned Rural (R). The existing farm related residential uses are proposed to continue.

From information available, the subject proposal will have no impact to policies of the Provincial Policy Statement (PPS) 2014. This proposal is considered to be consistent with the PPS 2014.

The Secretary-Treasurer explained that Section 57(8) of the Planning Act of Ontario states:

'A Council or the Municipality may, as a condition to issuing a certificate of validation or order, impose such conditions in respect of any land described in the certificate or order as it considers appropriate.'

A copy of the Validation Application with sketch and covering letter were sent, to Kathy McDonald, Clerk for the Municipality of Billings and Allan East for comments. No comments or concerns have been received.

A boundary line survey between Lots 1 & 2, Conc. V, has been completed for Consent to Sever File No's. B09-18 and B10-18. It is customary that when a survey has been done to describe the land subject to an application that a copy is provided for that file.

Following presentation of this application, Planning Board found all criteria and requirements relative to Validation of Title under Section 57 of the Planning Act were in order.

Discussion regarding the proposed amendment resulted in the following motion:

MOTION

It was moved by K. Noland and seconded by R. Brown that the Manitoulin Planning Board approve the Validation of Title Application as proposed, subject to the following conditions:

- i) a copy of the boundary line survey between Lot 1 and Lot 2, Conc. V, Township of Billings, to which the validation of title relates, signed by D.S. Dorland, Ontario land Surveyor and dated July 31, 2018; and
- ii) a written confirmation from the municipality that all outstanding property/education taxes have been paid.

- Carried unanimously.

6. GENERAL, REGULAR AND NEW BUSINESS

- a) Consent File No's. B07-16 and B08-16

The Secretary-Treasurer reported that she had received an email from Jane Austin on February 6th, 2020 as follows:

'We received the decision about the boundary between Lot 21 and Lot 22 Conc. 6 Twp of Sandfield. The decision went in our favour but the Gilchrists do have a month to file an objection. If they object then it will, I believe, go to court. If not, then the boundary will be completed and registered by May 06, 2020. I will keep you posted.'

- b) Lake Kagawong

The Secretary-Treasurer advised the Board that there was no new information to report about the status of Lake Kagawong as the letter that was to come from the Ministry of Environment, Conservation and Parks (MECP) has not been received to date.

- c) What's a Yurt?

Attached to the Board's agenda was an information sheet explaining the type of structures that are referred to as a "Yurt". She explained that two (permanent) farm related dwellings are permitted in an Agriculture (A) Zone. However, Zoning By-law No. 96-01 does not have a definition for a "Yurt" and she has suggested that an amendment application is required to describe the type of structure proposed. Planning Board has received an Application for Amendment to Zoning By-law No. 96-01, for the Township of Dawson, to permit two (2) 'Yurts' to be used as permanent residential uses on a ±59 Hec. (±146 Acre) parcel of land which is zoned Agricultural. She requested comments from the Board if they would support the Amendment Application and permit this type of structure to be located and used in the Unincorporated Township of Dawson.

The Board discussed issues surrounding the placement and use of a Yurt in the unincorporated Township of Dawson, which included:

- seasonal use vs permanent use; whether a Yurt could be constructed to live in year-round;
- what is the difference between a Yurt and a round house?;
- whether the definition of single family dwelling describes the structures proposed;
- would it be placed on a foundation?;
- there are many types of yurts; what type of structure is the applicant proposing?;
- it gets very cold here on Manitoulin in the winter, can it be insulated to live in the winter months?;
- whether a Yurt would meet the standards of a year-round dwelling under the Ontario Building Code?;
- who is responsible to enforce the Ontario Building Code Act in the Unincorporated Townships?;
- could the applicant obtain insurance coverage for a Yurt for permanent residential uses?;
- would there be liability consequences if a Letter of Conformity Permit was issued and something should happen?;
- what are other Planning Districts doing?;

The general consensus of the Board was that they may support the location of two (2) Yurts on the Agricultural zoned property for seasonal residential uses only. They would not support the location of two (2) Yurts to be used for permanent/year-round residential uses without additional information as they have concerns with the structures conforming to the requirements of the Ontario Building Code and do not know if there would be liability issues. The Secretary-Treasurer will convey the Board's comments to the applicant.

- d) Ontario Association of Committees of Adjustment and Consent Authorities (OACA)
- Conference - Niagara Falls, Ontario, May 2020

The Secretary-Treasurer reported that the annual Conference of the Ontario Association of the Committee of Adjustments and Consent Authorities (OACA) was being held in Niagara Falls, Ontario on May 10th, 2020. The itinerary has not yet been finalized, however it has proven to be beneficial in the past and the cost should be about the same as past years. She requested the Board's support for her to attend.

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Discussion resulted in the following motion.

MOTION

It was moved by L. Hayden and seconded by R. Brown that the secretary-Treasurer attend the Annual OACA Conference in Niagara Falls, Ontario in May 2020, if in her opinion the Conference itinerary would be beneficial.

During discussion, the Board Members asked if there were other conferences/workshops available for Staff that would be beneficial. Mr. Diebolt explained that there is an annual Conference put on by Esri Canada, for GIS technology and that there is one being held in Toronto in the Fall. Although all the details are not available to date it appears to be a one day conference and would cost ±\$1,000.00 for him to attend. The general consensus of the Board was that this should be further considered for the 2020 budget.

7. Budget Review

a) Municipal 2020 Interim Requisitions

The Secretary-Treasurer informed the Board that the interim requisitions had been send out and all have been received with the exception of one.

b) Comparison of Revenue and Expenditures & 2020 Draft Budget

The Secretary-Treasurer informed the Board that the documentation for the 2019 audit has been received by KPMG Chartered Accounts and it is hopeful that the audit will be completed for the Board's consideration at the next regular meeting of Planning Board.

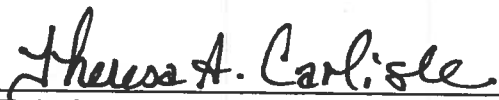
For discussion purposes, a Comparison of Revenue and Expenditures and a draft budget for 2020 was presented by Mr. Diebolt. He explained that most of the expenditures were very close to the budgeted amounts - some were slightly higher (copying & supplies, communications, Board mileage, bank fees), while others were lower (postage, staff mileage, Board Honourariums).

The 2020 Draft Budget was largely unchanged from the 2019 budget. A slight increase in office rent, office supplies, and office communications was proposed. It also proposes , payroll burden, and board member honorariums was indicated. It also proposes a budget of \$1500 for the purchase and upgrading of computers for the office, to update to Windows 10, as Windows 7 is no longer supported.

There were no decisions or motions made. Board members were encouraged to review the 2020 Draft Budget and provide any feedback. The draft budget is to be discussed among the Budget Committee who in accordance with committee appointments for 2020 consists of I. Anderson, K. Noland, and R. Stephens. The draft budget will be presented again at the March Board Meeting for further consideration.

The time now being 8:49 p.m. and all business before the Board having been dealt with, the Meeting was adjourned on a motion moved by K. Noland.

R. STEPHENS,
CHAIR



T. A. CARLISLE,
SECRETARY-TREASURER